

**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/91565/W

Site: 45a, St Helen's Gate, Almondbury, Huddersfield,
HD4 6SG

Description: Certificate of lawfulness for proposed erection of
two 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 30-Jul-2025

Officer Report

[Weblink](#)

Site Description

45a St Helen's Gate is a relatively modern, large, detached dwelling located within the defined Almondbury Conservation Area and the Green Belt within the Kirklees Local Plan. The property has accommodation over 3 no. floors and is finished in stone. Access to the property is via a driveway to the west of the building, off St Helen's Gate with the main entrance to the dwelling being on the south facing elevation (annotated as north elevation on the submitted plans).

Surrounding development consist of mainly residential properties.

Description of Proposal

Permission is sought for a Certificate of Lawful Development for the proposed erection of a two-storey rear extension. The description of development also includes that the building is within a Conservation Area.

The proposed details indicate that the proposed extension would be located on the north facing elevation of the property (annotated as the south elevation on the submitted plans).

The proposed extension would effectively link the two projecting sections of the rear elevation which accommodate the living room and the dining room. The extension would project a total of 4.1 metres from the rear elevation of the existing gallery/landing section of the property being a width of 4.5 metres. The overall height would be 5.1 metres with the roof of the extension.

No details have been submitted with regards to construction materials.

History of negotiations/amendments received

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

Relevant Planning History

2002/91543 Demolition of existing dwelling and the erection of 2 no. detached dwellings with integral garages – amended drawings (within a Conservation Area)

Conditional Full Permission – not implemented

2003/94524 Demolition of existing dwelling and erection of 2 no. detached dwellings within integral garages (alterations to Plot 1) (within a Conservation Area)

Conditional Full Permission

2008/93962 Erection of detached dwelling with integral garage (modified proposal)

Conditional Full Permission – implemented permission

2016/92716 Dead or dangerous tree to the highway

Noted

2021/93483 Work to TPO(s) within a Conservation Area

Granted

2021/93555 Work to TPO(s) 02/00 within a Conservation Area

Withdrawn/Invalid

2024/90320 Dead or dangerous tree to TPO 02/00

Noted

2024/92063 Conversion and extension of dwelling to form 8 apartments (within a Conservation Area)

Refused

Consultation Responses

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

Issues and Assessment

2002/91543

Planning application was originally granted for the demolition of existing dwelling and the erection of 2 no. dwellings with integral garages under application number 2002/91543. This permission imposed a condition (condition 8) which stated the following:

(8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 no buildings or extensions shall be erected in the area of the site on the approved plan without the prior written approval of the Local Planning Authority.

The reason for imposing this condition was as follows:

(8) To retain effective planning control over the site and to accord with Policies BE5 and NE9 of the Unitary Development Plan.

From viewing the submitted plans, it does not appear that this permission has been implemented and therefore, permitted development rights would not be removed under this application.

2003/94524

Planning application 2003/94524 was submitted and subsequently approved for the demolition of the existing dwelling and erection of 2 no. detached dwellings within integral garages (alterations to Plot 1). Plot 1 refers to the property subject to this current application. This permission also imposed a condition, again condition 8 which stated the following:

(8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 no buildings or extensions shall be erected in the area of the site on the approved plan without the prior written approval of the Local Planning Authority.

The reason for imposing this condition was as follows:

(8) To retain effective planning control over the site and to accord with Policies BE5 and NE9 of the Unitary Development Plan.

It appears that this permission was partly implemented (see 2008 application details) and therefore permitted development rights have been removed on the property for buildings and extensions.

2008/93962

Following approval of this application, a further application was submitted during the construction phase implementing the 2003 application under application number 2008/93962 for the erection of a detached dwelling integral garage which was a modified proposal to the previous application. The modification to the proposal involved the provision of a swimming pool at the lower ground floor level and associated fenestration to serve the ancillary space.

Again, conditions were imposed on the decision notice with condition 8 stating the following:

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification) no buildings or extensions shall be erected in the area of the site on the approved plan without the prior written approval of the Local Planning Authority.

The reason for imposing this condition was as follows:

8. To retain effective control over the site and to accord with Policies BE5 and NE9 of the Unitary Development Plan.

As such, permitted development rights have been removed from the property for the erection of buildings or extensions.

A screen shot of the approved Location Plan which is part of drawing number 1055 – (SK) 103 – Rev: A with the site area is attached for clarity:



The area where the extension, subject to this extension is proposed is within the site area outlined in red above.

Officer Note:

It is noted that the application has been submitted with the application form noting that the property is in C3 – Dwellinghouse use. However, the Council's Mapping system illustrates that the property is in commercial use a hotel/boarding house/guest house. Information freely available on the internet markets the property as a self-catering cottage for 10 people.

There has been no formal planning application changing the use of the building from a 'C3 – dwellinghouse' for the use of the dwelling as a commercial self-contained accommodation. However, on the information available it is not whether this use constitutes a material change.

Consequently, if the property is primarily and intensively used for short-term holiday letting, it may lose its C3 status and require planning permission for a material change of use. This, however, is a matter of fact and degree and the application put forward by the applicant is that the building is in C3 use. It should

be noted however, that it was established that the use of the property falls outside Class C3 of Schedule 1 of the Use Classes Order 1987 (as amended), the property may not benefit from permitted development rights in any event.

If it is considered to be a dwellinghouse 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 condition 8 of planning permission 2008/93962 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 two-storey rear extension does not benefit from a general planning permission under the Order.

Decision Notice Text

The two-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 8 of planning permission reference 2008/93962 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-14075746v1		9 th June 2025
Existing block plan	003/BP/023		9 th June 2025
Existing elevations and floor plans	003//020		9 th June 2025
Proposed block plan	003/BP/022		9 th June 2025
Proposed elevations and floor plans	003/021		9 th June 2025

Dated: 2nd July 2025