The Planning Inspectorate

Appeal Decision

Inquiry held on 11, 12, 13 February and 5 March 2014
Site visit made on 5 March 2014

by Brendan Lyons BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 June 2014

Appeal Ref: APP/H1033/A/13/2205644
Land off North Road, Glossop, Derbyshire SK13 7AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Gladman Developments against the decision of High Peak Borough Council.
- The application Ref HPK/2013/0327, dated 13 June 2013, was refused by notice dated 10 September 2013.
- The development proposed is described as: Residential development of up to 150 dwellings, including 'affordable housing', highway works, public open space and associated works.

Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 150 dwellings, including 'affordable housing', highway works, public open space and associated works at Land off North Road, Glossop, Derbyshire SK13 7AX, in accordance with the terms of the application Ref HPK/2013/0327 dated 13 June 2013, subject to the conditions set out in the schedule annexed to this decision.

Preliminary matters

2. At the Inquiry an application for costs was made by the appellants against the Council. That application is to be the subject of a separate Decision.

3. The planning application that is the subject of the appeal was submitted in outline form, with only the principle of development and the access to the site for full approval at that stage, and matters of layout, scale, appearance and landscaping reserved for later detailed approval. At the Inquiry, the appellants asked that the matter of access should also be reserved. Sufficient information was provided with the application documents to indicate the area where an access to the site would be formed. I am satisfied that no other party's interests would be prejudiced by this change and have considered the appeal proposal on the basis that all matters are now reserved.

4. The planning application acknowledged the potential need for a planning obligation under S106 of the Town and Country Planning Act 1990, but no agreement was concluded before the application was refused. Negotiations with the Council continued after submission of the appeal, and a draft obligation, in the form of a unilateral undertaking ('UU') by the landowners, was submitted

before the Inquiry opened. Negotiations carried on during the course of the Inquiry, and by the close of the event a copy was provided of a completed obligation framed in terms acceptable to the Council. The UU sets out covenants in respect of the provision and management of affordable housing on the site, the payment of financial contributions towards the provision of off-site open space, play space, traffic calming measures and footpath improvements, and the submission and implementation of a travel plan. The merits of the obligation are considered later in this decision.

5. A signed Statement of Common Ground ('SoCG') was submitted at the opening of the Inquiry. This records the main parties' agreement on the weight to be afforded to the adopted and emerging development plan, and the approach to decision making set out by the Government guidance of the National Planning Policy Framework ('NPPF'), as well as identifying a range of topics which the parties felt could be satisfactorily resolved by the use of planning conditions or obligations. A further SoCG was agreed towards the end of the Inquiry in respect of specific points on housing land supply.

6. Following the close of the Inquiry, new planning practice guidance was published by the Government to support NPPF policy, and much former guidance was cancelled. Both main parties made written submissions on the implications for the appeal of the practice guidance, and these have been taken into account in the determination of the appeal.

Appeal proposal

7. The appeal site lies on rising ground at the northern edge of the built-up area of Glossop. It comprises 5.75 ha of agricultural land, currently used for grazing and hay production and laid out as three fields around an adjoining small reservoir. The site has highway frontage to North Road and is separated from the suburban-type houses to the south by a public footpath, which carries on through a small group of older houses at the south-east corner of the site. There are open fields and sports pitches to the north, and a small commercial unit and a nursery to the east.

8. Permission is sought to develop the site with up to 150 houses, 30% of which (45 units) would be provided as affordable housing. A single point of access would be taken mid-way along the North Road frontage. The Design and Access Statement ('DAS') submitted with the application included an illustrative masterplan which suggests a potential layout for the development. This would comprise a main spine road through the site with cul-de-sac roads branching off to each side, all lined by a mix of detached, semi-detached and terraced houses. Existing trees and hedges would be retained and supplemented, and balancing ponds formed in the low south-western corner of the site adjoining North Road.

Main Issues

9. The planning application was refused for three reasons. The first reason stemmed from an objection by the Environment Agency ('EA') that flood risk from the reservoir had not been adequately assessed. The appellants later commissioned a survey of the reservoir's condition, which showed it to be sound. Following notification by the EA that its concern on this issue had been met and that other aspects relating to flood risk and drainage could be

addressed by planning conditions, the Council confirmed that it would not seek to pursue this issue in the appeal.

10. The second reason related to the application's failure to secure provision for affordable housing. The main SoCG records the parties' agreement that the matter of affordable housing should be resolved by the submission of a planning obligation. The Council confirmed at the Inquiry that the finally completed UU had resolved its outstanding objection on the timing of provision of the affordable units, and that it no longer opposed the development on this ground. The final UU also satisfied the Council's requirements on the amounts of payments for open space and play provision.

