MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	144244/LP/2025
Date registered valid:	17 October 2025
Proposal:	Erection of a two storey in-fill extension for the storage of furniture and maintenance equipment associated with the existing residential units
Address:	South Lodge, 224 Middleton Road, Manchester, M8 4NA
Ward(s):	Higher Blackley Ward
Applicant:	Mr Neville Gouldman FFT Accountants
Agent (if any):	Mr Paul Ashton Paul Ashton Architects Ltd
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Refuse

Date of recommendation: 3 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

The application site relates to the passageway that is located underneath what appear to be balconies that adjoin the three-storey residential building “South Lodge” to a three-storey mixed use building which contains ground floor commercial with residential on the upper two floors. The passage provides access via stairs from Middleton Road to a private road and grassed area to the rear of the buildings.

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 for a two storey in-fill extension for the storage of furniture and maintenance equipment associated with the existing residential units

Consultations & Notification Responses

No Consultation Required - There is no statutory requirement to consult third parties, including neighbours. Any views expressed by third parties regarding the planning merits of the case or concerning the applicant's private rights to carry out the proposed operation, use, or activity, are irrelevant when determining the application.

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.

Section 55 (1) of the Act 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) of the Act states:

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

The application site has the address of 224 Middleton Road which is a block of flats , of which there are six in total (Search results for M8 4NA - Check and challenge your Council Tax band - GOV.UK, accessed 03/12/2025). The submitted location plan indicates that the site relates to the underpass situated between 224 Middleton Road and the three-storey building containing numbers 212 to 222 Middleton Road, which includes a mix of ground-floor commercial units and residential accommodation on the upper floors.

Assessment

The supporting statement clarifies that the proposed extension is to provide ancillary storage in support of the management of the residential units, i.e. the block of six flats.

The Town and Country (General Permitted Development) Order 2015 (as amended) (The Order) are the rules on permitted development, which are set out in Schedule 2 of the Order, are sub-divided into a series of Parts.

The Order provides the following definition of a flat under the "Interpretation" heading of the Order as follows:

> *""flat", except in Part 20 (construction of new dwellinghouses) of Schedule 2 to this Order or in the expression "flat roof", means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally;"*[Officers emphasis]

The Permitted development rights for householders Technical Guidance (September 2019) defines a dwellinghouse as a building that:

> "….***does not include buildings containing one or more flats or a single flat contained within a building****. (Note, however, that for the purposes of this guidance, the word "house" is used rather than "dwellinghouse" except where quoting the legislation directly.*)" [Officers emphasis]

As such, the proposed extension cannot be considered under, Schedule 2, Part 1, Class A of the Town and Country (General Permitted Development) Order 2015 (as amended) as this part covers the enlargement, improvement or other alterations of a dwellinghouse and not a flat.

Schedule 2, Part 7 of the Order relates to non-domestic extensions, alterations etc arranged under classes A to N of that particular part. However, none apply to a block of flats that would allow the proposal.

The proposal is development and is not permitted by any Part or Class under The Order, accordingly, planning permission is required and the certificate 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 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 proposed two storey in-fill extension for the storage of furniture and maintenance equipment associated with the existing residential units would not comply with any Part or Class of the Town and Country (General Permitted Development) Order 2015 (as amended) and is considered to be development as set out Sections 55(1) and 55(1A) of the Town and Country Planning Act 1990 (as amended), and would therefore require planning permission.

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