

**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.: 2024/CL/90489/E

Site: 110, White Lee Road, White Lee, Batley, WF17
8AF

Description: Certificate of lawfulness for proposed erection of
outbuilding and rear dormer with hip to gable roof

Case Officer: Morgan Braithwaite

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 16-Apr-2024

Site Description

110, White Lee Road, White Lee, Batley, WF17 8AF is a two-storey semi-detached dwelling constructed from brick. The property benefits from a driveway and amenity space to the rear. The area is predominantly residential, with amenities close by.

The dwellings that form the street scene are not uniform in appearance, scale, or material palette. There is a combination of bungalow, two-storey dwellings, larger and smaller properties along with a combined material palette of both brick and stone.

Application Proposal

The application is for a certificate of lawful proposed development for the erection of a rear dormer, hip to gable roof and an outbuilding to the rear of the property. The onus is on the applicant to provide evidence which states why the proposal fit with the permitted development legislation. In this case, the applicant has stated on the application form that the proposal is permitted development.

A dormer is proposed to the rear (west) elevation, set back from the existing eaves by approximately 0.4 metres, spanning 5.5 metres in length. The dormer would project 3.8metres from the roof ridge and would be a total height of 1.9 metres. No part of the roof extension would exceed the highest part of the existing roof. The total cubic volume increase would be approximately 19.8m³. With regards to the hip to gable alteration, there would be a volume increase to the roof of 14.4m³. This would see the total volume of the roof increase by 34.2m³.

The dormer would house two windows and is proposed to be uPVC to match those of the existing dwelling. The roofing tiles shall be concrete to match the existing dwelling, as shall the gutter and fascia.

The proposed outbuilding shall be single storey in scale, measuring approximately 2.4m to the flat roof, 3m in width and have a length of 7.25m. Bifold doors shall be uPVC matching that of the existing dwelling, as well as the gutter and fascia. An off-white render shall be used for the exterior of the building.

Relevant Planning History

2024/90492: Prior notification for single storey rear extension. Prior notification not required.

Consultations

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

Legislation

The site has no policy-based constraints in respect of Permitted Development. As such, the application falls to be considered under the relevant legislation as follows:-

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 and the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended);
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), Classes B and E.

The proposal comprises the erection of a rear dormer, with a hip to gable. 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 erection of an outbuilding consists of building operations and thus is development.

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), Classes B.& E.

Permitted development

Dormer – Class B

B. The certificate of lawful development for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof is permitted development subject to complying with the relevant criteria below.

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);

Comment **Permission for this dwelling was not granted by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use).**

- (b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;

Comment **As can be seen from the elevations, no part of the dwellinghouse would exceed the height of the highest part of the existing roof.**

- (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;

Comment **No part of the dwellinghouse would extend beyond the plane of the existing roof slopes visible from 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 meters in the case of a terrace house, or
(ii) 50 cubic meters in any other case;

Comment As a terraced property, the maximum additional roof volume permitted is 50 cubic metres. The proposed additional volume is within this limit.

- (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

Comment The proposal would not consist of or include the construction or provision of a veranda, balcony or raised platform. Nor would it include the installation, alteration, or replacement of a chimney, flue or soil and vent pipe.

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

Comment The host property is not on article 2(3) land.

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

Comment the dwellinghouse has not been built under Part 20 of the Schedule

- (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)

Comment the dwellinghouse has not been enlarged via Class AA

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 meters 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 meters above the floor of the room in which the window is installed.

Issues and Assessment

Applications for Certificates of Lawful Developments for the erection of outbuildings 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 E of the Order sets out the Permitted Development Rights which relates to '*(a) any building or enclosure, swimming pool or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alterations of such a building or enclosure; or (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum has*'. In assessing the proposal against this:

Development not permitted

E.1 Development is not permitted by Class E 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: *Permission for this dwelling was not granted by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use).*

- a) the total area of ground covered by buildings, enclosures, and containers within the curtilage (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 total area of ground covered by buildings, enclosures, and containers within the curtilage would not exceed 50% of the curtilage.*

- b) any part of the building, enclosure, pool, or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

Comment: no part of the building, enclosure, pool, or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.

- c) the building would have more than one storey;

Comment: the building would be single storey in scale.

- d) the height of the building, enclosure or container would exceed –
 - (i) 4 metres in the case of a building with a dual-pitched roof,
 - (i) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
 - (ii) 3 metres in any other case

Comment: the building would not exceed 3 metres in height.

- e) the height of the eaves of the building would exceed 2.5 metres;

Comment: the height of the eaves of the building would not exceed 2.5 metres.

- f) the building, enclosure, pool, or container would be situated within the curtilage of a listed building;

Comment: the building, enclosure, pool, or container would not be situated within the curtilage of a listed building.

- g) it would include the construction or provision of a veranda, balcony or raised platform;

Comment: it would not include the construction or provision of a veranda, balcony or raised platform/

- h) it relates to a dwelling or microwave antenna; or

Comment: it does not relate to a dwelling or microwave antenna.

- i) the capacity of the container would exceed 3,500 litres.

Comment: the capacity of the container would not exceed 3,500 litres.

E.2 In the case of the any land within the curtilage of the dwelling which is within –

- (a) an area of outstanding natural beauty;
- (a) the Broads
- (b) a National Park; or
- (c) a World Heritage Site,

development is not permitted by Class E of the total area of ground covered by buildings, enclosures, pool and containers situation more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

Comment: *the land is not within the curtilage of an area of outstanding natural beauty, the Broads, a National Park or a World Heritage Site.*

E.3 In the case of land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwelling.

Comment: *the land within the curtilage of the dwellinghouse is not on article 2(3) land.*

Interpretation of Class E

E.4 For the purposes of Class E, “purpose incidental to the enjoyment of the dwelling house as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

Conclusion

The proposed enlargement to the roof has been assessed against the relevant legislation, Town, and Country Planning (General Permitted Development) (England) Order 2015(as amended), Schedule 2 Part 1, Class B and it has been deemed permitted development. As a result, it does not require planning permission and the lawful development certificate is therefore approved.

With regards to the outbuilding, 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 outbuilding benefits from a general planning permission granted under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Recommendation: Grant certificate

Decision Authorisation - Delegated Powers

Application Number: 2024/90489

Officer Recommendation: Grant certificate

The proposed rear dormer extension and hip to gable roof enlargement as shown on the submitted plans listed in this decision notice benefit from general planning permission granted by virtue of Article 3(1) and Schedule 2, Part 1 (Development within the curtilage of a dwelling house), Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) subject to conditions stated in paragraph B.2 of the same Order. The proposed outbuilding as shown on the submitted plans listed in this decision notice benefit from general planning permission granted by virtue of Article 3(1) and Schedule 2, Part 1 (Development within the curtilage of a

dwelling house), Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Grouped Plans and Elevations – DI-DR-P988-02 PROPOSED PLANS AND ELEVATIONS	1030267		20.02.2024
Grouped Plans and Elevations – DI-DR-P98-01 EXISTING AND PROPOSED PLANS AND ELEVATIONS WITH SITE PLANS	1030266		20.02.2024
Location Plan	1030265		20.02.2024

Report Dated: 11.04.2024