

Planning

Growth & Development

Delegated officer report for planning application

Application no. 142313/LE/2025

Date registered valid: 13 March 2025

Proposal: Use of single storey side extension as a one-bedroom flat (Use Class C3).

Address: 27A Corringham Road, Manchester, M19 2RG

Ward(s): Levenshulme Ward

Applicant: Mr Mohammed Rafiq

Agent (if any):

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

Recommendation: Grant

Date of recommendation: 13 June 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

Printed: 14 March 2025 Expired: 4 April 2025

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

The application site at 27A Corringham Road is a single-storey side extension to 27 Corringham Road, a two-storey semi-detached dwelling located at the corner of Corringham Road and Milford Drive.

In 2002, planning permission (reference 065330/FH/NORTH2/02) was granted for a single-storey rear extension to create a new dining room and kitchen, as well as a single-storey side extension to provide self-contained accommodation for a family member.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a certificate of lawfulness of existing use or development (CLEUD) for the use of single storey side extension as a one-bedroom flat (Use Class C3).

Consultations & Notification Responses

Publicity – Notification letters were sent to nearby residential properties (appendix 1).

Local residents/public opinion – No objections, comments or representations in support of the application have been received.

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 applicants 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 purpose.

Section 191(2)(a) of the 1990 Act sets out that uses are lawful at any time if no enforcement action may be taken in respect of them because either: they did not involve development or require planning permission; or, the time period for enforcement action has expired and they do not constitute a contravention of any enforcement notice then in force.

Change of Use to Dwellinghouse: Four-Year or Ten-Year Rule?

While breaches of planning conditions are generally subject to a 10-year enforcement period, the Court of Appeal in **Arun DC v First Secretary of State [2007]** ruled that a 4-year period applies when the breach results in a change of use to a single dwellinghouse, even if it involves non-compliance with conditions attached to a planning permission for that use.

In this case, the application site relates to an extension of a two-storey semi-detached dwelling on the corner of Corringham Road and Milford Drive. On 1st August 2002, planning permission was granted at 27 Corringham Road for a single-storey rear extension to create a new dining room and kitchen, as well as a single-storey side extension to provide self-contained accommodation for a family member under planning reference 065330/FH/NORTH2/02 (see Images 1 and 2 for approved drawings).

That permission contained **three** conditions:

- **Condition 1** required that the development began not later than the expiration of five years beginning with the date of the permission, i.e., on or before 1st August 2007.
- **Condition 2** stated that the approved development should be carried out in accordance with the drawings numbered 112078 and correspondence received on 21st May 2002.
- **Condition 3** expressly limited the occupancy of the extension to a member of the household of No. 27 Corringham Road. It stated that the extension should not be used as a self-contained flat.

The applicant is seeking a Certificate of Lawfulness of Existing Use or Development (CLEUD) for the use of the single-storey side extension as a one-bedroom flat (Use Class C3).

In cases of this nature, the onus is on the applicant to substantiate their case on the balance of probability. Therefore, the applicant must demonstrate that the failure to comply with Condition 3 of the 2002 permission, by using the self-contained accommodation for a family member as a self-contained accommodation, has become lawful through the passage of time. This is because the use commenced on or before 4th March 2021 and continued without interruption for the subsequent four years.

Assessment of Evidence

The application form states that the CLEUD should be granted for the following reasons:

“A Lawful Development Certificate should be granted because the existing one-bedroom flat at 27a Corringham Road, M19 2RG, has been in continuous use as an independent residential dwelling for over 10 years.

Planning permission for the original construction of the ancillary 'granny flat' was granted in 2002 (reference: 065330/FH/NORTH2/02).

The transition to independent residential use occurred as early as 2014, and the flat has since functioned as a self-contained dwelling with its own address, separate entrance, and independent kitchen and bathroom facilities. This established use, exceeding the 10-year requirement, renders the current residential use lawful.”

The site location plan designates the application site as a rectangular area adjacent to 27 Corringham Road. The red boundary runs parallel to Milford Street and forms a right angle at the corner of the property. It encloses a smaller section within the larger, blue-outlined area, which designates the curtilage of 27 Corringham Road.

The applicant has submitted a photographed copy of the floor plan and elevations of the extension, which bear a similar appearance to the approved drawing for planning permission reference 065330/FH/NORTH2/02, which granted an extension to the property as discussed in detail above (image 1). Image 3 has been provided by the applicant during the course of the application to show the current and existing floor plan for both 27 and 27A. This shows that the internal door linking the properties has been removed.

