

APPENDIX E OFFICER REPORT (HPK/2021/0058)

Local Authority Ref: **HPK/2021/0058**

Appeal by Mr & Mrs K. Povah

Appeal against the refusal of planning permission for:

Certificate of Lawful Development for the proposed removal of existing outbuilding, erection of new outbuilding comprising Motorbike Store, Garden Store, Workshop. Creation of additional hardstanding in the form of permeable gravel which will serve as access to the new outbuilding.

At: Thorncroft, Lower Hague, New Mills, Derbyshire, SK22 3AP

Town & Country Planning Act 1990 (as amended)

Planning and Compulsory Purchase Act 2004

DELEGATED DECISION REPORT

HPK/2021/0058
Valid 16/04/2021

THORNCROFT LOWER
HAGUE
NEW MILLS

**CERTIFICATE OF LAWFUL
DEVELOPMENT FOR THE
PROPOSED REMOVAL OF
EXISTING OUTBUILDING,
ERECTION OF NEW
OUTBUILDING COMPRISING
MOTORBIKE STORE, GARDEN
STORE, WORKSHOP.
CREATION OF ADDITIONAL
HARDSTANDING IN THE
FORM OF PERMEABLE
GRAVEL WHICH WILL SERVE
AS ACCESS TO THE NEW
OUTBUILDING.**

**(CERTIFICATE OF
LAWFULNESS - PROPOSED)**

MAIN ISSUES

- Whether the proposed development complies with relevant parameters of Schedule 2, Part 1, Classes E and F of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

DESCRIPTION OF SITE

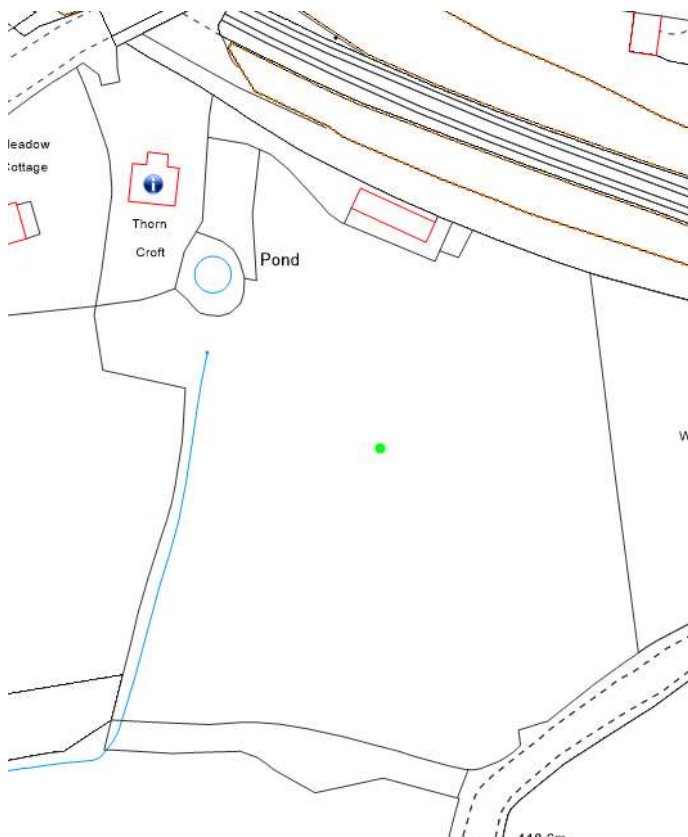
The application site is an area of land at the east of Thorncroft, a dwelling in the village of Hague Bar west of New Mills. Overall the property comprises:

- The main house and its driveway and parking areas, which are enclosed together by stone walls.
- Garden and lawn areas to the immediate south and east the house, enclosed by timber fences.
- A large field to the south and east of the house, beyond the garden areas
- A separate fenced-off area along the north edge of the field and to the east of the house. This area comprises a former stables building (now in use for domestic storage) and concrete apron, and a mown grassed area around 30m long, providing access from a side gate from the driveway serving the house. To the east side of the stables building is a small separated enclosure, understood to be used for bonfires. The building is currently in use for a range of domestic purposes including storage and as a workshop.

