

**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/91742/E

Site: 335B, Wakefield Road, Denby Dale, Huddersfield,
HD8 8RT

Description: Certificate of lawfulness for proposed change of
use reverting back to residential from commercial

Case Officer: Laura Yeadon

**Decision Reference: REFUSE CERTIFICATE OF LAWFUL
DEVELOPMENT**

**I hereby authorise the refusal 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 24-Aug-2026

Officer Report

[Weblink](#)

Site Description

335B Wakefield Road relates to the first floor of the property which is currently used as commercial (office) space. The property is accessed via a roadside external door and sits within a terraced row of ground floor commercial properties.

Description of Proposal

Permission is sought for a Certificate of Lawful Development for a proposed change of use from commercial to residential. The works would involve internal works to create 2 no. 1 bedroom flats.

Officer Note

As part of a Certificate of Lawful Development, the onus is on the applicant to provide evidence which states why the proposal fits with the permitted development legislation. In this case, the applicant has stated on the application form that the property *'was previously used as residential and was approved for a change of use to commercial use in 2001 – application reference 2010/62/93722/E7. Permitted development rights have not been removed and as there are no exterior works we feel this meets permitted development.'* The application form goes on to say that *'As per section G – F89 – A: development consisting of a change of use of a building from a use within Class E (commercial, business & service) of Schedule 2 to the Use Classes Order to a mixed use for any purpose within that Class and as up to 2 flats.'*

History of negotiations/amendments received

No negotiations have taken place however the Agent updated the proposed plan as the incorrect drawing number had not been updated from the existing drawing. This plan was received on 13th July 2026.

Relevant Planning History

2001/93722 – Change of use, extensions and alterations to convert flat and retail unit into 2 no. retail units with offices over – Conditional Full Permission

2005/90321 – Change of use of shop unit to modern English restaurant – Refused

2006/92487 – Erection of illuminated fascia and projecting signs – Advertisement Consent Granted

2010/93203 – Change of use from retail to A3 (restaurant) – Conditional Full Permission

2018/91776 – Erection of illuminated signs – Advertisement Consent Granted

Consultation Responses

No consultations were deemed necessary for this proposal as it is an application for a Lawful Development Certificate. However, Denby Dale Parish Council offer no objection to the proposed works.

Issues and Assessment

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined within section 55 of the Town and Country Planning Act 1990;
1. If so, whether permitted development rights apply to the property; and
2. Whether the proposed development falls within permitted development under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3 (Changes of use), Class G (commercial, business and service or betting office or pay day loan shop to mixed use).

Class G - commercial, business and service or betting office or pay day loan shop to mixed use

Permitted development

G. Development consisting of a change of use of a building—

- (a) from a use within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order, to a mixed use for any purpose within that Class and as up to 2 flats;
- (a)
- (b) from a use within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order, to a mixed use for any purpose within Class E (commercial, business and service) of Schedule 2 to that Order and as up to 2 flats;
- (c)
- (d) *from a use falling within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order] to a mixed use falling within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order] and as up to 2 flats.*

Comment: *This application falls to be considered under part (a) above.*

Conditions

G.1 Development permitted by Class G is subject to the following conditions –

- (a) some or all of the parts of the building used for a use within, as the case may be, article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of, or Class E of Schedule 2 to, the Use Classes Order is situated on a floor below the lowest part of the building used as a flat;

Comment: *The ground floor of the building would be retained as Class E.*

- (a) where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat;

Comment: *There is a display window at ground floor level which would not be encroached on as part of the residential use.*

- (b) a flat must not be used otherwise than as a dwelling (whether or not as a sole or main residence)—
 - (i) by a single person or by people living together as a family, or
 - (i) by not more than 6 residents living together as a single household (including a household where care is provided for residents)

Comment: *Noted*

- (c) before beginning development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—
 - (i) contamination risks in relation to the building;
 - (i) flooding risks in relation to the building;
 - (ii) impacts of noise from commercial premises on the intended occupiers of the development;
 - (iii) the provision of natural light in all habitable rooms of the dwellinghouses;
 - (iv) arrangements required for the storage and management of domestic waste.

Comment: *Prior approval has not been sought for the proposed development.*

Conclusion:

Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 allows for development consisting of a

change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order under Class G if deemed to be a mixed use Class E/C3 as defined by the Use Classes Order 1987 (as amended).

However, under condition G.1(d), the Order states that the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required. Therefore, there is no provision to change the use of a Class E use to C3 use without the benefit of either prior approval or full planning permission. As such, the application fails to comply with the requirements of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The proposal has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for refusal.

The proposed change of use from a use falling within Class E (commercial, business and service) of Schedule 2 of the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1, Class G does not benefit from any planning permission granted by the Local Planning Authority nor any general planning permission granted under Schedule 2, Part 3, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Condition G.1(d), the Order states that the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required. As such, the application fails to comply with the requirements of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			6 th July 2026
Existing elevations, floor plans and sections	2577-0101-P01		6 th July 2026
Proposed elevations, floor plans and sections	2577-0301-P01		13 th July 2026

Dated: 18th August 2026

