



Planning Statement

Certificate of Lawfulness for Existing Development (CLEUD) - Lawful Commencement of Planning
Permission 2019/62/90725/E

Land at Busker Lane
Scissett
Huddersfield
HD8 9JU

October 2026

Contents Page

Section 1.0	Introduction	3
Section 2.0	Site Context and Planning History	3
Section 3.0	Legislative Framework and Lawful Commencement	4
Section 4.0	Documentary Evidence	5
Section 5.0	Conclusions	6

Appendices

Appendix 1 Email from LPA to Applicant's Architect

Appendix 2 Decision Notice Ref: 2019/62/90725/E

Appendix 3 Google Earth Historic Imagery - 15 May 2019 and 22 April 2020

1.0 Introduction

- 1.1 This statement has been prepared on behalf of the applicant to support a Certificate of Lawfulness application for existing development at land at Busker Lane, Scissett, Huddersfield, HD8 9JU (the 'site'). The land subject of this Certificate application is delineated in red on the submitted location plan.
- 1.2 This Certificate application seeks to demonstrate that planning permission Ref. 2019/62/90725/E, granted by Kirklees Council (the 'LPA') for the demolition of existing dwellings and erection of 6 apartments, was lawfully implemented within the three-year period prescribed by Condition 1 of that permission, and follows advice provided to the client's architect by the LPA (email at Appendix 1).
- 1.3 The principal basis of the Certificate application is that the demolition of the existing dwellings is a named component of the development authorised by the planning permission and constituted a '*material operation*' for the purposes of Section 56 of the Town and Country Planning Act 1990.
- 1.4 The following sections of this report apply the requirements of Sections 56 and 191 of the Town and Country Planning Act 1990, together with the established approach to lawful commencement, to demonstrate that the permission was implemented and remains extant.
- 1.5 The description of development to be applied for is therefore as follows:

*"Certificate of lawfulness **for the erection of one dwelling** to confirm valid commencement of development approved under planning permission 2019/90725 for demolition of existing dwellings and erection of 6 apartments within the 3 year time limit given in condition 1"*

2.0 Site Context and Planning History

Site Context

- 2.1 The application site comprises land on the southern side of Busker Lane, Scissett, immediately adjoining the Nortonthorpe Hall School complex. The submitted location plan identifies the Certificate site in red, with other land within the applicant's ownership shown in blue.

- 2.2 At the time planning permission Ref. 2019/62/90725/E was determined, the site contained existing dwellings which were expressly proposed to be demolished to facilitate the approved apartment development. The approved development therefore comprised a single composite scheme of demolition followed by the erection of six apartments.
- 2.3 Planning permission Ref. 2019/62/90725/E was granted by the LPA on 7th August 2019 for '*DEMOLITION OF EXISTING DWELLINGS AND ERECTION OF 6 APARTMENTS*'. The decision notice for this can be found at Appendix 2 of this statement.
- 2.4 Condition 1 required the development to be begun not later than the expiration of three years beginning with the date on which permission was granted. The statutory implementation deadline was therefore 7th August 2022.
- 2.5 The permission therefore expressly authorised the removal of the existing dwellings as part of the development for which permission was granted.
- 2.6 The evidence presently available demonstrates a clear change in the physical condition of the site between the historic Google Earth imagery dated 15th May 2019 and 22nd April 2020. The May 2019 image shows the pre-existing buildings still standing. The April 2020 image shows that those buildings had been removed and the site cleared.
- 2.7 Given that the permission was not granted until 7th August 2019, the demolition evidenced by the April 2020 image necessarily occurred during the period between 7th August 2019 and 22nd April 2020, well before the expiry of the three-year period required by Condition 1.

3.0 Legislative Framework and Lawful Commencement

Section 191 of the Town and Country Planning Act 1990

- 3.1 Certificates of Lawfulness for existing use or development are determined in line with Section 191 of the Town and Country Planning Act 1990. Section 191 enables an application to be made where a person wishes to ascertain whether operations which have been carried out in, on, over or under land are lawful, or whether another matter relating to a planning permission is lawful.

