

**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/90611/W

Site: building south of, Helm Farm, Colne Bridge,
Huddersfield, HD5 0PU

Description: Certificate of lawfulness for existing use of building
as commercial workshop (Class B2)

Case Officer: Laura Yeadon

Decision Reference: LAWFUL 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.**

John Holmes

AUTHORISED OFFICER

Date 20-Jul-2026

Officer Report

[Weblink](#)

Reference: 2026/90611

Applicant: J & H Atkinson & Dransfield

Location: building south of, Helm Farm, Colne Bridge, Huddersfield, HD5 0PU

Proposal: Certificate of lawfulness for existing use of building as commercial workshop (Class B2)

Site description:

The application relates to a former agricultural building which is located to the southern side of the site known as Helm Farm. The building is a portal framed structure which is approximately 27.5 metres in length and approximately 9.2 metres in width. The building is made up of 6 bays and constructed from profile sheet cladding. The submitted details indicate that the building has an independent electrical supply and an independent heating system.

Description of development:

The application is for a Certificate of Lawful Development for the existing use of the building as a commercial workshop (Class B2). The application form indicates that the Certificate is sought on the grounds that the use began more than 10 years before the date of this application and therefore is now lawful.

Within the details submitted it is claimed that the building was historically an agricultural building but ceased use for agricultural purposes many years ago in 1985 when the applicant ceased keeping livestock.

The Planning Statement claims that since May 2002 the subject building has been in continuous use for the maintenance and repair of vehicles ranging from construction plant to old collectible vehicles and the storage of a motor boat (July 1993 to date). It goes on to state that the general use of the building since 2005 to date has been as a workshop for the repair and maintenance of vehicles / non-agricultural vehicles.

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. The applicant seeks to demonstrate that the use of the building began more than 10 years before the date of this application.

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:

Specific to the building itself:

None

Wider area – north of building:

2023/91454 - Conversion/demolition and restoration of former agricultural building to form 5 dwellings erection of new garages to serve plots 2-4 and extension to plot 5 – Conditional Full Permission – the building is not within the red line boundary of this application

Wider area – south of building;

2003/95052 – Construction of shared use footpath (walking/cycling and walking/cycling/horse riding) using a combination of existing paths, dismantled railway lie and canal towpath with associated access points - Granted

Evidence submitted in support of the application:

- Location plan
- Existing block plan
- Existing roof and floor plan
- Existing elevations
- Planning Statement/Evidence Statement
- Statement from Chartered Surveyor
- Declarations
- Historic photographs

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 arial imagery and site history.

Assessment:

The application has been submitted by the applicant on the basis that the use of the building under use class B2 (general industrial) began more than 10 years before the date of this application and therefore is now lawful

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.

Location plan

The site location plan clearly shows the building subject to this application on plan number 25/1242/01. There are other buildings close to the building demonstrated on the plan however these are not subject to this application.

The subject building is located to the south of a cluster of other buildings which historically appeared to be agricultural buildings. The information contained within the Planning Statement claim that the building was historically an agricultural building however this use ceased in 1985. The historical aerial photographs held by the Council date back to 2000 and clearly show the building in situ.

Submitted plans

A site plan, floor plans and elevation plans of the building have been submitted which demonstrate the dimensions and siting of the building.

Planning Statement/Evidence Statement

A Planning Statement/Evidence Statement has been submitted under reference number 25/1242 which provides information including the background of the building. It claims that the use of the building as an agricultural building in 1985 and that since May 2002 the subject building has been in continuous use for the maintenance and repair of vehicles ranging from construction plant (diggers, dumper tipper wagons) to old collectable

vehicles (collectable cars and a tractor engine) and the storage of a motor boat July 1993- to date.

It goes on to state that from May 2002- May 2017 the building was used as a formal goods vehicle operating centre. Details state that the general use of the building since 2005 to date have been a workshop for the repair and maintenance of vehicles, not-agricultural vehicles and that various substantial and evidence has been submitted to evidence the Statement and the use of the building from May 2002 to date is as a workshop.

Statement from Chartered Surveyors

A letter has been submitted from a Chartered Surveyor which details a number of inspections made at Helm Farm. The letter states that to their knowledge the building has been used as a workshop and has not been agricultural related as active farming ceased many years ago with the farmland having been by way of a tenancy.

Declarations

The first declaration states that they have been the tenant of the agricultural land since the year 2000 and during the tenancy has not included use of any of the buildings situated on Helm Farm for any purpose. It notes that they are away that the application building has been used as workshop and not for agricultural purposes and has been in continuous use since the year 2000. This declaration has not been signed under oath.

The second declaration states that they have been a tenant at the Farm since 1994 and that the use of the building has been as a workshop and not for agricultural purposes and has been continuous since the year 2000. This declaration has not been signed under oath.

The third declaration states that they have used the workshop to repair, service and maintain various family and friend's vehicles and that they have used the applicant's help and use of tools and equipment. This declaration has not been signed under oath.

