

Planning

Growth & Development

Delegated officer report for planning application

Application no. 143081/LE/2025
Date registered valid: 30 May 2025
Proposal: Use of property as a house of multiple occupation (Use Class C4)
Address: 760 Hyde Road, Manchester, M18 7EF
Ward(s): Gorton & Abbey Hey Ward

Applicant: Mr Alexander Lyons
Agent (if any): Mr Ralph Taylor Paul Butler Associates
Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Grant
Date of recommendation: 21 July 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

Printed: 4 June 2025 Expired: 25 June 2025

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

760 Hyde Road is a two-storey mid terraced dwelling located close to the junction of Hyde Road and Willow Grove. The property has limited outdoor amenity space, consisting of small front and rear gardens.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The application site is in the Gorton ward of Manchester. It's a residential neighbourhood with local shops, cafes, and restaurants. The area has good public transport links and community facilities like schools and healthcare centres.

Description of development

The applicant is seeking a certificate of lawful existing use or development (CLEUD) that is the subject of this application relates to the use of the property as a House in Multiple Occupation (Class C4)

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 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.

Planning History

There have been two earlier planning applications associated with this property. The relevant details are outlined below.

Application Reference: 141975/LE/2025

Description: Use of property as a house of multiple occupation (Use Class C4)

Decision: Application Refused - 18.03.2025

Application Reference: 060608/FO/NORTH2/00

Description: Conversion of dwelling to a special needs accommodation.

Decision: Application Refused - 05.03.2001

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.

Class C4 is defined in the Town and Country Planning (Use Classes) Order 1987, as amended, as "Use of a dwellinghouse by not more than six residents as a "house in multiple occupation"." This latter term is as defined in S.254 of the Housing Act 2004.

Property Description: 760 Hyde Road is a two-storey mid terraced dwelling located close to the junction of Hyde Road and Willow Grove. The property has limited outdoor amenity space, consisting of small front and rear gardens. Although it lacks off-road parking, there are no parking restrictions within Willow Grove.

Evidence Provided:

A summary of the evidence provided is presented below.

- Two statutory declarations from the owners of the property. Both state that the property was purchased in August 2008 and has been rented out as a small HMO (use class C4) without interruption to 3-6 individuals/households.
- Valuation Report dated 10th June 2008 describes the property as vacant, paragraph 8.3 states that it is the intention of the owner to rent five bedrooms within the house to homeless persons.
- A notice seeking possession for the tenant of room 1 for unpaid rent between 27th September 2018 and 12th December 2018.
- HMO licence dated 5th October 2020, for 6 occupants, valid until 4th October 2025.
- Email from the owner dated 2nd May 2025.
 - The email explains that once a tenant moves out of the property, they did not retain a copy of the tenancy agreements (ASTs) especially those from over 10 years ago. However, the email explains that they have located a few for long term residents and that the tenants have either recently moved out or moved into other properties under their ownership.
 - In regard to the two ASTs from 2019 and Section 6A notices from November of the previous year, both tenants still live at the property.
 - They also note that many tenants have been on housing benefits, often with direct payments, although they do not have records suggesting the council might.
- Tenancy Agreement for room 3 dated 1 August 2023, confirms that the tenant has exclusive use of room 3, while sharing the common areas of the property such as the bathroom, toilet, kitchen and sitting rooms with the other occupants.
- Letter from the owner dated 25 November 2024 and Notice addressed to the tenant.
- Tenancy Agreement for room 1 dated 13 May 2019, confirms that the tenant has exclusive use of room 1, while sharing the common areas of the property such as the bathroom, toilet, kitchen and sitting rooms with the other occupants.
- Letter from owner dated 25 November 2024 and Notice addressed to the tenant.

- Tenancy agreement dated 31 August 2019 for room named “F/R”, confirms that the shared parts comprise of the lounge and kitchen.
- Tenancy agreement dated 8 January 2018 for room 2, confirms that the shared parts comprise of the lounge and kitchen.
- Tenancy agreement dated 31 July 2023 for room 2, confirms that the shared parts comprise of the lounge and kitchen.
- Email from David Allwood (Neighbourhood Compliance Officer) confirm that he has visited the property a number of times over the years and can confirm the property has been a HMO prior to Article 4 Direction being introduced on the 8 October 2014.
- HMO Licences
 - Reference: 098471/OL2, dated 27 July 2009 and valid until 22 June 2014. Suitable for no more than five occupants.
 - Reference: 098471/OL2, dated 8 October 2014 and valid until 7 October 2019. Suitable for no more than six occupants.
 - Reference: 238782/OL2, dated 5 October 2020 and valid until 4 October 2025. Suitable for no more than six occupants and/or six households.

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

Applicant's Burden of Proof: In this case, the onus is on the applicant to substantiate their case on the balance of probability. The applicant needs to demonstrate that the use of the property as a small House in Multiple Occupation (Use Class C4) commenced more than ten years prior to the date of the application (i.e., by 30th May 2025) and continued without a significant break for ten years.

Conclusion: The evidence spans a timeline from 2008 to 2025. Three HMO licences confirm that the property has been registered for use as a House in Multiple Occupation (HMO) from 27 July 2009 to 4 October 2025. Additionally, an email from a Neighbourhood Compliance Officer confirms that the property has been visited on multiple occasions and was in use as an HMO prior to the introduction of the Article 4 Direction on 8 October 2008.

While the evidence would have been strengthened by the inclusion of more tenancy agreements covering the full 10-year period, the owner has explained via email that tenancy agreements were not retained once tenants vacated the property. Importantly, 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.

Taking into account the statutory declarations, the Neighbourhood Officer's confirmation, and the supporting documentation listed above, it is considered that on the balance of probability that the rooms within the property have been let to individual tenants with shared access to communal facilities. It is therefore concluded that the property has been in continuous use as a small HMO (Use Class C4) for at least 10 years, accommodating up to six individuals.

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 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

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 been in existence for a period of 10 years up to the date of this application.

Appendix 1 – List of consultees & neighbours notified

2 Willow Grove, Manchester, M18 7FG
3 Gratrix Street, Manchester, M18 7FH
Flat 3, 758 Hyde Road, Manchester, M18 7EF
758 Hyde Road, Manchester, M18 7EF
Flat 2, 758 Hyde Road, Manchester, M18 7EF
Flat 1, 758 Hyde Road, Manchester, M18 7EF
762 Hyde Road, Manchester, M18 7EF

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