

**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.: 2018/CL/94029/E

Site: 49, Old Lane, Birkenshaw, BD11 2LA

Description: Certificate of lawfulness for proposed erection of
extension, dormer window to rear and demolition of existing garage

Case Officer: Katie Wilson

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 18-Feb-2019

Officer Report

Reference: 2018/94029

Applicant: J Lazenby

Location: 49, Old Lane, Birkenshaw, BD11 2LA

Proposal: Certificate of lawfulness for proposed erection of extension, dormer window to rear and demolition of existing garage

Site Description

The host property is a chalet style semi-detached dormer bungalow with dormer window to the front and detached garage to the side. The walls are red brickwork and the roof is covered in red tiles.

The land is relatively flat and the surrounding area is residential in nature with gardens to neighbouring properties at the back, and adjacent houses to either side

Description of Proposal

Certificate of lawfulness for proposed erection of extension, dormer window to rear and demolition of existing garage.

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 is permitted development.

Extension:

- Located to the side of the existing house
- Rectangular footprint 3.0m projection to side x 5.8m deep. In line with the rear elevation and set back from the front elevation 3.0m.
- Dual pitched roof approximately 2.1m to eaves level and 4.0m to ridge level
- One door in the front elevation and one window in the side elevation.

Dormer window to rear:

- Approx. 2.2m high x 5.7m wide
- Designed with a flat roof
- Set down from the ridge approximately 1.2m and up from the gutter level around 0.3m up from the gutter level

Demolition of existing garage:

- No detailed supplied

Relevant Planning History

- 2018/92198 – Demolition of existing garage and erection of two storey side extension and dormer extension to front. Refused and appeal dismissed.

Consultations

This is an application for a Lawful Development Certificate and for this reason, no consultations are necessary.

Policies:

The Town and Country Planning Act 1990 Section 55(2)(a)(ii); The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Assessment

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined section 55(2)(a)(ii) 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 dwelling house), Class A (enlargement, improvement or other alteration of a dwellinghouse) and Class B (additions etc to roof of a dwellinghouse) .

The proposal comprises the erection of a single storey extension to the side, dormer to the rear and demolition of existing garage. Thus, it constitutes the carrying out of building on and over land that would materially affect the external appearance of the existing building. As such, it is regarded as development as defined by section 55(2) (a)(ii) of the Town and Country Planning Act 1990 The property is not within a Conservation Area, nor is it a listed building and it does enjoy all of its permitted development rights.

The application therefore falls to be considered under the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 1 (Development within the curtilage of a dwelling house), Class A (enlargement, improvement or other alteration of a dwellinghouse), and Class B (additions etc to roof of a dwellinghouse)

Permitted development

A. The enlargement, improvement or other alteration of a dwellinghouse.

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 M, N, P or Q of Part 3 of this Schedule (changes of use);

Comment *Permission for this dwelling was not granted by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use).*

- (b)** 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 *As can be seen from the location plan and proposed ground floor plan provided by the applicant, the proposed extension would not take up more than 50% of the area of the curtilage of the dwellinghouse.*

- (c)** 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 height of the extension would not exceed the height of the highest part of the roof of the existing dwellinghouse*

- (d)** 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 of the extension would not exceed the height of the eaves of the original dwelling.*

- (e)** The enlarged part of the dwellinghouse would extend beyond a wall which—
(i) Forms the principal elevation of the original dwellinghouse; or
(ii) Fronts a highway and forms a side elevation of the original dwellinghouse;

Comment *The extension would not protrude beyond the principal elevation of the original dwellinghouse as it is shown on plan as being set back 3.0m from the front elevation nor would it directly front a highway to the side as it is not a corner plot with roads to the front and side*

- (f)** 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 dwellinghouse, or
- (ii) 3 metres in the case of any other dwellinghouse,
- (iii) Exceed 4 metres in height;

Comment The proposal is for a side extension.

(g) Until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, 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 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
- (ii) Exceed 4 metres in height;

Comment The proposal is for a side extension.

(h) The enlarged part of the dwellinghouse would have more than a single storey and—

- (i) Extend beyond the rear wall of the original 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 proposed extension is a single storey side extension and therefore this condition is not relevant.

(i) 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 extension would not be within 2 m of the boundary of the curtilage of the dwellinghouse.

