

Toddbrook Ancient Woodland Permitted Development Appeal

Supporting Document

Toddbrook Ancient Woodland, Whaley Bridge,
Derbyshire

Application reference DET/2024/0026

March 2025

Report Title	:	Toddbrook Ancient Woodland Permitted Development Appeal Supporting Document
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1 INTRODUCTION

1.1 Purpose of this report

1.1.1 This document is intended to provide supplementary information to support an appeal of the refusal by High Peak Borough Council (HPBC) of a permitted development prior approval application under the Town and Country Planning Act (General Permitted Development) (England) Order 2015 for Toddbrook Ancient Woodland, Whaley Bridge.

1.1.2 The applicant wishes to appeal on the grounds of:

- Non-determination of the application within the statutory 8-week timeframe as detailed in Article 34 of the Town and Country Planning Act (General Permitted Development) (England) Order 2015;
- The decision goes against national and the local planning authority's development plan and planning policy.

1.2 Background

1.2.1 The proposed development is for a single pitch, green roofed, tanalised shed to store forestry equipment. This will enable the restoration of an at-risk ancient woodland. Alternative options have been considered but, for a variety of reasons, have been discounted at this time. Further details of the site and the proposed development can be found within the documents submitted to the planning portal on 6/8/2024 and 16/9/2024 under application number DET/2024/0026.

1.2.2 The proposed development has been through the planning process a number of times. Previous appeals were lodged and dismissed on a full planning application on 29/2/2020 and a General Permitted Development application on 30/12/2020. The decision reports for these appeals are attached in Appendix B and C.

2

APPEAL JUSTIFICATION

2.1

Non determination of application

2.1.1 Whilst the application has now been determined, the total time at each stage of determination significantly exceeded the statutory requirement of 8 weeks detailed in Article 34 of the Town and Country Planning Act (General Permitted Development) (England) Order 2015. This was despite frequent offers of additional information and clarification by the applicant. A detailed timeline of events can be found below.

Submission/response	Date of submission/response	Weeks from initial submission
Permitted development application	6/8/24	0
Decision notice from HPBC stating prior approval required	2/9/24	4
Further information provided by applicant in response to need for prior approval	16/9/24 Accepted by authority 17/9/24	6
Emails from applicant requesting updates and offers to provide more information	September 24 – January 25	6-29
Delegated decision report	Dated 18/12/24 Provided 26/2/25	19 29
Decision notice	26/2/25	29

2.1.2 As can be seen from the timeline above, the time from initial application to final determination was a total of 29 weeks. This is well beyond statutory and reasonable expectations.

2.1.3 Whilst a decision report was compiled in December 2024 it took a further 2 months to inform the applicant of the decision.

2.1.4 The applicant made numerous attempts via email to seek clarification on a determination date and to offer further information. None of these emails received a satisfactory response from HPBC. A full thread of dated emails can be seen in Appendix A.

- 2.1.5 At no time did the planning officer seek a mutual agreement to extend the determination period as is permitted under Article 34 of the Town and Country Planning Act (General Permitted Development) (England) Order 2015.
- 2.1.6 The delays and lack of communication cause concern that any future applications for works within the woodland such as tree thinning or felling, which is covered by a Tree Preservation Order, are not likely to meet statutory deadlines. This will further delay restoration of the woodland and increase its at-risk position. The applicant would like to seek assurances that such delays, whether via planning or other HPBC departments, will not occur in the future.

