

Planning

Growth & Development

Delegated officer report for planning application

Application no. 136668/LE/2023

Date registered valid: 4 April 2023

Proposal: Use of property as 6no. self contained apartments (comprising 4no. 1 beds and 2no. 2 beds) (Class C3)

Address: 207 Dickenson Road, Manchester, M13 0YW

Ward(s): Rusholme Ward

Applicant: Mr Jay Puddy P&M Property

Agent (if any):

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

Recommendation: GRANT

Date of recommendation: 30 May 2023

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: 21 April 2023 Expired: 12 May 2023

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 relates to a two storey detached late Victorian Villa, the dwellinghouse has a front garden which has subsequently lost its original front boundary wall and replace with a more modern one. The grass has been largely replaced by gravel. At the rear modest sized rear garden for the size of property that can be accessed via a rear alleyway.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

A mixture of residential and commercial properties located between Rusholme and Longsight District Centres.

Description of development

The applicant is seeking a Certificate Lawful Development Existing for the Use of property as 6no. self contained apartments (comprising 4no. 1 beds and 2no. 2 beds) (Class C3)

Consultations & Notification Responses

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

Local residents/public opinion - One representation was received objecting to the proposal

- Raised concerns regarding anti-social behaviour in the form of noise and disturbance from existing residents and/or visitors.
- Stated that they are concerned with the prospect of new flats as there will be a large increase in the number in the number of persons and vehicles. Concerned that the site can not accommodate additional vehicles and would result in on street car parking to the detriment of highway safety.

Issues

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

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 six flats commenced more than 4 years prior to the date of the application (i.e. by 04 April 2019) and continued without a significant break for 4 years.

Evidence – The following evidence has been submitted for consideration:

General Documents

- A site location plan edged in red.
- Title Deeds

Flat 1

- Assured shorthold tenancy agreement(s);
 - 04/12/2014 to 03/05/2015 – 1 tenant
 - 07/09/2022 to 06/03/2023 – 1 tenant

Flat 2

- Assured shorthold tenancy agreement(s);
 - 20/02/2014 to 19.02.2015 – 1 tenant

Flat 3

- Assured shorthold tenancy agreement(s);
 - 01/12/2021 to 31.05.2022 – 1 tenant
 - 09/02/2017 to 08/08/2017 – 1 tenant

Flat 4

- Assured shorthold tenancy agreement(s);
 - 17/03/2017 to 16/09/2017 – 1 tenant
 - 31/10/2020 to 30/04/2021 – 1 tenant
 - 01/11/2021 to 30.04.2022 – 1 tenant
 - 06/06/2022 to 05/12/2023 – 1 tenant

Flat 5

- Assured shorthold tenancy agreement(s);
 - 28/07/2017 to 27/01/2018 – 1 tenant
 - 24/06/2022 to 23/12/2022 – 2 tenants

Flat 6

- Assured shorthold tenancy agreement(s);
 - Dated 01/12/2013 – 1 tenant - No term provided- Missing Page?
 - 28/07/2017 to 27/01/2018 – 1 tenant
 - 05/01/2021 to 04/07/2021 – 1 tenant

- 30/03/2022 to 29/09/2022 – 1 tenant
- 22/07/2022 to 21/01/2023 – 2 tenants

The applicant bought the property on the 31 May 2011 and states that at the time of purchase the building had already been converted into 6 residential flats (4 x 1 beds and 2 x 2 beds). A search of the planning history shows that there have been no previous planning applications at this property. The applicant states that each apartment is fully self-contained and is registered for Council Tax purposes.

The applicant has provided at least one tenancy agreement for each flat, whilst this does not provide sufficient evidence to prove that the flats have been continuously occupied for the required 4 years, the applicant has stated that the flats have been registered for council tax (image 1). The Council Tax Valuation provided by the Valuation Office Agency shows that there are 6 flats at the address (all came into effect from 1 April 1993) and the original record for 207 Dickenson Road Council Tax Band has been deleted.

The Energy Performance Certificates website (image 2) shows that flats 1 and 2 are described as ground-floor flats, flats 3 and 4 are mid-floor flats and 5 and 6 are top-floor flats.

The objection raises concerns with anti-social behaviour experienced by a neighbour in the form of noise and disturbance from existing residents and/or visitors. The representation raises that increase number of flats would make the situation worse. No comment is provided on whether the number of flats is correct but the representation appears to confirm that the property is in use as flats.

The LPA has no evidence to contradict the applicant's version of events or make them less then probable.

