

**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.: 2025/CL/90347/E

Site: 134, Highfield Chase, Dewsbury, WF13 4DG

Description: Certificate of lawfulness for proposed conversion
of garage to living space

Case Officer: Chris Cockroft

Decision Reference: PROPOSED OPERATIONS REFUSED

**I hereby authorise the refusal 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 01-May-2025

APPLICATION FOR CERTIFICATE OF LAWFUL USE

SITE: 134, Highfield Chase, Dewsbury, WF13 4DG

APPLICATION: 2025/90347

Site Description

134, Highfield Chase, Dewsbury, WF13 4DG is a three-storey, semi-detached property, constructed from coursed stone, with an integral garage to the front elevation. The property benefits from a small parking area to the front of the property and a small garden/amenity area to the rear.

1. Application

1.1 Permission is sought for a Certificate of Lawfulness for the existing use of the integral garage as living accommodation/lounge. The proposal comprises removal of the existing garage door and construction of a new frontage with a uPVC window to match the existing windows and coursed stone walling to match the existing construction.

2. Lawful Use Certificates

2.1 Section 191(1) (a) of the Town and Country Planning Act 1990 (“the Act”) permits any person who wishes to ascertain whether any proposed use of buildings or other land is lawful to make an application to the Local Planning Authority.

2.1 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.

3. The Relevant Test

3.1 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”.

3.2 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.

4. Limitations

4.1 A LDC must contain precise details of what use, operations, or failure to comply with a condition are found to be lawful, why and when. These 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, a Local Planning Authority may then take enforcement action against the subsequent breach of planning control.

5. Relevant Information

5.1 History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

5.2 Relevant Planning History

2006/93089 – Erection of 133 dwellings – granted

2007/90703 – Removal of condition 25 on previous permission 2006/93089 – granted

2009/90721 – erection of 10 dwellings (modified proposal) - granted

2025/90266 - Prior notification for single storey rear extension – prior approval not required

5.3 Consultation Responses

None required.

6. Evidence submitted in support of the Application

6.1 The applicant has submitted a completed application form, with location plan and plans of the existing integral garage and proposed living accommodation.

7. Evidence submitted against the Application

7.1 None

8. Site Visit

8.1 None

9. Assessment of the Evidence

9.1 The main considerations in the determination of this application are: Whether the proposed development would constitute development as defined section 55 of the Town and Country Planning Act 1990 and the Town and

Country Planning (General Permitted Development)(England) Order 2015 (as amended). If so, whether Permitted Development rights apply to the property.

Section 55 of the Town and Country Planning Act 1990 defines “development” as “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land”

9.2 The application relates to an integral garage to the front elevation of 134, Highfield Chase, Dewsbury, WF13 4DG and conversion to living accommodation/lounge. This is considered to amount to development as defined by section 55 of the Town and Country Planning Act 1990 and therefore planning permission for the development is required by virtue of section 57.

9.3 Planning permission has not been granted by the Local Planning Authority and therefore any permission would be reliant on the development benefiting from a general planning permission granted under the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended).

9.4 Ordinarily alterations to a dwellinghouse may benefit from a general planning permission through Article 3(1) and Schedule 2, Part 1, Class A of the above Order although this is subject to Article 3(4) which states “*Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order.*”

9.5 The dwellinghouse at 134 Highfield Chase was constructed pursuant to planning permission 2009/90721.

9.6 Condition 20 of planning permission 2009/90721 for the ‘Erection of 10 dwellings (modified proposal) states:

‘20. The garage sand(sic) parking spaces shall not be used for any purpose other than parking of vehicles.’

9.7 The conversion of the garage at 134 Highfield Chase into living space would result in the garage not being used for the parking of a vehicle and therefore contrary to condition 20.

9.8 In the absence of any planning permission the development cannot be considered lawful.

10.0 Conclusion.

The proposed alterations to the dwellinghouse to use the existing garage for living space would be contrary to planning condition 20 imposed on planning permission 2009/90721 (Erection of 10 Dwellings (Modified Proposal) and therefore cannot be permitted under the provisions of Article 3(1) and

Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended) by reason of Article 3(4) of the same Order.

Recommendation: Refuse Certificate

Decision Authorisation - Delegated Powers
Application Number: 2025/90347
Officer Recommendation: Refuse Certificate

The proposed alterations to the dwellinghouse to use the existing garage for living space would be contrary to planning condition 20 imposed on planning permission 2009/90721 (Erection of 10 Dwellings (Modified Proposal) and therefore cannot be permitted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended) by reason of Article 3(4) of the same Order.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application	Application Form		13/02/2025
Location Plan	ID:MPMBW-01204516		13/02/2025
Application Drawing	HCS-101-Existing and proposed Plans		13/02/2025

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: 15/04/2025