

**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.: 2026/CL/90735/E

Site: 85, Combs Road, Thornhill, Dewsbury, WF12 0LD

Description: Certificate of lawfulness for proposed demolition of
existing conservatory and porch and erection of two
storey rear extension including garage conversion

Case Officer: Laura Yeadon

Decision Reference: Certificate 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.**

Lee Stoney

AUTHORISED OFFICER

Date 29-May-2026

Officer Report

[Weblink](#)

Site Description

85 Combs Road is a detached, two storey property located within an area without notation on the Kirklees Local Plan. The property is constructed from red brick and has a rosemary tiled roof. The front of the property faces Combs Road with the rear elevation facing a private access road which provides vehicular access to the rear of the property where an attached single storey flat roof garage is located. The main amenity space is to the rear.

Description of Proposal

Permission is sought for a Certificate of Lawful Development for the demolition of existing conservatory/porch and erection of two storey rear extension including garage conversion.

Demolition

There is a porch/conservatory located on the rear elevation of the property which is proposed to be demolished as part of the proposed development.

Two storey extension

A two-storey extension is proposed to be located to the rear of the property.

The proposed extension would sit behind the two-storey body of the property. The plans are annotated and state that the extension would project 3,323 metres from the rear elevation of the property with an eaves height of 5.5 metres and overall height of 7.020 metres.

Alterations to garage structure

It is proposed that the existing garage would be converted and the internal space at ground floor reconfigured to a bedroom and bathroom. The existing garage door would be walled up and 3 no. elongated windows installed.

It is also proposed that the rear of the garage would be extended and attach to the proposed two storey extension lying flush with the rear elevation of the proposed extension. In addition, the flat roof of the garage would be removed and replaced with a lean-to roof.

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. In this case, the applicant has stated on the

application form that the proposal is permitted development and that a Certificate is sought to confirm this.

History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

Relevant Planning History

1999/93064 – Erection of bay window extension – Conditional Full Permission

Consultation Responses

None required

Representations

The Kirklees Development Management Charter details how the Local Planning Authority will undertake a formal period of publicity. The Charter is clear (page 4) that notification on types of application for which there is no statutory requirement to do so will not be carried out. This includes applications for certificates of lawfulness of proposed/existing use or development. The Charter goes on to comment (page 7) that applications for certificates of lawfulness for existing or proposed use/development will not be advertised by site notice, neighbour notification letters or newspaper advertisement, however the applications will be advertised on the Kirklees website.

As a result of the application being advertised on the Kirklees Council website, one representation has been received with the following comments summarised below:

- Am I writing thinking that if the Certificate of Lawfulness is permitted then Planning Application for the proposed extension is automatically granted?
- If this is the case, I wish to know if the 45-Degree Rule has been undertaken in relation to my property, Combs Road, by my neighbour and the developers and if so what are the results? Will this impact upon my day light and sunlight?
- If this test has not been undertaken, then I request that it is and the results made known to me. The room that will be impacted is my lounge where extended periods are spent
- If my day light and sunlight are going to be impacted by the proposed development I hereby object to the proposal

In response to the above comments, the National Planning Practice Guidance states that in relation to Certificates of Lawful Development (Paragraph: 008 Reference ID: 17c-008-20140306) that 'Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant

when determining the application.’ Therefore, whilst concerns have been raised regarding the application, these are not considered to be a consideration which is material in determining whether the proposed use constitutes development which is granted via a general planning permission under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

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

Matters for consideration

The application site consists of a detached property with a north facing front elevation and a south facing rear elevation. There is a single storey flat roof garage structure to the side facing 83 Combs Road.

The original property, as marked on the 1965 historic map is indicate as follows:



The property has not been altered in footprint to the present day except for the conservatory to the rear and the bay window extension. It is proposed that the conservatory would be demolished.



It is clear from comparing the above plans that the garage structure is part of the original building.

Also of relevance is that the original rear elevation has a staggered rear elevation and therefore any proposed enlargement which attaches to the rear of the western part of the property would extend beyond an original side elevation as highlighted below:



It is also noted that is proposed that the existing garage would be extended by way of a lean-to roof to replace the flat roof and that the rear elevation of the

garage extension would attach to and be incorporated into the proposed two storey extension.

The application therefore falls to be considered under Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

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.*

- 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: *No more than 50% of the curtilage of the dwellinghouse would be covered by buildings for 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 enlarged part of the dwellinghouse would not exceed the height of 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 height of 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 the principal elevation of the original dwellinghouse nor would it form a side elevation that fronts a 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: *Not applicable as a single storey extension is not proposed.*

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: *Not applicable as a single storey extension is not proposed.*

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 be more than a single storey and it would be more than 7 metres from the boundary opposite the rear wall of the dwellinghouse. However the enlarged part of the dwellinghouse would extend more than 3 metres from the rear elevation of the original dwellinghouse.*

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 and would have an eaves height which exceeds 3 metres in height.*

i) 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
- (i) Have more than a single storey, or

- (ii) Have a width greater than half the width of the original dwellinghouse

Comment: As demonstrated within the image above, a side elevation of the original building is located to the rear of the property. As such, the enlarged part of the dwellinghouse would extend beyond a side elevation would exceed 4 metres in height, would have more than a single storey and would have a width greater than half the width of the original dwellinghouse by virtue of spanning the full width of the rear elevation. In terms of the garage extension as this would attach to the rear of the garage and alters the roof form of the original feature, by virtue of its attachment to the proposed two storey element of the proposal, this also fails to meet criteria (i), (ii) and (iii) above.

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: Page 28 of the Permitted development rights for householders – Technical Guidance states that ‘Where the proposed extension is to be joined to an existing extension to the original house, whether that was built following a planning application or under permitted development rights, the total enlargement (being the proposed extension together with the previous extension) must meet the limits set out in (e) to (j) above’. As the garage is to be extended and attached to the proposed two storey section as would the side extension to the side facing 101 Combs Road, the proposal would be deemed one structure and would fail to comply with the requirements of sub—paragraphs A.1(h), A.1(i) and A.1(j) (i) (ii) and (iii).

- 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 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.

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

Comment: The dwellinghouse was not built 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;
- 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.

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.

Conclusion:

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

The proposed two storey rear extension and garage conversion does not 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) as the development would not comply with sub-paragraphs A.1(h), A.1 (i), A.1 (j) (i), (ii) & (iii) and A.1(ja) of the Order.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form	PP-14779363		16 th March 2026
Existing floor plans	101		16 th March 2026
Existing elevations	102		16 th March 2026
Proposed floor plans	103		16 th March 2026
Proposed elevations	104		16 th March 2026
Existing block plan	105		16 th March 2026
Proposed block plan	106		16 th March 2026

Location plan	107		16 th March 2026
Permitted Development Supporting Statement			16 th March 2026

Dated: 18th May 2026