

Planning

Growth & Development

Delegated officer report for planning application

Application no. 143627/LE/2025

Date registered valid: 1 August 2025

Proposal: Use of lower ground floor and second floor as two separate self-contained flats (Use Class C3)

Address: 553 Barlow Moor Road, Manchester, M21 8AN

Ward(s): Chorlton Park Ward

Applicant: Mr Andriy Pidopryhora ANRO Properties Ltd

Agent (if any): Mr Ralph Taylor Paul Butler Associates

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Grant

Date of recommendation: 24 September 2025

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit: Not Required

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

Application site relates to the basement and ground floor of a large semi-detached dwellinghouse located close to Chorlton District Centre.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a Certificate of Lawful Existing Use (CLEU) for the use of lower ground floor and second floor as two separate self-contained flats (Use Class C3)

Consultations & Notification Responses

None Required - There is no statutory requirement to consult third parties including neighbours; views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.

Cadent Gas Ltd – No objection.

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 applicant’s 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 Application

This application is pursued under subsection (1) of section 191 which provides for an application to determine whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land is lawful for planning purposes.

In this case, the onus is on the applicant to substantiate their case on the balance of probability. As of 25 April 2024, the immunity period for planning breaches changed from four years to ten years, because of the changes brought in by section 115 of the Levelling-up and Regeneration Act 2023, which amended section 171B of the 1990 Act.

It is important to note that transitional provisions apply. For example, the four-year rule may still be relevant where operational development was substantially completed, or a change of use to a single dwellinghouse occurred, before 24 April 2024.

In this case the applicant has confirmed that the use began on the 31st December 2018, as such the applicant needs to demonstrate that use of lower ground floor and second floor as two separate self-contained flats (Use Class C3), commenced more than four years prior to the date of the application (i.e., by 1st August 2021) and continued without a significant break for four years.

The Planning Practice Guidance points to the need for evidence to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

The relevant test, established by the court in *Thrasyvoulou v SSE* [1984], is the balance of probabilities – whether something is more likely than not.

Assessment of Evidence

Planning history

Planning history for the site shows that have been four previous planning applications at this address.

- **Application reference 023829** - Planning permission was granted on the 19th April 1985 to allow the conversion of the dwellinghouse into a 9-bedroom hostel.
- **Application reference 030171** – Granted permission for a new brick boundary wall on the 9th December 1987
- **Application reference: 053862/FO/SOUTH2/98** - On the 16th April 1998, permission was granted to allow the conversion of a 9-bedroom hostel into a 4no. self-contained flats.
- **Application reference: 067557/RO/SOUTH1/03.** - approved on the 14th May 2003 to allow the for the renewal of planning permission 053862/FO/SOUTH2/98 for a change of use from hostel to self-contained flats.

Of relevance to the application, the history of the site shows that permission was granted to change the use from a 9-bedroom hostel to 4no self-contained flats.

Applicant's Evidence

The application states that the lower ground floor and second floor have been in use as two separate self-contained flats (Use Class C3) since 31 December 2018. According to the submitted documentation:

- **Flat 5** corresponds to the **lower ground floor**, as shown on the drawings prepared by Howard & Seddon.
- **Flat 6** corresponds to the **second floor (top floor)**, as indicated in the Bridgfords Property Details brochure.

The applicant has provided a variety of documents to support their application. Tenancy agreements have been provided spanning from 2020 to 2023 in the case of Flat 6 and to 2025 in the case of Flat 5.

Information has also been provided in the form of Rent Statements, Energy Performance Certificates, Landlord Gas Safety Records, Electrical Installation Report for Flat 5, Building Regulations Regularisation Certificate relating to Flat 5 and Deposit Protection Certificates.

In addition, Council Tax Band information available on the Gov.UK website shows that there are six properties at the address, with flats 1-5 have been rateable for Council Tax since 1st September 2003 and that 553A Barlow Moor Road since 16th April 2021.

 **Check and challenge your Council Tax band**

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Last updated on 24 September 2025

Address	Council Tax band	Local Authority
FLAT 1 AT 553, BARLOW MOOR ROAD, MANCHESTER, M21 8AN	A	Manchester
FLAT 2 AT 553, BARLOW MOOR ROAD, MANCHESTER, M21 8AN	A	Manchester
FLAT 3 AT 553, BARLOW MOOR ROAD, MANCHESTER, M21 8AN	A	Manchester
FLAT 4 AT 553, BARLOW MOOR ROAD, MANCHESTER, M21 8AN	A	Manchester
FLAT 5 AT 553, BARLOW MOOR ROAD, MANCHESTER, M21 8AN	A	Manchester
553, BARLOW MOOR ROAD, MANCHESTER, M21 8AN	Deleted	Manchester
553A, BARLOW MOOR ROAD, MANCHESTER, M21 8AN	A	Manchester

Image 1 Council Tax Band for M21 8AN, show six properties at 553 Barlow Moor Road. Source: [Search results for M21 8AN - Check and challenge your Council Tax band - GOV.UK](#) accessed 24.09.2025

Planning Practice Guidance emphasizes the need for evidence to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Conclusion: Based on the evidence provided, it is considered that, on the balance of probability, the lower ground floor and second floor have been in continuous use as two separate self-contained flats (Use Class C3)) for at least 4 years.

The Council, as the Local Planning Authority, holds no evidence to contradict the applicant's account or to suggest that the use described is less than probable.

It is therefore recommended that the Certificate of Lawfulness be approved.

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

1. From the evidence available, and with reference to the relevant planning legislation, Manchester City Council is satisfied that the use of lower ground floor and second floor as two separate self-contained flats (Use Class C3), began more than four years before the date of this application and is therefore lawful

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: SOUTH AREA