

DELEGATED DECISION REPORT

HPK/2024/0195
Valid 18/07/2024

**LAND AT BRIERLOW
QUARRY OFF B5053
TO THE SOUTH OF HIGH
PEAK BOOKSTORE
BRIERLOW BAR
BUXTON**

**CHANGE OF USE, WITH
CREATION OF A COMMUNITY
GARDEN WITHIN PART OF
THE EXISTING TREE
PLANTATION.**

(FULL - MINOR)

MAIN ISSUES

- Principle of Development
- Design Character and Appearance
- Trees

DESCRIPTION OF SITE

The application site relates to a parcel of land that lies immediately south of the High Peak Book Store and ancillary Café, at Brierlow Bar, near to the junction with the A515, a short distance from the southern fringes of Buxton.

The site is currently located within the confines of the nearby Brierlow (Hillhead) Quarry, the site entrance to which sits approximately 400m to the south of the site on the B5053 Buxton Road.

The area of land subject to this application is characterised by an area of grassland bounded by a low drystone wall, and densely populated with a large number of trees of varying age and quality. This area of broadleaf woodland was, according to the submitted plans, planted in the early 1970's in relation to a planning permission relating to the main quarry.

PROPOSAL

The application seeks the change of use of the land to be utilised as what the application refers to as a 'Community Garden' which essentially amounts to an extended seating area in conjunction with the existing Café, and as submitted was shown to include the laying of a circular crushed limestone footpath and the introduction of 5no. timber picnic tables. Access to this area will be from the existing car park serving the Bookstore and Café via new gate finished in a softwood timber.

Owing to the fact that the application as submitted would be liable for Biodiversity Nett Gain, having regard to the Environment Act (2021), the applicant has submitted a revised Site Plan that sees the omission of a permanent crushed limestone path, and similar areas under picnic tables.

In the interests of being concise and in response to the submission of revised plans, the description of development has been amended to more accurately reflect the proposal.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

High Peak Local Plan 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- EQ3 Rural Development
- EQ5 Biodiversity
- EQ6 Design and Place Making
- EQ9 Trees, Woodland and Hedgerow
- EQ10 Pollution and Unstable Land
- E6 Promoting Peak District Tourism and Culture

National Planning Policy Framework 2023

Achieving Sustainable Development	Chapter 2
Building a Strong Competitive Economy	Chapter 6
Achieving Well Designed and Beautiful Places	Chapter 12
Conserving and Enhancing the Natural Environment	Chapter 15

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/0002/6813	Additional Lime Storage and Manufacturing Plant (Approved 28/09/1988)
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CONSULTATIONS

Publicity

Site Notice expiry date: 5th September 2024
Neighbour consultation period ends: 8th August 2024
Press Advert: N/A

Public Comments

2no. objections have been received in connection with this application (a third representation was submitted but this is simply a duplication of one of the previous objections). The concerns are summarised as follows:

- Flood Risk
- Noise generated from equipment used to control quarry lagoon level and potential impact on amenity of users of the wooded area

Town / Parish Comments

N/A

HPBC Tree Officer

Initial Response:

There are no objections to the principle. However the potential for root damage still exists through excavation to create the pathway. It will also be vital to see the woodland re-stocked following the tree removals to ensure tree cover in this location.

Therefore if consent is granted please attach the following conditions:

1. *No operations (including initial site clearance) shall commence on site in connection with development hereby approved until a suitable scheme (Arboricultural Method Statement) for the protection of existing trees and hedgerows has been submitted and its installation on site has been approved in writing by the Local Planning Authority.*

All protection measures must fully detail each phase of the development process taking into account demolition/site clearance works, all construction works and hard and soft landscaping works. Details shall include the following:

- *A plan** detailing all trees and hedgerows planned for retention and removal.*
- *A schedule of tree works for all the retained trees specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS 3998.*
- *Timing and phasing of works.*
- *Site specific construction specification detailing a no-dig construction of the footpath.*
- *Landscaping proposals*
- *A Tree protection plan** in accordance with BS5837* detailing all methods of protection, including but not restricted to: locations of construction exclusion zones, root protection areas, fit for purpose fencing and ground protection, service routes, works access space,*

material/machinery/waste storage and permanent & temporary hard surfaces.

All tree protection methods detailed in the approved Arboricultural Method Statement shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials have been removed from the site, unless the prior approval of the Local Planning Authority has first been sought and obtained.

