

**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/91187/E

Site: Westfield House, 57, Westfield Lane, Emley Moor,
Huddersfield, HD8 9TD

Description: Certificate of lawfulness for existing detached
garage

Case Officer: Laura Yeadon

Decision Reference: GRANT CERTIFICATE OF LAWFUL OPPS

**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.**

Sarah Longbottom

AUTHORISED OFFICER

Date 03-Jul-2026

Officer Report

[Weblink](#)

Reference: 2026/91187

Applicant: A Cross

Location: Westfield House, 57, Westfield Lane, Emley Moor, Huddersfield, HD8 9TD

Proposal: Certificate of lawfulness for existing detached garage

Site description:

Westfield House, 57 Westfield Lane is a large, two storey dwelling. The property is set within a large curtilage with a large area of land to the rear of the garden also within ownership of the property. The property site at right angles to the roadside and is predominantly constructed from stone with red brick utilised within the porch and chimneys. The site is accessed off Westfield Lane to a forecourt area which is set behind gates and where a large, detached outbuilding is located.

Description of development:

The application seeks a Certificate of Lawful Development for the existing detached garage. The details within the application form indicate that the building work was substantially completed on 1st April 2022, with no enforcement action taken and therefore, it benefits from being a lawful structure.

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.

Whilst no comments from neighbouring properties have been received, Denby Dale Parish Council have been notified of the application and have raised no objections.

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);
1. 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.

Prior to 25th 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:

2008/93276 – Erection of single and two storey extensions – Conditional Full Permission

2009/90892 – Erection of single and two storey extensions (modified proposal) – Conditional Full Permission

Relevant Enforcement History:

None

Evidence submitted in support of the application:

- Application form – Ref: PP-14898002
- Location plan – Ref: TQRQM26131141254771
- Proposed site plan – Ref: WFL.01/C/01
- Ground floor plan – Ref: WFL.01/C/03
- Side and rear elevations – Ref: WFL.01/WD/05
- Elevations, floor plan and section – Ref: WFL.01/WD/02
- Section – Ref: WFL.01/WD/06
- Front and side elevations – Ref: WFL.01/WD/04

During the course of the application, the following documents were received:

- Email 1 – invoice dated 07/02/2022 for construction materials
- Email 2 – invoices dated 25/03/2022 and 09/02/2022 for construction materials
- Email 3 – invoices dated 07/02/2022 and 07/02/2022 for construction materials
- Email 4 – photographs of construction phases date stamped at 21/02/2022 and 13/04/2022

Evidence submitted against the application:

None

Evidence obtained from Council Records and other sources:

- Council's mapping system (Kompass)
- Google Earth
- Information available on the internet

Site visit:

No site visit has been undertaken.

Assessment:

The application has been submitted by the applicant on the basis that the building was constructed in accordance with permitted development rights and that the building was completed prior to April 2022, in excess of 4 years and therefore constitutes lawful development.

Having considered the historical planning application decision notices, under application reference 2008/93276, no permitted development rights were removed on the decision notice, however, under planning reference 2009/90892 permitted development rights were removed. Condition 4 of this permission states the following:

4. *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification) no extensions shall be erected on the roof of the extensions hereby approved on the approved plan without the prior written approval of the Local Planning Authority.*

The reason for imposing this condition was as follows:

4. *In the interests of visual and residential amenity and to accord with Policies D13 and D14 of the Kirklees Local Plan.*

As the development relates to an outbuilding and not to any works to the roof of the extensions as prescribed within the above condition, permitted development rights for any works other than works to the roof of the extensions are still intact.

Therefore, the application relates to Section 191 of the Town and Country Planning Act 1990 in relation to an existing use, operation or activity as the detached garage building. Whilst the building is in situ, there is no definitive information submitted by the applicant or held by the Local Planning Authority to confirm that the building has been in continuous use from the date of completion to the date of the submission of the application other than the claim within the application form.

In this case, the garage has been constructed without the benefit of any planning permission, whether this be via a formal application or by a general planning permission granted by virtue of exercising permitted development rights. Therefore, an assessment needs to be made as to whether the structure is immune from enforcement action.

Current legislation states that in terms of time limits for enforcement action The Levelling-up and Regeneration Act 2023 amended the Town and Country Planning Act 1990 (section 171B) to update the time limits within which the

LPA can take planning enforcement action against breaches of planning control.

When this change was enacted, transitional measures were introduced as to when the breach of planning control took place. Pertinent to this application is when the works were substantially completed. The transitional measures state that if the breach took place prior to 25th April 2024, operational development relating to building, engineering or mining then enforcement action can no longer be taken from four years, beginning the date where the operations were substantially completed. There is no record of any enforcement action being undertaken by the Local Planning Authority with regard to this particular development.

Information contained within the submission in terms of invoices and date stamped photographs indicate that construction materials were purchased in February to March 2022 and the imagery contained within a photograph dated 13th April 2022 indicates that the building was substantially constructed at that point. It is noted however that the formal Completion Certificate is dated 2026.

Aerial and street view imagery available online and from the Council's mapping system indicate that no construction works had taken place in 2021 however is clearly in situ in 2023.

The time limits for taking enforcement action are set out in section 171B of the Town and Country Planning Act 1990 as amended by the Levelling-Up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 for transitional arrangements).

The transitional arrangements set out that the amendments made to the 1990 Act by section 115 of the 2023 Act (time limits for enforcement) do not apply where in relation to a breach of planning control referred to in sections 171B(1) & (2) of the 1990 Act (time limits), the breach occurred before the day on which that section comes into force.

In this case, the applicant claims that the building works were substantially completed in April 2022. Evidence in the form of a date stamped photograph appears to confirm that this is indeed the case and the Local Planning Authority hold no evidence to contradict this claim. Therefore, in the absence of enforcement action for a breach of planning control consisting of operational development took place before 25 April 2024, it is concluded that on the balance of probability, the development the subject of this application for a Certificate of Lawful Development is immune from enforcement action being able to be undertaken.

Therefore, given that the applicant has demonstrated that on balance of probabilities that the works to construct the garage were substantially completed by April 2022 and therefore is considered that immunity from enforcement action was gained in April 2026 and is now lawful for the purposes of planning control.

Conclusion:

Based on the information submitted and information available to the Council the detached garage located to the south-east of the dwellinghouse is lawful for the purposes of planning control by virtue of Sections 191 & 171B of the Town and Country Planning Act 1990 (as amended) and The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024.

Recommendation: Grant Certificate

Decision Authorisation: - Delegated Powers

Application number: 2026/91187

Reason:

Based on the information submitted and information available to the Council the detached garage located to the south-east of the dwellinghouse is lawful for the purposes of planning control by virtue of Sections 191 & 171B of the Town and Country Planning Act 1990 (as amended) and The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024.

Plan Type	Reference	Version	Date Received
Application form	PP-14898002		29 th April 2026
Location plan	TQRQM26131141254771		29 th April 2026
Proposed site plan	WFL.01/C/01		29 th April 2026
Elevations, floor plan and section	WFL.01/WD/02		29 th April 2026
Ground floor plan	WFL.01/C/03		29 th April 2026
Front and side elevations	WFL.01/WD/04		29 th April 2026
Side and rear elevations	WFL.01/WD/05		29 th April 2026
Section	WFL.01/WD/06		20 th April 2026
Email 1	Invoices		19 th May 2026
Email 2	Invoices		19 th May 2026
Email 3	Invoices		19 th May 2026
Email 4	Date stamped photos		19 th May 2026

Dated: 17th June 2026