The fourth declaration states that the building has been used as a workshop/HGV vehicles from March 2002 to 2017 and also concurrently a mechanics workshop from December 2005 to date with the author being part owner of the site. It is claimed that the building was used by a local Plant Hire business from 14th May 2002 to 14th May 2017 with the Goods Vehicle Operator's License for the Plant Hire business shows the address as Helm Farm and the License permitted 2 vehicles to be operated from the site. It goes on to state that the applicant worked for the Plant hire business and carried out maintenance/mechanics work within the subject building. It is claimed that the workshop use operated at the same time as the good operators use but only commencing in December 2005 (the goods operators use was from March 2002). The declaration was signed under oath by a solicitor on 25th December 2026. A copy of operator's license is attached and

is in force from 2002 to 2017 and confirms the operating centre as Helm Farm. This is also signed under oath.

The fifth declaration states that they were the former manager of the Plant Hire business that the building was used as a workshop/HGV vehicles from March 2002 to May 2017. They also confirm that the applicant has continued to use the building beyond May 2017 as a mechanical repair workshop from May 2017 to the present day. It confirms that a Goods Vehicle Operator's License allowed 2 vehicles to run from the Farm and that there is a motor boat also stored within the building. The declaration concludes that the building has been used for maintaining heavy goods vehicles, mechanical repairs/maintenance since March 2002. The declaration is signed under oath with the operator's license attached.

The author of the sixth declaration states that they have used the building for the past 13 years or more whilst the applicant has worked on the author's car. It confirms that during that period the applicant has worked on a number of vehicles, both commercial and cars and the author has used the applicants knowledge and well equipped workshop premises which featured a four-post car lift and workshop equipment. This declaration has not been signed under oath.

The seventh declaration has been submitted by the applicants and has been signed under oath. It states that the building was used as a workshop/HGV vehicles from March 2002 to May 2017 and also concurrently a mechanics workshop from December 2005 to date. This also contains the Goods Vehicle Operator's License as detailed above. It goes on to claim that the workshop housed a Traction Engine from purchase in 2004 to 2025 when sold and had engineering work carried out on the engine in the workshop and worked to restoring the engine themselves. It goes on to state that the workshop also housed a classic car whereby restoration of the car was carried out over the years whilst working on other projects and that the building has been used for well in excess of 10 years with both commercial vehicles, cars and classic cars have been both maintained and repaired. It is stated that a motor boat has been stored within the building which hosts a tall roller shutter door, four post car ramp, compressor, work benches, commercial workshop heater and alarm system which have been installed well over 10 years. The information contained within the declaration included the purchase of the motorboat in 1993 and photographs date stamped 2006. It also includes a written receipt for the aforementioned traction engine, dated 2005. A DVLA registration document for the classic car has also been submitted.

Photographs

The Agent has submitted a number of photographs of the inside of the building. 8 no. photographs have been submitted which makes claim to being taken in 2023 however these do not appear to be date stamped.

A further 23 photographs have been submitted, some of the photos are dated 2006, some 2007 and none with no date stamp.

Evidence held by the Council

It is clear from the Council's mapping system that the building is sited within a cluster of former agricultural buildings and has been in situ for a significant period of time. There is no evidence available to Officer's to indicate that the subject building has been registered and/or used for commercial purposes. However, there does not appear to be any information available to officer's to dispute the claim of the applicants.

Conclusion:

Based on the above information, whilst the declarations submitted which have not been signed under oath carry little weight in the consideration of this application, it is clear from the information submitted that the building has historically been used under workshop (Use Class B2). This is evidenced by photographs and the submitted Goods Vehicle Operator's License which lists Helm Farm as the address. Whilst it is not clear if this relates to the subject building, a location plan has submitted with the building clearly demonstrated and is signed and witnessed by a legal representative.

Whilst the Goods Vehicle Operator's License ceased in 2017, there is no evidence submitted other than the witness signed declarations that state that the use continued since that period of time. However, this is within the last 10 year period in which Section 55 of the Act which is legislated. Therefore, on the balance of probability, the applicant has demonstrated that the existing building on site as shown on the location plan has been used for Use Class B2 purposes and the development is therefore considered lawful.

Recommendation: Grant Certificate

Decision Authorisation: - Delegated Powers

Application number: 2026 /90611

Reason:

On the balance of probability, the applicant has demonstrated that the existing building on site as shown on the location plan has been used for purpose(s) falling within Use Class B2 of the Town and Country Planning (use Classes) Order 1987 (as amended) and the development is therefore considered lawful.

Plan Type	Reference	Version	Date Received
Application form			10 th March 2026
Location plan	25/1242/01		10 th March 2026
Existing block plan	25/1242/02		10 th March 2026
Existing floor and roof plan	25/1242/03		10 th March 2026

Plan Type	Reference	Version	Date Received
Elevations	25/1242/04		10 th March 2026
Planning Statement/Evidence	25/1242		10 th March 2026
Declarations x 8			10 th March 2026
Photographs			19 th March 2026