11. The remaining matter at issue related to the potential loss of biodiversity. It was agreed at the Inquiry that the main issue in the appeal is:

    Whether, in the absence of a five year supply of deliverable housing land, the proposal would amount to a sustainable form of development in accordance with national and local policy, having particular regard to the effect on bio-diversity.

12. Some local residents and other interested parties maintain an objection on the sustainability of the site in terms of its location and accessibility.

Reasons

Policy context

13. For the purposes of this appeal, the development plan comprises the saved policies of the High Peak Local Plan ('LP') adopted in 2005. Work is quite well advanced on the preparation of a new-style Local Plan, with consultation on Preferred Options having taken place in February 2013, and an additional round of consultation that concluded immediately before the Inquiry.

14. The appeal site forms part of a somewhat larger proposed housing allocation (site G6) in the Preferred Options document. The Council has explained that the suggested capacity of 60 dwellings shown in that document was a reduction from 264 units in the first 2012 Options consultation, and envisaged development of only part of the site. The Additional Consultation of December 2013 notes the site allocation as unchanged, although the capacity now indicated is 150. The proposed allocation is subject to a number of objections. In view of the uncertainty of the final form of the new Local Plan little weight can be given to the emerging draft at this stage. Nevertheless, it is noteworthy that the Council continues to promote the allocation, while at the same time resisting the current proposal.

15. Site G6 is one of a number of sites in the emerging plan outside the current built-up area boundaries of Glossop, as defined by Policy OC1 of the adopted LP. The development of such sites for housing is contrary in principle to Policy OC1 and to Policy H1, which includes a general presumption against housing development on 'greenfield' land.

16. However, the Council acknowledges that, allowing the 20% buffer for persistent past under-delivery advised by the NPPF, it cannot currently demonstrate a 5 year supply of deliverable housing sites. In these circumstances, the NPPF advises that the housing supply policies of the LP

cannot be considered as up to date[1]. The restriction imposed by the above policies on the location of new housing is relevant to the supply of housing and the policies must now be regarded as out of date.

17. In accordance with NPPF guidance, the absence of a five-year supply of sites means that the appeal proposal must be assessed in the context of the presumption in favour of sustainable development set out in paragraph 14. This means that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole, or unless specific policies of the NPPF indicate development should be restricted[2].

18. In this instance, the Council considers that the site would be sustainable in terms of its location. Conflict with LP Policies OC1 and H1 was not cited in the reasons for refusal. The Council's concern remains that the proposal would not be sustainable because of the impact on biodiversity.

Housing land supply

19. The appellants have sought to present the housing requirement and housing land supply position within the borough as main issues in the appeal. But although these matters are not agreed between the parties, the decision on the appeal does not turn on the nature or extent of the disagreement.

20. In applying the presumption in favour of sustainable development, paragraph 14 of the NPPF sets out the relative weight to be given in decision making to harm and benefits when relevant development plan policies are out of date. As outlined above, in the case of housing supply, relevant policies become out of date when a 5 year supply can no longer be shown.

21. The Council's original evidence to the Inquiry was of 3.8 years' supply for the period October 2013–September 2018. Therefore, even at the outset, the need for additional housing to boost the supply in accordance with NPPF objectives was already a matter of significant weight in support of the appeal proposal. The Council's enhanced estimate of its supply in later evidence to the Inquiry would still fall short of an adequate five-year supply based on the original requirement.

22. That requirement, for 300 dwellings per annum ('dpa'), emanated from the now revoked Regional Strategy, which had provided the most recent fully tested and adopted requirement. However, the NPPF's guidance that the housing requirement should be based on the full objectively assessed needs for market and affordable housing has since been clarified by the High Court[3] and Court of Appeal[4] judgements in the *Hunston* case. The Council now accepts that the starting point for estimating its housing requirement should be the most recent objective assessment of need. The Additional Consultation on the emerging Local Plan had been informed by a Technical Note, which concluded that an objective assessment indicated a range of 416-455 dpa. By the close of the Inquiry the Council had updated this to 420-470 dpa[5].

[1] NPPF para 49
[2] NPPF para 14
[3] Hunston Properties Ltd v Secretary of State for Communities and Local Government and St Albans City and District Council [2013] EWHC 2678 (Admin)
[4] City and District Council of St Albans v The Queen (oao) Hunston Properties Limited, Secretary of State for Communities and Local Government and anr [2013] EWCA Civ 1610
[5] Nathaniel Lichfield & Partners: *High Peak Borough Council Objective Assessment of Housing Need* February 2014

23. The Court of Appeal *Hunston* judgement states that until such time as the Local Plan process has adopted a constrained housing figure, the full objectively assessed need should form the basis of the housing requirement[6]. Given the imminent submission and examination of the new Local Plan, I consider that to be the appropriate forum in which the correct requirement should be established. The *Hunston* judgement acknowledges the difficulty in attempting to shadow the Local Plan process in a S78 appeal such as this.

