

**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/92207/E

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

Description: Certificate of lawfulness for proposed erection of
an 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-Jan-2026

Officer Report

[Weblink](#)

Site Description

The application is located on Lower Lane, which is a single track lane which serves existing commercial and agricultural sites. The land is within East Brierly and is surrounded by agricultural fields and is wholly within the defined Green Belt.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the erection of an outbuilding within the curtilage of the property.

The outbuilding is 'L' shaped in its design and would have a length of 22 metres, maximum depth of 10 metres with an eaves height of 2.5 metres and overall height of 4 metres with a dual pitched roof. The proposed accommodation would be storage, a cinema room with drinks and snack bar, home office and a gym.

The proposed construction materials would be stone for the walls with stone slate for the roof.

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. The information contained within the covering letter states that the proposal is incidental to the enjoyment of the dwellinghouse and would not, on the balance of probability, comprise additional primary living accommodation that would supplement the accommodation provided in the main house.

History of negotiations/amendments received

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

Relevant Planning History

2001/93595 Erection of single storey utility extension
Conditional Full Permission

2002/92729 Erection of two storey side extension
Conditional Full Permission

2024/92218 Prior notification for single storey extension
Prior notification not required

2024/912307 Certificate of lawfulness for proposed erection of outbuilding
Refused

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;
1. If so, whether permitted development rights apply to the property; and
2. 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 E (building etc incidental to the enjoyment of a dwellinghouse).

The plans relate to the erection of an outbuilding within the curtilage of the dwelling to replace the existing stable block. The proposal therefore constitutes the carrying out of building on or over land. As such, it is regarded as development as defined by Section 55 of the Town and Country Act 199,

The application therefore falls to be considered under 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 buildings, enclosures and containers would not exceed 50% of the total area within the curtilage of the dwellinghouse.*

- 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 outbuilding is not located beyond the principal elevation of the original dwellinghouse.*

- 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 –

- (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 outbuilding is not located within 2 metres of a boundary and does not exceed 4 metres in height to the ridge of the dual-pitched roof.*

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

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

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

Comment: *N/A*

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

Comment: *N/A*

- i) the capacity of the container would exceed 3,500 litres.; or

Comment: N/A

- 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
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- (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 of 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:

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.

Officer Comments:

The application has been submitted with a full set of existing and proposed plans, application form and a covering letter which details the proposal.

The covering letter details justification with regard to curtilage, the incidental nature of the building, assessment under Class E legislation and a conclusion.

The content of the information sets out that the building would replace the existing stables on the same footprint and that to convert this would not provide the insulation and energy efficiency that is required for modern ancillary space.

The information also states that the building is for the private use of the applicant's family and will be solely incidental to the enjoyment of the dwellinghouse, with no commercial use or unrelated family activity being carried out from the building. It is also confirmed that the building has a footprint of 132 square metres for accommodation in association with the main dwelling.

A Certificate of Lawful Development under application number 2024/92307 has been refused at the site with the reason for refusal stating 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.

As part of the previous Officer Report, Case Law was cited in relation to the proposal which includes *Emin v SSE [1989] JPL 909*. This is relevant insofar as the size of the building is not a determinative factor on its own however *Emin* did establish that the size "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."

In this case, the applicants have submitted plans and a covering letter which sets out the accommodation includes the following accommodation with justification for the accommodation as follows:

- home office – it is stated that the office space is required to support the applicants as they periodically work from home and are in need for office space that is not available within the main property. It cites that the home office is small in size with room for a desk
- storage space – it is stated that this is required in connection with the home office for files and paperwork but also for household supplies and the hobbies including as a silversmith
- cinema room – the letter states that the cinema room has been designed to accommodate a custom-built screening area and bespoke seating for the entertaining of guests offering 9 seats in total with the space between the sofas and the screen being required for viewing/auditory comfort.
- gym area – the justification for this space is that the gym space is essential for training and the wellbeing of all family members and an area has been identified to accommodate the range of equipment identified to support the family in their activities.

