

**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/91651/W

Site: Caravan, Greave Farm, Greave Road, Hade Edge,  
Holmfirth, HD9 2AQ

Description: Certificate of lawfulness for existing use of mobile  
caravan for the purposes of a holiday let

Case Officer: Laura Yeadon

**Decision Reference: EXISTING 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 12-Aug-2025**

## **Officer Report**

[Weblink](#)

**Reference:** 2025/91651

**Applicant:** G Masters

**Location:** Caravan, Greave Farm, Greave Road, Hade Edge, Holmfirth, HD9 2AQ

**Proposal:** Certificate of lawfulness for existing use of mobile caravan for the purposes of a holiday let

### **Site description:**

The application relates to Greave Farm, Greave Road, Hade Edge and the provision of a structure used for residential purposes.

The structure is existing in its position and located to the south of the existing dwelling, with what was formerly an open field, separated from the dwelling by a number of outbuildings. The submitted details indicate that the red line boundary of the site which defines the location of the caravan is approximately 900 square metres and includes parking provision to the north of the structure and land to the east and south of the structure.

The site is within the defined Green Belt and the Strategic Green Infrastructure Network within the Kirklees Local Plan.

### **Development Proposal:**

The application is for a Certificate of Lawful Development for the existing use of the structure for the purposes of a holiday let. The application form states that the lawful use has been established under the 4-year rule prior to 26<sup>th</sup> December 2023 owing to the fact that the structure was sited and so used for a four-year period prior to the change in law on 26<sup>th</sup> December 2023.

The structure is in situ on land to the south of Greave Farm which is separated from the dwelling by approximately 30 metres. The submitted details indicate that the structure is a length of approximately 10 metres and a width of approximately 6 metres with an overall maximum height of 3.8 metres. The plans demonstrate that that site is sloping and that a decking area is located on the northern facing side elevation of the structure and wrapping around the western corner. The details indicate that the walls of the structure are render and there is an asphalt roof with uPVC windows and doors.

Within the north elevation there are double doors and a window, 4 no. window openings within the east elevation, 1 no. door and 3 no. windows within the west elevation and 1 no. window within the south elevation.

The structure consists of a lounge, kitchen, 3 no. bedrooms, a bathroom and a storage room and is in use for residential purposes.

### **The Law**

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.

Section 55(1) of the Act provides the definition for development and includes the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in use of any building or other land. Section 55 1(A) goes on to describe ‘building operations’ which include the demolition of buildings, rebuilding, structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder.

### **Relevant Planning History:**

Greave Farm – does not include the location of the caravan within the red line boundary

- 2015/94114 Demolition of exiting agricultural buildings and erection of detached dwelling  
*Conditional Full Permission*
- 2018/90981 Demolition of existing agricultural buildings and erection of dwelling and outbuilding  
*Refused*
- 2019/91275 Discharge of conditions 3, 4, 11, & 15 on previous application 2015/94114 for demolition of existing agricultural buildings and erection of detached dwelling

*Approved*

2019/91607 Demolition of existing agricultural buildings and erection of detached dwelling  
*Conditional Full Permission*

2020/90089 Variation of Condition 2 (plans and specifications) on previous permission no. 2019/91607 for demolition of existing agricultural buildings and erection of detached dwelling  
*Approved*

Within application boundary

COMP/24/0090 Enforcement investigation – Unauthorised siting of shipping containers and modular building – investigation ongoing

**Site visit:**

No site visit has been undertaken.

**Representations:**

We are currently undertaking statutory publicity requirements, as set out at Table 1 and Table 2 in the Kirklees Development Management Charter.

This application has been available on the Kirklees Website for public view.

No representations have been received.

**Consultation responses:**

No consultations were deemed necessary for this proposal as it is an application for a Lawful Development Certificate. The applicant seeks to demonstrate that the mobile caravan has been in-situ for more than 4 years and therefore is a lawful structure.

**Relevant Policy/Legislation:**

The Town and Country Planning (General Permitted Development) (England) Order 2015

**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 are 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.

### **Evidence submitted in support of the application:**

The applicant has submitted the following:

- Completed application form
- Location plan and site plan, elevations and floor plan
- Council tax records
- Refuse collection records
- Written statement/declaration
- Records relating to the hosting of Ukrainian refugees
- Photographs and documentation confirming ongoing occupation and use
- Planning Justification Statement

### **Evidence submitted against the application:**

No evidence against the application has been received

### **Evidence obtained from Council Records and other sources:**

The Council has obtained records from the following

- Council's mapping system
- Planning history
- Enforcement history
- Photographs from previous site visits to Greave Farm for planning applications

