MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	142964/LP/2025
Date registered valid:	3 June 2025
Proposal:	Use of a dwellinghouse (Class C3(a)) to provide residential care accommodation (Use Class C3(b)) for a maximum of two children and up to four carers.
Address:	9 Victory Street, Manchester, M14 5AE
Ward(s):	Moss Side Ward
Applicant:	Dr Faria Khan Tulip Mental Health and Community Care Limited
Agent (if any):	Mr Carl Pixton Bolster Group Limited
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Refuse

Date of recommendation: 22 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

Application site relates to a modern two storey semi-detached dwellinghouse. The surrounding area is predominantly residential in nature and within a short walking distance to Rusholme District Centre.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a certificate of lawfulness of existing use or development (CLEUD) for the use of a dwellinghouse (Class C3a) to provide residential care accommodation (Use Class C3(b)) for a maximum of two children and up to four carers.

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 application related to this address;

Application Reference: 130987/FO/2021
Description: Revised application for the erection of 7 two storey dwellings with dormers and associated car parking and landscaping
Decision: Approved 04.10.2023

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 Proposal

The applicant seeks a Certificate of Lawful Development to permit the use of a dwellinghouse (Use Class C3(a)) as residential care accommodation (Use Class C3(b)) for up to two children and a maximum of four carers.

Use Class C3(a): Covers use as a dwellinghouse by a single person or by people to be regarded as forming a single household.

Use Class C3(b): Covers use as a dwellinghouse (whether or not as a sole or main residence) by not more than six residents living together as a single household, including households where care is provided for residents.

The property is part of a development approved under planning application reference 130987/FO/2021, which granted permission for seven two-storey dwellinghouses. Condition 11 of that approval restricts the use of the dwellings to Class C3(a) only, explicitly prohibiting any other use within Class C3 such as Class C3(b) or C3(c).

As such, planning permission is required to change the use from Class C3(a) to Class C3(b).

It is therefore recommended that the certificate be refused.

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

The dwellinghouse known as 9 Victory Street, Manchester, M14 5AE was approved under planning permission reference 130987/FO/2021, as part of a development of seven houses and Condition 11 of the approval prohibits the use of the property for any purpose other than a use in Class C3(a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Planning permission is therefore required to change from Class C3(a) to any other part of Class C3.

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
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH AREA