

**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/93049/E

Site: Coleman Tyre And Motor Company, Green Road,  
Millbridge, Liversedge, WF15 6DN

Description: Certificate of lawfulness for existing repair and  
maintenace of vehicles and for use for MOT testing

Case Officer: Laura Yeadon

**Decision Reference: EXISTING USE GRANTED**

**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 15-Dec-2025**

## **Officer Report**

[Weblink](#)

**Reference:** 2025/93049

**Applicant:** H Ikhlq

**Location:** Coleman Tyre And Motor Company, Green Road, Millbridge, Liversedge, WF15 6DN

**Proposal:** Certificate of lawfulness for existing repair and maintenance of vehicles and for use for MOT testing

### **Site description:**

The application site relates to Coleman's Garage, Liversedge within an area of land defined as the Strategic Green Infrastructure Network within the Kirklees Local Plan. The site is currently occupied by 2 no. detached brick constructed buildings with a small forecourt to the front of the building. The submitted site also indicates a parking area to the rear of the site.

### **Description of development:**

The application is for a Certificate of Lawful Development for the existing use of the land for the existing repair and maintenance of vehicles and for MOT testing. The application form indicates that an *'LDC is requested to confirm land and buildings as shown on the attached drawing and photograph can be used for the repair and maintenance of vehicles and for use for MOT testing as historically operated.'*

### **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.

### **Relevant Policy/Legislation:**

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

**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);
2. 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:**

1990/00172 Erection of MOT testing bay  
*Conditional Full Permission*

2006/94429 Replacement roof finish and enlarged door opening  
*Conditional Full Permission*

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

- Completed application form
- Location plan and site plan – ref: 25.2799.01
- Photograph

**Evidence submitted against the application:**

No evidence against the application has been received.

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

Council's mapping system demonstrating aerial imagery and site history along with Street View imagery.

**Site visit:**

No site visit has been undertaken.

**Assessment:**

The application has been submitted by the applicant on the basis that the use began more than 10 years before the date of this application.

For the provisions of s.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
- (b) failing to comply with any condition or limitation subject to which planning permission has been granted.

It is part (a) which is of relevance in this case and s.55 (1) of the Act provides the definition of development as: -

*“Subject to the following provisions of this section, in the Act except where the context otherwise requires, “development” means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of a material change in use of any building or other land’.*

Consequently, it is necessary for the applicant to show a material change of use occurred without the required planning permission and that breach in planning control existed for a period of 10 years.

An examination of the evidence submitted on behalf of the applicant follows:

### Application form

A completed application form has been submitted with the application which states that the site has historically been used for the repair and maintenance of vehicles and for use for MOT testing. Section 9 of the application is annotated to indicate that the use began more than 10 years before the date of this application.

### Location and site plan

A location plan and site plan have been submitted under drawing number 25.2799.01. The plan is to 1:100 scale and 1:1250 scale. Both plans refer to the same application site known as Colman's Garage.

### Photograph

A photograph has been submitted that relate to the site demonstrating 2 no. detached outbuildings with signage indicating Colman's Garage, Liversedge with the signage indicating that services offered are MOT, air con, repairs, servicing, new tyres and wheel alignment. The photograph is not date stamped therefore this evidence carries little weight in the consideration of this application.

### Evidence held by the Council

It is clear from the planning history of the site that the use of the land has been used for at least MOT testing due to the submission and subsequent approval for an MOT testing bay in 1990. The historic maps held by the Council indicate that the site has been used as a garage dating back to 1957 although no details of the services offered are available to view.

Google Streetview imagery indicates that the site has operated as Coleman's since the earliest imagery available in October 2009, March 2019 and June 2023 with the buildings advertising the same signage. It does not appear from the imagery that the use ceased during these time periods.

The evidence held by the Council offers little doubt that the land has been used for vehicle MOTs since approximately 1990 based on the planning history of the site for the MOT testing bay. Google Streetview offers further clarity with the signage on the building advertising MOT, air con, repairs, servicing, new tyres and wheel alignments since October 2009 which would become immune from any enforcement action in 2019. Consequently, a Certificate may be issued for this specific existing use.

Section 191(5)(b) provides that a certificate shall include reference to any use class within the Use Classes Order 1987 where applicable. Therefore, it is necessary to consider whether or not the repair and maintenance and MOT testing falls within any specific use class.

The Use Classes Order states provides that an industrial process means, inter alia, “the altering, repairing, maintaining.....of any article.” The repair of vehicles clearly falls into Use Class B2 (Use for the carrying out of an industrial process). Moreover, the testing for MOT can be said to fall into the ambit of maintaining a vehicles and overall it is considered the use within the red line boundary is Class B2 of Schedule 1 of the Use Classes Order 1987 (as amended).

**Conclusion:**

Based on the information held by the Council it has been demonstrated that the evidence is sufficiently precise and unambiguous that the site has been used for the repair and maintenance of vehicles and for use for MOT testing (Class sui generis) of Schedule 2 of The Town and Country Planning (Use Classes) Order 1987 (as amended) for a period of at least 10 years prior to the date of the application.

**Recommendation:** Grant Certificate

**Decision Authorisation:** - Delegated Powers

**Application number:** 2025/93049

**Officer Recommendation:** Grant Certificate

**Reason:**

On the balance of probabilities, it has been demonstrated that the evidence is sufficiently precise and unambiguous that the use of the land at the time of the application was lawfully used for the repair and maintenance of vehicles and for use for MOT testing (Class B2 of Schedule 1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) for a period of at least 10 years prior to the date of the application.

| <b>Plan Type</b>            | <b>Reference</b> | <b>Version</b> | <b>Date Received</b>           |
|-----------------------------|------------------|----------------|--------------------------------|
| Application form            |                  |                | 10 <sup>th</sup> November 2025 |
| Location plan and site plan | 25.2799.01       |                | 10 <sup>th</sup> November 2025 |
| Photograph                  |                  |                | 10 <sup>th</sup> November 2025 |

**Dated:** 15<sup>th</sup> November 2025