

Planning

Growth & Development

Delegated officer report for planning application

Application no. 142296/LP/2025
Date registered valid: 3 March 2025
Proposal: Single storey rear extension
Address: 187 Victoria Avenue East, Manchester, M9 7HW
Ward(s): Charlestown Ward

Applicant: Mrs Clare Brockbank
Agent (if any): Mr David Litster Vanderbyl Design & Build Ltd
Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 30 April 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

187 Victoria Avenue East is a two storey detached dwellinghouse located within the Charlestown Ward of Manchester. The property has both front and a large rear garden, providing off road car parking and private outdoor space for the occupiers.

Charlestown is a suburban area located approximately 4 miles northeast of Manchester City Centre, key amenities include Boggart Hole Clough, a large park with sports facilities and recreational routes, and the Avenue Library and Learning Centre. Charlestown is well-connected by major roads and public transport, making it a convenient place to live.

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 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 a side extension.

Planning History

There have been no previous planning applications at this address.

Rear Extension Assessment

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

Paragraph	Complies	Development Not Permitted by Class A if:
A.1 (a)	N/A	Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA, or Q of Part 3 of this Schedule (changes of use).
A.1 (b)	Yes	As a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse).
A.1 (c)	Yes	The height of the part of the dwellinghouse enlarged, improved, or altered would exceed the height of the highest part of the roof of the existing dwellinghouse.
A.1 (d)	Yes	The height of the eaves of the part of the dwellinghouse enlarged, improved, or altered would exceed the height of the eaves of the existing dwellinghouse.
A.1 (e)	Yes	The enlarged part of the dwellinghouse would extend beyond a wall which: (i) forms the principal elevation of the original dwellinghouse; or (ii) fronts a highway and forms a side elevation of the original dwellinghouse.
A.1 (f)	Yes	Subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and: (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse: or (ii) exceed 4 metres in height.
A.1 (g)	N/A	or a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and: (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse: or (ii) exceed 4 metres in height.
A.1 (h)	N/A	The enlarged part of the dwellinghouse would have more than a single storey and: (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres; or (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse.
A.1 (i)	Yes	The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres.

A.1 (j)	No*	The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would: (i) exceed 4 metres in height; (ii) have more than a single storey; or (iii) have a width greater than half the width of the original dwellinghouse. * For a detailed explanation, please refer to the Detailed Assessment section towards the end of the report.
A.1 (ja)	Yes	Any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j).
A.1 (k)	Yes	It would consist of or include: (i) the construction or provision of a verandah, balcony, or raised platform; (ii) the installation, alteration, or replacement of a microwave antenna; (iii) the installation, alteration, or replacement of a chimney, flue, or soil and vent pipe; or (iv) an alteration to any part of the roof of the dwellinghouse.
A.1 (l)	N/A	The dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

Additional Conditions for Article 2(3) Land – ~~(Applicable)~~ **Not Applicable**

~~For dwellinghouses on article 2(3) land, development is not permitted by Class A if:~~

- ~~• A.2 (a) It would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic, or tiles.
Compliance Status: [Complies/Does Not Comply]~~
- ~~• A.2 (b) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse.
Compliance Status: [Complies/Does Not Comply]~~
- ~~• A.2 (c) The enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.
Compliance Status: [Complies/Does Not Comply]~~

Conditions for Permitted Development

Development is permitted by Class A subject to the following conditions:

- A.3(a) The materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
Compliance Status: [Complies/Does Not Comply]
- A.3(b) Any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be:
 - (i) Obscure-glazed, and
Compliance Status: [Complies/Does Not Comply]

- (ii) Non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

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

- A.3(c) Where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

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

Detailed Assessment

Image 1, from a 1952 Ordnance Survey (OS) map of Manchester, shows the original layout of the building without a single-storey outrigger. The map also confirms that the rear brick and bay windows are original.

