MANCHESTER CITY COUNCIL

# Planning

## Growth & Development

## Delegated officer report for planning application

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| **Application no.** | 143172/LP/2025 |
| **Date registered valid:** | 11 June 2025 |
| **Proposal:** | Installation of roof and wall mounted photovoltaic panels. |
| **Address:** | 1 Bloomesbury Avenue, Manchester, M20 2BN |
| **Ward(s):** | Didsbury East Ward |
| **Applicant:** | Mr & Mrs Leung |
| **Agent (if any):** | Mr Simon Miles S R Miles Ltd |
| **Case officer:** | Robert Tyrer<br>Tel: 0161 234 4068<br>Email: robert.tyrer@manchester.gov.uk |
| **Recommendation:** | Grant |
| **Date of recommendation:** | 23 July 2025 |

**Application details**

**Type of application:** Certificate Lawful Development Proposed

**Development type:** Notifications

**Date of site visit:** 21 July 2025

**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 large, detached part single, part two storey dwellinghouse with an attached single storey garage. The site forms part of a mixed residential estate comprising a mix of dwellinghouse and apartments, located within Didsbury St James Conservation Area.

**Listed building:** Not applicable

**Conservation area:** Didsbury St James Conservation Area 1970

**Tree Preservation Order:** Not applicable

**Description of development**

A certificate of lawfulness of proposed use or development to allow the installation of roof and wall mounted photovoltaic panels.

**Consultations & Notification Responses**

**No Consultation Required** - There is no statutory requirement to consult third parties, including neighbours. Any views expressed by third parties regarding the planning merits of the case or concerning the applicant's private rights to carry out the proposed operation, use, or activity, 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.

The application site forms part of a recently constructed housing estate, approved under planning reference 108541/OO/2015/S2. As part of that approval, a planning condition was imposed removing permitted development rights for extensions, roof alterations, and outbuildings. These restrictions relate to development that would otherwise fall under Schedule 2, Part 1, Classes A, B, and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

The applicant is seeking a Certificate of Lawfulness for a Proposed Use or Development (CLOPUD) to allow the installation of photovoltaic panels on the roof and external walls of the dwelling.

However, although part of the proposal concerns the roof of the garage, it does not fall within the scope of the previously removed permitted development rights. Instead, it falls under a separate provision of the GPDO, specifically, it will be considered in accordance with Schedule 2, Part 14, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This is the relevant legislation when considering installation or alteration etc of solar equipment on a domestic premises.

As such the condition of the planning approval does not restrict this type of development.

**The Assessment**

| Paragraph | Complies |
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| **A.1** Development is not permitted by Class A if—<br>(a) the solar PV or solar thermal equipment would protrude more than 0.2 metres beyond the plane of the wall or, in the case of a pitched roof, the roof slope when measured from the perpendicular with the external surface of the wall or pitched roof slope; | Yes |
| b) in the case of solar PV or solar thermal equipment on a pitched roof, it would result in the highest part of the solar PV or solar thermal equipment being higher than the highest part of the roof (excluding any chimney); | Yes |
| (ba) in the case of solar PV or solar thermal equipment on a flat roof, it would result in the highest part of the solar PV or solar thermal equipment being more than 0.6 metres higher than the highest part of the roof (excluding any chimney); | n/a |
| (c) in the case of land within a conservation area or which is a World Heritage Site, the solar PV or solar thermal equipment would be installed on a wall which fronts a highway; | Yes |
| (d) the solar PV or solar thermal equipment would be installed on a site designated as a scheduled monument; or | n/a |
| (e) the solar PV or solar thermal equipment would be installed on a building within the curtilage of the dwellinghouse or block of flats if the dwellinghouse or block of flats is a listed building. | Yes |

**Conditions**

| **A.2 Development is permitted by Class A subject to the following conditions—** | |
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| (a) solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the external appearance of the building; | Yes |
| (b) solar PV or solar thermal equipment is, so far as practicable, sited so as to minimise its effect on the amenity of the area; | Yes |
| (ba) in the case of solar PV or solar thermal equipment installed on a flat roof located on article 2(3) land, before beginning development the developer must apply to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required with respect to the impact of the appearance of the solar PV or solar thermal equipment on that land; | n/a |
| (bb) in relation to an application under sub-paragraph (ba), paragraphs J.4(3) to J.4(12) of this Part apply as if "Class A" substitutes the reference to "Class J" in paragraph J.4(4); and | n/a |
| (c) solar PV or solar thermal equipment is removed as soon as reasonably practicable when no longer needed. | Yes |

**Conclusion**

As demonstrated above, the proposed dormer and installation of two rooflights meet the requirements under Schedule 2, Part 14, 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 these assessments.

**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 installation of roof and wall mounted photovoltaic panels, as shown on drawing 24 441 LDC100 constitutes permitted development in accordance with Schedule 2, Part 14, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), subject to compliance with the requirements of condition A.2 (c), in so far as the solar panels are removed as soon as reasonably practicable when no longer needed.

**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
Conservation Area - Didsbury St James Conservation Area 1970
Area Team Boundary - Name: SOUTH AREA