

**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/93265/E

Site: Wood View Farm, 42, Manor Road, Farnley Tyas,  
Huddersfield, HD4 6UL

Description: Certificate of lawfulness for proposed change of  
use from short term holiday let with associated annex accommodation to  
dwelling

Case Officer: Jessica Irwin

**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 23-Jan-2025**

## **Officer report**

### **Site Description**

The application relates to Wood View Farm, a two-storey detached property with a detached converted outbuilding within the curtilage of the building situated in Farnley Tyas, Huddersfield. The property benefits from off road parking to the front and a sufficiently sized garden to the rear. The neighbouring properties are of residential use and comprise two storey dwellings of similar architectural styles and materials.

### **Description of the development**

The application is for a certificate of lawfulness for proposed change of use from short term holiday let with associated annex accommodation to dwelling.

The proposal is to revert the short-term holiday-let back to a single dwellinghouse (C3), there would be no external works or structural alterations taking place as a result of the proposed change.

The existing use of the site is a two-storey, 4-bedroom, short term holiday-let, with associated 1-bedroom annex accommodation. The proposed use is a two storey, 4-bedroom, private dwelling, with associated 1-bedroom annex accommodation.

### **Relevant Planning History**

2022/93233: Erection of single storey extension and timber decking (retrospective) (within a Conservation Area) – Conditional full permission

2019/93391: Change of use of existing dwelling and associated one-bedroom annex accommodation to short-term holiday let (within a Conservation Area) – Conditional full permission

2018/93339: Work to tree(s) within a conservation area – Granted

2017/90476: Erection of first floor extension to existing farmhouse, and conversion, extension and change of use of existing outbuildings to create residential annex accommodation associated with Wood View Farm, 42 Manor Road, Farnley Tyas, Huddersfield, HD4 6UL (within a Conservation Area) – Conditional full permission

2016/93455: Works to tree(s) within a Conservation Area – Granted

2013/90517: Works to Tree(s) within a Conservation Area – Granted

### **Consultation Responses**

No consultations were deemed necessary for this proposal as it is an application for a Lawful Development Certificate.

## **Policies & Legislation**

Section 192(1) (a) of the Town and Country 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 191(2) of the Act provides that 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 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.

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

b) 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 use does not constitute as a material change, if the information submitted complies with the relevant criteria, then a certificate should be issued on the grounds that the change complies with said criteria. Otherwise, the application should be refused.

## The Relevant Test

The burden of proof lies firmly with the Applicant and the relevant test for whether the use can be deemed lawful is the “balance of probability”.

The Applicant’s evidence does not need to be corroborated by “independent” evidence. If the Local Planning Authority have no evidence of their own, or 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.

## Evidence submitted in support of the Application

An application form stating that they consider *“the change of use for the short term holiday let with associated annex accommodation back to a dwelling to not require planning permission, as this would fall under a permitted development”* and a grouped location and block plan to identify the wood view farm house and annexe within the area, alongside an e-mail exchange with senior officer Kevin Walton.

## Evidence submitted against the Application

N/A.

## **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 main considerations in the determination of this application are whether the

proposed use of the land as a residential dwelling (C3) would constitute a material change of use from its existing use as a short-term holiday let and whether any planning conditions prevent a change back to a single dwellinghouse.

Planning law has established this to be a matter of 'fact and degree' depending on

the individual circumstances and merits of that use, with the leading case being

Moore vs SSCLG [2012]. Moore rejected that use as a holiday let can never be regarded as falling within Class C3; and equally rejected that use as a holiday let must always fall within Class C3. In accordance with the judgement in Moore, it is considered that the LPA is unable to assess with certainty whether a short-term holiday let use would be a material change of use from a residential dwelling (C3), as this would depend on the character of the short-term holiday let use.

In general terms, there may be question of whether planning permission was required for the change to a short-term holiday let from a single dwellinghouse irrespective of the granting of planning permission. It is acknowledged within the delegated report for the planning permission that: *“under the Town and Country Planning (Use Classes) Order 1987 (as amended 2018), a short-term holiday let could be regarded as being within the same C3 use Class as a dwellinghouse. As such, it is likely that this proposal could be carried out under permitted development. Notwithstanding this, a planning application has been submitted and a full assessment of the proposal is set out below.”*

Both the main dwellinghouse and the annexe are let as one unit. The accommodation provides 4 bedrooms in the farmhouse and an additional bedroom in the associated annex. The one-bedroom annex remains ancillary to the main house, with both properties occupied on short term holiday rental. As per the documents submitted as part of granting the permission, the property is occupied for approximately 35 weeks within the year, providing accommodation for a couple, family, and/or extended families holidaying in the area. Therefore, it is likely that the groups currently occupying the property typically form a single household in day-to-day life, such as, a family visiting the building on a short-term holiday let basis. This current use could then be regarded as being within the same C3 use Class as a dwellinghouse. If this is the case, then a change back to the use of the house by a single household as a private dwellinghouse would not be considered development. However, if the use of the site as a holiday let is considered a material change of use, it does not mean that the revision back to a single dwellinghouse requires planning permission, this is dependent on the materiality of the change.

Even if it is deemed to be a material change, if the current use is considered to fall into Class C3 of the Use Classes Order 1987 (as amended) and the proposed use also falls into Class C3 then section 55 p(f) of the Town and Country Planning Act 1990 provide an exemption to the definition of development where a material change of use involves a change from one to to another use in the same use class.

In this case, however, the change from short term holiday let to private dwellinghouse is not considered to be materially different. The house and annexe are currently let as one unit, the property is being occupied by single household families, occupied for approximately 3 quarters of the year – the house will now be in use as a private dwellinghouse by a single household family on a permanent basis. There is little to no impact in regard to how the property will be used, impact to highways and traffic movements and potential for noise disturbances.

#### Conditions of the planning permission

Planning permission was granted on 28th February 2020 (under ref: 2019/93391) for the *“Change of use of existing dwelling and associated one-bedroom annex accommodation to short-term holiday let (within a conservation area)”*. The third and final condition states that the annex shall at no time be sold or rented as a separate unit to the host property, known as

Wood View Farm, 42, Manor Road, Farnley Tyas, Huddersfield, HD4 6UL. It is apparent that a condition was not imposed restricting the use of the property to holiday accommodation only but rather ensure that the annex did not become a separate dwellinghouse in light of the poor standards of living space.

The agent has confirmed via e-mail correspondence, that the owners of the property are not selling, they are simply stopping the commercial enterprise of use of the property as a holiday let and wish to now reside in the house as a permanent dwellinghouse. The annex will remain with the house as a residential annex and will not be rented or sold separately.

With that in-mind and considering that the permitted use falls within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended), the application building can be occupied as a permanent residential dwellinghouse without planning permission.

## **Conclusion**

It is considered that use of Wood View Farm as a permanent residential dwelling does not constitute development and a certificate of lawfulness for the proposed development can be granted.

It is considered, on the balance of probabilities, that the change of use from short term holiday let with associated annex accommodation to a single dwellinghouse with associated annex does not constitute the carrying out of development as defined by section 55 of the Town and Country Planning Act 1990. The use as a single dwellinghouse is regarded to fall into Class C3(a) of Schedule 1 of the Use Classes Order 1987 (as amended).

Plan type	Reference	ID	Date received
Application form	-	1066415	15-Nov-2024
Location and block plan	16037D-07-P02	1066414	15-Nov-2024
E-mail exchange with the agent dated 12 November 2024	-	-	12-Nov-2024