

**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.: 2023/CL/91774/W

Site: 45, Crest Hill Road, Brackenhall, Huddersfield,
HD2 1PD

Description: Certificate of lawfulness for proposed use as
operator licence

Case Officer: Tom Hunt

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 12-Sep-2023

Officer Report

Reference: 2023/91774

Proposal: Certificate of lawfulness for proposed use of premises for taxi operations.

Location: 45, Crest Hill Road, Brackenhall, Huddersfield, HD2 1PD

Site Description

The application relates to an end-terraced, rendered dwelling located in predominantly residential area of Brackenhall. The considered dwelling is located on an adopted road, with a front amenity space. On the north side of the road is a shared parking strip and vehicular parking on street is popular on both sides of the otherwise quiet road.

Description of Proposal

The application requests a Lawful Development Certificate for the proposed use of premises for taxi operations. The applicant has stated that the property is not owned by themselves but is owned by a close family member.

The application form states that the premises would be used as an office base for one person to take calls and emails, using a telephone and laptop, for taxi operations.

Relevant Planning History

No relevant planning history.

Representations

There is no requirement to advertise this type of application; no public representations were received.

Consultation Responses

No consultations were required.

Policy / Legislation

The Town and Country Planning Act 1990 Section 55(2)(a)(ii).

Assessment

Section 55 of the Town and Country Planning Act 1990 defines 'development' as including the 'material change of use of land and buildings'. However, if the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose is considered incidental to the enjoyment of the dwellinghouse, then that incidental use is unlikely to require planning permission.

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 dwellinghouse with garden areas both front and rear.

Materiality 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 by the applicant's close family member.

The proposal would not include physical internal or external changes to the existing property as the business would be operated from a single room within the dwelling. As such the considered certificate would not result in any material changes to the existing appearance or overall function of the dwelling. It is not anticipated the use of a single room for operating taxis using a telephone and laptop would create any significant levels of noise or disturbance.

Email communication had taken place on 14th June 2023 from the Officer to the applicant that if there would be extra traffic this may require planning permission due to the material change of use. Alternatively if the applicant did not believe this to be the case, the Certificate may be applied for to ascertain whether the Council believes the proposed use to not require planning permission.

Following this, received communication from the applicant (14/06/2023) noted that one person would be using this as a base commuting from Rochdale, consequently it is not anticipated that there would be a significant rise in vehicle traffic to the property.

The owner has an existing taxi car but it had not been indicated whether this would be part of the taxi operations in correspondence. No additional taxis have been indicated to be parked in the immediate locality.

In light of the submitted information, it is considered that the dwelling would remain the dominant use. There would be no external or internal alterations to the property, nor a significant increase in the existing level of vehicle movements. The operation of a private hire operation from this dwelling would not constitute a change of use and would have no material impact on the existing character of the dwelling.

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 one person for the operation of a taxi booking service including no waiting or parking, collecting or depositing of passengers, taking payments or instructions, having rest-stops, taking refreshments or calling at the dwelling by taxi drivers or customers.

Conclusion

Based on the submitted information, it is considered that, on the balance of probability, the proposed operation of a private hire vehicle business from the dwellinghouse would not amount to a material change of use as defined by Section 55 of the Town and Country Planning Act 1990. The change of use is not considered to substantially change the character of the building, nor does it have any “planning” effect upon the neighbourhood.

It is recommended that the certificate is approved considering that one person is to use the property as a base for taxi operations, and the lawful use thus confirmed.

Recommendation – Approve Certificate

Decision Authorisation: Delegated Powers

Application Number: 2023/91774

Officer Recommendation: Approve

Description of Proposal: Certificate of lawfulness for proposed use as operator licence.

Based on the submitted information, it is considered that, on the balance of probability, the proposed operation of a private hire vehicle operation from the dwellinghouse would not amount to a material change of use as defined by Section 55 of the Town and Country Planning Act 1990.

The operations consist of the use of a single room within the existing dwellinghouse by one person to facilitate a taxi operation including no waiting or parking, collecting or depositing of passengers, taking payments or instructions, having rest-stops, taking refreshments or calling at the dwelling by taxi drivers or customers.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Application form	-	-	15/06/2023
Location Plan	-	-	15/06/2023
Email Correspondence	14/06/2023	-	14/06/2023

Report Dated:

06/09/2023