



RTPI

Royal Town
Planning Institute

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48 Crosland Fold, Huddersfield, HD3 3WR

APPLICATION FOR A CERTIFICATE OF LAWFULNESS (EXISTING USE OR DEVELOPMENT)

PLANNING STATEMENT

1.0 Introduction

1.1 This statement has been prepared in support of an application for a Certificate of Lawfulness under Section 191 of the Town and Country Planning Act 1990 (as amended). The application seeks to confirm that a single storey rear extension at 48 Crosland Fold, Huddersfield, HD3 3WR is lawful by virtue of the passage of time and is therefore immune from enforcement action.

1.2 The assessment is made on the basis of fact and law, rather than planning merits, in accordance with established legal principles and national guidance.

1.3 The extension has been substantially completed and in continuous use for a period exceeding four years prior to the relevant legislative changes introduced through the Levelling-up and Regeneration Act 2023.

1.4 As such, the development benefits from immunity under the previous statutory framework, often referred to as the “four-year rule”. This application demonstrates, through clear and robust evidence, that the development was completed within the relevant timeframe and that no enforcement action has been taken.

1.5 The purpose of this submission is therefore to provide a comprehensive evidential and legal case confirming that the operational development is lawful. It is supported by dated aerial imagery, including satellite photographs from April 2020 through to 2025, alongside a detailed explanation of the legislative transition and its implications.

1.6 The submission has been carefully prepared to ensure compliance with both statutory requirements and national planning guidance.

2.0 Site and Development Description

2.1 The application site comprises a residential dwelling located at 48 Crosland Fold within a defined residential area of Huddersfield. The property forms part of an established housing estate characterised by similar dwelling types and associated domestic extensions. The surrounding context is typical of suburban development, with a strong presence of residential curtilages and ancillary structures.

2.2 The development subject to this application consists of a rear extension which has been constructed to the host dwelling. The extension is clearly identifiable in aerial imagery and has been fully integrated into the use of the dwellinghouse.

2.3 It functions as part of the primary residential accommodation and has not been subject to any material alterations since its completion.

2.4 Evidence submitted demonstrates that the extension was not present in April 2020, but was fully constructed and substantially complete by April 2021. Subsequent imagery from 2021 through to 2025 confirms its continued presence and use without interruption.

2.5 This establishes a clear timeline of development and provides objective verification of completion.

3.0 Legislative and Planning Policy Context

3.1 Section 191 of the Town and Country Planning Act 1990 provides that a certificate of lawful existing use or development shall be granted where it can be demonstrated that the development has become lawful through the passage of time.

3.2 In the case of operational development, the relevant period historically has been four years from the date of substantial completion. The burden of proof lies with the applicant, and the test is on the balance of probability.

3.3 The Department for Levelling Up, Housing and Communities has introduced legislative changes through the Levelling-up and Regeneration Act 2023 which extend the enforcement period for operational development from four years to ten years in England.

3.4 However, transitional provisions make clear that where development was substantially completed prior to 25 April 2024, the previous four-year immunity period continues to apply. This is a critical distinction in the assessment of this application.

3.5 National policy set out within the National Planning Policy Framework supports a proportionate and evidence-based approach to decision making. Whilst the NPPF does not directly determine lawfulness, it reinforces the importance of certainty and fairness within the planning system. The granting of a certificate where evidence is sufficient aligns with these overarching principles.

4.0 The Four-Year Rule and Legislative Transition

4.1 The key issue in this case is the application of the correct immunity period in light of recent legislative changes. The extension was substantially completed between April 2020 and April 2021, as clearly evidenced by satellite imagery. This places the completion date well before the legislative cut-off of 25 April 2024, meaning the development falls squarely within the scope of the former four-year rule.

4.2 Under the previous provisions of the Town and Country Planning Act 1990, operational development becomes immune from enforcement after four years from substantial completion. As the extension was completed in or around April 2021, the four-year period expired in or around April 2025. No enforcement action has been taken within that period, and therefore the development has become lawful.

