

**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/93043/E

Site: 85, Hartshead Lane, Hartshead, Liversedge, WF15  
8AL

Description: Certificate of lawfulness for proposed erection of  
single storey side extensions, outbuilding and front porch

Case Officer: Laura Yeadon

**Decision Reference: PROPOSED OPERATIONS GRANT/REFUSE**

**I hereby authorise the approval and 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 14-Jan-2026**

## **Officer Report**

[Weblink](#)

### **Site Description**

85 Hartshead Lane is a large, detached property located within the Green Belt as defined within the Kirklees Local Plan. The property is constructed from stone with a stone slate roof. The property is set within large grounds whereby the property is sited close to the rear (eastern) boundary of the site.

Access to the property is via a private driveway off Hartshead Lane.

### **Description of Proposal**

Permission is sought for a Certificate of Lawful Development for single storey side extensions, an outbuilding and a front porch.

#### **Single storey extension – bedroom**

The single storey extension to accommodate a bedroom would be located on the side elevation of the property facing northerly. The extension would have a width of 5.8 metres lying flush with the original rear elevation of the property. The extension would have an eaves height of 2.5 metres and an overall height of 4 metres when measured from the existing ground level when measuring from the highest ground level as indicated on the submitted plans. The roof form would be hipped with the construction materials being stone for the walls and slate for the roof.

#### **Single storey extension – living room**

The single storey extension to accommodate a living room would be located on the side elevation of the property facing southerly. The extension would have a width of 5.8 metres with a depth extending beyond the rear elevation of the original rear elevation by 3.8 metres. The eaves height would be 2.5 metres within an overall height of 4 metres. The roof form would be hipped with the construction materials being stone for the walls and slate for the roof. The extension does not adjoin the existing rear enlargements to the original property by reason of a nominal gap.

#### **Outbuilding**

The proposed outbuilding would be located to the southern side of the building and would be 'L' shaped in its design. The total length of the building would be 16.8 metres with a total depth of 13.6 metres. The submitted plans indicate that the total footprint of the outbuilding would be 139 square metres. The eaves height would be 2.5 metres with an overall height of 4 metres. The submitted plans indicate that the outbuilding would have a gabled frontage, pitch roof and hipped side elevation. The proposed construction materials would be stone for the walls and slate for the roof.

## Porch

The proposed porch would be located on the front of the property. The plans are annotated with dimensions that state that the width would be 24 metres, height would be 3 metres and the projection would be 1,2 metres. The plans indicated that when measured externally, the external gross area would be 3 square metres.

## Officer Note

As part of a Certificate of Lawful Development, 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 based on the rules of permitted development.

## **History of negotiations/amendments received**

Lengthy negotiations have taken place with the Agent regarding the scheme. This related to the individual elements of the scheme to ensure they would comply in addition to concerns raised regarding the overall size, scale and use of the outbuilding. Amended plans were submitted on 7<sup>th</sup> October 2025 which clarified that the living room extension would be separated from a previous extension to the property in addition to amendments to ensure measurements were compliant with criteria. In terms of the proposed outbuilding, this was reduced in overall size by 10% in terms of width and depth and a Client Statement was submitted to justify the outbuilding. The amendments were received on 7<sup>th</sup> October 2025 and form the basis of this assessment.

## **Relevant Planning History**

1991/06538 Erection of 2 storey extension  
*Conditional Full Permission*

1995/92035 Erection of detached garage  
*Conditional Full Permission*

1996/92045 Erection of conservatory  
*Conditional Full Permission*

2006/90798 Certificate of lawfulness for existing use of gland as garden  
*Granted*

## **Consultation Responses**

None required

## **Representations**

The Kirklees Development Management Charter details how the Local Planning Authority will undertake a formal period of publicity. The Charter is clear (page 4) that notification on types of application for which there is no statutory requirement to do so will not be carried out. This includes applications for certificates of lawfulness of proposed/existing use or development. The Charter goes on to comment (page 7) that applications for certificates of lawfulness for existing or proposed use/development will not be advertised by site notice, neighbour notification letters or newspaper advertisement, however the applications will be advertised on the Kirklees website.

As a result of this., 3 no. representations have been received, prior to the submission of amended plans with the following being a summary of comments:

- Not revealed what the use of the outbuilding would be other than labelling it for 'leisure' purposes
- Impossible to determine if the proposed outbuilding, which is disproportionately a large structure would be used for purposes incidental to the enjoyment of the dwellinghouse
- Must be demonstrated that the outbuilding will be used for incidental purposes and in doing so, justify why such a large outbuilding is required to accommodate such
- Onus is on the applicant to demonstrate that, taken on the balance of probabilities that the outbuilding will be used for purposes incidental to the to the enjoyment of the dwellinghouse and should be refused given the lack of sufficient evidence to satisfy the fundamental requirement of Class E
- Under application 2006/90798 a certificate was granted for the use of land as residential garden however it did not include land upon which part of the proposed outbuilding is located which begs the question as to the formal land use of land upon which the outbuilding is situated and why was it not included in that application?
- Although garden area and curtilage are two distinct and separate matters in planning terms, this begs the question whether or not the outbuilding is situated on land that would fall within the curtilage of the dwellinghouse
- Overdevelopment in the Green Belt where controls are in place to prevent urban sprawl and maintain openness whereby the scale of this proposal appears to conflict with national Green Belt policies which prioritise limiting extensions to avoid a disproportionate increase in the size of the original dwelling
- Noncompliance with the Kirklees Design Guide which emphasises the importance of extensions and alterations being subordinate to the original building and maintaining the character of the area – the extent of the proposed works risk dominating the site and detracting from its established character
- Introduction of a large outbuilding and additional side extensions will significantly alter the visual appearance of the site, which is currently characterized by its open and well-spaced layout
- While the application claims compliance with the Town and Country Planning (General Permitted Development) (England) Order 2015,