### **Assessment**

In this instance, the applicant seeks a Certificate of Lawful Development for the existing use of a mobile home for the purposes of a holiday let. The applicant's claim is that the ... *"The use in question was not enforced against within 4 years of the citing of the mobile caravan and the use of the caravan began more than 4 years prior to 26th December 2023 when the law changed from a 4 year*

*period to a 10 year period. Thus, by virtue of the passage of time, the use has been established since 16th May 2023.”*

For the provisions of Section 171B to operate, a breach in planning control must have occurred before the 10 year clock can start ticking. A breach in planning control is defined in s.171A of the Act as either the: -

- (a) carrying out of development without the required planning permission or
- (a) failing to comply with any condition or limitation subject to which planning permission has been granted.

For clarity, In December 2023, the UK planning law transitioned from a 4-year rule to a 10-year rule for enforcement action against unauthorised development. This change was part of the Levelling-up and Regeneration Act 2023 and came into effect on 25<sup>th</sup> April 2024. Notwithstanding this, the applicant's submissions are based on the development being subject to the previous 4 year rule which would either consist of operational development or the use of a building as a single dwellinghouse. However, if the structure is not considered to be a building for the purposes of s.171B, the 10 year rule would be relevant for the use of the land for the siting of a mobile home as described by the applicant.

Initially, therefore it is important to establish if the siting of the mobile caravan is deemed as material change of use or a building operation as defined in Section 55(1) of the Act.

*Are the works to site the structure considered to be ‘development’?*

As cited within this report, Section 55(1) of the Act provides the definition for development and includes the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in use of any building or other land. Section 55 1(A) goes on to describe ‘building operations’ which include the demolition of buildings, rebuilding, structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder.

In terms of siting a mobile home, the courts have determined within *Measor v SSETR* (1999) that whilst a caravan (or in this case a mobile home) would not generally fall into the typical definition of a building in terms of permanence and attachment. However, the Courts fell short of saying a mobile home could never be a building for the purposes of the Town and Country Act 1990.

Section 13(2) of the Caravan Sites Act 1968 sets details in relation to twin-unit caravans and sets out criteria in relation to the assembly and mobility of such units.

The evidence provided by the applicant shows the mobile home was delivered to the site by a HGV. Time stamped photographs demonstrate that the unit was brought to site on 16<sup>th</sup> May 2019 and was constructed on site in two parts on 18<sup>th</sup> May 2019 (without the decking). A signed declaration has been submitted

stating that the connection to mains, water, electricity, waste treatment and broadband were installed later that week.

The applicant has not provided any supporting evidence to argue that the operation to place the structure on the land was a building operation or a building use for residential purposes to substantiate any argument the 4 year rule is the relevant period.

However, it is clear the two units were brought to the site and a physical operation to site the structure and attach them together was undertaken. With regard to the operation tests of a building operations as established by the Court i.e. attachment to the ground, size and permanence, it is clear from aerial imagery that the ground was prepared with a hardsurface and the weight of the structure is sufficient to conclude it was designed not to be readily removed in one piece and therefore attached the ground. The construction of unit elements of the structure also indicates there is an element of construction resulting in a substantial structure. The evidence provided by the applicant clearly indicates the structure is intended to be a permanent feature.

Overall, there are some compelling arguments to conclude the structure is a building rather than a use of the land and notwithstanding any definitive view, it is therefore considered appropriate to assess the matter as though the structure is a building operation.

#### Relevant time periods

The time frames set out within Section 171B of the Act are therefore relevant. Taking into account the information submitted by the Agent it would appear that the structure has been in situ for more than 4 years. However, the appropriate consideration is not whether the building has been there in excess of 4 years but whether there has been a breach of planning control as set out in section 171B.

Section 171B states

*“(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of (in this case 4 years) beginning with the date on which the operations were substantially completed.”*

*“(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of (in this case 4 years) beginning with the date on which the operations substantially completed.”*

*“(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.”*

With regard to s.171B it is crucial to identify precisely the date on which the breach of planning control occurred for any period to be relevant.

In this instance and while it appears the structure has been in place since May 2019, the signed declaration submitted within the application states with reference to the caravan that *'Our family lived in this permanently during the construction of our home which is located in close proximity on our land'*.

Schedule 2, Part 4, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) is therefore relevant as this grants a temporary siting of building or moveable structure during legitimate operations. It specifically states the following:

### **Permitted development**

- A.** *The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in or over that land or on land adjoining that land.*

The conditions relating tot this are as follows:

**A.2** Development is permitted by Class A subject to the conditions that, when the operations have been carried out –

- (a) Any building, structure, works, plant or machinery permitted by Class A is removed, and
- (a) Any adjoining land on which development permitted by Class A has been carried out is, as soon as reasonably practicable, reinstated to its condition before that development was carried out.

