

DELEGATED DECISION REPORT

HPK/2023/0417
Valid 25/09/2023

LAND EAST OF DISLEY
PAPER MILL WATERSIDE
ROAD
NEW MILLS

APPLICATION FOR LAWFUL
DEVELOPMENT CERTIFICATE
FOR A PROPOSED USE OR
DEVELOPMENT - FOR A
TEMPORARY COMPOUND

(CERTIFICATE OF
LAWFULNESS - PROPOSED)

MAIN ISSUES

- Whether the proposed temporary development complies with the parameters set out under Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

DESCRIPTION OF SITE

This application relates to a large greenfield site at Waterside on the north bank of the river Goyt with an access road connecting the main part of the site to Waterside Road (a non-classified road). The site is on the opposite side of the river to Disley Paper Mill which is within the neighbouring authority of Cheshire East.

PROPOSAL

The application seeks a Certificate of Lawful Development, submitted under Section 192 of the Town and Country Planning Act 1990, as amended, for the creation of a temporary construction compound with associated buildings, structures, works, access road and a temporary bridge across the river Goyt linking the compound to the Disley Paper Mill site.

Disley Paper Mill has been granted planning permission by the neighbouring authority Cheshire East under Application Ref: 11/4110M for the redevelopment of the site.

The application seeks confirmation that the proposals for a temporary construction compound, located on the opposite side of the River Goyt to the Disley Paper Mill, and within the High Peak Borough Council authority boundary, by virtue of Schedule 2, Part 4, Class A of the Town and Country (General Permitted Development) (England) Order 2015.

OFFICER COMMENTS

Whether the proposed temporary development complies with the parameters set out under Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

This application for a lawful development certificate should be assessed against Class A, Part 4, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Schedule 2, Part 4 of the GPDO relates to 'Temporary buildings and structures' and permits the following:

- A. *The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.* (My Emphasis)

The application follows a previous application for a Certificate of Lawful Development for a similar temporary compound that was refused under HPK/2019/0226 on 24th May 2019.

The reason for refusing this Certificate was as follows:

1. *The proposed development does not benefit from permitted development rights under Part 4, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended as the proposed temporary buildings and structures required in connection with the construction of the development at the Disley Paper Mill would not be situated on land adjoining that site. As such, the proposed development requires planning permission.*

As referenced within the applicants supporting Planning Statement, the determination of this previous application amounted to the correct or otherwise interpretation of the word 'adjoin'.

The supporting Planning Statement is supported by a legal opinion by Mr Anthony Gill of counsel on the interpretation of the word 'adjoin' and how the Local Planning Authority did so under HPK/2019/0226 at Appendix B, with referenced case law set out in full at Appendix C.

This represents new information that was not available to the Council at the time that the previous Certificate application was determined and has been carefully considered.

The caselaw that is now available to the Council makes clear that, to quote Corbett v Cornwall Council "The words "immediately adjoining" do not require an elaborate explanation. They should not be given an unduly prescriptive meaning. There is a

degree of flexibility in them. They do not necessarily mean “contiguous” or “coterminous” or “next to” or “very near”. They allow the decision-maker to judge, on the facts, whether the site and proposed development can be regarded as sufficiently close to the settlement in question to be “immediately adjoining” it....” The court also held that the effect of features creating a space between two pieces of land (in that case it was a road) must be a matter of judgement.

Other caselaw presented to the Council by the applicant are consistent with this judgement.

Accordingly whether a site adjoins another is a matter of planning judgement.

The site subject of this application is owned by the applicant, and is separated from the existing Paper Mill – the site of redevelopment that would be facilitated by this temporary construction – by the River Goyt, defined by rows of trees either side. As stated within the supporting Planning Statement the rights of Common Law meet in the middle of the river. The two sites would clearly be read in context with each other when viewed from the southern slopes of the Goyt valley.

It is judged that when applying a broader interpretation of the word adjoin, that the site, albeit separated by the River Goyt, does in fact adjoin the site subject of development, and thus the temporary development is lawful under Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

For the reasons set out above, it is recommended that the Certificate be granted.

OFFICER RECOMMENDATION : Approve

Case Officer: James Stannard

Recommendation Date: 13th December 2023

X 

Signed by: Ben Haywood

On behalf of High Peak Borough Council