



## Appeal Decision

Inquiry held on 18-20 and 25-26 June 2024

Site visits made on 20 and 21 June 2024

**by Gareth Wildgoose BSc (Hons) MSc MRTPI**

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

**Decision date: 22<sup>nd</sup> July 2024**

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**Appeal Ref: APP/H1033/W/24/3339815**

**Land to south of Dinting Vale, Glossop, SK13 6PA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Wain Homes (North West Ltd) against the decision of High Peak Borough Council.
  - The application Ref is HPK/2022/0456.
  - The development proposed is residential development comprising 92 dwellings including areas of public open space, landscaping and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for proposed residential development comprising 92 dwellings including areas of public open space, landscaping and associated works at Land to south of Dinting Vale, Glossop, SK13 6PA in accordance with the terms of the application, Ref HPK/2022/0456, subject to the conditions in the attached schedule.

### Applications for costs

2. The appellant made an application for an award of costs against the Council in writing before the close of the Inquiry. This is the subject of a separate Decision.

### Background, Procedural Matters and Main Issues

3. The proposed development was subject of amendments, including to reduce the original proposal for 100 dwellings to 92 dwellings, prior to the determination of the application. I have necessarily adopted the description of the proposal given in the Council decision notice accordingly as it is accurate and precise in terms of the appeal proposal before me.
4. The Inquiry opened on 18 June 2024 and sat on the following days: 18-20 and 25-26 June 2024. It was agreed by the main parties that, in view of the particular timetabling circumstances and individuals' availability, closing submissions would take place virtually on 26 June 2024. I made site visits unaccompanied on 20 June 2024 and 21 June 2024 to observe the local highway conditions during school pick-up times, together with accompanied site visits (including to properties requested to view and proposed biodiversity offsetting locations in Chinley) on 21 June 2024. In addition, I made unaccompanied visits on other occasions at different times of the day before and during the Inquiry. No discussion of the merits of the appeal were permitted during any site visit.

5. Interested parties raised concerns during the Inquiry<sup>1</sup> regarding the suitability of the venue<sup>2</sup> based on it being located approximately 6 miles from the appeal site, in another Council area and within a different County. However, I am satisfied that the Council identified it as the nearest available venue with suitable facilities to host the Inquiry that had large enough capacity to accommodate the level of public interest when accounting for the considerable number of representations received to both the planning application and the appeal. Furthermore, it was evident to me that the Inquiry venue was accessible by use of a private car or other means of travel, including frequent train services from stations at Dinting and Glossop to and from Flowery Field station that is within reasonable walking distance of the venue. There were also bus services available close to the appeal site and the venue during the day.
6. The evidence indicates that the notifications of the appeal and inquiry arrangements were undertaken correctly. Furthermore, to assist accessibility for those wishing to attend and participate, sitting days did not commence until 10am. Livestreaming and recording of sitting days was also arranged and made available on the Inquiry website to enable alternative methods of observation by interested parties unable to attend on each day. Furthermore, presentation of evidence and written statements were accepted from interested parties until 25 June 2024 with closings then taking place on 26 June 2024. I am, therefore, satisfied that the Inquiry venue and associated arrangements in place were suitable and appropriate in the circumstances of the case and provided necessary and ample opportunities for Inquiry participation for all parties.
7. The Council made its decision on 27 October 2023 with four reasons for refusal. A Case Management Conference (CMC) was held which I led on 10 May 2024 to discuss the ongoing management of the Inquiry, the likely main issues, including the best method for hearing the evidence, and to ensure the efficient and effective running of the Inquiry. Prior to the CMC, the Council indicated on 22 April 2024 that it did not intend to offer evidence in relation to and sought to withdraw the three reasons for refusal relating to air quality, and highway and pedestrian safety. Further correspondence from the Council dated 7 May 2024 also confirmed that an element of the remaining reason for refusal relating to biodiversity was no longer a matter in dispute as the Council were satisfied that the appellant is proposing full mitigation.
8. Following the CMC and prior to the Inquiry opening, the Council confirmed through submission of a Statement of Common Ground on 12 June 2024 that it no longer intended to offer evidence in relation to the other elements of the remaining reason for refusal (number three on the Council decision notice insofar as it referred to affordable housing and the effect on trees). In doing so, the Council confirmed that having considered the appellant's appeal submissions and having taken advice from its viability consultants, received on 6 June 2024, it had concluded that in its view the appeal could no longer be defended/resisted. An associated update from the Council confirming its position was added to the Inquiry website on 14 June 2024.
9. It was raised during the Inquiry<sup>3</sup> that the confirmation on 14 June 2024 (four days before the Inquiry opened) of the Council's intention to not defend the remaining reason for refusal and its intention to not present evidence to the

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<sup>1</sup> Including in ID12, ID17 and ID20

<sup>2</sup> Village Hotel Manchester - Hyde, 2 Captain Clarke Road, Tameside, SK14 4QG

<sup>3</sup> Including in ID14, ID17 and ID20

appeal, had left interested parties at a disadvantage when seeking to oppose the appeal. This included interested parties indicating that they did not have enough time to instruct legal representation. However, no requests for Rule 6 status were made nor was an adjournment during the Inquiry sought to enable such an approach to be taken by interested parties. Moreover, there is no evidence before me which would indicate that legal representation was pursued by interested parties before the Inquiry closed on 26 June 2024. In any case, the Inquiry was conducted in an open, fair and impartial manner and in accordance with the rules of natural justice. In those respects, as previously stated, necessary opportunities for participation for all parties was provided to allow them to present their case throughout the Inquiry. Interested parties were also given opportunities to ask questions, alongside my own, to test the evidence presented by all witnesses called by the appellant.

10. A signed planning obligation by way of Section 106 of the Town and Country Planning Act 1990 (S106) has been provided as part of the appeal, with the final version dated 3 July 2024 submitted by agreement after the Inquiry closed<sup>4</sup>. The planning obligations include provision of a Biodiversity Net Gain (BNG) Strategy and 30-year Management Plan including on-site habitat retention and enhancement measures, off-site mitigation measures at land at Chinley High Peak and compensation through purchase of biodiversity units. It also includes provision of an on-site open space scheme and trim trail, together with arrangements for a Management Company to maintain any unadopted highways, open space and public open space. In addition, there are proposed financial contributions to air quality monitoring, health, libraries, sustainable travel, tree planting, tree maintenance, travel plan monitoring, and Council and Derbyshire County Council monitoring of obligations. I return to the S106 agreement later in my decision.
11. Taking account of all of the above, there are now no main issues in dispute between the appellant and the Council. However, amongst other things, interested parties have expressed concerns and the appellant presented evidence at the Inquiry in response with respect to consistency with local and national policies including the proposed absence of provision of affordable housing and the effects on highway and pedestrian safety, trees, air quality and biodiversity. I, therefore, address the following issues as set out below:
  - Whether the proposal is consistent with the objectives of local and national planning policies relating to the location and type of housing, including provision of or contributions towards affordable housing, having regard to financial viability;
  - The effect of the proposed development on highway and pedestrian safety, with particular regard to the means of access from Dinting Vale (A57) and the relationship with Adderley Place (a public right of way also known as FP50) and Simmondley Lane;
  - The effect of the proposed development on trees, including those protected by a temporary Tree Preservation Order (TPO), and;
  - The effect of the proposed development on air quality, with particular regard to the Air Quality Management Area (AQMA) designated on the A57;
  - The effect of the proposed development on biodiversity.

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<sup>4</sup> ID25

## Reasons

### *Appeal site*

12. The site comprises approximately 4.7 hectares of land located to the south of the A57 which based on the evidence before me has most recently been used for the grazing of animals, particularly horses as part of an equestrian use. It currently consists of woodland closest to the A57. Adderley Place runs through the site in a broadly east-west direction from a junction with Simmondley Lane and the remaining land to the south of it consists of predominantly grassland and some trees, particularly along the boundaries. The land within the site has undulating land levels with particularly steep downward sloping gradients within the densest woodland section of the site from Adderley Place toward the A57, and more gentle rises in land levels across the grassland and tree covered areas towards the southern boundary.
13. The site lies within a built-up area and is adjacent to existing properties close to the proposed access onto the A57, a group of dwellings located along Adderley Place and properties facing Swallow Fold and Curlew Way towards the southern boundary of the site which are separated by a small watercourse and wooded area. Dinting Church of England Primary School and Dinting Church are in close proximity on the opposite side of the A57. The site is bounded on the western edge by Green Belt (but is not within it) and the Gamesley Sidings Local Wildlife Site with a railway line beyond. The former Simmondley Lane historic landfill site is located along the eastern boundary, alongside the Dinting Scout Centre and Holy Trinity Dinting Cricket Club.

### *Local and national policies relating to the location and type of housing*

14. The development plan comprises the High Peak Local Plan (LP), adopted April 2016. Policy S1 of the LP expects that all new development makes a positive contribution towards the sustainability of communities and to protecting and where possible enhancing, the environment; and mitigating the process of climate change within the Plan Area. The policy indicates, amongst other things, that this will be achieved by: meeting most development needs within or adjacent to existing communities; making effective use of land (including remediation of contaminated land), buildings and existing infrastructure; making efficient uses of land by ensuring that the density of proposals is appropriate (and informed by the surrounding built environment); and, taking account of the distinctive Peak District character, landscape, townscape, roles and settings of different areas in High Peak. It also expects provision of a mix of types and tenures of quality homes to meet the needs and aspirations of existing and future residents in sustainable locations and minimising the need to travel by promoting developments in locations where there is access to a broad range of jobs, services and facilities which are accessible by foot, cycle or public transport with minimal reliance on the private car.
15. Policy S2 of the LP takes forward the expectations of Policy S1 in identifying a settlement hierarchy for High Peak whereby development is intended to be directed to the most sustainable locations. In that regard, the site is located within the built-up area of Glossop which is identified in Policy S2 as one of the Market Towns that will be the main focus for housing, employment and service growth, consistent with maintaining and where possible enhancing its role, distinctive character, vitality and appearance. This is supplemented by

Policy S3 of the LP which sets out the housing requirement insofar as provision will be made for at least 7,000 dwellings over the period 2011-2031 at an overall average annual rate of 350 dwellings. Table 3 of Policy S3 indicates that 27-35% of the requirement would be broadly distributed to the Glossopdale Sub-Area within which the site is located, and Table 4 indicates that the requirements would be met on new sites in Glossopdale comprising Allocations, Glossop Small Sites and Villages Small Sites.

16. Policy S5 of the LP sets out the Glossopdale Sub-area Strategy that seeks to promote sustainable growth which, amongst other things, includes providing for the housing needs of the community including by allocating a range of suitable, deliverable housing sites sufficient to meet the requirements of the Glossopdale sub-area. This also includes the delivery of appropriate levels of affordable housing and supporting the development of new housing on sustainable sites within the built-up area boundary. This is supplemented by Policy H1 of the LP which, amongst other things, expresses support for development of specific sites through new site allocations in the LP. In that respect, Policy H2 sets out the housing allocations for Glossopdale where sustainable development is to be brought forward. The list of locations identified in Policy H2 includes a housing allocation at Adderley Place, of which the appeal site forms part of that denoted on the policies map<sup>5</sup>. The housing allocation is for 130 dwellings which when taking account of the supporting text in the LP is expected to be delivered in the 2021-2026 middle phase of the Plan period.
17. Policy DS4 of the LP relates specifically to the Adderley Place, Glossop allocation which consists of a greenfield site with an area of 6.3 hectares. The appeal site comprises the majority of the housing allocation along with additional land beyond its eastern boundary that at the time of the Inquiry was confirmed as in Council ownership. The policy establishes the principle of residential development within the allocation, subject to compliance with its specific requirements and other relevant Local Plan policies. The requirements of Policy DS4 include provision of a new access and a transport assessment (with the supporting text clarifying the site will require substantial access improvements on to the A57); provision of the required proportion of affordable housing (stated as currently 30%); and contributions towards infrastructure, services and other community needs as required. It also requires a contamination and ground conditions survey and site-specific Flood Risk Assessment; provision of a comprehensive landscaping plan, including the retention of mature trees; archaeological evaluation; and a wildlife survey. In those respects, I firstly consider the matter of affordable housing, before addressing the other relevant matters later in the decision.
18. The proposal for 92 dwellings within the site comprising approximately 75% of the total area identified within the Policy DS4 allocation, reasonably falls within the expected quantum of development to be delivered in accordance with Policy DS4. However, in doing so, it does not include provision of affordable housing. As such it does not meet the specified required proportion in Policy DS4 for 30% affordable housing. The development plan is, however, necessarily read as a whole.

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<sup>5</sup> CD4.11

19. Policy H3 of the LP requires all new residential development to address the housing needs of local people by, amongst other things, meeting the requirements for affordable housing within the overall provision of new residential development as set out in Policy H4. It also requires that a housing mix be provided to meet the future needs of a range of household types based on evidence from the Strategic Housing Market Assessment or successor documents. In the latter regard, whilst I have noted the survey information from estate agents provided by interested parties, I find that the proposal would provide an appropriate mix of market housing that broadly corresponds with the most up-to-date evidence of needs in Glossop set out in the High Peak Housing and Economic Land Needs Assessment (HELNA) published in September 2022<sup>6</sup> which takes account of factors such as post-pandemic working patterns and related home-working requirements since the LP was adopted. The proposal, thereby, appropriately prioritises addressing the projected highest levels of demand for properties with at least three bedrooms. It also provides associated improvements to the proportions of 1-bed and 2-bed housing when compared with the existing housing stock in the local Simmondley Ward.
20. The proposed development would also accord with the other requirements of Policy H3, aside from in terms of affordable housing, insofar as all dwellings provide adequate internal spaces commensurate with Nationally Described Space Standards. Furthermore, around half of the dwellings within the proposal meet the accessibility standards set out in the Optional Requirement M4(2) of Part M of the Building Regulations which again accords with the recommendations of the HELNA.
21. As mentioned above, Policy H4 of the LP relates specifically to affordable housing. The policy includes the same 30% affordable housing requirement on a site of 25 units or more as Policy DS4, together with stating that affordable housing provision should seek to achieve a target of 80% rented accommodation with the balance being provided as intermediate housing. However, when providing that more detailed approach to affordable housing and amongst other things, Policy H4 also indicates that where the provision of affordable houses proposed is below the requirements it sets out, the Council will require applicants to provide evidence by way of a financial appraisal to justify a reduced provision.
22. Policy CF7 of the LP reaffirms the need for development proposals to provide or meet the reasonable costs of providing the on-site and off-site infrastructure, facilities and/or mitigation necessary to make the development acceptable through the appropriate use of planning obligations and/or conditions. Nonetheless, it also indicates that in implementing the policy regard will be had to economic viability considerations, consistent with meeting the Local Plan objectives.
23. The High Peak Local Plan Viability Test Report (VTR)<sup>7</sup>, published in April 2014, incorporated a site viability and deliverability appraisal, which underpinned the Adderley Place allocation in the LP and the associated requirements of development set out in Policy DS4. However, it is evident from the VTR methodology that it was a high-level assessment using a residual valuation approach. Whilst such viability assessments are commonly used at plan-

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<sup>6</sup> CD6.26 - Table 12.7

<sup>7</sup> CD6.12

making stage and accepted as supporting evidence in the examination of development plan documents, the VTR utilises generic assumptions that do not necessarily fit all eventualities or site-specific circumstances encountered when a planning application is submitted. Furthermore, the VTR is now dated given the passage of time since its preparation. As such it does not account for circumstances that have clearly affected the financial and building construction markets in the intervening period since the LP was adopted, including the withdrawal of the UK from the European Union and the Covid pandemic. It follows that I find that the VTR is not up-to-date and can no longer be relied upon for the purposes of decision-making.

