

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/91133/E

Site: 23, Asquith Fields, White Lee, Batley, WF17 8FH

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.**

John Holmes

AUTHORISED OFFICER

Date 18-Jun-2026

Officer Report

[Weblink](#)

Site Description

23 Asquith Fields is an end-terraced property located within an area without notation within the Kirklees Local Plan. The property has a rendered front elevation and a bricked rear elevation with a tiled roof with solar panels on the rear elevation roof slope. To the front of the property are 2 no. off-street parking spaces and to the rear is an enclosed rear garden.

Description of Proposal

Permission is sought for a Certificate of Lawful Development for a proposed rear dormer and associated alterations.

The dormer would result in the removal of the existing solar panels. The dormer would have a width of 5.2 metres, height of 3.9 metres with a projection of 4.7 metres. The total volume increase of circa 47.6 cubic metres. The plans indicate that the dormer would be finished in a grey colour to match the existing roof.

The associated alterations to the property include the relocation of the solar panels to the roof of the dormer and also the installation of a window within the side elevation loft space.

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 in accordance with Class B of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

Relevant Planning History

2009/93455 – Erection of residential development of 36 dwellings with associated access – Granted under Reg. 3 General Regulations

Conditions 23 and 24 of this permission state the following:

Notwithstanding the terms of the Town and Country Planning [General Permitted Development] [Amendment] [No 2] [England] Order 2008

permitted development rights for roof alterations [Part 1 Class 2], are removed from Plots 19-33 of this development.

Notwithstanding the terms of the Town and Country Planning [General Permitted Development] [Amendment] [No 2] [England] Order 2008 permitted development rights for the erection of means of enclosure [Part2 Class 1] are removed from Plots 3-18 of the development.

Upon the submitted plans the subject of application 2009/93455 23, Asquith Fields, White Lee is listed as plot no.12 (drawing ref: 09036/01A).

The proposal does not relate to a means of enclosure.

2011/91048 – Removal or variation of condition 2 relating to previous application 2009/48/93455/E1 for erection of residential development of 36 dwellings with associated access – Approved

A permitted development rights restriction is in place upon this consent, listed as conditions 8 and 9, stating the following:

Notwithstanding the terms of the Town and Country Planning [General Permitted Development] [Amendment] [No 2] [England] Order 2008, permitted development rights for roof alterations [Part 2 Class 1] are removed from Plots 19-33 of this development. Reason: To protect the residential amenity on Delmont Close in accordance with Policy BE12 of the Unitary Development Plan. 9. Notwithstanding the terms of the Town and Country Planning[general Permitted Development] [Amendment] [No2] [England] Order 2008 permitted development rights for the erection of means of enclosure are removed from Plots 3-18 of this development.

*Notwithstanding the terms of the Town and Country Planning[general Permitted Development] [Amendment] [No2] [England] Order 2008 permitted development rights for the erection of means of enclosure are removed from Plots 3-18 of this development.
Reason: To accord with Policy BE23 of the Unitary Development Plan.*

Upon the submitted plans the subject of application 2011/91048 23, Asquith Fields, White Lee is listed as plot no.12 (drawing ref: 09036 / 02D).

2026/91127 – Prior notification for single storey rear extension – Not yet determined

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;
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).

As part of the planning history for the wider development site, conditions were imposed onto the decision notices in relation to the removal of permitted development rights. Discussed in more depth in the earlier, planning history section of this report, the application site was known as Plot 12 and therefore has not had its permitted development rights removed for roof alterations. Therefore, the property benefits from permitted development rights for a roof enlargement.

The proposal comprises of a rear dormer and a side elevation window. 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 could only be 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 property is a terraced house with the dormer consisting of a total volume increase of 47.6 cubic metres. Therefore, the proposed works fail to comply with this requirement.*

- (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.

B.3 For the purposes of Class B, “resulting roof space” means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.

Comment: *The proposed construction materials are indicated on plan to be of a colour to match the existing. The base of the dormer would be set up from the eaves of the dwellinghouse by more than 0.2 metres. It is brought to the applicant’s attention that the installation of the proposed side elevation window would need to comply with B.2 (c)(i) and (ii) above.*

Conclusion

The proposed enlargement to the roof has been assessed against the relevant 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 recommended to be refused.

Recommendation: Refuse certificate

Decision Authorisation - Delegated Powers

Application Number: 2026/91133

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 subparagraph B.1(d).

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Application form	PP-14881985		23 rd April 2026
Location plan	PP-14881985v1		23 rd April 2026
Existing location plan, site plan, elevations and floor plans	S01		23 rd April 2026
Proposed site plan, elevations and floor plans	S03		23 rd April 2026