

**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/92008/E

Site: 78, Station Lane, Birkenshaw, BD11 2JE

Description: Certificate of lawfulness for proposed erection of
single storey rear extension and detached garage

Case Officer: Jennifer Booth

Decision Reference: PROPOSED OPERATIOSEN 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 16-Jul-2021

Reference:	2021/CLD/92008/E
Applicant: -	Mr & Mrs E Morton
Location: -	78, Station Lane, Birkenshaw, BD11 2JE
Proposal: -	Certificate of lawfulness for proposed erection of single storey rear extension and detached garage

Site Description

78 Station Lane is a detached, two storey property located on the corner of Station Lane and Sherburn Grove. The dwelling is constructed of stone with a red tiled roof form. There are gardens to the front, sides and rear of the property and an existing detached outbuilding.

The property is located on a residential street with mix of neighbouring residential properties in terms of age, style, palette of materials, size and style.

Application Proposal

The application is for a certificate of lawful proposed development for a single storey rear extension and a detached garage. 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 be located to the rear of the house. It would have a projection of 3m from the rear of the dwelling, a depth of 7.7m with an eaves height of 3m and an overall height of 4m . The roof form would be lean to. The submitted plans detail that the extension would be conservatory style with stone dwarf walls and glazed uppers walls and roof.

The garage would have a width of 6.5m and a depth of 9.5m with a height of 2.5m. The roof is shown to be flat and the walls would appear from the plan to be constructed using stone for the walls.

Relevant Planning History

2005/94914 – erection of detached dwelling with integral garage and new garage for existing dwelling - withdrawn

2006/90792 – erection of detached dwelling with integral garage and new garage for existing dwelling – withdrawn

2006/92165 – erection of detached dwelling with integral garage and new garage for existing dwelling - refused

Consultations

This is an application for a Lawful Development Certificate and for this reason, no consultations are necessary. However, as the property is located in Denby Dale, the Parish Council have been notified and have no objections to the proposal.

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
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 A (enlargement, improvement or other alteration of a house) and Class E (buildings etc incidental to the enjoyment of a dwellinghouse).

The proposal comprises a single storey extension to the rear and the erection of a detached garage. Thus, the proposal constitutes the carrying out of building on and over land and development 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 1 (Development within the curtilage of a dwelling house), Class A (enlargement, improvement or alterations of a house) and Class E (buildings etc incidental to the enjoyment of a dwellinghouse).

Permitted development – Single storey rear extension

- A. The certificate of lawful development for the enlargement of a dwellinghouse consisting of the addition of an extension to the rear of the house is permitted development subject to complying with the relevant criteria below.

Development not permitted

A.1 Development is not permitted by Class A 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) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original 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 extensions would not take up more than 50% of the area of the curtilage of the dwellinghouse.*
- (c) The height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;
Comment *The height of the extensions would not exceed the height of the highest part of the roof of the existing dwellinghouse*
- (d) The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse
Comment *The height of the eaves of the extensions would not exceed the height of the eaves of the original dwelling.*
- (e) The enlarged part of the dwellinghouse would extend beyond a wall which— (i) forms the principal elevation of the original dwellinghouse; or
(ii) Fronts a highway and forms a side elevation of the original dwellinghouse;
Comment *The extensions proposed would be to the rear of the dwelling.*
- (f) Subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—
(i) Extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or
(ii) 3 metres in the case of any other dwellinghouse,
(iii) Exceed 4 metres in height;
Comment *The extension is proposed to be constructed to the rear with a projection of 3m.*
- (g) until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—

- (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
- (ii) Exceed 4 metres in height;
- Comment The proposal does not fall under this criteria.*
- (h)** The enlarged part of the dwellinghouse would have more than a single storey and—
- (i) Extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or
- (ii) Be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;
- Comment the proposed extension is a single storey rear extension and therefore this condition is not relevant.*
- (i)** The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;
- Comment the height to the eaves has been shown 3m.*
- (j)** The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—
- (i) Exceed 4 metres in height,
- (ii) Have more than a single storey, or
- (iii) Have a width greater than half the width of the original dwellinghouse;
- Comment The extension is proposed to the rear.*
- (ja)** any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in subparagraphs (e) to (j); *this criteria is not relevant.*
- (k)** It would consist of or include—
- (i) The construction or provision of a verandah, balcony or raised platform,
- (ii) The installation, alteration or replacement of a microwave antenna,
- (iii) The installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
- (iv) An alteration to any part of the roof of the dwellinghouse
- Comment The proposal does not include the construction of a verandah, balcony or raised platform, the installation, alteration or replacement of a microwave antenna, the installation, alteration or replacement of a chimney, flue or soil and vent pipe and an alteration to any part of the roof of the dwellinghouse.*

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

Conditions

A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if

(a) It would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;

(b) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse;

Or (c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.

Comment: The dwellinghouse is not located in a conservation area.

A.3 Development is permitted by Class A subject to the following conditions—

(a) The materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be— (i) obscure-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and

(c) Where the enlarged part of the dwellinghouse has more than a single storey, the roof pitch of the enlarged part must, as far as practicable, be the same as the roof pitch of the original dwellinghouse.

Permitted development - Outbuilding

E. The certificate of lawful development includes a garage at the rear which could be permitted development 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 The original curtilage would have been approx..1221sqm. The existing outbuilding cover 30sqm and the proposed garage & extension would add approx. 85sqm. The development proposed together with the existing d garage equates significantly less than 50% of the original 1262 sqm.

- (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 no

- (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 comply with(ii) as it would have a maximum height of 2.5m and it sits within 2m of the boundary

- (f) the height of the eaves of the building would exceed 2.5m;

Comment the outbuilding would have a height of 2.5m

- (g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

Comment no

- (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.

Conclusion

The proposed single storey rear extension and detached garage at 78 Station Lane does meet the criteria of permitted development as set out in Schedule 2, Part 1, Classes A & E of the Town and Country Planning (General Permitted Development) Order 2015 subject to respective conditions as set out in paragraphs A.2 & A.3 of the same Order.

Recommendation: GRANT certificate

Decision Authorisation - Delegated Powers**Application Number:** 2021/92008**Officer Recommendation:** GRANT certificate

The proposed single storey rear extension and detached garage at 78 Station Lane benefits from a general planning permission by virtue of article 3(1) and Schedule 2, Part 1, Classes A & E of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended) subject to conditions as set out in paragraph A.3 of the same Order.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Application form	-	873447	24/05/2021
Location plan	-	873450	24/05/2021
Proposed plans	21/71/A	873448	24/05/2021
Block plan	-	873449	24/05/2021
Garage plans	21/71/B	873646	24/05/2021

Report Dated 09/07/2021