24. In support of the appellant's view that the proposed development of the site would not be sufficiently viable to provide for affordable housing nor planning obligations to meet policy requirements in the LP, a viability assessment dated September 2022<sup>8</sup> accompanied the application. Following the revisions to the proposal and consequent reduction to 92 dwellings, a viability assessment addendum dated June 2023<sup>9</sup> was provided before the Council made its decision. Both viability assessments were informed by more detailed technical evidence than the VTR of site-specific circumstances including house types, up-to-date build costs, development financing, topography/ground conditions, mitigation requirements to overcome constraints, associated abnormal costs, recent comparable sales evidence and a development programme.
25. The Council prior to its decision, appointed its own chartered surveyors to undertake a detailed review of the appellant's viability evidence which was carried out together with appointed quantity surveyors. Following discussions between the parties as part of that process, a written update was provided to the Council in September 2023<sup>10</sup> with an accompanying viability appraisal<sup>11</sup>. The evidence identified the limited areas of agreement on contingency and professional fees, together with differences between the parties (and some potential areas of compromise arising from negotiation) in terms of benchmark land value (BLV) based on existing use value (EUV) with allowances for a premium for the landowner, gross development value (GDV), build costs and abnormal development costs, sales fees, finance rates, phasing and developer profit. Taking all of those positions together, the Council's consultants, when accounting for a reasonable developer profit of 20%, identified a RLV above BLV of £773,000 that was, therefore, considered capable of being provided by the proposal toward either affordable housing or S106 contributions to meet other policy requirements.
26. Based on the evidence before me, the overall viability position remains a matter in dispute between the Council and the appellant. However, I am satisfied that the standardised inputs in the viability evidence align with those expected in Planning Practice Guidance (PPG). Furthermore, the range of differences between the respective positions of the parties fall within the boundaries of reasonable divergences in professional judgement that result in a robust range of potential viability outcomes for the development. The viability evidence, as a whole, has consistent conclusions on the challenging deliverability of the proposed development based on site-specific circumstances requiring significant uplifts in build costs and abnormal

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<sup>8</sup> CD1.6

<sup>9</sup> CD2.19

<sup>10</sup> CD6.24

<sup>11</sup> CD6.25

development costs. Those uplifts in costs, when compared with the VTR, are reasonably informed by detailed technical evidence and are robust. It follows that the more up-to-date viability evidence provided as part of the planning application subject of this appeal is afforded considerable weight.

27. Having regard to the above, it is evident that even if I were to take the more optimistic conclusion provided by the Council's consultants, the viability position of the proposed development is challenging. Moreover, it is reasonable to conclude that the proposal before me would not be capable of providing for affordable housing together with the S106 planning obligations required to meet other policy requirements in the LP.
28. The S106 agreement<sup>12</sup> includes planning obligations which based on Table 2 of the Statement of Common Ground dated 12 June 2024 would significantly exceed the viability position agreed between the parties. During the Inquiry, the appellant confirmed that the intention is that the planning obligations meet all policy requirements, insofar as possible given the viability position, and that the increased value of the planning obligations reflect the now fully costed scheme for biodiversity (including bespoke mitigation at Chinley and off-site biodiversity credits). The completed S106 agreement also includes updated Council and County Council monitoring costs to ensure consistency with the calculations set out in the CIL Compliance Statement. The S106 agreement does not include a contribution to affordable housing.
29. The most up-to-date evidence in the HELNA, estimates the net affordable housing need to be between 228-270 new homes per annum in High Peak (84-97 new homes per annum in Glossop). In that regard, the absence of contribution from the proposal to affordable housing in principle reflects the loss of an opportunity to address unmet needs for affordable housing in High Peak and, thereby, provide one of the benefits of development intended when allocating the site in the LP. However, the viability evidence relating to the housing allocation that forms part of the proposal has been supplemented by additional viability evidence provided as part of the appeal for the remaining land<sup>13</sup>. When taken together, that viability evidence demonstrates that the comprehensive development of the Policy DS4 allocation for 130 dwellings, otherwise in accordance with the LP, would be incapable of providing a contribution to affordable housing.
30. It follows from the above, to my mind, that there is no reasonable prospect that an alternative development could be brought forward within the LP allocation that could contribute to meeting identified unmet needs for affordable housing. Based on the evidence, a proposed development such as the proposal before me with no contribution to affordable housing would be the only realistic option in current circumstances to achieve accordance with the primary objective of Policies S1, S2, S3, S5, H2, H3, H4, DS4 and CF7 of the LP, when taken as a whole, to deliver housing within the Policy DS4 allocation by 2031.
31. In reaching the above findings, I have noted that the Council have previously undertaken a Local Plan Review on 23 June 2022<sup>14</sup> which identified that Policy H4 of the LP is one of three policies that were deemed to be out of date

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<sup>12</sup> ID25

<sup>13</sup> Proof of Evidence of Richard Heathcote

<sup>14</sup> CD4.12



for development management purposes. However, based on the evidence before me, that was due to updates to the approach to the affordable housing in revisions to the National Planning Policy Framework (the Framework) and other national policy since the adoption of the LP. The national policy updates include that the provision of affordable housing should not be sought for residential development that are not major developments, updates to the definition of affordable housing, a policy on First Homes<sup>15</sup> and the expectations regarding proportions of affordable homes being made available for home ownership. Those national policy changes are material considerations, but are not overriding factors on decision-making in circumstances where viability evidence demonstrates that affordable housing is incapable of being delivered by a proposed development.

32. The Local Plan Review also found that Policy S3 of the LP was deemed to be out of date due to the housing requirement being more than five years old and required updating as the number of houses identified as being needed through the application of the standard method set out in the PPG has changed significantly. In that regard, the High Peak Statement of Five-Year Housing Land Supply (as at 1 April 2023) published November 2023<sup>16</sup>, provides the most up-to-date Council position of an annualised housing requirement of 258 dwellings which is considerably lower than set out in Policy S3. Additional evidence presented during the Inquiry<sup>17</sup> indicated that the annualised figure would be further reduced following the subsequent publication of the Framework and Housing Delivery Test results (December 2023) through removal of a 5% buffer from the calculation.
33. It follows from the above that the specific housing requirement figures given for High Peak and Glossopdale in Policy S3 of the LP are not up to date. However, importantly the Council's Local Plan Review did not find that the settlement hierarchy and its focus for distribution of development in Policy S2 of the LP, the Glossopdale Sub-area Strategy set out in Policy S5, the housing allocations in Policy H2 and Policy DS4 nor the overall approach to housing in Policy H3 and viability in Policy CF7 to be out of date. To my mind, those are the most important development plan policies for determining the application and I agree that they are not out of date. In reaching that view, I consider that even though the most up-to-date calculation of the housing requirement is considerably lower than that in the LP, the distribution of development to the most sustainable locations is in accordance with it and the Framework. Furthermore, the Framework is clear that it intends to support the Government's objective of significantly boosting the supply of homes and that viability evidence should be taken into account. I am, therefore, satisfied that bringing forward a LP allocation within an existing built-up area where there are identified needs for market housing is in accordance with the LP, taken as a whole, and national policy.
34. When having regard to all of the above, I conclude that the proposal is consistent with the objectives of local and national planning policies relating to the location and type of housing. In reaching that finding, I have considered that the proposal does not accord with the specific wording of Policies H3 and DS4 in the absence of a contribution to affordable housing. However, the

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<sup>15</sup> Introduced by the Written Ministerial Statement on Affordable Homes Update (24 May 2021)

<sup>16</sup> CD6.3

<sup>17</sup> ID7

proposed approach to the location and type of housing is acceptable, in the specific circumstances of this case, when necessarily taking the LP as a whole and affording considerable weight to the viability evidence that has demonstrated that the LP site allocation would not be capable of contributing to housing delivery in High Peak if affordable housing were otherwise sought. The proposal complies with Policies S1, S2, S3, S5, H2, H4 and CF7 of the LP in that respect and the other relevant requirements of Policy H3 of the LP. Nonetheless, to conclude on the development plan as a whole and compliance with the other requirements of Policy DS4 it is necessary that I go on to consider the other relevant issues.

#### *Highway and pedestrian safety*

35. Policy S5 of the LP states that Transport Assessments in support of developments in the Glossopdale area should be scoped with Highways England (now National Highways) and the highways authority in order to determine whether the assessment should consider impacts on A57/A628 junction and to identify mitigation measures as appropriate. As part of the application, the appellant provided evidence of correspondence with National Highways that identified that no further assessment of the junction of the A57 and A628 would be required<sup>18</sup>.
36. Policy DS4 of the LP establishes the principle of an access to the allocation from the A57 in close proximity to Dinting Church of England Primary School located on the opposite side of the road. However, Policy CF6 of the LP also relates to accessibility and transport. It has specific objectives of seeking to ensure that development can be safely accessed in a sustainable manner and that proposals minimise the need to travel, particularly by unsustainable modes of transport. In seeking to achieve those objectives, amongst other things, the policy requires that all new development is located where the highway network can satisfactorily accommodate traffic generated by the development or can be improved as part of the development. It also seeks to ensure that development does not lead to an increase in on-street parking to the detriment of the free and safe flow of traffic. Those requirements align with the Framework<sup>19</sup> which advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
37. The evidence accompanying the application and before this appeal includes a Transport Assessment<sup>20</sup> (TA) dated August 2022, and Technical Notes (TN) dated April 2023<sup>21</sup>, August 2023<sup>22</sup> and September 2023<sup>23</sup>. The TA included traffic flow survey data undertaken on Tuesday 30 November 2021 between the hours of 07:30 - 09:30, and 16:30 - 18:30 at the A57 Dinting Vale / A626 Glossop Road signal-controlled junction and the A57 Dinting Vale / Simmondley Lane / A57 High Street West / Primrose Lane double mini-roundabout to establish existing traffic flow demand on the local highway network based on base peak hour traffic flows.

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<sup>18</sup> CD3.1 (Paragraph 7.10.1)

<sup>19</sup> Paragraph 115

<sup>20</sup> CD1.16

<sup>21</sup> CD2.11

<sup>22</sup> CD2.58

<sup>23</sup> CD2.79

38. The TN of April 2023 included updates to the National Traffic Model growth factors, modified by TEMPRO local growth factors, for the future year of 2031 as sensitivity testing of future traffic flow growth set out in the TA to capture the cumulative local plan growth expected and any traffic impacts of the proposed A57 Mottram Bypass<sup>24</sup>. In addition, it provided an estimate of trips generated by the proposed development during the weekday AM and PM peak hours based on the Trip Rate Information Computer System (TRICS) database with multi-modal outputs based on the original proposal for 100 dwellings. The TRICS modelling takes account of average car ownership levels within a 5-mile radius of the site and 17 comparator sites (15 of which were located further from a town centre than the site and therefore, reasonably may be more car dependant), together with trip distribution modelling informed by the 2011 Census and Nomis data. This was updated in the TN of April 2023 to assess higher car ownership levels than the lower super-output area<sup>25</sup> encompassing the site of 1.41 cars per dwelling.
39. The resultant findings of the evidence in the TA and the TN of April 2023 are that the development related traffic movements during the busiest hour of the day, would be equivalent to an average of 1 vehicle every 2 minutes exiting the site in the AM peak hour and 1 vehicle every 2 minutes entering the site in the PM peak hour, together with entering traffic in the AM peak hour and exiting traffic in the PM peak hour at an average of 1 vehicle every 5 minutes. Having regard to the methodology used, I consider that those figures are a robust basis upon which to assess the highway impact of the proposed development given the extent of sensitivity testing undertaken.
40. The highway impact of the calculations of traffic arising from the development was assessed in the TA and tested in detail at the proposed site access, the A57 Dinting Vale / Simmondley Lane / A57 High Street West / Primrose Lane double mini-roundabout and the A57 Dinting Vale / A626 Glossop Road signal-controlled junction. The methodologies included Junctions 9 (ARCADY and PICADY) software to provide a ratio to flow capacity (RFC) and an estimate of likely traffic queues at the proposed site access, on the A57 Dinting Vale and at the double mini-roundabout. A LINSIG software model was also used for the signal-controlled junction which provides results as a percentage Degree of Saturation (DoS) and corresponding traffic queues for each modelled link in the junction. The resultant outputs in the TA provided development-related capacity assessments reasonably based on the sum of the 2027 'without development' baseline traffic flows and the addition of development related traffic flows. The TN of April 2023 supplemented this by updating the detailed capacity assessments to consider the revised number of dwellings as well as sensitivity testing of the future assessment year up to 2031 and by taking account of potential A57 Mottram Bypass traffic flow changes.
41. The findings set out in the TN of April 2023 are that both the proposed site access comprising a T-junction and the A57 Dinting Vale / A626 Glossop Road signal-controlled junction would operate well within their practical capacity in the future assessment year of 2027 as well as in the 2031 sensitivity test scenario 'without' and 'with' the A57 Mottram Bypass in place. Based on the evidence of limited traffic flows arising from the proposed development I consider those findings to be robust. It follows that it is reasonable that the

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<sup>24</sup> Informed by National Highways estimated peak hour traffic changes as per CD2.11 paragraph 13

<sup>25</sup> High Peak 004E

proposed site access would not experience significant queuing and that its use would not have a material impact upon the RFC to queue lengths in both the AM and PM peak hours.

42. It is evident from the TN of April 2023 that some of the approaches to the A57 Dinting Vale / Simmondley Lane / A57 High Street West / Primrose Lane double mini-roundabout are predicted to operate over their practical capacity during both the AM and PM peak hours in 2027 and 2031 without the proposed development in place. However, the evidence suggests that the ARCADY model is potentially over-estimating queues in AM and PM peak times because the mini-roundabouts have unbalanced flows and therefore, typically behave more like a priority junction for most vehicles travelling along the A57. That situation corresponds with my own observations of the traffic flows through the double mini-roundabout during the AM and PM peak times. It follows that I am satisfied that the proposed development, with a less than 1% traffic impact in peak times when compared with the 'without development' scenario in 2027 (as well as in the 2031 sensitivity test scenario 'without' and 'with' the A57 Mottram Bypass in place), would not result in a material or residual cumulative impact that would be severe.
43. Taking account of the above and turning specifically to matters of highway safety, I observed significant levels of on-street parking along the A57 (a 30mph speed limit road). The on-street parking occurred close to the position of the proposed access on both sides of the road in areas that are not restricted by the presence of bus stops and marked restrictions along the frontage of the Dinting Church of England Primary School building and its associated vehicular and pedestrian accesses. Whilst my own observations reflect only brief snapshots in time during peak traffic hours in the morning and afternoons/evenings, it was notable that the most significant levels of on-street parking demand close to the site occurred during the 30-minute periods around school drop-offs (08:30 - 09:00) and pick ups (15:00 - 15:30). During those periods, on occasions, some vehicles were required to wait on the A57 behind parked cars to allow other vehicles, particularly heavy goods vehicles and buses, to pass in the opposite direction. I also observed specific traffic delays on the A57 associated with high levels of on-street parking demand and the presence of a high number of pedestrians on the footway and crossing the road during the early afternoon of Friday 21 June when a school sports day was taking place.
44. However, it is not an unusual situation for vehicles to wait on a highway for short periods of time to let others pass and I consider it reasonable that the limited scale of traffic generation associated with a development of 92 dwellings would not significantly alter nor worsen the existing situation. The combination of the width of the carriageways and occasional gaps in on-street parking even at busy times (due to the marked restrictions close to bus stops, the primary school, traffic signals and road junctions) provide sufficient refuges to allow vehicles to pass safely in each direction along the A57. Based on the traffic levels both in the evidence and that I observed, it is also reasonable that sufficient gaps in traffic in each direction along the A57 occur frequently to ensure that any temporary queues on local highways are dispersed relatively swiftly. Furthermore, the queuing occurs in locations with road alignments that offer suitable forward visibility for vehicles travelling in each direction to be able to view and react to stationary vehicles or those travelling at slower speeds, together with pedestrians with small children both

- using the signalled pedestrian crossing and crossing the road elsewhere. As such I am satisfied that there is not an unacceptable risk of accidents.
45. The above findings are supported by the road safety record identified in the TA and as presented in full in the TN of April 2023. The evidence indicates that a total of 9 recorded accidents in the study area occurred between 2017 and 2021, none of which occurred in close proximity to the Dinting Church of England Primary School or close to the location of the proposed access.
46. Of the recorded accidents, three occurred at the A57 Dinting Vale / A626 Glossop Road signal-controlled junction, and two occurred at each of the A57 Dinting Vale / Simmondley Lane mini-roundabout, the A57 Dinting Vale / A57 High Street West / Primrose Lane mini-roundabout and the A57 Dinting Vale / Dinting Lane junction. The majority of accidents were identified as of slight severity, including one involving a cyclist at the A57 Dinting Vale / Simmondley Lane junction and one involving a pedestrian at the A57 Dinting Vale / Dinting Lane junction. The one serious accident involved a motorcyclist at the A57 Dinting Vale / A57 High Street West / Primrose Lane junction which is distant from the school and the location of the proposed site access. Overall, the accident record has no identified cluster spots or recurring highway trends, and I am satisfied that the number and severity of accidents is not an unusual frequency for the types of junctions and the level of traffic along the A57. It follows that the accident record on the roads immediately surrounding the site does not suggest a material concern in the context of the development proposed.
47. The proposed access to the appeal site would be slightly offset from existing pedestrian accesses to Dinting Church of England Primary School that has associated parking restrictions on the frontage and a protective guardrail. It would also be more distant from the main vehicular access to the primary school and the signalised pedestrian crossing. It would require the relocation of an existing bus stop and associated highway improvements to the footway that are capable of being secured by condition. Those changes are also likely to result in some dispersal of existing on-street parking to locations further along the A57 to the east and west, where based on my observations even in busy times there is sufficient capacity to accommodate it safely. When having regard to those locational considerations, proposed traffic flows and the road safety record in the immediate vicinity, I am satisfied that the introduction of a new access with acceptable visibility splays can be accommodated on the A57 without having unacceptable impact on highway and pedestrian safety including young children accessing the school on the opposite side of the road.
48. In reaching the above view, I have taken into account that the geometry and visibility requirements are established by guidance documents prepared by the County Council and the Government's Manual for Streets. In that respect, the proposed T-junction to serve the site is consistent with the guidance to serve a residential development of this scale and type in providing a 5.5m wide carriageway width, a junction radii of 6m and visibility splays that correspond with the speed of traffic approaching the traffic location. There are also sufficient carriageway widths on the A57 to enable safe access to and from the site and enough frequent gaps in traffic to limit any resultant queues either on the A57 or within the access, even at busy times when on-street parking may be present on the opposite side of the road and close by.

