

DELEGATED REPORT

Report by Sam Summers	Date of report: 08/06/2023	Ref: 69173/LDCE
Registration: 16/02/2023	LDFC:	Expiry Date: 13/04/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Certificate of lawfulness for use of existing outbuilding as annexe to existing dwellinghouse (Class E)

Location: 121 Simister Lane, Prestwich, Manchester, M25 2SA

Description

An Application under Section 191 of the Town and Country Planning Act 1990 (as amended) for a Certificate of Lawful Development for the construction of outbuilding used as annexe to existing dwellinghouse. The outbuilding is at the rear of 121 Simister Lane.

The application has been made on the basis that the building has been in place and used for a period of 10 years or more, thus rendering the construction of the building immune from planning enforcement action in accordance with the time limits set under Section 171B(3) of The Town and Country Planning Act 1990

Relevant Planning History

None

Publicity

None

Statutory/Non-Statutory Consultations

None

Pre-start Conditions - None

Unitary Development Plan and Policies

OL1 Green Belt

Issues and Analysis

The onus is on the applicant to show by way of evidence that the building to which the application relates has been in place for 10 years or more making it immune from planning enforcement action, thus making the building lawful. The legal test for evidence is on the "balance of probabilities" which in practice means that unless the authority has in its possession evidence that is clearly contrary to that submitted it must grant a certificate. Evidence submitted does not need to be corroborated by third parties.

The council has access to aerial views of the property from 2005, 2009 & 2016. All three of the aerial views show the outbuilding in the same place. Additionally the 2009 aerial clearly shows the land behind the property on which the outbuilding is situated is being maintained and in all likelihood used as residential garden. This means the change of use to residential garden is also immune from enforcement action. This is relevant as there is a conservatory

DELEGATED REPORT

extension on the outbuilding which has been in place since at least 2016, this conservatory is also immune from enforcement by virtue of being in the curtilage of a residential dwelling and having been in place for at least 4 years.

Both aerial views and the report from Morris Dean dated 30/11/2010 provided by the applicant confirm that the outbuilding has been in place and used for a period of 10 years or more. This would therefore render the construction of the building immune from planning enforcement action in accordance with the time limits set under Section 171B(3) of The Town and Country Planning Act 1990.

Recommendation: LAWFUL

Conditions and Reasons:

- 1 The outbuilding as described in First Schedule is deemed to be established and not liable to enforcement action under Section 172 of the Town & Country Planning Act 1990 (as amended) by reason of it existing on site on a continuing basis for ten years or more.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
SS	08/06/2023	HL	09/06/23