

**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/93224/E

Site: 49, Moorside, Cleckheaton, BD19 6JZ

Description: Certificate of lawfulness for proposed erection of
summerhouse/games room

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 30-Dec-2024

Officer Report

Application No. 2024/93224

Site Description

49, Moorside, Cleckheaton, BD19 6JZ is a two-storey detached property, constructed from stone. The property benefits from a driveway to the front of the property, with a large garden to the rear and garden to the front.

Within the curtilage of the rear garden is a Tree Preservation Order 17/14/g1.

Description of Proposal

Permission is sought for a Certificate of lawfulness for proposed erection of summerhouse/games room to the rear of the property, within the curtilage of the dwellinghouse.

The outbuilding would be located to the rear (south) of the property and would be a total width of 9.023 metres, total depth of 12.312 metres with a height of 2.730 metres to the top of the roof and eaves height of 2.40 metres.

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

2023/93254 Erection of single and two storey extension

Consultation Responses

None required

Issues and 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 Planning (General Permitted Development) (England) Order 2015 (as amended).

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: *permission to receive the dwellinghouse as a dwellinghouse was not granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule.*

- 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 building would not exceed 50% of the total area of the curtilage.*

- 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: *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.*

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

Comment: *the proposal shall be single storey in scale.*

- d) 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 proposal would not exceed 3 metres.*

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

Comment: *the eaves 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: *the proposal does not include the construction or provision of a veranda, balcony, or raised platform.*

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

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

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

Comment: *it is not a container*

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

Comment: *N/a*

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

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: *land within the curtilage of the dwellinghouse is not 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.

***Comment:** The proposed ancillary outbuilding would be used to house a summer house with hot tub, sauna, wet room and a games room/bar. While a substantial building, it is considered the uses the building is proposed for can be considered reasonably incidental to the enjoyment of the dwellinghouse.*

Conclusion:

The proposed outbuilding for 49, Moorside 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: 2024/93224

Officer Recommendation: GRANT Certificate

The proposed outbuilding at 49, Moorside, Cleckheaton, BD19 6JZ to be used for purposes incidental to the enjoyment of the dwellinghouse, benefits from a 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
Location Plan	10216-04		12/11/2024
Existing Floor Plan	10216-01		12/11/2024
Proposed Plans	10216-02		12/11/2024
Proposed Elevations	10216-03		12/11/2024

Dated: 30.12.2024