24. In response to the full objective assessment, the Additional Consultation proposes a constrained figure of 360 dpa, to reflect environmental factors including the extent the Green Belt, landscape character and infrastructure. The Council argued at the Inquiry that this figure could now be accepted as an appropriate requirement. The *Hunston* judgement goes on to allow that a decision on a S78 appeal could give weight to constraining factors, such as Green Belt[7]. This is now reflected in the planning practice guidance, which advises that the weight to be given to full assessments of need should take into account the fact they have not yet been tested or moderated against relevant constraints[8].

25. Therefore, in all cases the full objectively assessed need may have to be qualified in the light of local constraints to produce the eventual requirement. But in the present case there was insufficient evidence before the Inquiry to allow a fully informed assessment that would allow weight to be given at this stage to the Council's proposed constrained figure. However, the resulting lack of certainty is not critical to the outcome of the appeal.

26. The Council's rebuttal evidence to the Inquiry sought to increase the deliverable supply to 2150 dwellings, by the addition of an allowance for future windfall sites, and the inclusion of sites granted permission since October 2013 and sites recommended for approval at the time of the Inquiry. But the evidence suggests that, even if this capacity were accepted in full, when past backlogs are taken into consideration the supply assessed against the Council's constrained requirement of 360 dpa would amount only to 3.7 years'. If assessed against the full objectively assessed need, the supply would range from 2.9-3.1 years'.

27. The lack of a 5 year supply is common ground between the parties. The appellants' case is primarily directed towards attributing weight to the shortfall, by questioning both the appropriate requirement and the Council's assessment of the deliverable supply. Neither the NPPF nor the planning practice guidance advises on any scale of weight to be applied in relation to the extent of any shortfall below the 5 year supply. The *Hunston* Court of Appeal judgement considered that scale of shortfall could be material in the assessment of 'very special circumstances' as exceptional support for development in a Green Belt[9], but the wider applicability of this has yet to be tested.

28. In a recent appeal decision, the Secretary of State has accepted that where absence of a 5 year supply was common ground, there was no need to reach a definitive conclusion on the scale of the shortfall[10]. In my view, that is also the correct approach in the present case.

[6] Paragraph 26
[7] Paras 29-30
[8] PPG Paragraph Ref ID 3-030-20140306
[9] Para 28
[10] Appeal Ref APP/B3410/A/13/2193657: para 8 of Secretary of State's letter

29. The circumstances are very different from cases, such as the recent Offenham appeal[11] referred to by the appellants, where the Inspector had to reach a judgement on the disputed existence of a 5 year supply. The appellants also referred at the Inquiry to a number of appeal decisions where the Secretary of State or inspectors had attached significant weight to a shortfall, but none of these related to variation in weight due to the establishment of a greater or lesser shortfall.

30. It is clear that irrespective of the precise figure within the range set out above, and of the appellants' lower assessment of the deliverable supply, the confirmed need for additional housing to boost the supply remains a matter of significant weight in support of the appeal proposal.

31. Furthermore, there is an acknowledged need for affordable housing. The most recent Housing Needs Survey of 2007 showed a net need of 317 dpa in the area of the borough outside the National Park, of which 209 were in Glossop. This annual need does not appear to have been met in any subsequent year, resulting in an increased backlog of cumulative need. The appeal proposal's contribution of 30% affordable housing would deliver up to 45 units. Although this proportion would be no greater than required by saved LP Policy H9, the provision would add further weight in support of the proposal.

Biodiversity

32. The third reason for refusal of the planning application states that the proposal would result in a net loss of biodiversity, and would not protect the most valuable grassland on the site or compensate adequately for features to be lost. The proposal is considered to be unsustainable in ecological terms and contrary to saved LP Policy OC8 and to the guidance of the NPPF.

33. LP Policy OC8 seeks to protect sites of importance for nature conservation, of international, national and local significance. In this respect it can be seen as consistent with NPPF policy guidance. At the local scale, the LP policy refers to sites on the Derbyshire Wildlife Register. The Council accepted at the Inquiry that, as the appeal site is not included on the Register as a Local Wildlife Site ('LWS'), the policy does not strictly apply in this instance.

