



WHITE PEAK Planning

Local Planning Authority Statement of Case

Land to the west of Bridgemont, Whaley Bridge

High Peak Borough Council

July 2024

Ref: 2024.010

Appeal Ref: APP/H1033/W/24/3341260

LPA Ref: HPK/2023/0061

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Authorised for and on behalf of White Peak Planning Ltd.

A handwritten signature in black ink, appearing to read 'Rob White', written over a faint, light blue rectangular stamp.

**Rob White
Director**

This report takes into account the particular instructions and requirements of our client. It is not intended for and should not be relied upon by any third party. Any such party relies on this report at their own risk.



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1.0 Introduction

1.1 Planning Application and Appeal

- 1.1.1 This Statement of Case has been prepared by White Peak Planning on behalf of High Peak Borough Council in response to an appeal lodged by Treville Properties Ltd against the refusal of an outline planning application HPK/2023/0061 for Outline planning application for affordable housing (up to 42) with access considered and all other matters reserved (resubmission of HPK/2020/0180) at Land to the west of Bridgemont, Whaley Bridge (the 'site').

1.2 Appeal Application

- 1.2.1 The following application details are set out in the Appellant's Hearing Statement: application reference number; date of registration; description of development; date of submission and determination.
- 1.2.2 The application was considered by the Council's Development Control Committee on 11th December 2023, where it was resolved that the application be refused. The Decision Notice was issued on 11th December 2023, setting out reasons for refusal as follows:
- 1. Construction of new buildings is inappropriate in the Green Belt save where an exception allows, such as paragraph 149(f) of the NPPF. It is not considered that paragraph 149(f) applies because the site does not comply with Local Plan Policy H5 'Rural Exception Sites'. No other exceptions apply. The proposed development would therefore be inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and there are no very special circumstances to outweigh those considerations. In addition, the proposed development would not preserve the openness of the Green Belt and therefore conflicts with the purposes of including land within it, including in relation to safeguarding the countryside from encroachment. The proposal is therefore contrary to Policies EQ4 and H5 of the Adopted High Peak Local Plan 2016 and the NPPF.*
 - 2. The proposed development would cause significant adverse landscape and visual effects therefore detracting from the rural character and appearance of the area, in which it is sited contrary to Policies S1, S6, EQ2, EQ3 and EQ6 of the Adopted High Peak Local Plan 2016, the NPPF and the Council's Landscape Character SPD.*
 - 3. Insufficient information has been submitted with the application relating to the landscape and visual effects of the scheme on the Peak District National Park area and its setting in order to assess adequately the impacts of the proposed development having regard to matters of avoiding or minimising adverse impacts on the national park and its setting. In the absence of this information, it has not been possible to demonstrate that the proposed development would comply with Policies S1, S6, EQ2, EQ3 and EQ6 of the Adopted High Peak Local Plan 2016, the NPPF and the Council's Landscape Character SPD.*

1.3 Description of Appeal Proposal

- 1.3.1 The application seeks outline planning permission for a residential scheme comprising up to 42 affordable dwellings with access considered and all other matters reserved.

1.4 Site and Local Area Description

- 1.4.1 In addition to the site description set out in the Statement of Common Ground, the following is noted.
- 1.4.2 The site is located within the settlement of Bridgemont, comprising approximately 1.0 hectare of predominantly greenfield land. The adopted Local Plan Policies Map designates the site, Bridgemont and wider area as Open Countryside and Green Belt. Both the County Council's Landscape Character of Derbyshire (December 2013) and the High Peak Borough Council Landscape Character Supplementary Planning Document (SPD) (March 2006) categorise the appeal site and immediate area as part of the landscape character type Settled Valley Pastures.
- 1.4.3 The site lies between the Northern Railway line to the west and Bridgemont Road to the east. The south-eastern boundary of the site is formed of an established belt of woodland and Buxton Road (A5004) which provides links to the A6 trunk road. The site is an elongated parcel of land that stretches parallel to the railway line and narrows to a point at the south.
- 1.4.4 The site is mostly undeveloped grassland. To the east lies housing that fronts Buxton Road. The eastern part of the site that connects with Buxton Road was previously used as a hard surfaced car park for the former Dog and Partridge Public House. The former public house has since closed and has been redeveloped for housing comprising of two dwellings (32 and 34 Buxton Road). The associated car park is no longer in use and comprises the only previously developed land (PDL) within the appeal site.
- 1.4.5 Limited parts of the appeal site are littered by various poultry housing structures and a small number of vehicles. At the northern end of the site, parts of the land have recently been used by Network Rail as a depot to facilitate essential maintenance works of the adjoining railway.
- 1.4.6 Aerial photographs of the site taken over time are included at Appendix 1.
- 1.4.7 The site is not within a Conservation Area and does not include any listed buildings or heritage assets. There are several listed buildings and structure within the wider study area generally associated with surrounding farmsteads or the Peak Forest Canal. The closest heritage asset to the site is Grade II Listed Peak Forest Canal Horse Tunnel located approximately 100m to the south east.
- 1.4.8 The parcel and surrounding area are not the subject of any statutory international or national ecology designations such as Special Areas of Conservation (SACs), Special Policy Areas (SPAs), Ramsar sites or Sites of Special Scientific Interest (SSSIs). There are no tree protection orders (TPOs) located within the site. The site is located in Flood Zone 1 and as such there is a low possibility of risk from flooding.

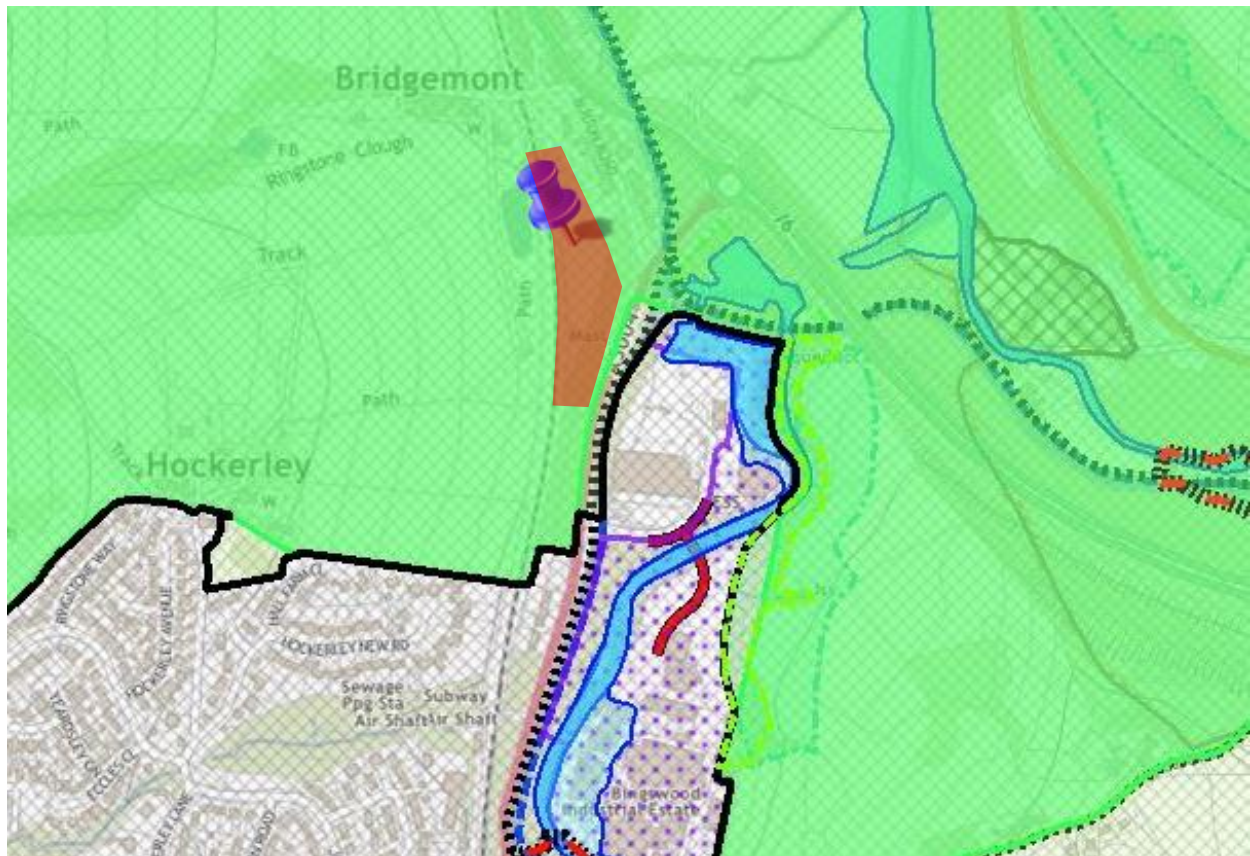


Figure 1: Extract from High Peak Borough Council's Local Plan Policies Map (2016) Appeal site approximately identified with orange wash

