

DELEGATED DECISION REPORT

HPK/2026/0014
Valid 19/01/2026

40 CHUNAL LANE
GLOSSOP

CERTIFICATE OF
LAWFULNESS FOR AN
EXISTING EXTENSION

(CERTIFICATE OF
LAWFULNESS - EXISTING)

MAIN ISSUES

- Whether the existing rear extension has been in place for a period of 10 years or greater and now comprises lawful development.

DESCRIPTION OF SITE

The application site refers to a two storey traditional mid-terrace dwelling located on Chunal Lane within the defined settlement boundary of Glossop.

The surrounding area is predominantly residential in its nature comprising terraced dwellings which are similar in scale and appearance to the application site.

PROPOSAL

The application seeks a Section 191 Lawful Development Certificate to confirm that the existing extension which was erected without planning consent is now lawful as the period for enforcement action has now passed.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS - N/A

CONSULTATIONS

One letter of support has been received from the occupants of number 38 Chunal Lane, stating "The extension referred to in this application was in existence when I purchased my property in July 2021 no 38 Chunal Lane and I have no objection to this application."

OFFICER COMMENTS

Assessment

Section 191(2) of the Town and Country Planning Act 1990 says that the use will be lawful if no enforcement action can be taken against it, and provided it does not contravene the requirements of any enforcement notice that is in force. Where an LDC is sought, the burden of proving relevant facts rests with the applicant.

Section 191(4) of the Act indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application was lawful at the time of the application, they shall issue a certificate to that effect; and in any other case shall refuse the application. Planning Practice Guidance (PPG) provides that "The applicant is responsible for providing sufficient information to support an application". PPG also provides that "In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."

By virtue of section 191 (2), uses and operations are "lawful" if:

a. no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

b. they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

By virtue of section 191 (3A), in determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if:

a. the time for applying for an order under section 171BA(1) (a "planning enforcement order") in relation to the matter has not expired;

b. an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn; or

c. a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.

The application in this instance seeks to confirm via this lawful development certificate application that the extension as built has been in place for a period of 10 years of greater and that no enforceable action can now be taken.

Submitted Evidence

The applicant has submitted evidence in the form of historic satellite imagery, elevations and floor plans, internal photographs from various sales marketing periods, Guarantee for Cavity wall insulation dated 6 March 2004.

The supporting sales particulars images whilst they do show the continued use of the rear extension there appears to be little proof that these photographs were taken on the dates claimed. Nonetheless the application is accompanied by a number of other forms of supporting evidence. This includes a guarantee for cavity wall insulation which is dated 06/04/2004 which corresponds with the applicants contention that the extension has been in place for in excess of 10 years prior to the date of submission of this certificate of lawfulness application.

This application is also supported by significant aerial imagery which supports the view that the extension has been in place since 1999. Google Earth imagery shows that the extension is visible in a number of image exerts dating from 2003, 2005 and 2017. In addition the application is also accompanied by a historic aerial image dating from 10th July 1999 which is confirmed by Aerialphotography.com. The supporting aerial imagery is deemed to comprise significant and substantial evidence to support that the existing extension has been in situ since 1999 and for a continuous period of 10 years prior to the submission of this application.

Evidence available to the Council

Historic satellite imagery dating back to 2018 and 2011 from High Peak Borough Council's StatMap Earthlight mapping service show the site as described by the applicant with the rear extension clearly viewable. As such given the presence of aerial photography it would appear as though the extension has been in place since at least 2011. Moreover, an adjoining neighbour has commented stating that the extension has been in plan since at least July 2021, when she purchased her property.

Based on the evidence collected by both the applicant, High Peak Borough Council and the comments by the neighbour, confirming that the extension was in place in July 2021, on the balance of probability, the extension has been in place since 10th July 1999 and has been retained at the site for that period of time up to the present day.

As identified above, by virtue of section 191 (2), uses and operations are "lawful" if no enforcement action may be taken against them and they are not in contravention of any enforcement notice which is in force. Section 171B of the Town and Country Planning Act 1990 identifies the time limits for an authority to take enforcement action. The time limit to take enforcement action is 10No. years.

As such, it can be confirmed that, on the balance of probability, the extension as erected is lawful on the basis that the development occurred more than 10No. years ago, has been retained at the site for that period of time up to the present day and consequently, the time limit for the authority to take enforcement action has now expired.

CONCLUSION

It is therefore considered that on the balance of probability that the existing extension was built in 1999 and has been in use for a period of 10 years or greater. The Certificate of Lawfulness for an existing use is therefore approved.

OFFICER RECOMMENDATION : Lawful - Approve

Case Officer: Stuart Talbot

Recommendation Date: 12/03/2026

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council