

**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/91714/W

Site: 7, High Lea, Marsden, Huddersfield, HD7 6DZ

Description: Certificate of lawfulness for proposed erection of
extension and alterations to garage

Case Officer: Katie Chew

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-Jun-2021

Officer Report

Site Description

7, High Lea, Marsden, Huddersfield, HD7 6DZ

The application site relates to a two-storey semi-detached stone-built dwelling. The property benefits from a single attached garage, driveway to the front, and garden/amenity areas to the front and rear.

The site and its surroundings are purely residential characterised by two-storey semi-detached and detached stone-built dwellings that are of a similar appearance and design.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the proposed erection of extension and alterations to garage. The proposed extension will adjoin the existing garage to the rear and will measure 2.9m 7.6m, with a maximum height of 3.1m.

The proposed extension will comprise of a flat roof that will be set at a slightly higher height to the existing roof of the garage (0.4m).

The alterations to the garage would consist of the removal of existing garage doors and replacement with a new access door to the front.

The property has not had its permitted development rights removed.

History of negotiations/amendments received

No amendments were sought in this instance.

Relevant Planning History

There is no relevant planning history at the application site, there is however relevant history at adjacent properties. Details are provided below.

9 High Lea

2016/91197 – Erection of front porch (within a Conservation Area). Approved 11th August 2016.

2011/90456 – Erection of single and two storey extension (within a Conservation Area). Approved 14th April 2011.

Representations

No consultations are required for these types of applications therefore no representations have been received to date.

Consultation Responses

No technical consultations are required.

Parish/Town Council Comments

N/A.

Local Ward Members

N/A.

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: Not applicable.

- a) 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 proposed extension would be less than 50% of the curtilage. The proposed garage conversion would not extend beyond the footprint of the original dwellinghouse.

- b) 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 maximum height of the proposal (3.1m) would not exceed the height of the highest part of the roof of the existing dwellinghouse.

- c) 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 proposed extension is to have a flat roof with a maximum height of 3.1m, this would not exceed the height of the eaves of the existing dwellinghouse.

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

Comment: The proposed extension would not extend beyond a wall which forms the principal elevation of the original dwellinghouse, or which fronts a highway and forms a side elevation of the original dwellinghouse.

- e) 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
 - (i) 3 metres in the case of any other dwellinghouse,
 - (ii) Exceed 4 metres in height;

Comment: The rear extension would be single storey and extend out from the rear wall of the original dwellinghouse by 2.9m. It would also have a maximum height of 3.1m.

- f) 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
 - (i) Exceed 4 metres in height

Comment: Not applicable as the host dwelling is located within a Conservation Area.

- g) 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
 - (i) 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 proposals would not have more than a single storey.

- h) 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 enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the eaves would slightly exceed 3 metres in height measuring at 3.1m. Therefore the proposals would not meet the requirements of paragraph (i).

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

Comment: The proposed extension would not exceed 4 metres in height, would not have more than a single storey, but would extend beyond a side elevation (rear of garage) and have a width greater than half the width of the original dwellinghouse (8.3m). It can be seen from the Council's historical mapping sheets that the original dwellinghouse included the attached garage which did not extend the full depth of the building thus leaving a small section of walling to the rear which would be regarded as a side elevation. The proposals would therefore not meet the requirements of paragraph (j).

- 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: Whilst there is an existing addition to the rear of the original garage, this addition is to be demolished and replaced with the proposed single storey rear extension. Therefore, the above is not applicable in this instance.

- j) It would consist of or include –
 - (i) The construction or provision of a verandah, balcony or raised platform
 - (i) The installation, alteration or replacement of a microwave antenna,
 - (ii) The installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
 - (iii) An alteration to any part of the roof of the dwellinghouse

Comment: The proposed extension includes none of the above.

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;
- a) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
- b) 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 on article 2(3) land and whilst it wouldn't consist of or include any cladding to the exterior of the dwelling, or be more than single storey in height, it would enlarge the dwellinghouse beyond a wall forming a side elevation of the original dwellinghouse (to the rear of the garage). The proposals would therefore not meet the requirements of paragraph A.2.

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 similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- a) Any upper-floor windows located in a wall or roof slope forming a side elevation of the dwellinghouse must be obscurely glazed.

Comment: The proposed extension is subject to the above conditions.

Conclusion:

The proposed erection of extension and alterations to garage 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 proposed extension being located within 2 metres of the boundary of the curtilage of the dwellinghouse and having an eaves height exceeding 3 metres, contrary to paragraph (i) of Class A. In addition, the proposed extension would extend beyond a side elevation of the original dwellinghouse and have a width greater than half the width of the original dwellinghouse, therefore the proposals are also contrary to paragraph (j) of Class A. Finally, as the proposals are located on article 2(3) land and would extend beyond a wall forming a side elevation of the original dwellinghouse. The proposals would fail to meet the requirements of paragraph A.2 of Class A.

This decision is based on the following plans:-

Plans and specifications schedule:-

Plan Type	Reference	Web ID	Date Received
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Existing Ground Floor Plan	72_02	-	5 th May 2021
Location Plan	72_02	-	5 th May 2021
Existing Ground Floor Plan	72_03	-	5 th May 2021
Proposed Ground Floor Plan	72_04	-	5 th May 2021
Proposed Elevations	72_05	-	5 th May 2021
Proposed Block Plan	72_06	-	5 th May 2021
Proposed Block Plan	-	-	26 th April 2021
Supporting Statement – Supporting Information	-	-	26 th April 2021

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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments were sought as the proposal was deemed to be acceptable upon submission.

Report Dated:

21/06/2021