Commentary on the Site

- 1.4.9 As noted above there are some vehicles and poultry structures which can currently be found on limited parts of the appeal site. The lawful use of the appeal site, however, appears as agricultural land.
- 1.4.10 Regarding the land previously used by Network Rail as a depot with hardstanding, the Committee Report confirmed that these works are now complete. Moreover, it has been accepted by the appellant that the use rights of Network Rail's maintenance works have been temporary, therefore the vehicles and machinery that have been present on the land in connection with those works do not form part of the landscape baseline for consideration of this appeal.

1.5 Policy and Guidance

- 1.5.1 Relevant development plan policy and policy guidance are as follows:

Development Plan

1.5.2 High Peak Local Plan (2016). Key policies for this appeal are included in full in Appendix 2:

- Policy S 1 Sustainable Development Principles
- Policy S 1a Presumption in Favour of Sustainable Development
- Policy S 2 Settlement Hierarchy
- Policy S 3 Strategic Housing Development *
- Policy S 6 Central Sub-area
- Policy EQ 1 Climate Change
- Policy EQ 2 Landscape Character
- Policy EQ 3 Rural Development
- Policy EQ 4 Green Belt Development
- Policy EQ 5 Biodiversity
- Policy EQ 6 Design and Place Making
- Policy EQ 8 Green Infrastructure
- Policy EQ 9 Trees, Woodland and Hedgerows
- Policy EQ 10 Pollution Control and Unstable Land
- Policy EQ 11 Flood Risk Management
- Policy H 1 Location of Housing Development
- Policy H 2 Housing Allocations
- Policy H 3 New Housing Development
- Policy H 4 Affordable Housing *
- Policy H 5 Rural Exceptions Sites
- Policy CF 3 Local Infrastructure Provision
- Policy CF 4 Open Space, Sports and Recreation Facilities
- Policy CF 6 Accessibility and Transport
- Policy CF 7 Planning Obligations and Community Infrastructure Levy

Policies marked ‘ * ’ are considered to be partly out of date and are afforded less weight for development management decisions. This is discussed further below.

Whaley Bridge Neighbourhood Plan 2022-2032

- 1.5.3 On the 25th October 2023, High Peak Borough Council agreed to send the Whaley Bridge Neighbourhood Plan to Referendum. The Whaley Bridge Neighbourhood Plan Referendum was held on 7th December 2023.
- 1.5.4 Following a positive referendum result, High Peak Borough Council (under delegated powers on 31st January 2024) and the Peak District National Park Authority (at a meeting of the Planning Committee on 19th January 2024) resolved to make the Whaley Bridge Neighbourhood Plan.
- 1.5.5 The Whaley Bridge Neighbourhood Plan now forms part of the Development Plan for the appeal site.

Supplementary Planning Documents

- 1.5.6 The following supplementary planning documents are also relevant:
- High Peak Design Guide SPD (February 2018)
 - Residential design SPD (December 2005)
 - Landscape Character SPD (March 2006)
 - Developer Contributions SPD (2023)

National Planning Policy and Guidance

National Planning Policy Framework (December 2023), in particular:

- Chapter 2: Achieving Sustainable Development
- Chapter 4: Decision Making
- Chapter 5. Delivering a sufficient supply of homes;
- Chapter 12. Achieving well designed places;
- Chapter 13. Protecting Green Belt land; and
- Chapter 15. Conserving and enhancing the natural environment

Planning Policy Guide (PPG), in particular:

- Green Belt
- Rural Exceptions
- Rural Housing
- Addressing the Needs for Different Types of Housing
- Housing and Economic Needs Assessment

- Neighbourhood Planning
- Housing supply and delivery
- Natural Environment

Other Relevant Documents

- High Peak Housing and Economic Land Needs Assessment (HELNA)
September 2022

1.6 Planning History

- 1.6.1 There is a substantial recent planning history relating to the appeal site. The majority of applications have been dismissed at appeal. The inspectors' appeal decision letters have included conclusions regarding the inappropriateness and other harm of the proposals on the Green Belt.
- 1.6.2 The history is summarised in Table 1 below. Site location plans and key findings of the applications and appeals are included in the Schedule provided at Appendix 3, whilst further details of the individual schemes and decisions are included in Appendices 4-10.

Table 1: Planning History

Reference	Description	Decision	Appendix Reference
HPK/000/6625	Erection of 3 dwellings	Refused 21 st November 1977	
HPK/0002/7703	Residential development	Refused 18 th April 1989	
HPK/2013/0347 (APP/H1033/A/12/2205401) Appeal A	Erection of 2 dwellings	Appeal dismissed 6 th June 2014	Appendix 4
HPK/2013/0348 (APP/H1033/A/13/2205407) Appeal B	Erection of 2 dwellings	Appeal dismissed 6 th June 2014	Appendix 5
HPK/2015/0486 (APP/H1033/W/16/3142716)	Proposed detached house	Appeal dismissed 19 th May 2016	Appendix 6

Reference	Description	Decision	Appendix Reference
Enforcement Notice Issued (APP/H1033/C/15/3130680) Appeal A	Material change of use from nil use to car sales including the siting of a caravan and erection of fencing	Notice upheld 27 th July 2016	Appendix 7
HPK/2015/0097 (APP/H1033/C/15/3130690) Appeal B	Erection of 2 dwellings	Appeal dismissed 27 th July 2016	Appendix 8
HPK/2015/0324 (APP/H1033/W/15/3133866) Appeal C	Retention of use as car sales	Appeal dismissed 27 th July 2016	Appendix 9
HPK/2020/0180	Application for Outline Planning Permission with details of access (all other matters reserved) for erection of up to 38 affordable dwellings	Refused 14 th February 2023	Appendix 10

- 1.6.3 The appellant has also referred to the full planning application (HPK/2017/0536) on Land Adjacent and to the rear of No 54 To 64, Buxton Road, which was granted in March 2018. The scheme by Peaks and Plains Housing Trust was for 13 dwellings, all affordable, comprising five two bed houses and eight one bed apartments. It was considered appropriate development under paragraph 154 (f) of the NPPF as it proposed an appropriate number and mix of dwellings that had been justified as meeting a local community need through a parish housing needs survey as per Policy H5 Rural Exception Sites (RES) of the HPLP and the NPPF.

1.7 List of Documents

- 1.7.1 A list of documents to be referred to by the Council is set out below:

- High Peak Local Plan (adopted April 2016)
- Whaley Bridge Neighbourhood Plan 2022-2032 (adopted January 2024)
- National Planning Policy Framework (December 2023)
- Proposed drawings, Decision Notice and Committee Report and Update Report for planning application HPK/2023/0061 (the appeal scheme)
- Appellant Statement of Case (including Appendices)

- Appellant Landscape Appeal Statement
- Appellant Affordable Housing Statement
- Appellant Statement re: Housing Land Supply and Delivery (including Appendices)
- High Peak Statement of Case (including Appendices)

1.7.2 The application documents can be viewed on the planning application search pages of High Peak Borough Council's website by typing in the planning application reference number (HPK/2023/0061), at:

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=259690>

2.0 The Council's Case

2.1 Overview

2.1.1 In this section, we follow the steps by which the Council considers this case should be judged, namely:

- As a preliminary step, a review of the status of the development plan;
- The policy sequence for assessing this application in the green belt context;
- Whether the appeal scheme is judged to be appropriate development against the two 'exceptions' paragraphs of the NPPF (154 and 155) and the development plan;
- Any other harm resulting from the appeal proposal (the extent the proposal will impact on the openness of the green belt and the purposes of the Green Belt as set out in paragraphs of the NPPF (142 and 143);
- An assessment as to whether there are 'very special circumstances' and whether these outweigh identified harm to the Green Belt;
- Accordance with the development plan
- Other matters that are relevant to the consideration of the proposal, such as delivery of housing and local representations.