34. However, evidence was given on behalf of the Council by the Derbyshire Wildlife Trust ('DWT') that the site is of biodiversity value, and that the westernmost field adjoining North Road would now meet the criteria for designation as a LWS.

35. This field was first surveyed in 2001 in preparation for the Peak District Biodiversity Action Plan ('PDBAP'), when it was identified as a potential LWS ('pLWS') as species-rich semi-natural grassland. More recently, a series of surveys has been carried out between late 2012 and late 2013 in connection with the planning application now under appeal and a successor application[12], on behalf both of the appellants and of DWT.

36. The expert evidence presented to the Inquiry did not reach consensus on the value of the site or on the merits of the different surveys, each of which relies to a greater or lesser degree on a subjective assessment of abundance of the target species. DWT's conclusion that the field would now meet the

[11] Appeal Ref APP/H1840/A/13/2203924
[12] Application Ref HPK/2013/0648

designation criteria is based on an aggregated assessment of the species recorded in the 2001 and 2013 surveys. The appellants dispute reliance on the original survey and point to the exceptionally thorough approach of their own second survey.

37. In the absence of expert agreement, it is difficult to reach a firm conclusion on the precise quality of the pLWS. However, the balance of the evidence suggests that the field is at or very close to the LWS standard and that a further survey carried out under optimum seasonal and cropping conditions could confirm its merit.

38. The field also derives status through its identification by the PDBAP as a priority habitat in the Lowland Meadow category, informed by the original 2001 survey. The BAP acknowledges that a large proportion of hay meadows in the area have been semi-improved to some degree, so that the field is not ruled out on this ground. The BAP gives high priority to maintaining the condition of protected sites through appropriate management and to safeguarding unprotected sites through agri-environment agreements, regulatory mechanisms and ownership. The DWT argues that restoration of the remaining parts of the appeal site, which are also in use as hay meadows, would be consistent with BAP targets for the Dark Peak area and would reflect national advice[13] on the importance of buffering and extending known sites and enhancing connectivity.

39. The conservation and enhancement of the natural environment is a core principle of the NPPF, which seeks a level of protection for wildlife sites commensurate with their status and with appropriate weight to their importance and the contribution they make to wider ecological networks[14]. Planning policies should promote the preservation, restoration and re-creation of priority habitats and ecological networks[15]. In determining planning applications, permission should be refused if significant harm resulting from development cannot be avoided, adequately mitigated or, as a last resort, compensated for[16].

40. For the reasons set out above, I consider that the pLWS field is of local importance in NPPF terms and that the remainder of the site could offer an opportunity for restoration in accordance with the BAP. Total loss of the site's ecological value as a result of development would be significantly harmful.

41. The principal mitigation now offered by the appellants would involve the retention of some 50-60% of the pLWS and of a smaller area of grassland to the north-eastern edge of the site, with their future management to be governed by a Biodiversity Management Plan ('BMP') secured by a planning condition. The BMP would also encompass other measures such as the maintenance of habitat around existing and proposed water features, and of existing and extensive new hedgerow planting.

42. It is clear that appropriate management is key to sustaining the value of meadow habitat. The relative continuity of species identified by the DWT shows that the pLWS has benefitted from a traditional management regime sympathetic to its biodiversity interest. The appellants point out that there is

[13] Lawton et al: *Making Space for Nature* 2010
[14] NPPF para 113
[15] NPPF para 117
[16] NPPF para 118

no guarantee that the current regime would carry on in the future, but would be subject to the preferences of the owner and/or agricultural tenant. The site's current interest would therefore be vulnerable either to a change in regime, such as by 'improvement' or by neglect. This would be true even if the site were to be formally designated as a LWS.

43. Reference is made to an appeal decision[17] relating to a field in another part of the county, where the Inspector accepted the owner's right to alter the management of the land, to the detriment of its ecological interest. The site in that case had also been considered by the DWT to be eligible for LWS designation. The important difference from the present case is that the value of the site was lost before the appeal proposal was brought forward, which is not the situation here.

44. Nevertheless, the case does illustrate how easy it is for management regimes to be radically altered and biodiversity value lost. While there is no evidence that the current site's value is under active threat, that could change at any time. The site has not been brought into any agri-environment management scheme in the years since it was first identified and there is no evidence of any active steps in that direction.

45. The proposed BMP would secure positive management of a significant portion of the pLWS. The draft scheme suggests that this should include both cutting and grazing, in accordance with good practice for lowland meadow habitat. The retained area of the field would continue to adjoin the LWS on the opposite side of North Road and would facilitate connection to the reservoir to the east. This would provide a substantial degree of mitigation for the harmful effect of development. The retention of the smaller area of grass to the north-east, the strengthening of hedgerows and the formation of water features would also be positive aspects, but without contributing greatly to the primary interest of the site.