2.2 Contradiction of existing HPBC and national planning policy

- 2.2.1 The Principle's comments on loss of biodiversity directly contradict the response from the consultee, Derbyshire Wildlife Trust. Derbyshire Wildlife Trust's response recognises the loss of a small area of grassland but states that, overall, the ongoing restoration and enhancement of the woodland would result in a small biodiversity net gain. No other ecological input appears to have been used in the determination and it is therefore the applicant's belief that the Principle should be following the advice of the biodiversity planning officer at Derbyshire Wildlife Trust. Contradictory to the conclusions of the Principle planning officer, Derbyshire Wildlife Trust's advice suggests therefore that the proposed development is in line with local plan policy EQ5 and the NPPF relating to biodiversity. This is contrary to the claims of the Principle officer that the proposed development works against EQ5 and the NPPF.
- 2.2.2 The suggestion that machinery should only be brought onto site when needed directly goes against NPPF policy 9, promoting sustainable transport. The proposed development has specifically been designed to minimise transport movements in order to reduce environmental impact and impacts on the single-track lane which gives access to the site.
- 2.2.3 The Principle planning officer quotes Policy EQ2 of the High Peak Local Plan which refers to woodland character. The proposed development does not impact upon woodland character directly and is situated within a Settled Valley Pasture landscape. Settled Valley Pastures are identified in para 4.18 of the High Peak Local Plan as being the only landscape character type which allows for extensive development. The applicant therefore proposes that any arguments against the proposed development in a Settled Valley Pasture location are directly contrary to the High Peak Local Plan.
- 2.2.4 On a number of occasions, the delegated decision and decision notice report refers to the size of the building. A judgment is made that the building is "excessive in size". This is irrelevant and should be removed. Part 7 (Forestry Buildings and Operations) of the General Permitted Development Order 1995 (GPDO) places no restrictions on the size of forestry buildings.

2.3 Additional points for consideration

- 2.3.1 Objections received to the application proffer only opinion and conjecture. No evidence or grounds for these objections has been provided. The applicant strongly refutes the claims made by both the objectors (albeit only one objection is included in the delegated decision report).
- 2.3.2 The tree officer's comments discuss whether the proposed development is needed and challenges the timescales for restoration and ongoing management. As detailed in the appeal decision from the Planning Inspectorate dated 30/12/2020 (Appendix B) an assessment of need is not part of the Town and Country Planning Act (General Permitted Development) (England) Order 2015. Any determination should only consider the siting, design and external appearance of the proposed development. Consideration of need, scale and timescales for the restoration are irrelevant to this application and should be wholly disregarded. The applicant feels that the Tree Officers comments have skewed the decision-making process by both the planning officer and the Principle.
- 2.3.3 The Principle planning officer regularly discusses the "need" for the development and refers to an appeal decision dated 29/2/2020 (Appendix C). The Inspector's comments in this appeal relate to an appeal decision made on a full planning application not a permitted development application. The appeal decision dated 30/12/2020 (appendix B) and referenced in 2.3.2 clearly states that a "need" assessment should not form part of the permitted development determination. In addition, the appeal decision dated 29/2/2020 made clear that proposed developments of this kind should be assessed via the permitted development route and not via full planning application. The applicant therefore believes that the Principle is making a judgment based around factors which are not appropriate or permitted for an application of this kind under the Town and Country Planning Act (General Permitted Development) (England) Order 2015.
- 2.3.4 Mention of the Green Belt by the Principle planning officer is irrelevant. Green Belt land is not precluded from development as previously highlighted by the Inspector in the appeal determination provided in appendix B. The mention of its location on the Green Belt suggests that its location on the Green Belt has contributed to the final determination when it should not.
- 2.3.5 As previously stated via the appeal decision dated 30/12/2020 decisions should only be made based on the "siting, design and external appearance". In the decision notice for this proposed development the scale is referred to as a reason for refusal. Any comments on scale are not permitted. Furthermore, there is no firm justification for the conclusion that the design or external appearance is unacceptable.
- 2.3.6 The delegated decision report refers to inconsistencies in the submission. As evidenced by the email chain in appendix B, the applicant offered to provide further information and clarification on the submission on a regular basis. The planning officer did not take this offer of clarification which could have easily resolved these

inconsistencies. Such action could be deemed negligent, and even obstructive to the final determination, on the part of the planning officer.

- 2.3.7 Lack of communication from HPBC on the proposed development and alternative options, as referenced in the original supporting document, will lead the applicant to use temporary structures as permitted under the Control of Development Act 1960, First Schedule, Agriculture and Forestry workers, paragraph 7 and 8 (detailed under 3.2 of the supporting document). Due to the size and access requirements to install such structures their location would need to be on an area of land with significantly greater visual impact to the surrounding landscape. This location is referenced in the original supporting document. This is not a route the applicant wishes to use but may be forced to if approval for this proposed development is not given.

