

**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.: 2024/CL/90607/W

Site: Whinney Close Farm, 106, Cockley Hill Lane,
Kirkheaton, Huddersfield, HD5 0PF

Description: Certificate of lawfulness for proposed erection of
outbuilding

Case Officer: Chris Cockroft

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-May-2024

Officer Report

Reference number: 2024/90607

Applicant: Mr T Crompton

Site: Whinney Close Farm, 106, Cockley Hill Lane, Kirkheaton, Huddersfield, HD5 0PF

Description: Certificate of lawfulness for proposed erection of outbuilding

Application number: 2024/90607

Site Description

Whinney Close Farm is a stone built, detached farm-house and farm buildings, located in the Green Belt. The property has been extended to the west (single-storey extension), east (single-storey extension) and rear (single-storey extension) elevations.

Application Proposal

The application is for a certificate of lawful proposed development for detached outbuilding for a swimming pool and gym. 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 would be located to the rear of the dwelling with a width of 8.2 metres and a depth of 29 metres, with an eaves height of 2.5 metres, rising to overall height of 4 metres to the ridge of the dual pitched roof.

Relevant Planning History

2023/92292 Prior notification for single storey rear extension

Decision: NANR - NOT REQUIRED

2023/92300 Certificate of lawfulness for proposed single storey side extensions.

Decision: CERT OF LAWFUL OPPS GRANTED

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) 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 E (buildings etc incidental to the enjoyment of the dwellinghouse).

The proposal comprises a single storey outbuilding to the rear. 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).

Permitted development – Detached outbuilding

A. The certificate of lawful development for the provision of an outbuilding within the curtilage of a dwellinghouse 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 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.*

- b) 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.*

c) 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 is to the rear of the property.*

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

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

e) 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 not be located within 2 metres of the boundary of curtilage. The dual-pitched roof of the outbuilding would have a maximum height of 4 metres.*

f) The height of the eaves of the building would exceed 2.5 metres.

Comment: *The structure 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 proposed outbuilding would not be located within the curtilage of a listed building.*

h) It would include the construction or provision of a verandah, balcony or raised platform;

Comment: *The proposal does not include any of the above.*

i) It relates to a dwelling or a microwave antenna;

Comment: *The proposal does not relate to the above.*

j) The capacity of the container would exceed 3,500 litres;

Comment: *This proposal 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 proposed outbuilding is in the Green Belt, but 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 proposed ancillary outbuilding would be used to house a swimming pool and gymnasium. While a substantial building, it is considered the scale required for swimming pool and gym is not disproportionate to the scale of the existing house and grounds in which it will be located.*

Conclusion

The proposed outbuilding for Whinney Close Farm has been assessed against the relevant legislation, Town and Country Planning (General Permitted Development) Order 2015 (as amended), Schedule 2 Part 1, Class E and it is considered that in this instance, that the proposals would constitute permitted development. As a result, the proposed outbuilding does not require planning permission and the lawful development certificate is therefore granted.

Recommendation: GRANT Certificate

Decision Authorisation - Delegated Powers

Application Number: 2024/90607

Officer Recommendation: Grant Certificate

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

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application Form	PP-12846233		29/02/2024
Location Plan	489-02(02)0001		29/02/2024

Report Date: 08/05/2024