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## Appeal Decision

Hearing Held on 14 May 2019

Site visit made on 13 & 14 May 2019

**by Elaine Gray MA(Hons) MSc IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date:**

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**Appeal Ref: APP/H1033/W/18/3214312**

**Land associated with Elnor Farm, Elnor Lane, Whaley Bridge, High Peak, Derbyshire SK23 7EU**

- 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 Siteplan UK against the decision of High Peak Borough Council.
  - The application Ref HPK/2016/0516, dated 7 September 2016, was refused by notice dated 24 April 2018.
  - The development is proposed outline development of residential dwelling units and associated works to include details of access.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline with all matters reserved for subsequent approval except for the means of access. A Sketch Landscape Masterplan accompanied the application together with a proposed access plan with details and sections. These show the location of the main access road, and also the general layout of new housing and landscape areas. Whilst not formally part of the scheme, I have treated the housing layout in the Masterplan as a guide to how the site might be developed, were the appeal to succeed.
3. A completed planning obligation by Deed of Agreement pursuant to section 106 of the Town and Country Planning Act 1990 dated 6 June 2019 (the s106 agreement) was submitted after the hearing. I shall deal with this further in the main body of my reasoning.
4. The proposed development was reduced from 125 dwellings to 77 dwellings during the course of the planning application. I have taken this change into account, and have assessed the proposal on the basis of the reduced scheme.

### Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the surrounding area, including the setting of the Peak District National Park.

### Reasons

*Policy context*

6. Policy S1 of the High Peak Local Plan (LP) sets out sustainable development principles in respect of all new development. LP Policy S1a establishes a presumption in favour of sustainable development.
7. The appeal site is an unallocated site adjacent to the settlement of Whaley Bridge, and there is no dispute between the main parties that it lies in the open countryside for planning purposes. Whaley Bridge is defined as a Market Town under LP Policy S2 which sets out the settlement hierarchy within the area. Market Towns are to be the main focus for housing, employment, and service growth. It is a matter of agreement between the main parties that the Council can demonstrate a five-year housing land supply.
8. As the appeal site is outside any defined settlement boundary, LP Policy H1 is relevant to the proposal. It states that the Council will give consideration to approving sustainable sites outside the defined built up area boundaries, taking into account other LP policies, provided that four criteria are met. The main parties agree that, of these criteria, the development would adjoin the built up area boundary and be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement. It would have reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities, and the local and strategic infrastructure would be able to meet the additional requirements arising from the development.
9. However, the Council consider that the proposal would conflict with the second criterion of LP Policy H1, which resists development that would lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside. Conversely, I note that the Council are satisfied that the proposal would be acceptable in respect of impacts upon highways safety, ecology/biodiversity, land contamination, public safety, flooding and drainage, coal mining and utilities re water, gas and electricity, subject to appropriately worded conditions.

*Character and appearance*

10. The appeal site lies within the 'Settled Valley Pastures' Character Type, as defined in the Council's document entitled 'Landscape Character Supplementary Planning Document SPD5 March 2006' (LCSPD). The Settled Valley Pastures areas are described as follows: 'There are scattered farmsteads outside the compact settlements. This is a pastoral landscape with permanent improved pasture which gives way higher up the slopes to poorer grazing where the ecological value is greater. The landscape has a strong network of winding lanes and roads and railways along the lower slopes above the floodplain. This is a well wooded landscape with wooded cloughs around tributary valleys and hedgerows with some hedgerow trees which define irregular fields. Amenity tree groups are associated with settlements and there is woodland along the roads and railway lines. As with the field boundaries, the woodland often has irregular outlines'.
11. Lying just to the south of Whaley Bridge, the appeal site covers approximately 5.4 hectares, and comprises two agricultural fields which are in use as agricultural land. For ease of reference, these are referred to as the north field and the south field. Existing development is located to the west, comprising the more modern developments of Manor Road, Vaughan Road and Mervil Road. On the east edge of the site is the Shallcross Incline, which is part of the

old Cromford and High Peak railway line. Further to the east are developments including those at Elnor Avenue and Randal Crescent. The Shallcross Incline is accessible to the public, and in addition, there is a designated Public Right of Way (HP23/60/1) which runs in a north-easterly/south-westerly direction just beyond the northern boundary of the site.