CONCLUSION

- 3.1.1 It is the conclusion of this report that the refusal of Prior Approval for Permitted development under the Town and Country Planning Act (General Permitted Development) (England) Order 2015 be overturned and a certificate of lawful development be issued.
- 3.1.2 The continued challenges being presented by HPBC in terms of indecision, lack of communication and an inability to follow national and local planning policy are putting significant strain on this at-risk woodland. This runs directly against current national policy and guidance.
- 3.1.3 By seeking to prevent this development HPBC will force the applicant to use temporary structures with potential for significant visual impact, as outlined at 2.3.7.
- 3.1.4 Continued blocks by both HPBC and the Planning Inspectorate may lead to the applicant serving a compulsory purchase notice on HPBC on the grounds that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Appendix A

Fwd: DET/2024/0026: Toddbrook Ancient Woodlands

2 messages

----- Forwarded message -----

From: **Rosie Dinnen** <Rosie.Dinnen@highpeak.gov.uk>

Date: Tue, 3 Dec 2024 at 14:23

Subject: DET/2024/0026: Toddbrook Ancient Woodlands

To: Tom Williams <tom.williams@enebio.com>

Cc: Jane Colley <Jane.Colley@highpeak.gov.uk>

Good afternoon Tom

In response to your recent email, I will clarify the process.

The application was submitted under the prior notification procedure where the Council had 28 days to make a decision whether prior approval was required. The Council determined that prior approval was required for the reason sets out in the delegated report and decision notice <http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=267861>

You then submitted further information to assist with the application's determination which I have sent to consultees for their comments.

As prior approval was required the application is now effectively a planning application so no works can occur until planning permission has been granted.

I am still waiting for all the consultation responses, so as yet I am not in a position to determine the application.

I will be in touch again in due course.

Kind regards

Rosie Dinnen Senior Planning Officer

(She/Her)

Development Services

High Peak Borough Council and Staffordshire Moorlands
District Council

Mob: **07581 066407**

www.highpeak.gov.uk | Follow HPBC on X (Formerly Twitter) | Facebook

www.staffsmoorlands.gov.uk | Follow SMDC on X (Formerly Twitter) | Facebook



Working Days: I work a 9 day fortnight. Tuesday - Friday / Monday – Friday

From: Tom Williams <tom.williams@enebio.com>

Sent: 21 November 2024 11:50

To: Planning (HPBC) <planning@highpeak.gov.uk>; Rosie Dinnen <Rosie.Dinnen@highpeak.gov.uk>; Jane Colley <Jane.Colley@highpeak.gov.uk>

Subject: Out of Office

Dear Rosie

Following my email on the 15th November (6 days ago - this portal says 3 working days response) requesting and update on the Permitted Development application DET/2024/0026, I have not recieved a response nor from the direct email sent on 11th November (10 days ago).

I still see that the Application status is out for Consultation/Re-consultation and that the Public Consultation closed on the 4th November 2024. As detailed by the Planning Portal in the "what happens next" section (<https://www.planningportal.co.uk/planning/planning-applications/consent-types/prior-approval>) and the High Court that "Applications.....will receive 'deemed consent' if the time period for a determination to be issued expires. By default, this is an 8-week period from when the application is received"

As we are way past the 56 days since any communication from the LPA, I will deem that Prior Approval has been given and will progress accordingly.

Wishing you all the best for the Festive Season.

Best Rgds

Tom

On Mon, 16 Sept 2024 at 15:49, Tom Williams <tom.williams@enebio.com> wrote:

Dear Planning

As it seems Rosie is out of office and Jane, we know has been on long term sick leave. Please find a copy of the below correspondence for your records.

Best Rgds

Tom

----- Forwarded message -----

From: **Tom Williams** <tom.williams@enebio.com>
Date: Mon, 16 Sept 2024 at 15:41
Subject: Re: Decision notice.pdf
To: Jane Colley <Jane.Colley@highpeak.gov.uk>
Cc: Rosie Dinnen <Rosie.Dinnen@highpeak.gov.uk>

Dear Jane

I hope you have had a lovely weekend. I have just updated the Planning Portal with photographs and details of the required site notices and publicity commencing today (16th Sept 2024) and running for 21 consecutive days until the 7th October 2024.

Can you confirm that you have recieved enough information on the siting, design and external appearance of the building, and the required photographs and publicity?

