

**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.: 2023/CL/90913/E

Site: 3, Blake Hall Drive, Mirfield, WF14 9NG

Description: Certificate of lawfulness for proposed roof
enlargement

Case Officer: Edward Cheseldine

Decision Reference: PROPOSED OPERATIONS GRANT

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 06-Jun-2023

Reference:	2023/90913
Applicant: -	Ameen
Location: -	3, Blake Hall Drive, Mirfield, WF14 9NG
Proposal: -	Certificate of lawfulness for proposed roof enlargement

Property Description

3 Blake Hall Drive is a two-storey detached house in Mirfield. The property has been rendered in an off-white colour and has mock Tudor features. There is a cross-gable end roof which has been clad in rosemary roof tiles. The property host a generous curtilage beyond the dwellinghouse, included within it is one outbuilding.

3, Blake Hall Drive is not in a conservation area or near a listed building. Permitted Development Rights have been removed; however these will not affect roof enlargements.

Proposal Description

The application is for a Certificate of Lawful Proposed Development for proposed roof enlargement. The onus is on the applicant to provide evidence which states why the proposal fits with Permitted Development legislation. In this case, the applicant has stated on the application form that the proposal is Permitted Development.

The hip to gable conversion would alter the north-western roof slope.

Relevant planning history

2022/92573 - Erection of side extension and external alterations, demolition of existing conservatory – Granted full permission

Consultation Responses

No consultations were necessary as this is a Certificate of Lawfulness.

Legislation

The Town and Country Planning Act 1990 Section 55 and the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Assessment

Principle of Development

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

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 B (additions etc to the roof of a dwellinghouse)

The proposal comprises of a roof enlargement. Thus, 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 B (additions etc to the roof of a dwellinghouse).

Permitted development

Schedule 2, Part 1, Class B of the Order sets out the Permitted Development Rights which relates to the 'enlargement of a dwellinghouse consisting of an addition or alteration to its roof'. In assessing the proposal against this:

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 G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);

The dwellinghouse has not been granted as a dwellinghouse by the above applications.

- 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 height of the highest part of the existing roof would not be exceeded by the proposals.

- 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

No addition to the dwellinghouse would extend beyond the plane of any existing roof slope which forms the principle elevation of the dwellinghouse.

- 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;

The volume of the proposed roof extension is 48.06 cubic metres.

- e) it would consist of or include—
 - (i) the construction or provisions of a verandah, balcony or raised platform, or
 - (ii) the installation, alterations or replacement of a chimney, flue or soil and vent pipe;

The proposal would not consist of or include any of the above.

- f) the dwellinghouse is on article 2(3) land

The dwellinghouse is not in a conservation area.

- g) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses); or
- h) the existing dwellinghouse has been enlarged in reliance on the permission granted by Class AA (enlargement of a dwellinghouse by construction of additional storeys).

The dwellinghouse was not built under Part 20 of this Schedule and has not been enlarged in reliance on the permission granted by Class AA.

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;
- 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
 - (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

- 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.

Approval is granted subject to the above conditions

Conclusion

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

The proposed roof extension as showed on the submitted plans benefits from a general planning permission granted by virtue of Article 3(1) and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	A3.0	1	29/03/2023
Grouped Plans and Elevations	A3.1	1	29/03/2023
Proposed floor plans	A3.3	1	29/03/2023
Proposed floor plans	A3.4	1	29/03/2023
Proposed floor plans	A3.5	1	29/03/2023
Proposed elevations	A3.7	1	29/03/2023
Proposed elevations	A3.8	1	29/03/2023
Proposed elevations	A3.9	1	29/03/2023
Existing elevations	A3.11	1	29/03/2023
Proposed elevations	A3.12	1	29/03/2023
Grouped Plans and Elevations	A3.42	1	15/05/2023
Grouped Plans and Elevations	A3.42	2	23/05/2023
Grouped Plans and Elevations	A3.42	3	31/05/2023

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. Amendments were sought within the planning process.