- 3.2 Section 191(4) provides that where the local planning authority is provided with information satisfying it of the lawfulness, at the time of the application, of the operations or other matter described, it shall issue a certificate to that effect. The relevant standard of proof is the balance of probability.
- 3.3 It is accepted that the onus of proof rests with the applicant. However, where the applicant's evidence is sufficiently precise and unambiguous and there is no evidence which contradicts or otherwise makes the applicant's account less than probable, there is no good reason to withhold a certificate.

Section 56 - Time when Development is Begun

- 3.4 Section 56 of the Town and Country Planning Act 1990 is directly relevant to the question of implementation. For the purposes of Section 91, development is taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.
- 3.5 Section 56(4) identifies the operations which amount to a '*material operation*'. Importantly for the purposes of this Certificate application, Section 56(4)(aa) includes '*any work of demolition of a building*'.
- 3.6 Demolition was not incidental or unrelated work; it was an identified and necessary component of the development authorised by the Council.
- 3.7 Accordingly, once demolition of the existing dwellings began, a material operation comprised in the permitted development had begun for the purposes of Section 56, subject to the works being carried out consistently with the permission read together with its conditions.

4.0 Documentary Evidence

- 4.1 Subsection (5) of Section 191 provides for the matters which a Lawful Development Certificate must contain. The Certificate should identify precisely the land to which it relates, the operations or other matter found to be lawful, the reasons for that conclusion and the date of the Certificate application.
- 4.2 The evidence submitted in support of the Certificate application comprises the following:

- Planning permission Ref. 2019/62/90725/E, dated 7th August 2019, granting permission for the demolition of existing dwellings and erection of 6 apartments;
- the submitted location plan identifying the land to which the Certificate application relates;
- Google Earth historic imagery dated 15th May 2019, showing the existing dwellings present on the site before the grant of planning permission; and
- Google Earth historic imagery dated 22nd April 2020, showing that the existing dwellings had been demolished and the site cleared following the grant of planning permission.

4.3 The two Google Earth images are particularly useful because they establish a clear evidential window. The first image predates the grant of permission and records the buildings in situ. The second postdates the grant of permission by approximately eight and a half months and records their removal. On the balance of probability, the demolition therefore took place after the grant of planning permission and before 22nd April 2020.

4.4 The April 2020 image is helpful in showing that the demolition occurred within the three-year period imposed by Condition 1. It is not necessary to identify the precise day on which demolition commenced in order to establish implementation within time, provided the evidence demonstrates, on the balance of probability, that the material operation occurred during the relevant period.

4.5 On the evidence currently available, and subject to the further condition material identified above, there is a strong and coherent evidential basis for concluding that the demolition operation authorised by planning permission Ref. 2019/62/90725/E was carried out within the prescribed implementation period.

5.0 Conclusion

5.1 Section 56 of the Town and Country Planning Act 1990 provides that, for the purposes of Section 91, development is begun on the earliest date on which a material operation comprised in the development begins to be carried out. Demolition of a building is expressly identified by Section 56(4)(aa) as a material operation.

5.2 Planning permission Ref. 2019/62/90725/E expressly authorised the '*DEMOLITION OF EXISTING DWELLINGS AND ERECTION OF 6 APARTMENTS*'. The demolition of those

dwellings was therefore an operation comprised of, and directly referable to, the permitted development.

- 5.3 The permission was granted on 7th August 2019 and Condition 1 required commencement by 7th August 2022. Historic Google Earth imagery shows the dwellings present on 15th May 2019 and demolished by 22nd April 2020. The demolition therefore occurred within the three-year implementation period and, on the balance of probability, shortly after the permission was granted.
- 5.4 The applicant is therefore of the view that planning permission Ref. 2019/62/90725/E was lawfully commenced and remains extant. It is respectfully requested that Kirklees Council issue a Certificate of Lawfulness for Existing Development confirming that position at its earliest convenience.