Best Rgds

Tom

On Fri, 13 Sept 2024 at 10:13, Jane Colley <Jane.Colley@highpeak.gov.uk> wrote:

Dear Tom,

Thank you for your email, the requirements of the applicant are set out on the decision notice. The decision notice sets out what you are required to do and reasoning why we consider that prior approval is required. As you will note the Council considers not only the siting, but also the design and external appearance of the building. It's not just the location. Until you undertake the requirement of the notice, including publicity, then prior approval has not been granted, and any works which subsequently take place without the Council granting prior approval would be liable to enforcement action. I would also suggest that you review the officers delegated report, which details are our concerns. The link below will take you to the Council web site. To date, I can't see that we have received any further information from the portal.

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=267861>

Kind regards,

Jane Colley

Principal Planning Officer

From: Tom Williams <tom.williams@enebio.com>
Sent: Saturday, September 7, 2024 10:58 AM
To: Jane Colley <Jane.Colley@highpeak.gov.uk>
Subject: Re: Decision notice.pdf

Dear Jane Colley

As you will have seen (and attached email screenshot), with 24hrs of notification of requirement for more information. The application has been updated in the Planning Portal as requested.

My understanding is that in prior approval, location detail is something that the Council can request or suggest a change which would be more suitable. If the location is not where the Council would prefer, I am open to suggestions.

As the Planning Portal allowed the update, I am safe to assume that this was acceptable and unless otherwise notified or contacted before the end of the month, this prior approval has been accepted.

Would this be the view of the Council? Does the Council have any view on the location suggested?

Best Rgds

Tom

On Mon, 2 Sept 2024, 15:11 Jane Colley, <Jane.Colley@highpeak.gov.uk> wrote:

Dear Sir / Madam

Please find attached your planning decision notice

We value feedback from our customers and we would be grateful if you could spend a few minutes completing our short online customer survey at

<https://www.surveymonkey.co.uk/r/Q22LK9D>

Regards

Jane Colley
Senior Planning Officer

High Peak Borough Council
Direct Dial: 01298 28400 ext 4981
Mobile: 07976 753726

Do you really need to print out this Email? Be green - keep it on the screen.

This email is intended for the addressee(s) only and may contain sensitive, privileged or confidential

information that could be protectively marked. If you are not the addressee please do not use the information in any way. If you have received this email in error please notify the sender immediately and delete it from your system. Thank you.

The Council may be required to disclose this email or any responses to it under the Freedom of Information Act 2000. The way in which we handle personal information is set out in our privacy notice and is available at <https://www.highpeak.gov.uk/YourData>

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tom.williams@enebio.com

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USA +1 408 400 3742



Suzie Wheway <suzie@peakswims.co.uk>
To: swheway3@gmail.com

Wed, Mar 5, 2025 at 2:06 PM

----- Forwarded message -----

From: **Tom Williams** <tom.williams@enebio.com>

Date: Wed, 29 Jan 2025 at 11:51

Subject: Re: DET/2024/0026: Toddbrook Ancient Woodlands

To: Rosie Dinnen <Rosie.Dinnen@highpeak.gov.uk>Cc: Jane Colley <Jane.Colley@highpeak.gov.uk>, Planning (HPBC) <planning@highpeak.gov.uk>

Good Morning Rosie

Just a reminder that it has now been more than 8 weeks since I have had any updates, correspondence or contact from you.

In your last correspondence on 3rd December 2024 you said

You then submitted further information to assist with the application's determination which I have sent to consultees for their comments.

As prior approval was required the application is now effectively a planning application so no works can occur until planning permission has been granted.

I am still waiting for all the consultation responses, so as yet I am not in a position to determine the application.

I will be in touch again in due course.

I would suggest that due course has well passed and that we should be able to move forward. Would that not be correct?

In absence of any response from the Council I will assume approval has been given and this email is sufficient.

Best Rgds

Tom

On Sun, 8 Dec 2024 at 12:57, Tom Williams <tom.williams@enebio.com> wrote:
Good Morning Rosie

I hope you've had a lovely weekend.

I can appreciate you're busy but I haven't heard from you, following my correspondence last Tuesday (HPBC site suggests a 3 working day response) and I am keen to progress discussions with suppliers who have a long lead time in 2025.

Is there a question about the appearance of the shed? Are you looking to recommend something else?

Is there a question on the location of the shed as opposed to other locations on the site which the Council might prefer?

As previously detailed, the 8 week automatic Approval has now passed. Are HPBC now going to issue a Certificate of Lawful development this week or should I progress as is, without the threat of Planning Enforcement?

