

Our Ref: WG/KN0064/22

17 October 2024

Planning Department
High Peak Borough Council
Buxton Town Hall
Market Place
Buxton
Derbyshire
SK17 6EL

via the Planning Portal

Dear Sir/Madam,

**Application for Retrospective Full Planning Permission
22 Spinnerbottom, Birch Vale, High Peak, SK22 1BL
Planning Portal Reference: PP-13469296**

We are instructed by Mr W. Harrison, of 22 Spinnerbottom, to submit this application for Full Planning Permission. This application follows the dismissal of Appeal Ref. APP/H1033/X/23/3327762 in June 2024, which related to a Certificate of Lawfulness of Existing Use or Development. Specifically, this application proposes the following:

“Retrospective planning permission for the erection of 2 no. outbuildings”

The application has been submitted via the Planning Portal and alongside the application form, comprises the following:

- Application Form
- Drawing No: 100 – Location Plan
- Drawing No: 101 – Site Plan
- Drawing No: 102 – Buildings A and B
- Covering Letter
- Appendix Document

Introduction

This application for retrospective planning permission follows the dismissal of Appeal ref. APP/H1033/X/23/3327762 on 19th June 2024, which appealed the refusal of a Certificate of Lawfulness for Existing Use or Development. Said Certificate was sought in relation to the erection of two



outbuildings within residential curtilage under Householder Permitted Development Rights as established by the General Permitted Development Order 2015. This appeal was dismissed as it was not considered by the Inspector that the outbuildings were situated on land which was considered to be 'residential curtilage'. Therefore, as it is located outwith the 'residential curtilage' this portion of land was considered to not be in receipt of Householder Permitted Development Rights.

Prior to the partial construction of these 2 no. outbuildings, there existed 5 no. outbuildings on site forming garage and storage spaces. These buildings were associated with the terraced row of 4 houses along Spinnerbottom to which No. 22 belongs. The applicant purchased the land associated and the buildings over a number of years from 2000 onwards and used them for his own purposes. In 2015 he started to demolish the outbuildings and structures in a piecemeal fashion. Reference to these structures is found within the Appeal Decision (Appendix 1), where the Inspector concluded at paragraph 32 that *'it is evident that the land has been previously developed and that the outbuildings have replaced the former dilapidated garages and any other structures'*, also confirming at paragraph 31 that *'In terms of area, massing, and volume it also seems that the two new buildings are smaller overall than the previous buildings on the land'*. This is agreed by the applicant and as such forms the basis of the planning argument for this application.

Notwithstanding the above, it has also been established by virtue of a previous Certificate of Lawfulness issued in March 2022 that the application site was considered to be the following:

'Existing use for purposes of horticulture or as a 'garden' to the extent that it is limited to the cultivation, planting or growing of grass, trees, seeds, vegetables, fruit, plants, shrubs, bushes or flowers; and the tending to and enjoyment of such land by persons who have a private right to access and enter the land)'enjoyment' in these respects includes sitting, walking, roaming, running and play that does not involve the use of installed or fixed apparatus or equipment'.

Therefore, this concludes that the land in question is considered to be associated with No. 22 Spinnerbottom.

As the application site is not considered to be residential curtilage, this application subsequently seeks retrospective planning permission for the erection of the 2 no. outbuildings upon the land associated with No. 22 Spinnerbottom.

Planning History

The table below highlights the relevant planning history associated with the site. Details regarding the recent Certificate of Lawfulness Refusal and Appeal Decision are visible above. The Appeal Decision is located within Appendix 1.

Application Ref.	Description of Development	Outcome
HPK/2003/0263	Construction of two-storey extension comprising of new bathroom, living area, kitchen and utility.	Granted 07/05/2003



Application Ref.	Description of Development	Outcome
HPK/2021/0720	Existing use for the purposes of horticulture or as a 'garden' to the extent that it is limited to the cultivation, planting or growing of grass, trees, seeds, vegetables, fruit, plants, shrubs, bushes or flowers; and the tending to and enjoyment of such land by persons who have a private right to access and enter the land ('enjoyment' in these respects including sitting, walking, roaming, running and play that does not involve the use of installed or fixed apparatus or equipment')	Granted 01/03/2022
HPK/2022/0308	Certificate of lawfulness for an existing 2 garden outbuildings	Refused 21/02/2023 Dismissed at Appeal 6/6/2024

Site Context

The land subject of the application is owned by the applicant and is associated with No. 22 Spinnerbottom. By virtue of HPK/2021/0720 this land has been formally recognised as garden space associated with No. 22. It lies immediately to the west and south-west of No. 22, at a lower ground level to Spinnerbottom. The land falls steeply to the rear, with the highest ground level being adjacent to the boundary wall separating the applicant's land from the public highway along Spinnerbottom.

