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/93390/W
Site:	Crimes House, Far Lane, Hepworth, Holmfirth, HD9 1RN
Description:	Certificate of lawfulness for existing single storey side extension
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 04-Feb-2026

Officer Report

Weblink

Reference: 2025/93390

Applicant: Mr & Mrs Wilkinson

Location: Crimes House, Far Lane, Hepworth, Holmfirth, HD9 1RN

Proposal: Certificate of lawfulness for existing single storey side extension

Site description:

Crimes House is a detached dwelling located within the defined Green Belt. The property is accessed via a private road, off Far Lane and is also a Public Right of Way (HOL/148/10). The property is two storeys in height with the site occupying a stable block and menage.

Description of development:

The application seeks a Certificate of Lawful Development for an existing single storey side extension. The details within the application form indicate that the building works were in breach of condition began more than 10 years before the date of this application.

The application is submitted with a covering letter which states:

'Full planning permission was granted on 22 October 2010 for the erection of extensions, garage and stables at Crimes House (ref: 2010/62/91467/W1). The approved extensions comprised a single storey side extension to the south east elevation of the dwelling and a two-storey rear extension to the south west elevation. Condition 2 required the development to be implemented in accordance with the approved plans.

The Applicant duly commenced building works and erected a garage and stables. The approved single-storey side extension was built at the same time, but to a different design to that shown on the approved plans. The approved two-storey rear extension has not been constructed.'

It goes on to state that:

'This application for a Lawful Development Certificate requests the Council's confirmation that the erection of the single-storey side extension is now lawful despite the conflict with Condition 2 of 2010/62/91467/W1.'

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.

Holme Valley Parish Council have acknowledged that the application has been submitted.

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.

In determining for the purposes of this section whether the time for taking enforcement action under 171B of the Act has expired, that time is to not be taken to have expired if in the case of a breach of planning control in England, ten years before the date on which the operations were substantially completed.

However, prior to 25 April 2024 the time period in which enforcement action should be taken for operational development was 4 years. Transitional arrangements provided that if operational development was substantially completed prior to the 25 April 2024 then 4 years continued to apply to that development.

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:

2010/91467 Erection of extensions, garage and stables
Conditional Full Permission

2014/90884 Formation of menage
Conditional Full Permission

Evidence submitted in support of the application:

- Application form
- Covering letter
- Approved plan ref: 2757(0-)04 – Rev: B
- 'As built' plan re: AD_001
- Certificate of Completion of Work – Kirklees Council dated 21st August 2013

Evidence submitted against the application:

No evidence against the application has been submitted.

Evidence obtained from Council Records and other sources:

- Council's mapping system (Kompass)
- Google Maps
- Historic planning history files including photographs

Site visit:

No site visit has been undertaken.

Assessment:

The application has been submitted by the applicant on the basis that the building works were in breach of condition 2 began more than 10 years before the date of this application. Condition 2 required the approved development should be carried out in complete accordance with approved plans However, it is considered that condition 2 only serves to clarify and relates only to what has been permitted. If the development is subsequently not built in accordance with a planning permission then it cannot benefit from that planning permission and is not therefore in breach of condition.

As it has been established that the south east single storey enlargement did not benefit from a planning permission granted by permission reference 2010/91467, it may benefit from an alternative planning permission. In this instance the submitted information includes a completion certificate dated 21 August 2013 and thus a permission may have been granted under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) that was in force at the time the development took place.

The 1995 Order mirrors the amending current 2015 GPDO Order other than the subsequently introduction of sub-paragraph A.1(ja) in 2017, which takes into account any existing enlargements to the dwellinghouse.

In this case the single storey enlargement projects from the original side elevation of the dwellinghouse and appears adjoin an original rearward projection which appears to have either been altered with a cat slide roof or replaced with the existing projection. However, no record of planning permission is recorded for this alteration. Notwithstanding this and according to aerial imagery held by the Council, this alteration was undertaken prior to 2002 and thus would have been lawful by the time the side enlargement was constructed by virtue of being substantially completed in excess of 4 years.

In any event the single storey side extension projects 3 metres beyond the original side elevation, is 4 metres in height with eaves height of 2.3 metres. When assessing this against the GPDO in force at the time the extension was constructed, the enlargement is not forward of the principal elevation, does not exceed any height limitation, is single storey, does not projection more than 4 metres from the original rear elevation and is not more than half the width of the original dwellinghouse.

However, it is noted that the 2010 planning permission was implemented through the construction of garages and thus all conditions are in force, in particularly a condition removing permitted development rights. As the applicant has not demonstrated that the single storey side extension was commenced prior to the implementation of the 2010 planning permission, it is considered it

has not been shown the side extension benefitted from permitted development rights and was unlawful at the time the works were undertaken.

Given the applicant has demonstrated from Building Control records that the extension was completed in 2013, the period whereby immunity under Section 171B started on that date. It is clear from aerial imagery that the extension has remained unaltered since 2013, it is considered immunity from enforcement action was gained in August 2017 and is now lawful for the purposes of planning control.

Conclusion:

Based on the information submitted and records held by the Council, Officers are satisfied that the single storey side extension projecting from the south east elevation of the dwellinghouse is lawful for the purposes of planning control by virtue of Section 171B of the Town and Country Planning Act 1990 (as amended).

Recommendation: Grant Certificate

Decision Authorisation: - Delegated Powers

Application number: 2025/92290

Officer Recommendation: Grant Lawful Development Certificate

Reason:

Based on the information submitted by the applicant and the information held by the Local Authority, it has been demonstrated on the balance of probability that the single storey side extension projecting from the south east elevation of the dwellinghouse is lawful for the purposes of planning control by virtue of Section 171B of the Town and Country Planning Act 1990 (as amended).

Plan Type	Reference	Version	Date Received
Application form	PP-14522895		9th December 2025
Covering letter	082001/L001		9th December 2025
Approved drawings	2757(0-)04 – Rev: B		9th December 2025
As built drawings	25159 – AD_001		9th December 2025
Certificate of Completion of Work	2012/76/01417/W		9th December 2025
Photographs			5th January 2026

Dated: 2nd February 2026