A photograph of the "Completion of Building Regulation Work" letter with the reference BN/07/52836 with date of 4th June 2008 has been provided.

The application form reveals that the use as a separate dwelling commenced on 14th January 2014, which was the date when the first tenant occupied the flat under a separate tenancy agreement and address.

The applicant has provided four tenancy agreements as evidence of the independent use of the property as a self-contained flat.

Listed in chronological order:

1. **The first tenancy agreement** lists 27A Corringham Road as the address, with a fixed term of 6 months commencing on 14th January 2014 for one tenant.
2. **The second tenancy agreement** is for one tenant, with a term of 6 months starting from 11th January 2019.
3. **The third tenancy agreement** is for one tenant, with a term of 6 months beginning on 2nd May 2020.
4. **The fourth and final tenancy agreement** is for one tenant, with a term of 6 months commencing on 9th July 2024.

Council Tax records identify that the property has a rating of A and came into effect from 10 December 2010 as its own separate address for Council Tax purposes. Furthermore, the property has obtained an Energy Performance Certificate (EPCs) with an energy rating of D dated 9th August 2023. This was the second EPC at this address with the first certification on the 23rd August 2012. Each certificate is valid for 10 years.

Conclusion

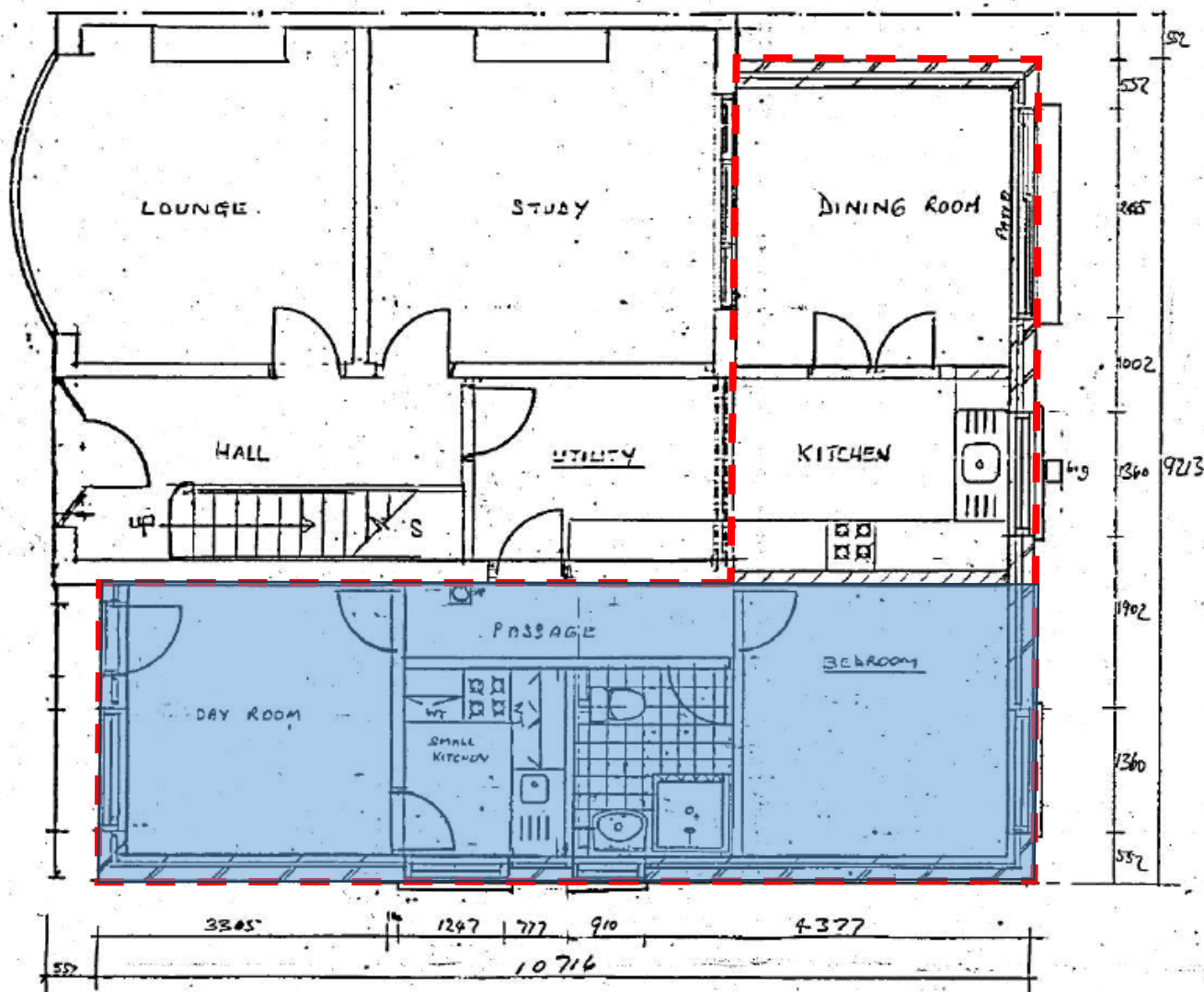
The tenancy agreements indicate repeated independent occupation, however there are gaps between tenancies, notably between 2014 and 2019, and again between 2020 and 2024 this may raise questions about continuity of use.

