Planning

Growth & Development

Delegated officer report for planning application

Application no.	143766/LP/2025
Date registered valid:	18 August 2025
Proposal:	Installation of two electrical upstands and associated feeder pillar for recharging vehicles
Address:	McDonald's, 336 Wilmslow Road, Manchester, M14 6XQ
Ward(s):	Old Moat Ward
Applicant:	Miss Emily Hawkins InstaVolt Ltd
Agent (if any):	
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	
Date of recommendation:	1 October 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

The application site relates to three and a half car parking spaces within the ground of a single storey detached Fast Food Restaurant located on Wilmslow Road within Fallowfield District Centre.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a certificate of proposed lawful development to allow the installation of two electrical upstands and associated feeder pillar for recharging vehicles.

Consultations & Notification Responses

None Required - There is no statutory requirement to consult third parties including neighbours; views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.

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.

In this case, the applicant is seeking to install two electrical upstands and an associated feeder pillar for vehicle recharging. Therefore, the proposed works are subject to the provisions of Class E.1 and E.2(a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) which is the relevant legislation for determining certificates for electrical upstand etc for recharging vehicles.

Class E permits the following development subject to compliance with the relevant paragraphs.

E. (1) The installation, alteration or replacement, within an area lawfully used for off-street parking, of an upstand with an electrical outlet mounted on it for recharging electric vehicles.

E. (2) The installation, alteration or replacement, at ground level within a non-domestic area lawfully used for off-street parking, of—

(a) equipment necessary for the operation of an upstand the installation of which would be permitted by this Class;

(b) a unit of equipment housing for the storage of equipment necessary for the operation of an upstand the installation of which would be permitted by this Class.

The Assessment

The following table outlines the compliance of the proposed development with the relevant paragraphs of Class E:

Paragraph		Complies
E.1 (1)	Development is not permitted by paragraph E(1) if the upstand and the outlet would— (a) in relation to an upstand and outlet— (i) within the curtilage of a dwellinghouse or a block of flats, exceed 1.6 metres in height from the level of the surface used for the parking of vehicles; or (ii) in any other case, 2.7 metres in height from the level of the surface used for the parking of vehicles;	Yes
	Paragraph (b) was deleted by UK Statutory Instrument 2025 No. 560	
	(c) be within a site designated as a scheduled monument	Yes
	(d) be within the curtilage of a listed building; or	Yes
	(e) result in more than 1 upstand being provided for each parking space.	Yes
E.1 (2)	Development is not permitted by paragraph E(2)(a) if the equipment would not be contained within equipment housing the installation of which would be permitted by this Class.	Yes
E.1 (3)	Development is not permitted by paragraph E(2)(b) if (a) it would result in there being more than 1 unit of equipment housing within a nondomestic area lawfully used for off-street parking;	Yes
	(b) the unit of equipment housing would—	
	(i) have a volume exceeding 29 cubic metres;	Yes
	(ii) exceed 3 metres in height from the level of the surface used for the parking of vehicles;	Yes
	(iii) be within 5 metres of a highway;	Yes
	(iv) be within 10 metres of the curtilage of a dwellinghouse or block of flats;	No
	(v) be within a site designated as a scheduled monument;	Yes
	(vi) be within the curtilage of a listed building.	Yes
Conditions		
E.2	Development is permitted by Class E subject to the conditions that when the development is no longer needed as a charging point for electric vehicles—	
	(a) the development is removed as soon as reasonably practicable; and	On going requirement
	(b) the land on which the development was mounted or into which the development was set is, as soon as reasonably practicable, and so far as reasonably practicable, reinstated to its condition before that development was carried out.	On going requirement

Conclusion

The installation of two electrical upstands and an associated feeder pillar for vehicle recharging fails to meet the requirements under Schedule 2, Part 2, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), specifically paragraph E.1(3)(iv), as the equipment housing unit would be located within 10 metres of the curtilage of a block of flats known as Morris Court, 1 Wynnstay Grove, Manchester, M14 6XG, which contains 17 flats.

Therefore, the certificate should be refused 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: Refuse

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

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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