

Application Number:	23/00844/CPL
Location:	25A Buckley Hill Lane, Milnrow, Rochdale, OL16 4BT
Proposal:	Certificate of lawfulness for a proposed single storey side extension and alterations to ground floor rear fenestration
Applicant:	IAIN ROBERTSON
Case Officer:	Sam Yuen
Recommendation:	Refuse

CHECKED AND SIGNED OFF BY:

RK

DATE: 28/09/2023

Location

The application relates to no. 25A Buckley Hill Lane, a two-storey detached dwelling located in Milnrow. The dwelling is adjacent to no. 25B Buckley Hill Lane to the south-east, adjacent to no. 25 Buckley Hill Lane to the north, and faces the highway to the west.

Description of Proposal

Certificate of lawfulness is sought for a side extension which projects 2.39m from the south-east side elevation of the host dwelling. It is characterised by a lean-to roof form and has a ridge height of approx. 3.52m and an eaves to height of approx. 2.59m.

The proposal also seeks to alter the existing ground floor rear fenestration to a set of bi-folding doors.

Is the proposal wholly within the curtilage of the dwellinghouse?	Yes
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Relevant History:

91/D26460 - Land Adjacent To Brookleigh House Buckley Hill Lane, Milnrow - Residential Development-Two Detached Dwellings - Grant subject to conditions

92/D28275 - Land Adjacent To Brookleigh House Buckley Hill Lane, Milnrow – Outline Planning Application – Residential Development Two Detached Dwellings - Grant subject to conditions

98/D35101 - Land Adjacent 25 Buckley Hill Lane Milnrow - Erection Of 2 Detached Dwellings - Grant subject to conditions

Permitted Development Rights removed?	No
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Note: With reference to the original planning application for the host property (reference: 98/D35101), Condition 8 of the planning permission states “The

area of the access shown cross-hatched on the approved plans shall be reserved as a shared drive area for the manoeuvring of vehicles within the site.” The referenced plan (dated 04/1998) indicates the cross-hatched area to include an area to the side driveway of the host property, where the proposed side extension would be constructed.

On this basis, with reference to Section 192 of the Town and Country Planning Act 1990, the proposed development would be in breach of Condition 8 of application 98/D35101 and would not constitute lawful development.

Representations

In accordance with the Council's code for publicity for this type of application, no letters of notification have been issued.

Legislation and Guidance

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Permitted development rights for householders – Technical Guidance (Sept 2019)

Assessment (Class A)

Class A of Part 1 of Schedule 2 of the GPDO allows for the enlargement, improvement or other alteration of a house subject to it not being contrary to any of the following criteria:

- (a) Permission to use the dwellinghouse as a dwelling has not been granted only by virtue of Class M,N,P, PA or Q of Part 3 of the GPDO

☒ **Complies**

☐ **Does Not Comply**

- (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).

☒ **Complies**

☐ **Does Not Comply**

- (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.

☒ **Complies**

☐ **Does Not Comply**

- (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.

☒ **Complies**

☐ **Does Not Comply**

- (e) The enlarged part of the dwellinghouse would extend beyond a wall which -
- (i) Forms the principal elevation or
 - (ii) Fronts a highway and forms a side elevation of the original dwellinghouse.

☒ **Complies**

☐ **Does Not Comply**

- (f) Subject to Paragraph (g), the enlarged part of the dwellinghouse would have a single storey and 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 exceed 4 metres in height.

☒ **Complies**

☐ **Does Not Comply**

Note: The application proposes a side extension, therefore paragraph (f) does not apply.

- (g) For a dwellinghouse not on article 2(3) land or 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
 - (ii) exceed 4 metres in height.

☒ **Complies**

☐ **Does Not Comply**

Note – This application does not propose a larger home extension and paragraph (g) is therefore not applicable.

- (h) The enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse.

☒ **Complies**

☐ **Does Not Comply**

Note – This application does not propose an extension with more than a single storey and paragraph (h) is therefore not applicable.

- (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.

☒ **Complies**

☐ Does Not Comply

The height to eaves is 2.59m.

- (j) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would exceed 4 metres in height, have more than a single storey or have a width greater than half the width of the original dwellinghouse; or

☒ Complies

☐ Does Not Comply

(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));

☒ Complies

☐ Does Not Comply

(k) it would consist of or include

- (i) the construction or provision of a veranda, balcony or raised platform,
- (ii) the installation, alteration or replacement of a microwave antenna,
- (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
- (iv) an alteration to any part of the roof of the dwellinghouse

☒ Complies

☐ Does Not Comply

- ☐ The plans do not include a balcony or raised platform
- ☐ The plans do not include the alteration of a microwave antenna
- ☐ The plans include the alteration or installation of a soil and vent pipe. However, it is noted the alteration of a soil and vent pipe may fall under Class G of permitted development rights.
- ☐ The plans do not include the alteration to any part of the roof of the dwellinghouse

Finally, paragraph A.3 of the above order stipulates that 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;

☒ Complies

☐ Does Not Comply

☐ Details Not Provided

- 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

☒ **Complies**

☐ **Does Not Comply**

☐ **Details Not Provided**

- c. Where the enlarged part of the dwellinghouse has more than a single storey, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

☒ **Complies**

☐ **Does Not Comply**

☐ **Details Not Provided**

Note: The proposed materials for construction would be similar in appearance to the exterior of the existing dwellinghouse and consists of a single storey extension.

Assessment (Class G)

Class G of Part 1 of Schedule 2 of the GPDO allows for the installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse subject to it not being contrary to any of the following criteria:

- (a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (change of use)

☒ **Complies**

☐ **Does Not Comply**

- (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; or

☒ **Complies**

☐ **Does Not Comply**

- (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

(ii) forms either the principal elevation or a side elevation of the dwellinghouse.

☒ **Complies**

☐ **Does Not Comply**

Recommendation: Refuse

The proposal does not constitute permitted development by virtue of non-compliance with the requirements of Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the proposal would constitute development within the meaning of Section 55 of the Town and Country Planning Act 1990 and therefore, without the prior written approval of the Local Planning Authority, would comprise a breach of Condition 8 of planning permission 98/D35101 and thus would not be lawful.

Notes for applicant:

For the avoidance of doubt, the decision relates to the following drawings:-

- Location Plan
- Existing and Proposed Site Plan – Drawing No. 23.3190.2 dated 07/2023
- Existing Ground Floor Plan and Elevations – Drawing No. 23.3190.1 dated 07/2023
- Proposed Ground Floor Plan and Elevations – Drawing No. 23.3190.SC1A dated 07/2023

	Date	Officer
Report Completed	26/09/2023	Signed: SY
Authorisation	28/09/2023	Signed: RK

Report Author Sam Yuen