



Appeal Decision

Site visit not required

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 MARCH 2026

Appeal Ref: APP/P4225/X/25/3375175

9 Whitfield Drive, Milnrow, Rochdale, OL16 4BP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Kyle Wasley against the decision of Rochdale Metropolitan Borough Council.
 - The application ref 25/00745/CPL, dated 17 July 2025, was refused by notice dated 15 October 2025.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is the conversion of a garage to additional living accommodation including alterations to the front elevation.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the conversion of a garage to additional living accommodation including alterations to the front elevation which are found to be lawful.

Preliminary Matter

2. For the avoidance of doubt, I make clear that the planning merits of the proposed conversion of the attached garage to additional living accommodation, including alterations to the front elevation, are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded with particular regard to whether the conversion of the attached garage to additional living accommodation, including alterations to the front elevation, would constitute a breach of planning condition No. 03 of planning permission reference No. 93/D29415 if instigated or begun on the date of the LDC application.

Reasons

4. There is no dispute between the main parties that the proposed external alterations to the front elevation of the attached garage in the form of 'bricking up' part of the garage door opening and the provision of two windows would not fall foul of the limitations and conditions of Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Moreover, the use of the attached garage space as additional living accommodation would fall within the curtilage of the dwellinghouse, would be for a

purpose incidental to the enjoyment of the dwellinghouse, and hence would not amount to an act of development under section 55(2)(d) of the Act.

5. The dispute between the main parties relates to whether the proposal would be in breach of planning condition No. 03 of planning permission reference No. 93/D29415 which states *'Before occupation two car parking spaces each of a minimum length of 5.5 metres shall be provided for each dwelling in addition to any garage spaces and those car parking spaces shall be kept clear of all obstruction and remain available for car parking thereafter'* (my emphasis).
6. It is clear from reading the above, that the substance/subject of the planning condition relates to the provision of two car parking spaces. It is those two car parking spaces that are required to be kept clear of all obstruction and to remain available for car parking thereafter. Such control relates to the two car parking spaces and not to any additional garage space. Indeed, the reference to *'those car parking spaces'* is directly and solely concerned with the provision of the *'two car parking spaces'*. Consequently, and, for these reasons, I conclude that if the proposal had been instigated or begun on the date of the LDC application, it would not have been in breach of planning condition No. 03 of planning permission reference No. 93/D29415.

Overall Conclusion

7. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the conversion of a garage to additional living accommodation including alterations to the front elevation is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

D Hartley

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 17 July 2025 the use and operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shown on the plans attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed use of the garage would be incidental to the enjoyment of the dwellinghouse, and the external alterations would be permitted development under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The proposal would not be in breach of planning condition No. 03 of planning permission reference No. 93/D29415. Therefore, the proposal would have been lawful if instigated or begun on the date of the LDC application.

Signed

D Hartley

Inspector

Date: **24 MARCH 2026**

Reference: APP/P4225/X/25/3375175

First Schedule

The conversion of a garage to additional living accommodation including alterations to the front elevation.

Second Schedule

Land at 9 Whitfield Drive, Rochdale, OL16 4BP.

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plans

These are the plans referred to in the Lawful Development Certificate dated: **24 MARCH 2026**

by **D Hartley BA (Hons), MTP, MBA, MRTPI**

Land at: 9 Whitfield Drive, Rochdale, OL16 4BP

Reference: APP/P4225/X/25/3375175

Scale: Not to Scale

