

Planning

Growth & Development

Delegated officer report for planning application

Application no. 144195/LE/2025
Date registered valid: 22 October 2025
Proposal: Use of the property as 5 self-contained residential flats (Use Class C3)
Address: 13 Manchester Road, Chorlton, Manchester, M21 9JQ
Ward(s): Chorlton Ward

Applicant: Mr Paul & Mrs Lucy Atherton Square Space Investments Limited
Agent (if any): Mrs Gillian Worden Focus Town Planning Limited
Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Refuse
Date of recommendation: 12 December 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: 27 October 2025 Expired: 17 November 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

Application site relates to a large semi-detached dwellinghouse close to the junction with Wilbraham Road. The surrounding area is a mixture of commercial and residential properties located within the district centre of Chorlton.

Listed building: Not applicable

Conservation area: Wilbraham Road/Edge Lane Conservation Area 2005

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a Certificate of Lawful Existing Use (CLEU) for the use of the property as 5 self-contained residential flats (Use Class C3)

Consultations & Notification Responses

Publicity – Notification letters were sent to nearby residential properties (see appendix 1 for the list of properties).

Local residents/public opinion – One representation was received which made comments in support of the application. The comments provide a brief history of the property, including that historically it was in use as 7 bedsits until 2000s when it was acquired and converted into flats with flats 1.1a.3.4. and five paying 1 council tax. Flats 2 and the attic flat 6 were self-contained each paying their own council tax. The conversion of the flats into five self-contained flats would simplify the present council tax situation.

The exterior of the property is in need of improvements and that any building works that take place will enhance the area.

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.

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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. This involves the applicant demonstrating that the use of single dwellinghouse as five self-contained flats existed four years prior to the date of this application, **11 March 2025**.

However, as of **25 April 2024**, the immunity period for planning breaches has 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.

Therefore, should the application be considered for ten years instead of four? The answer depends on whether the use as separate dwellinghouses (use class C3) commenced on or before **25 April 2024** to be considered under the four-year immunity period. If the use has commenced after this date, the applicant would need to demonstrate ten years instead of four.

Assessment of Evidence

Four or ten years?

The application form submitted indicates that the use of single dwellinghouse as five self-contained flats began more than four years before the date of this application, **on 1st January 1960**.

Considering the changes to the immunity period discussed above, the applicant needs to demonstrate that the property as five self-contained flats commenced by **6 October 2021** and remained in situ for four years, until **6 October 2025**, the date of the application, for a certificate to be granted.

Planning history

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

Application Reference: 034206 – Planning permission was **granted** on the **15th August 1989** for a change of use from house in multiple occupation to seven self-contained flats.

Applicants Evidence

The evidence provided by the applicant to demonstrate at least four years includes the following:

Floor Plan – The submitted floor plan shows that the property contains four floors, during the validation off the application the applicant was asked clarify which rooms/parts of the property relate to the specific flats, therefore the numbers are assumed to be the flats:

- Basement – Shows two rooms but it has not been annotated.
- Ground floor
 - o Numbers 1 and 2 have been annotated on the plan
 - o Flat 1 appears to have a bedroom, kitchen and shower.
 - o Flat 2, has two bedrooms, a bathroom, kitchen, dining room and living room.
- First Floor
 - o On the first floor, 3 and 4 have been annotated.
 - o Flat 3 has an open plan kitchen and bedroom with a bathroom that is accessed from the bedroom.
 - o Flat 4 appears to relate to two bedrooms, a bathroom, a kitchen and living room. However, there are doors that link the bathroom of flat 3 with the hall of flat 4.
- Second floor

- o Flat 5 has been annotated, the rooms are a bedroom, shower room and open plan kitchen and living room.
- A central staircase provides access to all floors

Statutory Deceleration – A statutory declaration has been provided, signed by Andrew Molloy, who states that he has lived at the property at 13 Manchester Road since 2004, within flats 1, 3, and 4. The signee states that the property was purchased by his parents in the late 1960s and was originally used as bedsits. In the 1980s, it was converted into five flats, a change that occurred prior to Andrew Molloy's ownership.

The statement confirms that the property comprises two studio apartments, two two-bedroom apartments, and one one-bedroom apartment.

The declaration refers to "submitted bills from various dates" and copies of council tax bills from "various dates." It also notes that photographic evidence and receipts for the building work are not available, particularly the receipts, as the works were carried out prior to his ownership of the building.