However, this evidence is supported by publicly available information that could have also been submitted by the applicant to support their application. For example, Council Tax records, confirm that 27A Corringham Road has been recognised as a separate residential address since 10 December 2010, with a Band A rating. This is a strong indicator of the property's independent status.

Additionally, the property has held two EPCs, one issued in 2012 and another in 2023 both valid for 10 years. The existence of multiple EPCs over time further supports the claim of continued residential use.

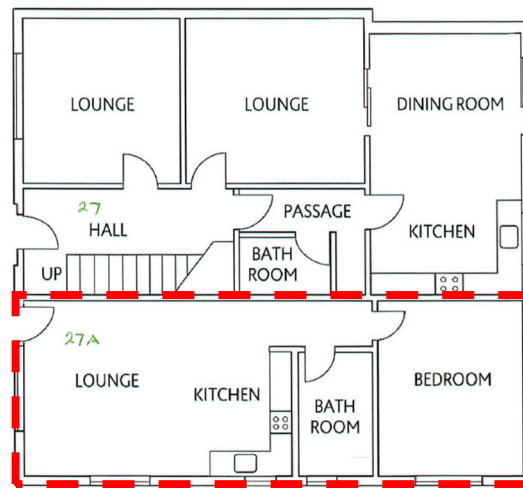
In this case, Condition 3 of the original planning permission expressly limits the use of the extension at No. 27 Corringham Road to occupation by a member of the household and prohibits its use as a self-contained flat. Even if the extension has been used in breach of this condition for a continuous period exceeding four years and is therefore immune from enforcement action under Section 171B(2) of the Town and Country Planning Act 1990, the condition remains in force and is capable of being re-activated by any subsequent compliance with that condition.





P L A N

Image 2 Approved Proposed Floor Plan from the Approved Proposed Elevation and Floor Plan Drawing 112078 (065330/FH/NORTH2/02). The side and rear extension are outlined in red and the side extension is highlighted in blue [planning officers emphasis].



PLAN
27A Corringham Rd. Mcr. M19 2R9

Image 3 The existing floor plan, submitted as part of the application, includes both 27 and 27A Corringham Road. The area corresponding to 27A is outlined with a red dashed line [planning officers emphasis].

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

From the evidence available, and with reference to the relevant planning legislation, specifically Section 191(1)(c), Manchester City Council is satisfied that the use of the property as a one-bedroom self-contained flat, constitutes a failure to comply with Condition 3 of planning permission 065330/FH/NORTH2/02, granted on 1 August 2002 and is therefore lawful.

Appendix 1 – List of consultees & neighbours notified

47C Milford Drive, Manchester, M19 2SA
47B Milford Drive, Manchester, M19 2SA
49A Milford Drive, Manchester, M19 2RY
49B Milford Drive, Manchester, M19 2RY
47 Milford Drive, Manchester, M19 2SA
26 Corringham Road, Manchester, M19 2RG
27 Corringham Road, Manchester, M19 2RG
49 Milford Drive, Manchester, M19 2RY
28 Milford Drive, Manchester, M19 2SB
45 Milford Drive, Manchester, M19 2SA
43 Milford Drive, Manchester, M19 2SA
28 Corringham Road, Manchester, M19 2RG
51 Milford Drive, Manchester, M19 2RY

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Historic Landfill Site 250m Buffer -
Area Team Boundary - Name: NORTH AREA