

**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/92419/W

Site: 3, Vicarage Drive, Meltham, Holmfirth, HD9 4JE

Description: Certificate of lawfulness for proposed erection of
single storey rear extension

Case Officer: Lucy Taylor

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 10-Aug-2021

Officer Reports

Site Description

3 Vicarage Drive, Meltham, Holmfirth, HD9 4JE

3 Vicarage Drive is a two-storey detached property. The property is constructed from stone and has a hipped roofing style.

The property is located in a residential area where there is a strong sense of similarity within the streetscene. This is because the properties located within Vicarage Drive share the same style of design and construction, faced with the same exterior construction materials. From this, it seems appropriate to conclude that all of the properties were constructed within a similar time frame.

The application site is Unallocated in the Kirklees Local Plan.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for a single storey rear extension.

The extension replaces a conservatory and will be L shaped wrapping around the existing curtilage of the dwellinghouse. The extension will have a maximum projection of 5.65 metres and will project 2.8 metres from the furthest rear extent of the host property. The height of the extension is proposed to be 3.8 metres. While the extension replaces an existing part of the dwellinghouse, it proposes to enlarge the dwelling further beyond the existing rearward two storey projection. The extension is therefore considered to be an enlargement of the dwellinghouse.

The extension will be constructed from artificial stone to match the appearance of the host property and will have a gable roof erected above, infilled with concrete interlocking tiles that match those on the roof above the dominant dwellinghouse.

With regard to fenestration, the extension proposes glazing on the rear and both side elevations and velux windows to be erected within the gable roof.

Within the interior of the dwelling, the extension will function as a sunroom.

History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

Relevant Planning History

- 2020/94025 – Certificate of lawfulness for proposed alterations to conservatory to form family room. *Granted in 2021*

Consultation Responses

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 dwelling/house'. 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 dwelling/house 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.*

- 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 dwelling/house) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwelling/house);

Comment: *The extension would be less than 50% of the curtilage.*

- 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 dwelling/house;

Comment: *The height of the extension would not exceed the highest part of the roof on the original existing dwellinghouse.*

- 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.*

- 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 dwelling/house;

Comment: *Although the extension is considered to project from a side elevation of the dwellinghouse, it will not front a highway.*

- 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 dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
 - (i) Exceed 4 metres in height;

Comment: *The proposed extension is to a detached dwelling and has a maximum projection of 5.65 metres and a maximum height of 3.8 metres. It therefore is contrary to paragraph (f).*

- f) For a dwelling not on article 2(3) land nor on a site of specific scientific interest, the enlarged part of the dwellinghouse would have a single story 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: *The proposed extension is to a detached dwelling and has a maximum projection of 5.65 metres and a maximum height of 3.8 metres. However no prior approval has been obtained under condition A.4 and therefore would not be lawful at the time of this application.*

- 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
 - i. Be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse.

Comment: *Not applicable*

- i) The enlarged part of the dwellinghouse would be within 2 metres of the boundary of curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would not exceed 3 metres;

Comment: Although the extension is within 2 metres of the boundary of curtilage, the eaves height does not exceed 3 metres.

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

Comment: The extension projects from a wall forming a side elevation of the original property (two storey rearward projection) and has a width greater than half the width of the original dwellinghouse. Therefore, the proposed extension fails to comply with part (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: It has been concluded that the proposed extension would exceed the limits set out in sub-paragraph (j).

It would consist of or include –

- i. The construction or provision of a veranda, 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 dwelling/house

Comment: Not applicable as none of the above are proposed.

Conditions

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 dwelling/house; or
- b) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwelling/house.

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 dwelling/house;

Comment: *The proposed materials to construct the extension would be in keeping with the appearance of the host dwelling.*

- a) 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
 - I. 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
 - II. 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.

Comment: *the application is for a single-storey extension and therefore, proposes no upper-floor windows.*

Conclusion:

The proposal has been considered against the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) and is recommended for refusal.

This is because the proposed extension to 3 Vicarage Drive fails to comply with sub-paragraph (j) of the General Permitted Development Order (GPDO), having a width of 6.2 metres which exceeds half the width of the original dwellinghouse (9 metres).

In turn, given that the extension fails to comply with sub-paragraph (j) it also fails to comply with sub-paragraph (ja) by exceeding the limits as set out.

Decision Notice:

The proposed replacement of existing conservatory with a larger footprint is considered to be enlargement to the dwellinghouse and does not benefit from any general planning permission under Article 3(1) & Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended). The enlargement projects more than 4 metres from the rear wall of the original dwellinghouse and also projects beyond a side wall of the original dwellinghouse with a width more than half the width of the original dwellinghouse contrary to paragraphs (f) and (j) of Class A.

Plans and Specifications Schedule:-

Plan Type	Reference	Version	Date Received
Grouped Plans and Elevations	2020/057/04	A	14.6.21
Location Plan	-	-	14.6.21