

Planning

Growth & Development

Delegated officer report for planning application

Application no. 144256/LP/2025

Date registered valid: 12 November 2025

Proposal: Use of dwellinghouse as a small residential care home (Use Class C3(b)) for up to three young people aged between 8 and 17 years and up to three carers working on a 24-hour rota basis together with alterations to existing driveway to provide up to four parking spaces.

Address: 34 Hinchley Road, Manchester, M9 7FG

Ward(s): Charlestown Ward

Applicant: Mr Louis Holt Melcroft Care Ltd

Agent (if any):

Case officer: Robert Tyrer
Tel: 0161 234 4068
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Recommendation: Refuse

Date of recommendation: 9 January 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 modern two storey detached dwellinghouse, with both front and rear gardens. The front garden contains a driveway.

The surrounding area is predominantly residential close both a primary and a secondary school, green spaces and the M60 Motorway.

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 as a small residential care home (Use Class C3(b)) for up to three young people aged between 8 and 17 years and up to three carers working on a 24-hour rota basis together with alterations to existing driveway to provide up to four parking spaces.

Consultations & Notification Responses

None Required - 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.

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 applications at this address. However, there have been two applications relating to the site which are detailed below:

070604/FO/2004/N1 – Planning permission was granted on the 1 June 2004 to allow the erection of 277 no. residential units including associated access, car parking and landscaping

073908/FO/2004/N1 – Planning permission was granted on the 27 January 2005 to allow for a house type substitutions to 34 dwellings (7 No. 2 storey 4 bed detached and 27 No. 3 storey 3/4 bed town houses).

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.

The application form includes a section titled “Information About the Proposed Use,” which asks the applicant for the use class that the proposal falls under, as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended).

The applicant states that the use falls under: *“Use Class C3(b) – Residential Use as a dwellinghouse by not more than six residents living together as a single household where care is provided.”*

This proposal falls within Class C3(b) as it involves up to three young people aged 8-17 living in a small, family-style household setting with support from staff providing day-to-day care and guidance, rather than institutional or nursing care.”

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 Assessment

Use

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories.

Class C3 (Dwellinghouses) is split into three parts as follows:

- C3(a) a single person or by people to be regarded as forming a single household;
- C3(b) not more than six residents living together as a single household where care is provided for residents; or
- C3(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Very little detail is provided on the existing use, other than that it is currently a dwellinghouse and therefore falls within Class C3(a). Furthermore, the planning history of the site indicates that, since the property was built as a dwellinghouse, there have been no planning applications at the address that would alter its use.

The applicant considers that the proposed development would fall within Class C3(b), explaining that the property would be occupied by up to three young people aged between 8 and 17 years

who would live together as a single household and would be supported by up to three carers working on a 24-hour rota basis ensuring continuous supervision and consistency of care. The daily life within the property would reflect that of an ordinary family home including activities such as mealtimes, attending school, leisure activities and normal household routines.

The proposal also includes alterations to existing driveway to provide up to four parking spaces.

The applicant was asked to clarify staffing arrangements and the rota system and provided the following information:

- There will always be two staff members on site 24 hours a day to ensure continuous supervision and care.
- Shifts operate on a 24-hour rolling rota (10am daily changeover).
- A short handover period of approximately 10–15 minutes occurs at each changeover, during which two staff leave and two arrive. This takes place after rush hour and outside normal commuting times, ensuring no disruption or increase in local traffic.
- The Registered Manager delivers each morning handover between the night and day teams to maintain communication and continuity.
- The rota is covered by ten core staff members, ensuring compliance with the Working Time Directive and minimising agency reliance.
- Holiday and sickness cover will be provided by existing trained staff within the same rota, ensuring full consistency and no external agency use.

In terms of the Registered Manager the applicant has confirmed that they will attend the home Monday to Friday during normal office hours for supervision, oversight and regulatory management. Outside of those hours the manager will remain on call to provide support, respond to emergencies and quality assurance.

