

Planning

Growth & Development

Delegated officer report for planning application

Application no. 142391/LP/2025

Date registered valid: 3 April 2025

Proposal: Enlargement of existing dwellinghouse through the erection of a single storey rear extension.

Address: 328 Wilbraham Road, Manchester, M21 0UX

Ward(s): Chorlton Park Ward

Applicant: Mr Mohammad Saddique One Management UK Ltd

Agent (if any):

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Refuse

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

328 Wilbraham Road is located within the Chorlton Park ward. It is a substantial, brick-built, detached two-storey dwelling featuring a pyramid-style roof.

The front of the property includes a garden and a driveway, both enclosed by a low boundary wall with iron railings and gate posts. The driveway extends along the side of the house, leading to a detached, single-storey outbuilding. To the rear, the property benefits from a large private garden.

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 for the erection of a single storey rear extension.

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 than 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 the erection of a single storey rear extension.

The proposal will be evaluated in accordance with the relevant sections of the Town and Country (General Permitted Development) Order 2015 (as amended) and discussed below.

A conclusion is provided at the end of the report to confirm whether the proposed works meet the requirements of Part 1, Schedule 2, Class A and/or any other part of the Town and Country (General Permitted Development) (England) Order 2015 (as amended).

Rear Extension Assessment

The proposed rear extension will be considered under Class A of the Town and Country (General Permitted Development) Order 2015 (as amended), which is the relevant legislation for determining the enlargement, improvement, or other alterations to dwellinghouses.

Under Class A, "the enlargement, improvement, or other alterations of a dwellinghouse," the status of the original house needs to be taken into account, as this establishes the base from which all measurements should be taken. According to the Order, the term "original" means:

- In relation to a building existing on 1st July 1948, as existing on that date.
- In relation to a building built on or after 1st July 1948, as so built.

The planning history does not specify when the property was extended. However, Image 1, an Ordnance Survey (OS) map surveyed in 1950 and revised in 1955, shows the building's original L-shaped layout. This configuration is consistent with several neighbouring properties on Wilbraham Road, including Nos. 330, 338, 336, 332, and 320.

This layout is further corroborated by Historic England Archive aerial photography (Image 2), dated 22 July 1995, which shows the same configuration. Therefore, the OS map can be reliably used to determine the original layout.

Comparing this with recent Google Earth imagery (Image 3), it is evident that the property has since been extended with:

- A single-storey rear extension;
- A single-storey side extension;
- A conservatory; and
- Front porch and front single storey extension

These additions are highlighted in Image 4. The outbuilding has also been modified and extended.

Under paragraph (ja) of Class A, where a new extension adjoins an existing one, the limits in paragraph (f) apply to the total enlargement. For a detached house, this means the combined rear extension must not exceed 4 metres beyond the original rear wall. In this case, the total extension exceeds 6 metres (see Image 5) and therefore does not comply with permitted development limits.

Additionally, the rear elevation features a smooth white finish, which contrasts with the brickwork of the existing property. As the material is not specified in the drawings or application form, and no similar materials appear on the existing dwelling, the proposal does not appear to match the

existing external appearance. It is therefore considered that the proposal fails to accord with conditions regarding materials as stated in paragraph A.3 (a).

Based on this assessment, the certificate is recommended for refusal.

Images

The images referenced above are provided below.

