MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	143114/LP/2025
Date registered valid:	13 June 2025
Proposal:	Use of property (Use Class C3a) to provide care for up to two children receiving care from up to two members of staff (Use Class C2).
Address:	1 Langdale Road, Manchester, M14 5PQ
Ward(s):	Rusholme Ward
Applicant:	Mr N Chowdery
Agent (if any):	
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Grant
Date of recommendation:	24 July 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

1 Langdale Road is an end terraced two storey dwellinghouse located on the corner of Langdale Road and Scarsdale Road. The existing floor plan shows a three-bedroom property.

The property has both enclosed front and rear gardens with no off-road car parking available.

The surrounding area is residential in nature located between the district centres of Rusholme and Longsight.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a Certificate of Lawfulness for a proposed use or development, specifically for the use of a property (Use Class C3a) as a care home for up to two children, to be cared for by up to two members of staff (Use Class C2).

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 two previous planning applications at this address, both for certificate of lawfulness for a proposed use or development.

Application no. 140964/LP/2024
Proposal: ￼Use of a dwellinghouse (Class C3a) for a residential children's home (Class C3b) for 3 Children and 1 Carer
Decision: Refused 08.11.2024

Application no. 141875/LP/2025
Proposal: ￼ Use of dwellinghouse (Use Class C3) as a children's care home (Use Class C3b) for two children with one overnight carer.
Decision: Refused 21.02.2025

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.

Section 57(1) of the 1990 Act provides that planning permission is required for the carrying out of any development of land. Section 55(1) of the Act provides that "development" includes the making of any material change in the use of any buildings or other land.

The Town and Country Planning (Use Classes) Order 1987 (as amended) (the Use Classes Order) specifies use classes for the purposes of section 55(2)(f) of the 1990 Act. Section 55(2)(f) provides that a change of use of a building or other land does not involve development for the purposes of the Act if the new use and the former use are both within the same specified class.

This application for a Certificate of Lawful proposed Development seeks confirmation that using the property to house two children living full time, along with a single carer on a 24 hour shift rota, would fall within the use class C2 and there would be no material change of use from the existing use class C3(a) use.

As the existing lawful use as dwellinghouse falls within use class C3(a), under normal circumstances there would be no permitted change to use class C2. Therefore, it is necessary to make an assessment based on a 'fact and degree' as to whether there is a material change of use.

The proposed and existing floor plans submitted by the applicant, show that the property has three floors: a basement, ground floor, and first floor. The proposed layout indicates that the number of bedrooms will increase from three to four bedrooms. The ground floor contains a lounge, a W/C, and a kitchen. The basement/cellar is labelled as a play area/store.

The accompanying planning statement indicates that the staff will be engaged in the same domestic routines, tasks and social activities which you would expect in a single-family dwelling. The children will have their own bedrooms and the bathroom, kitchen and living areas will be communal, promoting a family residential home setting. Furthermore, the number of occupants would be no greater than four.

In terms of car parking, there are no parking or highway restrictions on either Langdale Road or Scarsdale Road. While the children residing at the property will not be able to drive, it is anticipated that at least one member of staff will have access to a vehicle. The presence of a single staff vehicle parked on the street would have no greater impact on the availability of on-street parking than a typical residential use. Although the property does not benefit from off-street parking, the parking demand generated by one or two vehicles would be comparable to that of a standard family household.

The question as to whether a semi-detached 3 bedroom dwellinghouse fell within Use Class C2 or C3 was considered in the High Court in North Devon District Council v First Secretary of State [2003]. In the judgement of Mr. Justice Collins was clear on the facts of that particular case, that carers who do not live but who provide, not necessarily through the same person, a continuous 24-hour care cannot be regarded as living together and that, whilst there would be less than 6

residents, the children, without at least one adult living with them at the premises, would not be capable of being regarded in the true sense as a household.

In his judgement, Mr. Justice Collins went on to reason that in the case before him, where three children would reside and be cared for by non-resident staff in a three-bedroom semi-detached property, the use would seem to clearly fall within Class C2 of the 'UCO 1987' as a 'residential institution' which includes a home that provides care for children.

As such it is accepted that the proposed use here is C2 as the proposed use would not be materially different to that of a dwelling house and therefore would not result in a development requiring planning permission.

Lastly there are no known conditions attached to any previous planning permission which would restrict the use in such a way as to prevent any such change being made.

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) Whilst falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), the applicant has demonstrated that the use of the dwellinghouse (Use Class C3) as a children's home to provide care for up to two children by up to two members of staff working on a rota basis to provide 24-hour care, would not represent a material change from the existing use as a Class C3 dwellinghouse. As such the change would not

amount to development as set out in Section 55 of the 1990 Act and would therefore not 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