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/91313/E
Site:	16, Oakroyd View, Birkenshaw, BD11 2DW
Description:	Certificate of lawfulness for proposed single storey rear extension
Case Officer**:**	Laura Yeadon
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 08-Jul-2025

Officer Report

Weblink

Site Description

16 Oakroyd View is a modern two storey dwelling located within a cul-de-sac of properties of a similar age and construction materials, albeit of varying designs. The property hosts amenity space to the front and rear and to the side is a single storey attached structure.

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 submitted details are limited to a location plan, existing site plan and proposed site plan indicating the position of the extension which would be to the rear of the property attaching to the existing single storey structure. As such, for clarity purposes, the proposed single storey rear extension and the existing attached structure would all need to comply with the regulations to benefit from a Certificate of Lawful Development. In the absence of any elevational drawings, this assessment cannot be made.

The proposed site plan and details within the application form indicate that the extension would project from the rear elevation of the property by 3 metres.

No details have been submitted with regards to construction materials.

The property has had its Permitted Development Rights removed.

History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

Relevant Planning History

2014/93173 Outline application for the demolition of existing buildings and the erection of up to 30 dwellings (access and layout) – Section 106 Outline Permission

2017/90472 Work to TPO(s) 19/92 – Granted

2017/94058 Prior notification for demolition of existing building – Details approved

2017/94129 Demolition of existing buildings and erection of 30 dwellings with associated garages and parking – Section 106 Full Permission

2018/94058 Discharge of conditions 3, 4, 5, 6, 8, 10, 14, 15, 16, 17, 18, 19 & 21 on previous application 2017/94129 for demolition of existing buildings and erection of 30 dwellings with associated garages and parking – Split decision

2019/91769 Dead or Dangerous Tree(s) to TPO 21/14 Tag 157 – Noted

2019/93121 Variation of condition 2. (plans and specifications) on previous permission 2017/94129 for demolition of existing buildings and erection of 30 dwellings with associated garages and parking – Section 106 Removal/Modification of Condition(s)

Consultation Responses

None required

<u>Issues and Assessment</u>

Planning application 2017/94129 granted permission for the demolition of existing buildings and erection of 30 dwellings with associated garages and parking on 29th June 2018.

Condition 23 of this permission states:

23. 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 and C and E of Part 1 of Schedule 2 to that Order shall be carried out.
Reason: *To avoid an overdevelopment of the site and to protect the residential amenity of occupiers of neighbouring residential properties and to accord with Policies BE1, BE2 and D2 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan as well as the aims of chapter 7 of the National Planning Policy Framework.*

A screen shot if the approved Site Layout Plan is attached for clarity:

A subsequent application was received under reference number 2019/93121 for the variation of condition 2. (plans and specifications) on previous permission 2017/94129 for demolition of existing buildings and erection of 30 dwellings with associated garages and parking and subsequently approved.

Condition 22 repeats the previous condition stating:

22. 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 and C and E of Part 1 of Schedule 2 to that Order shall be carried out.

Reason: *To avoid an overdevelopment of the site and to protect the residential amenity of occupiers of neighbouring residential properties and to accord with Policy LP24 of the Kirklees Local Plan as well as the aims of Chapter 12 of the National Planning Policy Framework.*

Article 3(4) of the GPDO 2015 provides that permitted development (PD) rights 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 [TCPA 1990] otherwise than by this Order'.* The development is therefore contrary to condition 23 of planning permission 2017/94129 or the subsequent condition 22 of permission 2019/93121 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 a single storey rear extension does not benefit from general planning permission under the Order.

Decision Notice Text

The single storey rear extension 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 erection of an extension would be contrary to condition 23 of planning permission reference 2017/94129 or condition 22 of subsequent planning permission 2019/93121.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan and existing site plan	17026-BAS-00-00-DR-A-00100-S4		13th May 2025
Proposed site plan	17026-BAS-00-00-DR-A-00110-S4		13th May 2025

Dated: 3rd June 2025