

Planning

Growth & Development

Delegated officer report for planning application

Application no. 145318/LP/2026

Date registered valid: 6 March 2026

Proposal: Insertion of new ground floor window in association with the conversion of the integrated existing garage into habitable room together with a new front door and window.

Address: 42 Darley Avenue, Manchester, M21 7GG

Ward(s): Chorlton Park Ward

Applicant: Mr & Mrs Harrison

Agent (if any): Mr Anil Mistry

Case officer: Adam Neil
Tel: 0161 234 4531
Email: adam.neil@manchester.gov.uk

Recommendation: Grant

Date of recommendation: 16 April 2026

Application details

Type of application: Certificate Lawful Development Proposed

Development type: Certificates of lawfulness

Date of site visit: N/A

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

Listed building: Not applicable

Conservation area: N/A

Tree Preservation Order: N/A

Description of area

The property lies in a residential setting on the north side of Darley Avenue, in block comprising of four joining properties; the same and similar style of properties make up this side of Darley Avenue, having been a new development of 13 houses granted planning permission in 2018.

Description of development

The applicant is seeking a Certificates of lawfulness to confirm that the proposed conversion of the integrated existing garage into habitable room together with the removal of the garage door and its replacement with a new front door and window would be lawful.

Consultations & Notification Responses

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 whether the applicant has private rights to carry out the proposed operation, use, or activity, are irrelevant when determining the application.

Planning History

Application Reference: 118156/FO/2017

Erection of five pairs of semi-detached, three -storey dwellinghouses and a terrace of three x three-storey dwellinghouses (13 houses in total) with associated parking, landscaping and boundary treatment

Decision: Approved Decision Date: 25 April 2018

The planning permission was subject to several conditions including Condition 12, which states:

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages shall be converted to additional living accommodation.

Reason - To ensure that there is adequate parking for the proposed development pursuant to Core Strategy policy DM1

Application Reference: 120962/JO/2018

Variation of Condition 2 (Specified Plans) attached to consent 118156/FO/2017 to alter fenestration.

Decision: Approved Decision Date: 15 December 2018

The planning permission was subject to several conditions including Condition 12, which states:

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages shall be converted to additional living accommodation.

Reason - To ensure that there is adequate parking for the proposed development pursuant to Core Strategy policy DM1

Application Reference: 123097/JO/2019

Variation of condition nos 2 (approved plans), 3 (materials) and 18 (landscaping) attached to planning permission 118156/FO/2017 to allow for the inclusion of 2 visitor parking spaces, approval of materials and landscaping

Decision: Approved Decision Date: 16 May 2019

The planning permission was subject to several conditions including Condition 12, which states:

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages shall be converted to additional living accommodation.

Reason - To ensure that there is adequate parking for the proposed development pursuant to Core Strategy policy DM1

Application Reference: 129513/FH/2021

Erection of single storey rear extension, extension to first floor rear balcony and conversion of garage to provide additional living accommodation

Decision: Approved

Decision Date: 19 May 2021

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 Assessment

This application is pursued under subsection (1) of section 192 which provides for any person, upon application, to ascertain whether any proposed use of building or land (s192(1)(a)), any operations proposed to be carried out (s192(1)(b)), would be lawful if instituted or begun at the time of the application (s192(2)).

The application form provides space for the applicant to specify the “*Grounds for Application*” and this is stated to be “*The existing property falls into the category for permitted development to be introduced*” and “*The proposed scheme falls in the criteria for permitted development to be implemented*”. In stating why, the applicant considers that a Certificate should be granted, they have again stated on the form “*The proposed scheme falls in the criteria for permitted development to be implemented.*”.

The applicant has not provided any further supporting information to set out under what Part or Class that they consider the proposal would fall within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Background

As noted above, planning permission was granted that included a condition that restricted the conversion of the garages to habitable accommodation. As the conversion of the garage is restricted, planning permission would be required for the proposed conversion, but there is no corresponding condition that removes Part 1, Class A permitted development in its entirety, namely “*The enlargement, improvement or other alteration of a dwellinghouse.*”, as such the elevational alterations could be undertaken, subject to compliance with those relevant conditions and limitations of that Class.

However, as already noted, planning permission has previously been granted for conversion of the garage that included elevational alterations, together with the erection of a rear extension.

An Initial Notice was received for Building Regulations (IN/21/01223) on 31 August 2021, for “*Single storey rear lounge extension, installation of ground floor utility and w c and first floor en-suite and associated alterations*”. The completion certificate was issued on 29 April 2022.

The planning permission granted under reference 129513/FH/2021, included a condition that required the development to be begun, no later than the expiration of three years beginning with the date of the permission, i.e. by 19 May 2024, and that would appear certainly fall within the timeframe by which the rear extension was known to have been completed.

Conclusion

Drawing all the threads together, the rear extension was commenced and completed within the timeframe set out under planning permission 129513/FH/2021 and this permission also permitted the conversion of the garage to additional living accommodation, together with associated external alterations; that permission remains extant, and capable of being fully completed.

Whilst there are conditions attached to the other planning permissions at the site, and those conditions prevent certain forms of development that would otherwise benefit from those provisions of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), those restrictions do not prevent the external alterations proposed within this application.

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

The proposed external alterations to the front elevation of the dwellinghouse, namely the removal of the garage door and replacement with a window, together with the replacement of the existing front door and the addition of a vertical sidelight window, would amount to permitted development pursuant to Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), subject to the compliance with Condition A.3(a) of the Order.

The proposed conversion of the garage comprised part of the development permitted under planning permission reference 129513/FH/2021, and the local planning authority are satisfied that development forming part of this permission, namely the single storey rear extension, was commenced on or before 19 May 2024, in compliance with Condition 1 of the planning permission; as such, planning permission 129513/FH/2021 has lawfully begun, and the remaining works can lawfully continue.

Appendix 1 – List of consultees & neighbours notified

N/A

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Area Team Boundary - Name: SOUTH AREA