

**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.: 2018/CL/92011/E

Site: Birdsedge Farmhouse, Birdsedge Farm Mews,
Birds Edge, Huddersfield, HD8 8XP

Description: Certificate of lawfulness for proposed erection of
detached garage

Case Officer: Anthony Monaghan

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 13-Aug-2018

Reference:- 2018/92011

Applicant:- Mr Roberts.

Location:- Birdsedge Farmhouse, Birdsedge Farm Mews, Birdsedge, Huddersfield, HD8 8XP.

Proposal:- Certificate of lawfulness for proposed detached garage

Site Description

The site comprises an attached former farmhouse in a small Mews just off Penistone Road at Birdsedge. The site is set back from the highway and is accessed by an unmade track. There is a small garden/paddock to the rear of the farmhouse which extends to the highway. This area has recently been granted a certificate of lawfulness for use of the land as domestic curtilage.

Application Proposal

The application is for a certificate of lawfulness for proposed development for the erection of a garage to the rear of the dwelling. 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 garage proposed to be sited approx. 26m from the rear of the dwelling and approximately 3m from the rear boundary of the site with the highway. The building would have an overall height of 4m and would be approximately 2.5m to the eaves, having a twin pitched roof. It would measure 6.8m x 6m and would be built from green oak timber and would be in the form of a car port.

Relevant Planning History

2003/92987 Erection of garden room extension. Refused.

2004/91043 Erection of garden room extension. Approved.

2014/92789 Alterations to convert integral garage to accommodation and alteration to window and doors. Approved.

2014/93734 Erection of detached garage and alterations to boundary wall. Undecided.

2016/91140 Certificate of lawfulness for existing use of land as domestic curtilage. Granted.

2017/20141 Pre-application enquiry for erection of detached garage.

Consultations

None required.

Policies/Legislation

The relevant legislation is as follows:-

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;
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, 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. As such, it is regarded as development as defined by section 55(2) (a)(ii) of the Town and Country Planning Act 1990.

There have been no conditions added to previous permissions removing permitted development rights for the dwelling which would affect the proposal under consideration.

The application therefore falls to be considered under the Town and Country Planning (General Permitted Development)(England) Order 2015, 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

E. The provision within the curtilage of a dwellinghouse of-

(a) any building or enclosure, swimming or other pool required for purposes incidental to the enjoyment of the dwellinghouse as such, or the maintenance improvement or other alteration of such a building or enclosure.

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 *A certificate of lawful use for existing use of land as domestic curtilage was granted by application 2016/91140. Note that the wording of the certificate granted accepted the land as curtilage. The land has an area of approximately 1600 sq.m with the building being only around 40 sq.m as such the proposals comply with subparagraph E.1 (b)*

(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 main elevation of the farmhouse faces into the former farm yard area. This north east elevation consists of a double fronted property fronted by a small formal garden area. The opposite (rear) elevation while facing the highway at some distance comprises of less symmetrical fenestration commonly seen on rear elevations where the appearance is more functional rather than offering a principle aspect of the building. On balance it is considered the site of the proposed garage is to the rear of the dwelling.*

(d) the building would have more than a single storey;

Comment *The garage would be 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 garage would comply with(i) as it would have a maximum height of 4m, would have a dual pitched roof and would be sited*

more than 2m from the boundary.

(f) the height of the eaves of the building would exceed 2.5m;
Comment the garage would have an eaves height of 2.5m

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;
Comment The building is not listed.

(h) it would include the construction or provision of a verandah, balcony or raised platform;
Comment no

(i) it relates to a dwelling or a microwave antenna;
Comment no

(j) the capacity of the container would exceed 3500 litres;
Comment no

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.

Comment The site is not within article 2(3) land.

Conclusion

The proposed development has been assessed against the relevant legislation, Town and Country Planning (General Permitted Development)(England) Order 2015, Schedule 2 Part 1, Class E and it has been deemed permitted development. As a result, it does not require planning permission and the lawful development certificate is therefore approved.

Recommendation: Grant certificate

Decision Authorisation - Delegated Powers

Application Number: 2018/92011

Officer Recommendation: Grant certificate.

The proposed detached garage as shown on the submitted plans listed in this decision notice benefits from general planning permission granted 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 (amended).

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	1667-D-20-001	1	20/06/18
proposed plans	1090-100	1	20/06/18

Report Dated