49. In terms of visibility splay requirements for the proposed access, as per the TN of April 2023, the evidence in the TA was supplemented by a 7-day automatic traffic count undertaken between Monday 12 December and Sunday 18 December 2022. This additional survey was undertaken to identify the 85<sup>th</sup> percentile design speeds which were then used to calculate the 2.4m by 43m visibility splay requirements at the proposed site access based on the stopping sight distance (SSD) for a 30mph road as set out in Manual for Streets. Based on my own observations, vehicle speeds along the A57 on the section passing the site are generally controlled below the speed limit by the presence of speed cameras in each direction and a signalised pedestrian crossing close to the school, and this is consistent with the evidence. As such, I am satisfied that visibility splays for a 30mph road would provide safe and acceptable standards of access for the proposal and would be achieved by the development. To achieve the required visibility splays for highway safety, it is noted that the proposal necessarily includes additional land to that denoted as the position of the access identified in the LP allocation.
50. I am, therefore, satisfied that the proposed access arrangements provide sufficient visibility and junction capacity to ensure a safe and suitable site access to and from the A57. Consequently, alternative junction arrangements suggested in interested party representations and during the Inquiry such as a mini-roundabout or ghost island as part of an access onto the A57 are not necessary to make the development acceptable.
51. In reaching the above findings, I have taken into account that the proposed site access road would not achieve the County Council's recommended gradient of 1:20 along its entire length. However, based on the evidence before me including the TN of August 2023 and a longitudinal section plan<sup>26</sup>, the steep downward sloping of the land between Adderley Place and the A57 and a gas main running through the central part of the site (requiring a minimum of 1.2m ground cover) are considerable constraints upon an access with a 1:20 gradient on the northern section of the site. Even if it were technically feasible to achieve such a gradient of access road whilst providing sufficient ground cover for the gas main and tying-in with existing levels on Adderley Place and the A57, it is reasonable that such an approach would require more significant amounts of cut into the land with retaining structures and earthworks. This would inevitably result in a more significant impact on the woodland area through loss of trees and taking account of the viability evidence would be unlikely to be deliverable in any case.
52. It follows that the proposed approach of a 1:10 gradient for a length of approximately 156m on the section of the access road between Adderley Place and the A57 with 1:30 for 10m from the A57 junction is a reasonable, safe and appropriate solution to address the constraints of infrastructure and topography of the site. In that respect, I have taken into account that based on my own observations, gradients of 1:10 are not uncommon in both Glossop and the wider High Peak area including an example of a development approved for 107 dwellings off Linglongs Road in Whaley Bridge<sup>27</sup> drawn to my attention. The proposed access road includes a curved alignment through retained woodland that minimises tree loss whilst having the effect of limiting speeds along the steepest sections. The sections of steepest sloping access

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<sup>26</sup> CD6.17

<sup>27</sup> Application Ref: HPK/2017/0247

- road on the northern section of the site also do not include any junctions or accesses to properties which would further reduce the risk of accidents. Furthermore, it is reasonable that given the evidence of limited traffic flows arising from the development and frequent gaps in traffic on the A57 that queues along the access road would predominantly occur on its 1:30 section and thereby, ensure a safe and suitable vehicular access from the site.
53. Turning to access to the site for pedestrians and cyclists, steep gradients of footpaths and cycleways are a significant constraint to accessibility particularly for those with disabilities and reduced mobility. In that respect, it is noted that the County Council typically seek that pedestrian routes should generally be no greater than 1:40, albeit with short lengths of 1:20 accepted. It is evident from the proposed site layout plan<sup>28</sup>, the longitudinal section plan and the TN of September 2023, that even with the curved alignment of the segregated footpath on the northern section of the site it would not achieve a gradient of 1:20 for most of its length and would be closer to 1:10 aside from where it meets the A57.
54. The site is alternatively served by Adderley Place, a public right of way (FP50) that is an accessible route from Simmondley Lane for pedestrians and cyclists which is relatively flat along much of its length. The public right of way currently provides both vehicular and pedestrian access from Simmondley Lane for properties located on Adderley Place and a scout hut. I observed that it is currently well used during periods of daylight by pedestrians despite the gradients on Simmondley Lane and the right of way close to the junction also not achieving the recommended 1:20 gradient. However, I observed that it is mostly unlit with cobbled sections and areas of uneven surfacing. Consequently, whilst it would provide a reasonable alternative route for most future occupants of the development during some periods of the day, it would be less suitable during periods of darkness and given its condition and surfacing would not be an appropriate alternative route for residents with needs relating to disabilities or reduced mobility, including wheelchair users.
55. With regard to the above, it is evident that the appellant has explored all reasonable options to improve the accessibility of the footpath/cycleway access from the A57 to Adderley Place or overcome the constraints of the difficult topography of the northern section of the site. This includes an option<sup>29</sup> whereby a 1:20 footway/cycleway gradient could be achieved through zig-zag style ramped sections with steps providing an alternative and more direct route. However, to my mind, this option has been reasonably discounted given that the engineered solution would have a more significant impact on the woodland through additional tree loss than the proposal.
56. Instead, to address the issue of footpath sections with 1:10 gradient, the proposal includes three evenly spaced flat refuge areas alongside the footpath between the A57 and Adderley Place which would minimise the loss of trees. I consider that the provision of those flat refuge areas is the most appropriate solution in the circumstances which would meet the needs of future users with disabilities or reduced mobility by providing suitable opportunities to take a break and rest. In addition, it is notable that the footpath/cycleway would have associated lighting and therefore, would provide a beneficial alternative to the existing access arrangements along Adderley Place during periods of

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<sup>28</sup> CD2.86

<sup>29</sup> Included as Appendix A of Proof of Evidence of Richard Nicholas

darkness. The remainder of the site includes footpath and cycleway linkages at 1:20 gradient which upgrade the pedestrian accessibility to existing rights of way through the land to Gamesley Sidings Local Wildlife Site (which links to the Trans Pennine Trail beyond) and through to Swallow Fold. It follows that I find that the proposed development would ensure that safe and suitable access to the site could be achieved by all users.

57. In reaching my findings on the proposed access road and footpath arrangements, I have noted that a submitted plan<sup>30</sup> indicates that all of the access road and the segregated sections of the footpath and refuge areas on the northern section of the site would be maintained to an adoptable standard (aside from gradients). I consider that this is particularly necessary and could be secured by condition in the interest of highway and pedestrian safety between Adderley Place and the A57. Moreover, even if the County Council were to refuse to adopt the access road and footpaths due to some gradients not meeting their recommended standards, I am satisfied that suitable alternative management and maintenance arrangements are otherwise secured within the S106 agreement. This would ensure that safe and suitable access to the site for all users would be maintained, including in periods of the year when inclement weather including ice and snow occur relatively frequently.
58. The Council decision and representations made by local residents of Adderley Place, including during the Inquiry, raised concerns regarding the potential for future residents of the development to utilise the existing right of way/private road as an alternative means of vehicular access to and from Simmondley Lane. Based on the evidence before me and my observations of the condition of Adderley Place and its limited width and passing places, it is reasonable that an increased vehicular use of the right of way and private road should be discouraged to ensure that there is no increase in the risk of accidents. In reaching that view, I have also taken account of the constrained visibility to the south when exiting onto Simmondley Lane and the unsegregated use of the public right of way by walkers and cyclists, together with a development under construction adjacent to the access.
59. In response to the above situation, as part of the appeal, a detailed scheme for vehicle restriction for users of the development along the eastern section of Adderley Place (leading to Simmondley Lane) beyond the proposed access road has been provided<sup>31</sup>. The details include signage, together with the use of proposed kerbed islands and bollards to restrict vehicles from turning from the development into the eastern section of Adderley Place, whilst maintaining through-access along Adderley Place to and from the junction with Simmondley Lane and the properties located along the western section of Adderley Place.
60. The details of the proposed scheme includes swept-path analysis diagrams which demonstrate the feasibility of the restrictions from the proposed development and that the access along Adderley Place from Simmondley Lane for existing residents would be maintained for cars and a large refuse vehicle (the dimensions of which are equivalent to or exceed those of all emergency vehicles). When taking account of the evidence, the relationship with proposed accesses to nearby properties within the development and the

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<sup>30</sup> CD2.88

<sup>31</sup> Included as Appendix A of Proof of Evidence of David Roberts



available visibility at the crossing point in each direction along the proposed access road, I am satisfied that the vehicle restriction scheme for Adderley Place would be an appropriate solution which would ensure no unacceptable impacts on highway safety and could be secured by condition.

61. In reaching the above view, I have taken account of concerns raised during the Inquiry that the absence of restrictions on the western section of Adderley Place could encourage future residents of the development to access and turn around within it to then utilise the eastern section as an alternative exit onto Simmondley Lane. Whilst I agree that such a manoeuvre would be possible, to my mind, as a matter of convenience it would only likely be used by future residents of the development in the event of significant congestion on the A57 resulting in queues along the access road but not on Simmondley Lane. This is unlikely to be a frequent occurrence given that congestion on the A57 is likely to restrict through-traffic and associated speeds on Simmondley Lane due to associated queues at the shared mini-roundabout with the A57. I, therefore, consider it reasonable that any such occurrences would be unlikely to significantly increase the use of the junction at Simmondley Lane or increase the risk of accidents.
62. A more frequent use by delivery drivers of the proposed development to access the western section of Adderley Place as a linked trip is likely. However, this would potentially reduce the vehicle movements along the eastern section of Adderley Place when compared with the existing arrangements whereby the access to and from the properties for deliveries is via the Simmondley Lane junction. Furthermore, it is also reasonable that the availability of an alternative exit for local residents of Adderley Place onto the proposed access to the A57 would likely reduce the existing reliance upon the eastern section to the Simmondley Lane junction with associated benefits to highway safety. It follows that a restriction of access between the proposed development and the western section of Adderley Place is not necessary to make the development acceptable.
63. Interested parties have raised concerns with respect to legal rights of access along Adderley Place being maintained, together with disruption and disturbance during the construction phase of the development. In those respects, I am satisfied that a Construction Management Plan (CMP) could be secured by condition prior to commencement of development to ensure suitable arrangements to avoid unacceptable impacts on rights of access, highway safety and living conditions during the construction period. The condition could necessarily specify no access to the site for construction vehicles from the junction of Adderley Place and Simmondley Lane and that during the construction period the developer shall ensure that access to existing dwellings on Adderley Place will be retained. In addition, the CMP could also include provision for details of proposed temporary traffic management / restrictions including arrangements for banksmen to be deployed at traffic management points for the duration of the construction period. Those traffic management points would include both Adderley Place and the proposed access onto the A57 given the relationship with Dinting Church of England Primary School.

64. A Travel Plan dated July 2023<sup>32</sup> was submitted before the Council made its decision. The site is in an accessible location approximately 1.5km to the west of Glossop Town Centre with a range of intervening and other services and facilities in Gamesley and Simmondley within walking distance. The available services and facilities include bus stops, railway stations, primary and secondary schools, day nurseries, supermarkets, medical practice, health centre, pharmacies, public open spaces, public houses, banks, shops, a retail park and leisure centres. It follows that it is reasonable that the proposal would not be reliant upon use of a private car. Furthermore, the objectives and measures of the Travel Plan to improve awareness and usage of alternative modes; increase opportunities for residents by promoting walking, cycling, public transport and car sharing; minimising the total travel distance of residents and promoting healthy lifestyles and sustainable, vibrant communities, accessible by all, are capable of being achieved. This would be assisted by planning obligations in the S106 agreement.
65. Having regard to all of the above, I am satisfied that safe and suitable access to the site can be achieved by all users, that the existing rights of access for residents of properties on Adderley Place would not be harmed and that the proposal would support and encourage opportunities for the use of sustainable modes of travel. The additional traffic arising from the proposal would be suitably accommodated on the A57 Dinting Vale and the surrounding junctions within the highway network without an unacceptable impact on highway safety or severe residual cumulative impacts on the road network during peak times (including school pick-ups and drop offs).
66. In reaching the above findings, I have taken into account that interested parties have expressed concerns that traffic surveys accompanying the application are not representative of traffic levels experienced along the A57 Dinting Vale. The concerns included the effects of the Covid-19 pandemic at the time of the TA surveys, together with closures to the A57 particularly affecting the Snake Pass to the east of Glossop and restrictions on heavy goods vehicles and vehicle speeds that remain in place. However, based on the evidence, the methodology for the traffic flow surveys and resultant flow data, and the speed surveys and corresponding visibility requirements are appropriate and representative as agreed with the County Council as highways authority for the area. I also note that the periods of closures of sections of the A57 identified during the Inquiry did not include the dates of the traffic flow surveys. Consequently, those matters raised do not alter the conclusion I have reached.
67. I conclude that the proposed development would not have an unacceptable or harmful impact upon highway and pedestrian safety or local highway conditions. This includes that the proposed means of access from Dinting Vale (A57) and the relationship with Adderley Place (a public right of way also known as FP50) and Simmondley Lane would be acceptable following the imposition of conditions. The proposal, therefore, does not conflict with Policies S5, DS4 and CF6 of the LP or the Framework in those respects.

#### *Effect on Trees*

68. Policy EQ1 of the LP relates to climate change and states that the Council will adopt strategies to mitigate and adapt to climate change. This includes

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<sup>32</sup> CD2.36

planning for new development in locations and ways that reduce greenhouse gas emissions and adopt the principles set out in the energy hierarchy. The policy is clear that a low carbon future for High Peak will be achieved, amongst other things, by requiring new development to be designed to contribute to achieving national targets to reduce greenhouse emissions by using tree planting and landscaping to reduce likely energy consumption and resilience to increased temperatures.

