

**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/90842/W

Site: 31, Warrenside, Deighton, Huddersfield, HD2 1LW

Description: Certificate of lawfulness for proposed demolition of
existing garage and erection of replacement garage

Case Officer: Sharoz Ilyas

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 17-Jun-2025

Reference:	2025/CLD/90842/W
Applicant: -	G Dearden
Location: -	31, Warrenside, Deighton, Huddersfield, HD2 1LW
Proposal: -	Certificate of lawfulness for proposed demolition of existing garage and erection of replacement garage

Site Description

The applications site is occupied with a single-storey dwellinghouse built using stone with additional accommodation space in the roof. The road facing elevation is a gable-end with a dual pitched roof, tiled with concrete tiles. There is garden amenity space at the front and enclosed garden at the rear with a concreted driveway leading down the side to the rear existing double garage.

The immediate area is residential in character with varying house styles and types.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the erection of a detached garage. The development involves the demolition of the existing garage and erection of a detached garage with a flat roof.

The outbuilding would measure 5563mm wide, 9169mm long and have a total height of 2252mm. The height to the eaves would be 1967mm.

History of negotiations/amendments received

None

Relevant Planning History

2024/62/90708/W: Demolition of existing garage and erection of replacement garage (Refused)

Consultation Responses

None Required

Legislation

The Town and Country Planning Act 1990 Section 55 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Assessment: -

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined in section 55 of the Town and Country Planning Act 1990;
2. If so, whether Permitted Development rights apply to the property; and
3. 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 dwelling house), Class E.

The plans are for the erection of a single-storey detached outbuilding. Thus, the proposal constitutes the carrying out of building on and over land and as such, it is regarded as development as defined by section 55 of the Town and Country Planning Act 1990.

The application therefore falls to be considered under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 1 (Development within the curtilage of a dwelling house), Class E.

The demolition of the current garage is defined as building operations by virtue of section 55 (1A)(b) of the Town and Country Planning Act 1990 and thus development as defined by section 55(1). However, the Secretary of State by way of direction under section 55(2)(g) has provided that the demolition of building under 50 cubic metres in volume should not be regarded as development for the purposes of the Act. Consequently, the proposed demolition of the existing garage, measured using the existing plans at less than 50 cubic metres, would not be regarded as development by virtue of the Town and Country Planning (Demolition - Description of Buildings) Direction 2021.

Permitted Development Class E

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 property was not granted permission by any 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 accumulative total of ground covered by buildings, enclosures and containers would not exceed 50% of the total area within the curtilage of the original 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 outbuilding is not located beyond the principal elevation line of the original dwellinghouse and therefore does satisfy this requirement.

d) the building would have more than one storey;

Comment: The outbuilding would be a single-storey.

e) the height of the building, enclosure or container would exceed –
a. 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 proposed outbuilding is shown to be within 2 metres of the boundary and is less than 2.5 metres in height with a flat roof, therefore this requirement is satisfied.

f) the height of the eaves of the outbuilding would not exceed 2.5 metres;

Comment: The height of the eaves of the development would not exceed 2.5m.

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

Comment: The building would not be within the curtilage of a listed building.

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

N/A.

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

N/A.

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

N/A.

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

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 situation more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

Comment: The property is not situated in the 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: The property is not situated 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.

Comment: The scale of the double garage is relatively large although not so significantly large to house two family cars with some reasonable storage space. No other outbuildings exist and as such garaging and storage needs are considered to be reasonably 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 Section 55 of the Town and Country Planning Act 1990 (as amended). The application is recommended for approval.

The proposed outbuilding at 31 Warrenside does meet permitted development as set out in Schedule 2, Part 1, Class E of the Town and Country (General Permitted Development) Order 2015.

Recommendation: APPROVE certificate

Decision Authorisation - Delegated Powers
Application Number: 2025/90842

Officer Recommendation: Approve certificate

The proposed outbuilding for purposes incidental to the enjoyment of 31 Warrenside 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	Date Received
Proposed Site/Block Layout – 2327 A(90)-02 Proposed Site Plan	1082531	27/03/2025
Grouped Plans and Elevations – 2327 A(00)-01 Existing Plans	1082530	27/03/2025
Location Plan	1082529	27/03/2025
Grouped Plans and Elevations – 30 x 18 (Mr Dearden Dwg)-Paper (2)	1082528	27/03/2025

