



High Peak Borough Council

working for our community

Application for a Lawful Development Certificate for a Proposed Use or Development

Town and Country Planning Act 1990 (as amended)

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Site Location

Disclaimer: We can only make recommendations based on the answers given in the questions.

If you cannot provide a postcode, the description of site location must be completed. Please provide the most accurate site description you can, to help locate the site - for example "field to the North of the Post Office".

Number

Suffix

Property Name

Address Line 1

Address Line 2

Address Line 3

Town/city

Postcode

Description of site location must be completed if postcode is not known:

Easting (x) Northing (y)

Description

Applicant Details

Name/Company

Title

Mr

First name

David

Surname

Phillips

Company Name

Address

Address line 1

Heartsease Laneside Road

Address line 2

Address line 3

Town/City

New Mills

County

Derbyshire

Country

United Kingdom

Postcode

SK22 4LU

Are you an agent acting on behalf of the applicant?

- ☒ Yes
- ☐ No

Contact Details

Primary number

***** REDACTED *****

Secondary number

Fax number

Email address

Agent Details

Name/Company

Title

First name

Surname

Company Name

Address

Address line 1

Address line 2

Address line 3

Town/City

County

Country

Postcode

Contact Details

Primary number

***** REDACTED *****

Secondary number

Fax number

Email address

***** REDACTED *****

Description of Proposal

Does the proposal consist of, or include, the carrying out of building or other operations?

- ☐ Yes
- ☒ No

Does the proposal consist of, or include, a change of use of the land or building(s)?

- ☐ Yes
- ☒ No

Has the proposal been started?

- ☒ Yes
- ☐ No

Grounds for Application

Information about the existing use(s)

Please explain why you consider the existing or last use of the land is lawful, or why you consider that any existing buildings, which it is proposed to alter or extend are lawful

I applied for planning permission (ref HPK_2011_0313 – 110830) to build a new detached house in our side garden in June 2011 and full permission was granted in January 2012.

We were advised that before works could start we should clearly separate our garden from our house and reduce the height of the roadside drystone wall in order to achieve the visibility splay required as a condition precedent to the build.

Our wall was very high so we first of all reduced it as specified and used the stone to demarcate our side garden from the house with a new drystone wall then moved on to the adjacent section of much lower field-stone wall which the owners, our neighbours across the road, had previously given us verbal permission to do. Shortly after we finished, they changed their mind leaving us unable to comply with the condition precedent so our agent undertook an appeal.

Our appeal was dismissed so we were unable to build the house. I was informally advised that there was little else we could do at the time but perhaps try again in the future and at least the outline planning permission would stand in perpetuity because we had commenced demolition of our wall and the building of a new wall to demarcate the garden building plot from the house.

We did not try again, and the disappointment, stress and financial loss of this episode was a factor in my early retirement a couple of years later.

Nearly a decade on we have now decided to finally sell up and move so I would very much appreciate your confirmation that the 'outline planning permission in perpetuity' is in force for others after us to pursue what would be a wonderful house in an exceptional location.

Pursuant to the Planning Approval, the pertinent conditions for this application for a Lawful Development Certificate are conditions 1 and 5.

Condition 1; "The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is later." Condition 1 has been met as development started within the specified time period.

Condition 5; "Before any other operations are commenced a new vehicular and pedestrian access shall be created to Laneside Road in accordance with the application drawings, laid out, constructed and provided with 2.4m x 43m visibility splays in either direction, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level." A material operation and beginning of development works has been met in accordance with s56(2) TCPA 1990.

The grounds for this application are that Condition 1 has been fulfilled (via commencement of the works associated with Condition 5). Therefore, the Outline Planning Approval is in perpetuity.

Please list the supporting documentary evidence (such as a planning permission) which accompanies this application

1. HPK_2011_0313 - 110830 Decision Notice of Original Outline Planning Approval
2. Location Plan and Proposed Site Plan (showing works to boundary wall associated with Condition 5)
3. Site Plan and Wall Elevation (showing works to boundary wall associated with Condition 5)
4. Revised Site Plan associated with application HPK/2013/0082 to alter Condition 5 of the above outline planning approval
5. Refusal of the application to alter Condition 5
6. Appeal Decision Ref: APP/H1033/A/13/2199301 - dismissing the appeal to alter Condition 5
7. Photograph of the original boundary wall height
8. Photograph of the reduce height wall
9. Photograph of the section of the wall that was rebuilt by a neighbour following withdrawal of their permission to lower it
10. 2nr photographs of the rear garden boundary wall built to separate Heartsease 132 Laneside Road from the proposed new dwelling

Select the use class that relates to the existing or last use.

