MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	138833/LE/2023
Date registered valid:	14 December 2023
Proposal:	Conversion of single dwellinghouse to 3 self contained flats.
Address:	8 Pine Grove, Manchester, M14 5QG
Ward(s):	Rusholme Ward
Applicant:	Mr Bux Trustees of the Rhodi Charitable Trust
Agent (if any):	Mr Andy Brook Code L6 Architecture Ltd
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Grant
Date of recommendation:	8 February 2024

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: 20 December 2023 Expired: 13 January 2024

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 relates to mid-terraced two storey dwellinghouse. The property is brick built with a slate roof and has a modest sized front and rear gardens. There is no in curtilage car parking spaces.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

Residential in nature comprising of terraced properties organised in gird iron street patterns.

Description of development

Certificate of Lawful Development to confirm the use of the dwelling as 3 self contained flats.

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.

Issues

Planning History – There has been one previous application at this address for a lawful development certificate for the use of the property as 3 self-contained flats under planning reference: 138174/LE/2023 which was refused for the following reason:

The applicant has failed to demonstrate that 8 Pine Grove, Manchester, M14 5QG has been occupied as three self-contained flats for a continual 4 year period up to the date of the application.

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 then 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.

The applicant is seeking an existing certificate of lawful development to confirm the use of the dwelling as 3 self-contained flats.

in a case of this type, the onus is on the applicant to substantiate their case, on the balance of probability. The applicant needs to demonstrate that the use as two flats commenced more than 4 years prior to the date of the application (i.e. by 14th December 2019) and continued without a significant break for 4 years.

Class C3 is defined in the Town and Country Planning (Use Classes) Order 1987, as amended, as "Use as a dwellinghouse (whether or not as a sole or main residence) by -."

(a)a single person or by people to be regarded as forming a single household;
(b)not more than six residents living together as a single household where care is provided for residents; or
(c)not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4)."

For the purposes of Class C3(a) "single household" shall be construed in accordance with S.258 of the Housing Act 2004.

The floor plan provided with the application shows that the property has been subdivided into three units. The lower ground floor is a one-bedroom flat consisting of a separate living room and kitchen, a shower room with a toilet and washbasin. The ground floor is a one-bedroom flat consisting of a separate living room and kitchen, a shower room with a toilet and washbasin. The first floor and second floor flat have two bedrooms, a combined living and kitchen room, a shower room with a toilet and washbasin.

The applicant has provided a tenancy agreement for each flat, an email from the Council's Revenue and Benefit Unit of when the applicant was liable for council tax for each flat from 2013 to August 2023, what this email shows is that the tenants were long term tenants that stayed longer than their initial tenancy thus moving into rolling contracts.

The final piece of evidence by the applicant is a letter from the Lettings and Management Department at EasyHomes who confirm that they have managed the properties for the last 7 years (letter dated 2023).

The onus is on the applicant to provide evidence to support their application, however public available information from the Valuation Office Agency (VOA) website, the website shows that both properties are within Council Tax Band A and were registered as flats for council tax purposes on the 1st November 2016 (images 1 and 2). The energy performance certificate website shows that all three of the flats have one with the assessment for each flat taken place on the 30 April 2021.

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 Council have no evidence to raise any doubt to this claim.

Therefore, on balance of probability and without any evidence to the contrary the property * Pine Grove have been in use as 3 flats for at least four years and the certificate should be granted.

