

**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.: 2023/CL/91193/E

Site: Woodend Cottage, Greenside Road, Thurstonland,
Huddersfield, HD4 6XA

Description: Certificate of lawfulness for proposed new
outbuilding adjacent to the existing garage to form additional garage /
machinery space and log store

Case Officer: Edward Cheseldine

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 20-Jun-2023

Reference:	2023/91193
Applicant: -	Kubinski
Location: -	Woodend Cottage, Greenside Road, Thurstonland, Huddersfield, HD4 6XA
Proposal: -	Certificate of lawfulness for new outbuilding

Site Description

Woodend Cottage is a two-storey stone constructed dwelling in the village of Thurstonland. The dwelling has period features, a stone roof, and is set within spacious grounds. There is currently one associated outbuilding within the curtilage of the property. Woodend Cottage was granted planning permission in 1995 as a conversion from an agricultural shed and has since been constructed. Permitted Development Rights have not been removed. Although the property rests within designated Green Belt, it does not lie within a conservation area or is situated near a listed building.

Application Description

The application is for a certificate of lawful proposed development for 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 8.70m (W) x 6.80m (L). The height of the extension is to be 2.30m to the eaves, and 4.00m to the ridgeline of the dual pitched roof.

The extension will be adjacent yet detached from an existing outbuilding.

History of negotiations/amendments received

No amendments have been necessary.

Relevant Planning History

95/91429 – Relocation of agricultural shed with change of use of barn and cartshed to form a dwelling with a detached garage – Full permission

2023/90436 – Certificate of lawfulness for proposed extension to existing outbuilding - Refused

Consultation Responses

Kirkburton Parish Council were informed of the development proposals, as such there were no concerns noted of the development.

Principle of Development

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 1 (Development within the curtilage of a dwelling house), Class E (buildings etc incidental to the enjoyment of a dwellinghouse)

The proposal comprises of a detached 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 of the Town and Country Planning Act 1990.

Permitted Development

Schedule 2, Part 1, Class E of the Order sets out the Permitted Development Rights which relates to

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

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas’. In assessing the proposal against this:

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 G, M, MA N, P, PA or Q of Part 3 of this Schedule (changes of use);

The property was not granted permission by any of the above.

- a) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

The accumulative total of outbuildings would not exceed 50% of the total area of the curtilage of the original dwellinghouse.

- b) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

While the building is located between the highway and an elevation facing that highway,, it not considered to be located forward of the principal elevation.

- c) the building would have more than one storey;

The outbuilding would be single storey.

- d) the height of the building, enclosure or container would exceed –
 - (i) 4 metres in the case of a building with a dual-pitched roof,
 - (i) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
 - (ii) 3 metres in any other case

The proposed outbuilding includes a dual pitched roof and would not exceed 4.0 metres in height.

- e) the height of the eaves of the building would exceed 2.5 metres;

The height of the eaves of the total development would not exceed 2.5m.

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

The building would not be within the curtilage of a listed building.

- g) it would include the construction or provision of a veranda, balcony or raised platform;

N/A.

- h) it relates to a dwelling or microwave antenna; or

N/A.

- i) the capacity of the container would exceed 3,500 litres.

The capacity of the building would not exceed 3,500 litres.

(k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)

N/A

E.2 In the case of the any land within the curtilage of the dwelling which is within –

- (a) an area of outstanding natural beauty;
- (a) the Broads
- (b) a National Park; or
- (c) a World Heritage Site,

development is not permitted by Class E of the total area of ground covered by buildings, enclosures, pool and containers situation more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

The property is not situated in the above.

E.3 In the case of land within the curtilage of the dwellinghouse which is 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 a side elevation of the dwellinghouse and the boundary of the curtilage of the dwelling.

The property is not situated in a conservation area.

Interpretation of Class E

E.4 For the purposes of Class E, “purpose incidental to the enjoyment of the dwelling house as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

Conclusion

The proposal has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for approval.

The proposed detached outbuilding benefits from a general planning permission granted by virtue of Article 3(1) and Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Grouped plans and elevations	KUB-IVI-XX-ZZ-DR-A-20-002	1	20/04/2023
Block plan	KUB-IVI-XX-ZZ-DR-A-20-004	1	20/04/2023
Location plan	LP	1	20/04/2023

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments were sought.