MANCHESTER CITY COUNCIL

# Planning

## Growth & Development

## Delegated officer report for planning application

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| **Application no.** | 144638/LE/2025 |
| **Date registered valid:** | 28 November 2025 |
| **Proposal:** | Use of property as a house in multiple occupation (Use Class C4). |
| **Address:** | 44 Daisy Bank Road, Manchester, M14 5QP |
| **Ward(s):** | Ardwick Ward |
| **Applicant:** | Mr Farid Popalzai |
| **Agent (if any):** | Miss Nixie Edwards HAD & Co |
| **Case officer:** | Robert Tyrer<br>Tel: 0161 234 4068<br>Email: robert.tyrer@manchester.gov.uk |
| **Recommendation:** | Grant |

**Date of recommendation:** 21 January 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: 4 December 2025 Expired: 27 December 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**

Application site relates to a large two storey end-terraced dwellinghouse, located in a predominantly residential area.

**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** – Comments were initially received; however, upon further representation, the author confirmed that the comments related to a different property.

**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 “C4 - Houses in multiple occupation”, the grounds of the application are that *“The use began more than 10 years before the date of this application”*; and that a Certificate should be granted because, *“The evidence submitted indicates that 44 Daisy Bank Road has been continuously occupied as a C4 House in Multiple Occupation (HMO) for over ten consecutive years. The Tenancy agreements, rental payment records from bank statements, and supporting correspondence confirm ongoing multi-occupancy use since 2014 with occupation continuing into 2026 with the latest tenancy agreement (AB). In line with Sections 191 and 171B of the Town and*

*Country Planning Act 1990, the use has been established on the balance of probabilities and is considered lawful due to the continuous period of occupation of up to 5 unrelated individuals sharing the communal amenities of the dwelling".*

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 **28 November 2015**) 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 application states that the property has been in continuous use as a small House in Multiple Occupation (HMO) (Use Class C4) since 1 July 2014. This is supported by the following documents:

- Covering Letter/Planning Statement
- Tenancy agreements covering the period from July 2014 to 2025 (current tenancy ending on the 30th June 2026);
- Bank Statements;
- HMO license evidence;
- Timeline of occupation;
- Evidence of renovation for when the property was not fully occupied.

A floor plan has been provided showing, two bedrooms, a living room and a kitchen and dining room on the ground floor. On the second floor there are further three bedrooms, one of which has an ensuite and a bathroom.

The tenancy agreements show that there were between four and five tenants from 1 July 2014 up to and including the current tenancy agreement, which ends on 30 June 2026. This is a mixture of joint and individual tenancy agreements. The property also has a valid HMO licence which began on 19 December 2025 and is valid until 18 December 2030.

The applicant has submitted a detailed timeline which identifies periods of renovation, most notably between May and August 2020. The applicant explains that this period coincided with the COVID-19 pandemic in 2020, during which the majority of the existing tenants vacated the property as a result of national lockdown restrictions and the closure of workplaces and

educational facilities. This provided the applicant with an opportunity to renovate the property before it was re-let from September 2020.

Photographs and an invoice have been provided to demonstrate that works were undertaken, including the replacement of the bathroom floor. Nevertheless, the use and character of the property as a Class C4 house in multiple occupation remained unchanged throughout this period.

This is considered to provide a reasonable explanation for the temporary under-occupation of the property, particularly given that the dwelling had previously been let to five residents and continued to be occupied in this manner from September 2020, with no evidence of an intervening alternative use.

Occupation by four to five unrelated tenants would satisfy the definition of a Class C4 HMO, as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) and the tenancy agreements show that there has been over ten years of continuous use.

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

Based on the information submitted, there is no evidence to contradict the applicant's version of events or to render them less than probable. Accordingly, the Certificate should be granted.

**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**

Flat 3, 2 Vivian Place, Longford Place, Manchester, M14 5QT
Flat 2, 2 Vivian Place, Longford Place, Manchester, M14 5QT
Flat 1, 2 Vivian Place, Longford Place, Manchester, M14 5QT
Flat 3, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 6, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 4, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 7, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 9, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 11, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 10, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 2, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 8, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 12, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 5, 52 Daisy Bank Road, Manchester, M14 5QP
Flat 1, 52 Daisy Bank Road, Manchester, M14 5QP
The Chapel, 31A Daisy Bank Road, Manchester, M14 5GP
5 Longford Place, Manchester, M14 5QQ
Flat 13, 52 Daisy Bank Road, Manchester, M14 5QP
St Josephs RC Primary School, Richmond Grove, Manchester, M13 0BT
42 Daisy Bank Road, Manchester, M14 5QP

**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) -
Susceptible to Surf Water Flood (More) -
Susceptible to Surf Water Flood (More) -
Area Team Boundary - Name: NORTH AREA