- specific elements of the proposal may exceed permissible limits including the outbuilding's height and proximity to boundaries
- Application does not provide sufficient detail on the materials and design of the proposed extensions and outbuildings, nor does it address the impact on existing landscaping features which are integral to the Green Belt setting
  - Urge the council to carefully scrutinize this application and consider whether the proposals truly align with national and local planning policies, including the Kirklees Design Guide and Green Belt protections. Approval of this application, as currently proposed, would set a concerning precedent for overdevelopment in sensitive locations
  - Believe the application is in the form of a Certificate of Lawfulness rather than a full planning application to reduce the level of external scrutiny and to get around the constraints of the original limited footprint of the house
  - Outbuilding appears to be substantially larger than the shown in the plans and is only around 0.4m from the main house and overlaps the building and it has been designed to look the same as the main building and cannot be considered to be distinct and separate from the main building and cannot be considered to be distinct and separate from the main house.

In response to all the above comments, the National Planning Practice Guidance states that in relation to Certificates of Lawful Development (Paragraph: 008 Reference ID: 17c-008-20140306) that *'Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.'* Paragraph 009 Reference ID: 17c-009-20140306 goes on to state that *'A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.'*

As such, comments received in relation to the application do not form part of the consideration of the application.

### **Issues and Assessment**

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined within 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 dwellinghouse).

In terms of this application, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) is relevant, in particular Class A (enlargement, alteration or other alteration of a dwellinghouse), Class D (porches) and Class E (buildings etc incidental to the enjoyment of a dwellinghouse) are of relevance and shall be addressed below:

### Class A – enlargement of the dwellinghouse

#### **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 dwellinghouse as a dwellinghouse was not granted by any of the above.*

- 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:*** *The total area of ground covered by the proposed works including the proposed extensions, outbuilding and porch in addition to the existing extensions within the site would exceed 50% of the ground covered.*

- 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:*** *No part of either side enlargements would exceed the height of 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 either side enlargement would not exceed the height of the eaves of the existing dwellinghouse.*

- 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:** Both side enlargements would not extend beyond a wall which forms the principal elevation of the original dwellinghouse nor do they 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 3 metres in the case of any other dwellinghouse.
  - (i) Exceed 4 metres in height;

**Comment:** The enlargement to form the living room is single storey in height and would extend beyond the rear elevation of the original dwellinghouse by not more than 4 metres and would not exceed 4 metres in height.

- f) 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 enlargement to form the living room is single storey in height and would extend beyond the rear elevation of the original dwellinghouse by not more than 4 metres and would 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 enlargements would not have more than a 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:** Neither of the enlargements would be within 2 metres of a boundary.

- i) The enlarged part of the dwellinghouse would extend beyond a 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:** *Both enlargements are to the side of the property. Neither extension would exceed 4 metres in height when measured from the existing highest ground level; neither extension would have more than a single storey and; neither extension would have a width greater than half the width of the original dwellinghouse.*

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 amended plans clearly demonstrates that the proposed living room enlargement would not attach to the existing extensions to the dwellinghouse and therefore there would be no joined additions to the property.*

- j) It would consist of or include –
  - (i) The construction or provision of a verandah, 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:** *None of the above are proposed.*

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

**Comment:** *The dwellinghouse was not built under Part 20 of the this Schedule.*

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 dwelling 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 construction materials would match those on the existing dwelling and no upper floor windows are proposed.*

#### Class D - porch

#### **Development not permitted**

D.1 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:** *Permission was not granted for the use of the dwellinghouse as a dwellinghouse by any of the above Classes.*

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

**Comment:** *The plans are annotated to confirm that the external gross floor area would not exceed 3 metres.*

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

**Comment:** *The plans are annotated to demonstrate an overall height of 3 metres when measured from the highest ground level.*

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

**Comment:** No part of the structure would be within 2 metres of the boundary of the curtilage of the dwellinghouse.

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

**Comment:** The dwelling was not built under Part 20 of this Schedule.

### Class E – outbuildings

Schedule 2, Part 1, 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:

### **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:** The dwellinghouse was not granted permission by any 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 total area of ground covered by the proposed works including the proposed extensions, outbuilding and porch in addition to the existing extensions within the site would exceed 50% of the ground covered.

- 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:** No part of the building would be situated on land forward of a wall forming the principal elevation of the original building.