Are there further Consultation responses that have arrived recently which I might consider/read?

I will take a no response this week as agreement that I can proceed.

I have cc'd Planning Enforcement so we are all on the same page.

Wishing you a Happy Holidays!

All the best

Tom

On Tue, 3 Dec 2024, 14:45 Tom Williams, <tom.williams@enebio.com> wrote:
Good Afternoon Rosie

Thank for the email on your position that you are not in position to determine the application as yet. Do you have a suggestion to when that time will be?

As detailed at the bottom of the Planning Portal and clarified in a number of Court Cases the Prior Approval must be determined within 8 weeks unless previously agreed by all parties. See below from this link-
<https://www.planningportal.co.uk/planning/planning-applications/consent-types/prior-approval>

What happens next

Work must not commence on the development until the Local Planning Authority has issued its determination.

*However, it is important that Prior Approvals are actioned quickly by the Local Planning Authority as many will receive '**deemed consent**' if the time period for a determination to be issued expires. By default, this is an **8-week period from when the application is received**, but this can vary depending on the type of proposal and, in some cases, may be extended if **all parties agree**.*

And as the Public Consultation has now closed, I suggest also the time frame for consultations has also closed. Do you have any further Consultations you would like to share?

Best Rgds

Tom

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

----- Forwarded message -----

From: **Tom Williams** <tom.williams@enebio.com>

Date: Fri, 10 Jan 2025 at 08:38

Subject: Re: Invalid Letter Applicant - App ref HPK/2024/0500

To: Planning (HPBC) <planning@highpeak.gov.uk>, Rosie Dinnen <Rosie.Dinnen@highpeak.gov.uk>, Colley, Jane <Jane.Colley@highpeak.gov.uk>

Dear Planning/Rosie/Jane

Thank for the letter about reference HPK/2024/0500.

I have had no response from you to my direct question requesting to proceed with the shed building and Toddbrook Ancient Woodland restoration plans.

The last time you responded to an email was on the 3rd Dec where you said " I am still waiting for all the consultation responses, so as yet I am not in a position to determine the application"

As you confirmed in email and with the attached screen shot from the Planning Portal, Prior Approval was submitted on the 17th September 2024 and was sent out to comment with the Public Consultation closing at the start of November.

The Council had 8 weeks to decide on the Prior Approval and failed to do so in the timeframe therefore granting automatic Approval.

The Council is then legally bound to issue a Lawful Development Certificate. Claiming that this is invalid is deliberately trying to delay and frustrate the situation rather than do the job required.

Are you suggesting that a decision has been made on the Prior Approval submittal since the end of Sept?

Is an Appeal and more wasting of Council money the next step? Will the delay compensation be funded by the Council directly?

Best Regards

Tom

Appendix B



Appeal Decision

Site Visit made on 12 November 2020

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2020

Appeal Ref: APP/H1033/W/20/3254731

Tom Wood, Whaley Bridge, Derbyshire SK23 7BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Tom Williams against the decision of High Peak Borough Council.
 - The application Ref DET/2020/0008, dated 15 April 2020, was refused by notice dated 13 May 2020.
 - The development proposed is a shed for storing tools, wood and equipment needed to restore and manage the ancient woodland along the Toddbrook.
-

Decision

1. The appeal dismissed.

Procedural Matters

2. On land used for the purposes of forestry, planning permission is granted for the erection of a building reasonably necessary for those purposes, under Part 6, Class E of the GPDO. The Council consider that due to its magnitude, the proposed shed would not be reasonably necessary for the task of restoring and managing the ancient woodland, and as such would not constitute permitted development.
3. However, the prior approval procedure set out under Part 6, Class E makes no provision for any such determination to be made. The question of whether or not the proposal is permitted development under the terms of Class E is therefore outside of my remit in assessing this appeal. Instead, my assessment is limited to considering whether prior approval should be granted for the siting, design and external appearance of the proposed building, in accordance with paragraph E.2 of Part 6.
4. The requirement for prior approval is akin to a pre-commencement condition attached to the grant of permission by Article 3(1), and development which is not constructed in accordance with the terms or conditions of a permission would be at risk of enforcement action.
5. In the interests of fairness, both parties have been notified of this and given an opportunity to comment on matters of siting, design and external appearance. I have taken account of the responses received in my assessment of these issues.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the area, having regard to the siting, design and external appearance of the proposed building.