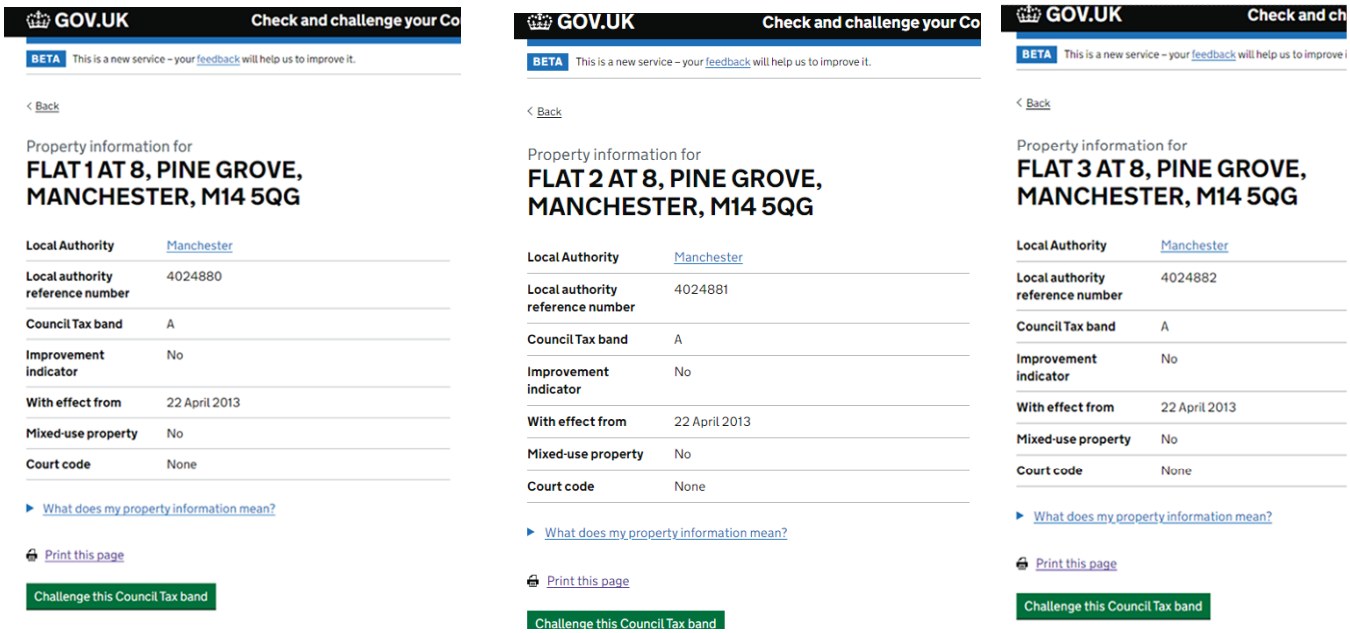
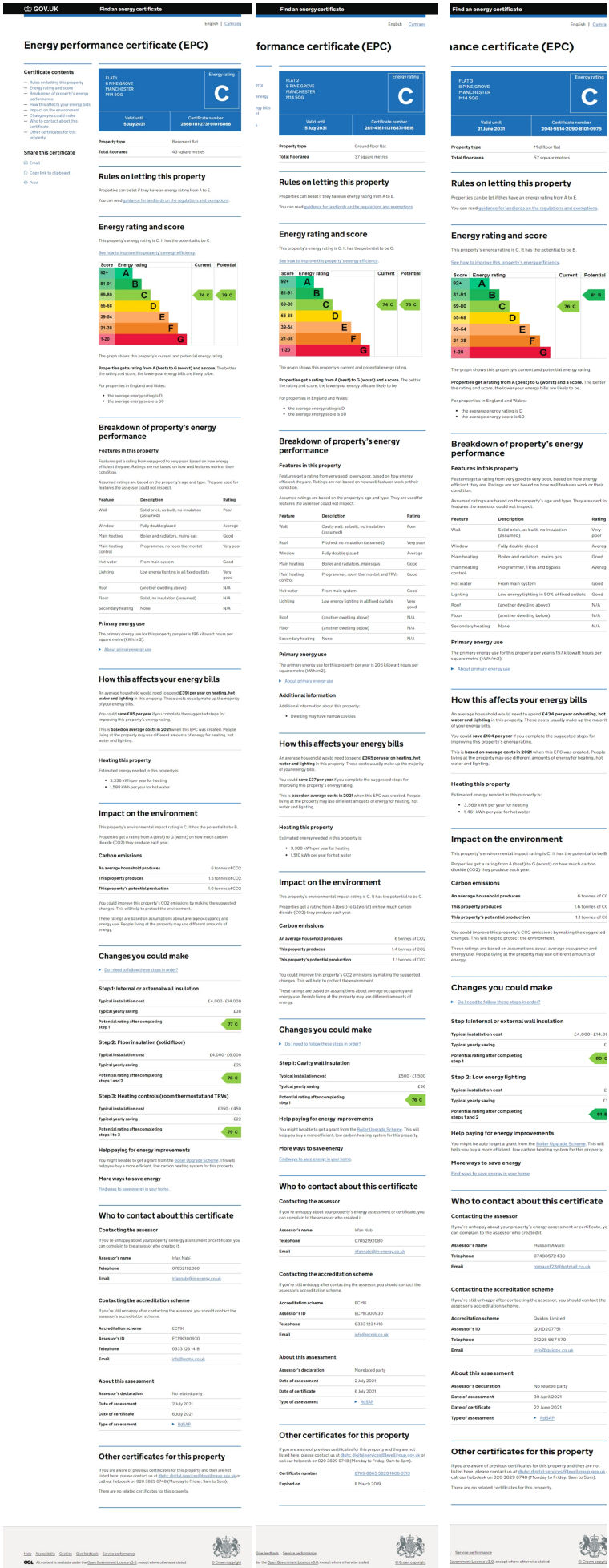


