



Mr Sharoz Ilyas

Kirkles Council

Planning and Development Service

Civic Centre

1, High Street

Huddersfield

HD1 2NF

26 July 2025

Dear Planning,

Proposal: Certificate of Lawful Use or Development for the Construction of an Outbuilding

Address: Copley House Farm, Hunsworth Lane, East Bierley, BD4 6RN

Introduction

- 1.1 We are instructed on behalf of Applicant 'Mr Paul Massey' to submit a Certificate of Lawful Use or Development is sought for the construction of an outbuilding at Copley House Farm, Hunsworth Lane, East Bierley, BD4 6RN.
- 1.2 The Applicant has obtained evidence to assist Kirkles Council in the determination of this Certificate. This includes:
 - Application fee
 - Application Forms by Astrum Planning
 - Plans prepared by Park Design:
 - Location Plan 001B
 - Existing Site Plan 002
 - Existing Main House Ground Floor Plan 003A
 - Existing Roof Plan of Stables 008
 - Existing Elevations of Stables 004
 - Proposed Site Plan 005C
 - Proposed Ground Floor Plan Class E 006F
 - Proposed Roof Plan Class E 009
 - Proposed Elevations Class E 007B
- 1.3 This justification statement draws upon evidence collated above and outlines our planning case, under appropriate sub-headings.

07989659350



rachel@astrumplanning.co

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Rachel Reaney

Town and Country Planning Order: Legislative Framework

- 1.4 Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the content of a certificates of lawfulness of existing or proposed use or development, and how it must be submitted. Sufficient factual information/evidence must be supplied to enable the Local Planning Authority (Kirklees Council in this case) to determine the application. The article also requires that the application should precisely describe what is being applied for and the land which the application relates.

The Site

- 1.5 The Site comprises a stable (no longer required), which forms part of a residential property (known as Copley House Farm) on Lower Lane, East Bierley. The stable is one storey in height, L-shaped in design, made of wood, with concrete base and totals a floor area of 124sqm. The stable is of permanent structure, and will be replaced by the proposed requirement for additional family accommodation, in association with the main dwellinghouse.
- 1.6 The dwellinghouse known as Copley House is set out over three floors, and comprising; entrance hall, small snug, living/dining room, kitchen, utility, WC, and boot room to the ground floor. To the first floor, principal bedroom with en-suite bathroom, three further bedrooms, one of which having an en-suite shower room and house bathroom. Completing the internal accommodation, the fifth bedroom is located on the second floor with an en-suite shower room. The property is occupied by the Applicant and his family.
- 1.7 The property also benefits from a detached garage and extensive garden, in which the stable sits to the rear of the property.
- 1.8 The Site is located within Kirklees Council's Green Belt. The Site is not at risk of flooding and/or located within an ecologically sensitive location.

Planning History

- 1.9 On the 16th June 2025, planning permission was refused by Kirklees Council, under reference 2024/CL/92307/E for a Certificate of Lawfulness for proposed erection of outbuilding on the grounds that the proposed outbuilding does not benefit 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) as it has not been demonstrated that the proposed use of the building is required for purposes incidental to the enjoyment of the dwellinghouse as such.

Planning Justification

- 1.10 An application under S192(1) of the Town and Country Planning Act 1990 (as amended)(the 'Act') seeks to establish whether (a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land, would be lawful. S192(2) sets out that if on application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect.
- 1.11 The proposal seeks to address comments raised in respect of application reference 2024/CL/92307/E – by providing the additional information required to support the position that the building is incidental to the enjoyment of the dwellinghouse (as requested by Kirklees Council).

Review Against Technical Legislation

Class E – buildings etc incidental to the enjoyment of a dwellinghouse

- 1.12 Please find below our review against the requirements of Class E:

Permitted development

E. 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.

Curtilage

- 1.13 Class E of the GPDO allows 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... subject to conditions.
- 1.14 The GPDO does not define the term 'curtilage', however, the 'Technical Guidance: Permitted Development Rights for Householders (2019)' advises it is 'land which forms part and parcel with the house'. On this point, our attention has also been drawn to various case law, regarding the curtilage of a building. *Challenge Fencing Limited v SSHCLG & Elmbridge BC* [2019] EWHC 553 (Admin) confirms that the extent of the curtilage of a building is a question of fact and degree, and a matter for the decision maker. *Burford v SSCLG & Another* [2017] EWHC 1493 (Admin) also sets out three factors to be taken into account: the physical layout of the building and land; the past and present ownership; the past and present use or function of the land.

- 1.15 As shown on the accompanying Existing Site Plan, prepared by Park Design - the proposed building is to be located to the rear of the main dwelling, physically connected, with no delineation, and within walking distance of the main house.
- 1.16 In support of the above, it was also established under application 2024/CL/92307/E that the stable forms part of the curtilage based on evidence previously provided¹; with curtilage not identified as a reason for refusal.
- 1.17 Finally, drawing upon application 2024/CL/92307/E and case law, it is clear that the land for which the outbuilding will be sited on, has an intimate functional relationship with the dwelling and the use of the land; and therefore, falls within its curtilage.

