

Planning

Growth & Development

Delegated officer report for planning application

Application no. 135177/LP/2022

Date registered valid: 11 October 2022

Proposal: Enlargement of dwellinghouse comprising of: Part A hip to gable roof alterations together with 2no. rear dormers, Part B and 3no. front rooflights, Part C rendering of whole property with associated elevational alterations in connection with a garage conversion into a habitable room and Part D erection of front porch

Address: 9 Bettwood Drive, Manchester, M8 4JT

Ward(s): Crumpsall Ward

Applicant: MR Gurnoor Singh 9 Bettwood Drive, Manchester, M8 4JT

Agent (if any): MR Faluck Patel 27 Priors Gardens, Ruislip, HA4 6UG

Case officer: Robert Tyrer
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Email: robert.tyrer@manchester.gov.uk

Recommendation: GRANT

Date of recommendation: 13th April 2023

Application details

Type of application: Certificate Lawful Developmnt 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 and area

The application site relates to 9 Bettwood Drive within the Crumpsall ward of north Manchester. The dwellinghouse is a two storey, detached, red brick property.

The property benefits from amenity space to the front in the form of a built-in garage and a driveway and the property benefits from further amenity space to the rear.



Photograph 1 9 Bettywood Drive, source: photograph provided by the agent.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a Certificate Lawful of Proposed Development for the enlargement of dwellinghouse comprising of: Part A hip to gable roof alterations together with 2no. rear dormers and 3no. front rooflights, and; Part B rendering of whole property and erection of front porch with associated elevational alterations in connection with a garage conversion into a habitable room.

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

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 Part A hip to gable roof alterations together with 2no. rear dormers, Part B and 3no. front rooflights, Part C elevational alterations in connection with a garage conversion into a habitable room, Part D erection of front porch and Part E, alterations to chimneys

- Part A - The dormer and hip to gable will be considered under Class B;
- Part B - The 3no. rooflights will be considered under Class C;
- Part C - Elevational alterations of the property will be considered under Class A;
- Part D - Front porch will be considered under class D, and;
- Part E - The alterations to the chimneys will be considered under Class G.

PART A - Dormer and Hip to Gable

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

PART B - 3no. Rooflights

Class C –other alterations to the roof of a dwellinghouse

Permitted development

C. Any other alteration to the roof of a dwellinghouse.

Development not permitted

Paragraph	Complies
C.1 Development is not permitted by Class C if— (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
C.1 (b) the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof;	Yes.
C.1 (c) it would result in the highest part of the alteration being higher than the highest part of the original roof; or	N/A

C.1 (d) it would consist of or include—	
(i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or	Yes.
(ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.; or	Yes
C.1 (e) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).	N/A
Conditions	
C.2 Development is permitted by Class C subject to the condition that any window located on a roof slope forming a side elevation of the dwellinghouse must be—	
(a) obscure-glazed; and	Yes
(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.	Yes

Part C - Elevational alterations (Window to replace garage door and brickwork)

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);	N/A
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;	N/A
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;	N/A
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	N/A
(ii) fronts a highway and forms a side elevation of the original dwellinghouse;	N/A

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	N/A
(ii) exceed 4 metres in height;	N/A
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;	N/A
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);	N/A
A.1 (k) it would consist of or include— (i) the construction or provision of a verandah, balcony or raised platform,	N/A
(ii) the installation, alteration or replacement of a microwave antenna,	N/A
(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	N/A
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
(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

PART D – Front Porch

Class D – porches

Permitted development

D. The erection or construction of a porch outside any external door of a dwellinghouse.

Development not permitted

Paragraph	Complies
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D.1 Development is not permitted by Class D if— (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
D.1 (b) the ground area (measured externally) of the structure would exceed 3 square metres;	Yes
D.1 (c) any part of the structure would be more than 3 metres above ground level; or	Yes
D.1 (d) any part of the structure would be within 2 metres of any boundary of the curtilage of the dwellinghouse with a highway.; or	Yes
D.1 (e) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).	No

Part E - alterations to the chimneys

Class G –chimneys, flues etc on a dwellinghouse

Permitted development

G. The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

Development not permitted

Paragraph	Complies
G.1 Development is not permitted by Class G if— (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
G.1 (b) the height of the chimney, flue or soil and vent pipe would exceed the highest part of the roof by 1 metre or more;	Yes.
G.1 (c) in the case of a dwellinghouse on article 2(3) land, the chimney, flue or soil and vent pipe would be installed on a wall or roof slope which—	
(i) fronts a highway, and	N/A
(ii) forms either the principal elevation or a side elevation of the dwellinghouse.; or	N/A.
G.1 (d) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).	N/A

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

Grant of Certificate of Lawful Use of Development

1) GRANT Part A on the basis that the proposed rear dormer and hip to gable as shown on drawings 2022/132 -02 Rev B, 2022/132 -03, 2022/132 -05 and Location Plan constitutes permitted development in accordance with Part 1, Schedule 2, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2) Grant Part B, the proposed 3no. Front rooflights as shown on the submitted drawings 2022/132 -02 Rev B, 2022/132 -05 and location plan constitute permitted development in accordance with Part 1, Schedule 2, Class C, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

3) Grant Part C on the basis that the proposed replacement of garage door with a new window and bricks as shown on drawings 2022/132 -02 Rev B, 2022/132 -03, 2022/132 -05 and Location Plan constitutes permitted development in accordance with Part 1, Schedule 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

4) Grant Part D on the basis that the proposed front porch as shown on drawings 2022/132 -02 Rev B, 2022/132 -03, 2022/132 -05 and Location Plan constitute permitted development in accordance with Part 1, Schedule 2, Class D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

5) Grant Part E, the proposed chimney alterations as shown on the submitted drawings 2022/132 -02 Rev B, 2022/132 -05 and location plan constitute permitted development in accordance with Part 1, Schedule 2, Class G, of the Town and Country Planning (General Permitted Development) (England) 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

Aircraft Safeguarding Zone - Aircraft Safeguarding - Not Affected

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Area Team Boundary - Name: NORTH AREA