69. Policy EQ2 of the LP provides a supplementary approach which seeks to protect, enhance and restore the landscape character of the Plan Area for its own intrinsic beauty and for its benefit to the economic, environmental and social well-being of the Plan Area. The policy indicates that this will be achieved, amongst other things, by requiring that development has particular regard to maintaining the aesthetic and biodiversity qualities of natural and man-made features within the landscape, which include trees and woodlands, and hedgerows.
70. Policy EQ9 of the LP addresses trees, woodlands and hedgerows specifically and in doing so, explains that the Council will protect existing trees, woodlands and hedgerows, in particular, ancient woodland, veteran trees and ancient or species rich hedgerows from loss or deterioration. The policy indicates that this would be achieved, amongst other things, by requiring that existing woodlands, healthy, mature trees and hedgerows are retained and integrated within a proposed development unless the need for, and benefits of, the development clearly outweigh their loss. It also requires new developments where appropriate to provide tree planting and soft landscaping, including where possible the replacement of any trees that are removed at a ratio of 2:1.
71. The policies of the LP as set out above are consistent with the Framework. This includes that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. The Framework also indicates that new streets should be tree lined, that opportunities are taken to incorporate trees elsewhere in developments, that appropriate measures are in place to secure the maintenance of newly-planted trees, and that existing trees are retained wherever possible.
72. Policy DS4 requires provision of a comprehensive landscaping plan, including retention of mature trees. However, the LP Inspector's report of March 2016<sup>33</sup> when addressing the allocation of the site in Policy DS4 was clear that a new access to the site would be required from the A57. It reasonably follows that given the presence of dense woodland within the northern section of land in the allocation boundary<sup>34</sup> between Adderley Place and the site frontage on the A57, that the principle of some tree loss insofar as necessary to deliver a residential development has already been established.
73. With regard to the above, the application was accompanied by a tree report dated November 2011<sup>35</sup>, a tree constraints plan<sup>36</sup> and an Arboricultural Impact Assessment (AIA) dated August 2023<sup>37</sup> including a detailed tree

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<sup>33</sup> CD6.1

<sup>34</sup> CD4.11

<sup>35</sup> CD1.31

<sup>36</sup> CD1.32

<sup>37</sup> CD2.65

survey in accordance with BS5837:2012<sup>38</sup>. Based on the evidence and my own observations, there are two main bands of trees within the site which can be divided on the basis of their location to either the north or the south of Adderley Place.

74. The section of the site to the north of Adderley Place comprises woodland and thick vegetation on the steep downward sloping land towards the A57. The proposal to accommodate the access road would involve approximately 0.4 hectares of tree removal within high quality (Category A) woodland identified as W6 within the evidence<sup>39</sup>. The removal would include three notable large and high-quality individual mature tree specimens (T11, T12 and T13 - all Common ash). In addition, it would also involve the removal of part of a low-quality group of trees (Category C) identified as G10<sup>40</sup> that are located close to the boundary with properties accessed from the A57 to the west of the proposed site access. The removal of a further low-quality group of trees (Category C) identified as G7<sup>41</sup> that lie immediately to the north of Adderley Place, would also be required.
75. Having regard to the above, it is evident that the majority of proposed tree removal is associated with the general footprint of the necessary earthworks required to accommodate the proposed new access road serving the site. Based on the evidence, the extent of earthworks has been minimised to only that which is required to deliver the proposed access road and associated footpath / cycleway for the development on the northern section of the site. The remainder of the woodland removal within W6 is for dwellings and associated gardens and hard landscaping, as well as small areas of drainage installation. Therefore, it is reasonable that the extent of tree loss falls within that which is needed for the proposed development whereby in principle the benefits of the proposal may clearly outweigh the loss for the purposes of Policy EQ9, subject to mitigation in the form of alternative tree planting and soft landscaping. In reaching that view, it is notable that the fragmentation of the woodland of itself would result in some adverse impacts upon its visual amenity, environmental benefits and existing habitats, the latter of which I go on to consider separately under the biodiversity main issue.
76. Notwithstanding the above, updated evidence has been provided as part of the appeal<sup>42</sup> that following the passage of time since the original survey which informed the AIA, there is now evidence of numerous trees with Ash dieback (*Hymenoscyphus fraxineus*) within the W6 woodland. This includes near the location of the proposed site access. It follows that it is reasonable that some felling of trees and appropriate management within W6 would now be required in any case. Furthermore, in that context, I am mindful that the imposition of conditions could secure beneficial management of retained trees within the woodland which would be likely to ensure their health and longevity as part of the retained treescape visible from the proposed access road, the A57 and Adderley Place.
77. The southern section of the site beyond Adderley Place is the larger parcel of land which has a gentler upward slope including towards the southern

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<sup>38</sup> BS5837:2012 - Trees in Relation to Design, Demolition and Construction to Construction - Recommendations

<sup>39</sup> Common hazel, Common hawthorn, English holly, Wild cherry, Blackthorn, Sessile oak, Pedunculate oak, Goat willow, Grey willow and Elder.

<sup>40</sup> Leyland cypress, European larch, Norway spruce and Western hemlock.

<sup>41</sup> Common hawthorn, Common ash, Pedunculate oak and Grey willow.

<sup>42</sup> Proof of evidence of Iain Tavendale

boundaries and the Gamesley Sidings Local Wildlife site. It includes a mix of grassland habitats, together with trees and shrubs grouped through the centre of the site in a relatively linear arrangement and along the boundaries of the site.

78. To accommodate the proposed residential dwellings within the site layout, the proposal would involve the removal of the majority of trees and scattered groups within the central areas of the southern section of the site. Those proposed to be removed consist of moderate quality groups of trees (Category B) identified as G1<sup>43</sup> and G6<sup>44</sup>, and a notable large and high-quality individual mature tree specimen (T10 - Common ash). In addition, along the western and eastern boundaries together with the boundary with Adderley Place, there are some removals required from the high-quality woodlands identified as W1<sup>45</sup> and W2<sup>46</sup>, moderate quality woodland identified as W4<sup>47</sup>, part of the moderate quality of group of trees identified as G3<sup>48</sup>, together with the low-quality groups identified as G4<sup>49</sup> (in part) and all of G5<sup>50</sup>. When taking account of the proposed density of development, the scope of tree removal that is proposed appears to represent the minimum required, given the constraints of the site including topography.
79. The evidence also identified that at the time of the survey the delivery of the southern sections of the proposed access road and provision of infrastructure and services required the removal of T1 (a moderate-quality Sessile oak), T4 (a dead Pedunculate oak) and T5 (a low-quality Grey Willow) located close to boundaries with neighbouring properties accessed from Adderley Place known as Avening and Woodside View. For the same reasons, the removal of two ornamental hedges (H1<sup>51</sup> and H2<sup>52</sup>) and part of another (H3<sup>53</sup>) along the boundaries of those properties and Adderley Place would also be required. Based on my observations of the trees and hedgerows in-situ at the time of my visit, I agree with the evidence that the trees and hedgerows to be removed provide limited amenity and habitat value. Nonetheless, their removal would result in loss of some of the existing screening between the site and the adjacent properties.
80. Based on the evidence in the AIA, overall the proposal involves the removal of approximately 0.79 ha of high-quality trees and woodland (29% of the site total), 0.12 ha of moderate-quality trees, groups of trees and woodland (17% of the site total), 0.08 of low-quality trees and groups of trees (43% of the site total), a single dead tree (100% of the site total) and around 70m of hedgerow (51% of site total). In response, the AIA includes replacement on-site tree planting which would be expected to deliver a rate of 101% replacement of canopy area after 25 years. I consider that the objective of replacing canopy coverage rather than a specific number of trees is appropriate given the absence of reliable tree number counts of the existing

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<sup>43</sup> Downy birch, Common hawthorn, Common ash, Sessile oak, Pedunculate oak, Grey willow and Elder.

<sup>44</sup> Downy birch, Common hawthorn, Pedunculate oak and Grey willow

<sup>45</sup> Common hawthorn, Common ash, English holly, Sessile oak, Pedunculate oak and Grey willow.

<sup>46</sup> Common alder, Downy birch, Common dogwood, Common hawthorn, Common ash, Sessile oak, Pedunculate oak, Grey willow and Elder.

<sup>47</sup> Common hawthorn, Common ash, Pedunculate oak and Goat willow.

<sup>48</sup> Common hawthorn, Common ash, Pedunculate oak and Elder.

<sup>49</sup> Common hawthorn, Common ash and Pedunculate oak.

<sup>50</sup> Common hawthorn and Pedunculate oak.

<sup>51</sup> Common hawthorn, Pedunculate oak and Grey willow.

<sup>52</sup> Common dogwood

<sup>53</sup> Leyland cypress

woodland. An up-to-date breakdown provided as part of the appeal and in accordance with the planting plans<sup>54</sup> suggests that the extent of canopy cover anticipated would be achieved through a combination of new planting within the green infrastructure and public open space, street trees and new in-plot planting and compensatory woodland planting (in the area along the access road from the A57 to the development platform).

81. With regard to the above, it is a matter of dispute between the Council's tree officer and the appellant in terms of whether the street tree planting and new in-plot planting should be included in the calculations<sup>55</sup>. Whilst I note that garden trees and street trees on unadopted roads are not subject to the same level of control as those on public land and could be subject to pressure to fell by future residents over time, a policy basis in the LP has not been drawn to my attention that would necessitate excluding those forms of tree planting from the calculation. In fact, to exclude certain forms of tree planting from the calculations would not be consistent with the Framework which recognises the important contribution that trees (and street trees) make to the character and quality of urban environments and help to mitigate and adapt to climate change. In that context, I also note that conditions could be imposed to secure sufficient arrangements and maintenance of newly-planted trees and ensure any necessary replacements within 5 years of the completion of planting should any trees fail to survive or achieve reasonable establishment.
82. It follows that I agree with the calculations in the AIA that the approximate rate of 101% replacement of canopy area after 25 years reflects what is sought to be provided by the appellant. In that context, it is evident that the proposal would fall short of the 2:1 ratio of tree replacement identified in Policy EQ9 within the site by at least around 0.98 ha even if all replacement trees were to survive and be retained. In that context, the evidence provided during the appeal and at the Inquiry suggests that if the right tree is planted in the right location, with good ground preparation and correct maintenance, then the potential failure rate is likely to be significantly less than 50% and could even be less than 10%. However even if such low rates of failure and tree loss over the 25 year period were to be achieved, on the balance of probability, it appears likely that the on-site scheme would fall short of a 1:1 replacement of canopy area.
83. Notwithstanding the above, the proposal also includes a contribution of £72,400 for off-site tree planting (and £19,840 for tree maintenance) payable to the Council as secured by the S106 agreement. This figure appears to have been negotiated with the Council and reflects the challenging viability position of the development. Consequently, I am satisfied that the combination of the tree replacement proposed on site which can be secured by conditions, together with provision of an Arboricultural Method Statement in accordance with the AIA to protect the retained trees, and off-site planting are acceptable. When taken together they would avoid a harmful effect on trees arising from the proposal. Even if the on-site shortfall relative to the 2:1 ratio of tree replacement were not to be fully addressed by the off-site tree planting, it is evident that in excess of a 1:1 replacement would be achieved. In addition, it is notable that the approach to biodiversity mitigation and compensation (which I address later in this decision) would include a 447.2%

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<sup>54</sup> CD2.106, CD2.107, CD2.108 and CD2.109

<sup>55</sup> CD3.1 - paragraph 7.18.20

increase in hedgerow units overall. Consequently, in the particular circumstances of the case, it is evident that the proposal has provided what is possible within the site and off-site and does not conflict with Policy EQ9.

84. I have considered the matter of the temporary Tree Preservation Order (TPO) having been made by the Council on 1 February 2024<sup>56</sup> relating to the site for a period of six months, together with the appellant's objection<sup>57</sup>. However, during the Inquiry it was confirmed that there is no evidence that the protections are being pursued as permanent restrictions on the site and that seemingly the temporary TPO was made to ensure that no tree removal would take place within the site prior to this appeal decision. In any case, the outcome of this appeal would not prevent the Council from seeking a TPO on trees proposed to be retained within the site should they consider it expedient to do so. As such, those matters are not an influential factor on my findings.
85. I conclude that the proposal would not have an unacceptable effect on trees. Whilst there would be short-term impacts associated with tree loss within the site, the proposed development includes an appropriate tree replacement scheme secured by a combination of conditions and planning obligations which would provide adequate mitigation over time to address and overcome the impacts identified. It follows that whilst the proposal does not meet the specific wording of Policy DS4 of the LP insofar as it seeks retention of mature trees, it is necessary that accordance with the development plan and the Framework are read as a whole. In the absence of unacceptable impact, the proposal accords with the relevant requirements of Policies EQ1, EQ2 and EQ9 of the LP and the Framework with respect to the effect on trees.

#### *Effect on Biodiversity*

86. As previously mentioned, Policy EQ2 of the LP, amongst other things requires that development should have particular regard to the biodiversity qualities of natural and man-made features within the landscape. Whilst I have already addressed trees, woodlands and hedgerows, the listed features in the policy also include streams, ponds, rivers, ecological networks and other topographical features. Policy EQ8, amongst other things, seeks that networks of biodiversity and green infrastructure are developed, protected and enhanced, including wildlife sites, wildlife corridors and woodlands. Policy DS4 indicates that a wildlife survey should be undertaken following consultation with Derbyshire Wildlife Trust.
87. Policy EQ5 of the LP relates specifically to biodiversity and seeks that within the Plan Area and its surroundings, biodiversity and geodiversity resources will be conserved and where possible enhanced by ensuring that development proposals will not result in significant harm to biodiversity or geodiversity interests. This is sought to be achieved, amongst other things, by not permitting any development proposal which would directly or indirectly result in significant harm to geological and biodiversity interests, unless it can be demonstrated that: there is no appropriate alternative site available; and, all statutory and regulatory requirements relating to any such proposal have been satisfied; and appropriate conservation and mitigation measures are provided, such mitigation measures should ensure as a minimum no net loss and where possible net gain for biodiversity. Or if it is demonstrated that this

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<sup>56</sup> CD6.9

<sup>57</sup> CD6.11

is not possible; the need for, and benefit of, the development is demonstrated to clearly outweigh the need to safeguard the intrinsic nature conservation value of the site and compensatory measures are implemented.

88. The policy is consistent with the Framework in seeking net gains for biodiversity and applying the principles that if significant harm to biodiversity resulting from a development cannot be avoided (through location on an alternative site with less harmful impacts), it should be adequately mitigated, or, as a last resort, compensated for. In that context, it is noted the application was submitted prior to 12 February 2024 after which the requirement to deliver 10% biodiversity net gain (BNG) became mandatory under the provisions of the Environment Act 2021 for major developments and therefore, is not subject to it.
89. The site does not lie within any statutory or non-statutory designated wildlife site of international, national, or local recognition, but does lie immediately to the east of Gamesley Sidings Local Wildlife Site and therefore, is assessed in that context. In response to the site specific circumstances, its relationship to surroundings and policy requirements, the following evidence has been provided alongside the proposal; a Great Crested Newt eDNA Survey Report dated May 2022<sup>58</sup>, a Badger Report dated July 2022<sup>59</sup>, an Ecological Assessment dated August 2022<sup>60</sup>, an Invasive Non-native Species Survey Report dated September 2022<sup>61</sup>, a Bat Survey (Trees) Report dated October 2022<sup>62</sup>, a Bat Survey Report (Activity) dated November 2022<sup>63</sup>, a Reptile Survey Report dated May 2023<sup>64</sup>, a Breeding Bird Survey Report dated May 2023<sup>65</sup>, a National Vegetation Classification Survey Report dated July 2023<sup>66</sup>, a Local Wildlife Site Criteria Letter dated July 2023<sup>67</sup> and an Invertebrate Survey dated June 2023<sup>68</sup>.
90. It is evident that the extent of ecological surveys and assessments undertaken to inform the application were undertaken to address all protected species and habitats with a methodology informed by consultation with and agreed by Derbyshire Wildlife Trust (DWT) and therefore, meets the requirements of Policy DS4 of the LP. The key findings of the range of surveys and consultation responses from DWT, is that the site is of ecological value supporting a mosaic of semi-natural communities. It includes two priority habitats<sup>69</sup>; purple moor-grass and rush pasture (PMRP) and lowland acid grassland, together with plantation woodland to the northern part of the site, areas of dense continuous scrub, scattered trees and a pond within the southern grassland areas, together with running water to the northeastern and southern corners of the site.