FLAT 1 AT 207 DICKENSON ROAD, Manchester, M13 0YW	Deleted	Manchester
FLAT 1 AT 207 DICKENSON ROAD, Manchester, M13 0YW	A	Manchester
FLAT 2 AT 207 DICKENSON ROAD, Manchester, M13 0YW	Deleted	Manchester

Search results for M13 0YW

[Search again](#)

Showing 41 - 60 of 68 results

Last updated on 28 May 2023

Address	Council Tax band	Local Authority
FLAT 2 AT 207 DICKENSON ROAD, Manchester, M13 0YW	A	Manchester
FLAT 3 AT 207 DICKENSON ROAD, Manchester, M13 0YW	A	Manchester
FLAT 4 AT 207 DICKENSON ROAD, Manchester, M13 0YW	A	Manchester
FLAT 5 AT 207 DICKENSON ROAD, Manchester, M13 0YW	A	Manchester
FLATS 4-5 AT 207 DICKENSON ROAD, Manchester, M13 0YW	Deleted	Manchester
FLAT 6 AT 207 DICKENSON ROAD, Manchester, M13 0YW	A	Manchester
207 DICKENSON ROAD, Manchester, M13 0YW	Deleted	Manchester

Image 1 Council Tax Valuation source: <https://www.tax.service.gov.uk/check-council-tax-band/search?postcode=VFTWryxDU9M3UuZIYL3ncA&page=2> accessed 30.05.2023

53 EPCs for M13 0YW

We only list properties with EPCs.

If your property does not have a valid EPC, you can [get a new energy certificate](#).

Address	Energy rating	Valid until
---------	---------------	-------------

Flat 1, 207 Dickenson Road, MANCHESTER, M13 0YW	D	22 June 2030
Flat 2, 207 Dickenson Road, MANCHESTER, M13 0YW	C	18 November 2029
Flat 3, 207 Dickenson Road, MANCHESTER, M13 0YW	D	18 November 2029
Flat 4, 207 Dickenson Road, MANCHESTER, M13 0YW	C	10 June 2030
Flat 5, 207 Dickenson Road, MANCHESTER, M13 0YW	D	18 November 2029
Flat 6, 207 Dickenson Road, MANCHESTER, M13 0YW	D	22 June 2030

Image 2 Energy Performance Certificate source: [53 EPCs for M13 0YW – Find an energy certificate – GOV.UK \(find-energy-certificate.service.gov.uk\)](#) accessed 30.05.2023

Conclusion - From the information that has been provided it is considered, that on the balance of probabilities, the building at 207 Dickenson Road has been in use as 6 flats for at least 4 years.

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 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

270 Dickenson Road, Manchester, M13 0YL
7 Willesden Avenue, Manchester, M13 0ZN
18 Willesden Avenue, Manchester, M13 0ZN
3 Willesden Avenue, Manchester, M13 0ZN
Ground Floor, 10 Aylcliffe Grove, Manchester, M13 0ZG
First Floor, 10 Aylcliffe Grove, Manchester, M13 0ZG
Flat 2, 207 Dickenson Road, Manchester, M13 0YW
Flat 15B, 276 Dickenson Road, Manchester, M13 0YL
9 Aylcliffe Grove, Manchester, M13 0ZG
Gateway Co Wrought Iron Works, Dickenson Road, Manchester, M13 0YW
195 Dickenson Road, Manchester, M13 0YW
4 Willesden Avenue, Manchester, M13 0ZN
30 Willesden Avenue, Manchester, M13 0ZN
14 Willesden Avenue, Manchester, M13 0ZN
Flat 14, 276 Dickenson Road, Manchester, M13 0YL
Flat 9, 276 Dickenson Road, Manchester, M13 0YL
Flat 6, 276 Dickenson Road, Manchester, M13 0YL
268 Dickenson Road, Manchester, M13 0YL
209 Dickenson Road, Manchester, M13 0YW
Flat 2, 193 Dickenson Road, Manchester, M13 0YW
5 Willesden Avenue, Manchester, M13 0ZN
272 Dickenson Road, Manchester, M13 0YL
26 Willesden Avenue, Manchester, M13 0ZN
20 Willesden Avenue, Manchester, M13 0ZN
203 Dickenson Road, Manchester, M13 0YW
237 Dickenson Road, Manchester, M13 0YW
Flat 6, 207 Dickenson Road, Manchester, M13 0YW
Flat 3, 197 Dickenson Road, Manchester, M13 0YW
266 Dickenson Road, Manchester, M13 0YL
Flat 1, 203 Dickenson Road, Manchester, M13 0YW
Flat 2, 205 Dickenson Road, Manchester, M13 0YW
Flat 2, Willesden Avenue, Manchester, M13 0ZN
Flat 1, 6 Willesden Avenue, Manchester, M13 0ZN
Flat 2, 209 Dickenson Road, Manchester, M13 0YW
280 Dickenson Road, Manchester, M13 0YL
7 Aylcliffe Grove, Manchester, M13 0ZG
13 Willesden Avenue, Manchester, M13 0ZN
262 Dickenson Road, Manchester, M13 0YL
10 Aylcliffe Grove, Manchester, M13 0ZG
8 Aylcliffe Grove, Manchester, M13 0ZG
264 Dickenson Road, Manchester, M13 0YL
239 Dickenson Road, Manchester, M13 0YW
278 Dickenson Road, Manchester, M13 0YL
Flat 4, 207 Dickenson Road, Manchester, M13 0YW
Flat 1, 193 Dickenson Road, Manchester, M13 0YW
Flat 5, 201 Dickenson Road, Manchester, M13 0YW
Flat 2, 201 Dickenson Road, Manchester, M13 0YW
Flat 4, 193 Dickenson Road, Manchester, M13 0YW
6 Willesden Avenue, Manchester, M13 0ZN
201 Dickenson Road, Manchester, M13 0YW

