

DELEGATED DECISION REPORT

HPK/2021/0276
Valid 10/05/2021

CLOUD FARM HIGH LANE
SIMMONDLEY
GLOSSOP

CERTIFICATE OF
LAWFULLNESS FOR AN
EXISTING USE OF CLOUD
FARM FARMHOUSE AS A
SINGLE FAMILY DWELLING
WITH THE COTTAGE AND
OUTBUILDINGS USED AS
ANCILLARY
ACCOMMODATION TO THE
MAIN DWELLINGHOUSE.

(CERTIFICATE OF
LAWFULNESS - EXISTING)

MAIN ISSUES

- Whether on the balance of probability, the garages within the red edge of the Location Plan has been in use for storage for more than 10 years in line with Section 171B of the Town and Country Planning Act 1990

DESCRIPTION OF SITE

The application site relates to a parcel of land north of Simmondley Lane, Glossop which contains the main farmhouse associated with Cloud Farm, and a separate stone building immediately to the north which is known as Cloud Farm Cottage, surrounded by domestic garden and accessed via a private driveway.

PROPOSAL

The application seeks a Certificate of Lawful Development for an Existing Use of the building known as Cloud Farm Cottage as an ancillary outbuilding (and not a separate planning unit) in associated with Cloud Farm used for ancillary accommodation.

The application is supported by the following plans and documentation:

- Location Plan
- Cover Letter
- Witness Statement – Michael James Blood
- Witness Statement – Charles Skidmore

The Cover Letter sets out the merits of the case as follows:

- Witness Statements from the applicant (owner) and the applicant's solicitor confirm that the Farmhouse has been used as the principal dwellinghouse,

and that all other buildings have been used as ancillary accommodation, since 1998.

- It is acknowledged that the Farmhouse and Cottage each have their own utilities and are taxed separately for Council Tax, but it is understood this was due to the fact that it was originally intended that the Cottage would be let separately. However, the Witness Statements confirm that since 1998 this has not been the case and that the Cottage has been used solely by visiting family and friends on an informal basis
- In light of the length of time covered by the Witness Statements, the time limits quoted under Section 171B of the Town and Country Planning Act 1990, have been exceeded and any breach should be immune from enforcement action.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/0003/5184 Erection of two stables and tack room (Approved 18/04/1996)

Public Comments

None

Town / Parish Comments

None

Highways Authority

No comments to make

OFFICER COMMENTS

Legislative and Policy Context

Section 171B of the Town and Country Planning Act 1990 sets out the time limits where, in the majority of cases, development becomes immune from enforcement action if no action is taken, which in connection with this type of application, are set out as follows:

- 4 years for an unauthorised change of use to a dwellinghouse
- 10 years for any other breach of planning control

Section 191 of the Town and Country Planning Act refers to applications for Certificate of Lawfulness of an existing use. Sub-paragraph (4) states:

“If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.”

Sub-paragraph (6) goes on to state that:

“The lawfulness of any use, operations or other matters for which a certificate is in force under this section shall be conclusively presumed.”

In providing guidance as to who is responsible for providing sufficient information to support a certificate of lawfulness application, the online DCLG Planning Practice Guidance (PPG) states 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.”

Paragraph: 006 Reference ID: 17c-006-20140306

In providing guidance as to how an application for a lawful development certificate is determined, the outline DCLG Planning Practice Guidance (PPG) states that:

“A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.”

Paragraph: 009 Reference ID: 17c-009-20140306

As per the above legislation and supplementary guidance, the Local Planning Authority must be satisfied that there is clear evidence that proves that the claimed existing use is lawful, based on the balance of probability.

Assessment

The case submitted by the applicant is that whilst the two buildings are registered with utility companies and Council Tax, the property referred to as Cloud Farm Cottage has been in use as ancillary accommodation in connection with the main Cloud Farm farmhouse since 1998.

The application is accompanied by two signed witness statements; one from the applicant and owner of Cloud Farm and the other from the applicant’s solicitor. Evidence submitted with the applicant’s witness statement confirms that the property was bought in 1972 and states that the stone building was a former barn and converted to a three bedroom dwelling shortly afterwards. Due to planning records only going back so far the documentation associated with the application to convert the building cannot be traced, however there is not counter-evidence to suggest that this is not true.

It is stated that the reason for the building having separate utility and Council Tax records is because the intention was to sell this property as a separate planning unit to the main farmhouse, however this has never happened.

The witness statement prepared by the applicant’s solicitor states that the building was let for a short amount of time, but since 1998 has solely been used as ancillary

accommodation for family and friends with no formal lease or tenancy being created. The statement goes on to state that there is no intention to lease the property as a separate dwelling and will continue to be used solely as ancillary accommodation in connection with the main farmhouse.

A search of online Estate Agents including Zoopla and Rightmove does not reveal any sale history of the property and as such it is judged that there is no counter-arguments to the applicants submission.

Having considered the characteristics of the site, the facts of the case, and the supporting documentation submitted with the application, it is concluded that on the balance of probability, the building known as Cloud Farm Cottage has indeed been used as ancillary accommodation to Cloud Farm for a period exceeding 10 years, is therefore immune from enforcement action, and is thus lawful.

Furthermore, the amalgamation of 2 dwellings into a single dwellinghouse, arguably is not a material change of use provided that it does not have any material impact on the external appearance of the properties, which is not the case here, and provided that it does not conflict with local plan policies intended to prevent loss of housing stock and in particular small units. There are no such policies in the adopted High Peak Local Plan that the proposal would contravene. As such it is concluded that the amalgamation would not have been a material change of use requiring planning permission in any event.

CONCLUSION / PLANNING BALANCE

Following an assessment of the application and all accompanying evidence, it is concluded that on the balance of probability the use of the building as stated on the application form has been in use for a continuous 10 year period. Furthermore, the amalgamation would not have been a material change of use requiring planning permission in any event. It therefore is not subject to any enforcement action, and is thus lawful having regard to the Town and Country Planning Act 1990. As such, it is recommended that a Certificated for Existing Use be granted.

OFFICER RECOMMENDATION : Grant Certificate

Case Officer: James Stannard

Recommendation Date: 12th July 2021

X 

Signed by: Ben Haywood

On behalf of High Peak Borough Council