

**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/92315/W

Site: Lower Smithfield, Scholes Moor Road, Scholes,
Holmfirth, HD9 1RU

Description: Certificate of lawfulness for proposed extension to
integral garage

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 22-Oct-2025

Officer Report

[Weblink](#)

Site Description

Lower Smithfield is a detached bungalow located within the defined Green Belt within the Kirklees Local Plan. The property is constructed from stone with a tiled roof. Amenity space for the dwellinghouse is to the front and rear with a driveway to the side leading to an attached integral garage. The property sits with a small cluster of buildings which are surrounded by open fields.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the erection of a single storey extension to the side of the property. The plans also indicate that the existing driveway would be widened and that a new retaining wall would be positioned. Due to the limited information regarding the retaining wall this element of the scheme shall not be assessed. Therefore, the matters for consideration as part of this application are the side extension and the driveway.

The extension would project from the side elevation of the property by 2.5 metres and would lie flush with the existing front and rear elevations of the part of the dwellinghouse it would attach to. The eaves height would be 2.75 metres rising to an overall height of 5.2 metres to the ridge of the dual-pitched roof.

The proposed construction materials would be natural coursed stone for the walls and stone slates for the roof, to match the existing.

The property has not had its Permitted Development Rights removed.

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. In this case, the applicant has stated on the application form that the proposal meets the criteria of Class A of the permitted development rights.

History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

Relevant Planning History

1987/05301 Outline application for erection of 1 dwelling and garage
Granted Conditionally

1988/02468 Erection of 1 detached dwelling and garage
Granted Conditionally

2018/92792 Removal of Condition 8 (occupancy) on previous permission 87/05301 for outline application for erection of 1 dwelling
Refused

2018/92794 Discharge of Section 106 obligation relating to previous permission 87/05301 for outline application for erection of 1 dwelling and garage
Granted

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 A (enlargement, improvement or alteration of a dwellinghouse) and Class F (hard surfaces incidental to the enjoyment of a dwellinghouse).

Class A

Development not permitted

A.1 Development is not permitted by Class A 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: *Permission for the dwellinghouse has not been granted for any of the above.*

- a) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (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 the extension and patio would not exceed 50% of the total area of the curtilage of the dwellinghouse.*

- b) The height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

Comment: *The highest part of the enlargement would not exceed the height of the highest part of the roof of the existing dwellinghouse.*

- c) The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse

Comment: *The height of the eaves would not exceed the height of the eaves of the existing dwellinghouse*

- d) The enlarged part of the dwellinghouse would extend beyond a wall which –
 - (i) forms the principal elevation of the original dwellinghouse; or
 - (i) fronts a highway and forms a side elevation of the original dwellinghouse;

Comment: *The proposed works to enlarge the property would not extend from a wall forming the principal elevation of the dwellinghouse. Although the enlargement would extend from the side elevation, this does not front a highway.*

- e) subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and-
 - (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwelling, or 3 metres in the case of any other dwellinghouse.
 - (i) Exceed 4 metres in height;

Comment: *The enlargement is single storey and detached. The enlarged part of the dwellinghouse would not be beyond the rear wall of the dwellinghouse.*

- f) For a dwelling not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single story and –
 - (i) Extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
 - (i) Exceed 4 metres in height

Comment: *The enlarged part of the dwellinghouse would not extend beyond the rear wall of the dwellinghouse.*

- g) The enlarged part of the dwellinghouse would have more than a single storey and-
 - (i) Extend beyond the rear wall of the dwellinghouse by more than 3 metres, or
 - (ii) Be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse

Comment: *The enlarged part of the dwellinghouse would not be more than a single storey.*

- h) The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

Comment: *The enlarged part of the dwellinghouse would not be within 2 metres of the boundary of the curtilage of the dwellinghouse.*

- i) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would-
 - (i) Exceed 4 metres in height
 - (i) Have more than a single storey, or
 - (ii) Have a width greater than half the width of the original dwellinghouse

Comment: *The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would exceed 4 metres in height; would not have a single storey and would not have a width greater than half the width of the original dwellinghouse.*

ja) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j)

Comment: *Not applicable*

- j) It would consist of or include –
 - (i) The construction or provision of a verandah, balcony or raised platform
 - (ii) The installation, alteration or replacement of a microwave antenna,
 - (iii) The installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
 - (iv) An alteration to any part of the roof of the dwellinghouse

Comment: *None of the above are proposed.*

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

Comment: *The dwellinghouse was not built under Part 20 of the Schedule.*

A.1 Development is not permitted by Class A if –

Conditions

A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if:

- a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;
- a) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
- b) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.

Comment: *Not applicable.*

A.3 Development is permitted by Class A subject to the following conditions—

- a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- a) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—
 - (i) obscure-glazed, and
 - (i) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and
 - (ii) where the enlarged part of the dwellinghouse has more than a single storey, the roof pitch of the enlarged part must, as far as practicable, be the same as the roof pitch of the original dwellinghouse.

Comment: *The construction materials would match the existing and no upper floor windows are proposed.*

Class F

Permitted development

F. Development consisting of –

- (a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose to the enjoyment of the dwellinghouse as such; or
- (a) the replacement in whole or in part of such a surface

Development not permitted

F.1 Development not permitted by Class F 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 constructed via any of the above.*

- (a) The dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)

Comment: *The dwellinghouse was not built under Part 20 of the Schedule.*

Conditions

F.2 Development is permitted by Class F subject to the condition that where-

- (a) the hard surface would be situated on land between a wall forming the principal elevation of the dwelling and a highway, and

Comment: *The hard surface would be situated on land between the wall forming the principal elevation of the dwellinghouse and a highway.*

(a) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres, either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area of surface within the curtilage of the dwellinghouse.

Comment: *The area of ground to be covered by the hard surface exceeds 5 square metres and the proposed new driveway would be surfaced in block paving. The applicant annotates the proposed plan stating the block paving would match the existing. Google Streetview imagery shows the existing driveway to fall towards the highway and as such the water run-off does not drain into the curtilage of the dwellinghouse. The existing block paving appears solid, pointed and on the balance of probability not porous. The applicant has not provided any evidence to demonstrate otherwise.*

Conclusion:

The proposal has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for approval.

The single storey side extension does not benefit from a general planning permission under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as it would be contrary to A.1(j) of the same Order by reason of the height exceeding 4 metres.

The proposed extended driveway does not benefit from a general planning permission under of Article 3(1) and Schedule 2, Part 1, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as no evidence is provided to demonstrate the hardsurface will either drain onto land within the curtilage of the dwellinghouse or is constructed from porous material, thus contrary to condition M.2.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Existing block plan	25057D-02-P01		18 th August 2025
Location plan, existing elevations and floor plan	25057D-01-P01		18 th August 2025
Location plan, proposed site plan. elevations and floor plan	25057D-03-P02		18 th August 2025

Dated: 10th September 2025