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/90853/W
Site:	22, Wilmar Drive, Salendine Nook, Huddersfield, HD3 3XQ
Description:	Certificate of lawfulness for proposed erection of rear canopy with terrace
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 11-Jun-2025

Officer Report

Site Description

22 Wilmar Drive is a semi-detached dwelling which has been mostly rendered with stone at the bottom portion of the front façade and a tiled hipped roof. The property benefits from a small driveway and amenity area to the front, as well as a private enclosed garden to the rear. The property has a terrace to the rear garden with steps leading down to a grassed area. The site is located within a residential area with neighboring dwellings being constructed of similar material pallets and design characteristics.

The property has not had its permitted development rights removed.

Description of Proposal

Permission is sought for a certificate of lawfulness for proposed erection of rear canopy with terrace.

The proposed rear canopy would project approximately 2.7 metres from the rear of the original dwellinghouse, would have an eaves height of 2 metres above the existing raised platform, and would have a width of approximately 9.8 metres. The canopy would have a pitched roof and would be supported partly on the existing garden walls. It would have a glass balustrade to the edge, and be constructed of timber with a tiled roof.

History of negotiations/amendments received

Clarification was sought from the agent regarding the proposed construction materials.

Relevant Planning History

2016/93456- Erection of extensions and dormer- conditional full permission

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 a rear canopy, 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.

An enlargement to a dwellinghouse would normally involve the creation of additional space which would increase the usable gross floor space area of the dwellinghouse. As the erection of the rear canopy aims to provide shelter to an existing external area and would most likely not contribute to additional new living space to the dwellinghouse, the development is considered to be an alteration to the 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 extension 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: *The development is not considered to be an enlargement to the dwellinghouse.*

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 development is not considered to be an enlargement to the dwellinghouse.*

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 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
II. Exceed 4 metres in height

Comment: *The development is not considered to be an enlargement to the dwellinghouse.*

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 development is not considered to be an enlargement to the dwellinghouse.*

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 development is not considered to be an enlargement to the dwellinghouse.*

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 development is not considered to be an enlargement to the dwellinghouse.*

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 development is not considered to be an enlargement to the dwellinghouse.*

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 proposed works would result in the formation of a verandah and balcony.*

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 proposed construction materials are timber and tile and therefore do not match those used in the construction of the exterior of the existing dwellinghouse.*

Conclusion:

The proposal at 22, Wilmar Drive, has been considered against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is recommended for refusal.

The proposed erection of single storey rear extension would 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 it consists of the construction of a verandah and balcony contrary to sub-paragraph A.1(k) of Class A.

Plans and specifications schedule: -

Plan Type	Reference	Date Received
Application Form	1082841	03/04/2025
Existing and Proposed Plans and Elevations	2502-01	03/04/2025

Climate Change Statement	1082843	03/04/2025

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.

Dated: 21/05/2025