

**20\_01KIRKLEES 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/93342/E

Site: The Stone Yard, Wakefield Road, Grange Moor,  
Huddersfield, WF4 4BG

Description: Certificate of lawfulness for existing use of land as  
commercial stoneyard

Case Officer: Charlotte Hancock

**Decision Reference: EXISTING 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 06-Mar-2025**

## Site description

The Stone Yard, Wakefield Road is a triangular piece of land located diagonally adjacent to The Kaye Arms, 26, Wakefield Road. To the east, south and west of the site are fields.

## Description of development

The application is for a certificate of lawfulness for the existing use of land as a commercial stoneyard and is based on the grounds that the use began more than ten years before the date of this application.

## Representations

No representations received.

## Consultation Responses

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

## Assessment

Section 191(1) of the Town and Country Planning Act 1990 (“the Act”) permits any person who wishes to ascertain whether any operations or existing 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:

1. 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 taking enforcement action has expired or for any other reason);
1. They did not constitute the contravention of any of the requirements of any enforcement notice then in force.

For the purposes of the Act a use is lawful at any time if no enforcement action may then be taken against the use, and the use does not contravene the requirements of any enforcement notice then in force. Section 191(2) (b) states that the inability to take enforcement action may come about because the use did not involve development, or because it did not require planning permission, or because the time for taking enforcement action has expired.

## The Relevant Test:

The burden of proof lies firmly with the Applicant and the relevant test for whether the operations 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 has 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 granting of a certificate on the balance of probability.

#### Limitations:

The LDC must contain precise details of what use or operation is found to be lawful, why and when. The details will not be legally equivalent to a planning condition or limitation. They will be a point of reference specifying what was lawful at a particular date, against which any subsequent change may be assessed. If the use subsequently intensifies or changes in some way to the point where a 'material' change of use takes place, Local Planning Authority may then consider further development has taken place.

#### Relevant Planning History

No planning history.

#### Evidence submitted in support of the application

Evidence submitted includes the application form, site location plan, aerial images from between 2009 & 2024, a supporting statement and two statutory declarations.

#### Evidence obtained from Council Records and other Sources

Google Street View imagery and Kompass mapping aerial imagery.

#### Evidence submitted against the application

No evidence has been submitted against the application.

#### History of negotiations

Clarification was sought regarding what the use of the site for the sorting, and processing of stone consists of. The agent responded confirming that the workers use hand tools such as angle grinders, chisels, drills and hammers. They confirmed that the stone arrived in large deliveries and then work consists of sorting it and preparing the stone for its intended use.

#### Assessment of evidence

The applicant has stated that the site has been used as a stone yard for over 10 years, with the use commencing on 01-11-1994.

The two statutory declarations are reflective of each other with the same statements being made, including that the site has been in use as a stone

yard for approximately 30 years and that the site is being let to a tenant on an informal basis. It is claimed that activities at the site include the stone being delivered to the site on a regular basis, for which the tenant then uses the site to store, sort and process the stone. Following this, the stone is loaded onto vehicles and delivered to other sites. The applicant has stated that there are often 3 people working at the site, and that this intensity of the use commenced in 2003 and has been continuous and uninterrupted since that time.

The site area is indicated by the area edged red on the location plan which corresponds with the physical boundaries surrounding the site. This would appear to correctly identify the appropriate planning unit as the unit of occupation.

Aerial imagery submitted as part of the applicants Supporting Statement starts from 2009, where it is evidenced that there was some degree of stone storage at the site. Further aerial images dated 2011, 2015, 2018, 2022 and 2024 have also been submitted and demonstrate that the use of the site has been consistent but has intensified over this 14-year period. Notwithstanding this, the aerial imagery and Google Streetview does indicate the whole site was being used for varying degrees of stone storage across the area edged red. The Council's GIS mapping system, Kompass, has aerial images which cover some gaps in the dates of the images provided, including 2012 and 2021. These images continue to demonstrate that the site has been used for stone storage over these dates.

These aerial images can be corroborated by Google Street View imagery which demonstrates that piles of stone have been on the site since October 2009 and have consistently remained until the latest street view image dated July 2024.

The nature of stone processing was clarified by the agent who stated that the workers use hand tools consisting of angle grinders, chisels, drills and hammers. The agent also stated that the stone arrives in large deliveries and work is undertaken to sort the stone and prepare it for its intended use. The applicants provide no evidence to clarify the nature of sorting the stone although sorting appears to involve the storage of different sizes/types of stone into several piles.

The aerial and Streetview imagery do not indicate and neither does the applicant claim any machinery or equipment is used to either cut, chisel, grade or otherwise process the stone from incoming material into a usable or different product. Any processing of the stone appears to be by hand only and likely to be carried out to assist in the sorting of the stone. There is no evidence provided to suggest the use consists primarily of delivery of stone in any raw state e.g. large freshly quarried stone, whereby the raw material is processed to create a new stone product. The stone appears to be hand sorted with the primary use for storage. Any processing is considered to be incidental to the sorting of the material.

The evidence indicates that the land has been regularly used as a stone yard for the storage and hand storing of stone for over 10 years prior to the date of this application.

### Conclusion

As such, officers are satisfied that the land at The Stone Yard, Wakefield Road, Grange Moor, Huddersfield, WF4 4BG has been used as a stone yard for the storage and hand sorting of stone. On this basis, the recommendation is that the certificate of lawful use should be granted. The use as such falls into Class B8, Schedule 1 of the Use Classes Order 1987 (as amended).

Recommendation: Grant Certificate

Decision Authorisation - Delegated Powers

Application Number: 2024/93342

Officer Recommendation: Grant Lawful Development Certificate

Based on the information submitted by the applicant and the information held by the Local Authority, it has been demonstrated that the site has been used as a stone yard for the storage and hand sorting of stone at The Stone Yard, Wakefield Road, Grange Moor, Huddersfield, WF4 4BG in excess of 10 years, prior to the date of this application. The use as such falls into Class B8 of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Plans and specifications schedule:

Plan Type	Reference	Date Received
Application form	1067473	26/11/2024
Location plan	1067477	26/11/2024
Supporting statement	1067478	26/11/2024
Block plan	1067477	26/11/2024
Statutory declaration PC	-	26/11/2024
Statutory declaration AE	-	26/11/2024

Report Dated

13/02/2025