Application for Lawful Development : Existing Use
Ref : PP-12351404
Oakfields, 162 Manchester Road, Chapel en le Frith, High Peak SK23 9UH

SUPPORTING STATEMENT

This statement is in support an application for a Lawful Development Certificate for the 'Use of Land for Domestic Garden Purposes' at

Oakfields, 162 Manchester Road, Chapel en le Frith, High Peak, SK23 9UH

Location

The land to which this application relates is represented on the following plan.

Outlined in red is current extent of the original dwelling house and gardens. The house was constructed around 1935.

Outlined in blue is an area of land purchased by previous owners of the house in 1984. We understand this parcel of land is currently designated as agricultural land. This is the land in question.

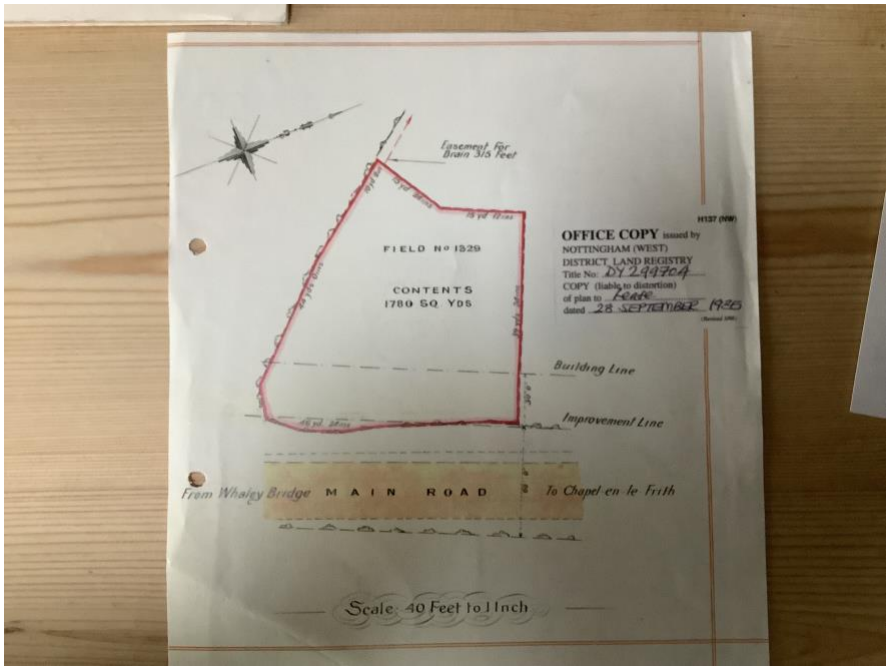
The title number of the combined pieces of land as held by HM Land Registry is DY299704. The applicant is the current owner.



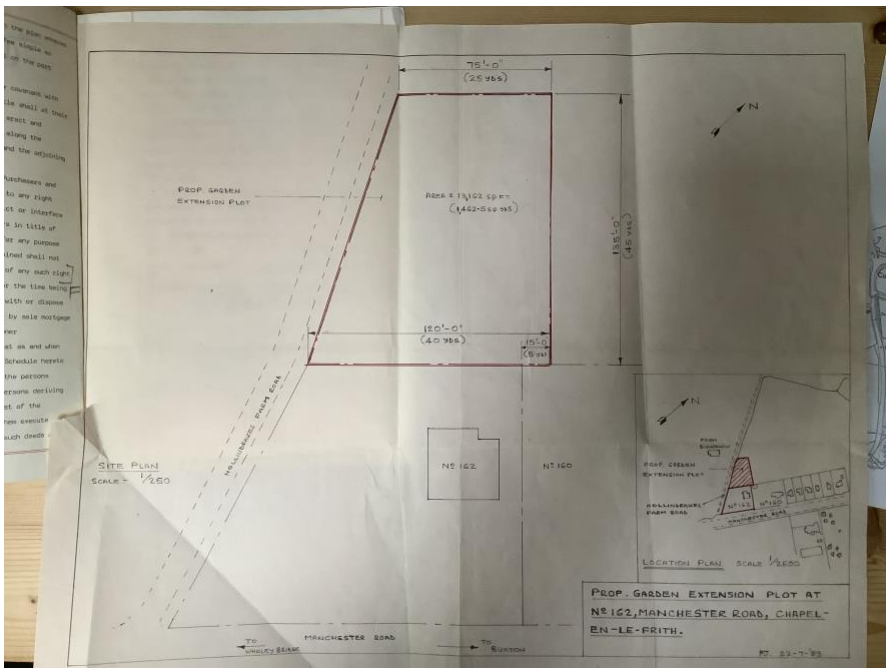
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History



The parcel of land marked red (in part) was sold as a building plot in 1935 and the current dwelling erected shortly after. The total parcel of land at the time amounted to 1488 square metres. It had previously been designated as field 1329.