- * Using the most recent revision the of the Standard*
- ** Plans must be of a minimum scale of 1:200 (unless otherwise agreed by the Local Planning Authority)*

Reason: To ensure appropriate tree protection in the interests of protecting the visual amenity of the area, contributing to the quality and character of the local environment, air quality and adapting to and mitigating climate change in accordance with policies EQ1, EQ2, EQ5 and EQ9 of the Local Plan.

2. *A suitable scheme of proposed woodland tree planting shall be submitted to and approved by the Local Planning Authority prior to the first use of the development hereby approved.*
 - Full planting specification - tree size, species, the numbers of trees and any changes from the original application proposals.*
 - Locations of all proposed species.*
 - Comprehensive details of ground/tree pit preparation to include:*
 - Staking/tying method(s).*
 - Five year post planting maintenance and inspection schedule.*

All tree planting must be carried out in full accordance with the approved scheme in the nearest planting season (1st October to 28th February inclusive). The quality of all approved tree planting should be carried out to the levels detailed in British Standard 8545, Trees: from nursery to independence in the landscape - Recommendations.

Any trees which die, are removed, uprooted, significantly damaged, become diseased or malformed within five years from the completion of planting, must be replaced during the nearest planting season (1st October to 31st March inclusive) with a tree/s of the same size, species and quality as previously approved.

Reason: To ensure appropriate tree protection in the interests of protecting the visual amenity of the area, contributing to the quality and character of the local environment, air quality and adapting to and mitigating climate change in accordance with policies EQ1, EQ2, EQ5 and EQ9 of the Local Plan.

Further Response:

Whilst this revision may raise some safety concerns outside of the planning remit, inviting people into an area that they have identified as having dying/dangerous trees, which aren't to be removed, there are no objections with regards to impacts on Trees.

Environmental Health

No comments to make

Peak and Northern Footpath Society

We note that no Rights of Way are affected by it. In general, we would support this application as it offers increased opportunity for people to engage with nature and benefit from access to green space

Derbyshire County Council Highways

No comments to make

OFFICER COMMENTS

Principle of Development

The application seeks the change of use of a relatively small area of land currently associated with the nearby Hindlow Quarry, characterised by woodland, to an area to be utilised in an ancillary capacity to the existing adjacent Bookstore and Café as a 'community garden'.

The Bookstore and Café functions is a local business that operates as an attraction for both locals and tourists, and thus any enhancement or diversification of this facility will support the aims and objectives of Local Plan (LP) Policy E6, and relevant paragraphs contained under Chapter 6 of the NPPF.

The site is not constrained by any statutory designation, but does lie outside of the defined built-up area boundary in the open countryside, and is therefore subject to LP Policy EQ3, which requires all proposals in the rural areas to preserve or enhance the intrinsic qualities of the rural landscape.

As such, the principle of development is supported subject to demonstrating compliance with LP Policy EQ3, notwithstanding all other material planning considerations.

Design Character and Appearance

LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.

LP Policy EQ3 refers to rural development proposals which lie outside of the defined built-up area boundaries and seeks to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness. LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, having regard to matters of scale, height, density, layout, appearance and materials.

Paragraph 135 of the NPPF states amongst other things that decisions should ensure that developments will add to the overall quality of the area; are visually attractive as a result of good architecture; and are sympathetic to the surrounding built environment.

The application seeks the change of use of an existing woodland associated with a nearby quarry to a 'community woodland' that would become ancillary to the existing Bookstore and Café.

As the timber picnic tables would not be classified as development, due to their temporary nature, the only physical development that requires consideration in connection with the proposed change of use is the engineering operation that amounts to the introduction of a small circular footpath and the removal of some trees from a design and landscape character perspective.

The latest plans show the omission of the originally proposed path, in order to avoid triggering the need to demonstrate a 10% gain in biodiversity, as required by the Environment Act (2021). As such the site would retain its natural character and appearance, with trees no longer needing to be removed to facilitate the path.

In light of the above, it is considered that the proposed change of use will preserve the character and appearance of the site and the wider rural landscape, in accordance with LP Policies S1, EQ3 and EQ6 and relevant paragraphs under Chapter 12 of the NPPF.

Trees

LP Policy EQ9 relates specifically to trees, woodland and hedgerows, and requires that existing woodlands, healthy mature trees and hedgerows are retained and integrated within a proposed development unless the need for, and benefits of, the development clearly outweigh their loss.

The application is accompanied by a Tree Survey and Arboricultural Method Statement. It is stated at paragraph 5.4 that whilst the proposed use will not directly require the removal of any trees, it is advised that ash trees which are the cause of ash die back disease as identified within grouping G001, G002, G003 and G004, may need to be removed, in the interests of maintaining trees of higher quality that aren't affected by ash die back. It is stated that roadside trees are to be retained.

