

**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/91000/E

Site: 88, Upper Lane, Emley, Huddersfield, HD8 9RG

Description: Certificate of lawfulness for proposed replacement
dormer

Case Officer: Jennifer Booth

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 02-Jun-2023

Reference:	2023/CLD/91000/E
Applicant: -	R Longstaff
Location: -	88, Upper Lane, Emley, Huddersfield, HD8 9RG
Proposal: -	Certificate of lawfulness for proposed replacement rear dormer



Site Description

88 Upper Lane is a detached dwelling with a two storey appearance to the front and dormer bungalow to the rear with open gardens and a drive to the front and an enclosed garden to the rear.

The property is located on a residential street with properties of a similar age although there are some variances in terms of style.

Application Proposal

The application is for a certificate of lawful proposed development for a rear dormer. The onus is on the applicant to provide evidence which states why the proposal fits with the permitted development legislation. In this case, the applicant has stated on the application form that the proposal is permitted development.

The information submitted is limited however, the dormer would have a height of 3m and a depth of 3m. The width would 9.8m width of the dwelling and as such would have a cubic volume of less than 45 cubic metres.

Relevant Planning History

None

Consultations

This is an application for a Lawful Development Certificate and for this reason, no consultations are necessary.

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: -

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
2. 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 the alteration of the existing hipped roof to a gable and the formation of a dormer within the rear roof plane. 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 (enlargement, improvement or alterations of a house).

Permitted development

B. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

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); **N/A**

(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 proposal does not exceed the existing height of the dwelling.*

(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; *The proposals would not extend beyond the existing roof slope on the principal elevation.*

(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 information submitted is limited however, the dormer would have a height of 3m and a depth of 3m. The width would be 9.8m width of the dwelling and as such would have a cubic volume of less than 45 cubic metres.

(e) it would consist of or include—

- (i) the construction or provision of a verandah, balcony or raised platform, or
- (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or **N/A**

(f) the dwellinghouse is on article 2(3) land. **N/A**

(g) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses) **N/A**

(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) **N/A**

Conditions

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.

Interpretation of Class B

B.3 For the purposes of Class B, “resulting roof space” means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.

B.4 For the purposes of paragraph B.2(b)(ii), roof tiles, guttering, fascias, barge boards and other minor roof details overhanging the external wall of the original dwellinghouse are not to be considered part of the enlargement.

Conclusion

The proposed rear dormer for 88 Upper Lane would, on the balance of probabilities, constitute permitted development as set out in Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) subject to respective conditions as set out in paragraph B.2 of the same Order.

Recommendation: GRANT certificate

Decision Authorisation - Delegated Powers
Application Number: 2023/91000
Officer Recommendation: GRANT certificate

The proposed rear dormer for 88 Upper Lane would benefit from a general planning permission 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) subject to respective conditions as set out in paragraph B.2 of the same Order.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Application form	-	983337	11/04/2023
Location plan		839486	11/04/2023
Existing rear elevations	08	983962	11/04/2023
Existing side elevations	01	983954	11/04/2023
Existing floor plans	07	983961	11/04/2023
Existing roof plan	06	983960	11/04/2023
section	05	983958	11/04/2023
Proposed rear elevation	04	983957	11/04/2023
Proposed roof plan	03	983956	11/04/2023
Proposed floor plan	02	983955	11/04/2023
Additional section with annotations for height of 3m and depth of 3m	-	-	22/04/2023

Report Dated 31/05/2023