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<sup>58</sup> CD1.40

<sup>59</sup> CD1.39

<sup>60</sup> CD1.28

<sup>61</sup> CD1.38

<sup>62</sup> CD1.37

<sup>63</sup> CD2.1

<sup>64</sup> CD2.15

<sup>65</sup> CD2.14

<sup>66</sup> CD2.25

<sup>67</sup> CD2.24

<sup>68</sup> CD2.23

<sup>69</sup> Habitats of Principal Importance as listed under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2007



91. The evidence indicates that the site supports a range of breeding birds, particularly passerines within trees, including one red list species<sup>70</sup> and six amber listed species<sup>71</sup> considered as probably or possibly breeding within the site. The existing habitats also support a significant range of invertebrates of which two (large garden bumblebee and alder leaf beetle) are protected and/or notable. There are also foraging and commuting habitats for bats, with common pipistrelle observed in flight within the site, but no bats or evidence of roosting bats were found within trees with roosting potential.
92. Mammal paths across the site were noted as capable of being used by a range of species, together with associated records and observations of badger and deer activity by residents in the local area. However, no setts, foraging areas or latrines were identified within the site. No reptiles were recorded, but there are potentially suitable habitats within the site and amphibians including common toads were recorded. In contrast, otter and water vole were considered to likely be absent given scarcity of suitable habitat. No evidence was found that great crested newts breed either on-site or within 500m of the site. The presence of orchids was observed during my visit and the evidence identified the presence of two invasive plant species (Himalayan balsam and variegated yellow archangel) within the scrub habitat and woodland areas.
93. It follows from the above, that the proposal has potential for significant ecological impact for protected and non-protected species through the loss of foraging habitat and the severance of the woodland within the northern part of the site. In response, the proposal seeks that impacts arising from the development will be mitigated through the adoption of a sensitive landscape design, a biodiversity net gain strategy and 30-year management plan and pre-construction inspections. This includes specific mitigation measures developed with consideration of protected and non-protected species identified within the site and includes: retention of a 30m strip along the western boundary to buffer the woodland edge/Gamesley Sidings Local Wildlife Site; a relaxed mowing schedule to promote a more varied sward structure within undeveloped areas; inclusion of wildflower grassland margins with species in favour of the large garden bumblebee and other invertebrates, and creation of three Sustainable Urban Drainage (SuDs) ponds with marginal vegetation. The proposals also include wildlife tunnels and toad crossings / kerbs as part of the design of the access road; provision of a range of bat and bird boxes, including suitable for owls; production of a sensitive lighting strategy and bat friendly planting to retain foraging habitat around site boundaries, and precautionary working methods including phased vegetation clearance and pre-works inspections to avoid harm to nesting birds.
94. When having regard to all of the above, I am satisfied that the above proposed measures could be secured by conditions and planning obligations and would ensure that significant impacts upon protected species and non-protected species would either be avoided or suitably mitigated. In reaching that view I have taken into account that some of the surveys are now over two years old and may require review and updating to inform a Landscape and Ecological Mitigation and Management Plan that can be secured by condition. For certainty, the Landscape and Ecological Mitigation and Management Plan should also include any measures required for the

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<sup>70</sup> Greenfinch

<sup>71</sup> Bullfinch, Dunnock, Song thrush, Whitethroat, Wood pigeon and Wren

continued monitoring and prevention of spread of invasive species. This can be supplemented by a further condition requiring a Construction Environmental Management Plan (CEMP) to appropriately manage impacts during the construction phase.

95. Notwithstanding the above, the extent of loss of foraging habitat (including removal of trees) within the site to accommodate the development are not appropriately mitigated by the measures set out above. This includes the loss of the two priority habitats (PMRP and lowland acid grassland) which, based on the evidence including that given during the Inquiry, could not be compensated for either within the site nor nearby as there are no suitable or available opportunities elsewhere within Dinting/Glossop. As the site is allocated for housing development, to my mind, the significant harm to biodiversity could not be reasonably avoided. Furthermore, as it cannot be suitably mitigated or compensated for within the site or in the local area, it is reasonable and appropriate that alternatives are sought elsewhere within High Peak as a last resort.
96. As such, taking account of the bespoke nature of the compensation required for the priority habitats, an alternative off-site receptor site has been identified and secured by planning obligation<sup>72</sup> at Chinley High Peak approximately 12km to the south of the site which is in the ownership of the appellant and was confirmed during the Inquiry as having no planning nor legal impediments to its use for the compensation purposes intended. The Chinley site includes a parcel of wet woodland and separate grazed modified grassland with areas of blackthorn and hawthorn scrub, and a hedgerow with a ditch. It is proposed that the locations within Chinley High Peak will undergo habitat interventions to form a mosaic of neutral grassland, scrub, swamp and woodland habitats. Bespoke compensation is also proposed in terms of the translocation of PMRP and lowland grassland from the development site and I am satisfied that the evidence demonstrates that this would be feasible. Alongside the habitat management proposed within the site, the off-site compensation would be secured by the planning obligation relating to the BNG Strategy and 30-year Management Plan dated February 2024<sup>73</sup>.
97. Having regard to the above and the requirement of Policy EQ5 of the LP in terms of no net loss of biodiversity, it is noted that a BNG Assessment dated February 2024<sup>74</sup> has been provided as part of the appeal. The assessment uses the Statutory Biodiversity Metric and demonstrates that the appeal site, in-combination with off-site provisions, would not be capable of delivering no net loss. In that regard, the assessment showed a combined change of 12.62 habitat units (around a 22% decrease in the biodiversity baseline) and also that the Trading Rules within the Statutory Metric would not be met in terms of Medium distinctiveness habitats. I agree with the evidence in those respects and the resultant conclusion that to satisfy the Trading Rules, the number of habitat units required would increase from 12.62 to 18.94 (a combination of Tier A1 habitats as follows: 16.04 Medium distinctiveness grassland and 2.9 Medium distinctiveness).
98. As part of the proposal, the appellant is seeking to secure the required 18.94 habitat unit credits through the habitat bank to satisfy the Trading Rules and

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<sup>72</sup> ID25

<sup>73</sup> ID25 - Appendix D

<sup>74</sup> Appendix B of the Appellant's Statement of Case

this is secured through the planning obligation. When taking into account that the Council's Environmental Bank is anticipated to be in place soon and based on the evidence at the Inquiry is capable of providing the necessary credits, I am satisfied that the proposal as secured by planning obligation would provide for at least an 11% increase in BNG with the potential for further biodiversity benefits in the local area also arising from the separate off-site tree planting.

99. It follows that I conclude that the proposed development would not have an unacceptable effect on biodiversity. In reaching that view I find that significant impact on protected and non-protected species would be avoided or suitably mitigated for through the imposition of conditions and planning obligations, whilst significant harm arising from loss of habitats within the site would be adequately compensated for by the off-site measures secured in the planning obligation. The proposal, therefore, accords with the relevant requirements of Policies DS4, EQ2, EQ5 and EQ8 of the LP and the Framework in those respects.

#### *Air quality*

100. Policy EQ10 of the LP relates to pollution control and unstable land. In those respects, the policy seeks to protect people and the environment from unsafe, unhealthy and polluted environments. It indicates that will be achieved by, amongst other things, ensuring that development avoids potential adverse effects. The policy only permits developments that are deemed (individually or cumulatively) to result in listed types of pollution, if any remaining potential adverse effects are mitigated to an acceptable level by other environmental controls or measures included in the proposals. The listed types of pollution include air pollution (including odours or particulate emissions).
101. With regard to the above, the Framework indicates that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. It also indicates that planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.
102. The proposed development is not located within an Air Quality Management Area (AQMA). However, Dinting Vale (A57) is adjacent to the proposed development and was declared an AQMA in 2019 in respect of annual mean concentrations of nitrogen dioxide (NO<sub>2</sub>). The declaration of the AQMA was after the LP was adopted in April 2016 including the allocation of the majority of the site by its Policies H2 and DS4. As the proposed site access road would be onto the A57, road traffic entering and exiting the proposed development would use the route subject of the AQMA.
103. In response to the above, an Air Quality Assessment (AQA) was provided as part of the application. A revised AQA dated February 2023<sup>75</sup> was subsequently submitted before the Council made its decision to include consideration of the effect of the proposed A57 Mottram Bypass scheme on traffic levels within the study area. This was supplemented by an AQA Technical Note dated August 2023<sup>76</sup> to provide further clarification of the

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<sup>75</sup> CD2.10

<sup>76</sup> CD2.35

assessment methodology. The evidence indicates that the AQA was carried out in accordance with accepted technical guidance published in 2017 by Environmental Protection UK (EPUK) and the Institute of Air Quality Management (IAQM) - Land Use Planning and Development Control: Planning for Air Quality, and that the methodology and findings have been accepted by the Council's Environmental Health Officer.

104. The findings of the revised AQA are based on consideration of 10 sensitive receptor locations identified in its Figure 4.1, six of which were located within the Dinting Vale AQMA including roadside locations to either side of the proposed site access (ER1 and ER2) and in a roadside location at the front of Dinting Church of England Primary School (ER9). The locations are those at which the Council undertake ambient air quality monitoring using NO<sub>2</sub> diffusion tubes and are identified as representative of public exposure within the study area selected where existing air pollution concentrations were greatest and/or where the greatest changes would be predicted.
105. The revised AQA includes an assessment of significance of effect based on the EPUK and IAQM guidance which take account of: the existing and future air quality in the absence of the proposed development; the extent of current and future population exposure to the impacts; and the influence and validity of any assumptions adopted when undertaking the prediction of the impacts. The associated impact descriptors for individual receptors with respect to percentage changes which reasonably apply a more critical impact significance where higher population concentrations are found are provided in Table 3.5 of the AQA. In that respect, the AQA used detailed modelling, including traffic data confirmed as accepted by the County Council's Highways department.
106. Based on the evidence including that given during the Inquiry, the Council do not currently carry out any monitoring of particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub> size fractions) in the AQMA which reasonably suggests that levels of fine particulate matter were not of specific concern at the time of its designation in 2019. However, as particulate matter is an air pollutant most likely to reach or exceed health-based standards it was assessed in the AQA as part of the approach and methodology agreed with the Council. This included 2019 background concentrations of NO<sub>2</sub>, PM<sub>2.5</sub> and PM<sub>10</sub> obtained from the 2018-based air pollutant concentrations maps used for model verification in the 2019 baseline scenario and predicted 2026 background concentrations used for the future year scenarios. An ADMS-Roads model was used to estimate contributions of vehicle exhaust emissions to annual and short-term NO<sub>2</sub>, PM<sub>2.5</sub> and PM<sub>10</sub> concentrations for the 'base year' (2019) and opening year 'without development' (2026) scenarios considered in the AQA.
107. Having regard to all of the above, the AQA demonstrated that the predicted annual mean concentration of NO<sub>2</sub>, PM<sub>2.5</sub> and PM<sub>10</sub> would be below the UK Government's prescribed objectives in terms of both the existing baseline situation assessed (2019) and within the development fully occupied (2026) at all modelled receptor locations. Furthermore, the magnitude of change in modelled concentrations associated with the development identified, albeit highest adjacent to the site access at ER2 based on an increase of 0.2 µg.m<sup>-3</sup> of annual mean NO<sub>2</sub>, all fall within the definition of a negligible impact at all receptors for all pollutants. The AQA also identified that all NO<sub>2</sub> concentrations were below 60 µg.m<sup>-3</sup> and therefore, in accordance with DEFRA guidance, the 1-hour mean objective is unlikely to be exceeded. Furthermore, the short-

- term PM<sub>10</sub> objective was predicted to be met at all modelled locations with no exceedances of the daily mean objective of 50 µg.m<sup>-3</sup>, and no change in the number of days exceeding 50 µg.m<sup>-3</sup>.
108. Evidence presented to the Inquiry included more up-to-date Council NO<sub>2</sub> monitoring data for 2022<sup>77</sup>. In that regard, I necessarily treat monitoring data for 2020 and 2021 with caution due to the significant influence of the Covid-19 pandemic on traffic levels and therefore, its influence on air quality monitoring. Nonetheless, it is evident that since 2019, the general trend through to 2022 is that annual mean NO<sub>2</sub> concentrations have dropped below the UK Air Quality Objective of 40 µg m<sup>-3</sup> at all monitoring sites and suggests that the public are not currently exposed to unacceptable levels of pollution. This includes monitoring locations within the AQMA such as Dinting Church of England Primary School. In that regard, I note that the closures to the A57 particularly affecting the Snake Pass to the east of Glossop since early 2022 and associated restrictions on heavy goods vehicles and vehicle speeds may have had some limited influence on the monitoring data. However, I am mindful that broader annual trends of predicted reductions in background concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> identified in DEFRA's background mapping<sup>78</sup> for 2018, 2023 and 2026 as forecast in 2018 (prior to the Covid-19 pandemic and A57 closures) provide verification that pollution concentrations were expected to continue to decline into the future in any case.
109. The detailed model used to predict pollutant concentrations in the AQA utilised specific parameters to reflect the effects of congestion including reduced vehicle speed in areas of known congestion, a time varying emissions file to take account of the variation of traffic by hour of the day and day of the week and included the increase in traffic of roads in the anticipated opening year of the proposed development in 2026. As such it deals with the effect of exhaust emissions both from idling vehicles and peak traffic movements, as well as the increased traffic flows from other committed developments. In addition, the traffic data informing the AQA was based on trip generation figures based on a quantum of development of 111 residential units rather than the 92 dwellings proposed as part of the development. Moreover, as previously mentioned, the proposal includes a Travel Plan seeking to support sustainable modes of travel and reduce car use, whilst other measures such as electric vehicle charging provision to encourage take-up of electric vehicles are now requirements of the Building Regulations. As such I consider that the AQA reflected a conservative approach with findings that represent a reasonable worst-case scenario.
110. Interested parties have raised concerns that the loss of trees within the site close to the A57 would have a negative impact on air quality in the AQMA given the existing benefits of their presence in removing and absorbing pollutants including NO<sub>2</sub> and particulates. However, as per my previous findings, I am satisfied that the loss of trees is limited to that which is necessary to facilitate the development and substantial woodland cover would remain close to the A57. To my mind, in such circumstances, it is reasonable that the impact of the loss of trees within the northern section of the site that would arise from the proposal on air quality would be negligible.

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<sup>77</sup> Table 1 of Proof of Evidence of Elizabeth Whittall

<sup>78</sup> Table 2 of Proof of Evidence of Elizabeth Whittall

111. It follows from all of the above, that I am satisfied that the evidence in the AQA can be relied upon and that the effect of the proposed development on air quality in the local area, including within the Dinting Vale AQMA, would not be significant. I am also satisfied that the proposal is unlikely to cause local residents or school children located within the Dinting Vale AQMA to experience pollutant concentrations that would exceed the UK Government's prescribed objectives. Those objectives reflect the human health-based benchmarks established to protect the general population - including the young, the elderly and those susceptible to respiratory conditions.
112. In reaching the above findings, I am mindful that they are based upon the most up-to-date and available evidence. In that context, whilst the proposed development does not need to provide specific mitigation to reduce its impact on air quality to an acceptable level, it does include a contribution in the S106 agreement towards real time monitoring of NO<sub>2</sub> and PM<sub>10</sub> or further feasibility study into local sustainable travel. This would ensure that the proposal would support the Council in implementing the actions in the A57 Dinting Vale AQMA Action Plan that are intended to facilitate improvements to air quality.
113. I conclude that the proposed development would not have an unacceptable impact on air quality, including within the AQMA designated on the A57. The proposal, therefore, does not conflict with Policy EQ10 of the LP or the Framework in that respect.

## **Other Matters**

### *Archaeology*

114. The proposed development was accompanied by a written scheme of investigation for archaeological works with a methodology that was agreed with the County Archaeologist. An integrated geophysical survey<sup>79</sup> has also been provided relating to the area of the potential line of a Roman Road within the site. The investigations did not identify any archaeological remains. However, due to practical constraints, it has not been possible to rule out the presence of archaeological remains in all locations in close proximity to Adderley Place primarily due to on-going access requirements for residents and the presence of an existing gas main alongside the right of way. It follows that in those particular circumstances and in the interests of a precautionary approach, that conditions are required to secure a further written scheme of investigation for archaeological work to ensure additional site investigation and any necessary recording takes place as part of the development. The proposal, subject to those conditions, would comply with Policies DS4 and EQ7 of the LP and the Framework in that respect.

