

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/91580/W

Site: 24, Mountjoy Road, Edgerton, Huddersfield, HD1
5PZ

Description: Certificate of lawfulness for proposed installation of
misting storage tank (within a Conservation Area)

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.**

Kirsty Nicholls

AUTHORISED OFFICER

Date 05-Aug-2026

Officer Report

[Weblink](#)

Site Description

24 Mountjoy Road is a registered care home located within the Greenhead Park/New North Road Conservation area. The property is semi-detached and constructed from stone. To the front and side of the building is hardstanding for off-street parking and to the rear is a large elongated garden which slopes downwards due to topography.

Description of Proposal

The application seeks the granting of a Certificate of Lawful Development for the proposed installation of a misting storage tank. The application form states that the Use Class of the building is Use Class C2A.

The works would be to the rear of the property and would effectively be an outbuilding. The submitted details clarify that the external tank would be 2.2m x 2.0m x 2.25 high. The colour would be light grey.

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 proposal should be granted as.....*'the misting storage tank is effectively an outbuilding. It is only 2.25m high, detached and away from the boundary.'*

No details have been submitted in terms of which part of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) the works would fall within. Nor has any information been submitted which details why the works would not be considered development at all.

History of negotiations/amendments received

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

Relevant Planning History

1992/04899 – Conversion of existing hostel to registered care home for people with learning disabilities – Conditional Full Permission

2024/90485 – Erection of external ramp, landing and steps (within a Conservation Area) – Conditional Full Permission

Consultation Responses

None required as the application is for a Certificate of Lawful Development.

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)

Section 55 of the Town and Country Planning Act 1990 states that *“The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land-*

- a) *The carrying out for the maintenance, improvement or alteration of any building of works which –*
 - i) *affect only the interior of the building, or*
 - i) *do not materially affect the external appearance of the building,*

and are not for works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground.

With regards to whether or not a building operation would take place, section 336(1) of the 1990 Act states that a “building” includes “any structure or erection”. The Courts have held that regard must be had to size, permanence and degree of physical attachment in determining whether an item is a building. No single factor is decisive in the assessment, which is a matter of fact and degree in each case.

In this case, it is proposed that misting storage tank is sited to the rear of the property. The dimensions of the building would be 2.0m x 2.2m x 2.25m and therefore, is of a size that could be visually seen within from surrounding properties.

As the storage tank would be utilised in the event of a fire at the property, it is assumed that some form of services would be required for its operation, such as electricity and/or mains water.

In terms of affixation, none of the details submitted indicate that foundations are proposed as the area of land in which it would be sited appears to be a hard standing area. Due to the weight of the structure and its dependency on

services, it is unlikely that the tank would be movable, therefore would be of permanent construction.

Taking into account all the above, it is considered that the works would result in 'development' as prescribed within the Town and Country Planning Act 1990 (as amended).

The application relates to a property which operates under Use Class C2A as noted on the application form. There are no permitted development rights for this use type as the property is not a C3 dwellinghouse and the building is not operated within a Class which would fall under permitted development under Part 7 of the GPDO. Therefore, there is no general planning permission available to grant and outbuilding to a Use Class C2A property nor does the Local Planning Authority offer a general planning permission for works within this Use Class.

Conclusion

The proposal has been considered with regard to any planning permission granted by the Local Planning Authority or the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) and is recommended for refusal.

The Local Planning Authority considers that the works constitute development as defined within Section 55 of the Town and Country Planning Act 1990 however the proposed building does not benefit from any planning permission granted by the Local Planning Authority nor any general planning permission granted under Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such, the proposed works would require planning permission.

Decision Notice Text

The Local Planning Authority considers that the works constitute development as defined within Section 55 of the Town and Country Planning Act 1990 however the proposed building does not benefit from any planning permission granted by the Local Planning Authority nor any general planning permission granted under Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such, the proposed works would require planning permission.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan			10 th June 2026
Proposed Elevations and Existing and Proposed Part Site Plans	2302 – 02		10 th June 2026

Plan Type	Reference	Version	Date Received
Heritage Statement	External Misting Tank		10 th June 2026
Application Form	PP-15000365		10 th June 2026

Dated: 27th July 2026