MANCHESTER CITY COUNCIL

# Planning

## Growth & Development

## Delegated officer report for planning application

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| **Application no.** | 144126/LP/2025 |
| **Date registered valid:** | 13 November 2025 |
| **Proposal:** | Conversion of existing dwellinghouse into two (1 bedroom, 1 person) flats. |
| **Address:** | 15 Daimler Street, Manchester, M8 0PG |
| **Ward(s):** | Cheetham Ward |
| **Applicant:** | Mr Jafar Shah Bukhari |
| **Agent (if any):** | Mr Dean King NK Architectural |
| **Case officer:** | Robert Tyrer<br>Tel: 0161 234 4068<br>Email: robert.tyrer@manchester.gov.uk |
| **Recommendation:** | Refuse |

**Date of recommendation:** 29 December 2025

**Application details**

**Type of application:** Certificate Lawful Development Proposed

**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 a two storey end terraced dwellinghouse, the property has no front garden and a small rear garden. The dwelling is located in a predominantly residential area.

**Listed building:** Not applicable

**Conservation area:** Not applicable

**Tree Preservation Order:** Not applicable

**Description of development**

The applicant is seeking a certificate of proposed lawful development to convert an existing dwellinghouse into two, one bedroom, one person flats.

**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.

**Planning History** - There have been no previous planning applications at this address.

**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 192, which provides for an application to determine whether any proposed use or operations would be lawful for planning purposes.

In support of the application has been submitted drawings that detail how the existing dwellinghouse would be converted into two flats, with both flats being accessed through the existing front door. On the ground floor the drawings indicate that Flat 01 would have a bedroom with an ensuite shower room, a living and dining room and a kitchen. Flat 02 would be created on the first floor, with a bathroom, a bedroom a combined living and dining room and a kitchen.

The rear garden is shown as containing a bin store to house a total of six refuse bins and a cycle store for two bicycles.

Section 55(1) of the Town and Country Planning Act 1990 states:

> Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Section 55(1A) states:

> For the purposes of this Act " building operations " includes—
> (a) demolition of buildings;
>
> (b) rebuilding;
>
> (c) structural alterations of or additions to buildings; and
>
> (d) other operations normally undertaken by a person carrying on business as a builder.

Settion 55(3)(a) states:

> For the avoidance of doubt it is hereby declared that for the purposes of this section—
>
> (a)the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used;
>
> (b)the deposit of refuse or waste materials on land involves a material change in its use, notwithstanding that the land is comprised in a site already used for that purpose, if—
>
> (i)the superficial area of the deposit is extended, or
>
> (ii)the height of the deposit is extended and exceeds the level of the land adjoining the site.

Section 55(3)(a) of the 1990 Act, makes it clear that the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change of use of the building. As such the proposal requires planning permission and the certificate should be refused.

**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:** Refuse

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

1) The conversion of an existing single dwellinghouse into two, one-bedroom flats would amount to a material change of use requiring planning permission as it would be development as set out in Sections 55(1) and 55(3)(a) of the Town and Country Planning Act 1990.

**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
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: NORTH AREA