

**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/93144/W

Site: 38, Oakes Lane, Brockholes, Holmfirth, HD9 7AR

Description: Certificate of lawfulness for proposed erection of rear dormer and associated alterations

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 21-Jan-2026

[Weblink](#)

Site Description

38 Oakes Lane is a two-storey semi-detached dwelling located within an area defined as the Strategic Green Infrastructure Network. The property is constructed from stone with a blue slate roof. There's a porch to the front alongside a hardstanding area and to the side and rear is amenity space.

The surrounding area is predominantly residential.

Application Proposal

The application is for a certificate of proposed lawful development for the erection of a rear dormer.

A dormer is proposed on the rear elevation, set back from the existing eaves by approximately 0.5 metres being a width of 4.9 metres. The dormer would project 3.9 metres from the roof ridge and would be a total height of 2.3 metres. The total cubic volume increase would be approximately 21.9 cm³.

It is important to note that the property has benefitted from a two storey side extension which has already increased the roof space of the original building. The previous addition to the roof had dimensions shown on approved plan 2003/91755, albeit slightly different to the plans submitted with the proposed dormer. The measurements on the 2003 plan are approximately 12.5% less than the measurements on the submitted drawings. Any re-submission may need to clarify the accuracy of plans This enlargement can be broken down into two additional shapes; one is essentially an irregular square based pyramid above the two storey extension which as a volume of $(1/3) \times \text{base area} \times \text{height}$ and a hip to gable enlargement of the original roof space which is essentially an irregular triangular based pyramid which as a volume of $(1/3) \times \text{base area} \times \text{height}$ much the same as a hip to gable enlargement..

Enlarged roof space above two storey extension

Width – 3.3 metres

Depth – 7.7 metres

Height – 2.4 metres

Volume = $((7.7 \times 3.3) \times 2.4)/3 = 20.33 \text{ m}^3$

Hip to gable can be measured as, 2.4 metres in height, 7.7 metres in depth and 3.4 metres in length.

Volume = $((7.7 \times 2.4)/2) \times 3.4/3 = 10.47 \text{ m}^3$

Therefore, the total roof enlargement with the dormer would be 52.7m³.

The property has not had its permitted development rights removed.

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. In this case, the application for states that:

The existing property is a lawful single dwellinghouse (Use Class C3). The property has been in continuous residential use for a significant period, with Council Tax and utility records confirming occupation as a private dwelling. The existing loft space is accessed via a permanent staircase and used as ancillary accommodation (a small study) within the main dwelling. No enforcement action has been taken, and the structure is consistent with the approved residential character of the area.

Relevant Planning History

2003/91755 Erection of two storey extension – Conditional Full Permission

Consultations

This is an application for a Lawful Development Certificate and, for this reason, no consultations are necessary. However, Holme Valley Parish Council have confirmed that they have no comments to make regarding the application.

Policies and Legislation

The site has no policy- based constraints in respect of permitted development. As such, the application falls to be considered under the relevant legislation as follows: -

- The Town and Country Planning Act 1990 – Section 55
- The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Assessment:

The main considerations in the determination of this application are:

1. Whether the proposed development would constitute development as defined within Section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015:
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), Class B (additions etc to the roof of a dwellinghouse).

The proposal comprises of a rear dormer. Thus, the proposal constitutes the carrying out of building on and over land that would materially affect the external appearance of the existing building. As such, it is regarded as development as defined by Section 55(2)(a)(ii) of the Town and Country Planning Act 1990.

The application therefore falls to be considered 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 B.

Permitted development

Dormer – Class B

B. The certificate of lawful development for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof is permitted development subject to complying with the relevant criteria below:

Development not permitted

B.1 Development is not permitted by Class B 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) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;

Comment: *No part of the development would exceed the height of the highest part of the existing roof*

- (c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;

Comment: *No part of the dwellinghouse would, as a result of the works, extend beyond an existing roof slope which forms the principal elevation.*

- (d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than –
 - (i) 40 cubic metres in the case of a terrace house, or
 - (ii) 50 cubic metres in any other case

Comment: *The cubic content of the resulting roof space would exceed 50 cubic metres due to the construction of the 2 storey side extension which was granted permission under application number 2003/91755. The proposed additional and proposed roof space would exceed 50 cubic metres.*

(e) it would consist of or include –

- (i) the construction or provision of a verandah, balcony or raised platform, or
- (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe;

Comment: *None of the above are proposed.*

(f) the dwelling is on article 2(3) land;

Comment: *The dwelling is not on article 2(3) land.*

(g) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses) or

Comment: *The dwellinghouse was not built under Part 20 of the Schedule.*

(h) the existing dwellinghouse has been enlarged in reliance on the permission granted by Class AA (enlargement of a dwellinghouse by construction of additional storeys).

Comment: *The existing dwellinghouse has not been enlarged via a Class AA permission.*

Conditions

B.2 Development is permitted by Class B subject to the following conditions –

- (a) the materials used in any exterior work must be of similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- (b) the enlargement must be constructed so that –
 - (i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof of the to the roof of a rear or side extension –
 - (aa) the eaves of the original roof are maintained or reinstated; and
 - (bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and
 - (iii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the

enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and

(c) any window inserted on 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.

Conclusion

The proposed enlargement to the roof has been assessed against the relevant legislation, Town and Country Planning (General Permitted Development)(England) Order 2015(as amended), Schedule 2 Part 1, Class B and it has not been deemed permitted development. As a result, the works would require planning permission and the lawful development certificate is therefore refused.

Recommendation: Refuse certificate

Decision Authorisation - Delegated Powers

Application Number: 2025/93144

Officer Recommendation: Refuse certificate

The proposed rear dormer extension as shown on the submitted plans listed in this decision notice does not benefit from a general planning permission granted under Article 3(1) and Schedule 2, Part 1 (Development within the curtilage of a dwelling house), Class B of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) as the proposal exceeds the resultant roof space limitation as set out in sub-paragraph B.1(d) and B.3 of Class B.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Existing location plan, site plan, elevations, floor plans and section	DCC-16_1000		12 th November 2025
Proposed site plan and floor plans	DCC-16_0200		12 th November 2025
Proposed front and rear elevations	DCC-16_2010		12 th November 2025
Proposed side elevation and section	DCC-16_0211		12 th November 2025
Planning Statement	DC-Collective		12 th November 2025

Report Dated: 5th January 2025