2.2 Status of the Development Plan

2.2.1 The development plan for this site comprises:

- High Peak Local Plan (HPLP), adopted in April 2016 and
- The Whaley Bridge Neighbourhood Plan, adopted in January 2024

2.2.2 In June 2022, the Borough Council considered the extent to which the HPLP was 'in date', at which point it concluded, and resolved that three policies were considered out of date.

2.2.3 The three out-of-date policies are: Policy S3 (Strategic Housing Development), Policy S4 (Maintaining and Enhancing an Economic Base) and Policy H4 (Affordable Housing). As such, these policies are to be given less weight for development management purposes.

2.2.4 The Council has identified a housing land supply of 6.4 years. Indeed, when removing the 5% buffer – as prescribed in the December 2023 NPPF for cases where the Housing Delivery Test is met – then the housing land supply extends to 6.72 years. Whichever figure is adopted, it is clear that the Council is comfortably meeting its five year housing land supply target, and that the 2016 Local Plan is in date (save for S3, S4 and H4).

2.3 The Principle of Development

Approach to Assessment

- 2.3.1 The fundamental principle of Green Belt policy is established in paragraph 142 of the NPPF:

“to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.

- 2.3.2 Being designated as Green Belt, the appeal site is subject to the relevant tests of the NPPF (notably paragraphs 152-155) and, inter alia, Policy EQ4 of the HPLP. As we will see, there is a close relationship between Green Belt policies within the High Peak Local Plan (Local Plan) and the NPPF, as the national guidance refers to the local development plan and vice versa.

- 2.3.3 The starting point is to assess whether the appeal scheme is inappropriate for the Green Belt location. Paragraphs 154 and 155 of the NPPF set out the only exceptions to this fundamental policy position. Of the twelve types of development that could be considered to be exceptions to being inappropriate, only two are potentially relevant to the appeal case:

“154f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites)

154g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

- 2.3.4 We consider these two paragraphs below, together with Local Plan Policy H5, which sets out the tests for Rural Exception Sites (RES).

- 2.3.5 If the appeal proposal is not found to be an exception, then it will be ‘inappropriate’. As paragraph 152 of the NPPF states:

“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

- 2.3.6 As set out in the NPPF paragraph 153, if proposed development is inappropriate, there is also a need to assess whether it generates ‘any other harm’. With reference to paragraphs 142 and 143 of the NPPF, this includes harm to the openness and purposes of the Green Belt and the extent of this harm. NPPF Paragraph 153 requires substantial weight to be attached to ‘any harm’ to the Green Belt. This is

notwithstanding the test at paragraph 154(g) which has already applied a test of ‘*substantial harm*’ to the openness of the Green Belt. (The assessment of other harm will involve assessment of the proposed development against the policies of the development plan as a whole.)

- 2.3.7 Thus, the final policy hurdle to overcome when considering the principle of the appeal development in the Green Belt will be to consider whether very special circumstances (VSC) exist. Paragraph 152 states that “substantial weight is given to any harm to the Green Belt”, and then notes that VSC

“will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”

Assessment against 154f)

- 2.3.8 Paragraph 154f) of the NPPF describes the exception in the following terms:

- i) *“Limited”*: the scale of development is a consideration and needs to be appropriate
- ii) *“affordable housing”*: The Annex to the NPPF provides a useful description of what is meant by ‘affordable housing’
- iii) *“for local community needs”*: the need has to be identified and the proposal must respond or contribute to that need
- iv) *“under policies set out in the development plan (including policies for rural exception sites)”*: this will include Policy H5 (Rural Exception Sites) and other policies in the HPLP, such as EQ3 (Rural Development) and EQ4 (Green Belt Development).

- 2.3.9 We address points (i) to (iii) here, then turn to (iv) in later sections (including the section ‘Assessment against Policy H5’).

- 2.3.10 Within the context of Bridgemont, the scale of development proposed is considerable and cannot be said to be ‘**limited**’. We have undertaken the following analysis of the uplift in development, based on different measures.

Table 2: Increase in Scale of Bridgemont

Measure	Existing	Appeal scheme	Proportionate uplift
Built up area of Bridgemont	1.1ha	0.7 ha [1]	64%
Bridgemont Character Area (Neighbourhood Plan)	2ha	1ha	50%
Number of dwellings	67	42	63%

[1] the appeal site area has been ‘netted’ down to exclude areas of landscaping, and the access road.

- 2.3.11 Whilst the site areas are, by their nature, approximate, this broadbrush calculation shows that the appeal proposal will uplift the built form of Bridgemont by at least 50% and the number of dwellings by 63%. This does not, therefore, constitute a *‘limited’* amount of development in the Bridgemont context.
- 2.3.12 Going beyond simply the proportionate uplift in physical development in Bridgemont, the scale of development needs to be *limited* to the scale of need. We shall go on to discuss the Mendip Hills judgement below. A key issue in this case was the use of the expression ‘up to’, and the clarification that anything over and above the identified need for housing – in an area of policy restraint – would not accord with that policy. This effectively *limits* the amount of affordable housing that could be acceptable at the appeal site.
- 2.3.13 Thus, in the case of this appeal, the Council has identified a local community need in for social rented affordable dwellings in Whaley Bridge Parish (which we explain below), and it is a natural progression of the Mendip Hills case to consider that this number of units would be the *limit* of what could potentially be allowed here, in the event that the proposal is acceptable in all other respects.
- 2.3.14 This understanding of policy echoes the findings of the Inspector in the Broadwas, Worcestershire appeal (Appendix 11), who noted at paragraph 15:
- “...in order to meet the strict policy requirements for a RES proposal, **the site should only be as large as is needed to provide for the delivery of the agreed number of affordable homes (to meet the proven level of need) together with any market housing required to secure their delivery.**”* (our emphasis)
- 2.3.15 The Broadwas decision was for a RES, though not in the Green Belt, where the policy thresholds for acceptable development are raised further.
- 2.3.16 Turning to the next element of 154f) – what constitutes **affordable housing** – the glossary of terms in Annex 2 of the NPPF states that this must comply with one or more of the four given definitions: affordable housing for rent, starter homes, discounted market sales housing and other affordable routes to home ownership.

- 2.3.17 In order to then be compliant with 154f), a proposal in the Green Belt must then be **“for local community needs”**.
- 2.3.18 There have been several appeal decisions and a court judgement that defines ‘local’. These include:
- i. *Christian Malford* appeal decision: local = parish
 - ii. *Ashley Green* appeal decision: local = not the local authority area
 - iii. *Broadway* appeal decision and *Old Hunstanton* judgement: local = local need means local need in rural communities and not the wider local authority area
- 2.3.19 These decisions and the judgement are included in Appendix 12.
- 2.3.20 The Council’s Developer Contributions SPD (October 2023) clearly defines what is meant by ‘local need’ in the context of Rural Exception Sites. At paragraph 4.17 it states that there are four criteria, all of which relate to “village or parish”.
- 2.3.21 Bridgemont is not a village, as defined in the Settlement Hierarchy (Policy S2 of the HPLP), and whilst a more localised assessment for the Parish would be helpful to understand the specific needs of this *local community* – and in the absence of a more localised survey – we need to fully rely on Parish level Council Homes Options data to understand the local community need against pipeline provision.
- 2.3.22 It is worth noting at this point that the Ringstone Rise planning permission (Ref: HPK/2017/0536) was supported by such a survey, which allowed the local planning authority to grant consent for the thirteen homes in response to an identified local community need. It was this survey that the appellant referred to as part of the previous failed application on the appeal site (HKP/2020/0180), at which time the Council’s Development Control Committee rejected the justification, noting that *“the development is not of a size and type which can be justified by evidence of need from a local housing needs survey”* (Committee Report paragraph 7.37, Appendix 13).
- 2.3.23 The Planning Practice Guidance also answers the question as to the type of affordable housing that can be delivered on rural exception sites, and again points to the need for a survey.
- “Rural exception sites should seek to address the affordable housing needs of local communities. They can be used to deliver any form of affordable housing, including First Homes, provided this is supported by appropriate evidence of local need, such as a local housing needs survey.”* (Paragraph: 012 Reference ID: 67-012-20210524)
- 2.3.24 The Council’s Home Options Data Priority Banding (A-C) and Bedroom Need Whaley Bridge Parish (June 2023) found that only a single two-bedroom home was needed within Bridgemont and that across the Whaley Bridge Parish, which includes Bridgemont and Furness Vale, the following homes were needed:
- 1-bedroom: 22 units (55%)
 - 2-bed: 13 units (32.5%)
 - 3-bed: 5 units (12.5%)