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On 10th April 1984 the parcel of land marked in blue was sold as a 'garden extension plot' to the then owners of 162 Manchester Road. The piece of land amounts to 1223 square metres.



In September 2004 the applicants and current occupiers purchased both pieces of land as one. At the time both were being used as a combined garden by the previous occupiers. This situation has continued until the present. Title number DY299704 relates.

In October 2004 a portion of land to the South West of the plot was sold as a separate plot which led to the erection of 164 Manchester Road. Title number DY383006.

In April 2014 a further small parcel of land was sold and became part of 164 Manchester Road. Title DY483891 relates.

The current occupiers of 164 Manchester Road successfully applied to have the whole of their land (titles DY383006 and 483891) designated as domestic. A certificate of lawfulness was granted on 21st January 2021. HPK/2020/0514 refers.

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Our Case

The inclusion of farmland into a domestic garden represents a material change of use from agriculture. It has been the consistent practice of planning inspectors to apply the ten year rule. We request that this is applied in this case.

The land marked in blue has been part of the dwellings garden land from at the latest 2004. Likely much earlier.

This assertion can be supported from a variety of sources.

Independant aerial Photography



Google Pro Historic Aerial Photo – 2005

This shows the land being used as a garden in 2005. There are children's play facilities on the land close to the Eastern boundary. There is no demarcation between the two pieces of land. There is no evidence of the land having been fenced or divided off. It was being used as one garden.

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Google Earth Historic Aerial Photo - 2017

This shows a decking area has been constructed in the South East corner and to the North of the detached garage belonging to 160 Manchester Road. Such features are recreational and show use as a garden. The ground is cut to lawn and no fences exist to distinguish different areas of land. Development has taken place on the adjoining land of 164 Manchester Road where a permanent shelter containing a hot tub has been constructed.

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Google Earth Aerial Photo – 2023

Current aerial photography shows how the land has over the years developed further into a garden. It has had,

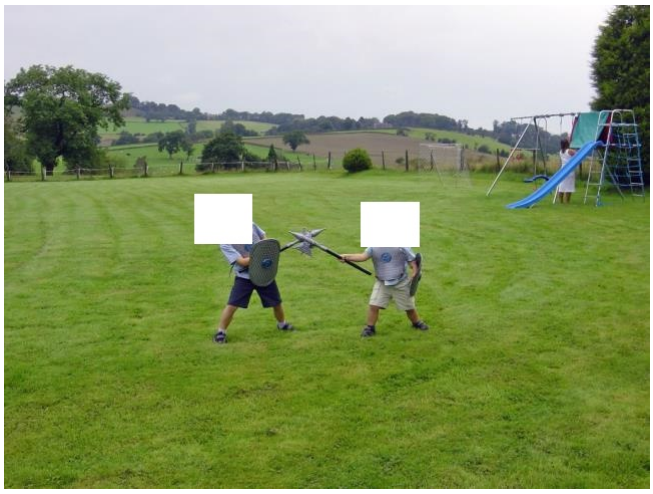
- Fruit and ornamental trees planted some of which are now mature. Note the large willow trees x 3 along the Eastern edge.
- From 2006 - An allotment area created to the North West of the land.
- From 2007 - A poultry area and coop created in the North East of the land.
- A shed and a greenhouse erected around 2009. This is in the Northern portion of the land.
- A large decking area built in 2013 to the South East of the land and lying North of the garage of 160 Manchester Road.
- Mature borders are present between 162 and 164 also along the Western boundary.

These are all activities consistent with the land being used as a garden over many years.

SUPPORTING STATEMENT

Applicants Photographs

Numerous items of photographic evidence exist showing the land being used as a garden over approaching 20 years. Whilst the number of photographs are too numerous to include a selection have been included that provide provenance through surrounding views and the ages of children growing.