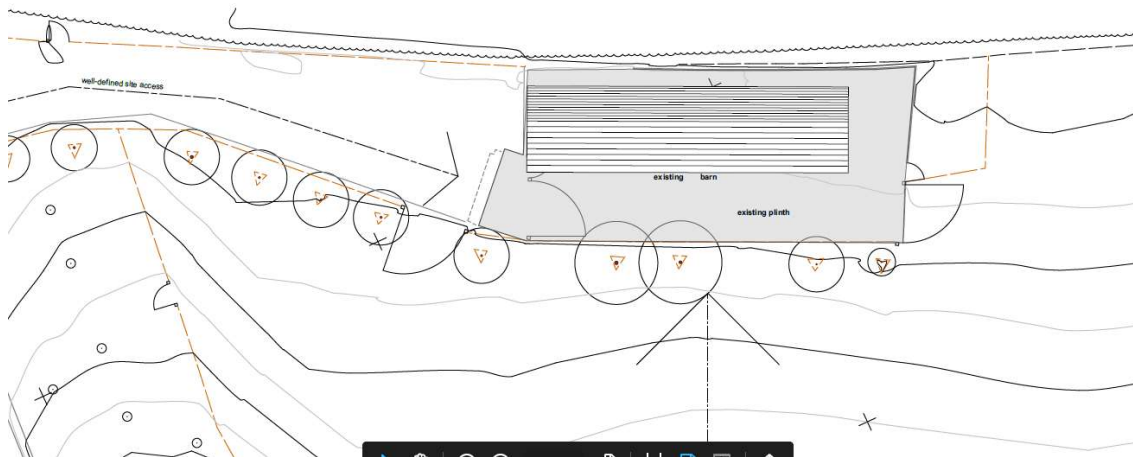
The redline boundary on the submitted location plan encompasses all of these parts of the property, which are understood to be in the same ownership as the house.



Location plan submitted with the application



OS Maps extract, main house and existing stables building shown in red. Current boundaries shown are as shown.



Existing site plan showing existing stables with small additional enclosure at immediate east.

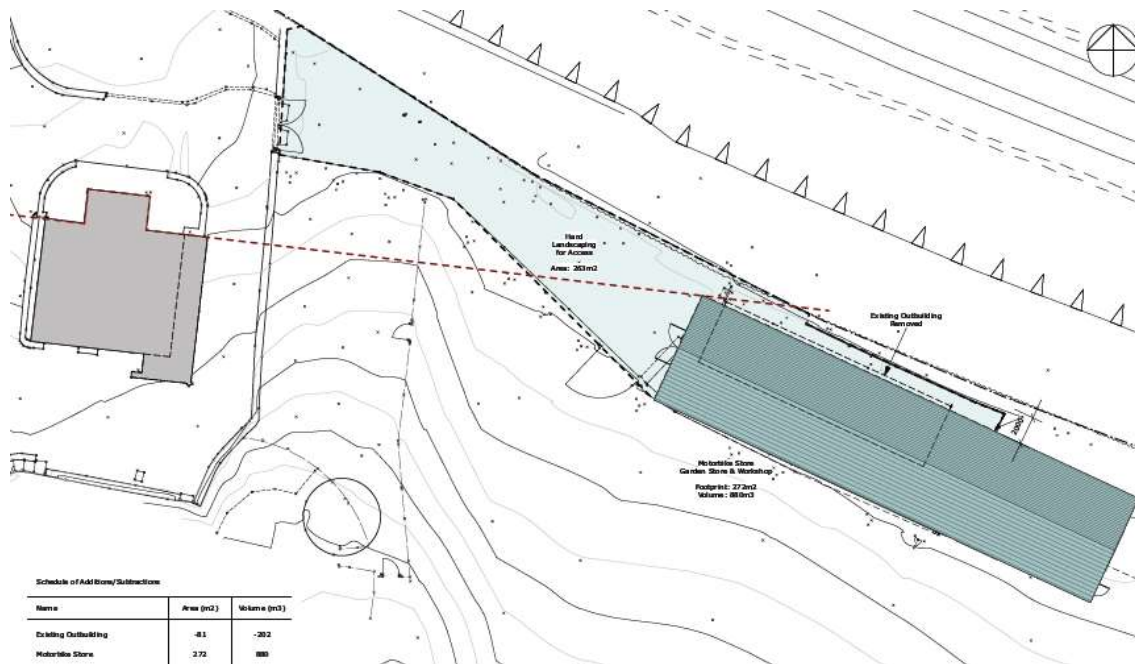
The application site was previously subject of a 2017 application for full planning permission for the redevelopment of the stables building with a single dwelling. The application was refused on the basis of being inappropriate development in the Green Belt and due to design concerns. An appeal against this refusal was dismissed.

PROPOSAL

The application is for a Certificate of Lawful Proposed Development for a new outbuilding on the position of the existing building, under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Plans submitted with the application indicate a linear building of timber and slate construction measuring approx. 34m by 8m, together with hard surfacing over the entire area already enclosed between the existing building and the house. The building would be positioned over the location of the current building and would extend further to the east, beyond the boundary fence around the stables and the small enclosure at the immediate east.

The submitted floor plan indicates the building would be provide a workshop, garden store, and storage for motorbikes. The proposed building would appear to extend beyond the boundary fence which encloses the existing building at the east end, into the smaller enclosure and the main field.



RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

The Town and Country Planning (General Permitted Development) Order 2015 (as amended).

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2017/0219 - Proposed demolition of existing outbuilding and erection of a single dwelling. Refused, 10/12/2018. Appeal dismissed, 22/06/2020

HPK/0001/2693 - For Proposed Erection Of Four Dwelling Houses With Access From Waterside Road Strines. Refused.

CONSULTATIONS

Publicity

Site Notice expiry date: 18.06.2021

Neighbour consultation period ends: 20.05.2021

Public Comments

Hague Bar - This application seeks to replace an existing rural outbuilding in the Green Belt with a new 'motorbike store' which covers almost four times the footprint and well over four times the volume. As the plans contain no exact dimensions, nor any clear overlay between existing/proposed, they do not make adequately clear the very significant differences in size and volume between the existing and proposed building. The proposed building would be significantly taller, wider and longer,

forming a large intrusion on the landscape. Furthermore, the proposed 'hardstanding' as access, laying a large area of gravel over what is currently a grassed track, would be incongruous on what is supposed to be Green Belt land.

Primarily, it must be noted that the dimensions seem to match almost exactly with those of the applicant's previous rejected application (HPK/2017/0219) for the erection of a new single dwelling on this site, suggesting that this could simply be being used as an alternative route towards constructing that entirely new dwelling.

The previous application was rejected at length in a planning inspectorate report and decision letter, and subsequently at planning appeal, for a number of reasons. Most significantly these included 'impact on the openness of the Green Belt', 'inappropriate development in the Green Belt' and a development that would be 'out of keeping with the character and appearance of the area'.

All of these reasons remain true to this almost identical proposal, save for the fact that it will not (yet) be used as a dwelling and that it has none of the environmentally-aware aspects of the previous dwelling application. Even the one noted local benefit of the previous application, to provide new housing, cannot be applied.

Yet the previous planning reports gave good reasons why this site is not suitable for new housing, and so should this new application be approved, there must be a clear condition on the planning approval that the proposed building cannot be later converted to a dwelling 'by the back door', to save the entire planning process being made redundant.

For all the reasons above, and to protect the character and appearance of what is left of our local Green Belt land, we object to this proposal.

Town / Parish Comments

None received

OFFICER COMMENTS

In the event that the proposed development complies with Schedule 2, Part 1, Class E of the General Permitted Development Order (GPDO), a Certificate could be granted. Class E of the GPDO notes that:

The provision within the curtilage of the dwellinghouse of—

- (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or*
- (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas*

is permitted development, and therefore does not require express planning permission from the Local Planning Permission, subject to certain limitations and exclusions.

Class F of the same part notes that:

Development consisting of—

(a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose

incidental to the enjoyment of the dwellinghouse as such; or

(b) the replacement in whole or in part of such a surface.

is also permitted development, subject to certain conditions.

However, these provisions within the GPDO only applies to land within the curtilage of a dwellinghouse. Curtilage is defined by the Oxford English Dictionary as “ an area of land attached to a house and forming one enclosure with it ”, The area of the property is not considered to be within the curtilage of Thorncroft (or of any other dwellinghouse).

It is understood that the enclosure hosting the stables is in the same ownership as Thorncroft, and has been in use for domestic purposes in association with the house for some time.

However, the area is enclosed separately to the house and it's gardens, which are enclosed by well-established walls and fences. This area is outside these boundaries and does not form part of the same enclosure. As such it is not considered that this area of the property forms part of the curtilage of the dwellinghouse.

Further, a significant portion of the proposed building (perhaps 9m in length) would extend beyond the boundary fences enclosing the stables and the smaller enclosure at the immediate east, and would be placed within the main field. It is clearly apparent that this area of the property is even more distinctly not part of the curtilage of the dwellinghouse, comprising an extensive field with no domestic function related to the house.

The development of the proposed building would therefore not be permitted development, and would require planning permission. Likewise, the creation of the proposed hard surface would be outside the curtilage of the dwellinghouse and would not be permitted development under Class F.

As such, undertaking the proposed development without planning permission would not be lawful development, and therefore the requested Certificate of Lawful Proposed Development cannot be issued.

The public comments are noted. However, the application must be determined on a point of law rather than any other merits of the scheme.

CONCLUSION / PLANNING BALANCE

As the proposed works would not be within the boundary of the curtilage of a dwellinghouse, the proposed building would not be permitted development under Schedule 2, Part 1, Class E of the General Permitted Development Order. The proposed hardstanding would not be permitted development under Class F for the same reason. Planning permission would therefore be required for both elements. As such it is recommended that a negative certificate should be issued.

OFFICER RECOMMENDATION : Refuse

Case Officer: Tom Hiles

Recommendation Date: 13.08.2021

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council