

Supporting Statement

June 2023

Windy Walls Farm, Ashbourne Lane, Chapel en le Frith High Peak SK23 9UF

- **Applicant**
Bill Stevenson
- **Planning Authority**
High Peak Borough Council
- **Proposal**
Certificate of Lawful Existing Use or Development to establish that the lawful use of the land outlined in red is incidental domestic use/residential garden land use and that the lawful use of the stone outbuilding is incidental domestic use
- **Location**
Windy Walls Farm, Ashbourne Lane, Chapel en le Frith High Peak SK23 9UF
- **Agent**
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SJ Design Limited (Chartered Building Surveyors)
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High Peak
SK22 2JE

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1.00 Background

This application seeks approval for a Certificate of Lawful Existing Use or Development to establish that the lawful use of the land outlined in red on the submitted location plan drawing number '300 - Location Plan' is incidental domestic use/residential garden land use and that the lawful use of the stone outbuilding within the application site is incidental domestic use.

This application follows a previously approved application, HPK/2022/0510, for the 'APPROVAL TO ISSUE CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT'. HPK/2022/0510 approval states (shown in italics):

'High Peak Borough Council hereby approves to certify that on 07/11/2022; the Use and operational development specified in the First Schedule taking place on the land specified in the Second Schedule and edged black on the plan attached to this certificate, was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

1. The development / use as described has been in existence for the time periods as described in the First Schedule having regard to the documentary evidence submitted by the applicant, and aerial satellite imagery held by the Local Planning Authority dating from 2011.

FIRST SCHEDULE

The land boundary as defined within the Second Schedule by a black line containing:

- 1. A single storey structure referred to as a 'Summerhouse' (yellow area) amounts to operational development which has been present on the land for a period of more than 4 years.*
- 2. Raised timber decked area containing a hot tub (green area) amounts to operational development which has been present on the land for a period of more than 4 years.*
- 3. A conservatory/potting shed on the north-western elevation of the stone outbuilding (red area), amounts to lawful operational development which has been present on the land for a period of more than 4 years.*
- 4. The area of grass land to the front and side (peach area), area of grass land to the rear (blue area), and patio and gravel area to the rear (purple area) of the main dwellinghouse known as Windy Walls Farm, is in use for purposes incidental to the enjoyment of the main dwellinghouse on site, which is based on the evidence that the use has been undertaken on the land for more than 10 years.*

SECOND SCHEDULE

Windy Walls Farm Ashbourne Lane Chapel-En-Le-Frith Derbyshire SK23 9UF'