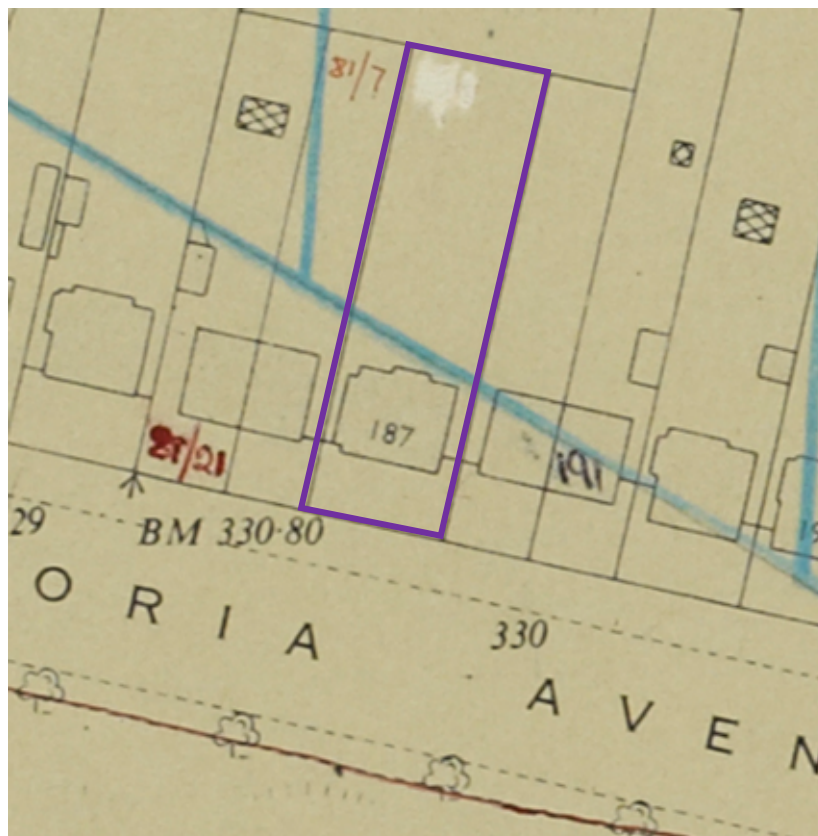


Image 1 Manchester City Council Planning Application Plotting Sheet 41A that overlays planning applications on an OS Map of the area (First surveyed in 1952). 187 Victoria Avenue East and curtilage highlighted in purple on the plan.

Image 2 shows the most recent aerial image of the site and neighbouring properties, taken from Google Earth. By comparing both images, it is evident that the single storey outrigger was an addition and not part of the original dwellinghouse.

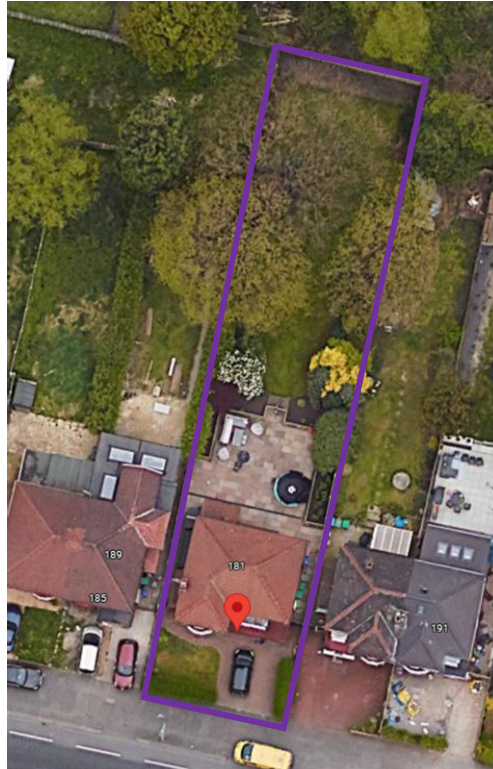


Image 2 Google Earth Image of 187 Victoria Avenue East

As highlighted earlier within the report for the purposes of the Order, the term "original" means:

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

The OS map (image 1) is the closest in terms of date that can be found to show the original layout.

The implications of the original layout on the proposed rear extension are as follows:



Image 3 Photograph of the rear elevation provided by the applicant as part of the submitted drawings

Image 3 and part of the existing floor plan drawing (Image 4) show an existing rear brick and bay window, . The OS plan indicates that this was an original part of the dwellinghouse. This bay window provides additional usable floorspace for the dining room. Orange arrows on the ground floor plan (Image 4) indicate the side walls of the bay window.

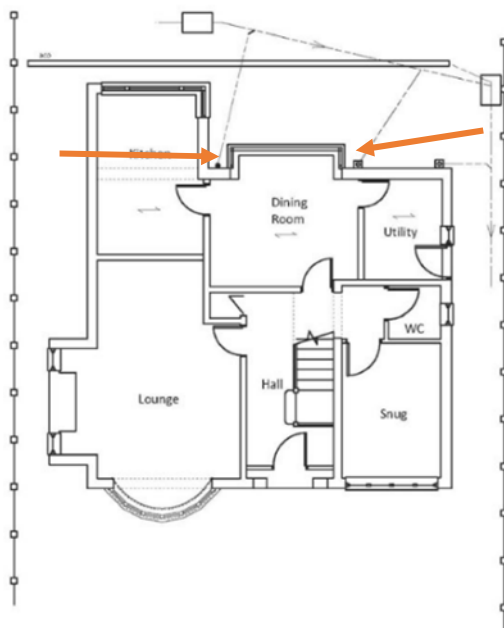


Image 4 Existing Ground Floor Plan, with orange arrows added to identify sides of brick and bay windows

The proposal involves removing or modifying the bay window. Consequently, the development would extend beyond the side elevation walls of the original dwelling, resulting in an extension with a width of 7.244 metres. This width exceeds half the width of the original dwellinghouse, thus not complying with A.1 (j)(iii) of the GPDO.

Conclusion

As demonstrated above, the single-storey rear extension does not meet the requirements under Part 1, Schedule 2, Class A of the Town and Country (General Permitted Development) (England) Order 2015 (as amended), specifically sub-paragraph A.1(j)(iii). Therefore, the certificate should be refused based on 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 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 drawing number 185VAE/001, does not constitute permitted development, as it fails to accord with Part 1, Schedule 2, Class A.1(j)(iii) of the Town and Country (General Permitted Development) Order 2015 (as amended), as the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, specifically the side elevations of the single-storey rear brick and bay window and would have a width greater than half the width of the original dwellinghouse.

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
Coal Authority - Development High Risk - Name: DEVELOPMENT_HIGH_RISK_AREA
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Coal Authority - Surface Coal Resources - Name: Coal bearing strata at surface
Area Team Boundary - Name: NORTH AREA