Image 1 Screenshot of the Council Tax Valuation Office website for each flat. Accessed 07.02.2024



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Energy performance certificate (EPC)

Certificate contents

- Rules on letting this property
- Energy rating and score
- Breakdown of property's energy performance
- How this affects your energy bills
- Impact on the environment
- Changes you could make
- Who to contact about this certificate
- Other certificates for this property

Share this certificate

Email
Copy link to clipboard
Print

FLAT 1
8 PINE GROVE
MANCHESTER
M14 5QG

Energy rating: C

Valid until: 5 July 2031
Certificate number: 3969-1111-2721-9101-6668

Property type	Basement flat
Total floor area	43 square metres

Rules on letting this property

Properties can be let if they have an energy rating from A to E.

You can read guidance for landlords on the regulations and exemptions.

Energy rating and score

This property's energy rating is C. It has the potential to be C.

See how to improve this property's energy efficiency.

The graph shows this property's current and potential energy rating.

Properties get a rating from A (best) to G (worst) and a score. The better the rating and score, the lower your energy bills are likely to be.

For properties in England and Wales:

- the average energy rating is D
- the average energy score is 60

Breakdown of property's energy performance

Features in this property

Features get a rating from very good to very poor, based on how energy efficient they are. Ratings are not based on how well features work or their condition.

Assumed ratings are based on the property's age and type. They are used for features the assessor could not inspect.

Feature	Description	Rating
Wall	Solid brick, as built, no insulation (assumed)	Poor
Window	Fully double glazed	Average
Main heating	Boiler and radiators, mains gas	Good
Main heating control	Programmer, no room thermostat	Very poor
Hot water	From main system	Good
Lighting	Low energy lighting in all fixed outlets	Very good
Roof	(another dwelling above)	N/A
Floor	Solid, no insulation (assumed)	N/A
Secondary heating	None	N/A

Primary energy use

The primary energy use for this property per year is 196 kilowatt hours per square metre (kWh/m2).

About primary energy use

How this affects your energy bills

An average household would need to spend **£391 per year on heating, hot water and lighting** in this property. These costs usually make up the majority of your energy bills.

You could **save £85 per year** if you complete the suggested steps for improving this property's energy rating.

This is **based on average costs in 2021** when this EPC was created. People living at the property may use different amounts of energy for heating, hot water and lighting.