Included among the submitted documents is a further statement headed "**To clarify**" and numbered "**3**", which appears to expand upon the contents of the statutory declaration. It states that he has lived in Flats 1, 3, and 4 and provided the following breakdown of the occupiers of the flats

- **Flat 1** has two bedrooms and was occupied by the signee and his wife.
- **Flat 3** also has two bedrooms and was occupied by his daughter, her husband, and their two children.
- **Flat 4** is a studio where his son lived.
- **Flats 2 and the attic flat** were tenanted "up to circa 2020." The statement also notes that the flats were vacated when insurance works were due to start and have remained unoccupied since.

The statement further explains that the signee was responsible for paying council tax on Flats 1, 3, and 4, as well as water charges. Additionally, he states that he has been paying council tax on Flats 2 and 6 because there is no empty property discount, and that there are no water charges as the flats are empty. When occupied, council tax will be the responsibility of the tenants.

Other evidence provided together with the statutory declaration includes:

- Part of a letter with the department of work and pensions service with the address given as **Flat 1, 13 Manchester Road, Chorlton Cum Hardy, Manchester, M21 9JQ**, no date.
- Part of a letter from E-On next (Energy bill) with the first initial and surname of the signee for **Flat 3, 13 Manchester Road, Lancashire, M21 9JG**, whoever the date is incomplete with 12 May 202?
- Part of a letter dated 13 July 2013 with the address given as **13 Manchester Road, Chorlton, Manchester M21 9JQ**
- Part of a letter from E-On dated 10 March 2019 which was address to **Flat 5, 13 Manchester Road** but also states the supply address as **Flat 3, 13 Manchester Road, Manchester, Lancashire, M21 9JG**
- Part of Letter address to **Flat 4, Manchester Road, Chorlton Cum Hardy, Manchester, M21 9JQ** with a British Gas logo

- Part of letter dated 16 December 2016 from the Electoral Registration Officer at the City Council, addressed to **Flat 1, 13 Manchester Road, Manchester, M21 9JQ**
- Part of the letter for a Council Tax Bill 2021/2022 dated 8 March 2021 for 13 Manchester Road with the property address as **Flats 1, 1a, 3,4&5, 13 Manchester Road, Manchester, M21 9JQ.**
- Part of a letter from E-on Next (not dated) with the address **13 Manchester Road, Chorlton Cum Hardy, Manchester, Lancashire, M21 9JQ.**
- Part of a letter from United Utilities dated 8 February 2021 for **Flat 1 Ground Floor, 13 Manchester Road, Chorlton Cum Hardy, Manchester, M21 9JQ.**

In reviewing the evidence, the Planning Practice Guidance advises that:

"In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability." Paragraph: 006 Reference ID: 17c-006-20140306

The council tax band website (image 1) for the property reveals that the following properties are listed as being the subject of council tax: these are as follows:

- Flat 1,1A,3,4 and 5 at 13, Manchester Road, M21 9JQ
- Flat 2 at 13 Manchester Road, M21 9JQ
- Flat 6 at 13 Manchester Road, M21 9JQ

These appear to have come into effect either on the 1st April 1993 (Flats 2 and 6), this being the date Council Tax was introduced, or 14 June 2000 when those other flats were registered for such purposes.

Search results for M21 9JQ

[Search again](#)

Showing 1 - 11 of 11 results

Last updated on 7 December 2025

Address	Council Tax band	Local Authority
FLAT 1 AT 13, MANCHESTER ROAD, MANCHESTER, M21 9JQ	Deleted	Manchester
FLAT 1A AT 13, MANCHESTER ROAD, MANCHESTER, M21 9JQ	Deleted	Manchester
FLAT 2 AT 13, MANCHESTER ROAD, MANCHESTER, M21 9JQ	A	Manchester
FLAT 3 AT 13, MANCHESTER ROAD, MANCHESTER, M21 9JQ	Deleted	Manchester
FLAT 4 AT 13, MANCHESTER ROAD, MANCHESTER, M21 9JQ	Deleted	Manchester
11A 3 4 & 5 AT 13, MANCHESTER ROAD, MANCHESTER, M21 9JQ	C	Manchester
FLAT 5 AT 13, MANCHESTER ROAD, MANCHESTER, M21 9JQ	Deleted	Manchester
FLAT 6 AT 13, MANCHESTER ROAD, MANCHESTER, M21 9JQ	A	Manchester

Deleted on 14 June 2000

With effect from 1 April 1993

With effect from 14 June 2000

Image 1 Screenshot from "Check Council Tax Band" service: [Check your Council Tax band - GOV.UK](#), overlaid with information showing when then bands came into effect or were deleted. Accessed 10 December 2025

Energy Performance Certificates are available for the address, dated 5 March 2025 and valid until 4 March 2035. They show the property as comprising five flats. However, there are no earlier certificates available for comparison.