Whether it would be incidental

- 1.18 The proposed building will be sited on the footprint of the existing stable and comprise a single storey, L-shaped footprint, made from stone with slate roof, alongside fully glazed openings. At all times the use of the outbuilding will remain for private use by the Applicants family; and therefore, solely incidental to the enjoyment of the dwellinghouse, with no commercial use or unrelate family activity to be carried out from the building, in accordance with the requirements of E(a).
- 1.19 The building has a footprint of 132sqm and proposes accommodation for use as a gym, home office, cinema room and storage in association with the main dwelling.
- 1.20 As noted in the previous application - the applicant had the option to convert an existing outbuilding and replace on the existing footprint of the stable in the curtilage. However, a change of use application would not provide the insulation and energy efficiency required for a modern ancillary space. There are also concerns that the stable block would need expensive repairs to ensure it was water tight and provide the appropriate conditions for storage. As such the Applicants preference is to replace the building with a new purpose built and energy efficient structure.
- 1.21 A description of the dwelling is outlined at para 1.6 above and reflected in the accompanying floorplans, which shows that the existing dwelling does not include the rooms identified as part of this proposal. Importantly the size of the building is based on the users requirements and the need for circulation between each rooms. The footprint broadly

¹ i) the stables have been for the enjoyment of the occupiers of Copley House Farm in association with the residential use of the land; ii) the keeping of one or two horses at Copley House Farm has historically been purely for domestic and recreational purposes and this within the C3 use; iii) a separate access to the east was required for a horse trailer as one would not be able to drive through the remainder of the garden to achieve access; iv) the horses would also not travel through the garden and front gate when there is a separate access available; v) there is no boundary feature which would determine that it is separate from the residential property; vi) Copley House Farm has a right of way to the access to the east; vii) the applicant is the new owner of the property and does not have horses and thus the stable within the garden is now redundant. The separate access is not required; and viii) the title deeds for the property includes the area in discussion.

mirrors the existing stables and remains subservient in respect of size to the main dwellinghouse.

- 1.22 Expanding on the above, the home office is required to support the Applicant who is the CEO of a holiday operator, and his wife – who both work periodically and are in need of office space which is not available in the main property. The home office is small in size, with room for a desk to support the applicant and his wife (periodically) when working from home.
- 1.23 The storage space is required in connection with the home office for files and paperwork, but also for household supplies and the applicants wife hobby as a silversmith (storage of product).
- 1.24 The cinema room has been designed to accommodate a custom built film screening area and bespoke seating for the entertaining of guests and use of the family, who reside at the property. The seating area offers 9 seats in total. The host dwelling contains 5 bedrooms, at least 3 of which are doubles. It therefore has capacity for at least 8 people. The amount of seating included in the room equates to 1 seat per site occupant. The space in between the sofas and the screen is required for viewing/auditory comfort, as for any cinema room.
- 1.25 The Applicant has confirmed that all the children (ranging from 9-20) have a diverse sport activities (from rugby to gymnastics) – therefore access to gym space is essential for training and for general wellbeing of all family members (strength training; durability; and flexibility/stretching). An area has been identified to accommodate the range of equipment identified to support the family in its activities; and is a common type of incidental domestic use. The scale of this gym is modest and clearly proportionate to the size and occupation capacity of the main dwelling.
- 1.26 Importantly, no toilet or kitchen facilities within the outbuilding – requiring continued access to the main dwellinghouse.
- 1.27 Finally, the proposal is not comparable to a reception room in a dwellinghouse and would not, on the balance of probability, comprise additional primary living accommodation that would supplement the accommodation provided in the main house. As such, the proposal is incidental to the enjoyment of the dwellinghouse.
- 1.28 E.1 Development is not permitted under 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 (change of use)*
- 1.29 **Response:** The main dwellinghouse was not approved under permitted development rights. As such, the proposal meets criteria (a).

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).

1.30 **Response:** The proposal does not exceed the 50% threshold for the total area of the curtilage and will be on the footprint of an existing stable structure which will be demolished. As shown on the accompanying Site Plan.

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.

1.31 **Response:** The proposal is located within the rear garden; and therefore, complies with this requirement.

d) the building would have more than a single storey

1.32 **Response:** As such on the accompanying elevation plan, the outbuilding is single storey in height.

e) the height of the building, enclosure or container would exceed – i) 4 metres in the case of a building with a dual-pitched roof, ii) 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 iii) 3 metres in any other case.

1.33 **Response:** The proposal does not exceed the thresholds outlined above.

f) the height of the eaves of the building would exceed 2.5 metres.

1.34 **Response:** The proposal does not exceed the 2.5metre threshold above, as shown on the accompanying elevations plan.

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

1.35 **Response:** The building is not nationally listed.

h) it would include the construction or provision of a verandah, balcony or raised platform.

1.36 **Response:** N/A

i) it relates to a dwelling or a microwave antenna

1.37 **Response:** N/A

j) the capacity of the container would exceed 3500 litres.

1.38 **Response:** 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.

1.39 **Response:** The Site is not located within the sensitive areas outlined above.

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.

1.40 **Response:** The Site is not within a Conservation Area (Article(2)3 Land).

Conclusion

1.41 For the reasons given above, we conclude that the proposal would be for a purpose incidental to the enjoyment of the dwellinghouse and as such, is development which is permitted by Class E of Part 1 of the GPDO – addressing comments from the Council as part of a previous COPU.

Yours Sincerely,



Rachel Reaney, MRTPI

M: 07989659350

E: Rachel@astrumplanning.com

161 Bilton Lane, Harrogate, HG1 3DQ

Company Registration Number: 12969998