- 4-bed: none needed

2.3.25 The Council's Housing and Economic Land Needs Assessment (HELNA) also assessed the mix requirement for affordable housing in various parts of the Borough. The most localised area with published data in the area including Whaley Bridge was the Central Area. Table 12.9 of the HELNA notes the following requirement for properties to meet the needs of Bands A-C in the Central Area:

- 1-bedroom: 52.1%
- 2-bed: 25.6%
- 3-bed: 14.6%
- 4-bed: 7.3%
- 5+ bedrooms: 0.5%

2.3.26 The above data is for Priority Bands A-C, which reflects the actual need for homes in the Parish. The appellant relies on including B and D in their calculations, but the use of Bands A-C is supported and explained by the authors of the Council's HELNA, Lichfields. In the appended email (Appendix 14), the lead author of the HELNA, Mr Colin Robinson, notes the following:

- In calculating the net estimate of current housing need (i.e. backlog), the focus is on the needs of households in priority need, hence Bands A-C
- Band D includes a range of households with circumstances not deemed severe enough by Councils and Registered Providers to be prioritised for accommodation, and also *"those who are judged as having enough savings and/or equity to help resolve their own housing needs"*
- This approach was adopted in the preparation of the 2014 High Peak SHMA, which was unchallenged, with the Inspector noting *"the housing strategy has been positively prepared and that the overall level of housing provision and its distribution are justified and appropriate"*
- Other recent development plans that have been evidenced by Lichfield's work that incorporates the Band A-C definition include:
 - Rosendale Local Plan, adopted 15th December 2021
 - Staffordshire Moorlands Local Plan, adopted 9th September 2020
 - Burnley Local Plan, adopted 31st July 2018
- In conclusion, Mr Robinson notes that, to his knowledge, *"no Lichfields SHMA incorporating the Priority bands A-C approach has ever been found unsound by a Local Plan Inspector"*.

2.3.27 It is clear, therefore, that Bands A-C account for the local community need. When compared to this need, the appeal proposal is clearly out of step, as the table below demonstrates.

Table 3: Housing Options compared to Appeal Scheme

	Housing Options (Bands A-C) (June 2023)	Appeal Scheme (Indicative layout)	Comparison
1-bed	22	2	-20
2-bed	13	24	+11
3-bed	5	16	+11

2.3.28 This demonstrates that the appeal proposal under-caters for one-bed homes – which account by far the largest area of need – whilst over-providing 2- and 3-bed houses. It simply does not provide the homes that are needed within the parish. In overall terms, the current appeal proposes “up to 42” dwellings, against a local community need of 40 dwellings. This proposal will, therefore, fail the clear terms of Policy H5.

2.3.29 Turning to the committed supply of new homes, the Council has provided the latest position in terms of the two new affordable housing schemes coming forward in the Parish, as follows:

- Linglongs (Ref: HPK/2017/0247 and HPK/2017/0694): Under construction; 10 units completed in 2022/23 with remaining 22 due for completion through 2023/24 and 2024/25
- Buxton Road, Furness Vale (Ref: HPK/2020/0201): Planning permission granted 4/7/2022

2.3.30 This composition of these schemes, together with the resulting shortfall balance of affordable housing is set out below:

Table 4: Local Community Need, Pipeline Development and Residual Balance

	Need	Linglongs[*]	Residual Shortfall	Buxton Road, Furness Vale	Residual Balance
1-bed	22	6	16	0	16
2-bed	13	8	5	17	-12
3-bed	5	4	1	20	-19
Total	40	18	22	37	-15

[* Linglongs also provides ten intermediate dwellings, comprising six 1-bed, three 2-bed and one 3-bed units]

- 2.3.31 Table 4 demonstrates that the Linglongs scheme alone will provide for almost all of the 2- and 3-bed local community requirement, and will leave a residual shortfall of just 22 affordable social rented homes. When including the Furness Vale consented scheme, there would be a surplus of affordable social rented properties against identified local community need within the Whaley Bridge Parish.

The appellant has cast some doubt over whether the Furness Vale commitment will be implemented. In response to the Council's request for an update, the housing association developer, The Guinness Partnership, has stated the intended commencement of development will be by June next year, with practical completion being 18-24 months later, December 2026 to June 2027 (the letter is included at Appendix 15).

- 2.3.32 Thus, we can compare need and pipeline figures as follows.

Table 5: Residual balance of shortfall post appeal scheme

	Residual local community need after pipeline of commitments	Appeal scheme	Balance
1-bed	16	2	14
2-bed	-12	24	-36
3-bed	-19	16	-35
Total	-15	42	-57

- 2.3.33 The table above clearly shows that the defined local community need for social rented affordable housing is comfortably met by the overall pipeline of consented and under construction homes, albeit there remains the need for 14 1-bedroom units. The 2 one-bedroom units proposed as part of the indicative appeal scheme could be justified in contributing to meeting the local community need, but there is simply no justification for any further two- and three-bedroom dwellings in the Whaley Bridge Parish following an assessment of local community need. The addition of "up to 42" dwellings therefore goes beyond 'limited' and beyond the local community need.

Assessment against Policy H5

- 2.3.34 Policy H5 of the HPLP provides the tests for development proposals in Rural Exception Sites (RES), as referred to in paragraph 154f) of the NPPF.
- 2.3.35 The Policy states that "*In exceptional circumstances, proposals for affordable housing on rural sites that would not normally be released for housing development*

will be supported” providing that the six criteria are met. We review these criteria below...”

- *The development is of a size and type which can be justified by evidence of need from a local housing needs survey*

2.3.36 The appellant has not produced a local housing needs survey to justify the level and composition of development sought.

- *The affordable housing would meet a genuine local need as defined in the Affordable Housing Supplementary Planning Document*

2.3.37 The genuine local need has to be justified at a parish or village level, as found in various appeal decisions, a court judgement (Old Hunstanton) and the Council’s own SPD (see previous section on 154f)). As we have demonstrated, the Council’s Housing Options data, alongside current pipeline of supply, confirms that there is no need for the proposal.

2.3.38 Moreover, as the extent of development goes beyond the level of local need, this will lead to harm.

- *Appropriate safeguards are put in place that ensure that the housing will remain affordable for successive occupiers in perpetuity*

2.3.39 This is a matter that, should the appeal be upheld and permission granted, could potentially be tied down in a legal agreement. At the time of preparing this Hearing Statement, the Council has not had sight of a draft of such an undertaking and, therefore, we reserve our position to comment further as necessary.

- *The site is located within or adjoining the settlement boundary of a village and is adequately served by existing services and facilities*

2.3.40 Bridgemont does not have a settlement boundary; it is a rural settlement that is washed over by Green Belt. This designation reflects paragraph 149 of the NPPF, which states:

“If it is necessary to restrict development in a village primarily because of the important contribution which the open character of the village makes to the openness of the Green Belt, the village should be included in the Green Belt.”

2.3.41 Paragraph 149 goes on to state that if a village is to be protected for reasons other than openness of the Green Belt, then *“other means should be used, such as conservation area...”*. In those circumstances, the NPPF requires that the village be excluded from the Green Belt.

