

High Peak Borough Council
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Ref: 094-012

21 November 2025

To whom it may concern,

Eastern Mill, Milltown, Glossop (HPK/2022/0317)

Section 73 Application

We write on behalf of Watson Homes ("the Applicant") to submit this application under Section 73 of the Town and Country Planning Act 1990 (as amended), seeking to vary condition 37 of planning permission HPK/2022/0317, approved on 22 September 2023 for residential development at Milltown, Glossop.

Condition 37

We confirm that this application relates to the condition governing piling or other penetrative foundation designs. We note the discrepancy in the formal Decision Notice numbering (which incorrectly lists this as Condition 38 due to a preceding administrative error). However, we understand and confirm that both the client and the Council have subsequently agreed and used Condition 37 to refer to the piling requirement in all recent applications and correspondence.

The condition states, in full:

"Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details."

The penetrative foundation works (Vibro Stone Columns) for the lower half of the site (Phase 1) are complete, creating a technical breach of the condition. This Section 73 application is the agreed mechanism to formally regularise these completed works and establish a clear path for compliance for future works.

Consultee Engagement

Following the submission of technical data, including subsequent documentation requested by consultees (specifically regarding the artesian watercourse), the client engaged in repeated correspondence to secure a discharge.

The need for this Section 73 application arises directly from the formal response of the Council and its consultees:

- **Environmental Health Officer (EHO):** EHO stated that they cannot influence the piling activity that has already occurred as the piling method used is a matter of fact and history, therefore any comments they make are without merit. With no influence over the matter, they offered no comment or advice, leading to the conclusion that the condition cannot be discharged.
- **Council Planning Team:** Despite the Council having no objection towards the submitted document for the discharge of condition, they advised that because the works commenced and were completed prior to formal approval, *"the condition cannot now be complied with."* However, the Council pragmatically advised that a Section 73 application is the only other option to resolve the outstanding condition.
- **Environment Agency (EA):** The redrafted technical documentation (Tritech and LK Group documents) covered exactly what the EA requested, but the EA was subsequently unable to provide an official 'no objection' because the works had already commenced, overriding the 'prior to commencement' nature of the condition.

The Council's position confirms that while the technical details of the completed works are understood and enforcement is not warranted, the condition's strict wording means it can never be discharged. Therefore, the only viable solution to provide legal certainty and manage risk for the client is to submit a Section 73 to formally vary the wording.

Proposed Variation

We propose to vary Condition 37 into two distinct phases (Phase 1 – Lower Site and Phase 2 – Upper Site).

Proposed Wording for the Varied Condition 37:

Phase 1: Compliance Approval (Lower Site - Completed Works)

The detail of the penetrative foundation works (Vibro Stone Columns) already completed on the lower half of the site (Plots 1-76), as set out in the submitted

documents, specifically the TGE VSC Proposals Milltown, Glossop and CV0223 Piling Solution, are hereby approved in retrospect. This approval confirms that the completed works are acceptable in terms of mitigating contamination and risks to the artesian watercourse and groundwater, and the works shall be retained in the approved manner thereafter.

Phase 2: Pre-Commencement Condition (Upper Site - Future Works)

No further penetrative foundation works, specifically the proposed Driven Piling for the upper half of the site (Plots 77-85), shall commence within this Phase (or any alternative phasing schedule as set out in writing) until a full Method Statement, detailing the piling method, programme of works, and measures to mitigate potential noise, vibration, and risks to the artesian watercourse and ground contamination, has been submitted to and approved in writing by the Local Planning Authority. The approved works shall thereafter be carried out in accordance with the approved Method Statement.

For clarity, the works for Phase 1 (Lower Site) are complete. The Council has confirmed that, as the works occurred prior to approval, the condition cannot technically be discharged, despite the Council finding it inexpedient to pursue enforcement. To manage the long-term risk and provide formal planning certainty regarding the lawfulness of the completed works, a retrospective approval via Section 73 is required.

In terms of Phase 2 (Upper Site), the piling works have not yet commenced. The condition must be varied to set a clear, pre-commencement mechanism for future approval, ensuring the Planning Authority retains its original functional control over this part of the development.

Conclusion

In summary, this Section 73 application offers a pragmatic, technically supported and mutually beneficial resolution to the current planning impasse. It formally regularises the completed works on the lower site, thereby mitigating the ongoing risk of an undischarged condition and confirming the lawfulness of Phase 1. Concurrently, it establishes a robust and enforceable pre-commencement protocol for the upcoming Phase 2 works on the upper site, fully satisfying the original planning objective of protecting groundwater resources and residential amenity.

Crucially, the successful determination of this Section 73 application is essential to enable the transfer of the lower site to Peaks & Plains Housing Trust, thereby facilitating the timely delivery of this much-needed housing, which had been planned to be delivered in February/March 2026.

Given the Council's prior confirmation that enforcement is not expedient, we respectfully request the Planning Authority to expedite the determination of this application to provide immediate and essential planning certainty for the remainder of the development programme.

Should additional information and or clarification be required, please do not hesitate to contact us.

Yours sincerely,

Sophie Stanton
Senior Planner

cc: Watson Homes