

**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/92802/E

Site: 22, Lemans Drive, Dewsbury, WF13 4AL

Description: Certificate of lawfulness for proposed erection of
outbuilding/gym/garage

Case Officer: Charlotte Hancock

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 26-Nov-2024

Officer Report

Site Description

22 Lemans Drive is a two-storey terraced house constructed of red brick. The property has a strip of tiled cladding to the front. The property benefits from a private driveway, modest front garden and garden to the rear.

The property is located on a residential street with properties of a similar age, size and architectural style.

Description of Proposal

The application is for a certificate of lawful proposed development for the proposed erection of an outbuilding/gym/garage.

The outbuilding would have a height of 2.5 metres and would have a flat roof. The outbuilding is proposed to have a width of 7.1 metres and length of 8.6 metres.

The applicant has not stated what materials will be used to construct the outbuilding.

Permitted development rights in relation to the proposal have not been removed.

History of negotiations/amendments received

Clarification of whether planning permission 2021/90393 had been implemented was sought from the agent.

Relevant Planning History

2008/91770- Erection of two storey extension- Conditional full permission - PD rights removed for windows

2021/90393- Prior notification for single storey rear extension- Prior approval not required

Consultation Responses

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

Assessment

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

Schedule 2, Part 2, 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:

In this instance, the proposed garage is large when compared with the size of the dwellinghouse. However, the Court's have judged that size along is not a determining factor when considering whether the use of the buildings is genuinely incidental to the enjoyment of the dwellinghouse. Rather the test is whether it can be said to be ordinarily and reasonably incidental. In this case,

the garage is proposed to be used for garaging and storage and a home gym with shower room. Whilst large the garaging and storage is not considered to be unusual for a dwellinghouse and neither would a home gym be out of the ordinary. As such the proposed building is not considered to not be incidental to the enjoyment of the 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 to use the dwellinghouse as a dwellinghouse has not been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule.*

(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 total area of ground covered by the building would not exceed 50% of the total area of the curtilage.*

(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 proposal shall be in the garden to the rear of the dwelling; therefore, the proposal would not be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.*

(d) the building would have more than a single storey;

Comment: *the proposal is single storey in height*

(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,
- (ii) 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
- (iii) 3 metres in any other case;

Comment: *the building is proposed to be a height of 2.5 metres and therefore does not exceed the above.*

(f) the height of the eaves of the building would exceed 2.5 metres;

Comment: *the proposed building is to have a flat roof design and an overall height of 2.5 metres, therefore the eaves will not exceed the above.*

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

Comment: *the building would not be situated 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 the construction or provision of a verandah, balcony or raised platform.*

(i) it relates to a dwelling or a microwave antenna;

Comment: *the proposal does not relate to a dwelling or microwave antenna.*

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

Comment: *the proposal does not exceed capacity.*

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

Comment: *N/A*

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 proposal is not within the curtilage of those listed above.*

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 dwellinghouse is not located on article 2(3) land.*

Conclusion

The proposed outbuilding as shown on the submitted plans listed in this decision notice benefits from general planning permission granted by virtue of Schedule 2, Part 1 (Development within the curtilage of a dwelling house), Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for approval.

Recommendation: Grant certificate

Decision Authorisation - Delegated Powers

Application Number: 2024/92802

Officer Recommendation: Grant certificate

The proposed single storey outbuilding to be used for purposes incidental to the enjoyment of the dwellinghouse would benefit from 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
Existing and proposed plans	1060569	-	30/09/2024
Location and site plan	1060567	-	30/09/2024
Application form	1060566	-	30/09/2024
Supplementary information	-	-	22/11/2024

Report Dated: 25/11/2024