

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

**Town and Country Planning (General Permitted Development) (England)
Order 2015(as amended) - Schedule 2, Part 1, Class AA, Condition
AA.2(3)**

DELEGATED DECISION FOR DISCHARGE OF CONDITION AA.2(3) - NOTIFICATION OF ENLARGEMENT OF A DWELLINGHOUSE BY CONSTRUCTION OF ADDITIONAL STOREYS

Reference no. 2024/CL/90706/W

Site Address	38, Thornton Lodge Road, Thornton Lodge, Huddersfield, HD1 3JH
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Description	Prior approval for enlargement of dwellinghouse by erection of additional storey
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Recommending Officer	Laura Yeadon
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DECISION - REFUSED

**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:30-Apr-2024

Officer Report – 2024/90706

[Weblink](#)

Site: 38 Thornton Lodge Road, Thornton Lodge, Huddersfield, HD1 3JH

Proposal: Prior approval for enlargement of dwellinghouse by erection of additional storey

1. Summary

The application seeks prior approval of development pursuant to Class AA, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) [GPDO].

2. The site

2.1 38 Thornton Lodge Road is a cream rendered mid terraced property with a small outside amenity area to the front. To the rear there is a hardstanding amenity area and access which serves the rear of the some of the properties on Thomas Street.

2.2 There are 3 no. properties within the terraced row with No's 36 and 40 being the two end dwellings and the application site being the middle property. The properties are single storey in height and have tiled roofs. The surrounding area is predominantly residential with a Mosque located to the north-west and an area of Urban Green Space faces the property which is a play area known as Thornton Lodge Open Space.

3. Proposed development

3.1 The applicant proposes an additional storey to the existing building. The drawings indicate that the height of the eaves would be increased from approximately 2.8m to 6.7m and the ridge would be raised from approximately 5.1m to 8.8m. Therefore, the eaves and the ridge height would be increased by approximately 3.9m and 3.7m respectively and therefore exceed the height requirements of the regulations which state that:

AA.1 (f) following the development the height of the highest part of the roof of the dwellinghouse would exceed the height of the highest part of the roof of the existing dwellinghouse by more than

(i) 3.5 metres, where the existing dwellinghouse consists of one storey.....

As such, as the height of the building would be increased by more than 3.5 metres, the plans submitted do not comply with current guidelines

and cannot benefit from Class AA approval. It is accepted a greater height of 0.2m is marginal although paragraph (g) states:-

*(g) the dwellinghouse is not detached and following the development the height of the highest part of its roof would exceed by more than 3.5 metres—
(i) in the case of a semi-detached house, the height of the highest part of the roof of the building with which it shares a party wall (or, as the case may be, which has a main wall adjoining its main wall); or
(ii) in the case of a terrace house, the height of the highest part of the roof of every other building in the row in which it is situated*

3.2 In this instance no. 38 is adjoined to nos. 36 & 40 and therefore a terraced property where no. 36 is currently stepped down in height by 0.6 metres. The resulting step down, taking into account the sloping nature of the site and when measuring from the highest ground level adjacent to each property results in the resulting height of no. 38 (8.8 metres) exceeds in the existing height of no. 36 (5.1 metres) by 3.7 metres thus contrary to sub-paragraph (g) of Class AA.

4. Relevant planning history

4.1 2004/93740 Erection of single storey extensions and dormer extensions – Conditional Full Permission

4.2 2021/94247 Prior approval for enlargement of dwellinghouse by erection of additional storey – Details approved – valid until 10th January 2025

5. Policy

National Planning Policy Framework

Chapter 12 – Achieving well designed and beautiful places

Kirklees Local Plan

Policy LP24 – Design

Other Material Considerations

House Extensions and Alterations SPD

6. Representations

6.1 One letter of representation received with the following being a summary of comments:

- Would overlook and intrude on neighbouring property
- Invasion of privacy
- Design guidelines of bungalows should be taken into account
- 45 degree line would be affected and a massive loss of direct sunlight to neighbouring property
- House has been unoccupied and unattended and in an unfit state for 6-10 years and to double the capacity of rooms would increase the number of adults at the property and increase the cars in an already consumed area
- Unclear where the rain water would fall and could result in damp and flooding

Response:

The matters relevant to this type of application shall be addressed within the following assessment. It is however noted that as the proposal is for an additional storey above the existing ground floor elevations that the 45 degree line would not be altered as a result of increasing the height of the dwelling. Matters relating to drainage cannot be considered is part of this type of application.

7. Site visit

7.1 Imagery held by the Local Planning Authority and photographs from a site visit along with Google Maps is considered sufficient to assess the impact of the development.

8. Permitted Development

8.1 Permitted development rights have not been removed via any conditions attached to any earlier permissions.

8.2 Class AA, Part 1 of the of the GPDO provides a deemed planning permission for additional stories to dwellinghouses subject to limitations and conditions. With regard to the limitation set out in paragraph AA.1 (a) to (k) it is considered that the proposal does not accord with sections (f) & (g) as referred to above. Of note, however, is paragraph (c) which limits permitted development rights to dwellinghouses that were built between 1 July 1948 and 28 October 2018. In this instance, on the balance of probability, the properties were built between 1948 and 1955 according to the Council's records showing the property present in 1955.

8.3 Class AA.2 of the GPDO requires conditions are satisfied and in particular condition (3) requires prior approval is obtained before beginning the development.