2.3.42 As such, the appeal proposal is not *“within or adjoining the settlement boundary”*.

- *The development takes full account of environmental considerations, including European sites*

- 2.3.43 Whilst the site is identified in the Neighbourhood Plan as being within a Wildlife Corridor, it is understood that at this outline stage, there are no objections from statutory consultees to the appeal application. That said, there are clear objections to the landscape and visual impacts that are outlined by the Council's landscape consultant, Mr Stuart Ryder of Ryder Landscape Consultants.
- 2.3.44 It is expected that, should the outline application be granted, the detailed environmental considerations would be a matter for the reserved matters stage. There may also be benefits arising from biodiversity improvements, but these will need to be the subject of a legal obligation, which, to date, we have not had sight of.
- *The development provides all affordable housing unless it can be demonstrated that an element of market housing is required to deliver a significant amount of affordable housing*
- 2.3.45 The application is for 100% affordable housing provision, so, on the face of it, this criterion is met. However, the Council reserves its position on this point until it has had the chance to review the necessary legal obligation which is awaited.
- 2.3.46 In conclusion, the first, second and fourth criteria of Policy H5 are failed. The ability to meet the third and sixth criteria will be subject to the specific provisions of the legal obligation, and the fifth criterion is likely to be a matter to be addressed at reserved matters stage.
- 2.3.47 Therefore, at least three of the six criteria are clearly not met by the proposal and, therefore, the appeal fails to accord with this exceptions policy, H5.
- 2.3.48 Returning to the NPPF, failure to accord with the RES policy thus leads to further failure to accord with paragraph 154f), whilst we additionally note that other development plan policies are also not successfully met.

Assessment against 154g)

- 2.3.49 The appellant argues that the appeal proposal meets the requirements of Paragraph 154g) of the NPPF. The Council takes the contrary view.
- 2.3.50 154g) starts by identifying the type and scale of development that could potentially be appropriate. The first aspect is "limited infilling". The appellants themselves do not suggest that the appeal site can be considered as 'infilling'. We have previously shown that the appeal is neither limited in terms of the sheer scale of development in the rural, Bridgemont context nor in terms of being related to the local community need for additional affordable housing.
- 2.3.51 Paragraph 154g) then prescribes that, subject to criteria that we will address below, "*partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings)*" may be seen as being appropriate.
- 2.3.52 The Council acknowledges that a small part of the appeal site that was formerly the hard-surfaced car park for the Dog and Partridge public house is PDL. This land is the subject of previously dismissed appeal decisions.

Fig 2: Appeal Site showing area of PDL



- 2.3.53 As for the remainder of the appeal site – which constitutes the vast majority of the proposal – this is not PDL.
- 2.3.54 The Glossary of terms at Annex 2 of the NPPF clearly defines PDL as having the following characteristics (insofar as is relevant to this appeal):
- *“Land which is or was occupied by a permanent structure...*
 - *and any associated fixed surface infrastructure.*
 - *This excludes: land that is or was last occupied by agricultural or forestry buildings; ...*
 - *and [excludes] land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”*
- 2.3.55 Thus, it can be shown that the former car park, being fixed surface infrastructure, is recognised by the Council as being PDL. In all other respects, the remainder of the site cannot be classified as being previously developed. The trackway that is referred to in the appellant’s Appendix EP4 is acknowledged to have *“grassed over during the course of time”*, thus excluded from the PDL definition, irrespective of what built form and permanence it once was said to have had.
- 2.3.56 We have considered the appellant’s position that the site is PDL. Even if we were to take the 2017 aerial photograph and assume (which the Council does not) that the paraphernalia has been on the site for more than ten years, thus making it now immune from enforcement, the scale and location of the structures does not render the entirety of the appeal site as PDL. Indeed, the 2017 photograph shows, perhaps, three parked cars, a small collection of modest wooden structures (presumably poultry housing) and a small number of other unidentifiable objects. This takes up, at best, 5% of the site area. The appellant’s appendices EP3 and EP4 refer to the keeping of a horse and foal, which would be consistent with a grazing use, and the keeping of other animals, consistent with a small holding or, potentially agricultural use.
- 2.3.57 The keeping of some wooden barrels from the closed-down pub, some scaffolding poles and some other objects kept for scrap and recycling does not equate to the

entirety of the site being rendered mixed-use with a storage and distribution component.

- 2.3.58 This is a matter of fact and degree.
- 2.3.59 The fact, as it stands today, is that this activity appears unlawful, and the degree of any such storage on site can be seen as nothing more than ancillary to the enjoyment of the tenant's property.
- 2.3.60 Any reference to Network Rail's previous undertakings on the site are not relevant because they were temporary and therefore explicitly excluded from 154g).
- 2.3.61 If it is found that the entire site constitutes PDL – a point that the Council strongly rejects – then the two criteria of 154g) are to be considered. Only one of these needs to be passed for a proposal to be considered appropriate development in Green Belt.
- 2.3.62 The first criterion is that the proposal will *“not have a greater impact openness of the Green Belt than the existing development”*, so even a marginal increase in impact will lead to the appeal proposal failing. It is clear in this case that the construction of up to 42 dwellings across the length of the appeal site will have a greater impact on the openness of the Green Belt than the current modest array of low wooden structures and vehicles. Thus, this test is not met.
- 2.3.63 The second criterion is contingent on the site being PDL, which we have previously established is not the case here. Additionally, as identified elsewhere, there will be substantial harm to the openness of the Green Belt. The appeal scheme therefore fails the second test of paragraph 154g.
- 2.3.64 In summary, the Council's position is that the site is not PDL and that 154g) is, therefore, not the appropriate test for this appeal proposal.
- 2.3.65 If it was found that the site is wholly or partially PDL (over and above the component comprising the former pub car park), then it is clear that the appeal proposal fails to meet either of the two criteria provided in 154g).

2.4 Any other harm

- 2.4.1 Paragraph 153 of the NPPF indicates that substantial weight should be given to any harm to the Green Belt, categorising harm as inappropriateness (considered above) and any other harm resulting from the proposal. Paragraphs 142 and 143 set out the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open and the five purposes of Green Belt. Consequently, it is necessary to consider the harm likely to arise from the appeal proposal on the aim and purposes of Green Belt to satisfy the paragraph 153 requirement. The requirement to weigh Green Belt harm against any proposed 'very special circumstances' implicitly requires an assessment of the scale of that harm. Paragraph 154 (g) also specifically requires an assessment of whether there would be substantial harm to the Green Belt.

It is noted that any other harm generated by the appeal proposal other than the Green Belt harm will be dealt with elsewhere in this appeal statement.

Harm to the Openness and Purposes of the Green Belt

2.4.2 Planning Practice Guidance (PPG) provides a list of matters identified by the Courts which may need to be taken into account, although it is clarified that the list is not exhaustive. These are summarised as:

- spatial impact (including volume);
- visual impact;
- duration of the development;
- remediability;
- degree of activity likely to be generated, such as traffic generation.

(PPG, Green Belt, Paragraph: 001 Reference ID: 64-001-20190722) Revision date: 22 07 2019

2.4.3 The proposed development will introduce substantial built form and increased human activity, which will significantly affect the openness of the Green Belt. This is contrary to both NPPF and local policy requirements. *Turner v Secretary of State for Communities and Local Government [2016] EWCA Civ 466* established that both spatial and visual impacts must be considered in assessing harm to the openness of the Green Belt.

2.4.4 We have previously set out how multiple Planning Inspectors have concluded that development proposals of a far smaller scale in this location than that proposed by this appeal would have led to an unacceptable impact on the openness of the Green Belt. Every one of those appeals have been dismissed.

2.4.5 The appellant's assertion that the appropriate test under paragraph 154g) is 'substantial harm' is only relevant if the site is considered to be PDL. Other than the small parcel of land that was formally the pub car park, this appeal site is not PDL, therefore, the 154g) test is simply not appropriate in this case.

2.4.6 Clearly the proposed development must be assessed for its impact on the openness of the Green Belt. The introduction of up to 42 dwellings and associated infrastructure will significantly harm the openness, contrary to the requirements of the NPPF and local policies, particularly Policy EQ4.

Spatial impact

2.4.7 Case law has established that spatial impact can harm the openness of the Green Belt (*Turner V Secretary of State for Communities and Local Government [2016] EWCA Civ 466*). It was found, at paragraph 25, that there can still be impact on openness of the Green Belt even if there is no visual intrusion. i.e. the spatial aspect of openness can also be considered. The absence of visual intrusion "*does not in itself mean that there is no impact on the openness of the Green Belt as the result of the location of a new or materially larger building there*".

