

**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/91197/E

Site: The Croft, 1b, New Lane, Scapegoat Hill,
Huddersfield, HD7 4NY

Description: Certificate of lawfulness for existing use of dwelling
in breach of planning condition

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 06-Jul-2026

Officer Report

[Weblink](#)

Reference: 2026/CLD/91197/E

Applicant: A & K France

Location: The Croft, 1b, New Lane, Scapegoat Hill, Huddersfield, HD7 4NY

Proposal: Certificate of lawfulness for existing use of dwelling in breach of planning condition

Site description:

The Croft, 1B New Lane is a detached single storey dwelling located to the north of New Lane Farm which is a detached Listed Building located within the Green Belt as defined within the Kirklees Local Plan. The building was subject to a previous application to convert a former outbuilding to a dwelling. It appears that at the time of conversion, a formal access was created off Nettleton Hill Road.

Description of development:

The application is for a Certificate of Lawful Development for the use of a dwellinghouse known as The Croft, 1B New Lane. The submitted information indicates that the works to convert the outbuilding to a dwelling has taken place but has been privately rented, contrary to planning condition 3 of application number 2006/91374 for a period of more than 10 years. The application form states that*'The dwelling known as The Croft has been occupied independently and continuously from New Lane Farm since 2007.'*

For clarity, condition 3 of the decision notice states:

(3) The dwelling hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling know as New Lane Farm, Nettleton Hill Road, Golcar, HD7 4NY.

The reason for imposing the condition was:

(3) The site lies within the Green Belt in which development is not normally permitted for purposes other than those appropriate to the Green Belt and in the interests of free and safe use of the highway and to accord with Policies D8, T10 and T19 of the Unitary Development Plan.

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.

No representations have been received.

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.

In determining for the purposes of this section whether the time for taking enforcement action under 171B of the Act has expired, that is to not be taken to have expired if in the case of a breach of planning control in England, ten years before the date on which the operations were substantially completed.

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:

The following planning history relates solely to the building which is subject to this application:

2006/91374 – Reuse, extension and adaptation of existing outbuilding to form one dwelling with associated parking – Conditional Full Permission

2016/90405 – Change of use of land to domestic curtilage and erection of garage extension – withdrawn

Evidence submitted in support of the application:

The applicant has submitted the following:

- Application form
- Location plan
- Site plan
- Bramleys estate agent letter
- Chronology of Development and Use – June 2006 to date

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 aerial imagery and site history.

Assessment:

The application is for a Certificate of Lawful Development for the use of a dwellinghouse known as The Croft, 1B New Lane. The submitted information indicates that the works to convert the outbuilding to a dwelling has taken place but has been privately rented, contrary to planning condition 3 of application number 2006/91374 for a period of more than 10 years.

S.171B states that to operate, a breach of 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
- (a) Failing to comply with any condition or limitation subject to which planning permission has been granted.

It is part (b) which is of relevance in this case. Consequently, it is necessary for the applicant to demonstrate that whilst there is a breach in compliance with condition 3 of the 2006 permission, the breach in planning control existed for a period of 10 years or more.

The application has been submitted with an application form, location plan and block plan, letter from an estate agent and a document detailing the chronology of the use of the building.

Application form

The application form is clear in describing the works which relate to the application. It states that.... *'The residential property known as The Croft has been occupied independently and continuously from New Lane Farm since 2007 following the grant of planning permission dated 6th June 2006(2006/91374) which had a condition attached (condition 3) which read 'The dwelling hereby permitted shall not be occupied at any time other than for the purposes ancillary to the residential use of the dwelling known as New Lane Farm Nettleton Hill Road, Golcar, HD7 4NY.'* The application also details that the use began on 1st June 2007.

Location plan

A location plan has been submitted which indicates the red line boundary of the property. It is noted that vehicle access to the dwelling has been constructed which did not form part of the original application for the conversion of the outbuilding. Notwithstanding this, it appears from aerial images that this work was completed between 2006 and 2009 and therefore likely to have been constructed as part of the conversion.

Site plan

The submitted site plan indicates the outline of the property and the 2 no. designated parking spaces for the property. It is stamped and dated as being received by the LPA on 13 April 2006.

