

## **Planning**

## **Growth & Development**

### **Delegated officer report for planning application**

**Application no.** 141971/LP/2025

**Date registered valid:** 26 March 2025

**Proposal:** Erection of a single storey rear extension and a rear facing dormer loft conversion.

**Address:** 116 Wellington Road, Old Moat, Manchester, M14 6AR

**Ward(s):** Old Moat Ward

**Applicant:** Daniel Nally

**Agent (if any):** Tomislav Vuletic Flocc Studio Ltd

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

**Recommendation:**

**Date of recommendation:** 31 March 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**

116 Wellington Road is located in the Old Moat Ward of Manchester. This property is a two-storey, three-bedroom semi-detached house, which is a common type of housing in this neighbourhood. The area is primarily residential, featuring mostly semi-detached houses.

The property has both front and rear gardens. The front garden is fully paved include to provide off road car parking for at least one vehicle, in addition there are no parking restrictions on Kearsley Road. The area is well-connected by public transport, with regular bus services and a nearby Metrolink stop (within a 3-minute drive or a 7-minute walk) providing easy access to Manchester city centre and other parts of Greater Manchester.

**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 and a rear facing dormer loft conversion.

## **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.

## **Issues**

**Planning History** - There have been one previous planning application at this address.

Application Reference: 139330/LE/2024

Description: Use of property as a small House in Multiple Occupation (Class C4)

Decision: Approved 23.04.2024

## **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 single storey rear extension, rear facing dormer loft conversion and internal alterations.

## Legal Framework

The proposal will be considered under Classes A and B 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 and when considering the enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

To aid in the assessment of the application, the proposal will be broken down into two parts as detailed below:

- Part A – Single Storey Rear Extension
- Part B – Rear Dormer

### Part A – Single Storey Rear Extension

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.

### Development Not Permitted

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

| Para    | Description                                                                                                                                                                                                                                                              | Complies |
|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| A.1 (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).                                                                                                    | N/A      |
| A.1 (b) | 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). | Yes      |
| A.1 (c) | 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.                                                                                                        | Yes      |
| A.1 (d) | 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.                                                                                                              | Yes      |

|          |                                                                                                                                                                                                                                                                                                                                                                                                            |     |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| A.1 (e)  | <p>The enlarged part of the dwellinghouse would extend beyond a wall which:</p> <ul style="list-style-type: none"> <li>• forms the principal elevation of the original dwellinghouse; or</li> <li>• fronts a highway and forms a side elevation of the original dwellinghouse.</li> </ul>                                                                                                                  | Yes |
|          |                                                                                                                                                                                                                                                                                                                                                                                                            | Yes |
| A.1 (f)  | Subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and:                                                                                                                                                                                                                                                                                                           | Yes |
|          | <p>(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</p> <p>(ii) exceed 4 metres in height.</p>                                                                                                                                                                          | Yes |
| A.1 (g)  | <p>For 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:</p> <p>(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</p> <p>(ii) exceed 4 metres in height.</p> | N/A |
| A.1 (h)  | <p>The enlarged part of the dwellinghouse would have more than a single storey and:</p> <p>(i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres; or</p> <p>(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse.</p>                                                                                   | N/A |
| A.1 (i)  | 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.                                                                                                                                                                                                             | Yes |
| A.1 (j)  | <p>The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would:</p> <p>(i) exceed 4 metres in height;</p> <p>(ii) have more than a single storey; or</p> <p>(iii) have a width greater than half the width of the original dwellinghouse.</p>                                                                                      | Yes |
| A.1 (ja) | 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).                                                                                                                                                                                   | Yes |
| A.1 (k)  | It would consist of or include:                                                                                                                                                                                                                                                                                                                                                                            | Yes |
|          | (i) the construction or provision of a verandah, balcony, or raised platform;                                                                                                                                                                                                                                                                                                                              | Yes |
|          | (ii) the installation, alteration, or replacement of a microwave antenna;                                                                                                                                                                                                                                                                                                                                  | Yes |
|          | (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.                                                                                                                                                                                                                                          | Yes |
| A.1 (l)  | The dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).                                                                                                                                                                                                                                                                                                            | N/A |

## 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]

The proposed dormer will be considered under Part 1, Schedule 2, Class B of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) - the relevant legislation when considering the enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

## PART B Dormer Assessment

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

| Paragraph                                                                                                                                                                   | Complies |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| B.1 (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); | N/A      |

|                                                                                                                                                                                                                                                                          |     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| B.1 (b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;                                                                                                                                       | Yes |
| B.1 (c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;                                                                 | Yes |
| B.1 (d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than—                                                                                                                                            |     |
| (i) 40 cubic metres in the case of a terrace house, or                                                                                                                                                                                                                   | N/A |
| (ii) 50 cubic metres in any other case;                                                                                                                                                                                                                                  | Yes |
| <b><u>Explanation</u></b><br><br>Dormer Cubic Content = $\frac{1}{2} \times (\text{width} \times \text{length} \times \text{height})$<br>$= \frac{1}{2} \times (7.291 \text{ metre} \times 4.63\text{metre} \times 2.23\text{metre})$<br>$= \textbf{37.64 cubic metres}$ |     |
| include— B.1 (e) it would consist of or                                                                                                                                                                                                                                  |     |
| (i) the construction or provision of a veranda, balcony or raised platform, or                                                                                                                                                                                           | Yes |
| (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe                                                                                                                                                                                | Yes |
| B.1 (f) the dwellinghouse is on article 2(3) land.; or                                                                                                                                                                                                                   | Yes |
| B.1 (g) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).; or                                                                                                                                                              | Yes |
| B.1 (h) the existing dwellinghouse has been enlarged in reliance on the permission granted by Class AA (enlargement of a dwellinghouse by construction of additional storeys).                                                                                           | N/A |

## Conditions for Permitted Development

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

- B.2 (a) the materials used in any exterior work 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]**
- B.2 (b) the enlargement must be constructed so that—
  - i other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension—

(aa) the eaves of the original roof are maintained or reinstated; and

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

(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and

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

- ii other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and

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

- B.2 (c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be—

- a) obscure-glazed, and

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

- b) 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~~]

## **Interpretation of Class B**

**B.3** For the purposes of Class B, “resulting roof space” means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.

**B.4.** For the purposes of paragraph B.2(b)(ii)—

(a) roof tiles, guttering, fascias, barge boards and other minor roof details overhanging the external wall of the original dwellinghouse are not to be considered part of the enlargement; and

(b) “rear or side extension” includes an original part of, or a subsequent extension of, the dwellinghouse that extends from the rear or side of the principal part of the original dwellinghouse.

## **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:** 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; WD2.2, WD3.2, WD3.3, WD3.4, WD5.3 and WD5.4 would meet the requirements of Part 1, Schedule 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), subject to compliance with the requirements of conditions A.3(a) and the rear facing dormer loft conversion would meet the requirements of Part 1, Schedule 2, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), subject to compliance with the requirements of conditions B.2(a).

## **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

Flood Zones Type 2 (low to medium risk) -

Area Team Boundary - Name: SOUTH AREA