Reasons

7. The appeal site, known as Tom Wood, is an L-shaped area of ancient woodland between Start Lane and Todd Brook. The site, which is the subject of a Tree Preservation Order, forms part of a larger area of woodland on hillside which forms part of the catchment of the Toddbrook Reservoir.
8. The principle of the development is not at issue here, nor are the effects of the proposed rhododendron clearance on flood alleviation. However, consideration of the size of the proposed building is relevant as part of any assessment of design and external appearance.
9. The proposed shed would measure approximately 3.6 metres wide by 7.2 metres long and, according to the submitted plans, would provide accommodation for tool storage, change facilities and space for drying. The appellant has also referred to the need for storage of quad bikes and chipper trailers. No further information has been provided about the equipment to be stored, but the area of woodland is not particularly large, and I note the comments of the tree officer regarding the limited amount of equipment likely to be needed for the proposed restoration works, which would not be a full time job and would take place over a four year period.
10. Even taking account of the need to store larger items such as a quad bike and trailer, I agree with the Council that the size of the proposed shed would be excessive in relation to the forestry purposes for which it is sought. Even though the shed would be well screened by surrounding woodland and the steep topography, it would be a substantial building in this sensitive rural location which is otherwise free of built development. The erection of the building and the associated engineering works to level the site, both for the building itself and occasional vehicular access to it, would alter the character of this area of rough grassland on the woodland edge, causing visual harm to the area.
11. I note the appellant's comments about the need to store equipment to minimise traffic and machinery in the area to avoid disturbing wildlife. However, I am unconvinced that the amount of equipment likely to be needed for the proposed restoration work would justify a shed of the size proposed and the associated harm to the rural character of the area.
12. The building would be of a simple design with a pitched roof, and would be constructed of Scandinavian redwood with a steel door, which would be appropriate in this context. The proposed siting of the shed, close to the edge of a field, would comply with government guidance which recommends a buffer of 15m from the woodland edge, and has taken account of the views of the Woodland Trust, who prepared the Ancient Woodland Assessment.
13. The siting of the building and the proposed materials would be acceptable. However, due to its scale, the design and external appearance of the building

would cause harm to the character and appearance of the area. For this reason, prior approval should not be granted for the proposed scheme.

14. I note the appellant's comments about a larger shed which was approved in Walker Brow wood nearby. I have not been provided with details of this case, but am not bound by other decisions of the Council and have assessed this proposal on its own merits. The location of the site in the Green Belt is not a relevant consideration when assessing applications for prior approval.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

R Morgan

INSPECTOR

Appendix C



Appeal Decision

Site visit made on 11 February 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th February 2020

Appeal Ref: APP/H1033/W/19/3241442

Tom Wood, Start Lane, SK23 7BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Tom Williams against the decision of High Peak Borough Council.
 - The application Ref HPK/2018/0426, dated 14 August 2018, was refused by notice dated 20 May 2019.
 - The development proposed is retention of engineering operations and proposed building for woodland management.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development given above is taken from the Council's Decision Notice rather than the planning application form. This reflects amendments that were made to the scheme at application stage, and the proposal was determined on this basis.
3. Revised plans were submitted with the appeal that would alter the position of the proposed building. However, a number of objections were submitted at application stage regarding the building's impact on the landscape. In this context, I consider that accepting the revised plans would unfairly deprive those parties of the opportunity to comment again on the proposed changes. I further note that the 'Procedural Guide – Planning Appeals – England' (2020) advises that: *"If an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application"* (Annexe M.1.1). I have therefore determined the appeal based on the drawings that were before the Council when it made its decision.

Main Issues

4. The main issues are:
 - (a) The effect of the proposal on an ancient woodland;
 - (b) The effect of the proposal on protected species; and
 - (c) Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework ('the Framework') and development plan policy.

