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.: 2026/CL/90175/W

Site: 103a, Titanic Mill, Low Westwood Lane, Linthwaite, Huddersfield, HD7 5UN

Description: Certificate of lawfulness for proposed installation of replacement solar panels (Listed Building within a Conservation Area)

Case Officer**:** Laura Yeadon

Decision Reference: PROPOSED 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 17-Mar-2026

Officer Report

Weblink

Reference: 2026/90175

Applicant: Wilkinson

Location: 103a, Titanic Mill, Low Westwood Lane, Linthwaite, Huddersfield, HD7 5UN

Proposal: Certificate of lawfulness for proposed installation of replacement solar panels (Listed Building within a Conservation Area)

Site description:

The site forms part of the Titanic Mills complex, which hosts residential properties as well as a spa and associated sleeping accommodation. The mill was granted planning permission for conversion in 2001, with 125 residential apartments approved (amongst other uses, including a restaurant).

Parking for the complex is to the north-west of the building within the south east.

Titanic Mills is a Grade 2 Listed Building and also falls within the Linthwaite Conservation Area. The building has the following listing description;

Circa 1911. Massive woollen mill. Hammer dressed stone. Triple, hipped slate roof. 6 storeys. 26 bays by 6 bays of industry casements. Corner bays of paned round arched windows, break forward slightly and are surmounted by parapet. Other casements have shallow segmental head. On North West elevation, central 7 bays break forward slightly and are surmounted by ashlar parapet with dies. Near central square stair tower on south east side, which rises above eaves level and has triple round arched windows and is surmounted by bracketed cornice and parapet.

Description of development:

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

Assessment:

Section 192(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:

2001/92048 – Conversion of mill (1911 building) to 125 residential apartments (floors 1-5) mixed uses at ground floor level including public restaurant (Class A3) hotel type bedroom suites (Class C) offices (Class B1) caretakers flat and health and fitness club (Class D2) with related access car parking, landscaping and demolition of ancillary buildings (Listed Building) – Section 106 Full Permission

2001/92049 – Listed Building Consent for conversion of mill (1911 building) to 125 residential apartments (floors 1-5) mixed uses at ground floor level including public restaurant (Class A3) hotel type bedroom suites (Class C) offices (Class B1) caretakers flat and health and fitness club (Class D2) with related access car parking, landscaping and demolition of ancillary buildings – Consent granted

2003/92686 – Formation of 5 no. additional apartments (1911 building) (Listed Building) (modification of 2001/62/92048/W1) – Conditional Full Permission

2003/92687 – Listed Building Consent for formation of 5 no. additional apartments (1911 building) (Listed Building) (modification of 2001/62/92049/W1) – Consent granted

2004/92856 – Change of use of part of first floor to form 16 no. hotel rooms (Listed Building) – Conditional Full Permission

2004/92857 – Listed Building Consent for change of use of part of first floor to form 16 no. hotel rooms – Consent Granted

2007/92120 – Formation of 21 apartments on floors 1 and 5 (Listed Building in a Conservation Area – Conditional Full Permission

2007/92121 – Listed Building Consent for formation of 21 apartments on floors 1 and 5 (within a Conservation Area) – Consent Granted

2008/91221 – Change of use and alterations to convert 22 no. apartments into 32 hotel suites (Listed Building within a Conservation Area) – Conditional Full Permission

2008/91222 – Listed Building Consent for change of use and alterations to convert 22 no. apartments into 32 hotel suites (within a Conservation Area) – Consent Granted

2011/90616 - Extension of time limit for implementing existing permission number 2008/91221 for change of use and alterations to convert 22 no. apartments into 32 hotel suites (Listed Building Within a Conservation Area) – Conditional Full Permission

2011/90693 - Extension of time limit for implementing existing permission number 2008/91222 for Listed Building Consent for alterations to convert 22

no. apartments into 32 hotel suites (Within a Conservation Area) – Consent Granted

2011/91051 - Creation of spa garden (within a Conservation Area) – Conditional Full Permission

2011/91052 – Listed Building Consent for creation of spa garden – Consent Granted

2011/92158 - Erection of temporary building (Listed Building within a Conservation Area) – Conditional Full Permission

2011/92159 – Listed Building Consent for temporary building (within a Conservation Area) – Consent Granted