8.4 Criteria for prior approval are:

- (i) *impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light;*
- (ii) *the external appearance of the dwellinghouse, including the design and architectural features of—*
 - (aa) *the principal elevation of the dwellinghouse, and*
 - (bb) *any side elevation of the dwellinghouse that fronts a highway;*
- (iii) *air traffic and defence asset impacts of the development; and*
- (iv) *whether, as a result of the siting of the dwellinghouse, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012(a) issued by the Secretary of State;*

8.5 These matters shall be addressed below.

9. Assessment

Impact on amenity

9.1 Condition for prior approval seeks to provide limited protection in terms of existing visual and residential amenity. This is more or less consistent with the Kirklees Local Plan Policy LP24 and NPPF Chapter 12 which aims for high standards of design and amenity.

9.2 The proposed extension will add significant bulk to the existing dwellinghouse resulting in a significantly larger appearance. The properties within the terraced row of three dwellings are bungalows however in the main, two storey properties are in the area and therefore to increase the overall height of the dwelling would not be out of character within the wider street scene.

9.3 The increase in height would be above the existing dwelling and given the orientation and size of the amenity spaces of the adjoining neighbours to each side, 36 and 40 Thornton Lodge Road, the increase in height is not considered to have a significant effect upon the amenities of either adjoining neighbour.

9.4 The rear of the property faces No.s 40-42 Thomas Street and the proposed would introduce new windows at a higher level than the existing house. However as there is a ground level change falling from southwest to northeast and therefore Thomas Street properties are

raised in ground level, the new windows would not offer any significant additional opportunity for overlooking.

9.5 The Thornton Lodge Open Space would be opposite the front of the property and would not add significant additional opportunity for overlooking.

9.6 There are no other nearby existing properties and as such the proposed development accords with the aims of policy LP24 and chapter 12 of the NPPF in terms of securing good quality standards of amenity.

The external appearance of the dwellinghouse

9.7 In terms of the impact of the proposal on the wider character of the area, the existing property forms part of a terraced row of 3 no. bungalows. Whilst it is noted that permission has been approved previously, the resubmitted plans differ from that already approved in terms of design.

9.8 The result of the additional storey would be to introduce an incongruous element which would be out of character with the terraced row. The large expanse of rendered sections above the upper floor windows would be stark in appearance and would disrupt the street scene by introducing a large mass of blank elevations that are not traditional in appearance or cohesive with the character of the dwelling or neighbouring properties. The works would be contrary to the SPD which requires extensions and alterations to be in keeping with the appearance, scale, design and local character of the area and the street scene, Policy LP24 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

9.9 Paragraph 131 of Chapter 12 of the NPPF places good design as a key aspect of sustainable development with paragraph 130 (b) aiming to ensure that developments are visually attractive as a result of good architecture. Policy LP24 of the Kirklees Local Plan also places great weight on good design and states that it should be the core of all proposals. Key Design Principle 1 states that extensions and alterations to residential properties should be in keeping with the appearance, scale, design and local character of the area and the street scene with Key Design Principle going on to say that extensions should not dominate or be larger than the existing house and should be in keeping with the existing building in terms of scale, materials and detail.

9.10 Recent case law under *Cab Housing Limited v Secretary of State for Levelling Up, Housing and Communities* & Anr. Case Number: CO/2763/2021 has established that in paragraph AA.2(3)(a)(i) of the Act, 'impact on amenity' is not limited to overlooking, privacy and loss of light and in paragraph AA.2(3)(a)(ii) the control of the 'external appearance' of the dwellinghouse is not limited to impact on the subject property but also includes impact on neighbouring premises and the locality.

9.11 The proposed extension would represent a poor design solution and fails significantly short of the expectations of Policy LP24 and Key Design Principles 1 and 2 of the SPD to ensure that extensions are congruent in their scale and massing as well as visual appearance. The extended property resulting in the mass of stark render with what appears to be relatively squat windows would introduce a discordant element to the street scene and would negatively undermine the character of the host building itself.

9.12 It is therefore considered that the proposed additional storey would be harmful to the proportions, appearance and design of the not only the principal elevation but also the dwelling as a whole, neighbouring properties and wider area. This would be contrary to the fundamental core aims of good design set out in Chapter 12 of the NPPF, Policy LP24 of the Kirklees Local Plan and Key Design Principles 1 and 2 of the House Extensions and Alterations SPD.

Air traffic and defence asset impacts of the development

9.13 The additional storey is not considered to impact upon any flight paths or cause any distraction to aircraft within the vicinity.

Directions Relating to Protected Vistas dated 15th March 2012(a)

9.14 There are no Directions relating to protected vistas.

10 Recommendation

Article 3(1) and Schedule 2, Class AA, Part 1 of the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended) provides a deemed planning permission for additional stories to dwellinghouses subject to limitations and conditions. With regard to the limitation set out in paragraph AA.1 (a) to (k) it is considered that the proposal does not accord with sections (f) & (g) by virtue of the resulting height of the proposed development. As the height of the building would be increased by more than 3.5 metres host building and adjoining terraced property, the plans submitted do not comply with limitations of the Order.

In addition, the result of the additional storey would be to introduce an incongruous element which would be out of character with the terraced row. The large expanse of rendered sections above the squat upper floor windows would be stark in appearance and would disrupt the street scene by introducing a large mass of blank elevations that are not traditional in appearance or cohesive with the character of the dwelling or neighbouring properties. The works would be contrary to the Supplementary Planning Document which requires extensions and

alterations to be in keeping with the appearance, scale, design and local character of the area and the street scene, Policy LP24 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	MA101 - 1		11 th March 2024
Existing elevations, sections and floor plans	MA102 – 1		11 th March 2024
Proposed elevations, site plan and floor plans	MA103 – 1		11 th March 2024
Management of Construction Report	2024/90706		28 th March 2024

Dated 24th April 2024