

Mr James Stannard
High Peak Borough Council - Planning
Development Services
Municipal Buildings
Glossop
Derbyshire
SK13 8AF

11 November 2024
EP ref: 23-615

Dear Mr Stannard

Re: HPK/2024/011222 - Corbar Hill House, Corbar Road, Buxton, SK17 6RU

We refer to the conservation officer's response dated 10th June 2024 and our subsequent exchange of emails between October 31st 2024 and 5th November 2024.

Please find enclosed the a full set of revised drawings which have been prepared to seek to address your design concerns:

- Proposed site plan 01
- Proposed block plan 01
- Proposed topo
- Site location plan
- Topo 01
- Comparison site block 01
- Proposed 01-10
- Proposed site sections 01

The first floor has been removed and the internal layout has been amended to reflect this. The proposed materials are ashlar sandstone/gritstone with flush joints. The proposed paving is retained as granite setts. The roof is a sedum make-up with flat roof lights. The roof sits into the banking at the rear so only the site elevations and front elevations are visible. The roof has a deep soffit line overhand to create a shadow line over the glazing and avoiding a characterless straight edge between the wall and the roof. We provide additional information in respect of the planning considerations below.

Introductory matters

The applicant and the local planning authority are in agreement that:

- The site is within the built-up area of Buxton, one of the larger Market Towns that sits at the top of the settlement hierarchy and therefore residential development is supported in this location in principle.
- There is an extant planning permission HPK/2002/0864 for residential development on the site. This comprises a fallback position which is a material consideration in determining the application. The permission could be completed, which would result in a total of 44 apartments being constructed on the site (including those already completed).
- The site lies within the setting of a Listed Building and outside but within the setting of the Conservation Area and therefore the acceptability of the scheme turns on the design of the proposed dwellinghouse and its impact on the setting of the nearby heritage assets.

Points of disagreement between the parties are:

- The applicant's heritage consultant concludes that the proposed works would have a slight beneficial impact on the setting of Corbar Hill House and the setting of the Conservation Area.
- The local planning authority concludes that there would be less than substantial harm to the setting of Corbar Hill House and the Conservation Area and considers there are no tangible public benefits to outweigh the harm.

We provide additional information on the public benefits below:

Public benefits

The proposal would have a lesser impact than the fall-back position

It is well established that the existence of a fallback scheme is a material consideration in determining planning applications. The Encyclopedia of Planning Law, paragraph 70.30 of the commentary to the Town and Country Planning Act 1990 states that:

"The Planning authority are entitled, and indeed obliged, to have regard to the 'fallback' position, i.e. what the applicant could do without any fresh planning permission".

There are principles established in case law relating to fallback as a material consideration in decision making, and the weight to be attributed to it. In summary, these are referred to in the judgement of Mansell v Tonbridge and Malling [2016] EWHC 2832 (Admin), subsequently upheld in the Court of Appeal. This established 3 elements to the fallback test:

- Whether there is a fallback (i.e., a lawful ability to undertake the development);
- Whether there is a likelihood or real prospect of it occurring; and, if so
- A comparison must be made between the proposed development and the fallback.

In this case, there is an extant planning permission (HPK/2002/0864) relating to the conversion of the former school to apartments and the construction of 30 residential apartments in 4 blocks. The former school was

converted to apartments and blocks A and B were constructed on site. There is agreement between the parties that the extant permission can be completed. The first strand of the above legal test is met.

The second strand of the test relates to the prospect of the development being carried out. The applicants clearly wish to develop the site and this is self evident by the applications that have been made on the site. The fallback position is not the applicants' first choice primarily because they wish to obtain planning permission for a family home for them to occupy. Nevertheless, in the absence of obtaining planning permission for a new home, they would have no option but to sell the site with the benefit of planning permission in order to purchase a home elsewhere. There is a real prospect of the development being implemented in the absence of the grant of an alternative permission on the site. The second strand of the test is made.

Turning to the third strand, the implementation of the permission would result in the construction of a three storey apartment block on the site as shown on the extracts below. The proposed single dwelling would have a significantly smaller footprint, volume and height than the extant permission. The extant permission would clearly have a greater impact than the construction of a single home on the site.





The affordable housing to be provided as part of this scheme has already been provided by way of a commuted sum and there would be no additional benefits that would flow from the completion of this permission.

In summary, there is a valid fallback position and the proposed single dwelling would have a significantly reduced impact than the fallback position.

Significant positive weight should be attached to this.

The provision of housing

The draft revised Framework was published for consultation on 20 July 2024. It sets out various changes to the Framework to boost housing delivery and economic growth. This includes changes to the presumption in favour of sustainable development, Green Belt policy and the standard method for calculating local housing need.

Alongside the revised draft Framework, the Government published a WMS on 30 July 2024. This has the effect of Government policy and is therefore a material consideration in planning decisions with immediate effect.

The WMS states that the current standard method for calculating local housing need is “***not up to the job***”.

The WMS also states: “***There is no time to waste. It is time to get on with building 1.5 million homes***”.

The WMS is a material consideration in its own right (*Cala Homes (South) Ltd v Secretary of State [2011] EWCA Civ 639*) as is the draft Framework.

The new standard method is likely to have very significant implications for High Peak. The Council’s latest position on 5YHLS is set out in the High Peak Borough Council’s Statement of Five Year Housing Land Supply (as at 1st April 2023, published November 2023). This claims that the deliverable supply at 1st April 2023 is 1,653 dwellings. Against the local housing need using the current standard method and a 5% buffer, this equates to 6.4 years. This is set out in the table below, which is taken from the document.

Annualised Housing Requirement	Total annual housing requirement (April 2023 – March 2028) including 5% buffer		1,292/5= 258
Total Deliverable Housing Supply	Large sites with planning permission	426	1,653
	Small sites with planning permission	182	
	Local Plan allocations	883	
	Small sites windfall allowance	140	
	Peak District National Park Allowance	22	
Total five year supply	Supply / Requirement (1,653/258)		6.4 years

However, against the local housing need using the proposed standard method and a 5% buffer, this equates to **2.69 years – a shortfall in the 5YHLS of 1,418 dwellings.**

This is highly relevant as it elevates the weight to be afforded to the provision of housing generally, particularly within a sustainable location in a key settlement. As only one house is to be provided, moderate positive weight should be attached to this.

We note that the local planning authority attaches limited weight to the provision of housing as a benefit on the basis that (a) the council has a five year supply of housing land and (b) the extant planning permission can be implemented which would deliver a greater number of houses. Point (a) is addressed above. With regard to point (b), we would reiterate that the proposal is of a significantly smaller scale and massing in comparison to the fallback position. Whilst additional homes would be provided as a result of the fallback, there would also be a greater heritage impact.

Other public benefits

Other public benefits are as set out in the planning statement accompanying the application.

- Construction related jobs and indirect economic benefits – minor positive benefit.
- Effective use of the land within the settlement boundary – minor positive benefit.
- Enhancement of the appearance of the site. The site has historically been subject to forms of development including ancillary outbuildings, greenhouses, tennis court and a quarry site (see paragraph of 7.21 of 2019 committee report). It has more recently been detrimentally impacted as a result of the development associated with the extant planning permission and the site has been blighted by litter and storage containers. It is accepted that the implementation of the fallback would also bring the site back into good use but with development of a greater scale. The proposed dwelling would bring the site back into good use and enhance the appearance of the site itself - moderate positive weight to this.
- Use of modern construction techniques and materials – minor positive benefit.
- Aesthetic value and benefits to wildlife resulting from landscaping and planting scheme – minor/moderate positive benefit.

Heritage balance

Case law in “Bramshill (2021)” and “Safe Rottingdean” has set out how Section 66(1) should be applied, within the context of the earlier decisions of Barnwell Manor, Forge Field, which established the principle that the statutory duty to be given to the preservation of the special interest of listed buildings and their settings is such that heritage harm carries “considerable importance and weight” in the planning balance. These cases, along with the decision in the Called-In Whitechapel Bell Foundry Case have identified, in summary, that:

- Heritage “harms” (harm caused to significance) and heritage “benefits” (wherein heritage significance is enhanced) should both be afforded considerable importance and weight in the planning balance, and therefore weight equally against each other;
- The decision maker is free to take a rational approach to balancing harms and benefits; it is acceptable for an “internal balance” to be undertaken, considering heritage harms and benefits alongside each other, before reaching a view on the “net” heritage impact, whether harmful or beneficial, and considering this residual impact against public benefits.

In our judgement, the alleged harm that would occur to the setting of the heritage assets is outweighed by the cumulative public benefits that the development would bring forward.

Comparison with withdrawn scheme

The local planning authority is of the view that the 2015 withdrawn scheme brought greater public benefits. Your email states:

It is clear from a review of the Committee Report that the 2015 scheme brought with it a number of public benefits, which includes (i) the conversion of the Coach House, which brings a vacant structure of heritage value back into a suitable and beneficial use; (ii) a modest but important contribution to the housing delivery of the Borough; and (iii) Affordable Housing financial contributions. It was also considered that the scheme was a better option in design terms than the extant permission, with regards to being made up of smaller blocks. It is notable that both schemes in 2002 and 2015 were constructed from traditional materials, with predominantly traditional architectural features.

We would also point out that the withdrawn scheme would be of a greater scale and massing than the proposed which would in turn result in greater heritage harms.

Furthermore, the relevant comparison in terms of public benefits is the extant 2002 permission as this is the fallback.

With regard to affordable housing, the 2002 extant permission required the delivery of either 9 affordable units on a site to be procured elsewhere in the town or the payment of a commuted sum of £350,000 to the council for the provision of affordable housing elsewhere in the town. The contribution was paid as part of the construction of the units on the site and this benefit was delivered. There would be no additional benefit in this regard from the completion of the extant permission.

It remains that the current application is a better option in terms of both the extant permission and the 2015 withdrawn scheme.

Summary

We trust that you will consider the revised drawings and the additional information presented above relating to the public benefits.

Yours sincerely
Emery Planning

Caroline Payne BA (Hons), DIP TP, MRTPI, PIEMA
Director

01625 442 798
carolinepayne@emeryplanning.com