# 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.: | 2024/CL/92894/E |
| Site: | Sew N Sews, 223 , Huddersfield Road, Scout Hill, Dewsbury, WF13 3SF |
| Description: | Certificate of lawfulness for proposed office |
| Case Officer**:** | Charlotte Hancock |

**Decision Reference:**

**I hereby authorise the approval/refusal* (delete as appropriate) 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 04-Dec-2024**

## Officer Report

### Site Description
The application relates to a single detached building that sits between a row of terrace houses. The use of this building prior to this application was a travel agent and previously a tailors according to street level photography.

### Description of Proposal
The application is for a certificate of lawfulness for proposed private car hire booking office. The onus is on the applicant to provide evidence which states why the proposal fits with the permitted development legislation. In this case, the applicant has stated on the application form that the proposal requires only minimal office space within the current set up.
There are no external or internal alterations proposed to the building. The application form states that the records for the bookings will be kept digitally at the office and that since the work primarily involves office-related recordkeeping activities, any noise will be minimal. The site will be open for office hours.

### History of negotiations/amendments received
Contact was made with the applicant to elaborate on whether cars will be kept at the premises, or whether the building will be solely used for admin purposes. The applicant confirmed that no cars would be kept at the premises and that the premises will solely used for admin-based activities which mainly include record keeping.

### Relevant Planning History
2024/90295- Certificate of lawfulness for use of premises for private hire office- Refused

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

### Lawful development certificates
Section 192(1) of The Town and Country Planning Act 1990 (“the Act”) permits any person who wishes to ascertain whether any operations of proposed use of buildings or other land would be lawful to make an application to the Local Planning Authority.
Section 191(2) of the Act provides that the uses are lawful if the Local Planning Authority is provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application.

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 subsequent material change in the 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 of 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.
Section 191(2) of the Act states that "For the purposes of this Act, uses and operations are lawful at any time 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
a) they do not constitute a contravention of any of the requirements of any enforcement notice then in force".

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 if instituted or begun at the time of the application they shall issue a certificate to that effect…"

Therefore 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**

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 building with an office/retail use as the premises operated as a Travel Agent as recently as July 2024 as seen from street level photography. The application form described the proposed record-keeping use requires minimal space and would operate within the current set-up, indicating the Travel Agents would continue to operate alongside the proposed use. The applicant has not described where within the building the use would operate from nor indicated whether it is a separate use independent of the existing use. It is therefore considered the planning unit would remain the same. Consequently, the introduction of the record keeping for a private hire business would result in change of use for the site would therefore occur which may require planning permission if it consists of development as set out in section 55 of the Town and Country Planning Act 1990.

Section 55 defines development as consisting of the material change of use of land or building. However, section 55(2) provides an exemption to the definition of development where a change of use consists of a change from

one use as defined by a class within the Use Classes Order 1987 (as amended) to another use within the same use class.

In this instance the current use is considered to be a professional service to visiting members of the public and thus defined in Class E of Schedule 2 of the Use Classes Order 1987.

The applicant has also confirmed that the premises will solely be used for admin purposes which include record keeping and that no vehicles will be kept at the premises, and no vehicles will be picking up from and dropping off at the premises. This use is therefore akin to an office use whereby the premises will operate for admin-based purposes. Due to the nature of the proposed use for record keeping, the premises would function as an office which remains within Class E.

**Conclusion**

Based on the above, it is considered that on the balance of probability that the intention of the applicant to operate from the premises for the purposes as an office for record keeping activities would not amount to development as defined by Section 55 of the Act.

**Recommendation:** Grant certificate

**Decision Authorisation -** Delegated Powers

**Application Number:** 2024/92894

**Officer Recommendation:** Grant certificate

It is considered that on the balance of probability that the proposed use for the applicant to operate from the premises within the existing use as a travel agency for the purposes as a separate office for record keeping activities would not amount to development as defined by Section 55 of the Act. The proposed use of the building is considered to fall within Class E (g)(i) of Schedule 2 of the Use Classes Order 1987 (as amended).

Plans and specifications schedule:

| Plan Type | Reference | Version | Date Received |
|---|---|---|---|
| Location plan | 1062329 | - | 10/10/2024 |
| Proposed site/ block layout | 1062338 | - | 10/10/2024 |
| Application form | 1062334 | - | 10/10/2024 |
| Supplementary information | - | - | 27/11/2024 |

**Report Dated:** 28/11/2024