MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	142562/LP/2025
Date registered valid:	8 April 2025
Proposal:	Erection of single storey rear extension
Address:	Paint Pots Newall Green Day Nursery , Scout Drive, Manchester, M23 2SY
Ward(s):	Baguley Ward
Applicant:	Ms Nichola Moss
Agent (if any):	Mr Oliver Meads Meads Architecture
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Grant

Date of recommendation: 30 May 2025

Application details

Type of application: Certificate Lawful Development Proposed

Development type: Certificates of lawfulness

Date of site visit: Not Required

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 and area

Application site relates to a single-storey building, originally constructed for and currently operating as a day care nursery (Use Class E(f)).

The application site is located within the Baguley Ward of Manchester.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a Certificate of Lawful Use or Development (CLOUP) for a proposed single storey rear extension.

Consultations & Notification Responses

Planning History - There have been one previous planning applications at this address;

Application Reference: F12149/LA
Proposal: CITY COUNCIL DEVELOPMENT Erection of a 50 place day nursery.
Decision: Approved 05.03.1980

Legislative Issues

Sections 191 and 192 of the Town and Country Planning Act 1990 provide for anyone (not just a person with a legal interest in the land) to apply to the local planning authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying:

(1) in the case of an application under section 191, the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition; or

(2) in the case of an application under section 192, the lawfulness of proposed operations on, or use of land.

The onus of proof in regard to (1) is firmly on the applicant and the issue of a certificate will depend on the on factual evidence provided about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The relevant test of the evidence in this matter is “the balance of probability” and the applicants own evidence does not need to be corroborated by independent evidence. If the LPA have no evidence to contradict the applicants version of events or make them less then probable, there is no good reason to refuse the issue of a certificate.

In regard to (2), this provides that, if the LPA are supplied with information satisfying them that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect; and, in any other case, they shall refuse the application.

In short, the purpose section 192 is to enable any person who wishes to find out whether any proposed use or operations would be lawful to apply to the LPA for that purpose

The application needs to describe the proposal with sufficient clarity and precision to enable the LPA to understand (from a written description and plans) exactly what is involved in the proposal; and to submit whatever supporting information or legal submission that are to be relied upon in order to satisfy the LPA that a certificate should be granted for the proposal.

In making their decision on an application under section 192, the LPA ask themselves the hypothetical question - *"If this proposed change of use had already occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"* In doing so, the LPA will not only consider whether the proposal would involve "development" requiring an application for planning permission, but whether it would involve a breach of any existing condition or limitation imposed on a grant of planning permission which has been acted upon, and which therefore constrains what can be done on the land. The LPA will not make a proposal fit a scenario; the only question is whether the proposal made by the applicant is lawful at the time of submission.

The Application

This application is pursued under subsection (1) of section 192, which provides for an application to determine whether any proposed use or operations would be lawful for planning purposes.

The applicant is seeking a certificate of proposed lawful development for a single-storey rear extension to a day care nursery. For the purposes of Class A “commercial, business or service premises” means a building, or part of a building, used for any purpose within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order. A day care nursery falls within Class E(f) of the Use Classes Order.

Assessment

The proposal will be considered under Schedule 2, Part 7, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) which is the relevant legislation for determining the extension or alteration of a commercial, business or service establishment.

Development not permitted if

Paragraph	Description	Complies Status
A.1(a)	the gross floor space of the original building would be exceeded by more than— (i) in respect of an original building or a development on— (aa) article 2(3) land, or (bb) a site of special scientific interest, 25% or 50 square metres (whichever is the lesser); (ii) in any other case, 50% or 100 square metres (whichever is the lesser);	**Yes**
A.1(b)	the height of the building as extended would exceed 4 metres;	**Yes**
A.1(c)	any part of the development (other than an alteration)— (i) is on land which— (aa) adjoins other premises which are used for a purpose falling within any of the classes in Part C (residential premises or institutions) of the Schedule Schedule 1 to the Use Classes Order, (bb) is article 2(3) land, or (cc) is a site of special scientific interest, and (ii) is within 2 metres of any boundary of the curtilage of the premises;	**Yes**
A.1(d)	the development would be within the curtilage of a listed building;	**Yes**
A.1(e)	any alteration would be on article 2(3) land;	

A.1(f)	the development would consist of or include the construction or provision of a verandah, balcony or raised platform;	**Yes**
A.1(g)	any part of the development would extend beyond the front of any existing building;	**Yes**
A.1(h)	the development would involve the insertion or creation of a new shop front or the alteration or replacement of an existing shop front; or	**Yes**
A.1(i)	the development would involve the installation or replacement of a security grill or shutter on a shop front.	**Yes**

Conditions

A.2 Development is permitted by Class A subject to the following conditions—

(a) any alteration is at ground floor level only;

Compliance Status: [Complies/~~Does Not Comply~~]

(b) any extension is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the building being extended; and

Compliance Status: [Complies/~~Does Not Comply~~]

(c) any extension or alteration is only to be used as part of, or for a purpose incidental to, the use of the commercial, business or service establishment.

Compliance Status: [Complies/~~Does Not Comply~~]

Conclusion

As demonstrated above, the proposed single storey rear extensions meet the requirements under Part 7, Schedule 2, Class A of the Town and Country (General Permitted Development) (England) Order 2015 (as amended). Therefore, the certificate should be granted based on the outcome of this assessment.

Other Legislative Requirements
Equality Act 2010
Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

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: Grant

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

1) The proposed single storey rear extension as shown on drawings L(00)07 Rev A, L(00)08 Rev A and L(00)09 Rev A, does constitute permitted development as it would meet the requirements of Schedule 2, Part 7, Class A 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
Area Team Boundary - Name: SOUTH AREA