MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	144380/LP/2025
Date registered valid:	12 November 2025
Proposal:	Change of use of four self-contained flats (Class C3), to a single dwellinghouse (Class C3).
Address:	30 Clyde Road, Manchester, M20 2HN
Ward(s):	Didsbury West Ward
Applicant:	Mr Matthew Atherton
Agent (if any):	
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Grant

Date of recommendation: 24 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 and area

The site comprises a large, detached dwelling located on Clyde Road and forms part of five parallel roads where housing was constructed during the late Victorian era. It lies within the Albert Park Conservation Area. The property consists of four floors and is currently subdivided into four flats.

Listed building: Not applicable

Conservation area: Albert Park Conservation Area 1988

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a certificate of proposed lawful development for the change of use of the property from four self-contained flats (Use Class C3) into a single dwellinghouse (Use Class C3).

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 has been one previous planning applications at this address.

019701 – Planning permission was granted on the 7 September 1983 to allow the conversion of a dwellinghouse into four self-contained flats.

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 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.

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 and of each part of it; but, there is no corresponding provision that deals with the reverse i.e. where two or more separate dwellings are combined to form a single dwelling.

The starting point in considering this position is the judgment *in Richmond upon Thames LBC v SSETR [2001] J.P.L. 84*, which concluded that the extent of a use fulfilling a legitimate or recognised planning purposes, was relevant in determining whether there has been a material change of use, but this does not conclude that the amalgamation of two or more dwellings will necessarily amount to development in all circumstances in the same way that Section 55(3)(a) declares that the formation of two or more dwellinghouses is development.

The legal principles relevant to such a determination were laid down in *R (oao) Kensington and Chelsea RBC v SSCLG & Reis & Tong* [2016] EWHC 1785 (Admin):

(a) A planning purpose is one which relates to the character of the use of land;

(b) Whether there would be an MCU or development in terms of s55(1) depends upon whether there would be a change in the character of the use of land;

(c) The extent to which an existing use fulfils a proper planning purpose is relevant in deciding whether a change from that use would amount to an MCU. The need for a land use such as housing or a type of housing in a particular area is a planning purpose which relates to the character of the use of land;

(d) Whether the loss of an existing use would have a significant planning consequence, even where there would be no amenity or environmental impact, is relevant to an assessment of whether a change from that use would represent an MCU;

(e) The questions are ones of fact and degree for the decision-maker and only subject to challenge on public law grounds;

(f) Whether or not a planning policy addresses a planning consequence of the loss of the use is relevant but not determinative of whether the loss would have a significant planning consequence or consequences.

As noted in *Kensington and Chelsea* above, this impact is not limited to physical changes, but it can also be the loss of a particular type of housing and ‘as a matter of fact and degree’ the judgement of the ‘decision-maker’ must be based on whether the combining of multiple planning units will result in such a change in the character and impact of the use, so as to constitute a material change of use in planning terms.

The proposal put forward by the applicant is in effect the loss of four separate residential units, and in the *Richmond* case it was concluded that the inspector on appeal had been wrong to ignore this point when addressing material character and impact that may occur as a result of the change, this because there were planning policies seeking to resist the loss of small residential units.

In the *Richmond* case, the court found that whether a material change of had occurred relied upon the considerations of the situation and the nature of the uses, both before and after, needed to be examined. In short, a material change of use is dependent on whether the joining together of units results in a significant change in the character and impact of the use in planning terms.

Existing use of the property

The existing flats are said to have the following total floor space:

Flat 1 – 70sqm

Flat 2 - 45sqm

Flat 3 - 47sqm

Flat 4 – 75sqm

Although each flat is self-contained, each containing one bedroom, a bathroom, lounge and kitchen.

Policy

The Manchester Residential Quality Guidance (March 2017) provides emerging space stands for the Gross Internal Area (GIA) of a dwelling, being defined as the total floor space measured between the internal faces of permitter walls; for a 1-bedroom, 1-person occupancy the minimum space to be achieved is 39sqm, this reduced to 37sqm where only shower facilities are provided. A 1-bedroom, 2-person occupancy standard is required to achieve a minimum of 50sqm, with no reduction for shower only facilities.

