

**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/92141/W

Site: 26, Thackeray Grove, Crosland Moor,
Huddersfield, HD4 5HD

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

Case Officer: Sharoz Ilyas

Decision Reference: PROPOSED OPERATIONS REFUSE

**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 01-Oct-2024

Reference:	2024/CLD/92141/W
Applicant: -	N Akhtar
Location: -	26 Thackeray Grove, Crosland Moor, Huddersfield, HD4 5HD
Proposal: -	Certificate of lawfulness for proposed erection of single storey rear extension

Site Description

26 Thackeray Grove is a circa 1930's mid-terrace, two-storey dwellinghouse with a pebble dash rendered exterior and slate covered roof. The front garden occupies a bricked garden wide driveway and a shared path leading to the front of the dwellinghouse and the rear there is an enclosed garden amenity space.

Thackeray Grove is a residential street enclosed with Walpole Road as the only entrance onto the street, with no vehicle throughway. The street enjoys a uniform symmetry in design, appearance and housing type.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the erection of a single-storey extension to the rear of the property.

The extension would measure 5000mm projecting, 5800mm wide and have a total height of 3532mm. The height to the eaves would be 2200mm. Materials used in the construction are to match the existing.

History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

Relevant Planning History

None.

Consultation Responses

None required.

Issues and Assessment

Applications for Certificates of Lawful Developments for the erection of extensions to dwellings are assessed against the general permission conferred by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Schedule 2, Part 1, Class A of the Order sets out the Permitted Development Rights which relates to the 'enlargement, improvement or other alteration to a dwellinghouse'. In assessing the proposal against this:

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.*

- 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: *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.*

- 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 dwellinghouse enlarged 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 of the part of the dwellinghouse enlarged, 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
 - (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, nor would it front a highway and forms a side elevation of the original dwellinghouse.*

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

Comment: *The enlarged part of the dwellinghouse would be single-storey and would extend beyond the rear wall of the original dwellinghouse by more than 3 metres although would not exceed 4 metres in height however considering the dwellinghouse is not on article 2(3) land nor on a site of special scientific interest, paragraph g) thresholds apply.*

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
- 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 6 metres and would not exceed 4 metres in height*

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 being enlarged which is opposite the rear wall of that dwellinghouse;

Comment: *The enlarged part of the dwellinghouse would not be 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;

j)

Comment: *The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage and the height of the eaves of the enlarged part does not exceed 3 metres.*

k) 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 not extend beyond a wall forming a side elevation of the 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 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 of 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.*

- l) 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.*

Paragraph A.4 of Class A imposes a condition where the proposed development exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g), as is the case in this instance, the developer must provide further details before the development commences. Moreover, the development must also not commence until the Local Planning Authority has either given written notice that prior approval is not required, prior approved is given or neither event has occurred before the expire of 42 days following the date the information was received.

In this instance, no further details have been provided for the Local Planning Authority to consider whether prior approval should be given or is not required and as such condition A.4 has not been discharged.

Section 192 of the Town and Country Planning Act 1990, paragraph (2) provides that a certificate can be granted if the applicant satisfies the Local Planning Authority that the operations described in the application would be lawful if instituted or begun at the time of the application.

Article 3(2) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) provides that any permission granted by paragraph (1) (of Article 3) is subject to any relevant

exception, limitation or condition specified in Schedule 2. In this instance, if the development was begun at the time of this application, condition A.4 of Class A has not been complied with and thus cannot be considered lawful by reason of article 3(2).

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 proposed single-storey rear extension if begun at the time of the application 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) as it would fail to comply with condition A.4 of Class A.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Location Plan	1052446	001-Rev 1	30/07/2024
Proposed Site/Block Layout	1052445	003-Rev 1	30/07/2024
Plan General Details	1052452	005-Rev1	30/07/2024
Grouped Plans and Elevations - Proposed	1052454	004-Rev1	30/07/2024
Grouped Plans and Elevations - Existing	1052455	002-Rev1	30/07/2024
Construction Notes	1052451	006-Rev 1	30/07/2024

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 was not considered acceptable in its submitted form.

Dated: 25.09.2024

