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.:	2022/CL/90864/W
Site:	88, Swallow Lane, Golcar, Huddersfield, HD7 4NB
Description: rear extension	Certificate of lawfulness for proposed single storey
Case Officer**:**	Laura Yeadon
Decision Reference:	**PROPOSED OPERATIONS REFUSED**

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 04-May-2022

Officer Report

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f90864

Site Description

88 Swallow Lane is a two storey semi-detached property located within an area without notation on the Kirklees Local Plan. The property is constructed from stone and has a concrete tiled roof. There is a garden area to the side which has gained planning permission under application number 2020/02706 for the erection of 2 semi-detached properties. Google imagery indicates that works to create the new dwellings has commenced.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the erection of a single storey extension to the rear of the property. The submitted application form indicates that works to the extension have commenced.

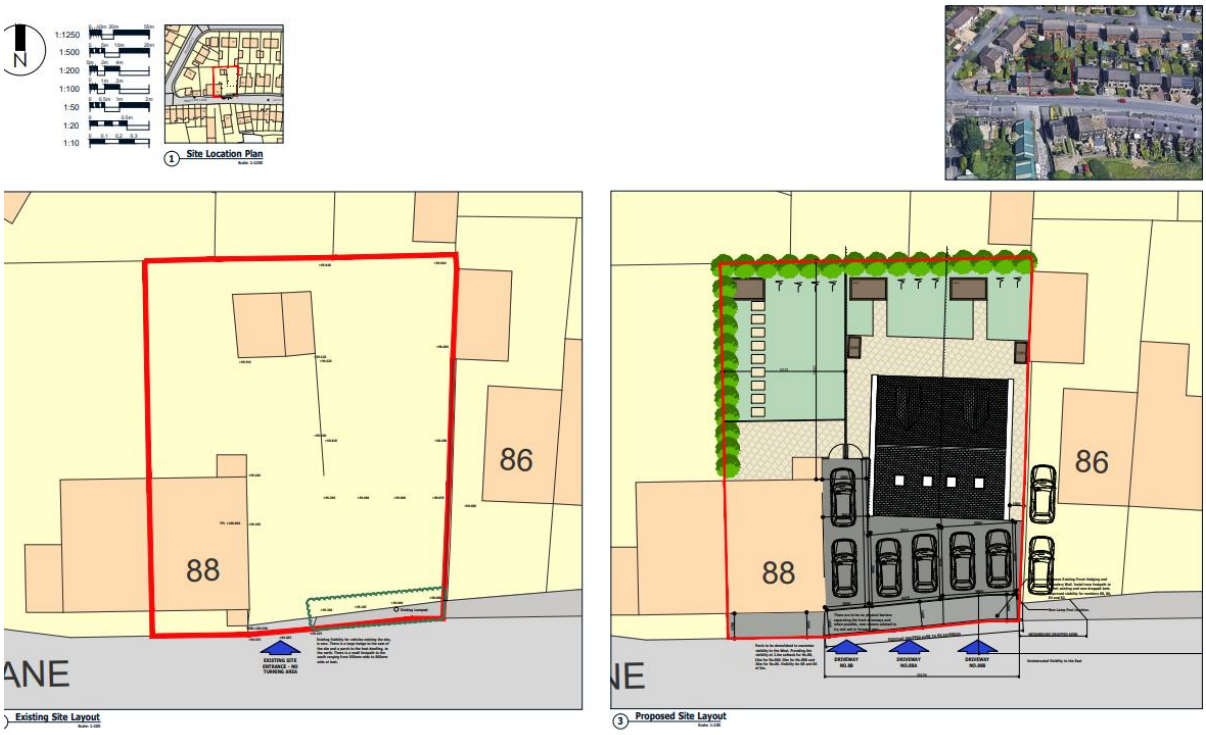
The extension would project from the rear elevation of the property by 3 metres and would be a total width of 5.9 metres with an eaves height of 2.4 metres rising to an overall height of 3.2 metres to the ridge of the lean-to roof.

The submitted plans indicate that the extension would be constructed from stone to match the existing and also concrete roof tiles to match.

The property has had its Permitted Development Rights removed under application number 2020/92706 where under condition 9 it stated that:

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Classes A to E of Part 1 of Schedule 2 to that Order shall be carried out within the site outlined in red on Dwg. No. 01 Rev C without the prior written consent of the Local Planning Authority. ***Reason:*** *To protect the residential amenity of neighbouring properties and prevent overdevelopment of the site, to accord with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.*

For clarification, the drawing number referred to within this condition reads as follows:



As such, the area where the extension is proposed is within the approved red line boundary and therefore, permitted development rights have been removed for development within Classes A-E inclusive.

History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

Relevant Planning History

2020/92706 Erection of 2 semi-detached dwellings with associated access and landscaping works
Conditional Full Permission

2021/92747 Discharge of Condition 3 (materials) on previous permission no. 2020/92706 for erection of 2 semi-detached properties and landscaping works
Approved

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 dwellinghouse'. However given that permitted development rights have been removed and the works for the pair of semi-detached properties appear to have commenced, the property cannot exercise these rights.

Article 3(4) of the General Permitted Development Order precludes any permission for development which is contrary to any condition imposed by any planning permission granted. As such permitted development rights cannot be accrued for the proposed extension.

As no other planning permission exists for the proposed extension, it cannot be considered lawful for the purposes of planning control.

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.

The single storey rear extension does not benefit from a general planning permission granted under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) due to permitted development rights being removed, within the red line boundary on plan ref: 01 Rev C, for development pursuant to Classes A-E of Part 1 by condition 9 imposed on planning permission granted ref: 2020/92706.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan and existing and proposed site layout plans	21183 – 01		14th March 2022
Proposed elevations and floor plans	21183 – 02		14th March 2022

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 Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The Case Officer did not enter into negotiations or request amended plans for the proposed development as

the property does not benefit from permitted development rights and therefore the principle of development was not considered acceptable.

Dated: 4th May 2022