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/91364/E
Site:	12, Cowdry Close, Thornhill, Dewsbury, WF12 0LW
Description:	Certificate of lawfulness for existing garden room
Case Officer**:**	Nicole Helliwell
Decision Reference:	**EXISTING 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 29-Jun-2023

Officer Report

Reference no: 2023/CLD/91364/E
Address: 12, Cowdry Close, Thornhill, Dewsbury, WF12 0LW
Proposal: Certificate of lawfulness for existing garden room

Site Description
The application relates to 12 Cowdry Close, a two storey detached property located in Thornhill, Dewsbury. The dwelling is faced in brick and incorporates a dual pitched roof finished in tiles. The property benefits from off road parking to the front, an integral garage and gardens to the front and rear. The neighbouring properties are of residential use and comprise two storey dwellings and bungalows of varying architectural designs, materials and scales.

Description of Development
The application seeks a Certificate of Lawfulness for an existing detached outbuilding. The outbuilding is sited within the rear curtilage of the dwellinghouse and would serve as a garden room. The outbuilding would have a width of 7.32m, a depth of 4.32m and an overall height of 2.35m.

History of Negotiations/Amendments Received
No amendments were sought or received during consideration of the application.

Relevant Planning History
2016/92404: Erection of single and two storey extensions to one side and rear with a Juliet balcony to the rear. Planning application details | Kirklees Council – Conditional Full Permission

Consultation Response
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 & 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; If so, whether Permitted Development rights apply to the property; and

1. 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 the dwellinghouse).

The proposal comprises a detached outbuilding to the rear of 12 Cowdry Close. 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. 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).

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);
Comment: *Permission for this dwelling was not granted by means 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);
Comment: *The proposed outbuilding would not exceed more than 50% of the area of curtilage of the 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;
Comment: *The proposed outbuilding would be located to the rear of the property and would not project beyond the principal elevation of the dwellinghouse.*

c) The building would have more than a single storey;

Comment: *The proposed outbuilding would be a single storey structure.*

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;

   Comment: *The outbuilding would be located within 2 metres of the boundary of curtilage. However, the outbuilding would incorporate a flat roof and would have a maximum height of 2.35 metres.*

e) The height of the eaves of the building would exceed 2.5 metres.
   Comment: *The structure would have an eaves height of approximately 2.35 metres.*

f) The building, enclosure, pool or container would be situated within the curtilage of a listed building;
   Comment: *The outbuilding would not be located within the curtilage of a listed building.*

g) It would include the construction or provision of a verandah, balcony or raised platform;
   Comment*: The application does not include any of the above.*

h) It relates to a dwelling or a microwave antenna;
   Comment: *The application does not relate* to the above.

i) The capacity of the container would exceed 3,500 litres;
   Comment: *This application does not relate to a container.*

(k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)
   Comment: *Not applicable.*

E.2 In the case of any land within the curtilage of the dwellinghouse which is within—
   (a) an area of outstanding natural beauty;
   (b) the Broads;
   (c) a National Park; or
   (d) a World Heritage Site,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more

than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.
Comment: *The outbuilding would not be located in any of the above areas.*

E.3 In the case of any 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 dwellinghouse.
Comment: *The application site is not located in article 2(3) land.*

E.4 For the purposes of Class E, "purpose incidental to the enjoyment of the dwellinghouse 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.
Comment: *The ancillary outbuilding would serve a garden room and is considered incidental to the dwellinghouse.*

Conclusion
The proposal for the erection of a detached outbuilding at 12 Cowdry Close has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for approval.

Recommendation: GRANT Certificate

The existing outbuilding benefitted from a general planning permission granted under 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	Date Received
Location Plan	-	15/05/2023
Garden Room, 12 Cowdry Close	TQRQM23129140923591	15/05/2023
Email	23/5/2023 (13:24)	23/05/2023

Report Dated: 23/05/2023