

**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.: 2017/CL/94012/E

Site: 3 Schenro Woodhouse, Shelley Woodhouse Lane,
Shelley, Huddersfield, HD8 8NB

Description: Certificate of lawfulness for proposed erection of
detached garage

Case Officer: Jennifer Booth

Decision Reference: PROPOSED OPERATIONS GRANT

**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.**

Kevin Walton

AUTHORISED OFFICER

Date 05-Feb-2018

Reference:- 2017/94012

Applicant:- Mr & Mrs Fairbrother

**Location:- 3 Schenro Woodhouse, Shelley Woodhouse Lane, Shelley,
HD8 8NB**

Proposal:- Certificate of lawfulness for proposed outbuilding

Site Description

3 Shelley Woodhouse Lane is a two storey flat roofed detached property located within a small hamlet of Shelley Woodhouse. The existing property dates from around the 1960s and remains as originally constructed with a large detached garage located within the grounds.

The site is served by two vehicular accesses to areas of off street parking in addition to the garage.

The site is in a rural location between the villages of Shelley and Skelmanthorpe. To the north is a detached property which is more traditionally designed. To the west is a large farm unit with various sheds and agricultural buildings. The site is open to the south with a pair of traditional small semi-detached cottages to the south west.

Application Proposal

The application is for a certificate of lawful proposed development for the erection of a single storey outbuilding. 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 proposal is permitted development.

The outbuilding is proposed to be sited to the side of the dwelling, 2m from the boundary of the site and would have an eaves height of 2.5m, an overall height of 4m, and a depth of 7.5m and width of 7.5m. The roof form would be a pitched roof.

Relevant Planning History

2012/91832 – Erection of garage and garden store - approved

2015/91769 – NMA to permission for the erection of garage and garden store - approved

2016/92001 – demolition of existing house and erection of detached dwelling – granted although not implemented at the time of the site visit, 31/01/2018

Consultations

This is an application for a Lawful Development Certificate and for this reason, no consultations are necessary.

Policies/Legislation

The Town and Country Planning Act 1990 Section 55(2)(a)(ii); The Town and Country Planning (General Permitted Development)(England) Order 2015(as amended).

Assessment:-

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended);
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 1 (Development within the curtilage of a dwelling house), Class E (buildings etc. incidental to the enjoyment of a dwellinghouse).

The proposal comprises the erection of a single storey outbuilding. Thus, the proposal constitutes the carrying out of building on and over land that would materially affect the external appearance of the existing building. As such, it is regarded as development as defined by section 55(2) (a)(ii) of the Town and Country Planning Act 1990.

The application therefore falls to be considered under the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended), Schedule 2, Part 1 (Development within the curtilage of a dwelling house), Class E (buildings etc. incidental to the enjoyment of a dwellinghouse).

Permitted development

- A. The certificate of lawful development for the provision of an outbuilding within the curtilage of a dwellinghouse subject to complying with the relevant criteria below.

Development not permitted

E.1 Development is not permitted by Class E if—

- (a)** Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);
Comment *Permission for this dwelling was not granted by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use).*
- (b)** Any part of the building, enclosure and containers within the curtilage (other than the dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
Comment *As can be seen from the location plan provided by the applicant, the proposed outbuilding would not take up more than 50% of the area of the curtilage of the dwellinghouse. Neither are there any other extensions or outbuildings within the site which could be considered to cover more than 50% when considered with the proposed outbuilding.*
- (c)** Any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principle elevation of the dwellinghouse;
Comment *The submitted location plan does show the outbuilding would be built between the dwelling and Shelley Woodhouse Lane. However, the elevation of the dwelling which faces towards the road is not the principle elevation.*
- (d)** The building would have more than a single storey;
Comment *The outbuilding is a single storey structure.*
- (e)** The height of the building, enclosure or container would exceed—
 (i) 4m in the case of a building with a dual-pitched roof;
 (ii) 2.5m in the case of a building, enclosure or container within 2m of the boundary of the curtilage of the dwellinghouse; or
 (iii) 2m in any other case;
Comment *The outbuilding would have a maximum height of 4m and is located 2m from the boundary of the dwelling.*
- (f)** The height of the eaves of the building would exceed 2.5m;
Comment *The eaves height is shown on plan as 2.5m.*
- (g)** The building, enclosure, pool or container would be situated within the curtilage of a listed building;
Comment *The host property is not listed.*
- (h)** It would include the construction or provision of a verandah, balcony or raised platform;
Comment *the plans do not show any verandah, balcony or raised platform.*
- (i)** It relates to a dwelling or a microwave antenna;

Comment *no.*

(j) The capacity of the container would exceed 3500 litres;

Comment *N/A.*

E.1 Development is not permitted by Class E if—

E.3 – in the case of any land within the curtilage of the dwellinghouse which article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.

Conclusion

The proposed development has been assessed against the relevant legislation, Town and Country Planning (General Permitted Development)(England) Order 2015(as amended), Schedule 2 Part 1, Class E and it is considered that in this instance, that the proposals would constitute permitted development. As a result, the proposed outbuilding does not require planning permission and the lawful development certificate is therefore granted.

Recommendation: Grant certificate

Decision Authorisation - Delegated Powers**Application Number:** 2017/94012**Officer Recommendation:** Refuse certificate

The proposed detached outbuilding as shown on the submitted plans listed in this decision notice would benefit from general planning permission under Schedule 2, Part 1 (Development within the curtilage of a dwelling house), Class E (buildings etc. incidental to the enjoyment of a dwellinghouse) of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended).

Plans and specifications schedule:-

Plan Type	Reference	Web ID	Date Received
Location plan	3878-01	665974	15/12/2017
Block plan	3878-20 rev a	669284	15/12/2017
Proposed plans	3878-21	669285	15/12/2017
Supporting statement	-	665976	15/12/2017

Report Dated 05/02/2018