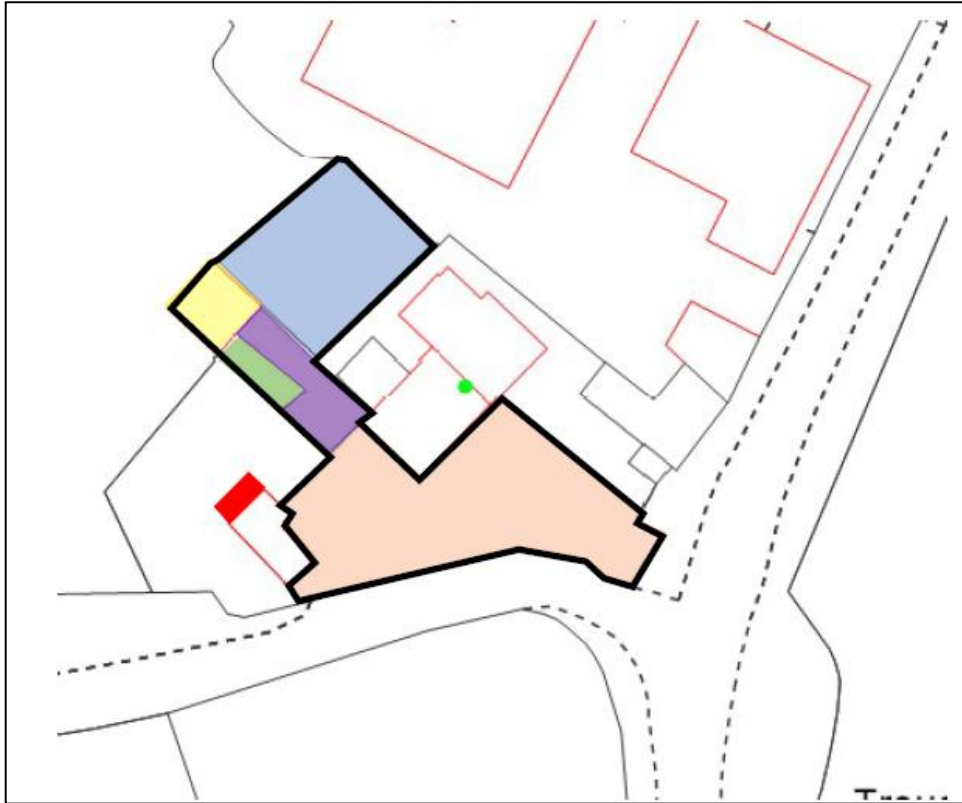


Figure 1: Extract from HPK/2022/0510 showing the SECOND SCHEDULE

Figure 2 shows an extract of the original location plan, drawing '100 - Location Plan' submitted with HPK/2022/0510.

Figure 3 shows an extract of the revised location plan, drawing '100 - Location Plan' submitted during HPK/2022/0510 prior to approval.

What is clear from comparing Figures 2 and 3 is that the extent of the site edged red was reduced prior to determination of HK/2022/0510. What is also clear from comparing Figures 3 and 1 is that the extent of Schedule 2 (the 'approved site') was again reduced prior to determination of HK/2022/0510

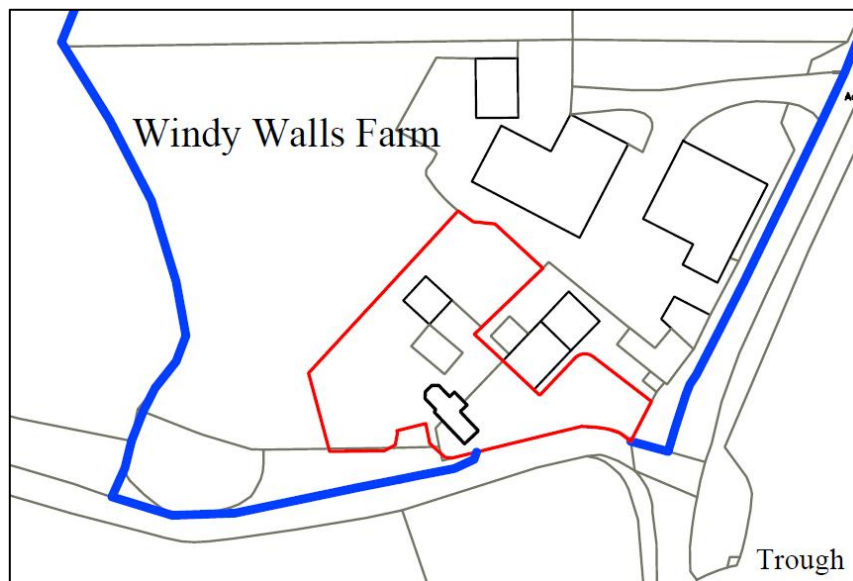


Figure 2: Extract from the original location plan submitted with HPK/2022/0510

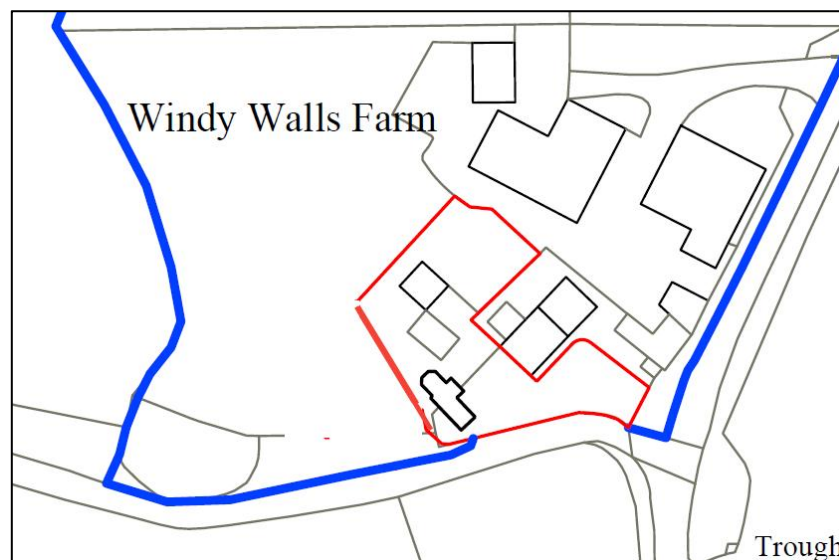


Figure 3: Extract from the revised location plan submitted during HPK/2022/0510

Figure 4 shows an extract from '300 - Location Plan' which is the site edged red boundary of this application.