Reasons

Ancient woodland

5. A significant proportion of the appeal site consists of ancient woodland, which is defined as an area that has been wooded continuously since at least 1600 AD. The Framework states that development resulting in the loss or deterioration of ancient woodland should be refused, unless there are wholly exceptional reasons.
6. The proposed engineering operations include a series of earthworks to create level platforms in the hillside to accommodate contractor vehicles. These earthworks have been undertaken next to the ancient woodland and in close proximity to a number of mature trees on its edge. No tree survey has been submitted to justify these works or to assess any resultant damage to the root systems of those trees. In this regard, the ground has been significantly lowered, and soil compacted, near to the base of a number of mature trees. Whilst the Council's Arboricultural Officer states that there is no obvious immediate impact on those trees, such damage can take several years to become evident, and can make the trees vulnerable to disease and decay. Failure of trees on the woodland edge could also open up the interior to wind loading and further damage and losses.
7. The Council refer to standing advice from the Forestry Commission and Natural England that a buffer zone of at least 15 metres from the edge of an ancient woodland should be maintained to avoid root damage. I further note that the submitted ecological appraisal¹ identifies "*potential damage to trees via compaction of root systems*" as a potential scheme impact and recommends that "*as a minimum all works should retain a distance of 15 m from ancient woodland*". The engineering operations that have already taken place would clearly be contrary to this advice. The proposed building itself would also be located within 15 metres of the edge of the ancient woodland.
8. A letter of support has been submitted by the Woodland Trust. However, this makes no reference to the engineering works forming part of the proposal, and it is unclear whether the Woodland Trust were aware of this. In any case, I have come to my own view on this matter.
9. For the above reasons, I conclude that the proposal would significantly harm an area of ancient woodland. It would therefore be contrary to Policy EQ 9 of the High Peak Local Plan (2016), and guidance in the Framework relating to ancient woodlands.

Protected species

10. A Preliminary Ecological Appraisal was submitted with the appeal documents. However, this appears to relate to a different iteration of the scheme and shows the proposed building in a revised position. Moreover, it makes no reference to the earthworks that have already been undertaken and for which retrospective consent is sought. Accordingly, the full ecological implications of the proposal have not been assessed. In this regard, key recommendations within this report do not appear to have been adhered to. These include the recommendation that "*as a minimum all works should retain a distance of 15 m from ancient woodland*" and "*it is recommended soil stripping is completed*

¹ Preliminary Ecological Appraisal (Miranda Cowan Ecology Ltd, 5 November 2019)

under the supervision of an Ecological Clerk of Works". It is therefore unclear whether the author of this report was aware of the full extent of the proposed works. This limits the weight I can attach to it in my determination of this appeal.

11. On the available evidence, I am not persuaded that the proposal would avoid negative effects to protected species. It would therefore be contrary to Policy EQ 5 of the High Peak Local Plan (2016), and guidance in the Framework, which seek to avoid harm to protected species.

Green Belt

12. The appeal site is located in the Green Belt and consists mostly of open land that is free from development. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is the construction of buildings for forestry purposes.
13. The Council state that it is unclear that a building of this size is necessary solely for forestry purposes. However, neither the Framework nor Policy EQ 4 of the High Peak Local Plan (2016) require evidence of the necessity for such a building. There is also no firm evidence before me that the building is intended to be used for a non-forestry related purpose, and its design and layout are functional in nature. In these circumstances I must determine the proposal as it is applied for, which in this case is for a forestry building.
14. Unlike other development types identified in Paragraph 145 of the Framework, the effect of forestry buildings on the openness or purposes of the Green Belt are not relevant to an assessment of whether they constitute 'inappropriate development'.
15. Separately, Paragraph 146 of the Framework states that engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. In this case, the earthworks that have been undertaken have simply terraced the land and do not harm the openness of the Green Belt. I further note that the Council do not object to the engineering operations on Green Belt grounds, and I see no reason to take a different view.
16. For the above reasons, I conclude that the proposal would not be inappropriate development in the Green Belt. It would therefore be in accordance with Policy EQ 4 of the High Peak Local Plan (2016), and guidance in the Framework relating to Green Belts.

Other Matter

17. The appellant refers to 3 options for achieving the intended development on the site. However, the 'Procedural Guide – Planning Appeals – England' (2020) is clear that *"the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought"* (para M.2). I am therefore unable to consider alternative options and must determine the appeal based on the scheme that has been submitted.

Conclusion

18. I conclude that the proposal would significantly harm an ancient woodland, and that there is insufficient evidence that it would avoid negative effects to protected species. Whilst the proposal would assist maintenance and restoration works, it is not clear that the deficiencies I have identified above are necessary in order to secure that benefit.
19. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR