

**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/90810/W

Site: 15, Heathwood Drive, Golcar, Huddersfield, HD7
4PH

Description: Certificate of lawfulness for proposed demolition of
existing conservatory and erection of replacement single storey side extension

Case Officer: Sharoz Ilyas

Decision Reference: REFUSAL

**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 03-Jul-2024

Reference:	2024/CLD/90810/W
Applicant: -	Mr and Mrs Smith
Location: -	15 Heathwood Drive, Golcar, Huddersfield, HD7 4PH
Proposal: -	Certificate of lawfulness for proposed demolition of existing conservatory and erection of replacement single storey side extension

Site Description

15 Heathwood Drive is a detached two-storey dwellinghouse built using stone. The dwelling incorporates a driveway for off-street parking leading to a single garage, with little garden amenity space to the side, front and a large, enclosed garden at the rear.

Heathwood Drive is a cul-de-sac accessed from Swallow Lane. There are various housing types along Heathwood Drive with terraced dwellings close to the junction with Swallow Lane and a mix of detached two-storey dwellings as well as bungalows. The street is occupied with varying dwelling designs however all built using similar materials.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the erection of a single storey extension to the side of the property. The development involves the demolition of the existing side conservatory and erection of a single-storey extension with a lean-to roof.

The extension would measure 2.625m wide, 3.825m long and have a total height of 3.745m. The height to the eaves would be 2.3m. Materials used in the construction are to match the existing.

History of negotiations/amendments received

Clarification on building materials was requested from the applicant to which amended plans were received.

Relevant Planning History

90/62/04150/C1: ERECTION OF CONSERVATORY

2012/62/92348/W: Erection of single and two storey extension

Consultation Responses

None required.

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 A.

The plans are for the demolition of the existing conservatory and the erection of a single-storey side extension. 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 A.

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: *Permission to use the dwellinghouse as a dwellinghouse has not been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule.*

- 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: *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 not exceed 50% of the total area of the curtilage.*

- 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 highest part of the dwellinghouse enlarged would not exceed the height of the highest part of the roof of the existing dwellinghouse.*

- 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 of the part of the dwellinghouse enlarged, 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 enlarged part of the dwellinghouse would not extend beyond a wall which forms the principal elevation of the original dwellinghouse. However the proposed extension is beyond a side elevation of the original dwellinghouse and public right of way which is considered to be a highway for the purposes of Planning control.*

- 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 enlarged part of the dwellinghouse would be single-storey and would not extend beyond the rear wall of the original dwellinghouse by more than 4 metres 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 story and –
- I. Extend beyond the rear wall of the original dwellinghouse by more than 8 meters in the case of a detached dwellinghouse, or 6 meters in the case of any other dwellinghouse, or
 - I. Exceed 4 metres in height

Comment: *The enlarged part of the dwellinghouse would be single-storey and would not extend beyond the rear wall of the original dwellinghouse by more than 4 metres and would not exceed 4 metres in height*

- g) 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 enlarged part of the dwellinghouse would not be more than 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 of the curtilage and the height of the eaves would not exceed 3m.*

- 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 enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the of the original dwellinghouse as a single-storey extension with a width less than half the width of the original dwellinghouse.*

j) 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 total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) does not exceed or would exceed the limits set out in sub-paragraphs (e) to (j).*

k) It would consist of or include –

- i. The construction or provision of a veranda, 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 development would not consist of or include the construction or provision of a veranda, balcony or raised platform. It would not include the installation, alteration, or replacement of a microwave antenna, chimney, flue, or soil and vent pipe. There would be no alteration to any part of the roof of the original dwellinghouse.*

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

Comment: *The dwellinghouse was not built under Part 20 of this Schedule (construction of a new dwellinghouse)*

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;
- 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.

Comment: *The dwellinghouse is not on article 2(3) land and therefore this condition does not apply.*

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 materials used in any exterior work shall be similar in appearance to that of the existing dwellinghouse. The enlargement is single-storey and therefore there will be no upper-floor windows and no need for the roof pitch to match that of the existing dwellinghouse.*

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 single-storey rear extension does not benefit from a general planning permission under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the proposed extension projects from a side elevation and fronts a highway (Public Right of Way COL/58/20) contrary to sub paragraph A.1(e) of Class A.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location Plan, existing elevations, existing floor plans and existing roof plan	15HD PO1		26/03/2024

Plan Type	Reference	Version	Date Received
Proposed elevations and ground floor proposed plan	15HD PO2 rev A	Rev A	21/06/2024

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 could not be amended.

Dated: 25.06.2024

