MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	132020/LP/2021
Date registered valid:	25 October 2021
Proposal:	Certificate of Lawful Proposed Development for the erection of a single storey outbuilding and canopy
Address:	23 Newhey Avenue, Manchester, M22 8LP
Ward(s):	Northenden Ward
Applicant:	Mr Ion Marandici 23 Newhey Avenue, Manchester, M22 8LP
Agent (if any):	Mr Howard Lawrenson Lawrenson Associates 1 The Globe , 142 Hardshaw Street, St. Helens, WA10 1JT
Case officer:	Katie Raw Tel: 0161 234 4164 Email: katie.raw@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	15 December 2021

Application details

Type of application: Certificate Lawful Develpmnt Proposed

Development type: Certificates of lawfulness

Date of site visit: N/A

Standard consultations:
No consultations have been printed and sent.

Neighbour notifications
No neighbour notifications have been printed and sent.

Site notice
No site notice has been produced

Press advert
No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Not applicable

Conservation area:

Tree Preservation Order:

Description of area

The applicant site relates to 23 Newhey Avenue within the ward of Northenden in south Manchester. It is a 2 storey, red brick, semi-detached property. The property is located at the bottom of the cul-de-sac of Newhey Avenue in the right-hand side corner, and the property sits on a triangular plot.

Description of development

The submitted application seeks a Certificate of Lawful Proposed Development for the erection of a single storey outbuilding and canopy. As confirmed by the agent on 5 November via email, the outbuilding would be used as a combination of a summer house and garden shed. It would have a flat roof and sliding patio doors. It would be positioned in the north easterly corner of the rear garden. A canopy would replace the existing patio and would be positioned close to the outbuilding. On this basis it is considered that the outbuilding would be incidental to the enjoyment of the main dwellinghouse.

Planning history

132063/PDE/2021- Prior notification of proposed larger home extension projecting 3.07m to the rear with a maximum height of 3.7m and a height at eaves of 2.1m.
Approved 30 November 2021.

Consultations & Notification Responses

None.

Issues

The Certificate of Lawful Development has been applied for as the applicant wishes to gain confirmation that the erection of a single storey outbuilding and canopy constitutes permitted development. The proposal therefore needs to be assessed with regards to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This sets out the rules concerning what extensions, improvements, and alterations a householder may make to their house and the area around it without the need for an application for planning permission. Such works are known as 'permitted development'.

The Town and Country Planning, Schedule 2, Part 1, Class E - Permitted development - Buildings etc incidental to the enjoyment of a dwellinghouse.

E.1 Development is not permitted by Class E if—
(a)permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

(b)the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

(c)any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

(d)the building would have more than a single storey;

(e)the height of the building, enclosure or container would exceed—
(i)4 metres in the case of a building with a dual-pitched roof,
(ii)2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
(iii)3 metres in any other case;

(f)the height of the eaves of the building would exceed 2.5 metres;

(g)the building, enclosure, pool or container would be situated within the curtilage of a listed building;

(h)it would include the construction or provision of a verandah, balcony or raised platform;

(i)it relates to a dwelling or a microwave antenna; or

(j)the capacity of the container would exceed 3,500 litres.
Interpretation of Class E

E.4. For the purposes of Class E, “purpose incidental to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

Assessment

The proposed outbuilding and canopy would not occupy over 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse) and would constitute approximately 13% of the total footprint. If the approval for a larger home extension (132063/PDE/2021) was constructed, then the 50% rule would not be exceeded.

Both the outbuilding and canopy would not be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.

Both elements would not have more than a single storey. The outbuilding would have approximate dimensions of Height: 2.5 x Length: 7 x Width: 6.83 (at the widest point) metres. The outbuilding sits on the shared boundary with both 25 Newhey Avenue and 5 Hollyhedge Avenue. The canopy would have approximate dimensions of Height: 2.5 x Length: 2.25 x Width: 5.06 metres. Therefore, both elements comply with the maximum height prescribed.

The property is not a listed building, and the proposal would not include the construction or provision of a verandah, balcony or raised platform. Both the outbuilding and canopy relate to the dwellinghouse and as confirmed by the agent via email on 5 November, they are incidental to the enjoyment of the dwellinghouse.

As the proposed outbuilding does not breach any of the above restrictions and is considered to be incidental to the enjoyment of the main dwellinghouse, the certificate can be granted as the proposed development would be lawful as permitted development.

Human Rights Act 1998 considerations

This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person’s home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved polices of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: Approve

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) Approve on the basis that proposal detailed within:
- Application for a Lawful Development Certificate or a Proposed Use or Development form, stamped as received by the City Council as Local Planning Authority on 25 October 2021;
-Drawing- Existing and Proposed- Site Plans, numbered 101, stamped as received by the City Council as Local Planning Authority on 25 October 2021;
-Drawing- Location Plan, stamped as received by the City Council as Local Planning Authority on 25 October 2021;
constitutes permitted development in accordance with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 45M
Area Team Boundary - Name: SOUTH