4.3 The amendments introduced by the Levelling-up and Regeneration Act 2023 do not apply retrospectively to developments completed before the specified date. The legislation expressly preserves the four-year rule for such cases, ensuring that applicants are not prejudiced by changes introduced after the fact. This is consistent with principles of legal certainty and fairness.

4.4 It is also important to note that whilst enforcement action could theoretically have been taken up to April 2025, none has occurred. The absence of enforcement action within the statutory period is a decisive factor in establishing lawfulness. As such, the development is now immune and cannot be subject to enforcement proceedings.

5.0 Evidence of Substantial Completion

5.1 The application is supported by a comprehensive suite of aerial and satellite imagery which clearly documents the progression of development. Images from April 2020 show no extension present at the site, confirming the baseline condition of the property. This provides a clear starting point for assessing the timeline of works.

5.2 Subsequent imagery from April 2021 shows the extension fully constructed and visually complete. The scale, form, and permanence of the structure indicate that it was substantially complete at this time. There is no evidence of ongoing construction or partial completion, supporting the conclusion that the development was finished by this date.

5.3 Additional images from 2021 through to 2025 demonstrate continuous existence and use of the extension. The consistency of these images provides strong corroborative evidence that the development has remained unchanged and in active use as part of the dwellinghouse. This continuity is an important factor in establishing immunity.

5.4 Taken together, the evidence demonstrates on the balance of probability that the extension was substantially complete more than four years prior to the expiry of the relevant enforcement period. The standard of proof required for a lawful development certificate is therefore clearly met.

6.0 Assessment and Conclusions

6.1 Basis of Assessment

6.1.1 The assessment of this application is founded entirely upon matters of law and objective fact, rather than any subjective planning judgment regarding the acceptability of the development.

6.1.2 This reflects the statutory position set out under Section 191 of the Town and Country Planning Act 1990, which requires the Local Planning Authority to determine whether, on the balance of probability, the development has become lawful through the passage of time.

The planning merits of the extension, including design, scale, or impact, are not material to this determination.

6.1.3 The evidence submitted in support of the application clearly demonstrates that the rear extension was substantially completed by April 2021. This conclusion is drawn from a sequence of dated satellite imagery, which shows the absence of the extension in April 2020 and its full construction by April 2021. The clarity and consistency of this evidence provides a robust and reliable timeline of development.

6.1.4 Furthermore, the extension has remained in continuous use as part of the dwellinghouse since its completion, with no indication of interruption, alteration, or abandonment.

6.1.5 This uninterrupted use reinforces the conclusion that the development has been established as part of the residential planning unit for a sustained period. As such, the development falls squarely within the scope of the four-year immunity period as it existed prior to legislative change.

6.2 Application of the Four-Year Rule and Legislative Transition

6.2.1 The legislative position has been subject to recent amendment through the Levelling-up and Regeneration Act 2023, which introduces a ten-year enforcement period for operational development in England.

6.2.2 However, crucially, transitional provisions accompanying these amendments make clear that developments which were substantially completed prior to 25 April 2024 remain subject to the previous four-year rule.

6.2.3 In this case, the extension was completed by April 2021, which is significantly earlier than the legislative cut-off date. As such, the development benefits from the historic four-year rule, and the extended ten-year period does not apply.

6.2.4 This ensures that the applicant is not retrospectively disadvantaged by changes in legislation that post-date the completion of the development.

6.2.5 Applying the four-year rule to the established completion date, the extension became immune from enforcement action in or around April 2025. This represents the expiry of the statutory period during which the Local Planning Authority could have taken enforcement action.

6.2.6 The passage of this period without intervention is determinative in establishing lawfulness.

6.2.7 This interpretation is consistent with the overarching principles of fairness and legal certainty embedded within the planning system, and supported by national guidance from the Department for Levelling Up, Housing and Communities.

6.2.8 It ensures that development is assessed against the legislative framework in place at the time of its completion, rather than being subject to retrospective changes.

6.3 Absence of Enforcement Action and Lawfulness

6.3.1 A critical component in the assessment of lawfulness is whether any enforcement action has been taken within the relevant statutory period. In this instance, no enforcement action has been initiated by the Local Planning Authority at any point since the completion of the development. This absence of action is significant and weighs heavily in favour of granting the certificate.

