

**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.: 2021/CL/91394/W

Site: 30 , Varley Road, Slaithwaite, Huddersfield, HD7
5HL

Description: Certificate of lawfulness for proposed erection of
rear dormer and porch

Case Officer: Tom Hunt

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 28-May-2021

OFFICER REPORT – 2021/91394

Site Description

30 Varley Road is a mid-terraced property fronting onto the main highway. The property benefits from amenity spaces to the front and rear. The dwelling overlooks green open space to the rear. There is a level ground change to the rear and steps down to the rear garden.

Application Proposal

The development proposed is the erection of a roof dormer on the rear roof slope. The dormer is 4.48m wide, is set back from the side elevations by 0.48m each side, set back from eaves by 0.5m and set down from the roof ridge height by 0.34m and utilises the existing roof space to create an additional bedroom and ensuite accessed via an internal staircase. Two openings serving the bedroom overlook the rear garden of the terraced dwelling and green open space to the rear.

A flat roof dormer of these dimensions has been assessed as being approximately 11 cubic metres in volume.

The plans states the materials will similarly match the existing with grey uPVC cladding.

The development also proposes a 1.5 storey rear porch to be erected. It would project from the rear elevation by 1.74m and have a width of 1.94m. The lean-to roof ridge height would be 4.23m and eave height of 3.43m from the rear ground level.

Relevant Planning History

None.

Consultations

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

Legislation

The Town and Country Planning Act 1990 Section 55 & 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 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 the roof of a dwellinghouse).

The proposal comprises the substantial enlargement of the existing roof and will not be visible from the highway. However, the proposal 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 of the Town and Country Planning Act 1990.

The application therefore falls to be considered 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 (enlargement, improvement or alterations of a house)

Rear Enlargement

Permitted development

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

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); **N/A**

(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); **No**

(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; **No**

(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; **No**

(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;

Pass: It will not.

(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;

Fail: It will exceed the limit of 4m above ground level.

(g) 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;

N/A

(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 being enlarged which is opposite the rear wall of that dwellinghouse;]

Fail: N/A

(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;

Fail: It would have a ground level to eaves height of 3.43m and is within 2 metres of the boundary.

(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;

Pass

(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

Fail: It would include raised platforms, i.e. steps

A.1 Development is not permitted by Class A if –

Conditions

A.2 In the case of a dwelling/house 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 dwelling/house with stone, artificial stone, pebble dash, render, timber, plastic or tiles;
- b) the enlarged part of the dwelling/house would extend beyond a wall forming a side elevation of the original dwelling/house; or
- c) the enlarged part of the dwelling/house would have more than a single storey and extend beyond the rear wall of the original dwelling/house.

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 dwelling/house;
- b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwelling/house 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
- III. where the enlarged part of the dwelling/house 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 dwelling/house.

The submitted plans show the proposed extension to be constructed from natural stone and would incorporate a slate tile roof to match the host property.

Conclusion for rear extension:

The Class A proposal has been considered against the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) and is not recommended for approval.

The rear extension(porch) does not benefit from a general planning permission granted under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) by reason of the height exceeding 4 metres and eaves exceeding 3 metres above ground level contrary to paragraphs (f) and (i) of Class A.

Dormer Enlargement

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); **N/A**

(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof; ***The proposal does not exceed the existing height of the dwelling.***

(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; ***The proposals would not extend beyond the existing roof slope on the principal elevation.***

(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;

As stated above the roof space of the property has not been previously enlarged and the total resulting roof space would increase the original roof space by approximately 11 cubic metres and therefore within the above limitation.

(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 **N/A**
- (f) the dwellinghouse is on article 2(3) land. **N/A**

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.

Pass

(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

Pass

(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

Pass

(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.

N/A

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.

Conclusion Dormer

The proposed roof enlargement would be permitted development as set out in Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended) subject to conditions as stated in paragraph B.2 of the same Order.

Decision Authorisation - Delegated Powers

Application Number: 2021/91394

Officer Recommendation: Refuse

The rear extension(porch) does not benefit from a general planning permission granted under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) by reason of the height exceeding 4 metres and eaves exceeding 3 metres above ground level contrary to paragraphs (f) and (i) of Class A.

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
Plans – Grouped Plans and Elevations	Existing		06 th April 2021
Plans – Grouped Plans and Elevations	Proposed		06 th April 2021

Report Dated 27/05/2021