

**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/90916/W

Site: 17, Rafborn Avenue, Salendine Nook,
Huddersfield, HD3 3UJ

Description: Certificate of lawfulness for proposed wooden
outbuilding

Case Officer: Chris Cockroft

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 04-Jun-2025

Officer Report

Application Number: 2025/90916

Site: 17, Rafborn Avenue, Salendine Nook, Huddersfield, HD3 3UJ

Description: Certificate of lawfulness for proposed wooden outbuilding

Site Description

17, Rafborn Avenue is a stone built, detached house, The property benefits from a drive and parking provision to the front of the property, with an amenity space found to the rear.

The property is located on a residential street with properties of a similar age, although there are some variances in terms of style.

1. Application Proposal

The application is for a certificate of lawful proposed development for a detached wooden outbuilding. 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 permitted development.

The outbuilding would be located to the rear of the dwelling with a width of 4.33 metres and a depth of 5.20 metres, with an eaves height of 1.5 metres, rising to overall height of 3.32 metres to the top of the roof.

1. Relevant Planning History

2007/91505 Reserved matters application for erection of 4 no. detached dwellings with integral garages.

2. Consultations

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

3. Evidence submitted

The applicant has submitted a completed application form, with location plan and drawings of the proposed wooden outbuilding.

4. Evidence submitted against the application

None

5. Site Visit

None

6. Legislation

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

7. Assessment

8.1 The main considerations in the determination of this application are: whether the proposed development would constitute development as defined section 55 of the Town and Country Planning Act 1990. If so, whether Permitted Development rights apply to the property; and 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 (buildings etc incidental to the enjoyment of the dwellinghouse).

8.2 The application proposal comprises a single storey wooden outbuilding to the rear of the property. Thus, the proposal constitutes the carrying out of building on and over land. As such, it is regarded as development as defined by section 55 of the Town and Country Planning Act 1990, and therefore planning permission for the development is required by virtue of section 57.

8.3 Planning permission has not been granted by the Local Planning Authority and therefore any permission would be reliant on the development benefiting from a general planning permission granted under the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended).

8.4 Ordinarily alterations to a dwellinghouse may benefit from a general planning permission through Article 3(1) and Schedule 2, Part 1, Class E of the above Order although this is subject to Article 3(4) which states "*Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order.*"

8.5 The dwellinghouse at 17, Rafborn Avenue was constructed pursuant to the planning permission granted by virtue of outline permission 2004/91031 and reserved matters approval 2007/91505 .

8.6 Condition 5 of the reserved matters approval (2007/91505) states:

'5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification) no buildings or extensions shall be erected

in the area within the red line on the approved plan without the prior written approval of the Local Planning Authority.'

8.7 The erection of the wooden outbuilding is within the red line on the approved plan and would therefore be contrary to condition 5.

8.8 In the absence of any planning permission, the development cannot be considered lawful.

8. Conclusion

The proposed wooden outbuilding for 17, Rafborn Avenue, Salendine Nook, Huddersfield, HD3 3UJ, would be contrary to condition 5 imposed on the planning permission granted by virtue of outline permission 2004/91031 and reserved matters approval 2007/91505 for the erection of 4 no. detached dwellings with integral garage and therefore cannot be permitted under the provisions 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) by reason of Article 3 (4) of the same order.

Recommendation: Refuse Certificate

Decision Authorisation - Delegated Powers

Application Number: 2025/90916

Officer Recommendation: Refuse Certificate

The proposed wooden outbuilding for 17, Rafborn Avenue, Salendine Nook, Huddersfield, HD3 3UJ, would be contrary to condition 5 imposed on the planning permission granted by virtue of outline permission 2004/91031 and reserved matters approval 2007/91505 for the erection of 4 no. detached dwellings with integral garage and therefore cannot be permitted under the provisions 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) by reason of Article 3 (4) of the same order.

Plans and specifications schedule:-

| Plan Type | Reference | Version | Date Received |
|-------------------|-----------|---------|---------------|
| Application Form | | | 31/03/2025 |
| Location Plan | 01 | | 31/03/2025 |
| Brochure Drawings | | | 31/03/2025 |

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-

application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

Report Date: 29/05/2025