Adjacent to this land is a shared surface to the rear known as 'Back Spinnerbottom' which serves the rear of the terraced houses, accessed from a shared access, and serves as allotments/patio areas/informal parking spaces for these properties. This is a private track and access. The allotments/garden spaces and vegetation provide a varied experience along Back Spinnerbottom and very much represents a developed site.

Until 2015 the application site featured 5 no. outbuildings to the south/south-west of the site, of varied construction. These outbuildings represented a key aspect of the appearance of the site. They have since been demolished but their previous footing and relationship is identifiable on site.

Mature vegetation exists along the boundary wall between Spinnerbottom and the application site, effectively shielding the application site from view from the perspective of the public highway.

No. 22 Spinnerbottom and the application site fall within the Green Belt as designated in the Central Sub-Area on the adopted Local Plan Policies Map.

Proposed Development

The proposed development seeks full planning permission respectively, for the erection of 2 no. outbuildings within the land associated with 22 Spinnerbottom.

The 2 no. outbuildings will be known as Building A and Building B for the purposes of clarity. This is reflective of the submitted site plan. Building A was partially constructed in between 2019 and 2021



and Building B was fully constructed in 2021. Both buildings are sited to the west of No. 22 Spinnerbottom within the applicant's land, with Building B closer to Spinnerbottom and Building A at a lower ground level toward the River Sett. These outbuildings replace the 5 no. poor quality outbuildings, which were concentrated toward the south-west of the site, as demonstrated by Appendix 2.

The completion of the works has ceased following an initial investigation from the High Peak Borough Council Enforcement Team, where the applicant was advised to stop work and seek regularisation in relation to the structures. The process of which is visible above and culminates in the submission of this application.

Both outbuildings will be utilised as ancillary spaces associated with 22 Spinnerbottom, for the incidental enjoyment of the applicant. Specifically, these spaces are to be used as 'hobby' spaces.

Building A, as partly constructed, will be finished in timber with a rubber roof cover. It will have a total dimension of 6.79m (w) x 6.2m (l) and will be 2.95m at its highest point.

Building B, as full constructed is finished as follows. The walls are a timber clad/corrugated metal sheets with timber framing, with the roof being corrugated metal sheets. It has a total dimension of 5.78m (w) x 3.85 (l) and is 2.81m in height.

Planning Policy and Legal Context

National Planning Policy Framework 2023

The National Planning Policy Framework (NPPF) 2023 establishes in Paragraph 11 that there is a presumption in favour of sustainable development.

Paragraph 142 states that the fundamental aim of Green Belt Policy is to prevent urban sprawl. It further states that the essential characteristics of the Green Belt is its openness and permanence.

Paragraph 152 states that inappropriate development is by definition, harmful to the Green belt and should not be approved except in very special circumstances. This is supplemented by Paragraph 154 which states that the Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt. However, this paragraph establishes in sub paragraph (g), an exception to this rule, in the partial redevelopment of previously developed land provided that- it does not have a greater impact on the openness of the Green Belt than the existing development.

High Peak Local Plan 2016

The Development Plan consists of the High Peak Borough Local Plan 2016 and is supported by relevant supplementary planning documents (SPDs). There are a number of relevant policies to the proposals.

Policy S1a 'Presumption in Favour of Sustainable Development' reflects the aims and achievements of the NPPF in relation to Sustainable Development.



Policy S6 'Central Sub-Area Strategy' refers to the promotion of sustainable growth of the Central Area such that it reflects the historic character of the settlements. This policy also aims to protect designated Green Belt.

Policy EQ3 'Rural Development' relates to development outside of settlement boundaries, inclusive of Green Belt. It states that new development will be strictly controlled to protect the landscape's character and distinctiveness. It aims to achieve this by:

- Supporting the redevelopment of a previously developed site
- Extensions to existing dwellings provided they are subsidiary to the building and do not have an adverse impact on the character of the landscape.

