

Planning

Growth & Development

Delegated officer report for planning application

Application no. 145245/LP/2026

Date registered valid: 5 March 2026

Proposal: Use of dwellinghouse (Class C3) as a Children's Care Home (Class C2) providing care for two children with staff working on a rota basis.

Address: 8 Hillfoot Walk, Manchester, M15 4DZ

Ward(s): Hulme Ward

Applicant: Mr Mahmoud Jilani Harbour Childcare Ltd

Agent (if any): Mr David Jackson Harbour Childcare Ltd

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Grant

Date of recommendation: 16 April 2026

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 part two, part three storey end terraced dwellinghouse, close to the junction of Royce Road and Chorlton Road. The surrounding area is predominantly residential area.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The applicant is seeking a certificate of lawful development to allow the use of dwellinghouse (Class C3) as a Children's Care Home (Class C2) providing care for two children with staff working on a rota basis.

Consultations & Notification Responses

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 whether the applicant has private rights to carry out the proposed operation, use, or activity, are irrelevant when determining the application.

Comments were received objecting to the proposal by the Hulme Ward Councillors.

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 no previous planning applications at this address.

The Application

This application is pursued under subsection (1) of section 192, which provides for an application to determine whether any proposed use of buildings or other land (s192(1)(a) or operations proposed to be carried out in, on, over or under land, (s192(1)(b) would be lawful for planning purposes.

In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.

Section 192(2), makes it clear that for an application submitted under section 192, *“the local planning authority are provided 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.”*

The applicant has confirmed that the existing use of the property is a dwellinghouse in use class C3. This is considered to be the current lawful use of the property.

The Town and Country Planning (Use Classes) Order 1987 (as amended) provides that, where no more than six residents will live together as a single household where care is provided, the lawful use is Use Class C3(b). The word “Care” equally applies to that of Class C2 which is defined as follows:

Use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwellinghouses)),

Use as a hospital or nursing home,

Use as a residential school, college or training centre.

This application seeks a Certificate of Lawful proposed Development for the use of the property as Use Class C2. As the existing lawful use is Class 3(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 will be a material change of use.

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 this case, the court considered whether a dwellinghouse used to provide residential care for two children fell within Class C2 or C3(b). 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.

The question nevertheless arose as to whether there had, as a matter of fact and degree, been a material change of use. On the special facts of this case, the High Court ruled that the use of the premises for up to two children, with care provided by non-resident staff, did not constitute a material change of use from its C3 classification. This case is important for the general principle that it establishes.

The application property is a part two, part three storey end terraced dwellinghouse situated close to the junction of Royce Road and Chorlton Road. The property contains a small enclosed front garden and a rear garden. The property is accessed via a pedestrian walkway at the front and rear of the property.

The submitted drawings show that the property comprises of a kitchen, W/C, dining room and lounge, on the ground floor. On the first floor, the property contains four bedrooms and a bathroom.

The proposed floor plans indicate that the dining room would be changed to a staff office on the ground floor. On the first-floor bedroom three would become a games room and bedroom four a study room. The two remaining bedrooms are labelled as "YP BEDROOM".

The applicant states in their application form:

"The intention is to use the current property, which falls under the C3 use, as a residential children's home that will fall within class C2 use, of the Use Classes Order. While the proposal involves a move from Class C3 to Class C2, it is our position that this does not constitute a 'material change of use' in this specific instance. The property, a 3 bedroom semi detached house, possesses the scale and layout to accommodate the proposed 2 residents without altering the residential character of the neighbourhood. The children will live together as a single integrated household, sharing communal living, dining, and kitchen facilities, mirroring the daily life of a small family. Furthermore, the level of care provided is intended to be domestic in nature rather than clinical. We anticipate that the associated movements of staff and visitors will not exceed the intensity of use that could reasonably be expected from a Class C3 dwelling. Consequently, as the land use remains fundamentally residential in character and impact, we submit that planning permission is not required."

Facilities such as the kitchen, dining room, games room, living room and bathrooms will be shared. The active movements associated with the use, will not be materially different from a typical residential household.

Care would be provided by two full-time carers on site working 24-hour rota basis.

Staff duties will include preparation of breakfast, lunch and dinner, cleaning duties, food shopping, transporting young people to school if external education is sought, and to outdoor activities. Other duties will be attending appointments and family contact, dealing with any safeguarding concerns and to liaise with key stakeholders and agencies.

The staff will be rotated through a staggered handover protocol. The applicant explains that under this arrangement, one of the two staff members on duty will vacate the property approximately 10 minutes prior to the arrival of the incoming replacement staff member. Upon arrival of the incoming staff member, two staff will be present on site for a short period to facilitate operational continuity and safe handover. The remaining outgoing staff member will then leave the property immediately following handover completion. The subsequent incoming staff member will not arrive until approximately 10 minutes after the second outgoing staff member has vacated the property. This sequencing ensures that staffing levels fluctuate only between one and two staff members on site, and at no stage would three or more staff be present simultaneously, including during shift changeover periods.

In terms of visitors to the property, the applicant has confirmed visitors to the property will be minimal and scheduled to be outside peak operational times.

There is no off-road car parking in the form of a driveway at the property, there are also double yellow lines on the highway outside of the property on Royce Road and Chorlton Road.

The applicant has stated that the property has two unallocated off street car parking spaces, which they consider sufficient for the proposal. According to the planning statement staff will be instructed not to park on nearby residential streets.

In addition, the applicant states that there will be a staff travel plan which will encourage and incentivize the use of public transport, provide secure and covered cycle parking and a car sharing scheme.

Conclusion

It is accepted that the proposed use here is C2 and it is considered that the nature of the use, with a maximum of two children living there with carers working on a rota basis, would not be materially different to the existing C3 use of the property. There will be no outward sign that the property is being used as a children's care home and it is considered that the comings and goings of carers, social workers, etc. would not be materially different to what would usually be expected at a dwellinghouse occupied by a single household. It is also noted that OFSTED requires that children's homes are operated as closely as possible to a typical family household; to provide a "home away from home". Therefore, the proposed use 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 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

Whilst falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), the use of a dwellinghouse (Class C3) as a Children's Care Home (Class C2) providing care for two children with staff working on a rota basis would not, in this instance, represent a material change from the existing use as a Class C3 dwellinghouse.

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) -

Area Team Boundary - Name: SOUTH AREA