

Planning

Growth & Development

Delegated officer report for planning application

Application no. 145344/LE/2026
Date registered valid: 12 March 2026
Proposal: Use of single dwellinghouse as two self contained flats.
Address: 24 Colliery Street, Manchester, M11 2AP
Ward(s): Clayton & Openshaw Ward

Applicant: Ms Christina DeJonge E4 Property Group Ltd
Agent (if any):
Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Grant
Date of recommendation: 30 April 2026

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: 13 March 2026 Expired: 4 April 2026

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 mid-terraced dwellinghouse, located in an area that has a mixture of residential and commercial activities and uses.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

Certificate of lawfulness for use of a single dwellinghouse as two self-contained flats.

Consultations & Notification Responses

Publicity

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

Local residents/public opinion - No representations were received.

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 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.

The Application

This application is pursued under subsection (1) of section 191 which provides for an application to determine whether a specified existing use of buildings or other land(s191(1)(a)), operation (s191(1)(b)), or failure to comply with a planning condition or limitation (s191(1)(c)), which has already been carried out on the land and is lawful for planning purposes.

The application form specifies that the reason for the application is “*an existing use*”; which is described as:

“The property at 24 Colliery Street comprises two separate residential dwellings: Flat 1 and Flat 2, each occupying distinct internal areas within the building.

Flat 1 occupies the ground floor front section of the building. It is a studio residential unit containing a kitchen, bathroom, living area, and internal partitions. It has been used solely as a private residential dwelling since 12/02/2018. No external alterations or structural changes have been carried out.

Flat 2 occupies the first floor and rear section of the building. It is a one-bedroom residential unit containing a kitchen, bathroom, living area, and internal partitions. It has been used solely as a private residential dwelling since 12/02/2018. No external alterations or structural changes have been carried out.

Both flats are located within the same building at 24 Colliery Street, with their respective uses, building features, and activities confined to the areas described above. Any internal refurbishments carried out have been consistent with lawful residential use. This certificate is sought to confirm the existing lawful residential use of Flat 1 and Flat 2 and their respective internal layouts as described.”

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 two self-contained flats commenced more than four years prior to the date of the application (i.e. by 5 March 2022) and continued without a significant break for four years.

However, on 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. Therefore, should the application be considered for ten years instead of four?

The answer depends on whether the use had commenced on or before 24 April 2024 to be considered under the four-year immunity period. If the use of the property as two flats began after this date, the applicant would need to demonstrate ten years instead of four.

The application form states that the property was converted into two flats on the 25 June 2013. In addition, the application is also supported by a signed and witnessed statutory declaration that states that the property was converted into two self-contained flats in or around 2013 and since 2013, the property has been continuously used as two separate self-contained residential dwellings.

Therefore, the applicant is only required to demonstrate that the property was converted into two self-contained flats four years prior to the date of the application and continued without a significant break (i.e. 05 March 2022).

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

The relevant test, established by the court in *Thrasyvoulou v SSE [1984]*, is the balance of probabilities – whether something is more likely than not.

Assessment

This application is supported by the following documents:

- Floor Plans for each flat

- Location Plan
- Signed and witnessed statutory declaration
- Screenshot of council tax bands GOV.UK website for both flats
- Tenancy agreements
- Correspondence with Council Tax Enquiries
- Photographs
- Electrical Installation Condition Report

The signed and witness statutory deceleration confirms that the property was converted into two flats “in or around 2013” and that they have been let continuously under Assured Shorthold Tenancies since 2018 with no material interruption of the use.

A floor plan has been provided that shows that flat 1 occupies the ground floor and flat 2 is contained on the first floor with a shared entrance from the main entrance.

Tenancy agreements for each flat have been provided for 2018, 2021 and 2023, a screen shot of the Council tax website, which have been checked by officers and shown on images 1 and 2. These images clearly show that there are two flats at 24 Colliery Street and that they have been eligible for paying council tax since 25 June 2013.

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Property information for
**FLAT 1, 24 COLLIERY STREET,
BRADFORD, MANCHESTER, M11 2AP**

Local Authority	Manchester
Local authority reference number	4024772
Council Tax band	A
Improvement indicator	No
With effect from	25 June 2013
Mixed-use property	No
Court code	None

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Property information for
**FLAT 2, 24 COLLIERY STREET,
BRADFORD, MANCHESTER, M11 2AP**

Local Authority	Manchester
Local authority reference number	4024773
Council Tax band	A
Improvement indicator	No
With effect from	25 June 2013
Mixed-use property	No
Court code	None

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Image 1 & 2 Council Tax Band Details for Flats 1 and 2, 24 Colliery Street, source: <https://www.tax.service.gov.uk/check-council-tax-band>

Planning Practice Guidance states that the applicant is responsible for supplying sufficient evidence to support an application. Where a local planning authority has no evidence to contradict the applicant’s version of events, and the applicant’s evidence is sufficiently precise and unambiguous, a certificate may be granted on the balance of probability.

No comments or representations have been received to the neighbour notification.

There is no evidence to contradict the applicant’s version of events or to render them less than probable. Accordingly, the Certificate should be granted.

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: Grant

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

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 been in existence for a period of 4 years up to the date of this application.

Appendix 1 – List of consultees & neighbours notified

Flat 2, 24 Colliery Street, Bradford, Manchester, M11 2AP
Flat 1, 24 Colliery Street, Bradford, Manchester, M11 2AP
27 Colliery Street, Bradford, Manchester, M11 2AW
29 Colliery Street, Bradford, Manchester, M11 2AW
26 Colliery Street, Bradford, Manchester, M11 2AP
22 Colliery Street, Bradford, Manchester, M11 2AP

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
Coal Authority - Surface Coal Resources - Name: Coal bearing strata at surface
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: CENTRAL