

**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.: 2026/CL/90068/E

Site: Summerhill, 86, Hopton Lane, Lower Hopton,  
Mirfield, WF14 8JS

Description: Certificate of lawfulness for erection of single  
storey outbuilding

Case Officer: Laura Yeadon

**Decision Reference: REFUSE CERTIFICATE OF LAWFUL OPERATIONS**

**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.**

John Holmes

**AUTHORISED OFFICER**

**Date 03-Mar-2026**

## **Officer Report**

[Weblink](#)

### **Site Description**

Summerhill, 86 Hopton Lane is a large detached two-storey dwelling located within an area defined as Green Belt within the Kirklees Local Plan. The property is constructed from red brick and has a concrete tiled roof. To the front of the property is an area of hardstanding and to the rear is a terrace and garden area leading to an open field which is incorporated to the host property on the land registry title deeds.

### **Description of Proposal**

Permission is sought for a Certificate of Lawfulness for the erection of single storey outbuilding.

The outbuilding would be located within the rear amenity space of the property and would sit alongside the western boundary. The outbuilding would have a width of 7.8 metres and would be a depth of 23 metres. The outbuilding would have a pitched roof with an eaves height of 2.475 metres and overall height of 4 metres.

The proposed construction materials would be brickwork to match the existing dwelling.

#### 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. In this case, the applicant has stated on the application form that *'the Outbuilding is not forward of the principal elevation of the original house. The Outbuilding and other additions do not exceed 50% of the total area of land around the original house. The Outbuilding is not itself separate, self-contained, living accommodation and does not have a microwave antenna. The Outbuilding is single storey with a maximum eaves height of 2.5 metres and maximum overall height of 4m and is set 3m from the boundary.'*

### **History of negotiations/amendments received**

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

### **Relevant Planning History**

2014/91536 – Erection of non-illuminated sign – Granted

2024/91941 – Certificate of lawfulness for proposed erection of outbuilding – refused for the following reasons:

*1. The proposed outbuilding does not benefit from a general planning permission granted under 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 the eaves of the building would be more than 2.5 metres which is contrary to subparagraph E.1(f) of Class E.*

*2. In addition, the proposed erection of an outbuilding is not considered to benefit from a general planning permission under the provisions of Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) as it has not been demonstrated the building is be required for purposes incidental to the enjoyment of the dwellinghouse.*

2025/93021 – Certificate of lawfulness for proposed erection of outbuilding – refused for the following reasons:

*1. The proposed outbuilding does not benefit from a general planning permission granted under 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 the eaves of the building would be more than 2.5 metres which is contrary to sub-paragraph E.1(f) of Class E.*

*2. In addition, the proposed erection of an outbuilding is not considered to benefit from a general planning permission under the provisions of Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) as it has not been evidenced that the building is required for purposes incidental to the enjoyment of the dwellinghouse.*

## **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;
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 dwellinghouse), Class E (building etc incidental to the enjoyment of a dwellinghouse).

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.*

- 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);

***Comment:*** *The total area of ground covered by extensions would not exceed more than 50% of the total area of curtilage.*

- 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;

***Comment:*** *No part of the building would be situated on land forward of a wall forming the principal elevation of the original building.*

- d) the building would have more than one storey;

***Comment:*** *The building would not have more than one storey.*

- 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

**Comment:** *The building would not be within 2 metres of the boundary and would not exceed 4 metres in height with a dual-pitched roof.*

- f) 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.*

- g) 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.*

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

**Comment:** *Not applicable*

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

**Comment:** *Not applicable*

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

**Comment:** *Not applicable*

- 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 this Schedule.*

E.2 In the case of the any land within the curtilage of the dwelling 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 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:** *Not applicable*

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.

The area of accommodation indicates that the building would be used for a hydrotherapy pool, double garage with a storage/plant area and shower/changing room. It is noted that proposed internal accommodation is similar to that previously refused albeit with the garage accommodation replacing the previously submitted sensory room. Notwithstanding the change in internal accommodation, other works may be required to provide vehicular access to the building. It is noted that whilst garage provision is proposed, the property itself hosts an integral garage and a large forecourt.

Prior to the submission of this application, applications for a Certificates of Lawfulness were submitted for similar schemes which were refused by the LPA for the reasons cited in the above ‘relevant planning history’ section of this report.

As part of the previous refusals, the building has seen a marginal reduction in footprint of the proposed building which has been reduced with each application. The original application sought a Certificate for a building with a footprint of 26m x 7.8m with the second application seeking a Certificate for a building with a footprint of 24.2m x 7.8m. This current submission has seen a further marginal reduction of 1.2 metres in length with a footprint of 23m x 7.8m.

The Statement clearly states the dimensions of the proposed space proposed citing the following:

- garage – 7.1m x 6.7m – for the parking of domestic vehicles and storage ancillary to the household
- pool area – 7.1m x 12m – containing a modest domestic hydrotherapy pool (approx. 5m x 11m, 1.5m depth) with circulation space, hoist equipment, and associated plant
- shower/changing room – 1.6m x 3m and store/plant room (2m x 3.1m) – ancillary facilities for the safe and effective operation of the pool

The justification put forward for the plant room and storage room is that it is required to house filtration equipment, pumps and heating systems associated

with the hydrotherapy pool. It cites that the space is dictated by technical and safety requirements and is not intended for any habitable or independent use with its inclusion integral and incidental to the functioning of the pool and therefore compliant with Class E.

Whilst the requirements of the accommodation could be acceptable in principle, in the absence of any evidence in terms of how these calculations have been determined and in the absence of any relevant supporting information it has not been demonstrated that the sheer size of the proposed building which has a footprint over 1.17 times the footprint of the main dwelling is 'reasonably required'.

In addition, no evidence has been submitted with regards to whether any form of the proposed requirements could be achieved within the existing dwellinghouse, as advised following the previous refusals for a proposed outbuilding, especially with regard to additional garage provision.

The Supporting Statement under section 9 refers to the previous refusal and that the eaves height was not compliant. It is noted that this part of the reason for refusal has been overcome.

However, it has not been evidenced that the size of the building is reasonably required for the 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 erection of an outbuilding is not considered to benefit from a general planning permission under the provisions of Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) as it has not been evidenced that the building is required for purposes incidental to the enjoyment of the dwellinghouse.

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Application form	PP-14607761		9 <sup>th</sup> January 2026
Location plan	(EX002)		9 <sup>th</sup> January 2026
Proposed block plan, elevations and floorplan	(20)001		9 <sup>th</sup> January 2026
Document titled 'Lawful Development Certificate Supporting Statement'			9 <sup>th</sup> January 2026

