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/92569/W

Site: 60, New Hey Road, Marsh, Huddersfield, HD3 4AJ

Description: Certificate of lawfulness for proposed replacement of boundary wall with fence and hard surfacing of front garden with printed concrete or tarmac

Case Officer**:** Laura Yeadon

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 04-Nov-2025

Officer Report

Weblink

Site Description

60 New Hey Road is a mid-terraced property which is set up from and back from New Hey Road, separated by a front garden. The property is accessed directly off New Hey Road to the front and to the rear is a private access where vehicular access is provided and where a garage is located and a hardscaped rear amenity space. The property is two storeys in height and constructed from stone.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the proposed replacement of boundary wall with fence and hard surfacing of front garden with printed concrete or tarmac.

The proposed boundary treatment would result in the removal of the existing boundary wall and its replacement with a fence not exceeding 1 metre in height.

It is also proposed that the works would include the installation of an aqua drain along the site frontage and the replacement of the existing grassed garden with printed concrete or tarmac surfacing. The area to be covered by the hard surface would be approximately 7 metre in width and 6.5 metres in depth equating to a surface area of approximately 45 square metres.

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 as:

'The proposed works will not alter this lawful use. The replacement of the boundary wall with a fence not exceeding 1 metre in height is within the allowances of permitted development under Class A, Part 2 of the General Permitted Development Order (GPDO). The hard surfacing of the front garden with printed concrete or tarmac is permitted under Class F, Part 1 of the GPDO. As the area is greater than 5 square metres, provision has been made for surface water drainage within the curtilage of the property through the installation of an aqua drain.'

History of negotiations/amendments received

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

Relevant Planning History

No history

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 F (hard surfaces incidental to the enjoyment of a dwellinghouse); and
    - Part 2 (Minor operations), Class A (the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure).

The removal of the existing stone wall would not be considered development by virtue of section 55(2)(g) and the Demolition Direction 2021 or in the event permitted development under Class C of Part 11.

Part 1, Class F

The certificate of lawful development for hard surfaces incidental to the enjoyment of a dwellinghouse is permitted development subject to complying with the relevant criteria below:

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: *Permission to use the dwellinghouse as a dwellinghouse was not granted by 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 a wall forming the principal elevation of the dwelling 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 covered by the hard surface to be replaced would exceed 5 square metres and there is provision made to direct run-off water within the curtilage of the dwellinghouse by the installation of an aqua drain system.*

It is noted that in the event the hardsurface is provided following the demolition of the wall without the complete erection of fence, the development would consist of the formation of an access onto a Classified Road (A640) thus not permitted by virtue of Article 3(6) of the GPDO. A footnote is recommended.

<u>Part 2, Class A</u>

The certificate of lawful development for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is permitted development subject to complying with the relevant criteria below:

Permitted development

A. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Development not permitted

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

(a) the height of any gate, fence, wall or means of enclosure or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed—

(i) for a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;

(i) in any other case, 1 metre above ground level;

Comment: *The carrying out of the development would not be for a school and would be constructed adjacent to a highway used by vehicular traffic after the carrying out of the development and would not exceed 1 metre above ground level.*

(a) the height of any other gate, fence, wall or enclosure erected or constructed would exceed 2 metre above ground level;

Comment: *Not applicable*

(b) the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or

Comment: *The height of the fence would not exceed that referred to in paragraph (a) or (b).*

(c) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.

Comment: *The development would not involve works within the curtilage of a listed building.*

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 proposed replacement of the boundary wall with fence not exceeding 1 metre above ground level and hardsurfacing of front garden with printed concrete or tarmac benefits from a general planning permission granted by

virtue of Article (3)1 and Schedule 2, Part 1, Class F and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) subject to conditions within Class F.2 of the same Order.

NOTE: If the development of the hardsurface and fence is not completed in accordance with the submitted plan and the work results in the formation of an access onto New Hey Road (A640), the development would not benefit from a general planning permission by reason of Article 3(6) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Plans and specifications schedule:-

Plan Type	**Reference**	**Version**	**Date Received**
Location plan	PP-14325138v1		12th September 2025
Existing layout			12th September 2025
Proposed layout			12th September 2025
Photographs of front garden			16th September 2025

Dated: 28th October 2025