

DELEGATED DECISION REPORT

HPK/2026/0239
Valid 17/06/2026

**LAND REAR OF 145 HIGH
HILL ROAD
NEW MILLS**

**LAWFUL DEVELOPMENT
CERTIFICATE FOR EXISTING
DEVELOPMENT TO CONFIRM
LAWFUL COMMENCEMENT
OF HPK/2025/0424**

**(CERTIFICATE OF
LAWFULNESS - EXISTING)**

MAIN ISSUES

- Whether sufficient evidence supports the application to confirm that a material lawful start has commenced on site in line with Section 191 of the Town and Country Planning Act 1990.

PROCEDURAL MATTERS

The application as submitted was accompanied by an Application Form stating that the Certificate related to proposed development under Section 192 of the Town and Country Planning Act 1990.

The applicant was advised that the matter subject of the Certificate relates to Existing Development and was therefore requested to submit the correct Application Form under Section 191 of the Act 1990, which has duly been submitted.

In line with the Planning Practice Guidance (PPG) the description of development has been amended to better reflect what the Certificate relates to.

DESCRIPTION OF SITE

The application site comprises a parcel of land to the rear of No.145 High Hill Road, New Mills.

The access to the site is created by demolishing a garage situated adjacent to No.147 High Hill Road, as depicted on the approved Site Plan (25-01-110 Rev D).

The site has been subject to full planning permission granted under HPK/2022/0032 for 2no two storey semi-detached dwellinghouses containing two bedrooms, together with off-street parking, and ancillary gardens. The date of this permission is 5th July 2023, with a 3 year expiry meaning that a lawful material commencement must occur on site before 5th July 2026 in order for the permission to be protected.

This permission has more recently been subject to a S73 Variation of Conditions application that was granted under HPK/2025/0424 on 17th April 2026. This permission resulted in pre-commencement conditions that were applied to the HPK/2022/0032 consent being varied to read as compliance conditions, as a DOC application had been agreed, and therefore no further information is required to be submitted and agreed in order to allow a lawful material commencement to occur on site.

PROPOSAL

This application seeks a Lawful Development Certificate for Existing Development in so far as the planning consent for 2no dwellinghouses originally granted full planning permission under HPK/2022/0032 and subsequently varied under S73 of the Town and Country Planning Act 1990 under HPK/2025/0424 has been the subject of a lawful material commencement.

The application is supported by the following documents and evidence:

- Location Plan
- Supporting Statement (June 2026)
- HPK/2025/0424 Decision Notice (17th April 2026)
- Signed Discharge of Conditions Letter DOC/2025/0069 (11th Feb 2026)

The applicant asserts that a material lawful commencement on site has occurred as a consequence of a garage that stands between No.145 and 149 High Hill Road being demolished which is required in order to facilitate the vehicular access to the site. However it is noted that an existing shed still remains, which is also required to facilitate the new access arrangements.

The Statement contains date stamped photographs of the garage in situ as of 21st April 2026, and further date stamped photographs dated 14th June 2026 showing the garage as being demolished.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2022/0032	Construction of 2 new residential dwellings with associated access, hard and soft landscaping (Approved 05/07/2023)
DOC/2025/0069	Discharge of Conditions 6 & 8 in relation to HPK/2024/0319 (Approved 11/02/2026)
HPK/2025/0424	Variation of conditions 2, 6 and 8 in relation to HPK/2022/0032 (Approved 17/04/2026)

OFFICER COMMENTS

Condition 1 applied to HPK/2025/0424 states the following:

1. *The development hereby permitted shall be begun before the expiration of three years from the date of the permission granted under HPK/2022/0032 (5th July 2026)*

Reason:- To comply with Section 51 of the Planning and Compulsory Act 2004

Section 55 of the Town and Country Planning Act (the Act) confirms the meaning of "development"

55 *Meaning of "development" and "new development"*

- (1) *Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.*

(1A) For the purposes of this Act “ building operations ” includes—

- (a) **demolition of buildings;**
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.

(My Emphasis)

Section 56 of the Act refers specifically to the time at which development begins and states the following:

56 Time when development begins

- (1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—
 - (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
 - (b) if the development consists of a change in use, at the time when the new use is instituted;
 - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).
- (4) In subsection (2) “material operation” means—
 - (a) any work 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;
 - (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);
 - (d) any operation in the course of laying out or constructing a road or part of a road;
 - (e) any change in the use of any land which constitutes material development.

The approved Site Plan shows that the demolition of the existing garage forms part of the approved development, to facilitate the access arrangements into the site.

As such, in line with Sections 55 and 56 of the Town and Country Planning Act 1990 and Condition 1 applied to HPK/2025/0424, in order for the Council to be able to issue a positive Certificate, the applicant must provide evidence that the garage has been demolished after the date that permission was granted under HPK/2025/0424 (17th April 2026) and before the expiry of the original permission granted under HPK/2022/0032 (5th July 2026).

Date stamped photographs confirms that the existing garage was in situ on 21st April 2026 and that this garage was demolished by 14th June 2026. This operation accords with the definition of 'Development' under the Act, and amounts to a material operation, as defined by section 56.

Condition 9 applied to HPK/2025/0424 states:

9. *Before any other operations are commenced, the existing access to the proposed site shall be modified in accordance with the approved drawing 25-01-110 Rev D, laid out, constructed and maintained in perpetuity free from any impediment to its designated use.*

As there is no evidence of any further works being carried out on site, the applicant has in part complied with Condition 9 by virtue of the demolition of the garage, despite the shed remaining.

For these reasons, the Council are satisfied that a material operation has commenced, within the 3 years of HPK/2022/0032, and in connection with HPK/2025/0424 and as such the recommendation is to grant the Certificate of Lawful Development.

OFFICER RECOMMENDATION : **Grant Certificate**

Case Officer: James Stannard

Recommendation Date: 11th August 2026

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council