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.: 2022/CL/90925/E

Site: 82, Wakefield Road, Clayton West, Huddersfield, HD8 9NN

Description: Certificate of lawfulness for proposed rear dormer, raised decking, and external alterations.

Case Officer**:** Jennifer Booth

Decision Reference: PROPOSED OPERATION GRANT/REFUSE

I hereby authorise the approval and 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 03-Oct-2022

Reference:	2022/CLD/90925/E
Applicant: -	J Field
Location: -	82, Wakefield Road, Clayton West, Huddersfield, HD8 9NN
Proposal: -	**Certificate of lawfulness for proposed rear dormer, raised decking, and external alterations**



Site Description

82 Wakefield Road is a semi-detached bungalow with porch style extensions to the side, gardens to the front with a drive to the side and an enclosed garden to the rear.

The property is located on a residential street with a mix of property types and ages surrounding.

Application Proposal

The application is for a certificate of lawful proposed development for a rear dormer, raised decking and external alterations. 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.

The platform of the raised decking would be 1.8m above the ground level with a projection of 3m, a width of 2.8m and an additional 0.9m for the stairs. The balcony would be enclosed with a 1.8m high glazed screen.

The rear dormer would have a width of 5.9m, a depth of 3.6m and a height of 2.6m. the resultant volume would be 28m3.

Relevant Planning History

None

Consultations

This is an application for a Lawful Development Certificate and for this reason, no consultations are necessary. However, as the property is located in Clayton West, Denby Dale Parish Council were notified of the application.

Legislation

The Town and Country Planning Act 1990 Section 55 and 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 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 dwelling house), Class A (enlargement, improvement or other alteration of a house) and Class E (buildings etc incidental to the enjoyment of a dwellinghouse).

The proposal comprises a rear dormer, raised decking on the rear and the removal of an external door on the north east elevation. 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 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 dwelling house), Class A (enlargement, improvement or alterations of a house) and Class B (enlargement, improvement or alterations of a house).

Permitted development – Raised decking to the rear

A. The certificate of lawful development for the enlargement of a dwellinghouse consisting of the addition of an extension to the rear of the house is permitted development subject to complying with the relevant criteria below.

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 for this dwelling was not granted by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use).*

(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 *As can be seen from the location plan provided by the applicant, the proposals would not take up more than 50% of the area of the curtilage 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 *Not relevant*

(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 *Not relevant*

(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 *Not relevant*

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

Comment *Not relevant*

(g) until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, 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 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 *Not relevant*

(h) The enlarged part of the dwellinghouse would have more than a single storey and—
(i) Extend beyond the rear wall of the original 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 *Not relevant*

(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 *Not relevant*

(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 *Not relevant*

(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); *this criteria is not relevant.*

(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 or replacement of a chimney, flue or soil and vent pipe, or
(iv) An alteration to any part of the roof of the dwellinghouse

Comment *The proposal does include the construction of a raised platform with a height above ground level of 1.8m. As such, the proposals fails this criteria*

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 located in a conservation area.

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

(c) 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.

Permitted development

B. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

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); **N/A**

(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof; *The proposal does not exceed the existing height of the dwelling.*

(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; *The proposals would not extend beyond the existing roof slop on 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;

Rear dormer

*5.9m (width) * 2.6m (height) * 3.8m (depth) / 2 = 27.61*

Total resultant roof space at 27.61 cubic meters

(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; or ***N/A***

(f) the dwellinghouse is on article 2(3) land. **N/A**

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 a 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 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

(ii) 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.

Interpretation of Class B

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.

B.4 For the purposes of paragraph B.2(b)(ii), roof tiles, guttering, fascias, barge boards and other minor roof details overhanging the external wall of the original dwellinghouse are not to be considered part of the enlargement.

Conclusion

The proposed alteration to remove the external door on the north east elevation of 82 Wakefield Road benefits from a general planning permission 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 respective conditions as set out in paragraph A.3 of the same Order.

The proposed raised decking to the rear of 82 Wakefield Road exceeds the limitations set out in paragraph (k) of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 by reason of the height of the raised platform exceeding 0.3 metres.

The proposed rear dormer at 82 Wakefield Road benefits from a general planning permission by virtue of Article 3(1) and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)subject to respective conditions as set out in paragraph B.2 of the same Order.

Recommendation: SPLIT DECISION certificate

Decision Authorisation - Delegated Powers
Application Number: 2022/90925

Officer Recommendation: SPLIT DECISION certificate

KIRKLEES COUNCIL HEREBY CERTIFIES THAT ON 17 MARCH 2022 THE OPERATIONS DESCRIBED IN THE SECOND SCHEDULE THERETO IN RESPECT OF THE LAND SPECIFIED IN THE THIRD SCHEDULE HERETO AND EDGED RED ON THE SUBMITTED PLANS WOULD BE LAWFUL WITHIN THE MEANING OF SECTION 192 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED), FOR THE FOLLOWING REASONS:

The proposed alteration to remove the external door on the north east elevation of 82 Wakefield Road benefits from a general planning permission 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 respective conditions as set out in paragraph A.3 of the same Order.

The proposed rear dormer at 82 Wakefield Road benefits from a general planning permission by virtue of Article 3(1) and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)subject to respective conditions as set out in paragraph B.2 of the same Order.

KIRKLEES COUNCIL HEREBY REFUSES TO CERTIFY THAT ON 17 MARCH 2022 THE OPERATIONS DESCRIBED IN THE FIRST SCHEDULE THERETO IN RESPECT OF THE LAND SPECIFIED IN THE THIRD SCHEDULE HERETO AND EDGED RED ON THE SUBMITTED PLANS WOULD BE LAWFUL WITHIN THE MEANING OF SECTION 192 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED), FOR THE FOLLOWING REASONS:

The proposed raised decking to the rear of 82 Wakefield Road exceeds the limitations set out in paragraph (k) of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 by reason of the height of the raised platform exceeding 0.3 metres.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
Application form	-	922716	16/03/2022
Proposed plans	MOA 2119 10 03-REV D A1	922721	16/03/2022
Proposed plans	MOA 2119 10 01-A1	922720	16/03/2022
Proposed plans	MOA 2119 10 02-REV D A1	922719	16/03/2022
Location plan	MOA 2119 00 01	922717	16/03/2022
Design & access	MOA 2119	922718	16/03/2022

Plan Type	Reference	Web ID	Date Received
Application form	-	922716	16/03/2022
statement			

Report Dated 30/09/2022