2012/90257 - Variation of condition one on previous permission 2011/62/92158/W for erection of temporary building (Listed Building Within a Conservation Area) – Approved

2012/90258 - Listed Building Consent for Variation of Condition one on previous permission (2011/65/92159/W) for Listed Building Consent for erection of temporary building (Within a Conservation Area) – Consent granted

2013/93252 - Certificate of lawful use for existing change of use and alterations to convert 22 no. apartments into 32 hotel suites (Listed Building within a Conservation Area) – Granted

Evidence submitted in support of the application:

- Application form
- Location plan and site plan
- Designer Report
- Roof Loading Appraisal

Evidence submitted against the application:

None

Evidence obtained from Council Records and other sources:

- Councils mapping system with imagery from 2002, 2006, 2009, 2012, 2018 and 2021
- Google Earth mapping system

Site visit:

None

Assessment:

The application has been submitted by the applicant om the basis that the exiting solar panels would be like for like replacements of the exiting panels which have been in place for 20 years.

The meaning of ‘development’ and ‘new development’ is defined within Section 55 (1) of The Town and Country Planning Act 1990 [“Act”] as the following:

> (1) Subject to the following provisions of this section, in this 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 any material change in the use of any buildings or other land.

Section 55 (2) of the of Act goes on to state the following:

> (2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—
>
> (a) the carrying it for the maintenance, improvement or other alteration of any building of works which –
> (i) affect only the interior of the building, or
> (ii) do not materially affect the external appearance of the building

and are not for works making war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

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

The proposal is to replace the existing solar panels on the roof of the building with like for like replacements. If the works amount to development as defined by section 55 of the Town and Country Planning Act 1990, the works would be required to comply with the requirements of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, as noted above, it must be considered to firstly be classified as development.

In this case, the works are to replace the existing panels which the application form states have been in situ for 20 years. This is corroborated by the Council by the aerial mapping system demonstrating that the panels were not in situ in 2002 but were in situ in 2006. The current proposal is to replace these panels.

The replacement panels would be located on the south facing valley roof slopes on top of a six storey building. The roof slope accommodating the panels cannot be seen from any part of land surrounding the building given the height and location hidden between valley roof slopes. There maybe some long distance view from valley side public highways 200m-300m to the south although tree cover and buildings obscure the vast majority of these views.

Moreover the sheer distance from the valley side render the panels almost invisible.

There may be views of the panels from private properties either within the building or from a distance on elevated properties on the valley side. In such circumstances the Court[1] has held that it is insufficient for alterations to a building to be seen from the air or other buildings to constitute development and works should be visible from “normal vantage point”. In this instance the panels cannot be readily viewed from any public normal vantage point and as such are not considered to materially affect the external appearance of the building.

As such, the change for like to like panels would not constitute development as it would include the carrying out for the maintenance, improvement or other alteration of any building of works which do not materially affect the external appearance of the building due to their location within the roof form.

It is noted that the building is classified as a Listed Building and therefore it is possible that Listed Building Consent would be required for the works. The applicant would be advised to seek further clarification from the Council and/or submit an application pursuant to section 26 of the Listed Buildings Act 1990.

Conclusion:

As such, on the balance of probabilities, the LPA is satisfied that like for like replacement would not be considered ‘development’. Acknowledging this, recommendation is that the certificate of lawful use should be granted.

Recommendation: Grant Certificate

Decision Authorisation: - Delegated Powers

Application number: 2026/90175

Officer Recommendation: Grant Certificate

Reason:

Based on the balance of probabilities, it is considered that the replacement of existing solar panels on the roof of 103a, Titanic Mill, Low Westwood Lane, Linthwaite, Huddersfield, HD7 5UN would not constitute development as defined by Section 55 of The Town and Country Planning Act 1990 (as amended).

NOTE: The granting of this Certificate does not consent to any works requiring separate permission for Listed Building Consent. It is advised that the applicant ensures that all correct permissions are obtained prior to works commencing.

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[1] *Burroughs Day v Bristol City Council [1996] 1 PLR 78*

Plan Type	Reference	Version	Date Received
Application form	PP-14636239		20th January 2026
Location plan and site plan	0122-100 – Rev: A		20th January 2026
Designer Report	00371 – Titanic Spa		20th January 2026
Roof Loading Appraisal	57950 - SS		20th January 2026

Dated: 16th Match 2026

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