

**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.: 2020/CL/93745/W

Site: 35, Bent Lea, Bradley, Huddersfield, HD2 1QW

Description: Certificate of lawfulness for proposed erection of
rear extension, front dormer and raise roof height

Case Officer: Ellie Worth

Decision Reference: PROPOSED 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-Dec-2020

Officer report

Site description

35 Bent Lea, Bradley is a detached stone bungalow with a tiled roof. The property benefits from a small grassed area, driveway and a single storey garage to the front, alongside amenity space to the side and rear. Pedestrian and vehicular access can be taken from the site onto Bent Lea, an adopted access road. Boundary treatment consists of timber fencing and hedging. There are also changes in land levels within the site, due to the topography of the area.

The site is situated within a wider residential estate, whereby the neighbouring properties vary in design and form. Nonetheless, the common construction material is stone. The site is also unallocated on the Kirklees Local Plan.

Description of proposal

Permission is sought for a Certificate of Lawfulness for the erection of a rear extension, front dormer and raising the height of the roof. The measurements of the development are as follows:

Rear extension:

- 4m in projection
- 6.1m in width
- 3.3m in height to the eaves; 6.1m in overall height

Front dormer:

- 2m in width
- 3m in height
- 3.3m in depth

The ridge roof height will be heightened by a maximum of 2m to create a first floor. The external construction materials will match those used on the host property. Roof lights will also be inserted into the front and rear roof slopes.

History of negotiations/amendments received

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

Relevant Planning History

No recent planning history.

Consultation Response

None required

Issues and Assessment

Applications for Certificates of Lawful Developments for the erection of extensions to dwellings are assessed against the general permission conferred by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Schedule 2, Part 1, Class A of the Order sets out the Permitted Development Rights which relates to the ‘enlargement, improvement or other alteration to a dwellinghouse’. In assessing the proposal against this:

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: The dwellinghouse has not been granted as a dwellinghouse by the above applications.

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: The extensions would not exceed more than the 50% of the curtilage.

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 rear extension would extend beyond the highest part of the existing roof and therefore would fail to comply with part (c).

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 eaves on the extension would not exceed the height of the eaves of the existing dwellinghouse.

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 be situated on the rear elevation.

(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 3 metres in the case of any other

dwellinghouse, or

(ii) exceed 4 metres in height;

Comment: The proposed single storey extension projects 4 metres from the rear of the original dwellinghouse but exceeds 4 metres in height and therefore fails to comply with part (f).

g) Until 30th May 2019, for a dwelling 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: Not applicable as this application is not for prior approval.

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

i. Extend beyond the rear wall of the 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: Not applicable as the development proposed is single storey height.

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: As set out on the submitted plans, the rear extension would abut the side boundary and would exceed an eaves height of 3m. This would fail to comply with part i).

j) The enlarged part of the dwellinghouse would extend beyond 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 proposed extension would not extend beyond a wall forming a side elevation.

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)

Comment: The proposed rear extension does not join an existing enlargement.

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: Due to the change in land levels, the extension will include the construction of a raised platform. This would fail to comply with part (k).

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 property is not on article 2(3) land.*

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.

Class AA – Enlargement of a dwellinghouse by construction of additional storeys.

Irrespective of the limitations within Class AA, the construction of additional storeys is subject to a prior notification approval prior to any works being carried out. As prior approval has not been sought or approved at the time of this application, any works carried out pursuant to Class AA would be unlawful.

Class 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: Not applicable

(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 works to heighten the roof and to include a front dormer would exceed the height of any part of the existing roof. This would fail to comply with part (b).

(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 proposal would extend beyond the existing roof slope on the principal elevation but would not directly 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 additional cubic content would be 77 cubic metres and therefore would fail to comply with (d).

(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; *Comment: Not applicable.*

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

Comment: No applicable.

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;

(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

(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.

Interpretation of Class B

B.3 For the purposes of Class B, “resulting roof space” means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not. B.4 For the purposes of paragraph B.2(b)(ii), roof tiles, guttering, fascias, barge boards and other minor roof details overhanging the external wall of the original dwellinghouse are not to be considered part of the enlargement.

Class C – Other alterations to the roof of a dwellinghouse

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);

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

(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;

Comment: Due to the roof lights being inserted into the raised part of the roof, they would protrude more than 0.15m beyond the plane of the slope on the original dwellinghouse.

(c) It would result in the highest part of the alteration being higher than the highest part of the original roof;

Comment: The proposed roof lights would exceed the highest part of the original roof, failing to comply with c).

(d) It would consist of or include—

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

(ii) The installation, alteration or replacement of solar photovoltaics or solar thermal equipment

Comment: The proposal would not result in any of the above.

Conclusion

The proposal as shown on the plans listed below does not benefit from any general planning permission under Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) as the rear extension, roof lights, front dormer and raising the height of the roof would fail to comply with Class A paragraphs (c), (f), (i) and (k), Class AA, Class B paragraphs (b) and (d) and Class C paragraphs (b) and (c) of Part 1.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan and existing floor plans and elevations	HD2-2050-001	B	6 th November 2020
Proposed floor plans and elevations	HD2-2050-002	A	6 th November 2020

Proposed site plan, block plan and sections	HD2-2050-003	B	6 th November 2020
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Dated 22nd December 2020