

**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/91438/W

Site: 7, Old Hopkinson Drive, Birkby, Huddersfield, HD2
2FU

Description: Certificate of lawfulness for proposed erection of
single storey rear extension (within a Conservation Area)

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 16-Jul-2025

Officer Report

[Weblink](#)

Site Description

7 Old Hopkinson Drive is a large, detached dwelling which is constructed from stone with a rosemary coloured roof tile. The property is two storeys in height and located within a modern cul-de-sac within a predominantly residential area which is within the defined Birkby Conservation Area within the Kirklees Local Plan. Amenity space is predominantly to the rear of the property.

Surrounding development in the immediate vicinity comprise of dwellings granted under the same permission as the application site.

Description of Proposal

Permission is sought for a Certificate of Lawfulness for the erection of a single storey extensions to the rear of the property. The onus is on the applicant to provide evidence which states why the proposal fits with the permitted development legislation. In this case, it is stated on the application form that the proposal comes under permitted development rights.

The extensions would attach the existing and 'original' reward projection and would project off both side elevations of the projection to result in a full width extension lying flush with the existing. The total projection would be 1.6 metres with an eaves height of 2.3 metres and an overall height of 3.3 metres to the ridge of the lean-to roof.

No details have been submitted with regards to construction materials.

The property has not had its Permitted Development Rights removed for the erection of extensions within the curtilage.

History of negotiations/amendments received

No negotiations have taken place and no amended plans have been received.

Relevant Planning History

2008/92132 Erection of residential development (14 dwellings) (within a Conservation Area)
Conditional Full Permission

2011/92162 Works to various TPOs within a Conservation Area
Granted

2012/90429 Extension to time limit for implementing existing permission number 2008/92132 for erection of residential development (14 dwellings) (within a Conservation Area)

Granted

- 2015/90721 Erection of 12 detached dwellings (within a Conservation Area)
Section 106 Full Permission
- 2016/91474 Discharge conditions 10 (Phase I Desk Study Report), 11 (Preliminary Risk Assessment), 16 (Arboricultural Method Statement), 23 (surface water drainage), 25 (landscape) on previous permission 2015/90721 for erection of 12 detached dwellings (within a Conservation Area)
Discharge of Conditions – split decision
- 2015/91625 Discharge of conditions 4 & 5 (Construction Traffic) and 12 (Phase II Intrusive Site Investigation Report) on previous planning permission 2015/90721 for erection of 12 detached dwellings (within a Conservation Area)
Approved
- 2016/92179 Discharge of conditions 3 (facing materials) and 6 (highway works) on previous permission 2015/90721 for erection of 12 detached dwellings (within a Conservation Area)
Split decision
- 2016/92880 Discharge of condition 19. (ecology survey) on previous permission no. 2015/90721 for erection of 12 detached dwellings (within a Conservation Area)
Split decision
- 2018/91357 Discharge of conditions 9 (bin collection points) 17 (boundary treatment) 19 and 20 (bats roosting) on previous application 2015/90721 for erection of 12 detached dwellings (within a Conservation Area)
Approved

Consultation Responses

None required

Issues and Assessment

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development 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), Schedule 2, Part 1

(Development within the curtilage of a dwellinghouse), Class A (enlargement, improvement or 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 for any of the above.*

- a) 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.*

- b) 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 height of the part of the dwellinghouse to be enlarged would not exceed the highest part of the roof of the existing dwellinghouse.*

- c) 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 enlarged part of the dwellinghouse would not exceed the eaves of the existing dwellinghouse.*

- d) 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 or fronts the highway.*

- e) 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.
- (i) Exceed 4 metres in height;

Comment: *The dwellinghouse is a detached property and the enlarged part of the property would not project more than 4 metres and would not exceed 4 metres in height.*

- f) 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 dwellinghouse is a detached property and the enlarged part of the property would not project more than 4 metres and would not exceed 4 metres in height.*

- g) 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 enlarged part of the dwellinghouse would not have more than a single storey.*

- h) 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 enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse however the height of the eaves would not exceed 3 metres.*

- i) 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 plans for the property which granted permission for the dwellinghouse are available to be viewed online. The dwellinghouse, as approved and constructed has a rearward projection facing northerly. Other properties within the cul-de-sac have similar features. The proposed development would enlarge the property to both sides of the rearward projection resulting in a rear projection extending the entire northern elevation of the property. However, each side enlargement extends beyond the existing original side elevation resulting in two enlarged parts, each not measuring more than half the width 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: *Not applicable*

- j) 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: *None of the above are proposed.*

- k) The dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)

Comment: *The dwellinghouse was not constructed under Part 20 of this Schedule.*

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 property is on article 2(3) land and would extend beyond a wall forming a side elevation of the original property.*

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 of construction would need to match the existing and no upper floor windows are proposed.*

Conclusion:

The proposal has been considered against the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) and is recommended for approval.

Recommendation: Refusal Certificate

Decision Authorisation – Delegated Powers

Application number – 2025/91438

Officer Recommendation: Refusal Certificate

The proposed rear storey extension would 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 dwellinghouse is located on article 2(3) land (conservation area) and the proposed enlargements would extend beyond a wall(s) forming the side elevation(s) of the original dwellinghouse contrary to sub-paragraph A.2 (b) of Class A.

Plans and specifications schedule:-

| Plan Type | Reference | Version | Date Received |
|--|------------------|----------------|---------------------------|
| Location plan, existing and proposed block plans | 456-005 | | 27 th May 2025 |
| Existing ground floor plan | 456-001 | | 27 th May 2025 |
| Existing elevations | 456-002 | | 27 th May 2025 |
| Proposed ground floor plan | 456-003-A | | 27 th May 2025 |
| Proposed elevations | 456-004-B | | 27 th May 2025 |

Dated: 13th June 2025