MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	144923/LE/2026
Date registered valid:	12 February 2026
Proposal:	Use of property as a house in multiple occupation (Use Class C4).
Address:	35 Carmoor Road, Manchester, M13 0EA
Ward(s):	Ardwick Ward
Applicant:	Dr Tim Johnson
Agent (if any):	
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Grant

Date of recommendation: 24 March 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: 16 February 2026 Expired: 9 March 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 end terraced dwellinghouse located on the junction of Carmoor Road and East Grove.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

Certificates of lawfulness for use of the property as a small 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 - No representations were 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 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 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 that the reason for the application is *“an existing use”*; which is described as:

“Confirmation of use of house as HMO in preparation for sale”.

In response to the question as to why the Lawful Development Certificate should be granted, the applicant has stated that:

"Use of HMO well established, and no changes planned. Property to be marketed as HMO for sale"

In a case of this type, the onus is on the applicant to substantiate his or her case, on the balance of probability. The applicant needs to demonstrate that the use of 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 **12 January 2016**) and continued without a significant break for ten years.

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.

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

Planning history

There have been no previous planning applications at this address.

Applicants Evidence

The applicant states that the property has been in continuous use as a small House in Multiple Occupation (HMO) (Use Class C4) since 15 October 2004. This application is supported by the following documents:

- Floor Plans
- Location Plan
- Rental Statements:
    - 2013-2014
    - 2015-2016
    - 2017-2018
    - 2019-2020
    - 2021-2022
    - 2023
    - 2024-2026

No floor plan has been provided to show how the property has been laid out or to show the number of bedrooms within the property. However, the rental statement for 2013-2014 does indicate under the September Rent page that the property has four rooms, which then increases to five rooms in November 2014 is likely to indicate the number of bedrooms within the property.

As shown rental statements have been provided with cover the years from 2013 up and until 2026. In general, the statements show the total amount received each month for rent and outgoings such as utilities, council tax, internet and boiler care. There is also a deduction for management fees. There also occasions under what are generally labelled as maintenance which appear to cover repairs and, in some cases, photographs are shown.

There is also correspondence include between the Manchester Living Rentals and the landlord which discuss repairs, decorating bedrooms and on the 23rd October 2019 correspondence mentions the use of the property as a HMO.

"Working towards the HMO legislation we have the PAT testing done now, just the EPC requirements this month and we can register as HMO with council - I would state HMO in your insurance renewal".

The Planning Practice Guidance states that evidence must be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Whilst no tenancy agreements have been provided, the rental statements clearly show the property was in use as rental accommodation, with the majority statements showing that for most of the ten years there were between three and five rooms rented out each month. The income from rental appears to regularly the same amount which increases year by year. There are also occasions where repairs works have been carried out, re-decorating and replacement of items such as beds.

Where there is no evidence to contradict the applicant's version of events or to render them less than probable, According, the certificate should be granted. In this case, no evidence has been provided to raise doubt on the applicants version of events.

It is recommended that the certificate be granted on the balance of probability that the property has been in use as a HMO (Use Class C4) for at least ten continuous years.

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

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

28 Carmoor Road, Manchester, M13 0DY
30 Carmoor Road, Manchester, M13 0DY
37 Carmoor Road, Manchester, M13 0EA

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