Bramleys estate agent letter

A letter from Bramleys estate agency which details the following:

- Carried out a valuation in respect of New Lane Farm in June 2005 which was prior to the construction of The Croft
- Carried out a valuation dated 3 December 2010 in respect of New Lane Farm which included a bungalow – bungalow described as a 1-bedroom property and was subject to a planning restriction limiting occupation. Records show that the property was occupied by a tenant.
- Revaluation which involved a property inspection on 9th February 2016 with additional correspondence dated 2 March 2016 specifically confirming the market rental value of the bungalow known as The Croft. Advice was given based on a shorthold tenancy for a term of 12 months which was on the basis that the tenant was responsible for council tax and the cost of services.
- Revaluation carried out, dated 13 April 2017 following a property inspection on 12 April 2017 following extensive remodelling and refurbishment works to New Lane Farm. Report confirms that The Croft was let on an assured shorthold tenancy on an unfurnished basis.
- The next valuation was dated 1 October 2021. The report confirmed that the detached bungalow known as The Croft remained unchanged and that the property had been refurbished. The Croft was occupied at that time.
- Desktop revaluation dated 23 February 2024 with regard to both properties. Reference was made to The Croft being occupied by a family member with no specific reference to The Croft being a separate entity.
- Further desktop revaluation dated 14 March 2025 where it was declared that there had been no material change to either property with The Croft occupied by a family member.
- The most recent report is dated 25 March 2026 the family member was occupying The Croft however due to a change in circumstances the property became vacant and Bramleys were appointed in April 2026 to market The Croft to let.

This information therefore indicates that based upon the records held by Bramleys, the property known as The Croft and the subject of this application has been occupied by a tenant from first inspection in 2010 up to the present day.

Chronology of Development and Use – June 2006 to date

This Statement is chronology of the works carried out and the use of the dwelling with supporting documents appended to the Statement. This is broken down into dates and is detailed as follows:

6th June 2006

- Planning approval received to form 1 dwelling – document 00 relates

Document 00 is a copy of the decision notice for planning reference number 2006/91374 with the description of development being 'Reuse, extension and

adaption of existing outbuilding to form one dwelling with associated parking. The decision notice includes a number of conditions as follows:

- Condition 1 – time period for works to commence
- Condition 2 – work to be carried out in accordance with the submitted plans
- Condition 3 – occupation for purposes ancillary to the residential use of the main dwelling
- Condition 4 – roofing materials to be blue slate
- Condition 5 – all window and door surrounds to be natural stone
- Condition 6 – all window frames and door to be constructed from timber
- Condition 7 – permitted development rights removed for new door or window openings
- Condition 8 – permitted development rights removed for buildings, structures or erection of any kind including walls, fences, hedges, trees, shrubs or drainage works within approved red line boundary
- Condition 9 – parking space shall be provided, drained, sealed and surfaced prior to occupation of the approved dwelling
- Condition 10 – requirement of a Phase 1 land contamination investigation to be submitted prior to development works commencing
- Condition 11 – where further investigation is recommended under condition 10, no development shall commence until a Phase II site investigation reported has been submitted and approved
- Condition 12 – where remediation is recommended under condition 11, no development shall commence until a remediation strategy has been submitted and approved
- Condition 13 – remediation of the site to be carried out in accordance with the remediation strategy agreed under condition 12
- Condition 14 – following completion of measures identified as part of condition 12, a validation report shall be submitted and approved

With regards to the above conditions, whilst this application relates to Condition 3, there is no information held on the Council's electronic file to indicate whether or not conditions 10-14 were formally discharged.

June 2006 to May 2007

- Construction works to completion

This information is noted.

June 2007

- Lease agreement with tenants signed from 1 June 2007 to 1 June 2010
– lease dated 19 May 2007 – documents 01 and 02 relate

Document 01 is a letter from the applicants to the tenants dated 8 May 2007 confirming that the lease of the building known as The Croft would be for a 3 year period from 1 June 2007 to 1 June 2010. It contains the cost of the rent and that the tenants would be responsible for utility bills, council tax, contents

insurance etc. The letter continues by listing the fixtures and fittings and further information relating to bun supplies, parking and property address.

