# 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/93059/W

Site: 4, Rushfield Vale, Fenay Bridge, Huddersfield, HD8 0BX

Description: Certificate of lawfulness for proposed erection of single storey rear extension, alterations to convert garage to living accommodation and external alterations

Case Officer**:** Laura Yeadon

**Decision Reference: PROPOSED OPERATION FOR SINGLE STOREY REAR EXTENSION REFUSED. PROPOSED OPERATIONS TO CONVERT GARAGE AND EXTERNAL OPERATIONS APPROVED**

**I hereby authorise the approval/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 15-Dec-2025**

**Officer Report**

Weblink

**Site Description**

4 Rushfield Vale is a two storey mid-terraced property located within an area without notation on the Kirklees Local Plan. The front of the property faces Rushfield Vale with the rear elevation of the property facing and clearly visible from Fenay Bridge Road.

The property is constructed from stone with a tiled roof with an attached single-storey garage to the side of the property with a parking space to the front of the garage and a shared parking bay to the front of the property. To the rear is a garden area for the dwelling.

**Description of Proposal**

Permission is sought for a Certificate of Lawful Development for a proposed single storey rear extension, alterations to convert the garage to living accommodation and external alterations.

*Single storey rear extension*

The proposed single storey extension would be located on the rear elevation of the property. The extension would have a projection of 3 metres with a width of 4.8 metres with an eaves height of 3 metres and overall height of 4metres to the ridge of the pitched roof.

*Garage conversion*

It is proposed that the garage would be converted to living accommodation which would involve the removal of the garage door to the front elevation with the opening walled up and a door and window inserted.

*External alterations*

External alterations include the removal of the external door to the front of the property and also the removal of the existing front elevation ground floor windows and replacement with patio doors.

Officer Note

As part of a Certificate of Lawful Development, the onus is on the applicant to provide evidence which states why the proposal fits with the permitted development legislation.

**History of negotiations/amendments received**

No negotiations have taken place and no amended plans received.

**Relevant Planning History**

1988/94187 Outline application for residential development
*Granted Conditionally*

1989/00951 Erection of 13 no. dwellings and garages
*Granted Conditionally*

**Consultation Responses**

None required however Kirkburton Parish Council have offered no comments on the proposal.

**<u>Issues and Assessment</u>**

Part of the proposed works include a single storey rear extension.

Condition 11 of planning permission 1989/00951 states the following:

*'11. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1988 no buildings or extensions shall be erected in the area of plots 2, 3, 5, 6, 9, 10, 11, 12 and 13 on the approved plan without the prior approval of the Local Planning Authority.''*

The reason for imposing this permission was to ensure that unsatisfactory extensions do not result in close overlooking of adjoining property and so that adequate provision is made within the site in the interests of the safety and free flow of traffic.

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 for the single storey extension is therefore contrary to condition 11 of planning permission 1989/00951 and therefore permitted development rights do not apply.

In terms of the proposed garage conversion and external alterations, 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;

2. If so, whether permitted development rights apply to the property; and

3. 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).

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 purposes of this Act to involve development of the land –

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

(i) affect only the interior of the building, or
(ii) do not materially affect the external appearance of the building.

and are not 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 the garage door and to insert a door and window in its place in addition to the removal of the existing front elevation ground floor windows and replacement with patio doors would affect the external appearance of the building and therefore, it is concluded that the proposed works would fall within the definition of 'development'.

Therefore, the proposal, other than the single storey rear extension is assessed against the criteria of Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as follows:

**<u>Class A</u>**

**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 was not granted by any of the above.*

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:** There is no proposed increase in the original footprint of the dwellinghouse.*

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**: No enlargement to the dwellinghouse is proposed.*

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:** No enlargement to the dwellinghouse is proposed.*

e) The enlarged part of the dwellinghouse would extend beyond a wall which –
   (i) forms the principal elevation of the original dwellinghouse; or
   (ii) fronts a highway and forms a side elevation of the original dwellinghouse;

***Comment**: No enlargement to the dwellinghouse is proposed.*

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 dwelling, or 3 metres in the case of any other dwellinghouse.
   (ii) Exceed 4 metres in height;

***Comment**: No enlargement to the dwellinghouse is proposed.*

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
   (ii) Exceed 4 metres in height

***Comment**: No enlargement to the dwellinghouse is proposed.*

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 opposite the rear wall of the dwellinghouse

***Comment**: No enlargement to the dwellinghouse is proposed.*

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;

***Comment**: No enlargement to the dwellinghouse is proposed.*

j) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would-

(i) Exceed 4 metres in height
(ii) Have more than a single storey, or
(iii) Have a width greater than half the width of the original dwellinghouse

***Comment**: No enlargement to the dwellinghouse is proposed.*

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**: No enlargement to the dwellinghouse is proposed.*

k) 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 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**: None of the above are proposed.*

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

***Comment:** The dwellinghouse was not granted under Part 20 of the 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;
b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
c) 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.*

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;
b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—

    (i) obscure-glazed, and
    (ii) 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
    (iii) 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 walling up of the garage door need to be from matching materials. There is no indication that there would be any additional upper floor openings.*

**<u>Conclusion:</u>**

The proposal has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for approval of the garage conversion and external alterations and refusal for the construction of the single storey rear extension.

Section 193(4) of the Town and Country Planning Act allows for the Local Planning Authority to issue a decision:

a) for the whole part of the land specified in the application; and
a) where the application specifies two or more uses, operations or other matters, for all of them or some one or more of them:

and shall be in such form as may be prescribed by a development order.

As such:

The proposed 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 works would be contrary to condition 11 of planning permission reference 1989/00951 and thus not permitted by reason of Article 3(4) of the same Order.

The garage conversion and external alterations benefit from a general planning permission granted by virtue of Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) subject to conditions as stated within paragraph A.3 of the same Order.

Plans and specifications schedule:-

| **Plan Type** | **Reference** | **Version** | **Date Received** |
|---|---|---|---|
| Location plan | 0100 | | 4th November 2025 |
| Existing site layout, elevations and floor plans | 0101 | | 4th November 2025 |
| Proposed site plan, elevations and floor plans | 0102 | | 4th November 2025 |

**Dated:** 15th December 2025