Heating this property

Estimated energy needed in this property is:

- 3,336 kWh per year for heating
- 1,686 kWh per year for hot water

Impact on the environment

This property's environmental impact rating is C. It has the potential to be B.

Properties get a rating from A (best) to G (worst) on how much carbon dioxide (CO2) they produce each year.

Carbon emissions

An average household produces	6 tonnes of CO2
This property produces	1.5 tonnes of CO2
This property's potential production	1.0 tonnes of CO2

You could improve this property's CO2 emissions by making the suggested changes. This will help to protect the environment.

These ratings are based on assumptions about average occupancy and energy use. People living at the property may use different amounts of energy.

Changes you could make

Do I need to follow these steps in order?

Step 1: Internal or external wall insulation

Typical installation cost	£4,000 - £14,000
Typical yearly saving	£38
Potential rating after completing step 1	77 C

Step 2: Floor insulation (solid floor)

Typical installation cost	£4,000 - £6,000
Typical yearly saving	£25
Potential rating after completing steps 1 and 2	78 C

Step 3: Heating controls (room thermostat and TRVs)

Typical installation cost	£350 - £450
Typical yearly saving	£22
Potential rating after completing steps 1 to 3	79 C

Help paying for energy improvements

You might be able to get a grant from the Boiler Upgrade Scheme. This will help you buy a more efficient, low carbon heating system for this property.

More ways to save energy

Find ways to save energy in your home.

Who to contact about this certificate

Contacting the assessor

If you're unhappy about your property's energy assessment or certificate, you can complain to the assessor who created it.

Assessor's name	Irfan Nabi
Telephone	07852192080
Email	irfannabi@ln-energy.co.uk

Contacting the accreditation scheme

If you're still unhappy after contacting the assessor, you should contact the assessor's accreditation scheme.

Accreditation scheme	ECMK
Assessor's ID	ECMK300930
Telephone	0333 123 1418
Email	info@ecmk.co.uk

About this assessment

Assessor's declaration	No related party
Date of assessment	2 July 2021
Date of certificate	6 July 2021
Type of assessment	RdSAP

Other certificates for this property

If you are aware of previous certificates for this property and they are not listed here, please contact us at dluhc-digital-services@levelling.gov.uk or call our helpdesk on 020 3829 0748 (Monday to Friday, 9am to 5pm).

There are no related certificates for this property.

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formance certificate (EPC)

FLAT 2
8 PINE GROVE
MANCHESTER
M14 5QG

Energy rating: C

Valid until: 8 July 2031
Certificate number: 2811-4161-1131-6871-5616

Property type	Ground-floor flat
Total floor area	37 square metres

Rules on letting this property

Properties can be let if they have an energy rating from A to E.

You can read guidance for landlords on the regulations and exemptions.

Energy rating and score

This property's energy rating is C. It has the potential to be C.

See how to improve this property's energy efficiency.

The graph shows this property's current and potential energy rating.

Properties get a rating from A (best) to G (worst) and a score. The better the rating and score, the lower your energy bills are likely to be.

For properties in England and Wales:

- the average energy rating is D
- the average energy score is 60

Breakdown of property's energy performance

Features in this property

Features get a rating from very good to very poor, based on how energy efficient they are. Ratings are not based on how well features work or their condition.

Assumed ratings are based on the property's age and type. They are used for features the assessor could not inspect.

Feature	Description	Rating
Wall	Cavity wall, as built, no insulation (assumed)	Poor
Roof	Pitched, no insulation (assumed)	Very poor
Window	Fully double glazed	Average
Main heating	Boiler and radiators, mains gas	Good
Main heating control	Programmer, room thermostat and TRVs	Good
Hot water	From main system	Good
Lighting	Low energy lighting in all fixed outlets	Very good
Roof	(another dwelling above)	N/A
Floor	(another dwelling below)	N/A
Secondary heating	None	N/A

Primary energy use

The primary energy use for this property per year is 206 kilowatt hours per square metre (kWh/m2).