Whilst mitigation and protection measures are discussed in so far as recommendations within the report, no specific details are provided.

The information supporting the original application had been reviewed by the Council's Tree Officer who confirmed that there are no objections to the application subject to conditions being applied to any consent regarding specific tree protection measures, and a specific tree planting schedule.

However, further comments have been received that confirm that owing to the fact that no trees are now proposed for removal given the omission of the proposed footpath, there is no longer a requirement for such conditions to be included, and that the proposed development will not give rise to any harm to trees.

As such, the scheme in its final revised form would preserve all existing trees on site in accordance with LP Policy EQ9.

Other Matters

Highway Safety

The application will not give rise to any increase in vehicle movements or trigger the requirement for additional off-street parking. The existing Bookstore and Café is well served by an existing access and benefits from a car park with a generous number of off-street parking spaces and turning area. As such, and in the absence of any objections from the Highways Authority, there would be no impacts to highway safety.

Flood Risk

Concerns have been raised from local residents regarding the potential increase in flood risk associated with the use of the site as a community woodland, in connection with how the nearby quarry manage existing flood risk. The site lies within Flood Zone 1 and as such the site is not at risk from Flooding. The introduction of the crushed limestone path covers a small surface area which would not give rise to any increase in flood risk.

Amenity

Concerns have been raised with regards to the amenity of future users of the wooded area, as a consequence of noise and disturbance generated by operations associated with the quarry including those associated with flood risk management. Given that this wooded area would be located only approximately 100m closer to the main part of the quarry, which in turn is situated some 400-500m from the quarry face. At this distance, and given its close proximity with external chairs and tables that serve the café, it is not considered that the use of this small area of woodland by patrons of the Bookstore and Café would give rise to any harm to amenity.

Ecology and BNG

The Environment Act (2021) places a legal requirement on all applicants to provide a 10% Biodiversity Net Gain (BNG) on all sites, which is in addition to any habitat lost as a consequence of development, unless it meets one of the limited number of exceptions.

The Application Form submitted with the application claimed that the application was exempt from this requirement being 'De Minimis' (i.e. the development having an area of less than 25m² or being located on a sealed surface with no habitat value).

Officers identified that the above assertion is incorrect, given the introduction of a permanent limestone footpath that has a width of 2m and length of approximately 35m, which, in addition to other areas of crushed limestone under picnic tables, exceeds the 'De Minimis' threshold, given that the grassland to be lost has habitat value.

In response to the above, the applicant has submitted a revised Site Plan that omits the permanent crushed limestone surface. This change is considered to negate the need for BNG to be secured due to the fact that it is not a permanent hard surface.

Nutrient Neutrality

The site lies within the catchment of the River Wye which forms the Peak District Dales Special Area of Conservation (SAC). The Council has been notified that action must be taken to address exceedances of phosphorus in the River. As such, the Council cannot grant consent for development unless it can rule out "likely significant effects" on the SAC. A Habitats Regulations Assessment (HRA) will be required when the plan or project creates a source of water pollution or has an impact on water quality and when it is within the catchment of the SAC. Initially, a screening assessment will be required to consider if "likely significant effects" (alone or in-combination) on the SAC can be ruled out. If not, this will be followed by an "Appropriate Assessment" where the impact of the plan or project is considered in detail.

Screening Assessment

The proposal is not directly connected with or necessary for the conservation management of a European site. The proposal will not increase overnight stays. However, the proposal does involve additional hard surfacing in the form of a small circular footpath finished in crushed limestone, and will therefore increase surface water run-off. However, given the very limited extent of the additional hardstanding it will not significantly increase run-off from the site and in turn will not risk having a significant negative effect on the SAC either on its own or in combination with other proposals and therefore it is not necessary to carry out an Appropriate Assessment.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework. It states that planning applications that accord with relevant policies in the Local Plan will be approved without delay.

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no

relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The application seeks the change of use of a small parcel of land that currently relates to an active quarry (the inner workings of which are located some 0.5km distant) to an area to be used by patrons of the existing adjacent Bookstore and Café, accessed from the existing Car Park.

Subject to revised plans being submitted, the assessment within this report leads Officers to the conclusion that the proposed development complies with all relevant Local Development Plan policies and all other material considerations including relevant paragraphs contained within the NPPF.

As such, the application constitutes sustainable development and in line with LP Policy S1a and paragraph 11 of the NPPF.

OFFICER RECOMMENDATION : Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 9th December 2024

X 

Signed by: Ben Haywood

On behalf of High Peak Borough Council