2.4.8 Previous appeal inspectors have judged that smaller proposals on the appeal site would cause material harm to the openness of the Green Belt. For example, Planning Application HPK/2015/0486 dismissed at appeal (see Appendix 6

Planning History, site location plan and appeal decision). The Inspector gave the identified harm to spatial openness substantial weight.

“...the erection of a dwelling, the residential occupation of the land around it and the introduction of domestic boundary treatments would inevitably erode the openness of the Green Belt which by its nature is reduced by the erection of buildings and other structures. The importance attached to this consideration by the Framework requires me to allocate it a significant amount of weight in my decision.” (Paragraph 10)

- 2.4.9 Planning application HPK/2015/0097 - dismissed at appeal (Appendix 8, Planning History, site location plan and appeal decision) - was for 2 detached dwellings on land adjacent to 36 Bridgemont. The appeal proposal also illustratively shows two properties in this location. Whilst the appeal dealt with harm to openness under what has been replaced by paragraph 154 of the NPPF, the Inspector's comments are relevant. He found that there was scope for harm to spatial openness, as the site was not a small gap or substantially surrounded by existing development.
- 2.4.10 There is various example appeals elsewhere where the Inspector has reached a similar conclusion. These are included at Appendix 3.
- 2.4.11 The local plan inspector (Appendix 16 Extract High Peak Borough Council Report on the Examination into High Peak Local Plan, 24th March 2016) commented on the spatial impact of removing the appeal site from the Green Belt, indicating that development here would *“introduce built form into a part of the gap between the village and the edge of Whaley Bridge”* (paragraph 100, Appendix 16). Similarly, the Inspector considered the settlement of Bridgemont to be sufficiently open to not warrant alteration from a washover settlement to an insert (paragraph 99, Appendix 16). The adopted HPLP does not, however, identify Bridgemont as a village.
- 2.4.12 As stated in the committee report at paragraph 7.78, the site is located just over 50.0 metres from the built-up area boundary of Whaley Bridge, at its southernmost tip, but separated by the A5004 Buxton Road and a substantial belt of trees. To the west, it is disconnected from Whaley Bridge by the railway line and open farmland: this relationship spatially divorces it from the town. Development on the appeal site would significantly erode this gap, substantially harming the spatial openness of the Green Belt.
- 2.4.13 The physical presence of up to 42 dwellings on the site will impact on Green Belt openness by virtue of its use, as well as its spatial presence, which would be accompanied by the additional outbuildings, hard and soft landscaping normally associated with residential development. This would lead to significant change to the openness of the Green Belt, resulting in obvious harm.

Visual impact

- 2.4.14 Previous appeal inspectors have noted that proposals for land adjacent to Nos 52 Bridgemont and 36 Bridgemont would have a visual impact: they would be clearly visible from the road and gardens would be landscaped in such a way they (and ensuing paraphernalia) would visually detract from the current open countryside character of the area.

- 2.4.15 The previous appeal inspector for 2 detached dwellings on land adjacent to No 36 Bridgemont (HPK/2013/0347, (Appendices 3 and 4) concluded that the proposed *“ancillary buildings, structures and other domestic paraphernalia would be erected given the residential use of these further diminishing the openness of the Green Belt”* (paragraph 13).
- 2.4.16 The Inspector for appealed application Ref: HPK/2015/0097 (Appendices 3 and 8) noted:
- “...The Council’s planning witness gave an opinion that the housing scheme would cause such harm, as it would extend residential development into the open countryside surrounding Bridgemont, through the creation of terraced garden areas in the western part of the site. (55) I agree with that assessment, as the upper parts of the appeal site are currently open and viewed as a part of the open countryside surrounding the settlement. The extension of urban development through the creation of terraced garden areas, even if devoid of structures should permitted development rights under the GPDO be removed by condition, would cause harm to both the character and the appearance of this area, notwithstanding that such development has recently taken place to the north, as part of the creation of three dwellings at Nos 32-36. It would be a clear encroachment of a residential use into open undeveloped countryside.”* (paragraphs 54 and 55, Appendix 8).
- 2.4.17 As the current appeal proposal is for development in this location, but extending further across the site, there will be as least as much visual impact as the previously dismissed scheme. The proposed dwellings, which are shown as spread across the site on the illustrative layout (Option 2), along with the associated hardstanding accesses, driveways, boundary treatments, outbuildings and gardens and soft landscaping features will have a harmful visual impact on the openness of the Green Belt. Additionally, structures are likely to be required to protect the appeal proposal from the operation of the adjacent railway as highlighted by the Network Rail consultation comments, and these will also add to the visual impact on the openness of the Green Belt, resulting in overall significant harm.

Degree of activity generated

- 2.4.18 The appeal proposal is for up to 42 dwellings. As such it is likely to generate a significant increase in the amount of comings and goings within and to and from the Bridgemont settlement. Given the current number of properties in Bridgemont (including the 2017 consent) is 67 dwellings, comings and goings could be increased by up to around 60%. As such this will impact on the sense of openness in this washed-over area of Green Belt, acting together with the spatial and visual impacts identified above to increase the harm to the openness of the Green Belt.

Harm to Green Belt purposes

- 2.4.19 As discussed in paragraphs 7.85 and 7.86 of the Councils committee report, the appeal proposal would result in encroachment into the countryside harmful to the purposes of the Green Belt in respect of NPPF paragraph 143 (c).
- 2.4.20 The impact on spatial openness in this location would serve to harmfully erode the gap between Bridgemont and Whaley Bridge, against the Green Belt purpose and contribute to urban sprawl of Whaley Bridge.

Conclusion on Harm to Green Belt purposes

The Council has identified ~~potential~~ harm to the purposes of the Green Belt arising from the appeal proposal. As such, paragraph 153 of the NPPF is clear that substantial weight should be afforded to this harm.

Conclusion on Harm to Openness of Green Belt

- 2.4.21 The Council has identified a substantial level of harm to the openness of the Green Belt arising from the appeal proposal. Substantial harm would be generated through a combination of spatial and visual harm together with harm arising from a change of use of the land to residential and an increased intensity of use. The identified harm to the purposes of the Green Belt also contributes to the harm to the openness of the Green Belt.
- 2.4.22 As such, paragraph 153 of the NPPF is clear that substantial weight should be afforded to this harm. It is also noted that the level of harm would be substantial, such that the proposal would not meet with the requirements of paragraph 154 (g) second bullet point.

Conclusion on Harm to the Green Belt

- 2.4.23 There is harm to the Green Belt due to inappropriateness, loss of openness and impact on the purposes of including land within the Green Belt. Harm generated by loss of openness is assessed to be substantial.
- 2.4.24 The key issue is whether the appeal scheme is appropriate for the Green Belt, with Paragraphs 154 and 155 of the NPPF outlining exceptions. Of the twelve possible exceptions, only limited affordable housing for local needs and redevelopment of PDL could potentially be relevant.
- 2.4.25 The proposed development fails to qualify as 'limited' based on the significant proportional uplift it represents for Bridgemont: at least a 50% increase in built form and a 63% increase in the number of dwellings. Furthermore, the proposal does not align with the local need for affordable housing. The Council's data indicates a primary need for one-bedroom homes, whereas the appeal scheme over-provides larger homes that are not in demand, leading to harm.
- 2.4.26 Policy H5 of the HPLP, governing Rural Exception Sites, requires that developments be justified by local housing needs surveys, which the appellant has not provided. The scale and type of development proposed exceed the identified local community need and fail to comply with the policy's criteria when assessed against Council Home Options data for Whaley Bridge Parish.
- 2.4.27 Additionally, the site does not qualify as PDL except for a small part, which is not sufficient to meet the NPPF 154(g) criteria. The proposed development would cause substantial harm to the openness of the Green Belt, a key factor in assessing appropriateness within 154 (g). The appeal proposal introduces a significant spatial and visual impact, changing the use to that not commonly associated with Green Belt, and increasing built form and activity, which substantially harms the openness and permanence of the Green Belt.

- 2.4.28 The appeal scheme does not constitute an exception to being inappropriate development in the Green Belt. Indeed, the development would result in substantial harm to the openness and purposes of the Green Belt and, therefore, it should not be approved except in very special circumstances.