#### *The new access*

12. The proposed new access to the site would be taken from the Buxton Road across the south field. From my own observations during my site visits, I consider that the south field and its wider surroundings form part of an attractive and undulating landscape with a rolling topography. I am satisfied that its appearance is typical of the character of the Settled Valley Pastures landscape type. The access would cut through a pastoral field bounded by trees and intermittent hedging, which produces a pleasing and intimate character. It remains intact and unspoilt, and makes a positive contribution to the visual amenity of the area.
13. The topography of the site rises steeply from the point where it adjoins the Buxton Road, then plateaus out towards the Shallcross Incline. Due to the rise of the land, it would be necessary to excavate a substantial cutting in order to accommodate the new access road at a reasonable grade. The size of the cutting would be such that retaining walls of up to around 4m in height would be required. Additional fencing would be needed along the top edges of these drops for public safety, which would further increase the visual impact of these walls. Although the retaining walls could be faced in materials to resemble dry stone walling, this would not mitigate their sheer scale.
14. As one travels south on the Buxton Road, past the buildings at Manor Road, the towards the appeal site suddenly opens up into a pleasant rural landscape. The appeal site therefore marks a key transitional point at which the built-up character of the settlement gives way to the attractive countryside beyond. Within this context, the extensive cutting needed for the new road would protrude incongruously into the landscape, resulting in a highly visible and intrusive feature.
15. In their statement of case, the appellant makes reference to similar topographic modifications that they consider to be not wholly incongruous within the study area, for example, railway cuttings, sunken lanes, quarries and reservoirs. However, whilst I accept that such infrastructure is part and parcel of the landscape, I have not been made aware of any comparable examples of large cuttings in the area to provide roads for residential access. That being the case, the proposed access road would not be read as a typical feature of the area.
16. As the development itself would largely be hidden from views outside the site, the road would appear somewhat acontextual. In addition, highway features such as white lines, road signs and street lighting would be necessary, adding to the urbanising effect on the character of the land. The change in character would be noticeable from Buxton Road, not only to motorists, but also to cyclists and pedestrians, who would have significantly longer to view the access development, in which case its impact would be proportionately greater.

#### *The new housing*

17. The housing development would be located in the north field, and would therefore be substantially hidden from the surrounding roads. However, views across the land are readily available from the PROW to the north, and from the Shallcross Incline. Despite the proximity of the existing housing to the appeal site, its visual presence is reduced by the topography of the area. Although one is aware of the houses, the appeal site has a marked sense of openness, and of contrast to the built-up areas. On the site visit, I saw that views from the paths are intermittent, and interspersed with various levels of tree cover and planting. However, this sense of partial enclosure, giving way to long, scenic views of the landscape at various points, is an integral part of the experience of using these thoroughfares.
18. I saw that the Shallcross Incline is well used, being relatively wide and well maintained. Although the terrain of the PROW is more challenging, I understand from local residents at the hearing that it is also regularly used. The housing development would cover the entirety of the north field, extending to just south of the PROW, and close to the Incline. As a result, it would have a serious adverse effect on the ability of locals and visitors to enjoy the views, and thus the experience of using these paths.
19. The proposed dwellings, together with the infrastructure, including the roads and street lighting, as well as the domestic paraphernalia associated with residential use would significantly harm these views. The change, which would be permanent, would be noticeable from a considerable length of the footpaths.
20. The appellant contends that the development would be broadly akin to 'rounding off' and infill of the settlement. However, it would only adjoin the existing urban edge of Whaley Bridge on the west side. To the east, it would be clearly separated from the established development by the Shallcross Incline, and to the south, it would abut open countryside. To the north of the PROW, an undeveloped triangle of land would remain, and so the proposal would fragment the existing sequence of fields, and later the long-established field pattern.
21. I accept that the development in the vicinity of the site has come about in an ad hoc manner, and lacks the more sensitive aspects, for example, of a historic townscape. I accept also that the local landscape character is already defined by man-made features and modifications. However, it is the qualities attached to the pastoral land itself that would be harmed by the proposal. It would thus result in a significant and harmful intrusion into a currently open, undeveloped area, with serious adverse effects for the wider landscape.
22. The appellant contends that the landscape within the appeal site is not 'valued'. The main parties agree that it is not subject to any statutory or locally designated landscape constraints. Nonetheless, it does not necessarily follow that because a landscape is not designated, it is without worth or value. Furthermore, it is clear that both national and local policies exist to protect the intrinsic character of the countryside, whether or not it is subject to designation. By the same token, rare or unusual elements do not need to be present for a landscape area to warrant protection for its own sake.
23. I accept that hedging and the majority of trees will be maintained, which is of course to be welcomed. Although extensive planting would be provided to the east and south of the site, this would not mitigate the loss of the views across the site from the PROW and the Shallcross Incline. Instead, it would serve to

further reduce the outlook and increase the sense of enclosure for those using the Incline in particular.

24. In view of the unacceptable joint harm that would raise from the proposed new access road and the main body of the housing development, I conclude that the appeal scheme would conflict with LP Policy H1, insofar as it would lead to prominent intrusion into the countryside and have a significant adverse impact on the character of the countryside.

