

**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/91063/W

Site: 16, Butterley Lane, New Mill, Holmfirth, HD9 7EZ

Description: Certificate of lawfulness for proposed erection of garage

Case Officer: Jessica Irwin

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

Officer Report

Site Description

16, Butterley Lane is a two-storey semi-detached dwelling located in New Mill, Holmfirth. The application dwelling is finished in natural stone to the ground floor and pebbledash render to the first floor with a pitched roof incorporated above covered in blue slate. No.16 benefits from a single-storey side projection finished in stone with a flat roof, as well as a lawned garden surrounding the dwelling to the front, side and rear. The application site is designated Green Belt on the Kirklees Local Plan map.

Application Proposal

The application is for a certificate of lawfulness for proposed erection of detached garage.

The garage is proposed to be a maximum of 2.5m in height with a flat roof, approximately 10m in length and 4.8m in width.

The detached garage will be located on land directly to the side of the dwelling up to the rear boundary and is shown to house two family sized cars and a motorcycle.

History of negotiations/amendments received

N/A.

Relevant Planning History

2025/90447 – Erection of first floor extension and associated alterations – conditional full permission

Consultations

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

Assessment:

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined section 55 of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015;
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 (buildings etc incidental to the enjoyment of a dwellinghouse)

The proposal comprises the erection of a detached garage and 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.

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 (buildings etc incidental to the enjoyment of a dwellinghouse).

Assessment

Permitted development

Schedule 2, Part 1, Class E of the Order sets out the Permitted Development Rights which relates to the provision within the curtilage of the dwellinghouse of-

*“(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.”*

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.*

(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 proposed detached garage 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 detached garage would not be located forward of the principal elevation of the original dwellinghouse.*

(c) the building would have more than a single storey;

Comment: *The detached garage would be single storey in height.*

(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 detached garage would be located within 2 metres of the boundary of curtilage. The detached garage would have a flat roof, with the overall height measuring 2.5 metres.*

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

Comment: *The height of the eaves on the detached garage would not exceed 2.5m.*

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

Comment: *The detached garage would not be situated within the curtilage of a listed building.*

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

Comment: *N/A.*

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

Comment: *N/A.*

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

Comment: *The application is not for the construction of a container.*

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

Comment: *N/A.*

E.2 In the case of any land within the curtilage of the dwellinghouse which is within—

(a) an area of outstanding natural beauty;

(b) the Broads;

(c) a National Park; or

(d) a World Heritage Site,

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

Comment: *The property is not located in any of the above areas.*

E.3 In the case of any 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 dwellinghouse.

Comment: *The property is not situated in article 2(3) land.*

Interpretation of Class E

E.4. For the purposes of Class E, “purpose incidental to the enjoyment of the dwellinghouse 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 use to house two family sized cars and a motorcycle is not considered to be excessive or beyond incidental to the enjoyment of the dwellinghouse.*

Conclusion

The proposal for a detached garage for purposes incidental to the enjoyment of 16 Butterley Lane, New Mill, has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for approval.