### *Character and appearance*

115. The site lies within predominantly residential surroundings in a built-up area including properties adjoining Adderley Place, and also sits alongside Gamesley Sidings Local Wildlife Site. The evidence accompanying the proposed development includes a Landscape and Visual Impact Appraisal (LVIA)<sup>80</sup> which identifies the site as within the Settled Valleys Pastures Land Character Area that sits within the wider landscape character of the Dark Peak. Based on the evidence in the LVIA and my own observations, the

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<sup>79</sup> CD2.13

<sup>80</sup> CD2.34

landscape is defined as containing moderate to steep lower valley slopes dissected by tree belts, scattered hedgerows, and small irregular and scattered farmsteads. The landscape, overall, is noted for its pastoral and enclosed landscape with views filtered by trees.

116. The proposal would introduce housing development into an area of currently open grassland and woodland. However, when taking account of retained trees and woodland along the A57 site frontage and the other boundaries of the site, together with changes in topography, it would be largely visually contained except for views along the public right of way and would have a negligible visual impact in the wider landscape that includes the presence of existing properties in the built-up area. As such the proposed development, with an accompanying landscaping scheme secured by condition to maintain the filtering of views by trees, would integrate appropriately into the built-up area as part of the settlement edge.
117. In reaching the above view I observed that the properties immediately surrounding in Adderley Place, and close by along Dinting Vale, Simmondley Lane, Swallow Fold and Curlew Way consist of a variety of housing type and designs. When viewed in that context, the proposed mix of predominantly two-storey detached, semi-detached and terraced units, together with a single apartment block, subservient garages and the inclusion of 2.5 storey dwellings to provide visual interest to street scenes, would assimilate appropriately with the character of the surrounding area in terms of density, height, scale, form and materials, when taken with the proposed landscape planting. Furthermore, the proposed boundary treatments, comprising a mix of railings, stone walls and fencing (including acoustic mitigation to the apartment block and Plots 1, 3-8) as indicated on the submitted plans are appropriate for the respective locations.
118. Moreover, when taking account of the presence of the existing woodland screening between the proposed dwellings and presence of existing accesses close by on the A57. The proposed development would not adversely impact on the setting and significance of the Grade II Listed Holy Trinity Church located on Dinting Vale as derived from its architectural and historic interest as the focal point of its urban setting adjoining the A57. It follows that the proposal accords with the relevant requirements of Policies S1, EQ2, EQ6 and EQ7 of the LP and the Framework in those respects.

#### *Contaminated land*

119. Phase 1<sup>81</sup> and 2<sup>82</sup> Geo-Environmental Investigation Reports identified potential risks related to contamination associated with the proposed change of use of the land to residential and the relationship with adjacent land that was formerly landfill, together with mitigation measures. A condition is, therefore, necessary to ensure submission, agreement and implementation of a remediation scheme for the existing site to ensure that it does not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The conditions should also include necessary procedures to secure safe remediation if any contamination is found during the course of construction of the development that was not previously identified and also to ensure testing of soils before

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<sup>81</sup> CD1.17 to CD1.21

<sup>82</sup> CD2.12

importation to the site. Based on the evidence and the imposition of those conditions, I am satisfied that the proposal accords with the relevant requirements of Policy EQ10 and the Framework in those respects.

#### *Education, community infrastructure and local services*

120. The evidence before me confirms that an education contribution is not required from the development. It follows that I am satisfied that there would be sufficient primary and secondary school places in the Glossopdale area to accommodate the future demand arising from the proposal in this location. Furthermore, there is no substantive evidence that the proposed development would have an unacceptable impact on the availability of and access to school places for existing residents in the local area.

121. In addition, based upon the evidence, the other services, facilities, utilities and infrastructure in Dinting and Glossop when taken with the wider range of education provision, healthcare and employment in larger settlements that are accessible by public transport, would have sufficient capacity to accommodate the proposed development of 92 dwellings in this location. This finding is subject to the conditions and planning obligations that I address later in this decision. It follows that the proposal accords with the relevant requirements of Policy CF7 of the LP and the Framework in those respects.

#### *Flood risk and drainage*

122. A flood risk assessment<sup>83</sup> has been submitted with the application and has been supplemented by a drainage strategy<sup>84</sup>. The site is predominantly in Flood Zone 1 and is at low risk of flooding. The proposal includes SuDs integrated with green infrastructure and open space which would address some surface run-off, with further details of the implementation and maintenance of those features and other drainage details such as swales, underground storage systems and permeable paving capable of being secured by conditions to ensure that the proposal does not increase the risk of flooding within the site or elsewhere. Consequently, subject to the imposition of necessary conditions, the proposal accords with the relevant requirements of Policy EQ11 of the LP and the Framework.

#### *Living conditions*

123. The proposal includes an interface distances plan<sup>85</sup> and storey heights plan<sup>86</sup> which demonstrates that the distances between the proposed housing and existing housing adjacent to the site boundaries are sufficient, when also taking account of changes in topography, to ensure no unacceptable impacts on the living conditions of occupiers in terms of privacy, light and outlook. However, there are relatively close relationships within the proposed development involving Plots 9-13, 27-31, 33, 38-45, 48, 52-61, 62, 65, 75, 76, 81, 82 and 86 which would necessitate removal of permitted development rights by condition to prevent additions or alterations to the roof. A condition is also required on Plots 1 and 3-8 to ensure acoustic boundary treatments and mitigate any effects arising from noise associated with the A57 and the proposed access road in accordance with the recommendations of the Noise

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<sup>83</sup> CD2.6

<sup>84</sup> CD2.27

<sup>85</sup> CD2.95

<sup>86</sup> CD2.98



Assessment<sup>87</sup>. In reaching that view, I have noted that the distances of the proposed development from the Manchester to Glossop railway and Holy Trinity Dinting Cricket Club are sufficient to ensure no unacceptable impacts from those sources, including noise. Light pollution arising from the development can also be mitigated to avoid unacceptable impacts through the imposition of a condition.

124. The proposed access road to the development from the A57, including between Nos. 35 and 41 Dinting Vale and also running past the side boundaries with Avening and Woodside View would increase the noise and activity currently experienced by occupiers of those properties. However, I do not consider that the extent of those effects would result in significant harm or unacceptable disturbance to their existing living conditions.
125. In reaching the above view I have taken account of the prevailing noise environment on the A57 Dinting Vale and that the change arising from the proposal would be negligible in that context. Moreover, Avening and Woodside View would have adequate separation from the access road and proposed footpath/cycleway with intervening landscaping to be secured by condition. Whilst one section of the footpath/cycleway would run close to the shared boundary with Woodside View where intervening landscaping would not be present, a condition of a planning permission for that property<sup>88</sup> requiring the erection of boundary treatments to be submitted to and approved by the Local Planning Authority has been drawn to my attention. To my mind, a suitable boundary treatment provided in that context at Woodside View would ensure no harm to the living conditions of occupiers in terms of activity, noise and privacy arising from the use of the adjacent footpath/cycleway.
126. The potential activity associated with the construction phase could also be suitably controlled to prevent unacceptable impacts in terms of noise and disturbance through the agreement of a construction management plan / construction method statement which can be secured by condition. Whilst interested parties have requested that the development provide acoustic fencing to the boundaries with neighbouring properties, in the absence of identified harm such a requirement does not meet the tests of a condition in the Framework. It follows that the proposal accords with the relevant requirements of Policy EQ6 of the LP and the Framework in those respects.
127. Interested parties have also expressed concerns with respect to the impact of the proposal on the maintenance of Adderley Place which is undertaken by local residents. However, it is a well-established principle that the planning system does not exist to protect private interests or matters of civil law. The issue of restrictive legal covenants relating to Adderley Place has also been raised. However, I see no reason why the grant of planning permission would supersede any private legal rights relating to land ownership. Furthermore, as per my previous reasoning, conditions can be imposed to ensure that rights of access (including across the proposed access road) to properties on Adderley Place are maintained during the construction phase and when the proposed development would be completed.

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<sup>87</sup> CD2.9

<sup>88</sup> CD6.21

### *Recreation and open space*

128. The proposal includes recreation provision in the form of a Trim Trail around the south-eastern edges of the site which would include a range of play equipment with natural surveillance provided by properties within the development. It would be provided close to the proposed footpath/cycleway links through the site which would connect to existing residential areas via an existing right of way into Swallow Fold and along Adderley Place, therefore benefitting the wider community beyond the site. The provision of the Trim Trail as part of around 1.85 hectares of public open space and other open spaces within the development are secured by planning obligation, together with appropriate management arrangements via a Management Company. I am, therefore, satisfied that the proposal accords with the requirements of Policies CF3, CF4 and CF5 of LP and the Framework in those respects.

### *Other considerations*

129. It is not a matter of dispute between the parties that at the time of the Inquiry the Council was able to demonstrate a deliverable housing supply in accordance with the Framework<sup>89</sup>.

130. The provision of 92 additional dwellings would contribute to boosting the supply of housing and meeting the unmet needs for market housing in High Peak and the deliverable housing land supply within the Borough, which are benefits of the proposed development that are each afforded significant weight. The provision of infrastructure to bring forward development within part of the LP allocation with access retained to the remainder of the allocation to enable it also to be developed (subject to a future planning permission) as secured by planning obligation is a further benefit. However, that benefit is afforded only limited weight given the requirement for such a planning permission and associated uncertainty as to whether additional housing will come forward on the remainder of the allocation given the constraints to be overcome as drawn to my attention as part of the appeal<sup>90</sup>.

131. In addition, there are other benefits previously referred to in terms of provision of BNG of at least 11% and future management for up to 30 years as secured by planning obligation that are afforded significant weight as they exceed the requirements of local and national policy. The provision for active management of retained trees on the site is afforded moderate weight as it is likely to beneficially enhance their long-term health and longevity. There are further benefits in terms of energy and water efficiency whereby the performance of the proposed homes has been demonstrated as capable of according with and exceeding the requirements of Policies S1 and EQ1 of the LP. Moreover, there are also economic and social benefits in terms of job creation during construction and after occupation, together with support for local services and facilities, and enhancements to sustainable means of travel including improved linkages through the site. There are also benefits of the public open space to the wider community as previously mentioned. Those benefits are each afforded moderate weight based on the scale of the development proposed and its relationship with the surrounding area.

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<sup>89</sup> ID7

<sup>90</sup> CD6.2

## **Planning obligation**

132. I have considered the final planning obligation in accordance with the guidance in the Framework, the Planning Practice Guidance and in accordance with the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations), as amended (Regulation 122). The planning obligations must be relevant, necessary and proportionate in scale and kind to the development.
133. The completed S106 agreement, signed by High Peak Borough Council, the current landowners and the developer (with covenants given to Derbyshire County Council as highways and education authority), dated 3 July 2024, contains a range of planning obligations. As mentioned previously, it includes contributions towards meeting the objectives of the Dinting Vale AQMA Action Plan, the BNG Strategy and 30 Year Management Plan (including on-site BNG measures and off-site mitigation land, enhancement measures, translocation measures and timetable, and off-site units), the arrangements for a Management Company (for unadopted highways, open space and public open space) and tree planting and maintenance contributions that are necessary to make the development acceptable for the reasons previously stated.
134. It also requires contributions towards the provision of additional health capacity through extensions to or new buildings at any medical general practice in the vicinity of the development and within Dinting Vale or Glossop, library facilities through provision of new stock, and monitoring contributions specifically for Travel Plan and to enable the Council and the County Council to monitor the obligations. There are also measures to secure the appointment of a Biodiversity Champion, the provision of open space and public open space within the development – including the Trim Trail specification, access to the adjoining land within the allocation through the site for the purposes of delivering access and services in connections with development for housing and associated infrastructure (subject to a future planning application), and indexation of financial contributions. The submitted CIL Statement, together with the evidence provided during the Inquiry, demonstrate that these provisions are all necessary to meet the needs of the development. As such they all meet the requirements of the CIL Regulations.
135. The other planning obligation in the S106 agreement relates to a sustainable travel contribution initially intended to be used towards the creation of a new pedestrian path between the site and Gamesley Sidings. In that respect, the proposed site layout plan would retain the existing pedestrian accesses through to Gamesley Sidings with linkages through the development. Furthermore, the evidence and my own observations identified off-site constraints in terms of topography, ground conditions, trees, ecology and land ownership. To my mind, the delivery of an upgraded off-site footpath would be unlikely to be feasible having regard to those factors, would likely have unacceptable impacts on trees and biodiversity within the Local Wildlife Site and is not required to make the development acceptable in any case. The planning obligation, however, does include a cascade arrangement whereby the sustainable travel contribution could be alternatively used to upgrade or maintain footpaths in the immediate vicinity of the site, or finally, as an additional tree planting contribution. To my mind, such a contribution would meet the requirements of the CIL Regulations either in supporting the implementation of the Travel Plan or to add to the tree planting contribution that is otherwise limited by the viability of the development.

## Conditions

136. I have had regard to the agreed suggested planning conditions submitted by the Council and the appellant after the Inquiry<sup>91</sup> in response to discussions during it. I have considered these in light of the Framework and the Government's PPG on use of conditions and where necessary I have made minor amendments to the wording to remove repetition and re-ordered the conditions accordingly with my conclusions on each summarised below.
137. Conditions 1, 2, 3, 4 and 5 relate to the standard time limit and plans compliance conditions which are necessary in the interest of certainty of the permission granted. Condition 2 is the primary plans compliance setting out the plans and documents that the development should be carried out in accordance with. Condition 3 is additionally required for certainty to secure the approved BNG Strategy and 30 Year Management Plan and the associated biodiversity obligations contained within the S106 agreement which relate to both the appeal site and the compensation locations in Chinley. Condition 4 is required to ensure that the development is carried out in accordance with the tree protection measures in the AIA to ensure an acceptable landscaped setting for the development and minimise tree loss to only those that are necessary to be removed. Condition 5 is required for certainty that the development should only take place in accordance with the written scheme of investigation for archaeological work along or across the line of Adderley Place to be submitted and approved by the Local Planning Authority.
138. Condition 6 is a pre-commencement condition which is necessary in the interest of preventing land contamination for future users of the land and neighbouring land by ensuring that no topsoil is imported to the site until it has been tested and validated via an agreed methodology. Condition 7 is also a pre-commencement condition that is required for the same reasons to ensure submission, agreement and implementation of a remediation scheme for contaminated land as previously mentioned. It also includes the necessary procedures to secure safe remediation if any contamination is found during construction of the development that was not previously identified.
139. Condition 8 is a pre-commencement condition that is required to ensure approval of details of how additional surface run-off will be avoided during the construction phase to ensure no increased flood risk to adjacent land and properties, and properties within the development. Condition 9 is also a pre-commencement condition that is necessary to secure submission of necessary details of the sustainable surface water drainage scheme and a foul water drainage scheme following the principles of the evidence already submitted. It also includes implementation prior to first occupation of the development to secure appropriate drainage and management of the risk of flooding and pollution for the lifetime of the development.
140. Condition 10 is a pre-commencement condition that is required to secure a construction management plan / construction method statement, the details of which are necessary to be submitted and agreed in advance of the construction stage to ensure highway and pedestrian safety and preserve the living conditions of occupiers of neighbouring properties in terms of noise and disturbance. It includes necessary general restrictions on noise-generating activities except piling to 07:30 - 18:00 hours (Monday to Friday), 08:30 -

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<sup>91</sup> ID24

14:00 hours (Saturday) and no working is permitted on Sundays or Bank Holidays, unless prior permission from the Local Planning Authority is obtained. Those restrictions are necessary to minimise disturbance when a quieter living environment for occupiers of neighbouring properties can reasonably be expected. It also includes, amongst other things, restrictions on access to the site for construction vehicles from the junction of Adderley Place and Simmondley Lane, together with requirement for approval of details of parking for site operatives and visitors, arrangements for proposed temporary traffic management/restrictions, arrangements for loading / unloading and turning vehicles within the site and development phasing through an Estate Street Phasing and Completion Plan. Each of those requirements are necessary to mitigate the impact of construction traffic generated by the development on adjacent roads and rights of way.