In the current circumstances, of the four self-contained flats provided at the property, all four flats achieve the required standard for a 1-bedroom, 1-person property, and only two achieving the required standard for occupation by 2-persons.

As noted in the adopted Core Strategy, Manchester has a higher-than-average percentage of terraced housing and apartments/flats and a lower percentage of detached properties and that the dominance of rented accommodation in some areas limits the choice of residents. The possible negative effects of an over-representation of one type of housing also applies in areas with large private rented sectors, often a result of larger, family homes being sub-divided for multiple occupation, as has been the case with the property over the course of its history (application reference: 019701).

In Policy H1, it is noted that:

“The need to diversify housing stock in mono-tenure areas by increasing the availability of family housing, including for larger families; and the availability of other tenures to meet the identified needs of people wishing to move to or within Manchester; and preserving and improving the quality of the existing housing stock.”

and

“Outside the Inner Areas the emphasis will be on increasing the availability of family housing…”

In Policy H6, it is noted that:

"Outside the district centres priorities will be for housing which meets identified shortfalls, including family housing and provision that meets the needs of elderly people…"

In Policy H11, it is noted that:

"…there will be a presumption against changes of use which would result in the loss of a dwelling which is suitable for a family."

and

"Notwithstanding the policy requirements set out above, …all proposals for conversion of existing properties into flats (which might not necessarily fall within Class C4), would be permitted only where the accommodation to be provided is of a high standard and where it will not materially harm the character of the area, having particular regard to the criteria in policy DM1."

In paragraph 9.50 of the policy supporting text, it is noted that *"Small flats, which would not be capable of being used as a C4 property, would also be unlikely to provide accommodation for families."*

Therefore, on balance, if the Council were in the position as having to assess a proposal for planning permission for the conversion of the property to form four-self-contained flats, although the flats would meet the requirements in terms of GIA for the Manchester Residential Quality Guidance (March 2017), it would be highly unlikely to be supported, as it would result in the loss of a family dwellinghouse in area where it has been identified as a shortfall.

Proposal

The normal character of the use of a building as flats, in this case four self-contained flats, is significantly different from that as a single dwellinghouse; flats are occupied by separate households with differing patterns of activity to those that would live as a single-family unit in a single dwellinghouse. Although, the larger the family, the larger the dwellinghouse is likely to be; for example, a four-bedroom property, as in this case, (once converted) could also give rise to different comings and goings, depending on the age range of the occupiers, i.e. retired adults, adults of working age, dependants of school age and dependents of working age for instance.

There are also other possible planning matters to consider, such as differing on-street and off-street parking arrangements, collection and storage of refuse and use of amenity space.

Turning to the considerations of amalgamation at this property, the proposed change of use from the existing four self-contained flats to a single dwellinghouse would result in the loss of residential accommodation, but that loss is not contrary to any adopted policies. Indeed, the proposal would be increasing the availability of family sized housing, including for those larger families.

It certainly can be argued that amalgamating the four self-contained flats back into a single dwelling could be a positive planning benefit; there could be less comings and goings to the property, there would be a single use of the amenity/garden space and it could result in less pressure for on-street parking, in an area that is known for there being issues with off-street parking. There would also be a need for less refuse storage, which at present are stored at the front of the property and do not contribute in a positive sense to the character of both the streetscene and designated conservation area.

Drawing all this together, in the absence of any policy context for the retention of small-scale residential units and that the overarching aim of the Core Strategy is in favour of providing family sized housing, including those for larger families, the change of use in this instance, should not be considered to be a material one.

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) The proposed amalgamation of the four self-contained flats (Class C3) to create one single dwellinghouse (Class C3), would not, in this instance, as a matter of fact and degree, be a material change of use that would constitute development as defined in Section 55 of the Town and Country Planning Act 1990 (As amended).

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
Conservation Area - Albert Park Conservation Area 1988
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: SOUTH AREA