MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	141811/LE/2024
Date registered valid:	23 December 2024
Proposal:	Part A - Single-storey rear extension and Part B - the installation of a rear dormer
Address:	206 Moseley Road, Manchester, M14 6PB
Ward(s):	Fallowfield Ward
Applicant:	A Kelso
Agent (if any):	Stephen Lamb Steve Lamb
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Split Approve and Refuse
Date of recommendation:	**12 February 2025**

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit: 4 February 2025

Standard consultations:
No consultations have been printed and sent.

Neighbour notifications
Printed: 8 January 2025 Expired: 29 January 2025

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

The application site relates to a two storey mid-terraced property which has been painted red and has slate roof tiles. The property has no front garden and a small rear yard.

Currently in use as a House in Multiple Occupation (use class C4).

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The site is located roughly between Fallowfield District Centre and Levenshulme District Centre and comprises mostly residential, University of Manchester's sport facilities and a small retail park on Birchfield Road.

Description of development

The applicant is seeking a Certificate of Existing Lawful Development for a single-storey rear extension and the installation of a rear dormer

Consultations & Notification Responses

Publicity – Notification letters were sent to nearby residential properties (see appendix 1 for the list of properties).

Local residents/public opinion – No objections, comments or representations in support of the application have been received.

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.

Planning History – There have been two previous planning applications and an appeal at this site. Details are provided below:

Planning Application Reference: 134249/LE/2022
Use of property as a small House in Multiple Occupation (Use Class C4)
Granted 16.09.2022

Planning Application Reference: 136834/LP/2023
Part A - Enlargement of dwellinghouse with a rear dormer roof extension; Part B - Installation of a soil and vent pipe; and Part C- Erection of a single storey rear extension
Split Decision Approve and Refuse 06.07.2023

Appeal Reference: APP/B421/X/23/3327825
Appeal against refusal in part to grant a certificate of lawful use or development ref: 136834/LP/2023
Date Appeal Decision: Appeal Dismissed 19.01.2024

The Application

The applicant is seeking a certificate of existing lawful development for a rear dormer and a single storey rear extension.

- Part A - The rear extension will be considered under Class A; and,
- Part B - The dormer will be considered under Class B;

The application form states that the works were substantially completed on the 1st April 2024 and that the applicant seeks confirmation that the works fall within the scope of the Town and Country (General Permitted Development) Order 2015 (as amended).

As per the previous development will be considered under Class A of the Town and Country (General Permitted Development) Order 2015 (as amended) - the relevant legislation when determining the enlargement, improvement or other alterations to dwellinghouses.

Under Class A for *"the enlargement, improvement or other alterations of a dwellinghouse"* the status of the original house needs to be taken into account, as this state the base from which all measurements should be taken. Under 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 Town and Country Planning (General Permitted Development) (England) Order 2015

Class A – enlargement, improvement or other alteration of a dwellinghouse

A. The enlargement, improvement or other alteration of a dwellinghouse.

Development not permitted

Paragraph	**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

Explanation 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse) = **11.494 metre^2** Proposed Single Storey Extension = 3 x 3.17 = **<u>9.51 metre^2</u>**	
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) the enlarged part of the dwellinghouse would extend beyond a wall which—	
(i) forms the principal elevation of the original dwellinghouse; or	Yes
(ii) fronts a highway and forms a side elevation of the original dwellinghouse;	Yes
A.1 (f) 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	Yes
(ii) exceed 4 metres in height;	Yes
A.1 (g) 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— (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	N/A
(ii) exceed 4 metres in height;	N/A
A.1 (h) 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	N/A
(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;	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) 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,	N/A
(ii) have more than a single storey, or	N/A
(iii) have a width greater than half the width of the original dwellinghouse; or	N/A
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— (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	Yes
(iv) an alteration to any part of the roof of the dwellinghouse; or	Yes
A.1 (l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)	N/A

A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if— (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;	N/A
(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or	N/A
(c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.	N/A

A.3 Development is permitted by Class A subject to the following conditions— (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;	Yes
Explanation As shown in the site photograph below, the materials used on the exterior are of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.	

Photograph 1

(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 (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; and	N/A
(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.	N/A

Permitted development

B. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Development not permitted

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	Yes

Explanation

Main Roof Dormer

Cubic Content = Main Roof Dormer – Intersection of existing main roof with outrigger roof

= (½ x (width x depth x height)) – ((height x depth/2) x width)/3

= (½ x (4.427metre x 3.315metre x 1.502metre)) - ((1.47metre x 3.315/2) x 2.795metre)/3

= 11.02metre^3 – 2.27metre3

= **8.75 metre^3**

Outrigger Roof Dormer

Cubic Content = Outrigger Roof Dormer

= (½ x (width x depth x height))

= (½ x (3.973metre x 2.795metre x 1.712metre))

= **9.505 metre^3**

Total Cubic Content of Development = 8.75 metre^3 + 9.505 metre^3

= **18.255 metre^3**

(ii) 50 cubic metres in any other case;	N/A
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	N/A
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

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;	No

Explanation

Page 35 of the Permitted Development Rights for Householders Technical Guidance (September 2019) advises that:

> *"The face and sides of a dormer window should be finished using materials that give a similar visual appearance to the existing house. Therefore, the materials used for facing a dormer should appear to be of similar colour and design to the materials used on the main roof of the house when viewed from ground level."*

The existing dwellinghouse features grey/blue slate roof tiles. As shown in site photographs (1 and 2) below, the dark grey uPVC shiplap cladding installed on the exterior of the dormer differs in size, profile, and colour from that on the main roof.

Furthermore, it is unlikely that the dormer cladding's colour will weather over time to blend with the existing roof tiles. To further emphasize its stark appearance, the neighbouring property at No. 208 has used tiles that result in a dormer with an appearance similar in both colour and design to the materials used on the main roof of the dwellinghouse when viewed from the ground.

Photograph 2

Photograph 3

Photograph 4

It is therefore considered that the materials used would not be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse and therefore does not comply with B.2(a).

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—	Yes
(aa) the eaves of the original roof are maintained or reinstated; and	Yes
(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	Yes
(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	Yes
B.2 (c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be— (i) obscure-glazed, and (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.	Yes

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 externalwall 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 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: Split Approve and Refuse

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

Approve

The single-storey rear extension, as shown on drawings 1, 2, 3, 6, and 8 dated 'Amended Plan Feb 23,' constitutes permitted development. This extension meets the requirements of Part 1, Schedule 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Refuse

The rear dormer, as shown on drawings 2, 3, 4, 5, 6, 7, and 8 dated 'Amended Plan Feb 23,' does not constitute permitted development. The rear dormer does not comply with Part 1, Schedule 2, Class B.2(a) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), as the grey uPVC shiplap cladding is not of a similar appearance to the materials used in the construction of the exterior of the existing dwellinghouse.

Appendix 1 – List of consultees & neighbours notified

208 Moseley Road, Manchester, M14 6PB
204 Moseley Road, Manchester, M14 6PB
121 Braemar Road, Manchester, M14 6PN
117 Braemar Road, Manchester, M14 6PN
119 Braemar Road, Manchester, M14 6PN

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Regulation 7 Direction (Control Advert) - Control Of To Let Boards (Moseley Road/Ladybarn Lane)
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: SOUTH AREA