6.3.2 There is also no evidence to suggest that the development has been deliberately concealed or implemented in a manner designed to avoid detection. The extension is clearly visible in aerial imagery and forms an obvious and integral part of the dwellinghouse. This transparency further supports the application and confirms that no exceptional circumstances exist which would disapply the immunity provisions.

6.3.3 The requirements of Section 191 of the Town and Country Planning Act 1990 are therefore fully satisfied. The applicant has demonstrated, through credible and verifiable evidence, that the development has subsisted for a continuous period exceeding four years without enforcement action. On the balance of probability, the extension must therefore be regarded as lawful.

6.4 Overall Conclusion and Request for Determination

6.4.1 Drawing together the evidence and legal analysis set out above, it is clear that the rear extension at 48 Crosland Fold has achieved immunity from enforcement through the passage of time. The development was substantially completed by April 2021, has remained in continuous use since that date, and has not been subject to any enforcement action within the relevant statutory period.

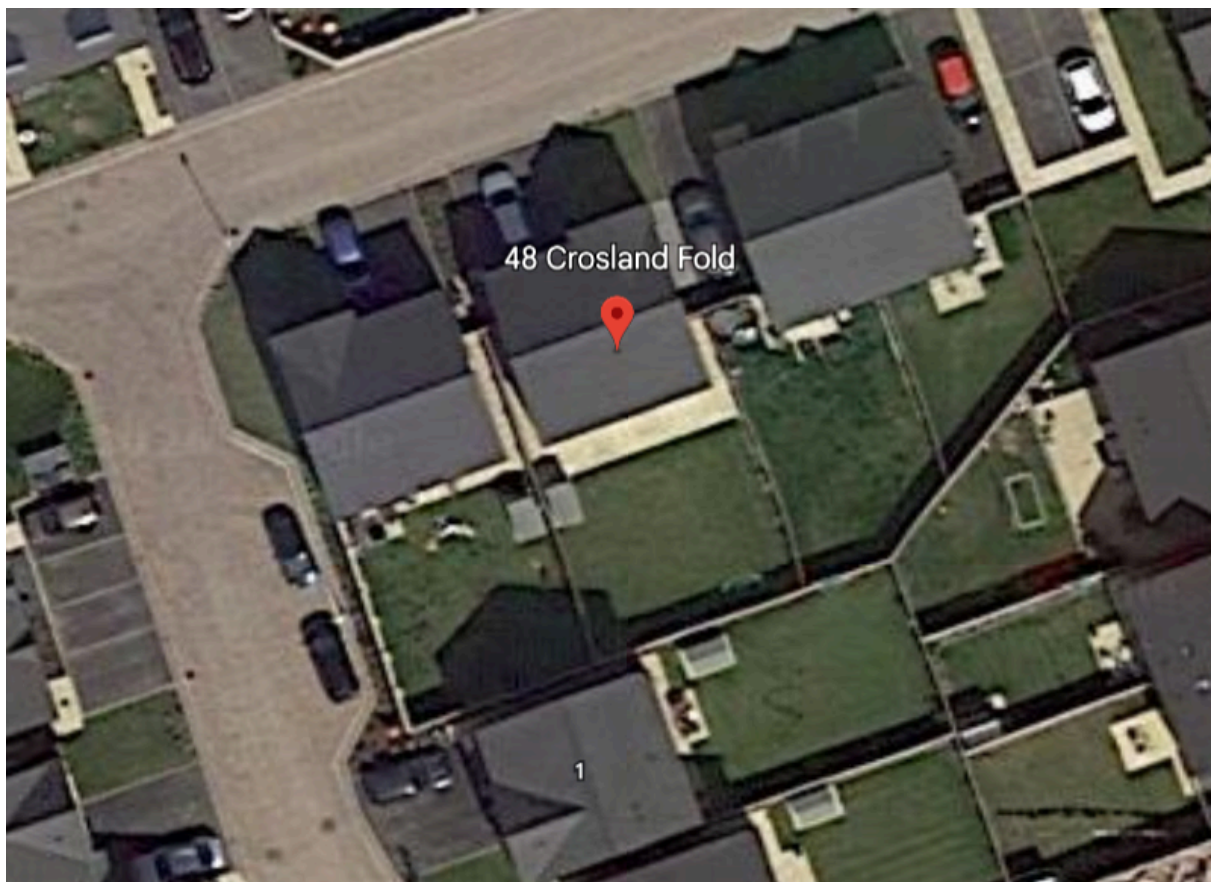
6.4.2 The transitional provisions associated with the Levelling-up and Regeneration Act 2023 confirm that the four-year rule continues to apply in this case. The extension therefore became lawful in or around April 2025, and its status cannot now be challenged through enforcement proceedings.