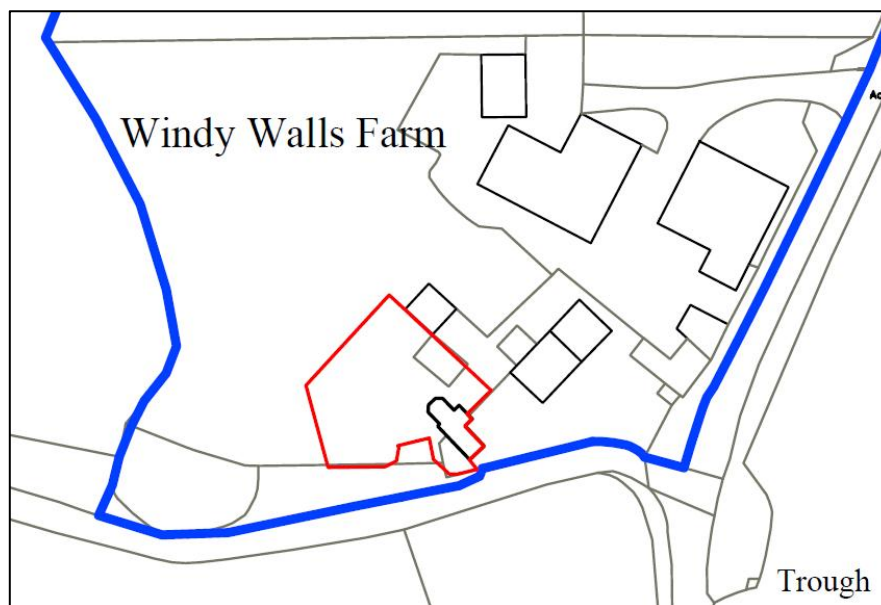


Figure 4: Extract from the current location plan drawing 300.

Figure 5 shows an extract from '302 - Block Plan with Schedule 2 Overlay', submitted with this application, which is the site edged red boundary of this application in relation to the approved HPK/2022/0510. The full extent of the 'Raised Timber Decking Area' (Item 2 of The First Schedule shaded green) and 'The Conservatory' (Item 3 of The First Schedule shaded red) have not been correctly/fully included in the HPK/2022/0510 'approval'. For completeness, a photograph of the raised decking area and timber shed, taken on the 08.06.2023 has been submitted with this application.

Also, the domestic oil tank (circled orange) and the adjacent land between this and 'Raised Timber Decking Area' have not been included in the HPK/2022/0510 'approval' despite clearly being part of incidental domestic use/residential garden land use. Figure 6 shows a photograph of this area taken 08.06.2023.

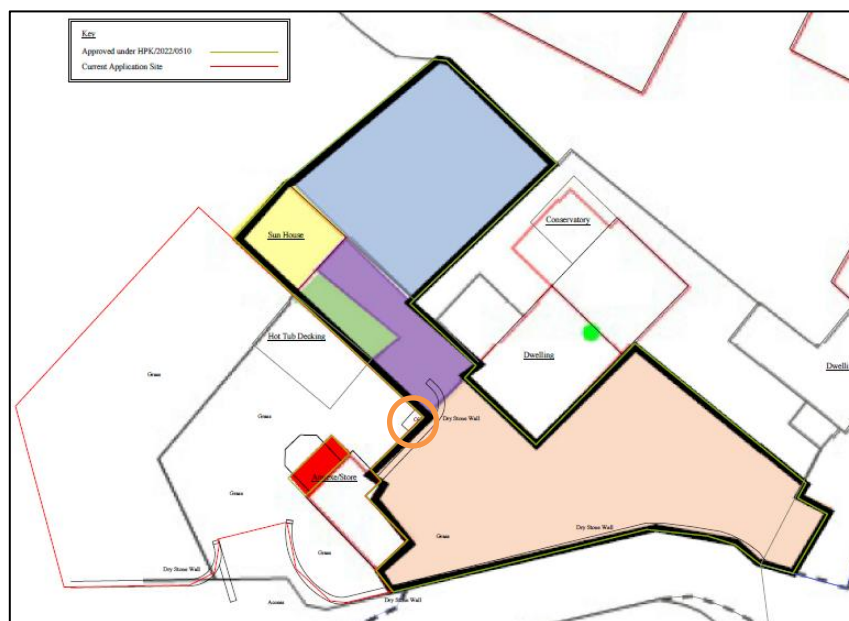


Figure 5: Extract from the current block plan drawing 302 with Schedule 2 Overlay.



Figure 6: Oil Tank circled orange

2.00 Context

The application site consists of garden land and buildings at the dwelling known as Windy Walls Farm.

The land outlined in blue and red on the submitted '300 - Location Plan' was purchased by the applicants in 1983 and has not been used for any agricultural purpose or non-domestic purpose since that time, including the land and outbuilding to which this application relates. The applicants offered the following statement on 23/03/2023:

'In 1988 William Stevenson started a business in the farm buildings called 'Stevenson Stone' manufacturing a special form of pre-cast concrete products for the Garden Industry, moving on to Cast memorials employing one member of staff.

In 1990 Bill started 'Granart Memorials' importing Granite from India and China with the company expanding wife Janice joined the company in 1991. Son Oliver joined the company from College in 1998, a year later Son Mark also joined Granart.

Additional buildings were added later for manufacturing and offices. All the buildings have been utilised for the manufacturing including two shipping containers and now we are looking to expand the main workshop. Granart now currently employ 7 members of staff and cover the UK from Aberdeen to Truro.

The living accommodation and the building in question have not been used for the manufacturing and as already pointed out no animals have been kept for at least 30 years.'

The land edged red on the submitted location plan, which includes the stone outbuilding, has been used continuously for incidental domestic purposes/residential garden uses by the occupiers of Windy Walls since at least 2009 and including the last 10 years.

This has included, and continues to include many domestic activities as follows:

- general sitting out and tending the garden
- children playing (the applicants children and now their grandchildren)
- putting out washing
- space for domestic pets
- family get togethers, BBQs etc..
- use of the decked area for sitting, relaxing, eating etc..
- Storage of fuel tanks which serve the dwellings

The stone outbuilding is of a domestic scale, but it is not precisely known what its original use was. It did contain an outside 'dirt' toilet when purchased by the

applicants (the basis of which still exists), which strongly suggests an original ancillary domestic use rather than any agricultural use.

When the applicants' children were young they used the outbuilding as a play space (den) in addition to it also be used for the ongoing storage of domestic items. The applicants added a conservatory to the outbuilding's north-western elevation in the late 1980's/early 1990s with an opening through into the outbuilding to provide additional play and storage space. The conservatory was approved as lawful under HPK/2022/0510. For completeness, a photograph of the conservatory and outbuilding, both containing domestic paraphernalia, taken on the 08.06.2023, has been submitted with this application.

From the early 1990's up to the present day the outbuilding and conservatory as a whole have been used continually for domestic storage purposes (as a domestic storage shed). The domestic storage use continues, as evidenced in the submitted Statutory Declaration and the photograph dated 08.06.23.

HPK/2022/0510 approved the grassed (tended lawn) areas to the front and side of the dwelling (shaded peach, purple and blue in Figure 5 above) on the basis of 'evidence' that the 'use' has been undertaken on the land for more than 10 years. However, the grassed area to the southwest of the dwelling (adjacent the hot tub decking, oil tanks and outhouse) was not deemed to be incidental to the enjoyment of Windy Walls Farm, despite this area also being evidenced within the Statutory Declaration. For completeness, 3 photographs of the red edge area taken on the 08.06.2023 have been submitted with this application.

For clarity, where a continuous 10-year incidental domestic use/garden use is claimed, case law and appeal decisions have established that 'continuous' does not require the land to be used for incidental domestic activity every day. The use only needs to be generally ongoing over the period.

3.00 Evidence

Statutory Declaration

The application includes a Statutory Declaration by the applicants/owners, which was completed under oath in a solicitor's office on 31st October 2022 and also submitted under HPK/2022/0510.

The Statutory Declaration confirms that the land outlined in red (on the Block Plan attached to the Statutory Declaration) have been owned by the applicants since 1983.

The Statutory Declaration confirms that the land and buildings have not been used for any agricultural use (or any non-domestic uses) since they took ownership in early 1983.

The Statutory Declaration confirms that the land outlined in red has been in continuous use for incidental domestic purposes as residential garden land by the applicants, their family and friends for the last 10 years (and for many years before), with the land use referred to as 'incidental domestic use/residential garden land use'.