The submitted plans indicate that the use of the gym would be approximately 40 square metres, the home office would be approximately 11 square metres,

the cinema room approximately 40 square metres and the storage area approximately 20 square metres.

Home office

In response, an earlier submission for prior approval under Class A of Part 1, a submitted plan showing the floor area of the dwellinghouse (ref 2024/92218 [proposed floor plan](#)) indicated 'study' within the main dwellinghouse which appeared proportionate for 2 no. home workers. The floor plans submitted with this application indicates that this area is now used as a 'snug' alongside the existing living room. No justification as to why space for two home workers cannot be reasonably be sited within the main house. However, it is accepted that the test is not necessarily that the proposed use of the outbuilding as a home office can be accommodated elsewhere although equally the onus is on the applicant to demonstrate additional space is genuinely required for incidental purposes. With regard to the part use of the proposed outbuilding as a home office, it is considered that this space is moderate and not excessive.

Cinema Room

While the submitted plans indicates 14 seats in the cinema room, the covering letter states that the cinema room offers 9 seats in total with the host building containing 5 bedrooms, at least of 3 of which has doubles and therefore has the capacity for at least 8 people with the amount of seating included in the room equating to 1 seat per site occupant. The applicant also points to an appeal decision¹ whereby an inspector commented that a TV/cinema room would normally be accommodation expect to be in the main dwellinghouse but inferred a custom-built film screening area may not. The applicant argues the cinema room is custom built but provide no reasoned justification by other than to suggest the layout demonstrate this.

In a similar appeal decision² an inspector commented that a cinema room containing seating and a large screen intended for entertaining, relaxation, socialising and watching films or television would not normally require accommodation separate to the living space contained within the main dwellinghouse. In this instance, with reference to the applicant's cover letter, it specifically states the cinema room is to be used by the family the for entertainment purposes being uses precisely considered by both inspectors to be accommodation normally found in the main dwellinghouse. The applicant has not shown that the cinema room is genuinely required as an area designed or custom built, for example as an area to accommodate a film viewing hobby, as a film critic or other area whereby viewing films would not be an activity one may need a separate space other than a living room. Consequently, there is little distinction between a cinema room and a living room with a TV and seating and therefore must be considered a primary living area and as such, not

¹ APP/P1805/X/18/3202923

² APP/B1550/X/23/3328690

incidental to the enjoyment of the dwellinghouse but rather an extension of normal living areas.

Gym

The applicant states that the children have a diverse sport activities and access to gym space is essential for training and general wellbeing of all family members. The applicant has further stated that the children pursue amateur gymnastics and rugby ambitions with local rugby teams and gymnastics clubs.

Whilst it is accepted that a home gym in principle could be incidental, the applicant has not provided specific training need to clearly identify the purpose and incidental quality of the range of equipment that is genuinely and reasonably required to justify the space to accommodate this equipment. If appears the only reasoned justification for the floor space of the proposed outbuilding is that conversion of the existing stable is not possible and a replacement building on the same footprint is the preferred option.

Overall and while the use as a home office alone maybe considered incidental, all the uses within the proposed outbuilding would need to be incidental to benefit from any permitted development rights under Class E. In this instance, it has not been demonstrated that all the uses within the proposed large outbuilding are 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.

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 all the proposed uses of the building are reasonably required for purposes incidental to the enjoyment of the dwellinghouse.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	001 – B		5 th August 2025
Existing site plan	002		5 th August 2025
Existing ground floor plan (dwellinghouse)	003 – A		5 th August 2025
Existing elevations (stable block)	004		5 th August 2025
Proposed site plan	005 – C		5 th August 2025
Proposed ground floor plan	006 – F		5 th August 2025

Plan Type	Reference	Version	Date Received
Proposed elevations	007B		5 th August 2025
Exiting roof plan	008		5 th August 2025
Proposed roof plan	009		5 th August 2025
Covering letter	Astrum Planning		5 th August 2025

Dated: 1st September 2025