141. Condition 11 is a pre-commencement condition that is required to secure that details of any piling or vibro-impact works are submitted to and approved in writing by the Local Planning Authority. It is necessary to ensure that the development would be carried out in a manner that would not adversely affect or de-stabilise nearby buildings or structures.
142. Conditions 12 and 13 are pre-commencement conditions which are both necessary in the interest of conserving and enhancing the natural environment and protected species by securing submission and approval of details and implementation of a Landscape and Ecological Mitigation and Management Plan. This is required for all retained habitats within the development site in accordance with the updated Biodiversity Metric and Landscaping Plans. Condition 13 includes specific requirements necessary to ensure measures to protect badgers from being trapped in open excavations. Condition 14 is also a pre-commencement condition that is required for the same reasons to ensure that an agreed Construction Environmental Management Plan to ensure that no unacceptable impacts on retained habitats and protected species would occur during the construction phase.
143. Condition 15 is a pre-commencement condition which is necessary for highway safety to secure a detailed scheme for the proposed new junction off the A57 with required visibility splays of 2.4m by 43m. It is also required to secure associated highway improvement works for the provision of a footway/verge margin, safe pedestrian crossing points, relocation of the bus stop on the south side of the A57 and a requirement for the proposed new site access road between the A57 and the public right of way (Glossop FP 50) to be maintained to an adoptable standard (save for the gradient) for the lifetime of the development. Condition 16 is a further pre-commencement condition that is required to ensure that the agreement of details of how the discharge of water from the development onto the highway will be prevented and to enable the approved scheme to be implemented and completed before the first use of the access and retained thereafter. The condition is necessary to ensure a satisfactory means of drainage in the interests of highway safety and prevent the risk of flooding to surrounding land and properties.
144. Condition 17 is a pre-commencement condition that is also required in the interest of highway safety to ensure the implementation of the vehicular access off the A57 (Dinting Vale) and visibility splays in accordance with the approved drawings for the construction phase. It also necessitates completion to an adoptable standard (other than the gradient) before first occupation of

- the dwellings with visibility splays free from obstructions over 0.6m in height above carriageway level thereafter. Condition 18 is a related pre-commencement condition required for highway safety to secure an independent Stage 2 Road Safety Audit, together with any necessary amendments required as part of the delivery of identified schemes under Section 38/278 of the Highways Act 1980. A further pre-commencement Condition 19 is also required in the interests of highway safety to secure the agreement of construction details of the turning head and footways (including layout, levels, gradients, surfacing and means of surface water drainage), with implementation and retention thereafter. The pre-commencement components of each of Conditions 17, 18 and 19 necessarily adopt the definition of 'commencement' given in the S106 agreement given the association with planning obligations secured by it and off-site works.
145. Condition 20 is a pre-commencement condition that necessarily sets out the details of the written scheme of investigation for archaeological work to be submitted to and approved in writing before works take place, the implementation of which are otherwise secured by Condition 5. Condition 21 is needed to secure that a verification report is carried out by a suitably qualified independent drainage engineer to demonstrate that the drainage system has been constructed as per the agreed scheme as otherwise addressed by Condition 9 (or detail any minor variations). It also necessitates provision of details of any management company and the location of any key drainage elements before first occupation of the development.
146. Condition 22 is necessary to require that, before any dwelling is constructed beyond damp proof course level, plans and samples should be submitted and approved for the proposed materials for external walls, roofs, retaining walls, terraces, shared surfaces and the protection for street trees. Appropriate details in those respects are necessary to ensure that the character and appearance of the development assimilates appropriately with its surroundings. Condition 23 is required in the interest of the privacy of future occupiers of the development to ensure that obscure glazing at a minimum of Level 4 privacy rating is installed to all bathroom and toilet windows before the occupation of the dwellings and retained thereafter. Condition 24 is also needed in the interest of providing a suitable living environment for future residents in terms of noise given the relationship with the A57 and privacy with surrounding properties, to secure details of acoustic boundary treatments to be erected prior to the occupation of Plots 1, and 3-8. In addition, Condition 25 is also required in the interest of providing a satisfactory living environment for occupiers of dwellings within the development and properties nearby during the construction phase by limiting any piling to between 09:00 hours to 16:00 hours Mondays to Fridays. This would minimise disturbance from such noise generating activity to during weekdays when such operations are typically less intrusive when compared with background noise levels.
147. Condition 26 is needed to ensure that the new estate streets, footways and cycleways between each respective plot and the existing public highways have been constructed before the dwelling is occupied in the interest of highway safety. Condition 27 is required to secure the submission and approval of a detailed scheme for the Adderley Place Vehicle Discouragement Scheme (to be in general accordance with plan SCP-210087-0000-001 Rev A) for the reasons set out earlier in this decision. Condition 28 is necessary to secure the delivery of the bicycle storage areas prior to occupation of the development to

ensure that the necessary facilities are available to encourage alternative means of travel to the use of a private car.

148. Condition 29 is needed to secure agreement of additional details relating to the planting plans in terms of the approach to and timing of planting of street trees, together with suitable provision for any necessary tree replacement in the first five years. Those requirements would ensure that street tree planting makes an appropriate contribution to the character and appearance of the area, air quality and adapting to and mitigating climate change. For the same reasons, Condition 30 is required to secure the retention of existing trees, shrubs and hedges as per the submitted plans with necessary tree, shrub and hedge replacement in accordance with the development proposed.
149. Condition 31 is included to ensure that a lighting plan including street lighting and any external lighting to dwellings is submitted to and approved in writing before first occupation of a dwelling. It is necessary to ensure a suitable relationship with surrounding properties and the natural environment. In the latter respect it includes the expectation that the lighting scheme is designed to safeguard bats, other nocturnal wildlife and avoids lightspill to woodland edges, areas of open space and retains dark corridors where necessary. Condition 32 is needed to secure the provision of the proposed Trim Trail, Locally Equipped Area of Play (LEAP) prior to occupation of the 75<sup>th</sup> dwelling to ensure a satisfactory landscaped setting and provision of on-site play facilities in accordance with the proposed plans. The delayed timing of delivery of the Trim Trail with LEAP is justified when taking account of its location and the level of investment in infrastructure required to deliver the development that would take place in advance of it.
150. Condition 33 secures the completion of the site investigation and post investigation reporting (including publication and dissemination of results and archive deposition as necessary) in accordance with the written scheme of investigation for archaeological work as otherwise addressed by Conditions 5 and 20. It is required in order that any archaeological assets within the site are protected or enhanced. Condition 34 relates to the monitoring and review mechanisms for the Travel Plan<sup>92</sup> in accordance with the agreed targets for a period of five years following occupation of the first dwelling. It is required to ensure that the development of the site would contribute to the delivery of sustainable transport objectives in the local area.
151. Condition 35 relates to the removal of the permitted development rights for the enlargement and extension of dwellings on Plots 9-13, 27-31, 33, 38-45, 48, 52-61, 62, 65, 75, 76, 81, 82 and 86), including any additions or alterations to the roof, without express planning permission first being obtained. Having regard to the PPG<sup>93</sup>, I am satisfied that the scope of the condition is precisely defined relative to the relevant provisions. Furthermore, such a restriction is necessary in the particular circumstances of this case to ensure a suitable living environment is maintained.
152. Condition 36 imposes a restriction on all garage spaces to be provided within the development to prevent conversion without planning permission. The restriction is necessary to ensure that each of the dwellings would be provided with adequate off-street parking spaces to ensure that any on-street parking

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<sup>92</sup> CD2.36

<sup>93</sup> PPG, Use of Planning Conditions, Paragraph: 017 Reference ID:21a-017-20190723 Revision date: 23 07 2019

demand, including for visitors, could be suitably accommodated within the completed site without unacceptable impact on access to properties, highway safety or the residential amenity of future occupiers. In the interest of limiting obstruction of the highway and maintaining safe access to all properties, Condition 37 also includes a necessary restriction on the positioning of gates to ensure that they are set back an appropriate distance from the carriageway edge or physically prevented from opening over the highway.

153. Condition 38 is needed to provide adequate safeguards to ensure no unacceptable impacts on breeding birds existing within the site. It necessarily ensures that no tree/shrub clearance can be carried out between 1 March and 31 August inclusive in any year unless a survey has been undertaken in advance and an agreed scheme to protect breeding birds is in place.

### **Conclusion and Planning Balance**

154. Section 70(2) of the Town and Country Planning Act 1990 requires regard to be had to, amongst other things, the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Framework is such a material consideration.
155. The Framework does not change the statutory status of the development plan as the starting point for decision making. The policies which are most important for determining the application are up-to-date for the purposes of decision-taking in this particular case. Whilst I have found conflict with the specific wording of Policies H3 and DS4 in terms of the provision of affordable housing and retention of mature trees, the proposal would be in accordance with the development plan as a whole.
156. In reaching the above view, I have taken into account that there is robust viability evidence which demonstrates that the delivery of housing within the allocated site (of which the proposal forms part) would be incapable of providing a contribution to affordable housing. There would be localised effects arising from loss of existing fields, trees, woodlands and biodiversity within the allocated site. However, subject to the conditions set out in the attached schedule and the planning obligations in the S106 agreement, there would be no unacceptable impacts, harm, or conflict with relevant development plan policies or the Framework in those respects.
157. Overall, the proposal would be in accordance with the development plan as a whole. The material considerations in this case do not indicate that this appeal should be determined otherwise than in accordance with the development plan. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed and planning permission granted subject to the conditions in the attached Schedule.

*Gareth Wildgoose*

INSPECTOR



## **APPEARANCES**

### FOR THE APPELLANT:

John Barrett, Counsel

Instructed by Hourigan Planning

He called:

David Roberts IEng FIHE FCIHT

Managing Director, SCP Transport Planning

Richard Nicholas BEng(Hons) MSc  
MBA MCIWEM GMICE

Director, Betts Hydro Limited

Elizabeth Whittall BSc (Hons) AIAQM  
AIES

Senior Environmental Consultant,  
Royal HaskoningDHV

Iain Tavendale F.Arbor.A.

Arboricultural Consultant

Rachel Kerr BSc (Hons) MSc CEcol  
CEnv MCIEEM

Technical Director (Ecology), Tetra Tech

Richard Heathcote BSc (Hons)

Consultant (Viability), Devvia Property  
Consultancy

Marc Hourigan BA(Hons) BPI MRTPI

Managing Director, Hourigan Planning

(called for planning obligations and conditions round-table sessions only):

Niall Mellon BSc(Hons) MSc MRTPI

Associate Director, Hourigan Planning

### FOR THE LOCAL PLANNING AUTHORITY:

Hugh Richards

Instructed by High Peak Borough Council

He called (for planning obligations and conditions round-table sessions only):

Bruce O'Brien MSc MRTPI

Consultant, Aitchison Rafferty Group

Nicola de Bruin

Solicitor, High Peak Borough Council and  
Staffordshire Moorlands District Council

### INTERESTED PARTIES:

Councillor Stuart Gardner

Simmondley Ward,  
High Peak Borough Council

Councillor Paul Hardy

Old Glossop Ward,  
High Peak Borough Council

Councillor Adrian Hopkinson

Old Glossop Ward,  
High Peak Borough Council

David Bennett	Representative of High Peak Access and Local Resident
Emma Kane	Member of Glossopdale Action for Sustainable Travel and Local Resident
John Pape	Member of High Peak Badger Group and Local Resident
Sarah Bott	Local Resident
Timothy Bott	Local Resident
Teyah Darroch	Local Resident
Jason Gleave	Local Resident
Julie Greengrass	Local Resident
Rob Holt	Local Resident
Philip Miskell	Local Resident

## **INQUIRY DOCUMENTS**

- ID1 - Appearance Sheet for the Appellant
- ID2 - Opening Statement for the Appellant
- ID3 - Additional Extracts of the High Peak Local Plan (in addition to Core Documents 4.1 to 4.10)
- ID4 - Opening Statement for the Council
- ID5 - Appellant's submission of social media activity RE: parking during site visit dates scheduled in published draft Inquiry programme
- ID6 - Inclusive Mobility information provided by David Bennett
- ID7 - Agreed position of the Appellant and the Council regarding High Peak Borough Council 5-year housing land supply
- ID8 - Statement of High Peak Borough Council Councillor Dom Elliott-Starkey
- ID9 - Updated draft S106 agreement (including location plan, trim trail area plan, off-site biodiversity mitigation land plan and biodiversity strategy and management plan)
- ID10 - Statement from Sarah Bott
- ID11 - Statement from Emma Kane
- ID12 - Statement from Rob Davies (local resident)
- ID13 - Statement from Timothy Bott
- ID14 - Emails (various) from Mr & Mrs Wilson (local residents)
- ID15 - Appellant's response to Inspector queries on draft s106 agreement
- ID16 - Appellant and Council responses to Inspector queries on draft conditions
- ID17 - Statement from Ross Darroch (local resident)
- ID18 - Supplementary statement provided by David Bennett relating to the proposed Adderley Place Vehicle Discouragement Scheme.
- ID19 - Supplementary statement from Emma Kane
- ID20 - Statements from Philip Miskell dated 18 June 2024 and 24 June 2024, and agreed position statement of the Appellant and the Council regarding a petition submitted by Phillip Miskell.
- ID21 - Statement from Julie Greengrass
- ID22 - Statement from John Pape
- ID23 - Appellant's Closing Submissions

## **DOCUMENTS SUBMITTED WITH AGREEMENT AFTER THE INQUIRY**

- ID24 - Updated proposed conditions, including written agreement for proposed pre-commencement conditions - received 1 July 2024.
- ID25 - Signed S106 agreement dated 3 July 2024

**SCHEDULE OF CONDITIONS FOR APPEAL REF APP/H1033/W/24/3339815:**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos and documents numbered and titled:
  - CD2.103 Location Plan (Drwg No. WH/DV/LP01 Rev B).
  - CD2.18 Apartment Bin Store Plans (Drwg No. WH/DV/HT/BS/01).
  - CD2.21 Railing Detail (Drwg No. WH/DV/RD/01)
  - CD2.30 Trim Trail Area (Drwg No. 102 Rev B).
  - CD2.39 Cycle Store Details (Drwg No. WH/DV/CS/02).
  - CD2.40 Laurel House Type Elevations and Floor Plans (Drwg No. LAU.3B843.CL.P.S.01).
  - CD2.41 Peppercorn House Type Elevations and Floor Plans (Drwg No. PEP.3B1010.CL.P.S.01).
  - CD2.42 Satinash House Type Elevations and Floor Plans (Drwg No. SAT.NM.P.S.01).
  - CD2.43 Willow House Type Elevations (Drwg No. WIL.NM.P.F.02).
  - CD2.44 Willow House Type Floor Plans (Drwg No. WIL.NM.P.F.01).
  - CD2.45 Willow House Type (Plot 1) Elevations (Drwg No. WIL.NM.P.F.02).
  - CD2.46 Willow House Type (Plot 1) Floor Plans (Drwg No. WIL.NM.P.F.01).
  - CD2.47 Acacia House Type Elevations and Floor Plans (Drwg No. ACA.3B939SA.CL.P.S.01).
  - CD2.48 Foxglove House Type Elevations (Drwg No. FOX.NM.P.F.02).
  - CD2.49 Foxglove House Type Floor Plans (Drwg No. FOX.NM.P.F.01).
  - CD2.50 Juniper House Type Elevations (Drwg No. JUN.NM.P.S.01).
  - CD2.51 Juniper House Type Floor Plans (Drwg No. JUN.NM.P.F.01).
  - CD2.52 Witchazel House Type Elevations (Drwg No. WIT.NM.P.F.02).
  - CD2.53 Witchazel House Type Floor Plans (Drwg No. WIT.NM.P.F.01).
  - CD2.54 Double Garage Plans (Drwg No. LDG/CE/1/0/S Rev B).
  - CD2.55 Paired Garage (Drwg No. LPG/CE/1.0/S Rev A).
  - CD2.56 Reversed Paired Garage (Drwg No. RPG/CE/1.0-S).
  - CD2.57 Single Garage Plans (Drwg No. LSG/CE/1.4/S Rev A).
  - CD2.59 External Works Sheet 1 (Drwg No. WAI25-XX-BET-ZZ-XX-DR-C-3001- P02).
  - CD2.60 External Works Sheet 2 (Drwg No. WAI25-XX-BET-ZZ-XX-DR-C-3002- P02).

