

**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.: 2025/CL/90422/W

Site: Wall Nook Farm, Wall Nook Lane, Cumberworth,
Huddersfield, HD8 8YB

Description: Certificate of lawfulness for proposed erection of
single storey side extension and outbuilding

Case Officer: Laura Yeadon

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 14-Jul-2025

Officer Report

[Weblink](#)

Site Description

Wall Nook Farm is a two storey dwelling located within an area defined as Green Belt within the Kirklees Local Plan. The property is constructed from stone and has a stone slate roof. To the front of the property is a large area of hardstanding accessed between gate posts and to the rear of the property is a lawned garden. The property has been previously extended by way of a single storey extension to the rear and a porch to the front.

Surrounding the property is limited built development and is mainly open fields.

Description of Proposal

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

Single storey extension

The extension would be located on the side elevation of the property and is separated from the front wall of the two-storey section of the property which is set back from the most forward front elevation of the property. The separation would be 0.1 metres.

The extension would project to the side by 3.9 metres being a depth of 5.1 metres within an eaves height of 3 metres and an overall height of 4 metres with a pitched roof. No details have been submitted with regards to construction materials.

Outbuilding

The proposed outbuilding would be located within the rear amenity space and would extend the full width of the plot along the north-western facing boundary. The outbuilding would have a width of 17 metres and would be 'L' shaped in design and therefore has a depth of 9 metres and 6 metres respectively. The height of the outbuilding would be 2.5 metres with a green sedum flat roof. The proposed construction materials would be natural stone for the walls to match the host dwelling.

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 within the parameters of being lawful under Permitted Development Rights.

History of negotiations/amendments received

No negotiations have taken place, and no amended plans received.

Relevant Planning History

2019/91358 Erection of single and two storey extensions
Withdrawn

2020/92246 Certificate of Lawfulness for proposed demolition of front porch, erection of single and two storey rear extension and exterior alterations
Granted

2021/91224 Larger Home Extension with 4 metre projection
Prior notification not required

Consultation Responses

None required

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; If so, whether permitted development rights apply to the property; and
1. 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), Class A (enlargement, improvement or alteration of a dwellinghouse).

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 extensions would not exceed more than 50% of the total area of curtilage (including the previously constructed rear extension)*

- 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 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 the enlargement would not exceed the height of the eaves on 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: *Historical imagery held by the Council indicates the existing stepped arrangement to the front of the property existing before and after 1948 and is thus original to the dwellinghouse as defined in the Order. The enlarged part of the dwellinghouse would therefore extend beyond a wall which forms the principal elevation of the original dwellinghouse, although it does not extend beyond a wall which fronts a highway and forms a side elevation of the property.*

- 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 enlarged part of the dwellinghouse would not extend beyond the rear wall of the original dwellinghouse and does 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: *Th The enlarged part of the dwellinghouse would not extend beyond the rear wall of the original dwellinghouse and 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 would not be 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: *The enlarged part of the dwellinghouse would be within 2 metres of a boundary of the dwellinghouse however the eaves of the enlargement would not exceed 3 metres in height.*

- 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: *The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse. It would not exceed 4 metres in height, would not have more than a single storey and would not 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: *Not applicable*

- 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 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 dwellinghouse 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 need to match those on the exiting dwelling to comply with this condition. No upper floor windows are proposed.*

Class E – outbuilding

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 extensions would not exceed more than 50% of the total area of curtilage (including the previously constructed rear extension)*

- 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 would be within 2 metres of a boundary of the curtilage of the dwellinghouse however it would not exceed 2.5 metres in height.

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

Comment: The overall height of the building (flat roofed) 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 is not located 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: None of the above are proposed.

- 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.

The proposed outbuilding is stated on the submitted plans as being 134 square metres. When measuring the original building against the original building (prior to the construction of the single storey rear extension and porch), the footprint of the original building was approximately 96 square metres and therefore, the additional built development of just the outbuilding alone (without any other additions) would equate to an approximate of 139% increase in floor space for the property.

The submitted details indicate that the outbuilding would accommodate a gym, games room and home office which in principle may be considered incidental to the enjoyment of the dwellinghouse.

However, combined the gym would have internal dimensions of 5.5m x 5.1 metres and the home office and games room has an internal width of approximately 10.6 metres and maximum internal depth of 8.4 metres. There has been no justification as to the size of the building and that the proposed accommodation is reasonably required for the enjoyment of the dwellinghouse.

The overall size and use of the outbuilding is considered to go beyond that which is incidental to the main dwellinghouse. The plans indicated that lounge area which demonstrates images of a lounge area and TV, which offers primary living accommodation which is not considered incidental to the enjoyment of the dwellinghouse and appears to be an extension to the existing living

accommodation. This is further emphasised by the existing living accommodation within the host dwelling hosting a living room and a snug area, both at ground floor level (as indicated on the submitted plans).

The area shown as home office suggests space for two home workers and a large table seemingly there for work purposes. While it is no uncommon for people to work from home, this would typically be space confined to a small desk or work area within existing living space. In this instance the home office goes beyond a small desk or work space and includes other furniture which appear to be also dedicated work areas which could likely be used to host work meetings leading to visitors to the property for working purposes. This use is not therefore considered to go towards the reasonable incidental enjoyment of the dwellinghouse.

The Court¹ 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 Sir Graham Eyre Q.C sitting as Deputy High Court Judge states:

“[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.”

In this instance the applicant has not demonstrated that the large outbuilding hosting a gym, large area for home working, primary living space and games room. The area for home working is significantly large to be considered subordinate or reasonable to the needs of a typical home worker with the lounge area appearing to be an extension to primary living accommodation already available in the main dwellinghouse. The applicant has not provided any evidence to demonstrate the areas shown for uses in the circumstances of this particular case are reasonably necessary or required for the enjoyment of the dwellinghouse.

Therefore officer cannot therefore accept 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 refusal.

¹ Emin v Secretary of State for the Environment [1989] 416

The single storey side and front extension does not benefit from a general planning permission granted under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the enlarged part of the dwellinghouse would extend beyond a wall forming the principal elevation of the original dwellinghouse contrary to A.1 (e).

The proposed erection of an outbuilding is not considered to benefit from a general planning permission under the provisions of Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as it has not been demonstrated the building is required for purposes incidental to the enjoyment of the dwellinghouse.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	24/1066/01		28 th February 2025
Existing block plan	24/1066/02		28 th February 2025
Existing elevations, floor plans and section	24/1066/03		28 th February 2025
Proposed elevations, floor plans and section	24/1066/04		28 th February 2025
Outbuilding as proposed	24/1066/05		28 th February 2025
Proposed block plan	24/1066/06		28 th February 2025

Dated: 10th July 2025