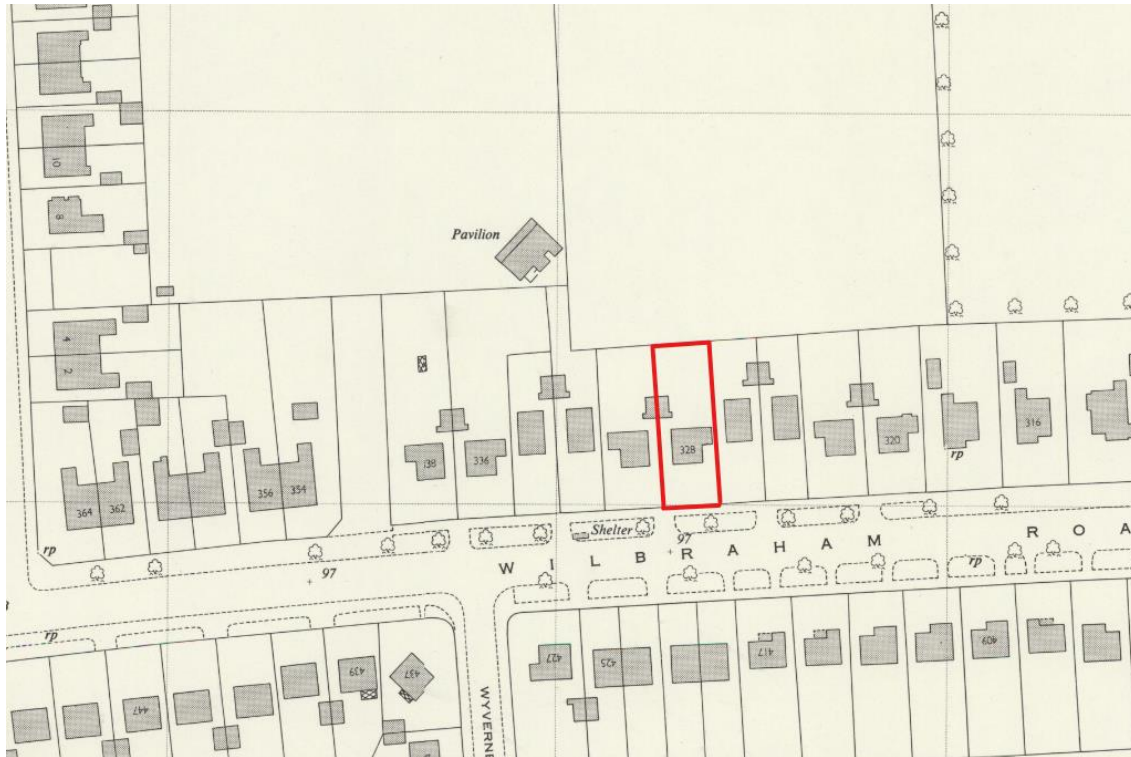


Image 1 OS Map of the area (First surveyed in 1950 and revised in 1956). 328 Wilbraham Road and Curtilage highlighted in red on the plan.



Image 2 Historic England Archive (RAF photography) (RAF/540/1688), 328 328 Wilbraham Road and Curtilage highlighted in red on the photograph image. Note: Image has been rotated to match the OS Map.