2.5 Circumstances

- 2.5.1 Very special circumstances (VSC) can only exist if the harm that we have identified “by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations” (NPPF, paragraph 153).
- 2.5.2 It is acknowledged that VSC can comprise a series of ordinary factors, as has been established in the Brentwood case that has been referred to by the appellant.
- 2.5.3 In setting out the Council's position, we have used a scale of neutral, limited, moderate, significant, substantial (other than for landscape and visual aspects, on which we refer to Mr Ryder's terms). The Council's position in respect of the areas of VSC that the appellant alludes to is as follows:
- i) *Economic benefits:* the scheme will have a **limited** economic benefit both during the construction phase and once completed.
 - ii) *Social:* the scheme will have a **neutral** impact in terms of the overall housing provision, as the local planning authority is already comfortably meeting its five-year housing land supply.
 - iii) *Social:* The benefits of affordable housing provision to meet a borough-wide need would normally be higher, but this is not an appropriate site to meet that wider need, and there is no identified local community need. As such, the provision of affordable housing in this location is afforded **moderate** positive weight.
 - iv) *Social:* regarding the funding for transport related matters, again this can be seen as being **neutral**, as these ‘benefits’ are largely required by the scheme to make it acceptable.
 - v) *Environmental:* whilst the appellant considers that there is a significant benefit to the development of this previously developed land, as we have previously substantiated, the site is not PDL. As such, the development of a predominantly greenfield site, with the resultant impacts on the openness and purpose of the Green Belt, will lead to a harm that is to be given **substantial weight** according to paragraph 153 of the NPPF.
 - vi) *Environmental:* as with point iv) above, the transport and accessibility upgrades are largely needed to justify the appeal proposal, so only **neutral** weight can be attributed.
 - vii) *Environmental:* whether or not the scheme will comprise ‘high quality design’ will largely be a matter for the reserved matters stage, albeit the starting point of ‘up to 42 units’ may be seen as over-development in design

terms. The over-riding point is that the houses are not needed in this location and, therefore, the conclusion has to be **moderate negative**.

- viii) *Environmental:* with regard to landscape impacts on the site, Mr Ryder concludes them to being **Major/Moderate**, Adverse and Permanent, and within the contextual landscape to being in the range of **Minor to Moderate**, Adverse and Permanent. In the wider landscape, the proposal will have **Minor**, Adverse and Permanent adverse impacts.
- ix) *Environmental:* turning to visual impacts, the appeal scheme will have between **Minor and Major/Moderate**, Adverse and Permanent impacts.

2.5.4 As can be seen, the positive aspects of the appeal proposal do not amount to material benefits to the local community, either in economic, social or environmental terms. As such, there are no VSC, either singularly or in combination, that can be said to outweigh the considerable harm that the appeal scheme will bring about.

2.6 Accordance with the Development Plan

2.6.1 It has been demonstrated that the appeal scheme does not accord with HPLP Policy H5 (Rural Exception Sites) and Policy EQ4 (Green Belts). Related to these, Policy S2 (Settlement Hierarchy) requires that development in 'Other Rural Areas' "*will be strictly limited to that which has an essential need to be located in the countryside or comprises affordable housing in accordance with policies EQ3 and H5*". Furthermore, it is the Council's view that the following development plan policies are failed by the current appeal:

- i) S1 Sustainable Development Principles – specifically, the density of development proposed is wholly inappropriate for this location and has no relation to the surrounding built environment, and it risks damaging an area of landscape value.
- ii) S6 Central Sub-Area Strategy – the proposal goes against the protection of the designated Green Belt, and the density and form of housing proposed will not protect and/or enhance the landscape character.
- iii) EQ2 Landscape Character – As Mr Ryder notes, the proposal fails the first, second and fourth criteria.
- iv) EQ3 Rural Development – again, the proposal will not protect or enhance the landscape character.
- v) EQ6 Design and Place Making – as Mr Ryder notes, the proposal fails at least the first five criteria of this policy.

2.7 Other Matters

Description of Development

- 2.7.1 The appeal scheme is described as providing “up to 42” affordable housing dwellings. Case law provides useful clarity on the subject of how an ‘up to’ figure should be seen against an identified housing need.
- 2.7.2 The case of *Harvey, R (On the Application Of) v Mendip District Council* [2017] (Appendix 17) found that an outline application cannot specify more affordable homes than evidenced by need.
- 2.7.3 The Court of Appeal judgement determined that for applications where policy required a local housing need to be established, permission could not be granted for a number of affordable homes above that need. That is, if the local need was for 5 affordable homes, planning permission should not be granted for “up to 6 affordable homes”.
- 2.7.4 *Sales LJ* held that with an ‘exceptions’ type policy, the proper context for the purposes of a *Tesco v Dundee* interpretation [applying what a policy actually says to the description of development] was one of policy restraint. In the *Mendip* case, the evidence of need in the Local Housing Needs Assessment was for 5 affordable homes: meeting this need did not allow for an excess above the identified need, and so a scheme for up to 6 affordable homes could not be in accordance with the policy. The term “meets” means “meeting and not exceeding”.
- 2.7.5 Further, the Court of Appeal did not accept that there was any element of planning judgment involved in the operation of this part of Policy DP12 (the RES policy). It set out the source data that needed to be examined to see if there was a need for affordable housing: the latest local housing need assessment. Whatever that data said was determinative, for the purposes of policy compliance. It was not open to the decision maker to make a planning judgment that a need for 5 affordable dwellings could be met by the provision of 6 affordable dwellings.
- 2.7.6 Finally, the Court of Appeal was dismissive of the argument that an outline application for “up to 6 affordable homes” gave the Council scope at the reserved matters stage to approve less than 6 dwellings under the guise of controlling “scale”. *Sales LJ* referred to the GDMPO 2015 definition of the reserved matter of “scale” and said that it did not include the quantum of housing to be approved. Paragraph 41 of the judgement notes:
- “The term “scale” “means the height, width and length of each building proposed within the development in relation to its surroundings”. The reservation of matters of scale under condition 1 of the planning permission, read in the light of this definition, would not allow the Council to refuse to allow a development of 6 (rather than 5) affordable homes to proceed by exercise of discretion at the reserved matters stage.”*
- 2.7.7 Therefore, it is clear that an application that is predicated on the basis of meeting a specified local need cannot, as matter of law, be capable of bringing forward a single dwelling unit over and above that level of local need.

Deliverability

- 2.7.8 The appeal application was submitted jointly by Treville Properties Ltd and Great Places, a Registered Provider (RP). However, the appeal has been submitted only by Treville Properties and the Council has recently been informed that Great Places is not associated with the proposal. In an email to the Council's Regeneration Officer, dated 3rd July 2024, Great Places' Development Programme Manager, Chris Baldwin, confirmed:

"This [Bridgemont scheme] isn't one we're currently involved one. I believe we submitted early interest but our name shouldn't be attached to this one, we won't be proceeding with the acquisition of these homes."

- 2.7.9 At the time of the previously refused application, The Guinness Partnership had expressed early interest in the development proposals. It seems that that they too have withdrawn their interest in the site.
- 2.7.10 There must, therefore, be question marks over the deliverability of the appeal housing scheme, given that two leading RPs have declined to help bring the development forward.
- 2.7.11 This could also be seen to point to an acknowledgement by the RPs that there is insufficient demand, or need, for this scale and type of development in this location.

Representations to the Appeal Application

- 2.7.12 The representations made to the application have been tabulated by location, as follows:

	Bridgemont	Whaley Bridge	Buxton	Chapel en le Frith	New Mills	Furness Vale	Total
Support	1	5	0	2	5	1	14
Object	14	6	1	0	0	0	21
Neutral	2	0	0	0	0	0	2

- 2.7.13 This table shows an overwhelming level of objection to the scheme from the residents of Bridgemont. The representation from Whaley Bridge is more balanced, whilst those writing in from further afield tend to be more supportive.
- 2.7.14 The appellant sets great stall on the support given by the Whaley Bridge Town Council and Amenity Society. However, the Secretary of State in the Kirkby Thore, Cumbria case found that a Parish Council does not necessarily speak for the entire community. In this particular case, which was for a wind turbine, the Parish Council was opposing the proposal. However, the Secretary of State weighed up the views of the Parish Council and objectors and concluded that this did not necessarily reflect the views of the wider community. It stated at paragraph 13 of the SoS decision letter:

"The Secretary of State agrees with the Inspector that, notwithstanding the presence of objections to the proposal at application and appeal stages, in the

circumstances set out the proposal can be deemed to have the backing of the affected local community.”