On a typical day the applicant confirms that the Registered Manager would be the third person on site, working alongside the two core staff members.

In the *North Devon District Council v First Secretary of State and Southern Childcare [2003]* case it was established that two children aged between 10 and 17, supported by non-resident carers, could not constitute a household for the purposes of Class C3(b). Mr Justice Collins said that a household needed more than just children, as children need to be looked after and cannot be expected to deal with all the matters that go into running a home. Children are regarded as needing full-time care from an adult and to make sure that the household operates as it should.

In the *North Devon (2003)* case, similar to the proposal considered here, carers would be present at the property at all times, but they came and went; they were not residents of the house and lived elsewhere. Mr Justice Collins held that carers who do not live but who provide, (not necessarily through the same person) continuous 24 hour care could not be regarded as living together as a single household. Accordingly, such a change falls within the definition of Class C2, rather than C3.

As the proposed development involves children, with staff operating on a 24-hour rota basis, they cannot form a single household. Therefore, the appropriate use class for this proposal is C2 rather than C3(b). Under normal circumstances, there is no permitted change from Class C3 to Class C2. However, as established in the *North Devon (2003)* case, a change from C3(a) to C2 is not always considered material; it is a matter of fact and degree, depending on the specific circumstances of the case.

Car parking

The current use of the property is considered to fall within Class C3(a) as a private dwellinghouse. The property comprises a kitchen, W/C, dining room, lounge, and garage on the ground floor. On the first floor, the property contains four bedrooms, one with an en-suite, and a bathroom. The supporting planning statement asserts that there is no material difference, in planning terms, between the proposed use and the existing use as a dwelling.

A comparison of the existing and proposed floor plans indicates that the garage is to be converted into an office and staff bedroom. Furthermore, the supporting statement states that up to four parking spaces will be available on the driveway within the site boundary, which would provide sufficient capacity for staff vehicles during handovers. The applicant also claims that vehicle movements would be limited and comparable to those of a typical family home, with no increase in traffic, noise, or disturbance beyond normal residential levels.

The applicant states that four vehicles will be parked on the property's driveway. However, as shown in the street view image (Image 1), and when compared with a similarly sized driveway at the neighbouring property, the driveway appears capable of accommodating only a single vehicle. While the garage could potentially accommodate a second vehicle, it is proposed to be converted into a staff office and bedroom.

Clarification was sought from the applicant regarding car parking. In their response, they explained that the existing driveway would be upgraded with a permeable hardstanding surface to accommodate up to four vehicles, three for staff and one reserved for visitors. The applicant further explained that staff are required to use their own vehicles for work purposes and that the daily changeover is brief (10–15 minutes) and occurs after rush hour, thereby limiting its impact on local traffic patterns or commuter movements.

The onus is on the applicant to provide clear and unambiguous evidence to allow the local planning authority, as decision maker, to assess that evidence and formulate a view; other than a single line in the supporting statement that in forming the proposed driveway, the applicant will be “using a permeable hardcore surface”, there is no further information provided to assess the driveway.

Conclusion

Based on the information submitted, on the balance of probability, the proposed use would be one that falls within Class C2 and not Class C3(b); as such, the certificate must be refused as the proposal cannot be accommodated within that Class. Furthermore, there is insufficient information accompanying the application to conclude, on the balance of probability, that the proposed changes to the driveway would not require planning permission.

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: Refuse

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

- 1) The applicant has failed to demonstrate, with sufficient and precise evidence, that the proposed use of the dwellinghouse for up to three young people aged between 8 and 17 years and up to three carers working on a 24-hour rota basis, would fall within Class C3(b).

Furthermore, there is insufficient information to be able to conclude, that the proposed alterations to the driveway to provide up to four parking spaces, does not amount to development requiring 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 High Risk - Name: DEVELOPMENT_HIGH_RISK_AREA

Coal Authority - Surface Coal Resources - Name: Coal bearing strata at surface

Area Team Boundary - Name: NORTH AREA