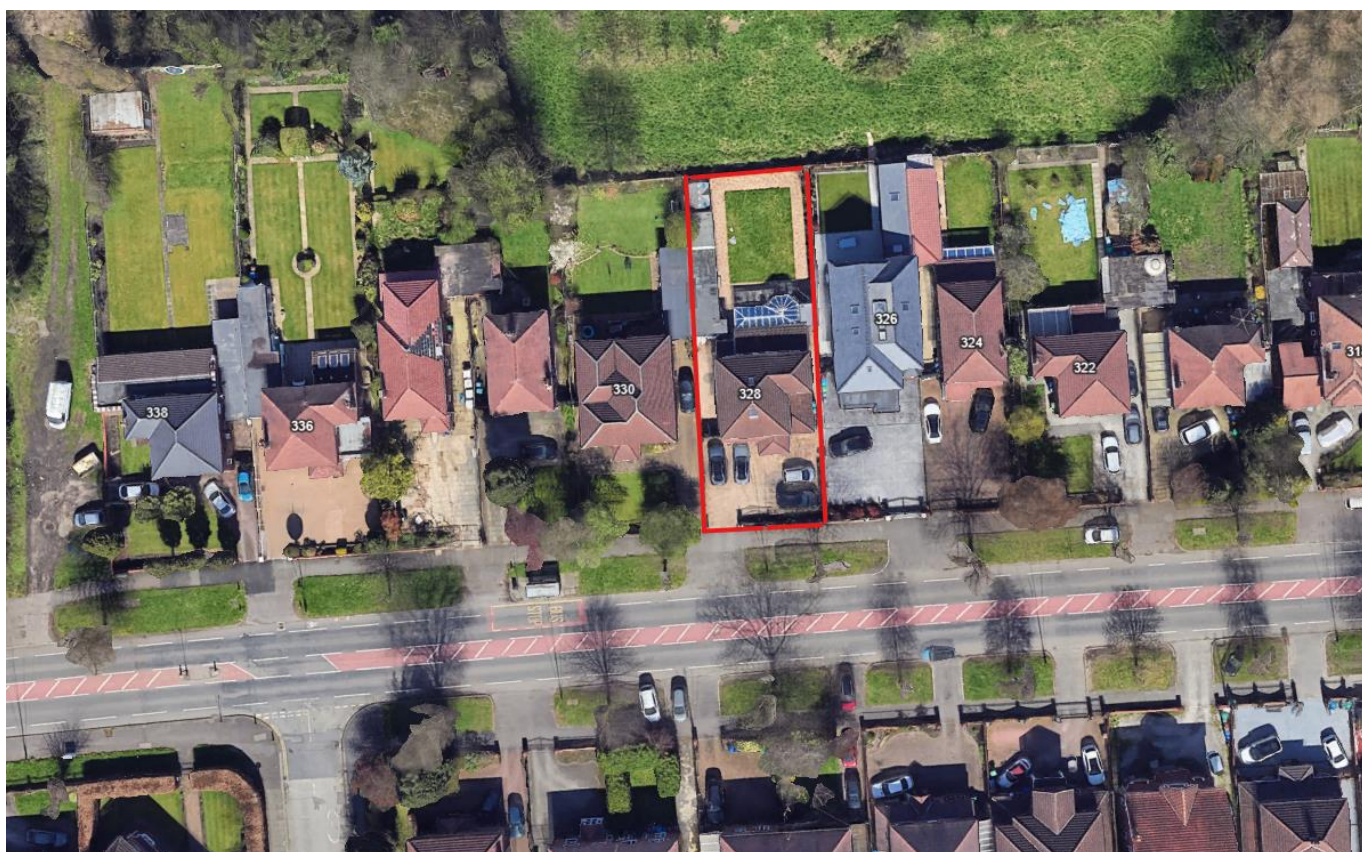


Image 3 Google Earth Image (7 April 2023). 328 Wilbraham Road and Curtilage highlighted in red on the plan.