Document 02 is the Assured Shorthold Tenancy Agreement which confirms the above time period for the rental of the property along with particulars including rental cost and date to be paid. The Agreement is signed by both the landlords and tenants and is dated 19 May 2007.

The above information appears to set out that the property was leased as a dwelling to the tenants. Information contains the address of the dwelling and the period for rent being 3 years from 2007-2010.

April 2010

- Lease renewal discussions with Mr and Mrs Knott – document 03 relates

Document 03 contains a letter dated 8 April 2010 from the landlords of the property and the tenants. The letter notes that the tenancy agreement will come to an end of 1 June 2010 and therefore discussions need to take place to discuss if a new tenancy agreement is required to stay at The Croft.

August 2012

- Letter to executors

A letter was drafted by the landlords in relation to giving 1 month notice to terminate the rental agreement and requesting details in relation to the utility suppliers.

September 2012

- Let-Two Agency commissioned to find new tenant – document 05 relates

A 'Terms of Business' document has been submitted relating to The Croft between the landlord and Let Two Ltd in relation to the letting of the property. This document is signed and dated 20 September 2012.

September 2012

- New tenant secured – documents 06 and 07 relate

Document 06 is a letter from the landlords of the property and a new tenant dated 22 September 2012. The letter details the Assured Shorthold Tenancy detail with the rental agreement terms and conditions for the tenancy which was stated as being for an initial 6 month period, commencing from 1 October 2012 to 31 March 2013. The document also cites that rental of the Studio Apartment near the main Farm. No details have been submitted with regards to a further 'planning unit' within the curtilage of New Lane Farm.

Document 07 is the Rental Agreement between the landlord and tenant for the specified initial period of 1 October 2012. The document is signed by both parties dated 23 September 2023.

March 2013

- Least terms transitions to month to month

This information is noted.

March 2016

- Rent advice from Bramleys, Property Management Consultants – document 08 relates

Document 08 relates to the rental value of The Croft and advice relating to confirmation of the market rental value of the property. This document is signed and dated 2nd March 2016.

June 2016

- Notice given by tenant – document 09 relates

Document 09 relates to an email thread between the landlord and above tenant regarding moving out of the property. The email thread is dated 6-7 June 2016.

June 2016

- New carpets, redecoration and minor repairs and maintenance

This information is noted.

June/July 2016

- Lease agreement signed for a 10-year period from 13 June 2016 to 13 June 2026 – document 10 relates

Document 10 is the tenancy agreement between the landlord and tenant for a 10 year lease for the above date range. The agreement was signed by both tenants and landlords and is witness signed on 10th July 2016.

April 2026

- Tenancy ended

This information is noted.

April 2026

- Bramleys engaged to find new tenant – document 11 relates

Document 11 contains the Agency Agreement between the landlords and Bramleys in relation to The Croft. This document is signed and dated 15 April 2026

Summary:

It is therefore considered that, taking all the above into consideration, the use of the building as a privately rented dwelling is in breach of condition 3 of planning permission 2006/91374. That being said, the claim by the applicant is that the use of the building has been occupied and continuously for a period of 10 years or more.

Having assessed the submission, Officers consider that the information put forward is sufficiently precise and unambiguous to justify the granting of a Certificate.

Conclusion:

Based on the information submitted and records held by the Council, Officers are satisfied that the occupation of the dwelling known as The Croft. 1B New Lane, is not ancillary to the host dwelling, New Lane Farm and is lawful for the purposes of planning control by virtue of Section 171B of the Town and Country Planning Act 1990 (as amended).

Recommendation: Grant Certificate

Decision Authorisation: - Delegated Powers

Application number: 2026/91197

Reason:

Based on the information submitted and records held by the Council, Officers are satisfied that the occupation of the dwelling known as The Croft. 1B New Lane, is not ancillary to the host dwelling, New Lane Farm and is lawful for the purposes of planning control by virtue of Section 171B of the Town and Country Planning Act 1990 (as amended).

Plan Type	Reference	Version	Date Received
Application form	PP-14897860		11 th May 2026
Location plan			11 th May 2026
Site plan	2006/62/91374/W1		11 th May 2026
Estate Agent correspondence	Bramleys – dated 27 April 2026		11 th May 2026
Occupation Chronology Detail	Dated April 2026		11 th May 2026

Dated: 1st July 2026