

**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/92226/W

Site: Unit 17, Calder Trading Estate, Lower Quarry
Road, Bradley, Huddersfield, HD5 0RX

Description: Certificate of lawfulness for existing commercial
building

Case Officer: Laura Yeadon

Decision Reference: EXISTING OPERATIONS 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 08-Oct-2025

Officer Report

[Weblink](#)

Reference: 2025/92226

Applicant: E Bottomley And Sons Ltd

Location: Unit 17, Calder Trading Estate, Lower Quarry Road, Bradley, Huddersfield, HD5 0RX

Proposal: Certificate of lawfulness for existing commercial building

Site description:

The application relates to an existing commercial building located within the eastern part of Calder Trading Estate, Bradley.

Description of development:

The applicant is seeking a determination that the building subject to this application as shown on the submitted location plan was substantially completed more than 4 years before the date of the application submission.

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.

Consultation responses:

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

Relevant Policy/Legislation:

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

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 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.

Relevant Planning History:

- 1990/04325 Erection of extension to form office and laboratory
Conditional Full Permission
- 2010/05802 Erection of toilet block/septic tank
Conditional Full Permission
- 2010/90942 Erection of 2 industrial units and boundary fence
Conditional Full Permission

Evidence submitted in support of the application:

- Application form
- Location plan
- Evidence Statement
- Appendix 1 – sworn statement confirming completion April 2021
- Appendix 2 – sworn statement confirming fit for occupation July 2021
- Appendix 3 – Certificate of practical completion issued 10th July 2021

Evidence submitted against the application:

None

Evidence obtained from Council Records and other sources:

- Council's mapping system with imagery from 2018 and 2021
- Google Maps imagery
- Goggle Streetview imagery from March 2019 and September 2023

Site visit:

None

Assessment:

The application has been submitted by the applicant on the basis that building operations comprising the substantial completion of a building over four years prior to the date of the application as defined within Section 55 of the Town and Country Planning Act. The submitted details cite that the building was substantially completed in July 2021 which was four years and 1 month prior to the submission of this application.

The works comprised the construction of a structure measuring approximately 45 metres by 13 metres and constructed from steel sheeting and is clearly affixed to the ground. It is therefore considered that the structure is a building for the purposes of planning control.

The Council therefore concludes that the structure is a 'development' under Section 55(1) of the Town and Country Planning Act 1990.

No complaints were received with regards to the building which did not seek formal planning permission for its construction. No permitted development rights were available for the construction of the building by reason of the floor area.

A search on the Council's mapping system clearly demonstrates that the building was not in situ in 2018 but was in situ in 2021. Google Streetview imagery also confirms that the building was in situ in September 2023.

The Agent has provided an Evidence Statement which details an aerial photograph demonstrating the building in situ in July 2021 along with

declarations confirming that the building was under construction in 2021 along with a Certificate of practical completion, also dated 2021.

It is considered therefore, that based on the evidence provided by the applicant/agent and the information held by the Council, the building has been constructed in breach of planning control for more than 4 years. Section 171B of the Town and Country Planning Act 1990 (as amended) and subject to transitional arrangements within the amended Order, provides that enforcement action cannot be taken against operational development where such development has been substantially completed in excess of 4 years.

The Council has no evidence to contradict the information submitted.

Conclusion:

As such, on the balance of probabilities, the LPA is satisfied that the building has been on site for more than 4 years. Acknowledging this, recommendation is that the certificate of lawful use should be granted.

Recommendation: Grant Certificate

Decision Authorisation: - Delegated Powers

Application number: 2025/92225

Officer Recommendation: Grant Certificate

Reason:

Based on the information provided and on the balance of probabilities, it is considered to have been demonstrated that the building adjacent to Unit 17, Calder Trading Estate, Lower Quarry Road, Bradley, Huddersfield, HD5 0RX was constructed in breach of planning control, but has been substantially completed for more than 4 years. Under the provisions of section 171B of the Town and Country Planning Act 1990 (as amended), the building is now considered to be lawful for the purposes of planning control.

Plan Type	Reference	Version	Date Received
Application form			12 th August 2025
Location plan	Blackwell's Mapping Services		12 th August 2025
Elevations and floor plans	20:07:7252:03 – Rev: F		12 th August 2025
Evidence Statement	Robert Halstead Chartered Surveyors & Town Planners		12 th August 2025
Appendix 1			12 th August 2025
Appendix 2			12 th August 2025
Appendix 3			12 th August 2025

Dated: 5th September 2025