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/90639/E
Site:	38, Pioneer Street, Thornhill Lees, Dewsbury, WF12 0AJ
Description:	Certificate of lawfulness for single storey side extension
Case Officer**:**	Charlotte Hancock
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 12-May-2025

Officer Report

Site Description
38 Pioneer Street is a brick built, terraced dwelling with a drive to the front, path along the side and enclosed garden to the rear. The property has a conservatory at the rear.

The property is located on a residential street with properties of a similar age although some have been extended and altered.

Description of Proposal
Permission is sought for a Certificate of Lawfulness for proposed erection of single storey side extension.

The side extension would be located to the western elevation of the dwelling and would have a lean to roof. The extension is not rectangular in shape as it decreases in width to the rear to match the shape of the site. The side extension would have a maximum height of approximately 3.2 metres, with it being 2.4 metres to the eaves, a width of approx. 2.5 metres at the front which decreases to 1.2 metres to the rear and a length of approx. 8.5 metres.

The property has not had its Permitted Development Rights removed.

History of negotiations/amendments received
No negotiations/ amendments received.

Relevant Planning History
2024/93037- Erection of two storey side and rear extensions- Refused

2025/90482- The proposal is for erection of single storey rear extension. The extension projects 6m beyond the rear wall of the original dwellinghouse. The maximum height of the extension is 2.8m , the height of the eaves of the extension is 2.8m- Not Required

Consultation responses

This is an application for a Lawful Development Certificate and, for this reason, no consultations are necessary.

Issues and 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; 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 dwellinghouse).

The proposal comprises the erection of an extension to the property and therefore 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 being 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 other alteration of a dwellinghouse).

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 has not been granted by any of the above.*

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*: The total area of ground covered would not exceed 50% of the total 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*: The highest part of the enlargements would not exceed the height of the highest part of the roof of the existing dwellinghouse.*

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: *The height of the eaves would not exceed the height of the eaves of the existing dwellinghouse.*

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: *To the north-west of the site is an unadopted path. For the purposes of Part 1, the term "highway" includes an unadopted street or private way. In this instance, the path appears to have been used as access from Ingham Road to Pioneer Street and has existed for more than 50 years. Throughout this time, the path appears to have been unobstructed which allows members of the public to utilise the path. As a result, although the path is unadopted, it is a way which the public have used for a period in excess of 50 years without obstruction as a thoroughfare to the extent that accrued rights as a highway for the purposes of planning control have been obtained. As such, the proposed enlargement would extend beyond a wall which forms a side elevation and fronts a highway.*

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 dwelling, or 3 metres in the case of any other dwellinghouse.

II. Exceed 4 metres in height;

Comment: *The dwelling is a detached property and the enlarged part of the dwellinghouse would not extend beyond the rear wall of the original dwellinghouse. The enlargement would not exceed 4 metres in height.*

g) 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 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: *The enlarged part of the dwellinghouse would have a single storey but would not extend beyond the rear wall of the original dwellinghouse. It would not exceed 4 metres in height.*

h) 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 not have more than a single storey.*

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: *The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse and the eaves of the enlarged part would not exceed 3 metres.*

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: *The enlarged part of the dwellinghouse would extend beyond a wall forming the side elevation of the original dwellinghouse and would not exceed the 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: *The total enlargement would not exceed the limits set out in the sub-paragraphs (e) to (j).*

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 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*: The proposal would not include any of the above.*

l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).
Comment: *Not applicable*

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.

d) 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 (b) and (c)
***Comment:** The dwellinghouse is not on article 2(3) land.*

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.
***Comment:** The construction materials would be of a similar visual appearance to the existing dwellinghouse. As the proposal is for a single storey extension, no upper floor windows in a wall or roof slope forming a side elevation are proposed.*

Conclusion:
The proposal for the erection of single storey side extension at 38, Pioneer Street, Thornhill Lees, Dewsbury, WF12 0AJ has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for refusal.
The proposed side extension would not benefit from a general planning permission granted under 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 it would extend beyond a side elevation of the original dwellinghouse and front a highway.

Plans and specifications schedule: -

Plan Type	Reference	Date Received
Proposed floor plans and elevations	36PNS-0016	10.03.2025

Location Plan	1080323	10.03.2025
Application Form	1080325	10.03.2025

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The Case Officer entered into negotiations and request amended plans for the proposed development and it was considered that the application unacceptable in its submitted form without any scope of amend.

Dated: 30/04/2025