MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	144496/LE/2025
Date registered valid:	13 November 2025
Proposal:	Use of the basement as a self-contained apartment C3 use.
Address:	7 Alness Road, Manchester, M16 8ET
Ward(s):	Whalley Range Ward
Applicant:	Mrs Somer Mubashir Rana
Agent (if any):	Mr Saghir Hussain Create It Studio Architects
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Grant

Date of recommendation: 29 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
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

This application relates the basement of a two-storey detached house. The property has two bay on the front elevation (ground and first floor). There is a front garden and a large rear garden.

The property is also located within Whalley Range Conservation Area.

Listed building: Not applicable

Conservation area: Whalley Range Conservation Area 1992

Tree Preservation Order: Not applicable

Description of development

A certificate of lawfulness of existing use or development for use of basement as a self-contained flat (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 – None Received

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.

Planning History

There has been one previous planning application associated with this property. The relevant details are outlined below.

031269 – Planning permission was **granted** on the **24 May 1988** for the use of the basement of dwellinghouse as an alternative therapy centre.

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.

Use Class C3 is defined in the Town and Country Planning (Use Classes) Order 1987, as amended, 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).

Property Description: The application site comprises the basement of a two-storey detached dwelling at 7 Alness Road. The submitted floor plan indicates external access from the side and rear, with additional internal access via a staircase to the ground floor. The layout includes two bedrooms, a bathroom, a separate WC, a lounge, and a kitchen.

Applicant's Burden of Proof: In this case, the onus is on the applicant to substantiate their case on the balance of probability. As of 25 April 2024, the immunity period for planning breaches 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.

It is important to note that transitional provisions apply. For example, the four-year rule may still be relevant where operational development was substantially completed, or a change of use to a single dwellinghouse occurred, before 24 April 2024.

In this case the applicant has confirmed that the use began on the 1st January 2014, as such the applicant needs to demonstrate that the use of basement as a self-contained flat (Use Class C3), commenced more than four years prior to the date of the application (i.e., by 11 November 2021) and continued without a significant break for four years.

Evidence Provided: The floor plans are accompanied by an application form confirming that the basement has operated as an independent flat for over 10 years, has its own address, and has been liable for council tax during this period.

Additionally, a letter verifies that an individual has been officially registered at Basement Flat, 7 Alness Road, Manchester, M16 8ET since 2014.

Planning Practice Guidance: The Planning Practice Guidance emphasizes the need for evidence to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Conclusion: While the evidence would have been strengthened by the inclusion of tenancy agreements covering the full four year period, the records available to the Council show that Council tax banding came into effect from 1st February 1999. Furthermore, records indicate that at least one person has lived at the property for at least four years.

As such, the Council, as the Local Planning Authority, holds no evidence to contradict the applicant's account or to suggest that the use described is less than probable.

Accordingly, based on the information provided, it is recommended that the Certificate be approved.

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 is lawful by reason of the said use having begun before 25 April 2024 and has been in existence for a period of 4 years up to the date of this application.

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 - Whalley Range Conservation Area 1992
Flood Zones Type 2 (low to medium risk) -
Flood Zones Type 3 (high risk) -
Flood Zone Plus Climate Change -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH AREA