Conclusion

The Planning Practice Guidance highlights the need for evidence to be sufficiently precise and unambiguous to justify granting a certificate on the balance of probability. While a statutory declaration has been provided, it is rather imprecise; for example, when addressing when the property was converted into five self-contained flats, the response given was “*some time in the 1980s*”.

Planning records show only one application at the address (application reference: **034206**), which granted planning permission on 15 August 1989 for a change of use from a house in multiple occupation to seven self-contained flats.

This permission coincides with building control records, which confirm alterations to form seven self-contained flats, approved on 9 May 1989. No further building control applications were received until 2024, when a Building Works Complete notice was issued on 7 May 2024 for works relating to subsidence.

The appended handwritten note titled “*To Clarify*” states that Flat 2 and the attic flat were tenanted until around 2020 and were vacated when insurance works were due to start; they have remained unoccupied since. It is not clear when these works started, however building control records confirm that a works completion notice was issued on the 7 May 2024.

Although a floor plan has been provided, the numbering may suggest which flats they relate to, but there is some connectivity between certain rooms, making it unclear which rooms belonged to which flats. It is evident that the property was subdivided into flats, but it remains unclear how many flats there were and whether they were self-contained.

In terms of council tax, it appears that payments are being made for only three accounts at the property: Flats 1, 1A, 3, 4 and 5, and Flats 2 and 6, which, if tallied, equals seven flats in total.

As discussed earlier in the report, the applicant must demonstrate that the property as five self-contained flats commenced by 6 October 2021 and remained in situ for four years, until 6 October 2025, the date of the application, for a certificate to be granted. However, the documentary evidence provided consisting mainly of parts of bills or letters and appears to span only between 2013 and 2021, with one date incomplete due to the photocopy cutting off the final digit.

The representation received in support of the application appears to be from the signee of the statutory declaration. It states:

“The conversion of the flats into 5 self contained units will simplify the present situation of there being 3 council tax bills into a fairer 5 council tax unit.”

The applicant does not have to demonstrate beyond all reasonable doubt, as that is the standard of proof required for criminal cases and would be the wrong test to apply.

In this case, the evidence submitted does not provide a sufficient basis to conclude, on the balance of probability, that the property has been in continuous use for the four-year period as five self-contained flats.

The application is recommended for refusal.

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: Refuse

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

The applicant has failed to demonstrate that the use of the property as 5 self-contained residential flats (Use Class C3) as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended), has continued for a four-year period up to the date of the application.

Appendix 1 – List of consultees & neighbours notified

496B Wilbraham Road, Manchester, M21 9AS
Ground Floor And First Floor, 498 - 500 Wilbraham Road, Manchester, M21 9AP
496 Wilbraham Road, Manchester, M21 9AS
496A Wilbraham Road, Manchester, M21 9AS
Flat 3, 13 Manchester Road, Chorlton, Manchester, M21 9JQ
Flat 3, 15 Manchester Road, Chorlton, Manchester, M21 9JQ
Flat 2, 13 Manchester Road, Chorlton, Manchester, M21 9JQ
Flat 5, 13 Manchester Road, Chorlton, Manchester, M21 9JQ
Flat 4, 13 Manchester Road, Chorlton, Manchester, M21 9JQ
Flat 1, 13 Manchester Road, Chorlton, Manchester, M21 9JQ
Flat 6, 13 Manchester Road, Chorlton, Manchester, M21 9JQ
Flat 2, 15 Manchester Road, Chorlton, Manchester, M21 9JQ
Flat 1, 15 Manchester Road, Chorlton, Manchester, M21 9JQ
2 Oswald Road, Manchester, M21 9LH

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Conservation Area - Wilbraham Road/Edge Lane Conservation Area 2005
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 (Middle) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH AREA