- CD2.61 External Works Sheet 3  
(Drwg No. WAI25-XX-BET-ZZ-XX-DR-C-3003- P02).
  - CD2.62 External Works Sheet 4  
(Drwg No. WAI25-XX-BET-ZZ-XX-DR-C-3004- P02).
  - CD2.63 External Works Sheet 5  
(Drwg No. WAI25-XX-BET-ZZ-XX-DR-C-3005- P02).
  - CD2.64 Bat and Bird Box Location (Drwg No. Figure No. 1 Revision A).
  - CD2.67 Road 1 and Cyclepath Longitudinal Section  
(Drwg No. WAI25-XX-BET-XX-XX-DR-C-1010-P01).
  - CD2.81 Chinley Apartments Floor Plans  
(Drwg No. WH/DV/CHA/PP/01 Rev A).
  - CD2.82 Chinley Apartments Elevations (Drwg No. WH/DV/CHA/PE/01 Rev A).
  - CD2.85 Colour Site Layout (Drwg No. WH/DV/CSL/01 Rev M).
  - CD2.86 Proposed Site Layout (Drwg No. WH/DV/PSL/01 Rev N).
  - CD2.88 Adoptable Highways Plan (Drwg No. WH/DV/AHP/01 Rev K).
  - CD2.89 Boundary Treatment Details (Drwg No. WH/DV/BTD/01 Rev C).
  - CD2.90 Boundary Treatment Plan (Drwg No. WH/DV/BTP/01 Rev N).
  - CD2.91 Cycle Storage Plan (Drwg No. WH/DV/CS/01 Rev I).
  - CD2.93 Electric Vehicle Charging Plan (Drwg No. WH/DV/EVC/01 Rev K).
  - CD2.94 Hardstanding Plan (Drwg No. WH/DV/HP/01 Rev K).
  - CD2.95 Interface Distances Plan (Drwg No. WH/DV/IDP/01 Rev I).
  - CD2.96 Materials Plan (Drwg No. WH/DV/MP/01 Rev L).
  - CD2.97 Net Developable Area (Drwg No. WH/DV/NDA/01 Rev J).
  - CD2.98 Storey Heights Plan (Drwg No. WH/DV/SHP/01 Rev K).
  - CD2.99 Site Sections (Drwg No. WH/DV/SS/01 Rev F).
  - CD2.100 Street Scenes (Drwg No. WH/DVG/SS/02 Rev D).
  - CD2.101 Street Scenes (Drwg No. WH/DVG/SS/03 Rev A).
  - CD2.102 Waste Management Plan (Drwg No. WH/DV/WMP/01 Rev K).
  - CD2.105 Landscape Masterplan (Drwg No. 101 Rev L).
  - CD2.106 Planting Plan (1 of 4) (Drwg No. 201 Rev J).
  - CD2.107 Planting Plan (2 of 4) (Drwg No. 202 Rev J).
  - CD2.108 Planting Plan (3 of 4) (Drwg No. 203 Rev J).
  - CD2.109 Planting Plan (4 of 4) (Drwg No. 204 Rev J).
- 3) The development shall be carried out in accordance with the approved BNG Strategy and 30 Year Management Plan (Ref. 784-B039096 Rev 4) and the biodiversity obligations contained within the Section 106 Agreement.

- 4) The development shall be carried out in accordance with the details of the Arboriculture Impact Assessment (TEP - Warrington- Doc. Ref: 9131.001- October 2022).
- 5) No development shall take place other than in accordance with the Archaeological Written Scheme of Investigation approved under Condition 20.
- 6) No topsoil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development. A suitable methodology for testing this material should be submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto the site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. Following analysis and prior to importation of any topsoil to the site, validatory evidence shall be submitted to and approved in writing by the Local Planning Authority.
- 7) Prior to commencement of development, the Local Planning Authority should be provided with:
  - a) Submission of Remediation Scheme – A detailed Remediation Scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
  - b) Implementation of Approved Remediation Scheme - The approved Remediation Scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to be carried out for remediation and for formation of the highway access, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority before commencement of development other than that required to carry out remediation and for the formation of the access road.
  - c) Any contamination found during the course of construction of the development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found additional remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.
- 8) Prior to commencement of the development, the applicant shall submit for approval to the Local Planning Authority, details indicating how additional

surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from the site during the construction phase.

- 9) Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes shall be in accordance with the principles of the following documents:
- a) LDE. (31/03/2023). Flood Risk Assessment, 680312-R1(02)-FRA Rev 02,
  - b) Betts Associates. (07/07/2023). Section 104 Drainage Design, WAI25-XX-BET-ZZ-XX-DR-C-1001-P01,
  - c) Betts Associates. (2023) Letter to Derbyshire LLFA, 7 August, including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team,
  - d) And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015)

The foul and surface water drainage schemes must include:

- a) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
- b) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
- c) Levels of the proposed drainage systems including proposed ground and finished floor levels in Above Ordnance Datum;
- d) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
- e) Foul and surface water shall drain on separate systems.

Prior to first occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

- 10) No development shall take place, including any works of demolition, until a construction management plan / construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan / statement shall be adhered to throughout the construction period. Notwithstanding the approved plan/statement there shall be no access to the site for construction vehicles from the junction of Adderley Place and Simmondley Lane. Furthermore during the construction period the developer shall ensure that access to existing dwellings on Adderley Place will be retained. The plan / statement shall provide for:
- a) construction and site clearance times

Unless prior permission has been obtained in writing from the Local Planning Authority, all noise-generating activities (except piling which is subject of the separate restrictions under Condition 25), shall be restricted to the following times of operations:

- 07:30 - 18:00 hours (Monday to Friday);
- 08:30 - 14:00 hours (Saturday);
- No working is permitted on Sundays or Bank Holidays.

In this condition, a noise-generating activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

- b) parking of vehicles for site operatives and visitors,
- c) storage of plant and materials and site accommodation,
- d) wheel washing facilities,
- e) best practice measures to control noise, vibration and the emission of dust and dirt during construction, as defined in Section 72 of the Control of Pollution Act 1974
- f) routes for construction traffic,
- g) method of prevention of mud / debris being carried onto the public highway/PRoW,
- h) proposed temporary traffic management / restrictions including arrangements for banksmen to be deployed at traffic management points for the duration of the construction period,
- i) arrangements for loading / unloading and turning vehicles within the site,
- j) roadside fencing / hoarding,
- k) construction compound details,
- l) details of site registration under the Considerate Contractors scheme,
- m) construction & demolition: waste disposal.

No development shall be commenced until an accompanying Estate Street Phasing and Completion Plan has been submitted to and approved in writing by the Local Planning Authority. The Estate Street Phasing and Completion Plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed.

- 11) Prior to the commencement of development, a method statement and risk assessment in relation to the details of any piling or vibro-impact works on site that may impact upon nearby buildings and structures must be submitted to the Local Planning Authority for approval in writing.
- 12) No development shall commence until a detailed Landscape and Ecological Mitigation and Management Plan for all retained habitats within the development site including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned, domestic gardens, has been submitted to and approved in writing by the Local Planning Authority. The plan should be provided in



accordance with the proposals set out in the updated Biodiversity Metric and Landscaping Plans and the content of the plan should include the following:

1. Description and evaluation of features to be managed / enhanced or created. This should include:-
    - a) A copy of an updated metric, once the offsetting scheme has been approved.
    - b) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric to include habitat enhancements for wildlife, in line with British Standard BS 42021:2022, details of offset gullies and drop kerbs in the road network to safeguard amphibians and detailed specifications for SuDS to provide biodiversity benefits.
  2. Ecological trends and constraints on site that might influence management.
  3. Aims and objectives of management.
  4. Appropriate management options and methods for achieving aims and objectives.
  5. Timescales
  6. Prescriptions for management actions methods and practices to achieve aims and objectives.
  7. Preparation of a work schedule (including an annual work plan capable of being rolled forward over and including a 30-year work plan).
    - a) Details of the body or organisation responsible for implementation of the plan.
    - b) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured as by the developer with the management body(ies) responsible for its delivery.
    - c) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 10, 15, 20, 25 and 30 years with Monitoring reports to be sent to the Council at each of the intervals above.
    - d) Details where the results from monitoring show that conservation aims and objectives of the plan are not being met, how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.
  8. A statement of compliance upon completion of initial planting and enhancement works.
- 13) No development shall take place until measures to protect badgers from being trapped in open excavations are installed. The measures shall include:
- a) Creation of sloping escape ramps for badgers which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day.

- b) Open pipe-work larger than 150 mm outside diameter should be blanked off at the end of each working day.

The development shall be carried out in accordance with the approved details. Upon commencement of open excavations, culverts or any pipes with an outside diameter larger than 150 mm with the above measures shall be installed.

- 14) No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

- 15) The development shall not be commenced until a detailed scheme for the proposed new junction off the A57 and highway improvement works for the provision of a footway/ verge margin and associated safe pedestrian crossing points, the relocation of the bus stop on the southern side of the A57 (and any other associated highways works) has been submitted to and approved in writing by the Local Planning Authority.

The new junction shall be provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 43 metres to the right and left when measured along the nearside carriageway edge. The area in advance of the visibility sightlines being levelled, forming part of the new street constructed as footway and not forming part of any plot or other subdivision of the site.

Prior to the occupation of the first dwelling the required highway improvement works shall be constructed in accordance with the approved details.

The proposed new site access road between Dinting Vale (A57) and the Public Right of Way (Glossop FP 50) is to be maintained to an adoptable standard (save for the gradient) for the lifetime of the duration of the occupation of the development.

- 16) Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to

- prevent the discharge of water from the development onto the highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.
- 17) With the exception of those works set out in the "commencement" definition in the Section 106 Agreement which for the purposes of the agreement do not constitute a material operation as defined by Section 56 of the 1990 Act, the development hereby approved shall not be commenced until the vehicular access off A57 (Dinting Vale) in accordance with the approved drawings, has been created and completed up to at least base course level and is provided with the visibility splays in accordance with the approved plans. The access shall then be completed up to adoptable standard (other than gradient) before the first occupation of the dwellings, with the visibility splays being permanently kept free of all obstructions over 0.6m in height above carriageway level thereafter. The new road will then be maintained to this standard for the duration of the occupation of the approved development.
  - 18) With the exception of those works set out in the "commencement" definition in the Section 106 Agreement which for the purposes of the agreement do not constitute a material operation as defined by Section 56 of the 1990 Act, prior to the commencement of the development an independent Stage 2 Road Safety Audit must be submitted to and approved in writing by the Local Planning Authority in accordance with GG119 - Road Safety Audits or any superseding regulations. The design proposals must be amended in accordance with the recommendations of the approved Safety Audit prior to the commencement of works on site. A programme for the delivery of that scheme and its interaction with delivery of any identified schemes under the section 38/278 Agreement of the Highways Act 1980 must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site. Each item of the on/off-site highway works must be completed in accordance with the approved engineering details and programme prior to first occupation of the approved dwellings, or at another time to be agreed in writing by the Local Planning Authority.
  - 19) Notwithstanding any information submitted, no development shall take place, with the exception of those works set out in the "commencement" definition in the Section 106 Agreement which for the purposes of the agreement do not constitute a material operation as defined by Section 56 of the 1990 Act, until construction details of the turning head and footways (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority and shall thereafter be implemented in accordance with the approved details and retained.
  - 20) No development – including any works that may take place along or across the line of Adderley Place – shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. 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 set out within the Written Scheme of Investigation.
- 21) Prior to the first occupation of the development, a verification report carried out by a suitably qualified independent drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
- 22) Prior to the development of the first dwelling to be constructed beyond damp proof course level, detailed plans and samples shall be submitted to the Local Planning Authority for approval in writing. The submitted plans shall include the proposed materials for external walls, roofs, retaining walls, terraces, shared surfaces and protection for street trees including those in front gardens. The development shall be carried out in accordance with the approved details.
- 23) Before the first occupation of the dwellings hereby permitted the windows for bathrooms and toilets shall be fitted with obscured glazing to a minimum of Level 4 privacy rating and shall be retained thereafter.
- 24) Prior to occupation of the dwellings on plots number 1, and 3-8, a scheme (which shall include the details of design, materials and type of acoustic boundary treatment to be erected) shall be submitted and approved in writing by the Local Planning Authority. The boundary treatment shall be carried out in accordance with the approved details and completed before the building(s) on plots 1, and 3-8 are occupied or in accordance with a timetable agreed in writing with the Local Planning Authority and thereafter shall be maintained in accordance with the approved scheme.
- 25) No piling shall take place outside of the following hours: 09:00 hours to 16:00 hours Mondays to Fridays.
- 26) No dwelling hereby permitted shall be occupied until the new estate streets, footways, and cycleways between each respective plot and the existing public highways have been constructed in accordance with the details approved. All carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course in accordance with a timetable to be submitted to and agreed by the Local Planning Authority and thereafter implemented in accordance with the agreed timetable.
- 27) No dwelling shall be occupied until a detailed scheme for the Adderley Place Vehicle Discouragement Scheme (to be in general accordance with plan SCP-210087-0000-001 Rev A) has been submitted to and agreed with the local

planning authority. The detailed scheme should include details of signage (to be in general accordance with plan SCP-210087-0000-001 Rev A), materials to be used for the surfacing at the junction of FP 50 and the proposed access road, and the height and materials to be used for the proposed bollards.

The Adderley Place Vehicle Discouragement Scheme shall be implemented in accordance with the details shown in the Technical Note prepared by SCP and referenced CT/210087/TN05 and shall be installed prior to the first occupation of any dwelling and it shall thereafter be retained in perpetuity.

- 28) No individual dwelling in the development hereby approved shall be occupied until the bicycle storage area as shown on approved plans CD2.39 and CD2.91 is constructed. The bicycle storage area shall be retained and maintained for its purpose thereafter.
- 29) Notwithstanding the details shown in the approved planting plans, for the street trees within the highway the following details should be provided prior to installation of street trees within the highway:
  1. Comprehensive details of ground/tree pit preparation to include:
    - a) Plans detailing adequate soil volume provision to allow the tree to grow to maturity.
    - b) Engineering solutions to demonstrate the tree will not interfere with structures (e.g. root barriers/deflectors) in the future.
    - c) Staking/tying method(s).
    - d) Five-year post planting maintenance and inspection schedule.

All street tree planting shall be carried out in accordance with a timetable to be submitted to and agreed in writing by the Local Planning Authority. The quality of all approved tree planting should be carried out to the levels detailed in British Standard 8545, Trees: from nursery to independence in the landscape - Recommendations.

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

- 30) No existing trees, shrubs or hedges within the site which are shown to be retained on the approved plans (Plan/Drawing: Drawing no. D9131.002 of the TEP Arboricultural Impact Assessment - 9131.001 – April 2023) shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without previous written consent of the Local Planning Authority.

Any trees, shrubs or hedges indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority.

- 31) No dwelling shall be occupied until a Lighting Plan showing street lighting and any external lighting to dwellings is submitted and agreed by the Local Planning Authority. The lighting scheme shall be designed to safeguard bats and other nocturnal wildlife. It shall avoid lightspill to woodland edges and areas of open space and retain dark corridors where necessary. Details of the

- chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers shall be provided. Such approved measures will be implemented in full prior to any occupation of dwellings.
- 32) Prior to the occupation of the 75th dwelling the proposed Trim Trail, Locally Equipped Area for Play (LEAP) shall be completed to the satisfaction of the Local Planning Authority. The LEAP shall be in accordance with the document "The Requirements of a Locally Equipped Area for Play". The development shall be carried out in accordance with the approved details.
- 33) The development shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under Condition 20 and the provision to be made for publication and dissemination of results and archive deposition has been secured.
- 34) The Approved Travel Plan dated July 2023 (CD2.36 Document Ref. CT/210087/TP/03) shall be monitored and reviewed in accordance with the agreed Travel Plan targets for a period of 5 years following occupation of the first dwelling.
- 35) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revising, revoking and re-enacting that Order with or without modification), there shall be no enlargement or extension of the dwellings hereby permitted (Plots 9-13, 27-31, 33, 38-45, 48, 52-61, 62, 65, 75, 76, 81, 82 and 86), including any additions or alterations to the roof, without express planning permission first being obtained from the Local Planning Authority.
- 36) The garage spaces provided shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.
- 37) No gates, including any part of their opening arc shall be permitted to open out over public highway limits. Any gates should therefore be set back an appropriate distance from the carriageway edge or be physically prevented from opening over the adjoining highway.
- 38) 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.

## **END OF SCHEDULE**