Planning

Growth & Development

Delegated officer report for planning application

Application no.	145210/LE/2026
Date registered valid:	18 February 2026
Proposal:	Use of property as a house in multiple occupation (Use Class C4).
Address:	4 Amherst Road, Manchester, M14 6UQ
Ward(s):	Withington Ward
Applicant:	Ms Yvette Karen Pollock
Agent (if any):	
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Refuse

Date of recommendation: 10 April 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: 25 February 2026 Expired: 18 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 large semi-detached dwellinghouse, which has a living accommodation over three floors. There are gardens to the front and rear.

The surrounding area is one that is predominantly residential in nature.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

Certificate 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 the reason for the application is *“an existing use”*; which is described as:

> *“C4 use of whole single dwelling house as a house in multiple occupation (six tenants).”*

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

"(1) the change of use from single dwelling house (C3) to small HMO (C4) took place in about 2009 before planning permission was required. Article 4 was not retrospective in effect so that when Article 4 came into force planning permission was still not required.

(2) the property has been in continuous use as a small HMO (six tenants) for in excess of 10 years preceding the date of this application

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 HMO commenced more than ten years prior to the date of the application (i.e. by 18 February 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

The applicant states that the property has been in continuous use as a small House in Multiple Occupation (HMO) (Use Class C4) since 1 September 2009. This application is supported by the following documents:

- Floor Plans
- Location Plan
- Supporting Statement by the applicant
- Copies of HMO Licence
- Correspondence (email and telephone call notes).
- Title Register
- Rent Statements
- Property Advert

A floor plan has been provided that shows there are six bedrooms contained within the property at ground floor, first floor and second floor.

The supporting statement explains that the applicant purchased the property on the 10 April 2018, and a rental statement has been provided from Homes4U dated 13 April 2018, which shows the rent received from six tenants at that time.

The statement acknowledges that they do not have in their possession evidence of the use of the property as a small HMO between 2010 and 2017 (i.e. before they purchased it). The applicant has written to both the previous owners and Thornley Groves, who acquired Homes4U a number of years ago, to request a statement or information to verify that the property was in use as an HMO over that period, but neither have responded.

The statement also explains that this was the previous owners' family home until 2008, when they moved to a new address, and the applicant understands that the property was let to students as a small HMO after that. The previous owners appointed Homes4U to act as the letting and

manging agent. A copy of the of the rental statement dated 25 February 2010 has been provided to show the rent received from six tenants for the month of February 2010.

Copies of two HMO licences have been provided; the first licence was valid from 5 September 2018 until 4 September 2023. The second licence was valid from 4 September 2023 until 3 September 2028. Both licences states that application property was/is licensed for a maximum of 6 people living as 6 households regardless of age. The applicant has requested copies of previous licences from the Council but was told that GPDR prevented the Council from disclosing them. However, the applicant was told that an officer was able to confirm that HMO Licences were in fact issued in 2009 and 2014.

The applicant also believes that the Council tax records will show the use of the property as a student small HMO beginning for the 2009/10 academic year, because in order to obtain student dispensations from paying council tax, each of the students would have had to submit an application for exemption. This information has not provided by the applicant to support their application.

Whilst the evidence provided gives some indication at the time the applicant bought the property that it was in use as an HMO, the only evidence is in the form of two rental statements dated February 2010 and April 2018. Both statements show six different names and the amount paid in rent by each person but this is only a snapshot in time for those particular months. It does not demonstrate continuous occupation over a ten-year period.

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. The 2018 licence confirm on their face that the property is *"…reasonably suitable for occupation by not more than 6 occupants*" and the 2023 license is a newer format with amended wording, stating "*The property is licensed for a maximum of 6 people living as 6 households regardless of age*"; while relevant, this does not necessarily reflect how the property was used during each licensed period. Therefore, these have very limited weight in determining the operation of an existing use and can only be seen as evidence that the property was capable, for licensing purposes, as being occupied by 6 persons in those periods.

The evidence submitted lacks details of tenants, dates of occupation and other relevant details of how the property was let and occupied over the period being claimed. As such, it does not provide a basis to conclude with sufficient confidence that the property has been in continuous use as an HMO over the relevant 10-year period up to the date of the application.

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 applicant has failed to demonstrate that the use of property as a house in multiple occupation (Use Class C4), as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended), has continued for a 10-year period up to the date of the application.

Appendix 1 – List of consultees & neighbours notified

9A Amherst Road, Manchester, M14 6UG
2 Amherst Road, Manchester, M14 6UQ
Flat 1, 5 Mitford Road, Manchester, M14 6NT
9 Amherst Road, Manchester, M14 6UG
Flat 3, 5 Mitford Road, Manchester, M14 6NT
Flat 5, 5 Mitford Road, Manchester, M14 6NT
Flat 7, 5 Mitford Road, Manchester, M14 6NT
Flat 8, 5 Mitford Road, Manchester, M14 6NT
Flat 9, 5 Mitford Road, Manchester, M14 6NT
Flat 6, 5 Mitford Road, Manchester, M14 6NT
Flat 4, 5 Mitford Road, Manchester, M14 6NT
Flat 2, 5 Mitford Road, Manchester, M14 6NT
Flat 11, 5 Mitford Road, Manchester, M14 6NT
Flat 12, 5 Mitford Road, Manchester, M14 6NT
Flat 10, 5 Mitford Road, Manchester, M14 6NT
7 Amherst Road, Manchester, M14 6UG
6 Amherst Road, Manchester, M14 6UQ
5 Amherst Road, Manchester, M14 6UG

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Flood Zones Type 2 (low to medium risk) -
Regulation 7 Direction (Control Advert) - Control Of To Let Boards (Wilmslow Road/Egerton Road)
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (More) -
Area Team Boundary - Name: SOUTH AREA