

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

**Town and Country Planning (General Permitted Development) (England)
Order 2015(as amended) - Schedule 2, Part 1, Class AA, Condition
AA.2(3)**

**DELEGATED DECISION FOR DISCHARGE OF CONDITION AA.2(3) -
NOTIFICATION OF ENLARGEMENT OF A DWELLINGHOUSE BY
CONSTRUCTION OF ADDITIONAL STOREYS**

Reference no.	2021/CL/91941/E
Site Address	154, Gomersal Lane, Gomersal, Cleckheaton, BD19 4JQ
Description	Prior approval for enlargement of dwellinghouse by erection of additional storey
Recommending Officer	Jennifer Booth

DECISION - DETAILS APPROVED

**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:05-Jul-2021

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

Plan Type	Reference	Web ID	Date Received
Application form	•	870592	11/05/2021
Location plan	-	870509	11/05/2021
Existing site plan	01	870508	11/05/2021
Existing plans	02	870507	11/05/2021
Proposed plans	03	879510	24/06/2021
Planning statement	-	870511	11/05/2021

Development within a Coal Mining Area

DEVELOPMENT HIGH RISK AREA - INFORMATIVE NOTE

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible,

they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

OFFICER REPORT – 2021/91941

Site: 154, Gomersal Lane, Gomersal, Cleckheaton, BD19 4JQ

Dev: Prior approval for enlargement of dwellinghouse by erection of additional storey.

1. Summary

The application seeks prior approval of development pursuant to Class AA, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [GPDO].

2. Site

2.1 154 Gomersal Lane is a detached "L" shaped bungalow with gardens and a drive to the front and substantial gardens to the rear.

2.2 There are residential properties to the front and sides with open fields to the rear.

3. Proposed Development

3.1 The eaves height of the dwelling would be increased from 2.5m to 5.8m and the overall height of the dwelling would be increased from 5m to 8.5m. The walls would be continued up in stone.

4. Relevant Planning History

4.1 2021/90299 - Demolition of existing dwelling and erection of detached dwelling with integral garage - undecided

5. Policy

National Planning Policy Framework

Chapter 12 – Achieving well designed places

Kirklees Local Plan

LP24 – Design

6. Representations

6.1 The proposals were advertised by neighbour letter giving neighbours till 08/06/2021 for comment. As a result of this, 12 representations received objecting to the proposals. A number of issues have been raised including the character of the area, harm to the conservation area, the lack of fire safety given the limited openings in the new first floor, the use of the GPDO to circumvent planning control to summarise a few of the issues raised. However, the government have very clearly laid out criteria of what can be considered when assessing this type of application and none of these matters are included. The only issue raised which can be considered was the initial inclusion of windows on the side elevation as privacy is a matter for consideration. The windows have been removed from the side.

7. Site Visit

7.1 A site visit has been carried out by the Local Planning Authority as part of the concurrent planning application on 26/02/2021.

8. Permitted Development

8.1 Permitted development rights have not been removed via any conditions attached to the earlier planning permissions.

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8.2 Class AA, Part 1 of the GPDO provides a deemed planning permission for additional stories to a dwellinghouse subject to limitations and conditions. With regard to the limitations set out in paragraph AA.1 (a)-(k) it is considered the proposed development accords within the limitations.

8.3 Class AA.2 of the GPDO requires conditions are satisfied and in particular condition (3) requires prior approval is obtained before beginning the development. Furthermore, the limitations set out exclude any windows in the side elevations or roof planes – it is noted that the initially submitted plans did include windows in the east side elevation. However, these have now been removed.

8.4 Criteria for prior approval are:-

(i) impact on the amenity of any adjoining premises including overlooking,

privacy and the loss of light;

(ii) the external appearance of the dwellinghouse, including the design and

architectural features of—

(aa) the principal elevation of the dwellinghouse, and

(bb) any side elevation of the dwellinghouse that fronts a highway;

(iii) air traffic and defence asset impacts of the development; and

(iv) whether, as a result of the siting of the dwellinghouse, the development will

impact on a protected view identified in the Directions Relating to Protected

Vistas dated 15th March 2012(a) issued by the Secretary of State;

These matters are assessed below.

9. Assessment

9.1 Conditions for prior approval provide a very limited degree of protection in terms of existing visual and residential amenity. In the context of the limited basis allowed to be considered, the amenity and appearance matters are more or less consistent with Kirklees Local Plan policy LP24 and chapter 12 of the NPPF as outlined below.

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Impact on the amenity and the external appearance

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9.2 The proposed extension will add significant bulk to the existing dwellinghouse resulting in a significantly larger appearance. However, it is noted that the properties in the area do have a mix of heights with both single and two storey dwellings. The scale of the increase would not be out of place in the wider area. Furthermore, the government legislations do not allow for consideration of the scale in the context of the wider area by the Local Planning Authority.

9.3 The Local Planning Authority can consider the external appearance of the front/principal elevation only in terms of its design and architectural features. The front of the extension proposed would include openings which are not present on the ground floor leading to larger expanses of blank walling. However, the window proportions would be similar to others on the dwelling which can be seen at different angles in context with the front elevation. There are no concerns in terms of the front/principal elevation of the dwelling in terms of the design and detailing of the proposed first floor.

9.4 If extended upwards, the enlarged dwelling would not have a significant effect on either adjacent properties in terms of loss of light, given the separating space between the properties. Furthermore, given there are no windows proposed in either side and the windows at the rear would overlook the applicants own garden area, there are no significant implications in terms of privacy.

9.5 There nearest neighbours opposite the front of the property are situated a substantial distance from the site and as such could not be affected by the works proposed.

9.6 It is appreciated that there are noise implications and disruption which would be unavoidable during construction. However, this is a transient effect which is not considered to be a reason to refuse the proposal. Moreover, condition AA.2 (3)(b) requires the developer to provide a report on how construction noise, traffic, dust and vibrations will be mitigated.

9.7 There are no other nearby existing properties and as such the proposed development accords with the aims of policy LP24 and chapter 12 of the NPPF in terms of securing good quality standards of amenity.

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Air traffic and defence asset impacts of the development.

9.8 The additional storey is not considered to impact upon any flight paths or cause any distraction to aircraft within the vicinity.

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Directions Relating to Protected Vistas dated 15th March 2012(a)

10. There are no Directions relating to protected vistas.

11. Recommendation

10.1 The proposed development is acceptable in terms of limited remit to consider visual and residential amenity allowed by the GPDO and as such prior approval is recommended.

12. Decision Notice

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Report Dated 01/07/2021