

# **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/91121/E

Site: 15, Robin Royd Lane, Mirfield, WF14 0LQ

Description: Certificate of lawfulness for proposed use of  
childrens home as dwelling

Case Officer: Laura Yeadon

**Decision Reference: Certificate of Lawfulness 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.**

Kirsty Nicholls

**AUTHORISED OFFICER**

**Date 15-Jun-2026**

**Applicant:** Aspris Children's Services Ltd

**Site:** 15, Robin Royd Lane, Mirfield, WF14 0LQ

**Description:** Certificate of lawfulness for proposed use of childrens home as dwelling

**Application number:** 2026/91121

[Weblink](#)

## **1.0 Application**

- 1.1 The applicant seeks a certificate of lawful development from the Local Planning Authority to confirm that altering the use of the building from a children's home to a dwelling does not constitute a material change of use and would therefore result in a lawful use.

## **2.0 Lawful Use Certificates**

- 2.1 Section 191(1) of the Town and Country Planning Act 1990 ("The Act) permits any person who wishes to ascertain whether any proposed use of buildings or other land is lawful to make an application to the Local Planning Authority.
- 2.2 Section 191(2) of the Act provides that uses are lawful if the Local Planning authority is provided with information satisfying them that the use of operations described in the application would be lawful if instituted or begun at the time of the application.

For the purposes of the Act, a use is lawful at any time if no enforcement action may be taken against the use, and the use does not contravene the requirements of any enforcement notice then in force.

## **3.0 The Relevant Test**

- 3.1 The burden of proof lies firmly with the applicant and the relevant test for whether the operations can be deemed lawful is on the 'balance of probability'.
- 3.2 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 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.

## **4.0 Limitations**

- 4.1 The Lawful Development Certificate (LDC) must contain details of what use or operations 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 at 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, the Local Planning Authority may then consider further development has taken place.

## **5.0 Relevant information**

- 5.1 The application site comprises of a single storey dwelling with dormer windows within the front elevation roof slope. To the front of the property is a hardstanding area for off street parking with a small lawned area and to the side and rear are further amenity spaces. A conservatory is also located on the rear elevation.
- 5.2 Existing and proposed floor plans have been submitted with the application which demonstrates minor changes to the existing layout with the plans annotated to change the accommodation. No internal or external construction works are proposed.

## **6.0 Planning History**

- 6.1 2005/94040 – Erection of two storey extension and replacement of conservatory and formation of new parking space – Conditional Full Permission

2006/932509 – Erection of two storey extension and replacement conservatory and formation of new parking space (modified proposal) – Conditional Full Permission

2019/93587 - Certificate of Lawfulness for proposed use of dwelling as a home for 2 young persons in receipt of care as required with no more than 2 carers resident overnight – Granted

## **7.0 Representations**

- 7.1 None received

## **8.1 Evidence submitted in support of the application**

- 8.1 The applicant has provided the following information:

- Application form
- Covering letter
- Location plan and site plan
- Existing and proposed floor plans

## **9.0 Evidence submitted against the application**

9.1 None

## **10.0 Site visit**

10.1 A site visit by the Case Officer was not considered necessary in this instance.

## **11.0 Assessment of evidence**

- 11.1 Section 55 of the Act establishes that the making of a material change of use of a building represents development. The consideration is whether such a proposed change of use is material for the purposes of Section 55.
- 11.2 The recognised starting point in considering whether a material change of use has occurred would be to initially consider the planning unit (Burdle v SoS [1972]). The existing planning unit is a detached property with 4 no. bedrooms set within its own curtilage.
- 11.3 Materially, the context of the meaning of development is dependent upon whether there is a material change in the character of the property (Guildford Rural DC v Penny (1959)). The property is listed as a dwellinghouse on the Council's gazetteer system (Kompass) and obtained a Certificate of Lawful Development under application number 2019/93587 to use the dwellinghouse as a home for 2 young persons in receipt of care as required with no more than 2 carers resident overnight.
- 11.4 As part of the above application, the description of development cited 'use of dwelling' which therefore indicates that prior to the granting of the Certificate, the building was known as a dwellinghouse.
- 11.5 This application seeks to establish that to revert the property back to a family dwelling is not classified as 'development' and therefore does not require planning permission to use the property as dwellinghouse.
- 11.6 As part of the previous application for a Certificate of Lawful Development, a full assessment of the proposal was undertaken, and it was established that.... *'it is considered that on the balance of probability that the proposed use of the house as a residential home for two children and/or young people with two carers on site at all times within the land edged red does not amount to a material change of use as defined by Section 55 of the Act. The change of use is not considered to substantially change the character of the building, nor does it have any "planning" effect upon the neighbourhood. It is recommended to approve the certificate and confirm the lawful use.'*

- 11.7 The Officer Report went on to establish that whilst the use of the property was not considered to fall within C3 Use Class, the operation of the property would not fall within Use Class C2 (institution) provided by C2. The use of the property was not considered to be materially different to that of a typical dwellinghouse and therefore it was not considered to define a specific Use Class as part of the decision.
- 11.8 Therefore, based on the above, the previous application was not considered to materially and formally change the use of the building from a dwellinghouse. This application seeks to revert the use back to a family home. Given that no planning permission was granted to change the use of the building to care for 2 no. children with 2 no. carers under application number 2019/93587 as it was not considered to be development, it is not considered that to revert it back to family home also constitutes development.

## **12.0 Recommendation**

- 12.1 Based on information above, it is concluded, on the balance of probabilities, that the proposed use of the children's home as a dwelling would not constitute a material change of use of the building and as such is not considered to be development as defined within Section 55 of the Town and Country Planning Act 1990 (as amended) and would therefore be lawful pursuant to section 192 of the Act.

### **Recommendation: Grant Certificate**

### **Decision Authorisation – Delegated Powers**

**Application number:** 2026/91121

### **Officer Recommendation:**

On the balance of probability the occupation of 15 Robin Royd Lane, Mirfield, WF14 0LQ as a family dwelling would not constitute a material change in the use of this building and as such is not considered to amount to development as defined within Section 55 of the Town and Country Planning Act 1990 (as amended) and would therefore be lawful pursuant to section 192 of the Act.

Plans and specifications schedule:-

| <b>Plan Type</b>                  | <b>Reference</b> | <b>Version</b> | <b>Date Received</b>        |
|-----------------------------------|------------------|----------------|-----------------------------|
| Location Plan and Site Plan       | 26146 01         |                | 22 <sup>nd</sup> April 2026 |
| Existing and Proposed Floor Plans | 26146 02         |                | 22 <sup>nd</sup> April 2026 |
| Application Form                  | PP-14873802      |                | 22 <sup>nd</sup> April 2026 |
| Covering Letter                   | JB/102032        |                | 22 <sup>nd</sup> April 2026 |

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Due to the nature of the application, further information was not requested.

Report date: 15<sup>th</sup> June 2026