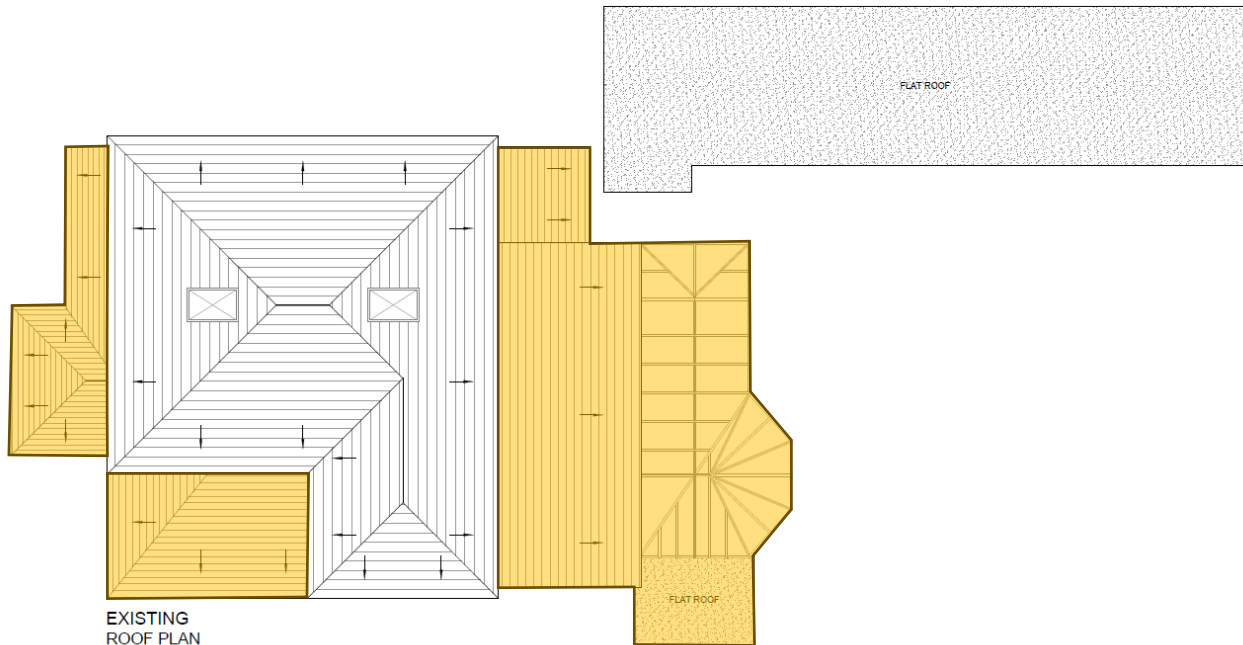


Image 4 Existing Floor Plan with additions to the property highlighted in yellow.

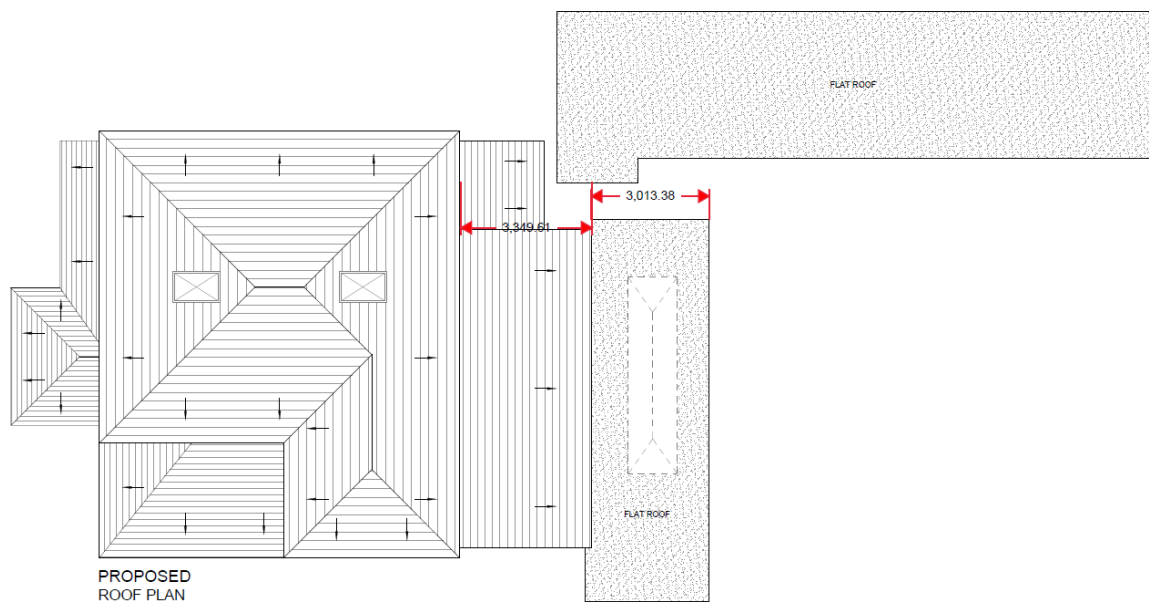


Image 5 Proposed extension and existing enlargement to the rear of the dwellinghouse as measured.

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 policies 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

1) The proposed single-storey rear extension, as shown on the submitted drawings Sheet No. 02, 04, 07, 08 and 10 does not constitute permitted development, as it fails to accord with Part 1, Schedule 2, Class A.1(ja), A.1(f) and A.3(a) of the Town and Country (General Permitted Development) 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

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Middle) -

Susceptible to Surf Water Flood (Middle) -

Area Team Boundary - Name: SOUTH AREA