

DELEGATED DECISION REPORT

HPK/2023/0036
Valid 22/02/2023

SPRING BANK LODGE
SPRING BANK
PEAK DALE

**LAWFUL DEVELOPMENT
CERTIFICATE FOR AN
EXISTING USE -
GARAGE/STORE AND 2
SHEDS FOR THE STORAGE
OF CARS, GENERAL
STORAGE, DIY AND HOBBY
ACTIVITIES FOR THE USE OF
THE OCCUPANTS OF SPRING
BANK LODGE.**

**(CERTIFICATE OF
LAWFULNESS - EXISTING)**

MAIN ISSUES

- Whether, on the specific facts of the case, the specific matter set out within the description of development is lawful, having regard to Sections 171B and 191 of the Town and Country Planning Act 1990.

DESCRIPTION OF SITE

The application relates to Spring Bank Lodge, a modest one bedroom two storey dwellinghouse with rear outrigger, that was subject of planning approval for a conversion from a garage in July 2005 under HPK/2005/0388.

An area of grassland immediately to the south of the site, which lies outside of the domestic curtilage, was at the time of a site visit, home to two domestic outbuildings. At the southern end of the courtyard immediately adjacent to the dwellinghouse, stands a sub-terrain garage constructed of breeze block with corrugated roof above.

These three structures, described as a garage, summerhouse and shed respectively, have not been the subject of any planning consent, and did not form part of the approved plans under HPK/2005/0388.

PROPOSAL

The applicant seeks a Certificate of Lawfulness for Existing Development which comprises the three structures that are in situ today (Shed, Summerhouse, and Garage).

In support of the application is an invoice from a Roofing and Cladding Suppliers company, dated 31st October 2011, for brown poly roofing materials and timber

screws. The applicant cites that the garage was constructed shortly after these materials were obtained.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/0002/5609	Garage/Store (Approved 16/09/1987)
HPK/2004/0559	Conversion And Extension Of Existing Garage/store To Form 3 Bed House (Refused 13/08/2004)
HPK/2005/0231	Conversion Of Builders Garage/store To Form One Dwelling (Refused 09/05/2005)
HPK/2005/0388	Conversion Of Builders Garage/materials And Equipment Store To Form A Single One Bedroomed House (Approved 08/07/2005)

PUBLIC COMMENTS

4no. objections to this application have been received from nearby local residents. All four representations submit objections in relation what is perceived to be proposed development and potential impacts.

No representations provide evidence contrary to the applicant who is seeking a certificate as to whether the buildings in question are lawful. Given the specific nature of this application, these representations carry no weight in the assessment and determination of the application.

OFFICER COMMENTS

Whether, on the specific facts of the case, the specific matter set out within the description of development is lawful, having regard to Sections 171B and 191 of the Town and Country Planning Act 1990

Section 191 of the Town and Country Planning 1990 relate specifically to applications seeking a Certificate of Lawfulness of an Existing Use or Development.

Section 191 (1) states:

If any person wishes to ascertain whether –

- (a) any existing use of buildings or other land is lawful*
- (b) any other matter constituting a failure to comply with any condition or limitation to which planning permission has been granted is lawful he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter*

Section 191 (2) goes on to state:

For the purposes of this Act uses and operations are lawful at any time if –

- (a) *no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and*
- (b) *they do not constitute a contravention of any of the requirements of any enforcement notice then in force*

With regards to Lawful Development Certificates, the following guidance is considered to be relevant to the assessment and determination of the application:

“The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvas evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

In the case if applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.”

Paragraph: 006 Reference ID: 17c-006-20140306
Revision Date: 06.03.2014

The application seeks a Certificate of Lawfulness for Existing Development which amounts (1) a garage (2) summerhouse (3) shed. The location of these three aspects with photographs are presented below:





Above (Left); Garage (Right):
Summerhouse and Shed

Left: Corrugated Roof on Garage

All three aspects of development are operational, and therefore is immune from enforcement action if it can be demonstrated that they have been in situ for 4 years before the date of the application, having regard to Section 171B of the Act 1990.

The Council hold historic satellite images from 2018 (below) which clearly shows that the timber outbuildings referred to as a Shed and Summerhouse were clearly in situ, which thus confirms beyond all doubt that these buildings are immune from enforcement action and are lawful.



The image above shows that the colour and shape of the grass south of the site is consistent with the outline of the garage as shown on the Site Plan. This image, taken together with the invoice for roofing materials that are consistent in material and colour with that used in the construction of the garage, satisfies the Council that this structure has been in situ in excess of 4 years and is therefore immune from enforcement action having regard to Section 171B of the Act 1990.

CONCLUSION / PLANNING BALANCE

Having regard to Section 171B and 191 of the Town and Country Planning Act 1990, and relevant guidance within the online Practice Practise Guidance (PPG), it is concluded that there is sufficient and satisfactory evidence when proves that the three structures which amount to operational development have been in situ since at least 2018, over 4 years from the date of the application.

All aspects are therefore immune from enforcement action having regard to Section 171B of the Act and amount to Lawful Development. As such, it is recommended that a Certificate be granted.

OFFICER RECOMMENDATION : Grant Certificate

Case Officer: James Stannard

Recommendation Date: 20th April 2023

X 

Signed by: Ben Haywood

On behalf of High Peak Borough Council