(j) 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,
- (ii) Have more than a single storey, or
- (iii) Have a width greater than half the width of the original dwellinghouse;

Comment The proposal is for a single storey extension to the side of the dwelling. The original dwelling has a width of 6.0m and the proposed extension would have a width of 3.0m. The ridge height to the side extension shown on plan as 4.0m. The proposal is therefore within the limitations of (j) as the width is not more than half the width of the original house and its ridge height does not exceed 4m.

(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); N/A

- (k) 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* The proposal does not include the construction of a verandah, balcony or raised platform, the installation, alteration or replacement of a microwave antenna, the installation, alteration or replacement of a chimney, flue or soil and vent pipe and an alteration to any part of the roof of the dwellinghouse.

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;

(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse;

or (c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.

Comment: The dwellinghouse is not located in the conservation area and therefore the above conditions are not relevant.

Conditions

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;

(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be— (i) obscure-glazed, and (ii) 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

(c) 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.

To conclude the proposal does not exceed the requirement of Part 1, Class A

Class B – additions etc to the roof of a dwellinghouse

Permitted development

B. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Development not permitted

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

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

Comment: Permission for this dwelling was not granted by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use).

(b) Any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;

Comment: The dormer would not result in any part of the dwelling house exceeding the height of the highest part of the existing roof.

(c) Any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;

Comment: The dormer would not protrude beyond the plane of any existing roof slopes which forms the principle elevation of the dwellinghouse and front a highway.

(d) The cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than—

(i) 40 cubic metres in the case of a terrace house, or

(ii) 50 cubic metres in any other case;

Comment: The cubic content of the resulting roof space would be approximately 18 cubic metres, which is well below the restrictions set out above.

(e) It would consist of or include—

(i) The construction or provision of a verandah, balcony or raised platform, or

(ii) The installation, alteration or replacement of a chimney, flue or soil and vent pipe; or

(f) The dwellinghouse is on article 2(3) land.

Comment: The dormer would not include any of those features specified in (i) and (ii). The house to which the dormer relates is not on article 2(3) land.

Conditions

B.2 Development is permitted by Class B subject to the following conditions—

(a) The materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

Comment: the proposed front elevation drawing is annotated to say that all new materials to match the existing. The existing front dormer is clad in grey coloured horizontal boards and the roof is surfaced in red tiles.

(b) The enlargement must be constructed so that—

(i) Other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension—

(aa) The eaves of the original roof are maintained or reinstated; and

(bb) The edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and

(ii) Other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and

Comment: the eaves of the original roof are shown to be retained as existing and the lowest point of the dormer would not be less than 0.2 metres from the eaves.

(c) Any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be—

(i) Obscure-glazed, and

(ii) 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.

Comment: No window openings would be presented in the side elevation of the rear dormer

Conclusion

The proposed development has been assessed against the relevant legislation, the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2 Part 1, Classes A and B, and it has been deemed permitted development. As a result, it does not require planning permission and the lawful development certificate is therefore approved.

Recommendation – Grant certification

Decision Authorisation - Delegated Powers**Application Number:** 2018/94029**Officer Recommendation:** Grant certificate

The proposed single storey side extension and rear dormer as shown on the submitted plans listed in this decision notice are considered to benefit from general planning permission granted under Schedule 2, Part 1 (Development within the curtilage of a dwelling house), Class A (enlargement, improvement or other alteration of a dwellinghouse) and Class B (additions etc to the roof of a dwellinghouse) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) subject to conditions stated in paragraph A.3 and B.2 of the same Order.

NOTE: Materials used on the external elevations of the extension and dormer must have a similar appearance to the external materials used on the existing dwellinghouse.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	Dwg no. WRJ/18/113		20.12.2018
Site block plan	Dwg no. WRJ/18/113		20.12.2018
Existing ground floor plan	Dwg no. WRJ/18/101		20.12.2018
Existing roof plan	Dwg no. WRJ/18/105		20.12.2018
Existing front elevation	Dwg no. WRJ/18/107		20.12.2018
Existing rear elevation	Dwg no. WRJ/18/109		20.12.2018
Existing side elevation	Dwg no. WRJ/18/111		20.12.2018
Proposed floor plans			20.12.2018
Site elevation and roof plan			20.12.2018
Rear elevation			20.12.2018
Front elevation			18.2.2019

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Amendments have been sought to make the front elevation drawing more accurate.

18.2.2019

Report Dated: