

**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/91271/E

Site: 24, Scott Lane, Gomersal, Cleckheaton, BD19 4JY

Description: Certificate of lawfulness for proposed erection of  
single storey rear extension

Case Officer: Charlotte Dixon

**Decision Reference: PROPOSED OPERATIONS 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 02-Jul-2024**

## **Officer Report**

### **Site Description**

24, Scott Lane, Gomersal, Cleckheaton, BD19 4JY is a two-storey detached dwelling constructed of reconstructed stone walling with a roof constructed of flat profiled concrete interlocking grey tiles. The property benefits from a modest lawn and driveway to the front, with a garden to the rear. The property has previously been extended to the rear. The property benefits from an attached double garage which has a small dormer feature to the front. The property is located within an estate and the street scene comprises various other dwellings of a similar appearance and scale.

For context only, the site is located adjacent to the Green Belt.

### **Description of Proposal**

Permission is sought for a certificate of lawfulness for proposed erection of single storey rear extension

The proposed rear extension would project approximately 2.2 metres from the rear of the original dwellinghouse, would have an eaves height of 2.4 metres, raising to an overall height of approximately 3.4 metres and would have a total width of approximately 3.3 metres. The rear extension would be attached to the existing rear extension and would be constructed of materials to match the existing dwellinghouse and extension.

### **History of negotiations/amendments received**

No history of negotiations or amendments.

### **Relevant Planning History**

96/93321- Outline application for residential development- conditional outline permission

99/93351- Renewal of unimplemented outline permission for residential development– conditional outline permission

99/93246- Erection of 12 dwellings with garages and associated access road- Refused

2000/91384- Erection of 12 dwellings with garages and associated access road- Section 106 full permission

2004/92304- Certificate of lawfulness for proposed erection of single storey extension- Certificate of lawfulness granted

## **Consultation responses**

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

## **Issues and Assessment**

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined in section 55 of the Town and Country Planning Act 1990; 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 (enlargement, improvement or other alteration of a dwellinghouse).

The proposal comprises the erection of a rear 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 (enlargement, improvement or other alteration of a dwellinghouse).

### **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 has not been granted by any of the above.*

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 total area of ground covered would not exceed 50% of the total area of the curtilage of the dwellinghouse.*

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

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 height of the eaves would not exceed the height of the eaves of the existing dwellinghouse.*

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

- (i) forms the principal elevation of the original dwellinghouse; or
- (ii) fronts a highway and forms a side elevation of the original dwellinghouse;

**Comment:** *The extension would not extend beyond a wall which forms the principal elevation or fronts a highway.*

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 3 metres in the case of any other dwellinghouse.
- II. Exceed 4 metres in height;

**Comment:** *The dwelling is a detached property and the proposed extension would not project beyond the rear wall of the original dwellinghouse by more than 4 metres. It would not exceed 4 metres in height.*

g) 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 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 dwelling is not on article 2(3) land. The property is a detached*

*dwelling and the proposed development would extend approximately 2.2 metres beyond the rear wall.*

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 extension would not have more than a single storey.*

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 extension is not within 2 metres of the boundary of the curtilage of the dwellinghouse and the eaves of the enlarged part would not exceed 3 metres.*

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 extension would not project beyond a wall forming a side elevation of the original 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 property was extended pursuant to certificate of lawfulness application ref: 2004/92304 with a single storey rear projection. The proposed extension will adjoin onto the existing enlargement. Measuring from the submitted plans as part of this application, the existing enlargement projects more than 4 metres from the rear of the original dwellinghouse and is consequently contrary to paragraph (f) above but is within the tolerances of paragraph (g). Paragraph A.4(1) provides that any development granted by virtue of Class A is "where it exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g)" is permitted but only where subject to a prior approval. In this instance the proposed development, whilst in itself does not exceed 4 metres, is only allowed because of paragraph (g) because the existing enlargement does not exceed 8 metres. However, Article 3(1)&(2) grant the permission for the development but only subject to conditions which in this instance would include the condition A.4(1) requiring prior approval*

*because the proposed extension can only benefit from the limitations by being allowed by paragraph (g). The extension would therefore be subject to prior approval which has not been granted.*

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 proposed works would result in an alteration to a soil and vent pipe.*

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

**Comment:** *Not applicable*

**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.*

*d) 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 (b) and (c)*

**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;

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 construction materials would be of a similar visual appearance to the existing dwellinghouse. As the proposal is for a single storey extension, no upper floor windows in a wall or roof slope forming a side elevation are proposed.*

**Conclusion:**

The proposal for the erection of a single storey rear extension at 24, Scott Lane, Gomersal, Cleckheaton, BD19 4JY has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for refusal.

The proposed rear extension would not benefit from a general planning permission granted 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) because the proposed extension together with the adjoining existing extension to the dwellinghouse would exceed the limits set out in sub-paragraph A.1(f) but whilst allowed by sub-paragraph A.1(g) it is only subject to prior approval which has not been granted thus contrary to condition A.4(1) of Class A.

Plans and specifications schedule: -

| <b>Plan Type</b>             | <b>Reference</b> | <b>Date Received</b> |
|------------------------------|------------------|----------------------|
| Grouped Plans and Elevations | 24/30/A-Proposed | 13.05.2024           |
| Location plan                | -                | 13.05.2024           |

**Dated:** 26.06.2024