

From: planningcomments@highpeak.gov.uk
To: [Planning Comments \(HPBC\)](#)
Subject: Comment Received from Public Access
Date: 08 May 2024 14:10:07

Application Reference No. : HPK/2022/0473

Site Address: Land at Longclough Drive Longclough Drive Simmondley Glossop Derbyshire

Comments by: K Raine

From:

Longclough Drive
Simmondley
Glossop

Phone:

Email:

Submission: Neither

Comments: I am making further comments on this application for the public record.

This application was passed at Development Control Committee on 22 May 2023. It has still not been determined as of today, 8 May 2024.

The officer's report to Committee in May 2023 said 3.4 The proposed alterations propose changes to the design and appearance of the dwellings previously approved. The total number of dwellings will remain the same and the footprint and height are as previously approved.

At Planning Committee on 22 May 2023, the Head of Development Services said the application was simply for a change to the windows. For such a simple application, I can see no good reason why this application is still undetermined after nearly a year since being passed at Development Control Committee.

The houses that this variation covered have now been built and the application is still undetermined. I question how this does not make the houses unauthorised development, as this application for the variation to them has not yet been determined?

Breach of original planning consent

I fear this application is being purposefully left undetermined to be used to validate the unlawful development I believe the Council has passed for these developers, once that development has been completed.

The unlawful development I believe has happened is the passing of HPK/2022/0471. This application replaces the detached house at plot 6 of the original planning consent (APP/H1033/W/17/3177730 of HPK/2016/0416 and HPK/2021/0081) with a pair of semi-detached houses, bringing the total of houses on the site to 7 houses.

This was passed as a stand alone planning application, it is not an application under section 73 of the Town and County Planning Act 1990 to vary the original planning consent.

I believe HPK/2022/0471 is unlawful development because:

1. It breaches the description of development of the original planning consent, which is for the erection of 6 dwellings and the provision of an area of public open space.

2. It breaches a condition set by the Planning Inspectorate at appeal that no more than 6 houses would be built on this site. (condition 5 - APP/H1033/W/17/3177730 of HPK/2016/0416)

3. It contravenes recent case law: Supreme Court case of Hillside Parks Ltd (Appellant) v Snowdonia National Park Authority (Respondent) 2020. This prevents drop in applications that conflict with the original planning consent making all development unauthorised. HPK/2022/0471 conflicts with and breaches many of the conditions of the original planning consent.

I raised this case law during public consultation. I was also assured by the Head of Development Services in writing that the case law would be considered before HPK/2022/0471 was determined. Also, that If we deem that the applications contravene case law we will not recommend them for approval. There has been no evidence to date that the case law was every considered.

To date the original planning consent has not been lawfully varied to include all 7 houses. I still believe there is no lawful way that it can be varied now the seventh house has been built. Despite raising this in formal complaints and at Development Control Committee on 22 May 2023 and 10 Jul 2023, planning officers have given no good explanation, justification nor provided any evidence, as to how 7 houses can be lawfully built on this site.

Accessible Public Open Space S106

The site is covered by a S106, dated 22 Jan 2018, that provides for 6 houses and public open space. When HPK/2022/0471 was passed on the 8 Sep 2023 the Council entered into a deed of variation (S106A, dated 8 Sep 2023) with the developers and their mortgagors to include 7 houses and application HPK/2022/0471. However, this is still not a lawful variation of the original planning consent.

I am also worried that this variation is being left undetermined to be used to reduce the amount of public open space and footpath within the development.

The Planning Inspector at appeal said: The proposed development would undoubtedly reduce the amount of open space present at the appeal site. However, I am mindful of the agreed planning obligation in this respect,

which, through securing the use of the site as outlined in the description of development would clearly be necessary to make the development acceptable in planning terms. (Appeal Decision APP/H1033/W/17/3177730 17.)

The S106 dated 22 Jan 2018, requires a minimum of 4,325 square metres of publicly available open space to be provided within the development, with public access.

When determining the original planning consent, both the Council and the Planning Inspectorate agreed any development on this site was harmful. I remind the Planning Officers that the accessible public open space to be provided on this site under the S106 legal obligation is the local residents' compensation for the loss of the visual green space that was decimated by the development.

I am worried that with 7 houses on the site much of the accessible public open space, agreed in the original planning consent, will be reduced to meaningless levels.

Plots 6 and 7 (HPK/2022/0471) are 25 percent larger than the footprint of plot 6 of the original planning consent, which they replace. This will leave almost no room for the footpath in the accessible public open space that is to run between plot 6 and Longclough Brook.

Summary

It would be abhorrent if this application is being left undetermined to be used to pass unlawful development, once that development is complete, for the benefit of the developer. Also, if the development on site, reduces the public open space and footpath approved in the original planning consent to such an extent it denies the local community of their compensation for this most harmful development.

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