6.4.3 The evidence presented meets and exceeds the required standard of proof for a Certificate of Lawfulness, demonstrating on the balance of probability that the development is lawful. The application is supported by clear, consistent, and objective documentation which leaves no reasonable doubt as to the timeline and status of the extension.

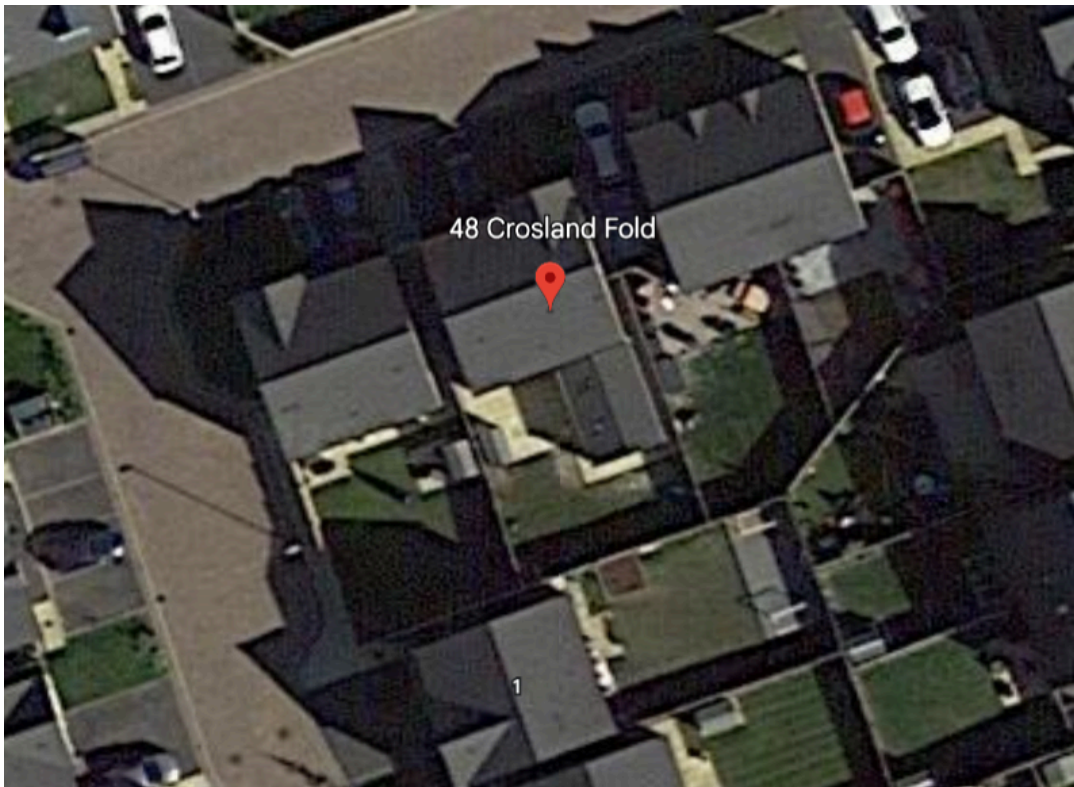
6.4.4 In light of the above, the Local Planning Authority is respectfully requested to grant a Certificate of Lawfulness confirming that the rear extension at 48 Crosland Fold, Huddersfield, HD3 3WR is lawful. The issuing of such a certificate will provide formal recognition of the development's lawful status and ensure clarity and certainty for the property moving forward.

Photos:

15th May 2019-



23 April 2021-



16th June 2021-