About primary energy use

Additional information

Additional information about this property:

- Dwelling may have narrow cavities

How this affects your energy bills

An average household would need to spend **£365 per year on heating, hot water and lighting** in this property. These costs usually make up the majority of your energy bills.

You could **save £37 per year** if you complete the suggested steps for improving this property's energy rating.

This is **based on average costs in 2021** when this EPC was created. People living at the property may use different amounts of energy for heating, hot water and lighting.

Heating this property

Estimated energy needed in this property is:

- 3,300 kWh per year for heating
- 1,510 kWh per year for hot water

Impact on the environment

This property's environmental impact rating is C. It has the potential to be C.

Properties get a rating from A (best) to G (worst) on how much carbon dioxide (CO2) they produce each year.

Carbon emissions

An average household produces	6 tonnes of CO2
This property produces	1.4 tonnes of CO2
This property's potential production	1.1 tonnes of CO2

You could improve this property's CO2 emissions by making the suggested changes. This will help to protect the environment.

These ratings are based on assumptions about average occupancy and energy use. People living at the property may use different amounts of energy.

Changes you could make

Do I need to follow these steps in order?

Step 1: Cavity wall insulation

Typical installation cost	£500 - £1,500
Typical yearly saving	£36
Potential rating after completing step 1	76 C

Help paying for energy improvements

You might be able to get a grant from the Boiler Upgrade Scheme. This will help you buy a more efficient, low carbon heating system for this property.

More ways to save energy

Find ways to save energy in your home.

Who to contact about this certificate

Contacting the assessor

If you're unhappy about your property's energy assessment or certificate, you can complain to the assessor who created it.

Assessor's name	Irfan Nabi
Telephone	07852192080
Email	irfannabi@ln-energy.co.uk

Contacting the accreditation scheme

If you're still unhappy after contacting the assessor, you should contact the assessor's accreditation scheme.

Accreditation scheme	ECMK
Assessor's ID	ECMK300930
Telephone	0333 123 1418
Email	info@ecmk.co.uk

About this assessment

Assessor's declaration	No related party
Date of assessment	2 July 2021
Date of certificate	6 July 2021
Type of assessment	RdSAP

Other certificates for this property

If you are aware of previous certificates for this property and they are not listed here, please contact us at dluhc-digital-services@levelling.gov.uk or call our helpdesk on 020 3829 0748 (Monday to Friday, 9am to 5pm).

Certificate number	8709-8865-5820-1606-0713
Expired on	8 March 2019

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ance certificate (EPC)

FLAT 3
8 PINE GROVE
MANCHESTER
M14 5QG

Energy rating: C

Valid until: 21 June 2031
Certificate number: 2041-5914-2090-8101-0975

Property type	Mid-floor flat
Total floor area	57 square metres

Rules on letting this property

Properties can be let if they have an energy rating from A to E.

You can read guidance for landlords on the regulations and exemptions.

Energy rating and score

This property's energy rating is C. It has the potential to be B.

See how to improve this property's energy efficiency.

The graph shows this property's current and potential energy rating.

Properties get a rating from A (best) to G (worst) and a score. The better the rating and score, the lower your energy bills are likely to be.

For properties in England and Wales:

- the average energy rating is D
- the average energy score is 60

Breakdown of property's energy performance

Features in this property

Features get a rating from very good to very poor, based on how energy efficient they are. Ratings are not based on how well features work or their condition.

Assumed ratings are based on the property's age and type. They are used fo features the assessor could not inspect.

Feature	Description	Rating
Wall	Solid brick, as built, no insulation (assumed)	Very poor
Window	Fully double glazed	Averag
Main heating	Boiler and radiators, mains gas	Good
Main heating control	Programmer, TRVs and bypass	Averag
Hot water	From main system	Good
Lighting	Low energy lighting in 50% of fixed outlets	Good
Roof	(another dwelling above)	N/A
Floor	(another dwelling below)	N/A
Secondary heating	None	N/A

Primary energy use

The primary energy use for this property per year is 157 kilowatt hours per square metre (kWh/m2).