46. These positive aspects would be offset by the loss of part of the site, including areas in the lower part of the field with a better spread of target species. The potential for enhanced management of the other fields would be lost. As a result, there would be residual harm after mitigation, but it would not be so significant as to warrant rejection of the proposal in accordance with NPPF paragraph 118.

Other matters

47. As outlined above, saved LP policies seeking to restrict development to the defined built-up area of the town must now be seen as out-of-date. The site's location is not therefore unacceptable in principle, and there is no indication that its development would significantly reduce existing gaps between Glossop, Hadfield and Padfield, as feared by some residents.

48. Being beyond the current edge of the town, it is inevitable that the site will be somewhat further from facilities and services within the built-up area than existing residential areas. However, the Council regards this as a sustainable location in accessibility terms.

49. The submitted Transport Assessment ('TA') shows that some facilities, such as schools, open space and leisure provision, are within relatively close walking

[17] Appeal Ref APP/R1038/A/13/2192164

distance. This should help to reduce car usage for short journeys. The town centre lies within a 2000m zone, so that the distance to the railway station would therefore be within the maximum recommended for commuting journeys on foot. I acknowledge that the TA appears not to take explicit account of the gradients involved in walking from the town centre, but even allowing for the relatively stiff climb to the site, the 17-20 minute duration quoted by residents and objectors would not place the site beyond acceptable limits for this purpose, and should not greatly encourage additional car journeys.

50. The same walk would be more challenging for anyone carrying shopping from the town centre, which provides the nearest food store, but there is a regular daytime bus service that would considerably shorten the trip, and also a more convenient occasional service along Heath Road, which could well be enhanced in response to the site's development.

51. Problems of access during periods of snow would represent a further adverse factor. While accessibility is less than ideal in some respects, none of these issues, either alone or in combination would be sufficient to rule out the proposed development by reason of conflict with saved LP Policy TR1 or the guidance of the NPPF.

52. A Landscape Impact Assessment ('LIA') commissioned by the Council has assessed all of the potential site allocations in the merging Local Plan. The LIA notes the prominence of the elevated position of site G6, particularly in views from the National Park to the south. The study does not rule out development of the site, but recommends that detailed and extensive landscape masterplanning would be required to address potential impacts.

53. The indicative masterplan submitted in support of the appeal application has already been superseded by the revised proposal to retain part of the western field. However, that would not invalidate the conclusion of the Landscape and Visual Impact Assessment ('LVIA') that accompanied the application, which was that the proposal could provide a strong landscape framework at the edge of the built-up area.

54. It is important to note that the appeal site does not include the highest, most prominent field of allocation G6. Subject to the further detailed masterplanning recommended by the LIA, which could be secured at the reserved matters stage, the landscape impacts of the proposal could be satisfactorily mitigated. This would include the effect on long views from the National Park and closer range views from North Road to the north and from Castle Hill to the north west. The proposal would be contained within existing slopes and could, with sufficient planting to the perimeter and core of the site, be designed to appear as a relatively organic extension of the existing built-up area. There should be no adverse effect on the setting of Howard Park.

Planning obligation

55. The UU completed by the landowners allows for 30% of the dwellings on the site to be provided as affordable housing, for the timing of their provision and transfer to a registered provider, and for submission of a scheme to allow approval of numbers, type and location of the affordable units and the control of their future occupation. As outlined above, the Council confirmed at the Inquiry that it was satisfied that these provisions accorded with adopted policy.

56. Payments would also be made to the Council towards the development and maintenance of open space and play provision at the nearby Howard Park. Payments would be made to Derbyshire County Council as highway authority for the implementation of traffic calming on North Road and the extension of the 30mph speed limit to encompass the site access point. There would also be a commitment to submit a Travel Plan for approval to the County Council, and a payment towards monitoring costs.

57. I am satisfied that each of these covenants would comply with the tests set out in the NPPF and with the advice of the planning practice guidance. The obligation can be fully taken into account in support of the appeal proposal.

Balance of considerations

58. The NPPF seeks to significantly boost the supply of housing. There is no dispute that the Council's 5 year supply is lacking. The emerging evidence on the objective assessment of housing need shows that the scale of the shortfall is likely to be greater than previously assessed. The contribution to meeting the considerable shortfall in supply lends substantial weight in support of the proposal.

59. The provision of 45 units of affordable housing would also help to address an identified need, and is a consideration of positive weight, even if the level of proposed provision would not exceed the requirements of development plan policy.