C3 - Dwellinghouses

Information about the proposed use(s)

Select the use class that relates to the proposed use.

C3 - Dwellinghouses

Is the proposed operation or use

- ☒ Permanent
☐ Temporary

Why do you consider that a Lawful Development Certificate should be granted for this proposal?

The works to create the new access to Laneside Road providing required visibility splays in either direction had commenced within the timelines stipulated in Condition 1 and in accordance with Condition 5. Therefore, the development is taken to have lawfully begun and the 'outline planning permission in perpetuity' is in force.

S56(4) TCPA 1990 states that "Development is taken to be begun on the earliest date on which a material operation is carried out". The works as further detailed were material and carried out with intention in accordance with the Planning Approval.

Given that the wording of Condition 5 states "Before any other operations are commenced", our interpretation is that these works constitute a material operation under s56(4):

- (a): "any works of construction in the course of the erection of a building".
- (aa) "any work of demolition of a building"
- (b) "the digging of a trench which is to contain the foundations, or part of the foundations, of a building"

Evidence that the works associated with Condition 5 were completed are:

- 1) Please see drawings titled 'Location Plan and Proposed Site Plan' and 'Site Plan and Wall Elevation' for details of the stone boundary wall that was to be lowered in order to create the required visibility splay.

The height of the wall needed to be reduced along three boundaries:

- the boundary of "Ashlea" Laneside Road
- the boundary of "Heartsease" 132 Laneside Road (the applicant's property)
- the boundary of the field nextdoor.

- 2) See attached photographs titled 'Boundary Wall 2009' 'Boundary Wall – reduced height' and 'Section of wall rebuilt'.

These photo's evidence that works in widening the driveway of "Heartsease" 132 Laneside Road and lowering the stone boundary wall have taken place. Also attached is two photos titled 'rear garden wall'. Part of the works involved in building the proposed new dwelling involved creating a garden boundary wall between "Heartsease" 132 Laneside Road and the new dwelling. This photo evidences construction of that wall as well (which was built from the stone obtained in lowering the main boundary wall and required trenched foundations).

- 3) Permission was obtained from two neighbours to lower the wall at their boundaries. Subsequently, one neighbour withdrew their permission to lower their section of wall and had it rebuilt.

Further evidence that Condition 1 has been met can be provided via the 'LPA Statement of Case' which you submitted to the appeal inspector ref. APP/H1033/A/2199301. Section 5.4 of this reads:

'5.4 The Authority believes to the best of its knowledge there is a neighbour dispute and although works to the stone boundary wall were started these have since ceased and the wall has been rebuilt and any consent which was given by the owners of this land has now been withdrawn. This is also apparent from the nature of comments received from the neighbour consultation.'

The date of this Statement is within three years of outline planning.

Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

- ☒ Yes
☐ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact?

- ☒ The agent
- ☐ The applicant
- ☐ Other person

Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

- ☐ Yes
- ☒ No

Authority Employee/Member

With respect to the Authority, is the applicant and/or agent one of the following:

- (a) a member of staff
- (b) an elected member
- (c) related to a member of staff
- (d) related to an elected member

It is an important principle of decision-making that the process is open and transparent.

For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the Local Planning Authority.

Do any of the above statements apply?

- ☐ Yes
- ☒ No

Interest in the Land

Please state the applicant's interest in the land

- ☒ Owner
- ☐ Lessee
- ☐ Occupier
- ☐ Other

Declaration

I/We hereby apply for Lawful development: Proposed use as described in the questions answered, details provided, and the accompanying plans/drawings and additional information.

I/We confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

I/We also accept that, in accordance with the Planning Portal's terms and conditions:

- Once submitted, this information will be made available to the Local Planning Authority and, once validated by them, be published as part of a public register and on the authority's website;
- Our system will automatically generate and send you emails in regard to the submission of this application.

☒ I / We agree to the outlined declaration

Signed

Niall Phillips

Date

06/03/2024