

**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.: 2021/CL/91443/E

Site: Primrose Farm, Crossley Lane, Mirfield, WF14  
ONR

Description: Certificate of lawfulness for proposed extension to  
industrial building

Case Officer: Jennifer Booth

**Decision Reference: CERTIFICATE OF LAWFUL USE GRANTED**

**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.**

Paul Dowd

**AUTHORISED OFFICER**

**Date 04-Jun-2021**

|                     |                                                                         |
|---------------------|-------------------------------------------------------------------------|
| <b>Reference:</b>   | 2021/CLD/91443/E                                                        |
| <b>Applicant: -</b> | Accept Properties Ltd                                                   |
| <b>Location: -</b>  | Primrose Farm, Crossley Lane, Mirfield, WF14 0NR                        |
| <b>Proposal: -</b>  | Certificate of lawfulness for proposed extension to industrial building |

### Site Description

The application site is an industrial building with a tarmac parking area to the front and side.

### Application Proposal

The application is for a certificate of lawful proposed development to build an extension to the side. 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 extension would increase the width by 11.5m matching the existing building in terms of its depth and height.

### Relevant Planning History

2005/90962 – removal of condition 5 of 1998/93378 regarding the residential occupation of Primrose Barn – refused although upheld at appeal

2004/95400 – change of use of premises to Children’s soft play gym - refused

1998/93378 – change of use of barn for business purposes and car park – granted

1996/92655 – change of use of barn for business purposes and car park – granted

1990/00467 – change of use of barn to sawmill – refuse and appeal dismissed

### Consultations

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

### Legislation

The Town and Country Planning Act 1990 Section 55 and 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 of the Town and Country Planning Act 1990.
1. If so, whether Permitted Development rights apply to the property; and

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 7 (Non-domestic extensions, alterations etc), Class H (extensions etc of industrial and warehouse).

The proposal comprises the erection of an extension to the existing building. 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 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 7 (Non-domestic extensions, alterations etc), Class H (extensions etc of industrial and warehouse).

## **Permitted development**

Permitted development

H. The erection, extension or alteration of an industrial building or a warehouse.

Development not permitted

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

(a) the gross floor space of any new building erected would exceed—

(i) for a building on article 2(3) land or on a site of special scientific interest, 100 square metres;

(ii) in any other case, would exceed 200 square metres;

*The project is an extension not a new building.*

(b) the gross floor space of the original building would be exceeded by more than—

(i) in respect of an original building or a development on article 2(3) land, 10% or 500 square metres (whichever is lesser);

(ii) in respect of an original building or a development on a site of special scientific interest, 25% or 1,000 square metres (whichever is the lesser);

(iii) in any other case, 50% or 1,000 square metres (whichever is the lesser);

*The extension is 200sqm (11.5m wide \* 17.4m depth =200). As the original building is 412sqm, the extension is less than 50% of the original.*

(c) the height of any part of the new building erected would exceed—

- (i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres;
- (ii) in all other cases, the height of the highest building within the curtilage of the premises or 15 metres, whichever is lower;

*The project is an extension not a new building.*

(d) the height of the building as extended or altered would exceed—

- (i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres;
- (ii) in all other cases, the height of the building being extended or altered;

*The building is set back 17m from the road, the extension would be set in from the side boundaries of the site by 23m to the south east and approx. 66m from the boundary to the north west side and more than 80m from the boundary at the rear. At its maximum, the extension would have a height of 7.7m.*

(e) any part of the development would be within 5 metres of any boundary of the curtilage of the premises;

*The building is set back 17m from the road, the extension would be set in from the side boundaries of the site by 23m to the south east and approx. 66m from the boundary to the north west side and more than 80m from the boundary at the rear.*

(f) the development would lead to a reduction in the space available for the parking or turning of vehicles; or

*The parking provision for the building appears to be at the front.*

(g) the development would be within the curtilage of a listed building.

*The building is not listed.*

## Conditions

H.2 Development is permitted by Class H subject to the following conditions—

(a) the development is within the curtilage of an existing industrial building or warehouse;

(b) any building as erected, extended or altered is only to be used—

- (i) in the case of an industrial building, for the carrying out of an industrial process for the purposes of the undertaking, for research and development of products or processes, or the provision of employee facilities ancillary to the undertaking;

(ii) in the case of a warehouse, for storage or distribution for the purposes of the undertaking or the provision of employee facilities ancillary to the undertaking;

(c) no building as erected, extended or altered is used to provide employee facilities— (i) between 7.00pm and 6.30am, for employees other than those present at the premises of the undertaking for the purpose of their employment; or

(ii) at all, if a quantity of a dangerous substance is present at the premises of the undertaking in a quantity equal to or exceeding the quantity listed in the entry for that substance in Parts 2 or 3 of Schedule 1 to the Control of Major Accident Hazards Regulations 1999(a);

(d) any new building erected is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the existing industrial building or warehouse; and

(e) any extension or alteration is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the building being extended or altered.

*The reason for the decision will include a caveat that although the building/extension meets the criteria for class H, this is providing the conditions are met.*

#### Interpretation of Class H

H.3 For the purposes of Class H, where 2 or more original buildings are within the same curtilage and are used for the same undertaking, they are to be treated as a single original building in making any measurement.

H.4 For the purposes of Class H—

“dangerous substance” has the meaning given in regulation 2 of the Control of Major Accident Hazards Regulations 1999;

“employee facilities” means social, care or recreational facilities provided for employees of the undertaking, including crèche facilities provided for the children of such employees; and

“original building” does not include any building erected at any time under Class H.

#### **Conclusion**

The proposed extension to the industrial building at Primrose Farm, Crossley Lane would meet the criteria for permitted development as set out in Schedule 2, Part 7, Class H of the Town and Country Planning (General Permitted Development) Order 2015 subject to respective conditions as set out in paragraph H.2 of the same Order.

**Recommendation: GRANT certificate**

**Decision Authorisation - Delegated Powers****Application Number:** 2021/91443**Officer Recommendation:** GRANT certificate

The proposed extension to the industrial building at Primrose Farm, Crossley Lane would meet the criteria for permitted development as set out in Schedule 2, Part 7, Class H of the Town and Country Planning (General Permitted Development) Order 2015 subject to respective conditions as set out in paragraph H.2 of the same Order.

Plans and specifications schedule: -

| <b>Plan Type</b>      | <b>Reference</b> | <b>Web ID</b> | <b>Date Received</b> |
|-----------------------|------------------|---------------|----------------------|
| Application form      | -                | 862258        | 06/04/2021           |
| Location plan         | -                | 863249        | 06/04/2021           |
| Proposed plans        | -                | 862257        | 06/04/2021           |
| Report for 2019/92106 | -                | 862259        | 06/04/2021           |

**Report Dated** 27/05/2021