60. The Council argues that the level of both market and affordable housing provision would not be at a strategic level that would significantly improve the overall housing provision in the area. But the scale of proposed development compares well with other sites in the claimed supply, few of which exceed 150 units. The provision would contribute to the social dimension of sustainable development.

61. The economic dimension would be illustrated by the employment generated during construction, by the addition to the local economy of the spending power of future residents and by the relatively modest financial gains of the New Homes Bonus. These economic factors add moderate weight in support of the proposal.

62. The site's location at the edge of the built-up area, within reach of a good rail connection, would allow many trips to be made by sustainable modes, even though topography and access to convenience shopping would be less than ideal. The effects on landscape quality could be adequately mitigated by carefully considered design at the reserved matters stage. The major environmental harm through loss of biodiversity of the site would be partly mitigated by the proposal to bring a significant portion of the pLWS into active management.

63. On balance, any environmental harm remaining after mitigation would not significantly and demonstrably outweigh the benefits of development. In accordance with NPPF guidance, the proposal must be regarded as sustainable development to which the presumption in favour of development applies.

Conditions

64. A draft schedule of conditions discussed by the two main parties to the appeal was submitted during the Inquiry and an agreed schedule later provided while the Inquiry stood adjourned. This forms the basis of the schedule annexed to this decision. Subject to some amendment in the interests of precision and enforceability, I consider that the undisputed conditions would all be reasonable and necessary and would comply with the requirements of the NPPF and the planning practice guidance.

65. In addition to standard conditions on the submission of reserved matters and the commencement of development, specific conditions are required to define the final form of development in order to ensure that the character and appearance of the area are not harmed. These include a limit on the number of units and a layout to include retention of part of the pLWS, the approval of the landscape masterplan recommended by the LIA, and a scheme for the protection of existing trees.

66. The group of conditions on Amenity are needed to protect living conditions of nearby residents and the safety of highways near the site during construction, including the submission and approval of a Construction Method Statement. The living conditions of future residents are to be protected by approval of measures to control the effect of traffic noise. The condition on Flooding and Drainage is needed to minimise flood risk and to ensure the site is properly drained by sustainable methods and that on Contamination is required to ensure the health and safety of future users of the site.

67. The set of conditions on Biodiversity, as outlined above, are necessary to ensure mitigation of the effects on the ecological interest of the site and to ensure a programme of enhancement measures. The conditions on Access and Highways are needed in the interests of highway safety and to promote a choice of sustainable modes of travel.

68. Two conditions are disputed by the parties. The arrangements for archaeological investigation and analysis are required to ensure that the site's heritage value is preserved. The Council's recommended form provides the necessary level of precision. The Renewable Energy Statement submitted with the application sets out a range of measures in the design and construction of the scheme to achieve a minimum 10% reduction in energy consumption and Code for Sustainable Homes Level 3 or better. The NPPF strongly supports local initiatives to move towards a low carbon future. In the absence of an adopted development plan policy to reflect this, the Council's proposed condition seeking achievement of a higher Code level would not be justified.

Conclusion

69. For the reasons set out above, and having taken careful account of the submissions made in writing and at the Inquiry and of the submitted planning obligation, I conclude that the appeal should be allowed and outline planning permission granted subject to conditions.

Brendan Lyons

INSPECTOR

Annex

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Land off North Road, Glossop, Derbyshire SK13 7AX

Schedule of conditions Nos.1-22

1. Details of the access, layout, scale, appearance and landscaping (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development is commenced and the development shall be carried out as approved.

2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

4. The development hereby permitted shall comprise no more than 150 dwellings.

5. The reserved matters application for layout shall include a plan setting out details of the phasing of development, proposed land uses, and proposed Biodiversity Management areas in accordance with the Ecology Plan Fig 3 5376-E-03 Rev C prepared by FPCR. In particular, the layout shall provide for the retention and enhancement of the potential Local Wildlife Site as identified on the plan. The development shall be carried out in accordance with the approved layout and phasing scheme.

6. The reserved matters application for landscaping shall include a detailed Landscape Masterplan setting out details of the landscape strategy for the site, including any loss of existing vegetation. The development shall be carried out in accordance with the approved Masterplan.

7. No development or other operations shall commence until a detailed Arboricultural Method Statement to include a scheme for the retention and protection of trees and hedges on or adjacent to the site has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Method Statement.

Archaeology

8. No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority, and until any pre-start element has been completed in accordance with the approved scheme. The scheme shall include an assessment of significance and research questions and:

    a) The programme and methodology of site investigation and recording;

    b) The programme for post-investigation assessment;

    c) Provision to be made for analysis of the site investigation and recording;

d) Provision to be made for publication and dissemination of the analysis and records of the site investigation;

e) Provision to be made for archive deposition of the analysis and records of the site investigation;

f) Nomination of a competent person or persons/organisation to undertake the works.

