

**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/90564/E

Site: 28, Penn Drive, Hightown, Liversedge, WF15 8DB

Description: Certificate of lawfulness for existing rear
conservatory extension

Case Officer: Charlotte Hancock

Decision Reference: EXISTING OPERATIONS GRANT

I hereby authorise the approval 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 07-May-2025

Site description

28 Penn Drive is a semi-detached bungalow constructed of red brick. The property is located on a residential street with houses of the same size, design and material palette. The property appears to have been extended to the north-west elevation previously. The property benefits from a small amenity space to the front, with a large driveway and garage located to the northwest of the property and a large garden to the rear.

Description of development

The application is for a certificate of lawfulness for existing rear conservatory extension and is based on the grounds that the extension was built 11 years before the date of this application, as the application form states that the conservatory was built on the 01.12.2013.

Representations

No representations received.

Consultation Responses

No consultations were deemed necessary for this proposal, as it is an application for a Lawful Development Certificate.

Assessment

Section 191(1) of the Town and Country Planning Act 1990 ("the Act") permits any person who wishes to ascertain whether any operations or existing use of buildings or other land would be lawful to make an application to the Local Planning Authority.

Section 191(2) of the Act provides that operations are lawful if:

- A. No enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for taking enforcement action has expired or for any other reason);
- B. They did not constitute the contravention of any of the requirements of any enforcement notice then in force.

In determining for the purposes of this section whether the time for taking enforcement action under section 171B of the Act has expired, that time is to be taken not to have expired if—

(a) the time for applying for an order under section 171BA(1) (a "planning enforcement order") in relation to the matter has not expired,

(b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or

(c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.

The Relevant Test:

The burden of proof lies firmly with the Applicant and the relevant test for whether the operations can be deemed lawful is the 'balance of probability'.

The applicant's evidence does not need to be corroborated by 'independent' evidence. If the Local Planning Authority has no evidence of their own, or from others, to contradict or otherwise make the Applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the granting of a certificate on the balance of probability.

Limitations:

The LDC must contain precise details of what use or operation is found to be lawful, why and when. The details will not be legally equivalent to a planning condition or limitation. They will be a point of reference specifying what was lawful at a particular date, against which any subsequent change may be assessed. If the use subsequently intensifies or changes in some way to the point where a 'material' change of use takes place, Local Planning Authority may then consider further development has taken place.

Relevant Planning History

No planning history.

Evidence submitted in support of the application

Evidence submitted includes the application form, site location plan, site plan, existing elevations plan as well as two supporting letters.

Evidence obtained from Council Records and other Sources

Dated aerial imagery from Council Records.

Evidence submitted against the application

No evidence has been submitted against the application.

Assessment of evidence

The applicant has stated that the conservatory has been at the site for over 10 years, with it being completed on the 01.12.2013.

Two letters have been submitted in support of this application. The first letter is from a laborer who helped construct the conservatory, who stated that they worked on the conservatory approximately at the end of 2013. The second supporting letter was from a neighbour who confirmed that the conservatory was built towards the end of 2013.

From looking at aerial imagery obtained from Council records, imagery dated from 2013-2017 is not available. That being said, the earliest date available which demonstrates the conservatory at the property is 2018. As the conservatory was substantially complete before the 25th April 2024, the 4-year time limit, as specified within Section 171B of The Town and Country Planning Act 1990, would apply. Therefore, based off the aerial imagery obtained from Council Records, the latest year that the conservatory would be immune from enforcement action would be 2022, though there is no evidence to the contrary

to demonstrate that the conservatory has not been at the site since 2013, meaning it would be immune from enforcement action in 2017.

The evidence submitted as part of this application as well as that which has been obtained from Council records demonstrates that the conservatory was substantially complete at the site for over 4 years prior to the date of this application.

Conclusion

Officers are satisfied that the conservatory at 28, Penn Drive, Hightown, Liversedge, WF15 8DB was substantially completed more than 4 years prior to the date of this application. On this basis, the recommendation is that the certificate of lawful use should be granted.

Recommendation: Grant Certificate

Decision Authorisation - Delegated Powers

Application Number: 2025/90564

Officer Recommendation: Grant Lawful Development Certificate

Based on the information submitted by the applicant and the information held by the Local Authority, it has been demonstrated on the balance of probability that the conservatory at 28, Penn Drive, Hightown, Liversedge, WF15 8DB had been substantially completed in excess of 4 years, prior to the date of this application and as such is lawful.

Plans and specifications schedule:

Plan Type	Reference	Date Received
Application form	1079460	12/03/2025
Location plan	1079457	12/03/2025
Site plan	25/31	12/03/2025
Supporting statement	-	12/03/2025
Supporting statement	-	12/03/2025
Existing elevations	25/31	12/03/2025
Statutory declaration AE	-	12/03/2025

Report Dated 24/04/2025

