

**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/92356/E

Site: 43, Windmill Hill Lane, Emley Moor, Huddersfield,
HD8 9TA

Description: Certificate of lawfulness for proposed erection of
side and rear extensions, front porch and 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 16-Oct-2024

Officer Report

Application Number: 2024/92356

Site Description

43, Windmill Hill Lane, Emley Moor, Huddersfield, HD8 9TA is a single storey detached dwelling.

The property is constructed from brick.

The other properties on the street are not uniform in scale, design, or material palette. The area is predominantly residential.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the erection of a single storey side and rear extension, a front porch and an outbuilding.

The rear extension would project from the rear elevation of the property by 2.1m and would be a total width of 5m with an eave's height of 3.0 m to a flat roof.

The side extension would project from the existing dwelling by 5m and would be a total width of 7.4m with an eave's height of 3.0m to a flat roof.

The porch shall extend from the front elevation by 1.1m with a width of 2.2m, with an eave's height of 2.4m and an overall height of 2.9m to the ridge of the pitched roof.

The outbuilding shall be for domestic use. The outbuilding is more than 2m from any boundary with eaves height of 2.5m & ridge height of 4m. No more than 50% of curtilage would be covered by buildings.

No details have been submitted with regards to construction materials.

The property has not had its Permitted Development Rights removed.

History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

Relevant Planning History

No history

Consultation Responses

No objections have been made by Denby Dale Parish Council.

Issues and Assessment

Applications for Certificates of Lawful Developments for the erection of extensions to dwellings are assessed against the general permission conferred by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Side and Rear Enlargement

Schedule 2, Part 1, Class A of the Order sets out the Permitted Development Rights which relates to the 'enlargement, improvement or other alteration to a dwellinghouse'. In assessing the proposal against this:

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

Comment: *Permission to use the dwelling as a dwelling house was not granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule.*

- a) 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 a result of the works, the total area of ground covered by the proposal would not exceed 50% of the total area of the curtilage.*

- b) 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 enlargement would not exceed the highest part of the roof of the existing dwellinghouse.*

- c) 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 part of the dwellinghouse enlarged shall not exceed that of the original dwelling.*

- d) The enlarged part of the dwellinghouse would extend beyond a wall which –
- (i) forms the principal elevation of the original dwellinghouse; or
 - (i) fronts a highway and forms a side elevation of the original dwellinghouse;

Comment: *The enlarged parts of the dwellinghouse would not extend beyond a wall forming part of the principal elevation. While there is a public footpath to the north east of the site it is separated by 40 metres and an area of woodland thus the side extension is not considered to front a highway.*

- e) 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 dwelling, or
 - I. 3 metres in the case of any other dwellinghouse.
 - II. Exceed 4 metres in height;

Comment: *The proposal would be single storey in scale. The rear elevation would not extend more than 4m from the original dwellinghouse and the rear enlargement does not exceed 4 metres in height.*

- f) Until 30th May 2019, for a dwelling not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single story 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
 - I. Exceed 4 metres in height

Comment: *The proposal would be single storey in scale. The rear elevation would not extend more than 4m from the original dwelling. The rear enlargement does not exceed 4 metres in height.*

- g) The enlarged part of the dwellinghouse would have more than a single storey and-
- i. Extend beyond the rear wall of the 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 enlarged part of the dwellinghouse is to be single storey.*

- h) 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 enlarged part of the dwellinghouse would not be within 2m of the boundary. The eaves would not exceed 3m.*

- i) The enlarged part of the dwellinghouse would extend beyond wall forming a side elevation of the original dwellinghouse, and would-
- I. Exceed 4 metres in height
 - I. Have more than a single storey, or
 - II. Have a width greater than half the width of the original dwellinghouse

Comment: *The side extension projects from the side elevation of the original dwellinghouse including the side of an original rearward projection. While the original rearward projection is not retained, the proposed wrap-around to the rear elevation does not enlarge the original dwellinghouse at this point and as such the enlarged part projects beyond the side elevation or the original dwellinghouse by 5 metres and therefore would not have a width greater than half the width of the dwellinghouse. The enlargement is single storey and less than 4 metres in height.*

- 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 sub-paragraphs (e) to (j)

Comment: *the proposed enlargement does not adjoin an existing enlargement to the original dwellinghouse.*

- j) It would consist of or include –
- i. The construction or provision of a veranda, 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 development would not include the provision of a veranda, balcony or raised platform. It shall not include the installation, alteration, or replacement of a microwave antenna, chimney, flue, or soil and vent pipe. No alteration is to be made to any part of the roof of the original dwellinghouse.*

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

Comment: *Not applicable*

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;
- a) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
- b) 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 development is not on article 2(3) land.*

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;
- a) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—
 - I. obscure-glazed, and
 - I. 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
 - II. 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.

Comment: *The proposed materials shall match that of the existing dwelling. There shall be no upper floor windows due to the proposal being single storey in scale.*

Porch

D. Permitted development

The erection or construction of a porch outside any external door of a dwellinghouse.

D.1 Development not permitted

Development is not permitted by Class D 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 No

- (a) the ground area (measured externally) of the structure would exceed 3 square metres;

Comment No

- (b) any part of the structure would be more than 3 metres above ground level

Comment *The proposed porch measures less than 3.0 metres above ground level*

- (c) any part of the structure would be within 2 metres of any boundary of the curtilage of the dwellinghouse with a highway[]; or

Comment No

- (d) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

Comment No

Outbuilding

E. The provision of buildings and other development within the curtilage of the house

E.1 Development not permitted:

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 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: *Not 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 outbuilding would be for domestic use – classic car storage.*

Conclusion:

The proposal for 43, Windmill Hill Lane, Emley Moor, Huddersfield, HD8 9TA, has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for approval.

The single storey rear and side enlargements and porch benefit from a general planning permission under Article 3(1) and Schedule 2, Part 1, Classes A & D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the following reasons.

The proposed outbuilding 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: 2024/92356

Officer Recommendation: Grant Certificate

The proposed single storey rear and side enlargements and porch, at 43, Windmill Hill Lane, Emley Moor, Huddersfield, HD8 9TA, benefit from a general planning permission under Article 3(1) and Schedule 2, Part 1, Classes A & D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) subject to conditions as stated in paragraph A.3 of the same Order.

The proposed outbuilding 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	Date Received
Grouped Plans and Elevations – Proposed Plans (Outbuilding)	23-003-19-Outbuilding	13.12.2023
Grouped Plans and Elevations – Proposed Plans (Front/Side/Porch Extensions)	23-003-16-Proposed	20.08.2024
Location Plan – Location Plan Extended PD		20.08.2024
Grouped Plans and Elevations – Existing Plans	23-003-01-Exisitng	20.08.2024

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. The Case Officer did not enter into negotiations or request amended plans for the proposed development as it was considered that the application was not considered acceptable in its submitted form.

Dated: 14.10.2024