- 2.7.15 So, despite the Parish Council’s objection, the SoS considered that the wider community took the contrary view. The same can be said to apply here, as the level of local objection runs contrary to the view taken by the Town Council.

3.0 Appellant's Propositions

Proposition 1: The proposed development is for limited affordable housing for local community needs under policies set out in the development plan. As a result it constitutes an appropriate form of development in the Green Belt.

- 3.1.1 The proposed development of up to 42 homes significantly exceeds what could be considered "limited" in the context of Bridgemont. Bridgemont is a small rural settlement, and the proposed development represents a 65% increase in the number of dwellings, which is disproportionate and excessive.
- 3.1.2 In terms of the development plan, Policy EQ4 of the HPLP requires that any development within the Green Belt must protect the Green Belt and maintain its openness and permanence.
- 3.1.3 We have previously noted the following:
- The scale of the proposed development, constituting up to 42 dwellings, cannot be considered limited in the context of Bridgemont. The proportional increase in built form (at least 50%) and the number of dwellings (63%) far exceeds what would be appropriate.
 - The appellant has failed to justify the local community need for the quantum and mix of dwellings.
 - The Council's Home Options Data (June 2023) has found that the primary need in Bridgemont is for one-bedroom homes, which the appellant's scheme under-provides.
 - The proposed development does not align with the specific needs of the local community as outlined in the HELNA. Further, the HELNA notes that the primary need in the Central Area, which includes Bridgemont, is for smaller units. Referencing High Peak's Housing Register as of December 2021, Table 12.9 of the HELNA states that 52% in the Central Area (Bands A-C) had a requirement for a 1-bedroom property and 26% for 2-bedrooms.
- 3.1.4 What the appellant considers to be a 'strained and negative' approach (page 22) to assessing the local affordable housing need is simply a reasonable approach to the restraint that is encapsulated in Green Belt policy, and rather than being 'legalistic' the Council has considered the facts and degree of the case and has arrived at a decision based on judgement and planning balance.

Proposition 2: Where development falls within paragraph 154(f) of the Framework, there is no requirement for an assessment of impacts on openness and Green Belt purposes. Notwithstanding this, development of the site in the manner proposed would have a limited effect on the openness of the Green Belt only and there would be no conflict with the purposes for including land within the Green Belt.

3.1.5 As we have previously demonstrated, this appeal proposal does not accord with paragraph 154f) of the NPPF. ,

3.1.6 Setting aside the provisions of 154f, the scheme will clearly bring about substantial harm to openness of the Green Belt and conflict with the purposes of including land within the Green Belt, as assessed in the previous section.

Proposition 3: The proposed development complies with the requirements of S1, S6, EQ2, EQ3 and EQ6 of the Adopted High Peak Local Plan 2016, the NPPF and the Council's Landscape Character SPD. It would not result in unacceptable adverse landscape or visual effects.

3.1.7 The Council's position is stated in Mr Ryder's evidence. In summary:

- The appeal scheme does not align with the sustainable development principles outlined in Policies S1 and S6 of the HPLP. These policies require development to contribute positively to the character and appearance of the area, which the proposed development fails to do.
- The proposed development conflicts with Policy EQ2, which seeks to protect, enhance, and restore the landscape character of the area. It also fails to comply with Policy EQ3, which supports development that does not harm the character of the area.
- With regard to Policy EQ6 (Design and Place Making), the appeal scheme fails at least the first five of the eleven given criteria.
- The Landscape Character SPD emphasises the importance of maintaining the rural character and visual quality of the area. The proposed development will have significant adverse landscape and visual effects, as it introduces a substantial built form into a predominantly open and rural area.

Proposition 4: The development would not have an unacceptable effect on the Peak District National Park or its Setting.

3.1.8 Please refer to Mr Ryder's evidence for the Council's position on this Proposition.

Proposition 5: The development complies with all other relevant requirements of the development plan and would result in a number of significant benefits, contributing to the three objectives of sustainable development. These benefits weigh in favour of granting planning permission. In the event that the development is found to be inappropriate development within the Green Belt, the benefits are clearly sufficient to outweigh any harm to the Green Belt and any other harm.

- 3.1.9 While the proposed development may provide some benefits, as described in the previous section, these do not outweigh the harm to the Green Belt, the landscape, character of the area and the development plan as a whole.

4.0 Summary and Conclusions

4.1 Overview

- 4.1.1 This section summarises the Council's position regarding the refusal of the planning application, assessing compliance with the December 2023 National Planning Policy Framework (NPPF) and the 2016 High Peak Local Plan (HPLP).

4.2 Assessment of Policy Compliance

Green Belt Policy and Openness

- 4.2.1 The proposed development is situated within the Green Belt and must adhere to stringent policy requirements to preserve its openness and prevent urban sprawl. According to NPPF Paragraphs 142, 149, 154, and 155, and HPLP Policy EQ4, development in the Green Belt is inappropriate unless it meets specified exceptions.
- 4.2.2 The proposed development does not qualify as 'limited' affordable housing under NPPF Paragraph 154f), nor does it constitute appropriate redevelopment of previously developed land under Paragraph 154g). The significant increase in built form and activity will materially harm the openness of the Green Belt, thus conflicting with these fundamental policy aims.

Sustainable Development Principles

- 4.2.3 HPLP Policies S1 and S6 require that development proposals contribute positively to the character and appearance of the area, adhere to sustainable development principles, and support the overarching spatial strategy.
- 4.2.4 The proposed development's scale and design are incongruent with these principles, leading to detrimental impacts on local character and the rural landscape, contrary to the sustainable development objectives.

Landscape and Visual Impact

- 4.2.5 As Mr Ryder notes, HPLP Policy EQ2 requires the protection, enhancement, and restoration of landscape character. The proposed development, by introducing substantial built form into a predominantly rural area, fails to comply with this policy.
- 4.2.6 The High Peak Design Guide SPD and Landscape Character SPD state the necessity of preserving the rural character and visual quality of the landscape. The proposed development's visual intrusion into the open countryside results in significant adverse impacts on the local landscape character.

Housing Need and Affordability

- 4.2.7 Policy H5 of the HPLP governs Rural Exception Sites (RES) and stipulates that such developments must be justified by local housing needs surveys. The appellant has not provided adequate evidence to justify the scale and type of development proposed.
- 4.2.8 The housing mix proposed does not align with the identified local need, particularly for one-bedroom homes, and disproportionately includes larger homes that go beyond the identified demand. Consequently, the development exceeds the local community's needs, rendering it inappropriate under the RES policy criteria.

Conclusion on Harm and Very Special Circumstances

- 4.2.9 The proposed development constitutes inappropriate development within the Green Belt, leading to substantial harm to its openness and fundamental purposes. The development's scale far exceeds what can be considered limited, and it introduces significant built form and activity detrimental to the Green Belt's character. No very special circumstances have been demonstrated that would clearly outweigh the identified harm.

4.3 Conclusion

- 4.3.1 The appeal should be dismissed for the following reasons:
- i) Non-compliance with Green Belt Policies: The proposed development fails to meet the exceptions outlined in the NPPF and conflicts with local Green Belt policies, resulting in substantial harm to openness and the purposes of the Green Belt (NPPF Paragraphs 142, 143, 149, 154, 155; HPLP Policy EQ4).
 - ii) Local Community Need: the proposed housing mix does not meet the identified local community need, failing to justify the scale of development under the RES criteria set out in Policy H5 of the HPLP.
 - iii) Adverse Landscape and Visual Impact: [the proposal fails policies aimed at protecting and enhancing landscape character, leading to significant adverse visual effects (HPLP Policies S1, S6, EQ2, EQ3 and EQ6).
- 4.3.2 The proposal introduces significant harm to the Green Belt, landscape character, and local housing strategy without adequate justification or demonstration of very special circumstances.
- 4.3.3 The proposed appeal development is fundamentally incompatible with the policy framework set out in the NPPF and HPLP and, accordingly, the appeal should be dismissed.