Taking into account the information provided within the submission and in the absence of any evidence to the contrary, it is considered that whilst the application claims that the building has been in situ for the time period for more than 4 years and therefore immune from enforcement action there was no breach in planning control when the structure was placed on the ground. Due to the exercising of permitted development rights for a temporary structure for occupation during construction works to the adjacent dwelling, the time frame for a breach of planning control would only commence once the structure was not required for temporary accommodation or that the operations had been completed.

Information obtained from Building Control indicates that in March 2022, the dwellinghouse was occupied whilst internal works were being completed which is consistent with the signed declaration which states that the applicants moved out of the home when the Ukraine war broke out (February 2022). This is consistent with the Council Tax records submitted as evidence that the caravan was used for residential purposes.

It is therefore apparent that permitted development rights granted a temporary planning permission for the structure from May 2019 to at least February 2022.

As such, taking into account the above, it appears that the occupation of the structure ceased to be occupied as a temporary structure in February 2022 and its retention following this date is the relevant date where it can be shown a breach of planning control commenced. As such and notwithstanding any view on whether the 4 or 10 year rule is relevant, it is clear from the evidence submitted that the breach of planning control in this instance does not benefit from any immunity provided by s.171B.

For further clarity, s.171B(1) may not be relevant in so far as the breach of planning control in this instance was not the carrying out of building operations without planning permission as the operations to construct the structure was carried out pursuant to a temporary planning permission. It is also questionable whether s.171B(2) is relevant as the breach may not be described as a change of use of a building given the building was occupied as a temporary dwelling whilst construction of the house and continue to be use as a dwelling after the temporary period lapsed.

Consequently, it may be more appropriate to describe the breach as one fitting into s.171B(3) particularly as condition A.2 of Class A, Part 4 required the structure to be removed once the operations had been carried out.

### Conclusion

The crux of the applicant's submissions are that the structure has been in situ for more than 4 years and therefore the works are considered lawful due to the passage of time. However, the applicant's submissions includes a clear statement leading the to the conclusion temporary permitted development rights Under Part 4, Class A as a temporary structure whilst works were being carried out to construct the adjacent dwellinghouse were in fact implemented. The breach of planning control to continue the use as a single dwellinghouse commences when the structure was not required in connection with the construction of the dwellinghouse.

Moreover, condition A.2 of Part 4, Class A is that once the operations have been carried out then the temporary building is removed. Therefore, the breach in planning control came into effect in February 2022 when the use of the temporary building ceased and is therefore not a lawful structure and is not immune from enforcement action as it is still in situ on the land adjacent to the dwellinghouse in which it served, following the occupation of the adjacent dwelling. The use of the existing structure cannot be granted a Certificate of Lawfulness for the purposes of a holiday let as the time period from being immune from enforcement action has not lapsed.

### **Recommendation:**

For the reasons above, it is not considered that the building is a lawful structure and therefore cannot benefit from a Certificate of Lawful Development for the use as a holiday let.

**Decision Authorisation:** - Delegated Powers

**Application number:** 2025/91651

**Officer Recommendation:** Refuse Certificate

**Reason:**

The continued use of the structure at Greave Farm, described as a mobile caravan by the applicant, is not considered to benefit from any immunity from enforcement action provided by Section 171B of the Town and Country Planning Act 1990 (as amended). From evidence provided by the applicant it is considered the initial operations to provide the structure in May 2019 benefited from a temporary planning permission granted by virtue of Part 4, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) while the operations to implement a planning permission for the adjacent dwellinghouse were being carried out. Thus, the breach of planning control subsequently occurred when the structure was not required for the temporary purposes as set out in Class A in February 2022 as evidenced in the applicant's submissions. Condition A.2 of Class A, Part 4 required the structure to be removed once it was not required.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location plan	PP-14060026v1		17 <sup>th</sup> June 2025
Site plan, elevations and floor plans	(PL) 01		17 <sup>th</sup> June 2025
Council Tax records	2019 to 2022		17 <sup>th</sup> June 2025
Refuse collection address			18 <sup>th</sup> June 2025
Written Statement/Declaration			18 <sup>th</sup> June 2025
Photographs containing delivery details			18 <sup>th</sup> June 2025
Holiday Let records			17 <sup>th</sup> June 2025
Planning Statement	Wake Morley Architects - Job No. 1860		18 <sup>th</sup> June 2025

**Dated:** 12<sup>th</sup> August 2025

