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/91146/W
Site:	Lowfield House, 10, Station Road, Meltham, Holmfirth, HD9 4NL
Description:	Certificate of lawfulness for proposed erection of outbuilding
Case Officer**:**	Charlotte Dixon
Decision Reference:	**PROPOSED OPERATIONS REFUSED**

I hereby authorise the refusal 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 03-Jul-2024

Officer Report

Site Description

Lowfield House, 10 Station Road is a two-storey detached dwelling constructed of stone. The property benefits from a driveway to the front and a large garden to the rear. Opposite the dwelling is a woodland area which is covered by a Tree Preservation Order. Located to the east and south sides of the site is Meltham Dike.

The dwellings that form the street scene are not completely cohesive; with the two dwellings to the west of the site being of a similar architectural style. The two dwellings to the east of the site are older and of a different architectural style. These dwellings are also constructed of stone.

The property's permitted development rights have been removed.

Description of Proposal

The application is for a certificate of lawfulness for proposed erection of outbuilding.

The outbuilding is located to the rear of the property in the south-east corner of the garden. The outbuilding is clad in timber composite panels. The outbuilding is located circa 3.8 metres away from the boundary of the curtilage of the dwelling. The outbuilding has a total height of 4 metres to the ridge, with a height of 2.6 metres to the eaves. The outbuilding has a length of 9.4 metres and a width of 5.6 metres. The outbuilding will be used for enjoyment of the dwellinghouse by the owner.

Within the applicants supporting statement, under the "Description of the proposed development" section, a retaining wall is mentioned, stating that the rebuilding of the existing retaining wall to the riverbank was undertaken due to the natural collapse from age and condition. To clarify, this lawful development certificate application only relates to the erection of the outbuilding, and not the retaining wall.

History of negotiations/amendments received

Negotiations with the agent took place to offer the opportunity to withdraw the application. No confirmation of withdrawal of the application was received.

Relevant Planning History

87/00674- Outline application for 2 No. dwellings- Refused

98/91022- Outline application for residential development (3 dwellings)- Conditional outline permission

98/92825- Erection of 3 no. Detached houses with double garages- Conditional full permission

92/04522- Outline application for residential development- Conditional outline permission

94/90168- Outline application for residential development (3 dwellings)- Conditional outline permission

2000/90364- Variation of condition 7 relating to protection of the existing natural bankside in previous permission 98/62/92825 for erection of 3 no. Detached houses with double garages- Refused

2006/92171- Erection of extension over existing attached double garage to form games room- Conditional full permission

Consultation Responses

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

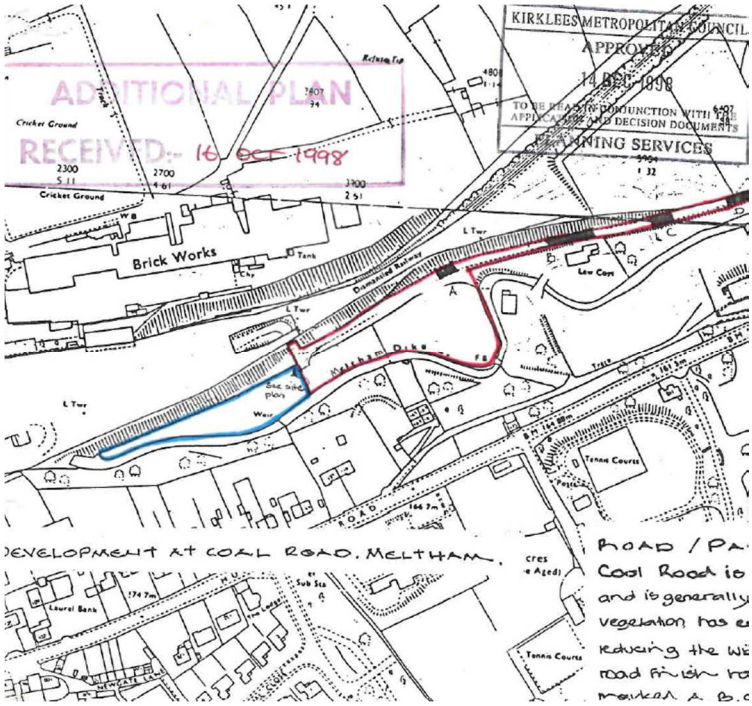
Assessment

Planning application 98/92825 for Erection of 3. No detached houses with double garages was granted conditional full permission on the 14th December 1998.

Condition 8 of this application states:

"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 no buildings or extensions shall be erected in the area site edged red on the approved plan without the prior written approval of the Local Planning Authority."

After further assessment, it has been found that the outbuilding has been built within the red line boundary. A screenshot of the approved plan demonstrating the red line boundary has been attached for clarity.



As demonstrated in the above plan, the red line boundary covers the application site and thus the permitted development rights have been removed for the application site, meaning the current outbuilding at the site is not lawful.

Furthermore, condition 17 states:

"Unless otherwise agreed in writing by the Local Planning Authority no building shall be erected within 3 metres of the sewer crossing/adjacent to the site."

The applicant has not provided any evidence that the building has not been built within 3 metres of the sewer crossing/ adjacent to the site although the Council's mapping system would suggest it does not.

Article 3(4) of the GPDO 2015 provides that permitted development (PD) rights will not apply if they are '*contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the [TCPA 1990] otherwise than by this Order*. The development is contrary to condition 8 of planning permission 98/92825 and therefore permitted development rights do not apply.

Conclusion

As such, the building does not benefit from general planning permission under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for refusal.

Decision Notice text

The single storey outbuilding does not benefit from a general planning permission 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) as the erection of the building would be contrary to condition 8 of planning permission reference 98/92825.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Lowfield House - Lawful Development – Block Plan- P01	ODS_23-822-(EX)003	A	23/04/2024
Location Plan	ODS_23/822-(EX)002	A	23/04/2024
General Arrangement	02_01F	-	25/04/2024
Supporting statement- Lowfield House Title number	-	-	25/04/2024
Supporting Statement- Environmental Agency Correspondence	-	-	25/04/2024
Supporting Statement- New Summer House	-	-	25/04/2024
Supporting Statement- New Laurel Hedges	-	-	25/04/2024
Supporting Statement- Existing Retaining Wall Collapsed	-	-	25/04/2024
Supporting Statement- Previous Summer House	-	-	25/04/2024
Supporting Statement- Final	24-822_Lowfield House	-	25/04/2024

Report Dated: 27/06/2024