- c) the building would have more than one storey;

**Comment:** *The building would not have more than one storey.*

- d) the height of the building, enclosure or container would exceed –
- (ii) 4 metres in the case of a building with a dual-pitched roof,
  - (iii) 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
  - (iv) 3 metres in any other case

**Comment:** *The building is not located within 2 metres of a boundary and the height would not exceed 4 metres.*

- e) the height of the eaves of the building would exceed 2.5 metres;

**Comment:** *The height of the eaves of the building would not exceed 2.5 metres.*

- f) 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.*

- g) it would include the construction or provision of a veranda, balcony or raised platform;

**Comment:** *None of the above are proposed.*

- h) it relates to a dwelling or microwave antenna; or

**Comment:** *Not applicable.*

- i) the capacity of the container would exceed 3,500 litres.; or

**Comment:** *Not applicable*

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

**Comment:** *The dwellinghouse was not built under Part 20 of this Schedule.*

E.2 In the case of the any land within the curtilage of the dwelling which is within –

- (a) an area of outstanding natural beauty;
- (a) the Broads;
- (b) a National Park; or
- (c) a World Heritage Site,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pool and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

***Comment:*** *The land within the curtilage of the dwelling is not within any of the above designations.*

E.3 In the case of 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 dwelling.

***Comment:*** *The land within the curtilage is not on article 2(3) land.*

### **Interpretation of Class E**

E.4 For the purposes of Class E, “purpose incidental to the enjoyment of the dwelling house 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.

Discussions have taken place with the Agent regarding the outbuilding. Following correspondence, the outbuilding has been reduced by 10% both in depth and in width with the use of the building annotated on plan and a Client Statement submitted to justify the proposed works.

The plans are annotated to demonstrate that the outbuilding would be used for ‘leisure’ which would include a hydrotherapy pool, bar, wellness area, ice bath tub, sauna/steam room, plant room, shower room, changing room and gym.

However, plan reference 01\_00 R03 submitted as an amended plan on 7<sup>th</sup> October 2025 states that the original building was 65.635 square metres and the proposed outbuilding would be 139.3224 square metres. Therefore, notwithstanding the proposed side extensions and the existing extensions to the property, the outbuilding alone would increase the footprint of the property over and above the original footprint by 212%. This appears excessively large to constitute being reasonably incidental to the enjoyment of the dwellinghouse.

The Courts (*Emin v Secretary of State for the Environment* [1989]) have held that the size of an outbuilding cannot alone be a single determinative factor in deciding whether or not a use or uses can be incidental to the enjoyment of the dwellinghouse although the Deputy High Court Judge stated:

*“[This] could not rest solely on the unrestrained whim of him who dwelt there but connotes some sense of reasonableness in all the circumstances of the particular case. That was not to say that the arbiter can impose some hard objective test so as to frustrate the reasonable aspirations of a particular owner or occupier so long as they are sensibly related to his enjoyment of the dwelling.*

*The word incidental connotes an element of subordination in land use terms in relation to the enjoyment of the dwellinghouse itself.”*

Along with the amended plans, a Client Statement was submitted to justify the requirement of the building. In summary, the Statement explains the personal needs of the applicants in relation to work and health which would provide space for a ‘small home gym and therapy area’ by managing health conditions at home.

Whilst health care needs can provide justification for the size, layout and use of outbuildings, no evidence has been submitted to demonstrate how the calculations of the space requirements have been formulated and there is no evidence from health professionals in support of such a large building for the incidental use of the applicants.

It cannot therefore be concluded that all the space within the building is reasonably required for purposes incidental to the enjoyment of the dwellinghouse.

### **Conclusion:**

The proposal has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for approval of side extensions and porch and refusal for the construction of the outbuilding.

Section 193(4) of the Town and Country Planning Act allows for the Local Planning Authority to issue a decision:

- a) for the whole part of the land specified in the application; and
- a) where the application specifies two or more uses, operations or other matters, for all of them or some one or more of them:

and shall be in such form as may be prescribed by a development order.

As such:

The proposal has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended that the side extensions under Class A and the porch under Class D is approved and the proposed outbuilding under Class E is refused.

The single storey side extensions and porch benefit from a general planning permission granted by virtue of Article 3(1) and Schedule 2, Part 1, Class A and Class D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) subject to conditions as stated within paragraph A.3 of the same Order.

The proposed erection of an outbuilding is not considered to benefit from a general planning permission under the provisions of Class E of Part 1 of

Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as it has not been demonstrated that the building is required for purposes incidental to the enjoyment of the dwellinghouse.

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location plan	PP-13478958v1		24 <sup>th</sup> October 2024
Existing location plan, site plan, elevations for plans and section	00_00		24 <sup>th</sup> October 2024
Proposed site plan	01_00 R03		7 <sup>th</sup> October 2025
Proposed floor plans	02_00 R03		7 <sup>th</sup> October 2025
Proposed elevations and sections	03_00 R03		7 <sup>th</sup> October 2025
Client Statement	2024/93043		7 <sup>th</sup> October 2025

**Dated:** 16<sup>th</sup> December 2025