#### *Setting of the Peak District National Park*

25. NPPF paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. Amongst other things, LP Policy S6 seeks to ensure that development protects and/or enhances the setting of the Peak District National Park (PDNP).
26. The boundary of the PDNP is located approximately 350m from the nearest dwelling as shown on the indicative layout, and is approximately 200m from the proposed access to the site. The Council characterise the part of the road corridor adjacent to the appeal site as a gateway to the PDNP, and as such, they consider it to be particularly sensitive.
27. However, the PDNP boundary follows the line of the Buxton Road on the opposite side to the appeal site. Moreover, this part of the PDNP is largely screened from the road by the topography, and by the heavy, well established vegetation along the boundary. This screening separates the PDNP from the Buxton Road, and effectively restricts views to and from it from the vicinity of the appeal site. Therefore, despite the physical proximity, I am satisfied that the proposed access road would have a negligible impact on the setting of the PDNP.
28. In terms of looking towards the housing development from the points within the PDNP, it seems to me that views of it would be limited. A viewpoint from Taxal Moor has been provided, showing that the existing settlement of Whaley Bridge sits low in the landscape, and it not particularly intrusive. Were it to be visible at all, over the distance in question, the proposed development would appear to coalesce with the settlement of Whaley Bridge.
29. Also taking into account the screening effects of the proposed planting to the south of the site, I am satisfied that any adverse effect on views from the PDNP would be limited. Drawing these factors together, I conclude that the proposed development would accord with the aims of LP Policy S6 and the NPPF in respect of the protection of the PDNP.

#### **S106 agreement**

30. Regulation 122 of the Community Infrastructure Levy Regulations 2010 requires that if planning obligations are to be taken into account in the grant of planning permission, those obligations must be necessary, directly related, and fairly and reasonably related in scale and kind to the development in question.
31. A completed and signed s106 agreement was submitted after the hearing. It is intended to secure the required 30% on-site affordable housing provision, on-site public open space, and the agreed contributions towards education,

allotment, outdoor sport facilities, play, footpath, offsite highways facilities and a travel plan monitoring fee.

32. The agreement is not in contention in this appeal. I was provided with a statement of CIL compliance by the Council at the hearing, and I am satisfied that the agreement meets the tests set out in the CIL regulations. I have therefore taken the s106 agreement into account in reaching my decision.

### **Planning Balance and Conclusion**

33. I have found that the appeal proposal would not have a significant adverse on the setting of the PDNP. Nonetheless, I have concluded that it would unacceptably harm the character and appearance of the surrounding area. As such, it would conflict with LP Policy H1, LP Policy S6, which amongst other things, seeks to ensure that development protects landscape character, LP Policy EQ2, which protects landscape character, LP Policy EQ3, which controls new rural development for purposes including the protection of the landscape's intrinsic character and distinctiveness, and LP Policy EQ6, insofar as it similarly requires development to respect High Peak's landscapes. Further conflict would arise with the advice and aims of the LCSPD.
34. It is agreed between the parties that the development would be in a sustainable location and I have no basis on which to take a different view. The appeal proposal would offer a number of benefits. As noted above, the Council can demonstrate a five year housing land supply. The NPPF seeks to boost significantly the supply of housing, and therefore the presence of a five year supply does not preclude the grant of planning permission for additional housing, as long as it would accord with the development plan. The scheme would thus increase the supply and choice of housing in the area, which is to be given significant weight. The s106 agreement would secure a 30% provision of affordable housing, which is also to be afforded significant weight.
35. The contribution to the economic dimension of sustainable development would include the jobs created during construction and the addition revenue through Council Tax. In addition to maintenance costs, the new residents would be likely to spend money on goods and services in the area, supporting the local economy. They would also contribute to the social life of the area. The provision of on-site public open space with public rights of way would also be beneficial. These social and economic benefits weigh in favour of the appeal scheme.
36. Although the appellant contends that the new planting would aid biodiversity, there is little detailed or substantive evidence before me to support this stance, which limits the weight I can afford to it. The new dwellings would undoubtedly be built to modern specifications, resulting in carbon savings. However, this is to be expected of any new development, and so this factor is neutral.
37. Nevertheless, I consider that the proposal would have a seriously adverse effect in terms of the environmental dimension of sustainability with regard to the impact on the character and appearance of the surrounding area, contrary to LP Policies S1 and S1a. Furthermore, the benefits of the scheme would not outweigh this harm. I find that there is little justification for the development of this site in the open countryside. In the absence of any compelling reason to depart from the relevant policies, I therefore conclude that the proposal

would conflict with the development plan as a whole, and so the appeal should be dismissed.

*Elaine Gray*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Martin Brown	AAH Planning
Robert Walker	AAH Planning
Nick Allin	Aecom

### **FOR THE LOCAL PLANNING AUTHORITY:**

Paul Smith	HPBC
Stuart Ryder	Ryder Landscape
Nichola de Bruin	HPBC Solicitor

### **INTERESTED PARTIES**

Susan Vernon	Resident
Di Howe	Resident
Ann Smith	Resident

### **DOCUMENTS RECEIVED DURING THE HEARING**

- Draft Unilateral agreement
- Statement of Cil compliance
- Mervil Road Play Area plan
- Email re footway improvement contribution