

Officer Report

Case Reference: PL/2026/0113
Location: 8 CANTERBURY CLOSE, ROCHDALE, OL11 5LZ
Proposal: Application for a certificate of lawfulness (Existing) relating to the lawful commencement of development under planning permission 19/01371/FUL
Recommendation: Approve
Officer: Luke Rigby

SITE

The application site consists of a parcel of land to the north of Canterbury Close in a predominantly residential area of Rochdale. The site previously consisted of 1No. detached residential dwelling. This was demolished in 2023.

PROPOSAL

A Certificate of Lawfulness is sought to confirm that the development approved under planning permission 19/01371/FUL legally commenced within the time period defined by Condition No. 1 (3-years) of the same.

The applicant has submitted photographic evidence along with correspondence between the applicant and the Local Planning Authority - and Building Control - informing them at the time that development had commenced.

RELEVANT PLANNING AND ENFORCEMENT HISTORY

19/01371/FUL - Erection of one detached dwelling and detached garage following demolition of existing dwelling. Application Permitted

20/00973/DOC - Submission of details to comply with conditions 3, 4, 7, 8, 9, and 10 on planning permission 19/01371/FUL.

RECOMMENDATION: GRANT unconditionally

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Burden of Proof

The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a Local Planning Authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability (PPG Paragraph: 006 Reference ID: 17c-006-20140306)

PUBLICITY

Site Notice: N/A

Press Notice: N/A

Neighbour notification letters: In accordance with the Council's adopted Statement of Community Involvement, no publicity has been carried out for this application.

ANALYSIS

Section 191 of the Town and Country Planning Act 1990 (as amended) states that the burden of proof is firmly with the applicant. The relevant test is the "balance of probability", and the Council is advised that if it has no evidence of its own to contradict or undermine the applicant's version of events, there is no good reason to refuse the application provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate.

Section 56 of the Town and Country Planning Act 1990 (as amended) sets out the considerations relevant to when a development can be considered to have begun for the purposes of the Act. S.56 of the Town and Country Planning Act 1990 (as amended) states that:

(1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—

(a) if the development consists of the carrying out of operations, at the time when those operations are begun;

(b) if the development consists of a change in use, at the time when the new use is instituted;

(c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).

Section 56 (4) of the Town and Country Planning Act 1990 (as amended) provides definition of material operation. It states that:

(4) In subsection (2) "material operation" means—

(a) any work of construction in the course of the erection of a building;

(aa) any work of demolition of a building;

(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

(c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);

(d) any operation in the course of laying out or constructing a road or part of a road;

(e) any change in the use of any land which constitutes material development.

For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision will be based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

The site's most recent planning history dates from 2020, 20/00973/DOC '*Submission of details to comply with conditions 3, 4, 7, 8, 9, and 10 on planning permission 19/01371/FUL*'. As a result of this application, Conditions 4, 7, 8, 9, 10 were discharged. Condition 3 was partially discharged on the basis that a subsequent application be submitted providing a verification report - no such application was or has been received by the Local Planning Authority.

The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application.

Discharging the conditions of application 19/01371/FUL in itself does not amount to development. The applicant, however, has provided evidence in the form of correspondence sent to the Local Planning Authority on 9th January 2023. The correspondence informed the Council that the existing dwelling had been demolished and therefore development had commenced in accordance with Section 56 (4)(a)(aa).

Condition No. 1 of 19/01371/FUL states that development must commence no later than 3 years following the date of the permission, 29/01/2020. For the avoidance of doubt, in order to accord with this condition, development must have commenced before 29th January 2023.

The email sent to the Local Planning Authority on 9th January 2023 with photographic evidence that the dwelling had been demolished is sufficient to prove that development had commenced before 29th January 2023. As such, it is considered that the development is considered to have been lawfully commenced for the purposes of Section 56 of the Town and Country Planning Act 1990 (as amended).

SUMMARY OF THIRD-PARTY REPRESENTATIONS

None received.

SUMMARY OF CONSULTATION RESPONSES

None received.

PROCEDURAL STATEMENT

Human Rights and Public Sector Equality Duty

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report. In particular, Article 6 (1), of the European Convention on Human Rights in relation civil rights and a fair hearing; Article 8 of the ECHR in relation to the right to respect for private and family life and Article 1 Protocol 1 of the ECHR in relation to the protection of property have all been taken into account.

In addition, the Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics namely: age, disability, gender reassignment, pregnancy and maternity, race, religion, or beliefs and sex and sexual orientation. It places the Local Planning Authority under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application. In particular due regard has been afforded to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers are satisfied that the application material and Officers' assessment has taken into account these issues.

The application has been considered in accordance with the Rochdale Equity, Diversity and Inclusion policy – Embracing All Voices (2024-2026), which seeks to promote a culture of equity, diversity and inclusion that benefit the community as a whole.

Recommendation: Approve

Approval Reason(s) (1)

- 1 The planning permission granted under 19/01371/FUL for the demolition of the existing dwelling and construction of 1No. detached dwelling and

1No. detached garage has been lawfully implemented by virtue of the provisions of Section 56 of the Town and Country Planning Act 1990 (as amended), whereby the works carried out were lawfully undertaken within the relevant timescale and constituted a material operation.