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.: 2025/CL/91060/E

Site: 23, Herdwick Road, Flockton, Huddersfield, WF4 4FJ

Description: Certificate of lawfulness for proposed alterations to integral garage to extend living accommodation

Case Officer**:** Laura Yeadon

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 08-Sep-2025

Officer Report

Weblink

Site Description

23 Herdwick Road is a detached two storey dwelling constructed from stone with a grey tiled roof. The property is relatively modern and is two storeys in height hosting an integral double garage. Access to the garage is from a driveway to the front of the property, off Herdwick Road.

Residential properties are located to the south and west with open fields to the north in land defined as Green Belt within the Kirklees Local Plan.

Description of Proposal

Permission is sought for a Certificate of Lawful Development for proposed alterations to the integral garage to extend the living accommodation.

The submitted details indicate that one of the two integral garages would be converted to living accommodation with the garage door blocked up and replaced with a window. A roof light installed into the lean-to roof to the front of the property.

History of negotiations/amendments received

None

Relevant Planning History

2014/94027 Erection of 47 dwellings and associated works including access, public open space, landscaping, parking and ancillary works
Refused – appeal dismissed

2016/92811 Erection of 46 dwellings and associated works including access, public open space, landscaping, parking and ancillary works
Section 106 Full Permission

2017/90931 Erection of 4 no. flag poles and 2 no. non illuminated signs
Advertisement Consent Granted

2017/91269 Variation condition 2 (plans) on previous permission 2016/92811 for erection of 46 dwellings and associated works including access, public open space, landscaping, parking and ancillary works
Section 106 Permission

2017/92202 Discharge conditions 4-7, 11, 13, 17, 18 on previous permission 2016/92811 for erection of 46 dwellings and associated works including access, public open space, landscaping, parking and ancillary works
Split decision

2017/92873 Discharge condition 19 (drainage) on previous permission 2016/92811 for erection of 46 dwellings and associated works including access, public open space, landscaping, parking and ancillary works
Approved

2017/92628 Discharge condition 8 (Remediation Strategy) on previous permission 2016/92811 for erection of 46 dwellings and associated works including access, public open space, landscaping, parking and ancillary works
Approved

2017/93755 Discharge condition 3 (materials) on previous permission 2016/92811 for erection of 46 dwellings and associated works including access, public open space, landscaping, parking and ancillary works
Approved

2018/93656 Discharge conditions 17 and 18 (drainage) on previous permission 2016/92811 for erection of 46 dwellings and associated works including access, public open space, landscaping, parking and ancillary works
Under consideration – not yet determined

2019/91444 Non-material amendment to previous permission 2017/91269 for variation condition 2 (plans) on previous permission 2016/92811 for erection of 46 dwellings and associated works including access, public open space, landscaping, parking and ancillary works
Approved

Consultation Responses

None required as the application is for a Certificate of Lawful Development.

<u>Issues and Assessment</u>

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development, as defined as defined within Section 55 of the Town and Country Planning Act 1990; if so, whether permitted development rights apply to the property; and
1. Whether the proposed development falls within permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)[“GPDO”].

Relating to point 1 above, Paragraph (2) (a) of Section 55 of the Town and Country Planning Act 1990 states that:

“The following operations or uses of land shall not be taken for the purses of this Act to involve development of the land –

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which –

(i) affect only the interior of the building, or

(i) do not materially affect the external appearance of the building

and are not for works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground."

The works to block up a garage door and install a window and the formation of a roof light within the single storey roof plane would affect the external appearance of the property and therefore, it is concluded that the proposed works fall with the definition of 'development'.

With regards to point 2 above and whether or not the works are permitted development and would fall within Schedule 2, Part 1, Class A of the GPDO is of relevance as this permits the enlargement, improvement or other alterations of a dwellinghouse subject to relevant limitations.

Planning permission was originally granted under application number 2016/92811 for the erection of 46 dwellings and associated works. A subsequent application under 2017/91269 approved to vary the plans on the 2016 application. As a non-material amendment to the 2017 plans were also sought indicating that the 2017/91269 application would be the implemented permission and therefore relevant to this application.

Condition 12 of permission 2017/91269 states the following:

12. Notwithstanding the provisions of section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Act or Order with or without modification) no development included within Classes A, B, C or E of Part 1 of Schedule 2 to that Order shall be carried out.

The reason for imposing thus condition was as follows:

Reason: To avoid the overdevelopment of the site and in the interest of the amenity of occupiers of neighbouring residential properties and to accord with Policy D2 of the Kirklees Unitary Development Plan.

As such, to carry out the works to block up a garage door and install a window the formation of a roof light within the single storey roof plane would not benefit from a general planning permission under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 as these were removed by condition 12 of the granted planning permission. Therefore, planning permission would be required to carry out these works.

In addition, condition 13 of the same permission states the following:

13. Notwithstanding the provisions of section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General

Permitted Development) Order 2015 (or any order revoking and re-enacting that Act or Order with or without modification) no doors, windows or any other openings (apart from any expressly allowed by this permission) shall be created in any elevation of the approved dwellings

The reason for imposing this permission was as follows:

Reason: So as not to detract from the amenities of adjoining property by reason of loss of privacy and to accord with Policies D2 and BE12 of the Kirklees Unitary Development Plan.

Therefore, this condition removes permitted development rights from the properties within the development site for any doors, windows or any other openings to be installed into any elevation of the approved dwelling.

Therefore, the proposed works would fail to accord with Condition 13 of the approved planning application and planning permission would be required to carry out these works.

Article 3(4) of the GPDO 2015 provides that permitted development (PD) right will not apply if they are *'contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 (or Part 13) of the of the [TCPA 1990] otherwise than by this Order'.* The development is therefore contrary to conditions 12 and 13 of planning permission 2017/91269 and therefore permitted development rights do not apply.

Conclusion

As such, as the application relates to Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the erection of proposed works to alter the garage door to a window and the installation of a roof light does not benefit from a general planning permission under the Order.

Decision Notice Text

The proposed alterations to the integral garage to extend the living accommodation by removing the garage door and inserting a window and the intallation of a roof light 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 works would be contrary to condition 12 and 13 of planning permission reference 2017/91269 and not permitted by virtue of Article 3(4) of the same Order.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	PP-13936406v1		15th April 2025
Indicative floor plan			29th April 2025

Plan Type	Reference	Version	Date Received
Internal garage photograph			29th April 2025
Proposed development image			29th April 2025