July 2004 – Children playing where the whole area is cut to lawn. Substantial play equipment is present. There is no fencing separating the two areas.



June 2005 – Children's play equipment present and the land cut to lawn.

SUPPORTING STATEMENT



June 2006 – the land is cut to lawn and still being used as a family garden. Note the start of an allotment in the area of the blue wheelbarrow behind the goal.

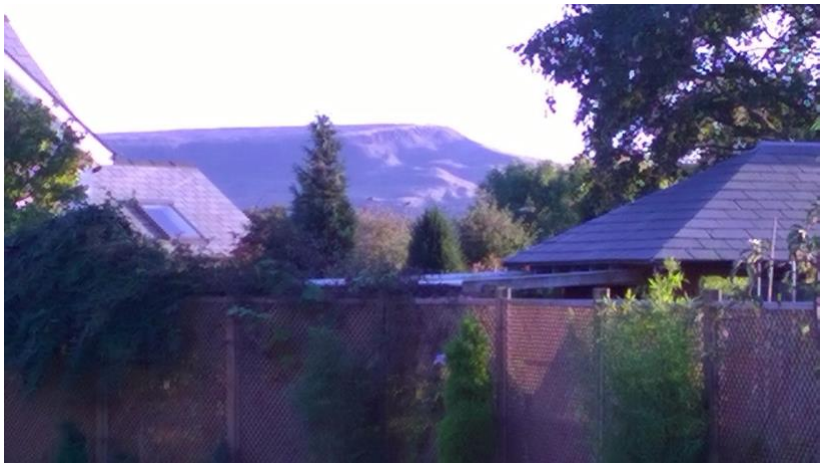


May 2012 – The allotment, poultry area and outbuildings have developed. Play equipment for children is still present. The start of a decking area can be seen in the foreground.

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June 2013 – A substantial deck / leisure area has been constructed.



SUPPORTING STATEMENT

August 2014 – Privacy fencing has been erected between the garden areas of 162 and 164 Manchester Road.



July 2021 – Garden in use.



July 2021 – Garden in use.

SUPPORTING STATEMENT



September 2021 – formal borders have grown along the boundary with 164 Manchester Road.



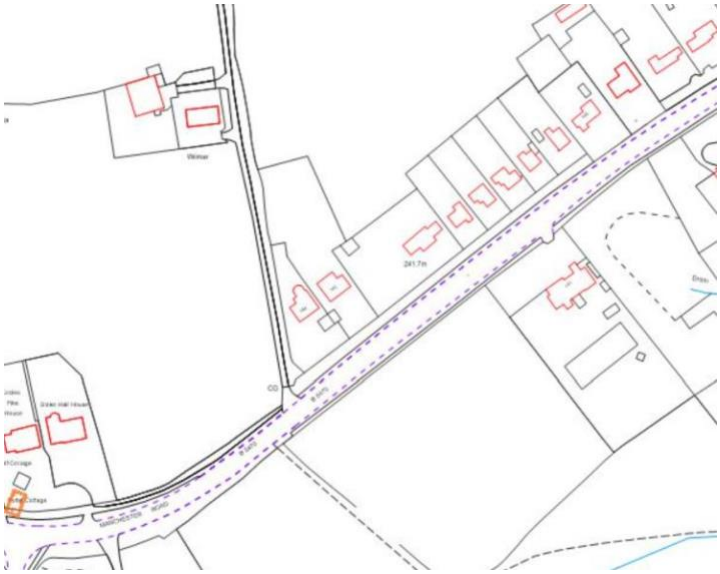
February 2022

Official Records

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High Peak Borough Council's interactive mapping system represents the outline of the site surrounding 162 Manchester Road to include the additional piece of land.



HM Land registry have treated the two areas of land as one under one title reference.

Conclusion

The material provided in support of our application for a Lawful Development Certificate demonstrates adequate evidence to conclude that the land to the rear of 162 Manchester Road has been in continuous domestic use as a garden since at least 2004 and likely much longer.

There is precedent set in terms of the approach taken with the approved application made by 164 Manchester Road in 2021.

We seek to determine the status of land belonging to us and invite the authority to apply the ten year rule in this case also.