

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) Section 191/192

**DELEGATED DECISION FOR APPLICATION FOR CERTIFICATE OF
LAWFUL DEVELOPMENT**

Reference no.: 2020/CL/91358/W

Site: 22B, Heys Road, Thongsbridge, Holmfirth, HD9
7SF

Description: Certificate of lawfulness for use of dwelling for taxi
service

Case Officer: Laura Yeadon

Decision Reference: PROPOSED USE GRANT

**I hereby authorise the approval of this application for the reasons set
out in the officer's report and recommendation annexed below in
respect of the above matter.**

Kevin Walton

AUTHORISED OFFICER

Date 07-Jul-2020

Reference: 2020/91358

Applicant: L Akins

Location: 22B, Heys Road, Thongsbridge, Holmfirth, HD9 7SF

Proposal: Certificate of lawfulness for use of dwelling for taxi service

Site Description:

The application relates to a modern two storey dwelling which is located in a gated community, comprised of 3 no. detached dwellings. The property has a single storey front projecting garage with a double driveway providing access. Soft landscaping surrounds the property with the main outdoor amenity area being located to the rear.

Application Proposal

The application is for a certificate of lawfulness for the use of the dwelling for a taxi service. The onus is on the applicant to provide evidence which states why the proposal would be lawful.

The application form details the operation of the taxi service which states that there would be no difference in activity at the property as there would be no increase in traffic to and from the property compared to normal. The application is to operate a taxi system from the address in which bookings can be performed at future dates. The intention is to provide an Electric Car Cab Service that provides advanced bookings only, providing transport from Huddersfield mainly to airports but also to other towns and cities at a much more cost effective price. It is proposed that in the first instance, the operation be of 1 no. taxi which would not be exclusively ran from the address listed however there is scope to increase the number of vehicles in the future.

Relevant Planning History

2016/91692	Discharge condition 11 (drainage) on previous permission 2013/90877 outline application for 2 dwellings
	Approved
2014/93981	Reserved matters application for erection of 2 dwellings pursuant to outline application 2013/90877
	Approval of reserved matters
2013/90877	Outline application for erection of 2 dwellings
	Conditional Outline Permission
2012/93517	Outline application for erection of 3 dwellings
	Refused

Permitted Development Rights have been removed under both the 2013 and 2014 applications however this does not relate to the running of a business from the property address.

Consultations

This is an application for a Lawful Development Certificate and for this reason, no consultations are necessary.

Holme Valley Parish Council - Support

Lawful Development Certificates

Section 192(1) (a) of the Town and County Planning Act 1990 (“the Act”) permits any person who wishes to ascertain whether any operations or proposed use of buildings or other land would be lawful to make an application to the Local Planning Authority.

Section 192(2) of the Act states:

“If on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful of instituted or begun at the time of the application they shall issues a certificate to that effect....”

The Lawful Development Certificate system provides the possibility of obtaining a statutory document confirming that the use, operation or activity named in it is lawful for planning purposes on the dates specified in the document. Once it is granted, the new type of certificate remains valid for the use or development described in it, on the land it describes, provided there is no material change in circumstances.

The grant of a certificate applies only to the lawfulness of development carried out, or proposed, in accordance with the Planning legislation.

A certificate granted for a proposed use or operation will describe the precise use or operation on a site in the terms considered permissible without the need to make a planning application for it.

If the Local Planning Authority is satisfied on balance, and having regard to the above sections read together, that no enforcement action could be taken because the proposed change of use would not constitute “development” involving a material change of use of the dwelling, a certificate should be issued on the grounds that the change does not constitute development. Otherwise, the application should be refused.

Assessment

Section 55 of the Act establishes that the making of a material change of use of a building represents development. The consideration is whether such a proposed change of use is material for the purposes of Section 55.

The recognised starting point in considering whether a material change would occur would be to initially consider the planning unit (*Burdle v SoS* [1972]). The existing planning unit is a dwelling with associated curtilage including an attached garage and double driveway to the front of the property.

Materially in the context of the meaning of development is dependent upon whether there is a change in the character of the property (*Guildford Rural DC v Penning* [1050]). From the information supplied by the applicant, the dwelling would remain the dominant and primary use of the building. The use of the premises to take bookings by the applicant will not introduce a business operation which may change the character of the dwellinghouse nor result in staff/driver or other taxis visiting the property. The application form states that the property would be used to operate a taxis system to accept a limited amount of bookings to be performed at future dates. It is proposed to trial the electric car taxi service with one vehicle initially however there is scope to increase this number if required. The application also states that the taxi will not be exclusively ran from the application site. Overall the use of the premises by an occupier of the dwellinghouse for the taking of taxi bookings and parking of the occupiers own taxi would not change the character of the building nor would it result in a material increase in vehicles. If an increase in taxis does occur this may trigger a material change of use in the future.

In this instance, for clarity purposes, a note will be attached to the decision notice stating that the use consists of the use of the dwellinghouse by the occupier for the taking of taxi bookings including a single vehicle parking at the dwellinghouse with no calling, waiting, collecting or depositing of passengers or calling at the dwelling by drivers; including taking orders or instructions, making payments, or for taking refreshments.

Conclusion

Based on the above, it is considered that on the balance of probability that the intention of the applicant to operate a taxi service in the form of a booking office from the dwelling does not amount to a material change of use as defined by Section 55 of the Act. The change of use is not considered to substantially change the character of the building, nor does it have “planning” effect upon the neighbourhood. It is recommended to approve the certificate and confirm the lawful use, subject to the above condition being imposed.

Recommendation: Grant Certificate

Decision Authorisation: Delegated Powers

Application Number: 2020/91358

Officer Recommendation: Grant certificate

On the balance of probability the operation of a taxi service as described in the application form from the dwellinghouse would not constitute a material change in use of the building and as such it is not considered to amount to development as defined within Section 55 of the Town and Country Planning Act 1990 (as amended) and would therefore be lawful pursuant to Section 192 of the Act.

The proposed taxi use consists of an ancillary use of the dwellinghouse by the occupier for the taking of taxi bookings including a single vehicle parking at the dwellinghouse with no calling, waiting, collecting or depositing of passengers or calling at the dwelling by drivers; including taking orders or instructions, making payments, or for taking refreshments.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan			11 th May 2020
Photo 1			11 th May 2020
Photo 2			11 th May 2020
Photo 3			11 th May 2020
Photo 4			11 th May 2020
Photo 5			11 th May 2020
Photo 6			11 th May 2020

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

Report Dated: 27th May 2020