193 Dickenson Road, Manchester, M13 0YW
Flat 1, 278 Dickenson Road, Manchester, M13 0YL
Flat D, 280 Dickenson Road, Manchester, M13 0YL
Flat B, 280 Dickenson Road, Manchester, M13 0YL
Flat 3, 278 Dickenson Road, Manchester, M13 0YL
Flat 6, 278 Dickenson Road, Manchester, M13 0YL
Flat 4, 278 Dickenson Road, Manchester, M13 0YL
Flat 2, 197 Dickenson Road, Manchester, M13 0YW
Flat 3, 209 Dickenson Road, Manchester, M13 0YW
Flat 1, 209 Dickenson Road, Manchester, M13 0YW
Flat 2, 8 Willesden Avenue, Manchester, M13 0ZN
Flat 1, 8 Willesden Avenue, Manchester, M13 0ZN
13A Willesden Avenue, Manchester, M13 0ZN
Flat C, 280 Dickenson Road, Manchester, M13 0YL
Flat 5, 278 Dickenson Road, Manchester, M13 0YL
8 Willesden Avenue, Manchester, M13 0ZN
Flat 2, 278 Dickenson Road, Manchester, M13 0YL
Flat 4, 197 Dickenson Road, Manchester, M13 0YW
Flat 5, 197 Dickenson Road, Manchester, M13 0YW
12 Willesden Avenue, Manchester, M13 0ZN
Flat 1, 197 Dickenson Road, Manchester, M13 0YW
22 Willesden Avenue, Manchester, M13 0ZN
16 Willesden Avenue, Manchester, M13 0ZN
24 Willesden Avenue, Manchester, M13 0ZN
9 Willesden Avenue, Manchester, M13 0ZN
28 Willesden Avenue, Manchester, M13 0ZN
11 Willesden Avenue, Manchester, M13 0ZN
10 Willesden Avenue, Manchester, M13 0ZN
Flat A, 280 Dickenson Road, Manchester, M13 0YL
Flat 1, 207 Dickenson Road, Manchester, M13 0YW
Flat 5, 207 Dickenson Road, Manchester, M13 0YW
Flat 4, 201 Dickenson Road, Manchester, M13 0YW
Flat 3, 193 Dickenson Road, Manchester, M13 0YW
Flat 5, 276 Dickenson Road, Manchester, M13 0YL
Flat 1, 276 Dickenson Road, Manchester, M13 0YL
Flat 3, 201 Dickenson Road, Manchester, M13 0YW
Flat 1, 201 Dickenson Road, Manchester, M13 0YW
Flat 1, 195 Dickenson Road, Manchester, M13 0YW
Flat 8, 276 Dickenson Road, Manchester, M13 0YL
Flat 2, 276 Dickenson Road, Manchester, M13 0YL
Flat 5, 193 Dickenson Road, Manchester, M13 0YW
Flat 16, 276 Dickenson Road, Manchester, M13 0YL
Flat 4, 276 Dickenson Road, Manchester, M13 0YL
Flat 3, 205 Dickenson Road, Manchester, M13 0YW
Flat 10, 276 Dickenson Road, Manchester, M13 0YL
Flat 7, 276 Dickenson Road, Manchester, M13 0YL
Flat 3, 276 Dickenson Road, Manchester, M13 0YL
Flat 3, 207 Dickenson Road, Manchester, M13 0YW
Flat 1, 199 Dickenson Road, Manchester, M13 0YW
Flat 15, 276 Dickenson Road, Manchester, M13 0YL
Flat 12, 276 Dickenson Road, Manchester, M13 0YL
Flat 11, 276 Dickenson Road, Manchester, M13 0YL
Flat 1, 205 Dickenson Road, Manchester, M13 0YW

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