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/91438/E

Site: 35, Rockwood Rise, Denby Dale, Huddersfield, HD8 8SN

Description: Certificate of lawfulness for proposed dormer extension and associated alterations

Case Officer**:** Chris Cockroft

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 15-Jul-2024

Application Number: 2024/91438

Site Description
35, Rockwood Rise, Denby Dale, Huddersfield, HD8 8SN is a two-storey detached dwelling with an attached flat-roof garage to the side, and paved front garden and small garden to the rear. The dwelling is constructed using brick with a rendered finish on the principal elevation and a roof with concrete tiles.

There are various styles and types of detached dwellings along Rockwood Rise, which is residential.

Application Proposal
The application is for a certificate of lawfulness for proposed dormer extension and associated alterations. 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 below 40 cubic metres.

A dormer is proposed on the side east elevation, shown to be set back from the existing eaves and joined to the existing roof.

The dormer would house one windows facing 33 Rockwood Rise, to the east. In order to be permitted development, all exterior materials must be of a similar appearance to those used in the construction of the existing dwellinghouse.

Relevant Planning History
2004/93817 - Erection of two storey extension and conservatory – Full Conditional Permission.

2015/93045 - Certificate of lawfulness for proposed replacement conservatory roof – Certificate of Lawful Opps – Granted

Consultation
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 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) 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.

The proposal comprises the erection of a side 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.

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: *No part of the dormer 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 dormer would extend beyond the plane of the existing roof slope 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 detached property, the maximum additional roof volume permitted is 50 cubic metres. Taking into account the roof space created (as per the plans), and the roof space created by the extension granted under 2004/93817, it would exceed 50 cubic metres.*

(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;

Comment: *The proposal does not consist of include: verandah, balcony, raised platform or the alteration or replacement of a chimney, flue or soil and vent pipe.*

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

Comment: *The dwellinghouse 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 this 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. Considering the information and drawings provided, the erection of the proposed dormer extension would not be permitted development under this class.

Recommendation: **Refuse certificate**

Decision notice text:
The proposed dormer extension at 35, Rockwood Rise, Denby Dale, Huddersfield, HD8 8SN, as shown on the submitted plans listed in this decision notice, does **not** benefit from general planning permission under Article 3(1) and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the proposed roof enlargement in addition to a previous enlargement to the original roof space exceed 50 cubic metres contrary to sub-paragraph B.1(d) of Class B.

Plans and specifications schedule:

Plan Type	**Reference**	**Date Received**
Existing Floor Plan	Drawing 24027D-01-P01	22 MAY 2024
Proposed Floor Plan	Drawing 24027D-02-P02	22 MAY 2024

Development within a Coal Mining Area

DEVELOPMENT HIGH RISK AREA - INFORMATIVE NOTE

The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:
www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority