

**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/92690/W

Site: 52, Long Croft Street, Golcar, Huddersfield, HD7
4EA

Description: Certificate of lawfulness for conversion of cellar to
kitchen with patio doors to garden, modification to ground floor and
replacement of steps to garden

Case Officer: Joanna Rednall

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 13-Nov-2023

Site Description

52 Long Croft Street is located within an area without notation within the Kirklees Local Plan. The property is terraced with a stone path separating the property from the roadside with a modest sized garden to the rear. The property is two storeys in height and constructed from stone.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the conversion of cellar to kitchen with patio doors to the garden, modification to the ground levels and the replacement of steps to the garden. At the time of the site visit, no works had commenced.

No details have been submitted with regards to construction materials

The 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 Development for conversions 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 as Part 3 of this Schedule (changes of use);

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

b) 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%

c) 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 works would not result in an increase in the height of the dwelling

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 works would not result in an increase in the height of the dwelling

e) The enlarged part of the dwellinghouse would extend beyond a wall which-

- (i) Forms the principle elevation of the original dwellinghouse; or
- (ii) Fronts a highway and forms a side elevation of the original dwellinghouse

Comment: The development does not involve the enlargement of the dwellinghouse

f) 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
- II. 3 metres in the case of any other dwellinghouse
- III. Exceed 4 metres in height

Comment: The development does not involve the enlargement of the dwellinghouse

g) 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
- II. Exceed 4 metres in height

Comment: The development does not involve the enlargement of the dwellinghouse

h) 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, or

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

Comment: The development does not involve the enlargement of the dwellinghouse

i) 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 development does not involve the enlargement of the dwellinghouse

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 development does not involve the enlargement 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 development does not involve the enlargement of the dwellinghouse

k) It would consist of or include -

i. The construction or provision of a verandah, balcony or raised platform

ii. The installation, alteration or replacement of a microwave antenna,

iii. The installation, alteration or replacement of a chimney, flue or soil and vent pipe, or

iv. An alteration to any part of the roof of the dwellinghouse

Comment: the existing steps from the rear door are to be removed to facilitate the erection of a new cantilevered platform and steps into the rear garden. Neither the existing steps or wall are considered to be the "ground level" whereby the height of the structure should be measured and as such the ground level would be the existing established garden levels at the base of

the steps. Consequently the new raised platform would exceed 300mm above the highest ground level immediately adjacent to the steps.

A.1 Development is not permitted by Class A if-

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;
- b) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
- c) The enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse

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;
- b) Any upper-floor window located in a wall of 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; and
 - III. 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.

When reviewing proposed schemes under Class A of the GDPO, it is necessary to query whether any further development works would be involved. In this instance the works include a significant degree of excavation works to form an level area of land to allow access and egress from the new access doors to the cellar. The extent of these works are not considered to be a natural consequence flowing from the formation of the openings in the rear wall of the dwellinghouse. The excavation work consists of the removal of approximately 18 cubic metres of earth to enable access into the cellar and create a level amenity area. The degree of work goes beyond work which may

be considered incidental or ancillary to the formation of access into the cellar and are therefore classified as separate engineering works.

Class F, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) does provide for hardsurfaces incidental to the enjoyment of the dwellinghouse. While it is not clear from the submitted plans whether the newly excavated land would be then surfaced it is considered likely the property owners would inevitably surface this area with a hardsurface. While the works to hardsurface this area may in themselves benefit from the provisions of Class F, the significant degree of work to excavate the land to enable any works to commence for a hardsurface is considered to go beyond work that could be considered ordinarily incidental to the formation of a hardsurface.

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 proposal consists of substantial works to lower ground levels within the gardens of the dwellinghouse. The lowering of grounds levels and erection of retain walls is considered to amount to a separate engineering operation beyond the scope of a general planning permission under the provisions of Classes A and F, Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended).

The erection of the stairs and platform to access the rear door is considered to consist of works to form a raised platform in excess of 300mm above ground level immediately adjacent to the development contrary to paragraph (k)(i) of Class A, Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended).

This decision is based on the following details(s):-

Plan Type	Reference	Version	Date Received
Location plan	-	-	12/09/2023
Existing elevations and floor plans	-	-	12/09/2023
Proposed elevations and floor plans	-	-	12/09/2023

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 application was considered acceptable in its submitted form.

Dated: 12/10/2023