

**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.: 2019/CL/91035/W

Site: 60, Brougham Road, Marsden, Huddersfield, HD7
6BJ

Description: Certificate of lawfulness for existing replacement
roof and external cladding to dormer (within a Conservation Area)

Case Officer: Callum Harrison

Decision Reference: EXISTING OPERATIONS REFUSE

**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-May-2019

Application: 2019/CLD/91035

Site: 60 Brougham Road, Marsden, Huddersfield HD7 6BJ

Proposal: Certificate of lawfulness for the existing replacement roof and external cladding to existing dormer (within a Conservation Area)

Site Description

60 Brougham Road is an end of terrace, back to back property located in Marsden. The property is the front facing dwelling in the back to back arrangement and is faced in natural stone and was finished with a slate tile roof. The property benefits from a dormer to the roof.

Description of Proposal

The certificate of lawfulness applied for is for the existing replacement roof and external cladding to dormer (within a Conservation Area). It is understood these works have taken place within the last few weeks. The previous slate roof tiles have been replaced with Eternit tiles of a dark blue/grey colour. The existing dormer has been clad with upvc whereas it was originally faced with hung tiles.

Relevant Planning History

There is no planning history at the host property and also no relevant history to properties nearby. There are no records of permitted development rights being removed. The dormer can be presumed to be a lawful structure through its age since time of erection being in excess of 4 years.

Representation/Consultations

A site notice was erected the Lawful Development Certificate for an existing domestic development. This publicity expired on 28/04/19. No representations were received.

Policy/Legislation

As this is for a Lawful Development Certificate, local and national policy documents do not fall to be considered.

As the application is for a Lawful Development Certificate for a proposed use or development, the planning merits of the scheme do not fall to be considered. The purpose of the application is to determine whether planning permission would be required. The only factors to be taken into account are:

1. Whether the proposed development would constitute development within the meaning of section 55(2)(a)(ii) of the Town and Country Planning Act 1990
2. If so, whether Permitted Development rights apply to the property;
3. And whether the proposal would be Permitted Development under the Town and Country Planning (General Permitted Development)(England) Order (as amended).

Assessment

The proposed works would constitute a building operation and would materially affect the external appearance of the building. They would therefore be classed as development.

There is no record of permitted development rights being removed for this property.

Roof Tiles

This aspect of the proposal is to be assessed under the following Classes of Part 1: C

	C.1 Development is not permitted by Class C 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);	Pass: Dwelling erected under Planning Permission/pre date 1947.
B	the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof;	Pass: Due to the nature of the works it can be stated that the new tiles do not protrude by more than 0.15m from original roof before the change of tiles and upvc cladding.
C	it would result in the highest part of the alteration being higher than the highest part of the original roof; or	Pass: The tiles and cladding are merely replacements and do not alter the structure or heights of any part of the dwelling.
D	it would consist of or include— (i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (ii) (ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.	Pass: The works do not include any of these features.
	Conditions	
C.2	C.2 Development is permitted by Class C subject to the condition that any window located on a roof slope forming a side elevation of the dwellinghouse must be— (a) obscure-glazed; and (b) 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.	N/A: The scheme does not see any windows on a roof slope forming a side elevation.

The changing of the roof tiles is permitted under class C of the General Permitted Development Order and therefore is lawful development.

Cladding of the dormer

Despite no planning history, records of the erection of the dormer appeared on building control records and therefore it is not original. However, the application seeks to confirm the re-cladding of the dormer was lawful. The works are therefore considered to comprise an alteration to the existing roof and require an assessment under Class C.

C.1 Development is not permitted by Class C if—	
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);	Pass: Dwelling erected under Planning Permission/pre date 1947.
the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof;	Pass: Due to the existing dormer not being part of the original roof, the re-cladding of this part of the roof protrudes beyond 0.15 metres.
it would result in the highest part of the alteration being higher than the highest part of the original roof; or	Pass: The cladding are merely replacements and do not alter the structure or heights of any part of the dwelling.
it would consist of or include— (i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (ii) (ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.	Pass: The works do not include any of these features.
Conditions	
C.2 Development is permitted by Class C subject to the condition that any window located on a roof slope forming a side elevation of the dwellinghouse must be— (a) obscure-glazed; and (b) 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.	N/A: The scheme does not see any windows on a roof slope forming a side elevation.

The proposal has been assessed against Class C of the General Permitted Development Order.

The changing of the roof tiles is deemed to meet the tests with Class C and is

lawful development. However as the dormer is not original also the cladding of this enlargement would be a material change to the appearance of the dwellinghouse and protrude beyond 0.15 metres from the original roof plane and therefore cannot be considered permitted development. Due to the dormer cladding failing the tests against Class C the whole certificate must be refused, despite the re-tiling of the roof meeting the requirement of Class C.

Recommendation: Refuse Certificate

Decision Authorisation: Delegated Powers
Application Number: 2019/94061
Officer Recommendation: Refuse Certificate

The proposed recladding of the dormer, which is not original, consists of works that protrude more than 0.15 metres beyond the original roof slope and therefore cannot benefit from a general planning permission granted by virtue of Part 1 Class C of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

This decision is based on the following plan(s):-

Plan Type	Reference	Version	Date Received
Application Form		1	02/04/19
Photos (x2)		1	02/04/19
Location Plan		1	02/04/19

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.

Report Dated: 21/05/19