The development shall not be occupied until the site investigation and post-investigation assessment have been completed in accordance with the approved written scheme of investigation, and the provision to be made for analysis, publication and dissemination of results and archive deposition have been secured.

Amenity

9. No building operations shall take place (other than site clearance), until space has been provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs that have been submitted to and approved in writing by the local planning authority. The space shall be maintained throughout the contract period in accordance with the approved details, free from any impediment to its designated use.

10. No development shall take place until a mitigation scheme for protecting the proposed dwellings from traffic noise has been submitted to and approved in writing by the local planning authority. No dwelling hereby permitted shall be occupied until the approved works to that dwelling have been completed in accordance with the approved details.

11. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. All construction work shall be undertaken in accordance with the approved Construction Method Statement, which shall include the following details:

a) The method and duration of any pile driving operations (expected starting date and completion date);

b) The hours of work, which shall not exceed the following:

- Construction and associated deliveries to the site shall not take place outside 07:00 to 19:00 hours Mondays to Fridays, and 08:00 to 16:00 hours on Saturdays, nor at any time on Sundays or Bank Holiday.

- Pile driving shall not take place outside 09:00 to 16:00 hours Mondays to Fridays, nor at any time on Saturdays, Sundays or Bank Holidays.

c) The arrangements for prior notification to the occupiers of potentially affected properties.

d) The responsible person (e.g. site manager / office) who could be contacted in the event of complaint.

e) A scheme to minimise dust emissions arising from construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The approved dust suppression measures shall be maintained in a fully functional condition for the duration of the construction phase.

f) Details of wheel washing facilities. All construction vehicles shall have their wheels cleaned before leaving the site.

g) Erection and maintenance of security hoarding and fencing.

h) A scheme for recycling/disposal of waste resulting from the construction works.

Flooding and Drainage

12. No development shall take place until a scheme to limit the surface water run-off generated by the development hereby permitted to existing greenfield rates, with attenuation, up to a 1 in 100 year event, and to manage the risk of flooding from over ground flow has been submitted to and approved in writing by the local planning authority. The scheme shall include details of attenuation areas and how the attenuation ponds will be designed to hold areas of permanent water. The scheme shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme.

Contamination

13. No development shall take place until:

a) a site investigation has been designed for the site using the information obtained from the desktop investigation previously submitted in respect of contamination. This shall be submitted to and approved in writing by the local planning authority prior to the investigation being carried out on the site; and

b) the site investigation and associated risk assessment have been undertaken in accordance with details submitted to and approved in writing by the local planning authority; and

c) a method statement and remediation strategy, based on the information obtained from b) above, including a programme of works, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved remediation strategy.

Biodiversity

14. No development or other operations, including site clearance and site preparation, shall take place until a Biodiversity Management Plan has been submitted to and approved in writing by the local planning authority. The Biodiversity Management Plan shall be based on the submitted Outline Biodiversity Management Plan by FPCR (14 January 2014) and shall include provisions for ecological retention, enhancement and future maintenance and management, and for the fencing off of the remaining potential Local Wildlife Site sufficient to prevent access to the land by members of the

public. The approved Biodiversity Management Plan shall be implemented in full and subsequently maintained in accordance with the approved details.

15. No development shall take place until a scheme for the provision of a 3.5m wide buffer zone to each side of the watercourse across the site, excluding provision for a road crossing and associated footways, has been submitted to and approved in writing by the local planning authority. The buffer zone shall be kept free from development, including lighting, domestic gardens and formal landscaping. The development shall be carried out in accordance with the approved scheme.

16. No development shall take place until a scheme of measures for the design of the access road to reduce its impact on the common toad has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details.

17. No development shall take place until a scheme of proposals for the incorporation of features suitable for use by breeding birds (including swifts and house sparrows) and roosting bats, and including a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and timetable and retained thereafter.

18. No development or other operations shall take place unless within one month prior to commencement an assessment of the trees on the site for bat roosts has been undertaken by a licensed bat ecologist and a report setting out any necessary mitigation plan has been submitted to and approved in writing by the local planning authority. Any approved mitigation measures shall be implemented in accordance with the approved plan and retained thereafter.

19. No tree/shrub clearance work shall be carried out between 1 March and 31 August inclusive in any year, unless the site has been surveyed in advance for breeding birds and a scheme to protect breeding birds has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details.

Access and highways

20. The reserved matters application for access shall include full details of access to and within the site, including: the new junction onto North Road; roads and footways within the site; pedestrian/cycle access points/links to the existing highway network; new footway to North Road; the highway boundary to the site. The access works shall be carried out in accordance with the approved details.

21. No development shall take place until full specification details (including construction, layout, surfacing and drainage) of the vehicular accesses, driveways, parking spaces and turning areas to serve the dwellings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of each dwelling and thereafter the turning area and car parking spaces shall not be used for any purpose other than the parking and manoeuvring of vehicles.

22. No dwelling hereby permitted shall be occupied until a full Travel Plan, based on the submitted Travel Plan Framework by Croft Transport solutions (December 2012) has been submitted to and approved in writing by the local planning authority. The Travel Plan shall include objectives, targets, mechanisms and measures to achieve the targets, implementation timescales, provisions for monitoring, and arrangements for a travel plan co-ordinator, who shall be in place until 5 years after completion of the final phase of development. The measures set out in the approved plan and any approved modifications shall be implemented in full thereafter. The approved plan shall be audited and updated and submitted for the approval of the local planning authority at intervals no longer than 18 months, starting from the date of first approval.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Thea Osmund-Smith of Counsel	Instructed by Nicola de Bruin, Solicitor, High Peak Borough Council
She called:	
Teresa Hughes BSc(Hons) MSc MCIEEM	Local Wildlife Sites Officer, Derbyshire Wildlife Trust
Andrew Gerald Massie BSc(Hons) MRICS IRRV MCIArb	Partner, Keppie Massie Chartered Surveyors
Elizabeth Pleasant BSc(Hons) DipTP MRTPI	Planning Officer, High Peak Borough Council

FOR THE APPELLANT:

John Barrett of Counsel	Instructed by Timothy Dean, Gladman Developments Limited
He called:	
Marc Hourigan BA BPL MRTPI	Director, Hourigan Connolly Chartered Town Planners
Nick Law MSc	Senior Ecologist, FPCR Environment and Design Ltd
Kate Hollins BA MSc CMIEEM CEnv	Chartered Environmentalist, FPCR Environment and Design Ltd
Timothy Dean MA DipTPS MRTPI	Planning and Development Manager, Gladman Developments Limited

INTERESTED PERSONS:

Andrew Wood	Planning Officer, Friends of the Peak District
Elizabeth Strek	Local resident
John Harkinson	Local resident
Helen Larder	Local resident
Helen Conway	Local resident
Joanna Hilton	Local resident
Anne Hogg	Local resident
Gerard Riley	Local resident
Councillor Jean Wharmby	Member, High Peak Borough Council
Hilary Morgan	Local resident

DOCUMENTS

1 Statement of Common Ground
2 Opening on behalf of the Appellants
3 Opening Statement on behalf of High Peak Borough Council
4 Statement by Andrew Wood on behalf of Friends of the Peak District
5 Diagrams showing critique of FPCR survey method
6 Extract from Peak District Biodiversity Action Plan

7 Derbyshire Wildlife Trust response to consultation on application HPK/2013/0648- Letter dated 9 January 2014
8 Appeal decision Ref APP/R1038/A/13/2192164
9 Draft schedule of conditions
10 Appeal decision Ref APP/H1840/A/13/2203924
11 E-mails dated 11 February 2014: BNP Paribas –AG Massie
12 E-mail dated 6 February 2014: Lambert Smith Hampton –E Pleasant
13 Development Control Committee reports 17 February 2014
14 Notice of Refusal of application ref HPK/2012/0537
15 Howard Park Conservation Area plan and entry on list of Historic Parks and Gardens
16 Gov.UK webpage: definition of a Dwelling
17 Addendum Statement of Common Ground
18 Application for Costs on behalf of the Appellants
19 Revised schedule of conditions
20 Response to Appellants' Costs Application
21 Statement by Nicola de Bruin, Solicitor
22 Letter of notification of Inquiry resumption and list of those notified
23 Statement by Elizabeth Strek
24 Completed Unilateral Undertaking
25 Nathaniel Lichfield & Partners: *High Peak Borough Council Objective Assessment of Housing Need* February 2014
26 Birch Homes Limited Plan Ref 221/02: Waterswallows development
27 Letter of objection dated 18 February 2014: John and Julie Harkinson
28 Note of Objection: Helen Larder
29 Closing Statement on behalf of High Peak Borough Council
30 Closing on behalf of the Appellants
31 Response to the LPA Case in respect of the Costs Application
32 Letter dated 19 March 2014: Appellants' comments on National Planning Practice Guidance
33 Council comments on National Planning Practice Guidance