

**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/92538/W

Site: 5, Hill Grove Lea, Salendine Nook, Huddersfield,
HD3 3YD

Description: Certificate of lawfulness for proposed demolition of
existing lean to extension and garage and erection of replacement rear
extension

Case Officer: Joanna Rednall

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 18-Oct-2023

Site Description

5 Hill Grove Lea is located within an area without notation within the Kirklees Local Plan. The property is detached with a detached garage to the rear. The property is set back from the roadside, separated by concrete flags and a lawned garden and a modest sized garden to the rear. The property is two storeys in height and constructed from stone and brick.

Description of proposal

Permission is sought for a Certificate of Lawfulness for the proposed demolition of existing lean to extension and garage and erection of replacement rear extension. At the time of the site visit, no works had commenced. The demolition of the existing extension is considered to consist of the alteration of the dwellinghouse. The erection of extension is considered to be the enlargement of a dwellinghouse. The demolition of the garage is considered to amount to works as defined in section 55 1A(a) of the Town and Country Planning Act 1990.

The extension would project from the rear elevation of the property by 2.2 metres and would be a total width of 5.8 metres with an eaves height of 2.8 metres rising to an overall height of 3.7 metres to the ridge of the lean-to roof.

No details have been submitted with regards to construction materials.

This property has not had its Permitted Development Rights removed.

History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

Relevant Planning History

No history

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'. 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 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);

Comment: The property has not been granted permission via any of the above classes

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

Comment: The works would not result in the total area of ground covered exceeding 50%

- 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 dwellinghouse;

Comment: The height of the extension/alteration would not exceed the highest part of the roof of the existing property

- c) 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 height of the eaves 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 dwellinghouse;

Comment: The dwellinghouse would be extended to the rear

- 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 original dwellinghouse by more than 4 metres in the case of a detached dwelling, or
 - I. 3 metres in the case of any other dwellinghouse
 - II. Exceed 4 metres in height;

Comment: The extension would not project more than 4 metres from the rear elevation of the property and would not exceed 4 metres in height

- f) Until 30th May 2019, for a dwelling not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey 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 enlarged part of the dwellinghouse would not be more than single storey and would not project more than 8 metres and is not more than 4 metres in height (but this is not a larger rear extension proposal)

- g) The enlarged part of the dwellinghouse would have more than a single storey and-
- i. Extend beyond the rear of the dwellinghouse by more than 3 metres, or
 - i. Be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse

Comment: The enlarged part of the dwellinghouse would not be more than one single storey

- h) The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

Comment: The enlarged part of the dwellinghouse would be within 2 metres of the boundary however the eaves height would not exceed 3 metres

- i) The enlarged part of the dwellinghouse would extend beyond wall forming a side elevation of the original dwellinghouse, and would-
- I. Exceed 4 metres in height
 - I. Have more than a single storey, or
 - II. Have a width greater than half the width of the original dwellinghouse

Comment: The extension extends to the rear of the dwellinghouse

- 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: The extension would not exceed the limits set out above

- 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. Any alteration to any part of the roof of the dwellinghouse

Comment: None of the above works are proposed

- k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

Comment: Not applicable

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 dwellinghouse; or
- b) The enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse
- c) Any total enlargement (being the enlarged part together with any existing 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 (b) and (c).

Comment: The dwellinghouse 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 dwellinghouse;
- a) Any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse 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 dwellinghouse 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 dwellinghouse

Comment: The proposed materials details have not been submitted however to comply with this condition, they should be of a similar appearance to the host dwellinghouse

The demolition of the garage would ordinarily fall into the definition of development as provided by section 55 of the Town and Country Planning Act. However the Town and Country Planning (Demolition – Description of Buildings) Direction 2015 paragraph 3(1)(a) exempts the demolition of a building under 50 cubic metres from the definition of development. The ground area of the garage is shown to be 20 sq metres although the submitted plans do not indicate the height. Notwithstanding this, it can be seen from Google Streetview that the garage is a flat roof building with a stand size garage door of 2.1 metres. It can be reasonably estimated that the garage would be no higher than 2.5 metres and thus under 50 cubic metres in volume. Consequently the demolition of the garage does not amount to development a therefore does not require planning permission.

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 demolition of the existing rear extension and erection single storey rear extension benefits from a general planning permission granted by virtue of Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended) subject to conditions paragraph Class A.2 of the same Order. The demolition of the existing garage does not amount to development as defined by section 55 of the Town and Country Planning Act 1990 and Town and Country Planning (Demolition – Description of Buildings) Direction 2015.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan Existing elevations and floor plans Proposed elevations and floor plans			1/09/2023

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. The Case Officer did not enter into negotiations or request amended plans for the proposed development as it was considered that the submitted details were acceptable.

Dated: 10/10/2023