About primary energy use

How this affects your energy bills

An average household would need to spend **£434 per year on heating, hot water and lighting** in this property. These costs usually make up the majorit of your energy bills.

You could **save £104 per year** if you complete the suggested steps for improving this property's energy rating.

This is **based on average costs in 2021** when this EPC was created. People living at the property may use different amounts of energy for heating, hot water and lighting.

Heating this property

Estimated energy needed in this property is:

- 3,569 kWh per year for heating
- 1,461 kWh per year for hot water

Impact on the environment

This property's environmental impact rating is C. It has the potential to be B

Properties get a rating from A (best) to G (worst) on how much carbon dioxide (CO2) they produce each year.

Carbon emissions

An average household produces	6 tonnes of C
This property produces	1.6 tonnes of C
This property's potential production	1.1 tonnes of C

You could improve this property's CO2 emissions by making the suggested changes. This will help to protect the environment.

These ratings are based on assumptions about average occupancy and energy use. People living at the property may use different amounts of energy.

Changes you could make

Do I need to follow these steps in order?

Step 1: Internal or external wall insulation

Typical installation cost	£4,000 - £14,0
Typical yearly saving	£
Potential rating after completing step 1	80 C

Step 2: Low energy lighting

Typical installation cost	£
Typical yearly saving	£
Potential rating after completing steps 1 and 2	81 B

Help paying for energy improvements

You might be able to get a grant from the Boiler Upgrade Scheme. This will help you buy a more efficient, low carbon heating system for this property.

More ways to save energy

Find ways to save energy in your home.

Who to contact about this certificate

Contacting the assessor

If you're unhappy about your property's energy assessment or certificate, yc can complain to the assessor who created it.

Assessor's name	Hussain Awais
Telephone	07488572430
Email	romaant123@hotmail.co.uk

Contacting the accreditation scheme

If you're still unhappy after contacting the assessor, you should contact the assessor's accreditation scheme.

Accreditation scheme	Quidos Limited
Assessor's ID	QUID207751
Telephone	01225 667 570
Email	info@quidos.co.uk

About this assessment

Assessor's declaration	No related party
Date of assessment	30 April 2021
Date of certificate	22 June 2021
Type of assessment	RdSAP

Other certificates for this property

If you are aware of previous certificates for this property and they are not listed here, please contact us at dluhc-digital-services@levelling.gov.uk or call our helpdesk on 020 3829 0748 (Monday to Friday, 9am to 5pm).

There are no related certificates for this property.

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Image 2 Energy Performance Certificate information for 3 flats at 8 Pine Grove website. Accessed 07.02.2024

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 polices 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 the property as 3no. self-contained flats is lawful by reason of the said use having been in existence for a period of 4 years up to the date of this application.

Appendix 1 – List of consultees & neighbours notified

t 3, 8 Pine Grove, Manchester, M14 5QG
Flat 2, 8 Pine Grove, Manchester, M14 5QG
Flat 1, 8 Pine Grove, Manchester, M14 5QG
12 Pine Grove, Manchester, M14 5QG
6 Pine Grove, Manchester, M14 5QG
Flat 3, 6 Pine Grove, Manchester, M14 5QG
Flat 2, 6 Pine Grove, Manchester, M14 5QG
Flat 1, 6 Pine Grove, Manchester, M14 5QG
35 Brightstone Walk, Manchester, M13 0YB
33 Brightstone Walk, Manchester, M13 0YB
31 Brightstone Walk, Manchester, M13 0YB
5 Ash Grove, Manchester, M14 5GQ
10 Pine Grove, Manchester, M14 5QG
9 Ash Grove, Manchester, M14 5GQ
7 Ash Grove, Manchester, M14 5GQ

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: NORTH AREA