The Statutory Declaration provides details of the uses to which the land and outbuilding have been continuously put over the relevant 10-year period and previously. This demonstrates the type and ongoing nature of the incidental domestic uses/residential garden land uses and their longevity, including continuously over the last 10 years.

The use of the conservatory was confirmed to be used as incidental domestic storage and play under the HPK/2022/0510 approval on the evidence provided in the Statutory Declaration. It would follow that the stone outhouse to which the conservatory was attached would also be used as incidental domestic storage and play on the same evidence provided in the Statutory Declaration.

HPK/2022/0510 approved the grassed (lawn) areas to the front and side of the dwelling (shaded peach, purple and blue in Figure 5 above) on the basis of evidence that the 'use' has been undertaken on the land for more than 10 years and as declared in the Statutory Declaration. The grassed area to the southwest of the dwelling (adjacent the hot tub decking, oil tanks and outhouse) was not deemed to be incidental to the enjoyment of Windy Walls Farm, despite this area also being evidenced within the Statutory Declaration.

Satellite Images

The following satellite images (Figures 7 to 11) show the outbuilding and 'lawn' area to the southwest which forms the red edged site outline of this application. What is clear from Figures 7 to 11, which date back from 2005 to 2022, is that the grassed area to the southwest, which forms the red edged site outline of this application, have been tended as lawns along with the areas to the northwest approved under HPK/2022/0510.



Figure 7: 2005 Satellite Image



Figure 8: 2017 Satellite Image



Lawn

Lawn

Outbuilding

Figure 9: 2018 Satellite Image

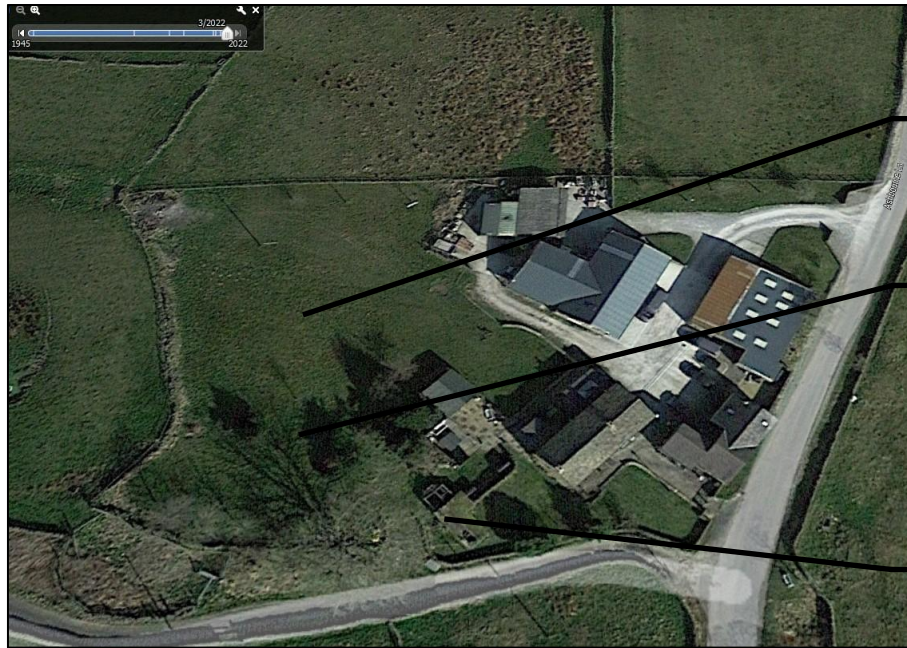


Lawn

Lawn

Outbuilding

Figure 10: 2020 Satellite Image



Lawn

Lawn

Outbuilding

Figure 11: 2022 Satellite Image

Present Day Photographs

The following photographs taken on 08.06.2023 have been submitted as evidence of continuous 10-year incidental domestic use/garden use with this application and are as follows:

- Conservatory and Outbuilding 08.06.23
- Timber decking 08.06.23
- Red edged area 08.06.23 (1)
- Red edged area 08.06.23 (2)
- Red edged area 08.06.23 (3)

4.00 Conclusions

The previous application, HPK/2022/0510, 'approved' the areas shown on the Second Schedule (See Figure 5 above) based on the evidence submitted which included the grassed areas shaded peach and blue on the Second Schedule.

The evidence submitted with this application should allow the LPA to conclude that, on the balance of probability, the use has been undertaken on the red edge land for a period of at least 10 years from submission of this application.