Policy EQ4 'Green Belt Development' states that the Council will seek to protect the Green Belt and maintain its openness and permanence. There will be no planning permission granted unless in accordance with national planning policy.

Policy EQ6 'Design and Place Making' states that all development should be well designed and of a high quality that response positively to both its environment and the challenge of climate change. This will be achieved by requiring development to be well designed to respect character, identity and context alongside maintaining a good standard of amenity. This will require development to respond positively to an area's character, history and identity in terms of scale, height, density and layout.

Assessment

Principle of Development

The NPPF 2023 and Policy S1a of the High Peak Local Plan Strategy present a presumption in favour of sustainable development, which provides support for the proposed development.

However, given the position of the application site falling within designated Green Belt, it is necessary for the application to be assessed under the relevant policies. Paragraph 142 states that the fundamental aim of Green Belt policy is to prevent urban sprawl. It further states that the essential characteristics of the Green Belt is its openness and permanence. The NPPF states in paragraph 152 that 'inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This is supplemented by paragraph 154 which states that a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt, unless the development falls into certain exception categories. This is supported by Local Plan Policy EQ4 'Green Belt Development'.

Paragraph 154 (g) establishes that one exception to the 'inappropriate development' test is the '*partial redevelopment of previously developed land (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt than the existing development*'. The development meets this exception and constitutes appropriate development within the Green Belt, as is explained below.



Furthermore, Policy EQ3 'Rural Development' establishes that development outside of settlement boundaries will be strictly controlled to protect the landscape's character and distinctiveness, through supporting the redevelopment of a previously developed site and approving extensions to the existing dwelling provided they are subsidiary to the building and do not have an adverse impact on the character of the landscape.

Previously Developed Land

Prior to the construction of outbuildings A and B, there existed 5 no. single storey outbuildings. These outbuildings were located to the south-west of the residential properties and were historically associated with the terraced properties along Spinnerbottom. Appendix 2 highlights the existence of said outbuildings on a map dated 1968 and Appendix 3 features historic photographs taken by the applicant of said outbuildings. Similarly, these outbuildings are clearly visible and in situ in historic satellite imagery provided by Google Earth (C) Google 2024, shown in Appendix 4.

The location and number of outbuildings in this location is consistent throughout the evidence provided and confirms that these buildings were not of temporary but permanent construction and formed a key characteristic of the site and its landscape for a period in excess of 50 years. Indeed, within the recent Appeal Decision (ref. APP/H1033/X/23/3327762) the Inspector confirms in Paragraph 32 that they considered that the land has evidently '*been previously developed and that the outbuildings have replaced the former dilapidated garages and other structures*'.

It is therefore clear that the site constitutes previously developed land in relation to the demolished 5 no. outbuildings. As the 2 no. outbuildings constitute the partial redevelopment of previously developed land, the proposal is eligible to be assessed against the openness test required by paragraph 154(g). If the conclusion of the test is that there is no greater impact on the openness of the Green Belt than the previous buildings on the site, then the application proposals will fall into the category of 'appropriate development'.

Impact upon Openness

It is a well-established principle that the concept of 'openness' in planning represents not only a spatial dimension, but a visual dimension, referencing the leading court cases of Turner [2016]¹. Also that change in itself does not equate greater impact to openness within Euro Garages [2018]². Paragraph 154 (g) establishes that upon previously developed land, it is necessary to demonstrate that there will be no greater impact to the openness than the existing development. This test is evaluated below, taking into account both spatial and visual elements.

Noting the judgement issued within Euro Garages [2018], the concentration of the built form of the existing garages and the repositioning into proposed 2no. outbuildings does not in itself create a

¹ Turner v SSCLG [2016] EWCA Civ 466

² Euro Garages Ltd v SSCLG [2018] EWHC 1753



greater impact to openness; an assessment of harm from the change must be undertaken, as is done below.

In spatial terms, the replacement outbuildings are small in scale, being single storey with flat/shallow pitch roofs and modest dimensions. The outbuildings together represent a similar form and massing to the original 5 no. outbuildings if combined, albeit now in the concentrated form of two structures. Building A is sited directly on the former footprint of 3 of the historic outbuildings (shown by Appendix 2), whilst Building B is sited toward the boundary wall along Spinnerbottom. It was well acknowledged within the Inspector's Decision at paragraph 31 that *'In terms of area, massing and volume the two new buildings are smaller overall than the previous buildings on the land'*.

