

**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/91124/E

Site: 31, Aysgarth Road, Healey, Batley, WF17 7HY

Description: Certificate of lawfulness for proposed erection of  
rear dormer

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 25-Jun-2024**

### Site Description

31, Aysgarth Road, Healey, Batley, WF17 7HY is a two-storey brick-built end-terrace. The property benefits from parking provision to the front and amenity space to the rear, along with local amenities within close proximity.

The properties that form the street scene are somewhat uniform in appearance, scale, and material palette.

### Application Proposal

The application is for a certificate of lawful proposed development for the erection of a rear dormer. The onus is on the applicant to provide evidence which states why the proposal fits 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 (north) elevation, set back from the existing eaves by 0.2m, spanning across the roof with a width of 5.5m. The dormer would project 4.3m from the roof ridge and would be a total of 2.4m in height. No part of the roof extension would exceed the highest part of the existing roof. The total cubic volume increase would be approximately 28.3m<sup>3</sup>.

The dormer would house two windows, one of which would feature double glazing. In order to be permitted development, all exterior materials must be of a similar appearance to those used in the construction of the exterior of the exterior of the existing dwellinghouse.

### Relevant Planning History

2005/90497: demolition of dwellings and outline application for erection of 2/3/4 bedroom family homes. Conditional outline permission.

2007/92347: reserved matters for erection of 49 no. 2,3, and 4 bed semis and town houses (phase 2). Approval of reserved matters.

2024/90743: The proposal is for the erection of a 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.

### Policies

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 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) Order 2015;

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 B (additions etc to the roof of a dwellinghouse)

The proposal comprises the erection of a rear dormer. 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 B.

### **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 40 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.

## **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.

**Recommendation: Grant certificate**

**Decision Authorisation - Delegated Powers**

**Application Number:** 2024/91124

**Officer Recommendation:** Grant certificate

The proposed rear dormer extension as shown on the submitted plans listed in this decision notice benefits 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.

Plans and specifications schedule:

| <b>Plan Type</b>                                                  | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|-------------------------------------------------------------------|------------------|----------------|----------------------|
| Grouped Plans and Elevations – S01_Existing Plans and Elevations  | 1038583          |                | 26.04.2024           |
| Grouped Plans and Elevations – SK02_Proposed Plans and Elevations | 1038584          |                | 26.02.2024           |

**NOTE:** Condition B.2 (a) states that the materials used in any exterior work must be of similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

**Report Dated: 25.06.2024**