On a spatial dimension, the 2 no. outbuildings provide no greater impact on the openness of the Green Belt in this location, noting that the collective scale of historic outbuildings on site and the similar dimensions shown in replacement outbuildings. No harm to the openness of the Green Belt will be experienced in spatial terms by the concentration of the built form into the 2 no. outbuildings alongside the position of such buildings.

From a visual perspective, both buildings are effectively screened by the existing mature vegetation on site and as such, the views across and through the site are severely limited. Moreover, the application site slopes steeply from the boundary wall along Spinnerbottom, to the lowest point at which Building A is sited. This therefore establishes that from the perspective of along Spinnerbottom, the perceived visual openness of the Green Belt across the site is limited. This is also the case in reference to the perspective of the nearby residential properties and potential vantages from 'Back Spinnerbottom'. There is no absence of development in this location, nor has there ever been, and this is the visual experience from the perspective of 'Back Spinnerbottom' noting the existing structures, patios, and various garden paraphernalia seen on site. The re-siting and concentration of built form of the previous 5 no. structures into Buildings A and B has no greater impact on the openness of the Green Belt.

Substantial weight should be attributed to the siting of Building A in reference to the historic outbuildings. Given the Inspector's position on the replacement outbuildings and the limited visual openness on the site experienced from public vantage points, the proposal does not propose a greater impact upon visual openness than the original outbuildings in this location.

As has been demonstrated above, the 2 no. outbuildings constitute appropriate development, by virtue of being siting on Previously Developed Land and having no greater impact on openness than the original 5 no. outbuildings located on the application site. The proposal therefore meets the requirements of Paragraphs 152 and 154 (g) of the NPPF 2023, and therefore Policies EQ3 and EQ4 of the High Peak Local Plan Strategy.

Design and Character

It is a requirement of Policy EQ2 'Landscape Character' to protect, enhance and restore the landscape character of the Plan Area for its own intrinsic beauty. The policy seeks to resist development which would harm or be detrimental to the character of the local and wider landscape. This can be



supplemented by Policy EQ6 'Design and Place Making' states that all development should be well designed and of a high quality that response positively to both its environment and the challenge of climate change. This will be achieved by requiring development to be well designed to respect character, identity and context alongside maintaining a good standard of amenity.

The 2 no. outbuildings will be/ have been finished in materials reflective of the historic outbuildings on site, a mix of timber cladding and corrugated metal sheets. As shown by the photographs within Appendix 3, the materials are reflective of the diverse appearances of the 5 no. outbuildings and do not introduce any new materials on site. Indeed, the materials used are reflective of the nearby industrial building to the south of the application site, with a modern twist to suit the applicant's requirements.

Having regard to the limited visibility of the application site and the precedent for the materials used in this area, the proposals comply with Policy EQ2 and EQ6 of the High Peak Local Plan.

Other Relevant Matters

The 2 no. outbuildings are sited a significant distance from the neighbouring residential properties along Spinnerbottom and due to the perpendicular orientation of the buildings, offer no vantage point into the nearest habitable rooms at these properties. There are no neighbouring residential properties to the south or west of the site, with the nearest properties along Spinnerbottom to the north west at a much higher ground level and c. 40m away. There will be no impact upon the amenity of neighbouring residential properties.

Conclusion

In conclusion, the proposed development is consistent with Local and National Planning Policies. This can be summarised as follows:

- In accordance with NPPF Paragraph 154(g), the two outbuildings represent the partial redevelopment of previously developed land which has no greater impact upon openness than the historic five garages which were in situ previously.
- The proposals satisfy Paragraph 154(g) of the NPPF alongside Policies EQ3 and EQ4 of the Local Plan and are therefore 'appropriate development' in the Green Belt.
- The proposals are appropriate in design and materials, including their siting, satisfying Policy S6, EQ2, and EQ6 of the Local Plan.
- The proposals will not infringe upon the amenity of the neighbouring properties in any form, thereby satisfying Policy EQ6 of the Local Plan.

The proposals therefore fully accord with National and Local Planning Policy. Accordingly, planning permission should be granted without delay. If you have any queries or require further information then please do not hesitate to contact me.



Yours faithfully,

Mark Krassowski BA(Hons)BSc MRICS

Director

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