MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	144227/LP/2025
Date registered valid:	13 November 2025
Proposal:	Use of dwellinghouse (Use Class C3(a)) to provide a residential care accommodation (Use Class C2) for 1 young person.
Address:	23 Wintermans Road, Manchester, M21 7GE
Ward(s):	Chorlton Park Ward
Applicant:	Mr O'Brien
Agent (if any):	Mr David Gibson The Appeals Guy
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	**Grant**
Date of recommendation:	14 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 two storey mid-terraced dwellinghouse, located within a 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 a dwellinghouse (Use Class 3a) as a children's home for a single child (Use Class C2).

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 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.

Planning History

There has been one previous application at this address.

141234/LP/2024 – A certificate of lawful development application for the use of a dwellinghouse (Class C3a) to provide residential care accommodation (Use Class C2) for 3 young persons was **refused** on **27 November 2024**.

The Application

This application is pursued under subsection (1) of section 192, which provides for an application to determine whether any proposed use or operations would be lawful for planning purposes.

Material Change of Use?

The Town and Country Planning (General Permitted Development) Order states that where no more than six residents live together as a single household where care is provided, the lawful use is Use Class C3(b). The term "Care" also applies to Class C2, 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. The existing lawful use is Class 3(a), and under normal circumstances, there would be no permitted change to Use Class C2. Therefore, an assessment based on 'fact and degree' is necessary to determine whether there is a material change of use.

Proposal

The proposal seeks to accommodate a single child, aged 11–17, at the property as their primary residence. According to the supporting statement, the child will be in full-time education or employment and will follow a normal daily routine, including attending school, sharing meals with carers, and participating in typical social and household activities.

Staffing

The children would be supported by two carers, working on a rota basis. The carers will work 12-hour shifts, with two changeover times at 9am and 10pm with a 30-minute hand over time.

Existing Use and Accommodation

The applicant confirms that existing property is in use as a three-bedroom dwellinghouse (use class C3) and contains facilities for cooking, eating, sleeping and living which are normally and typically associated with a use as a dwellinghouse.

The existing ground floor layout comprises a living/dining room, kitchen, store, and WC. The proposed plans include an internal alteration to create an office within the current living/dining area.

On the first floor, there will be three bedrooms and a bathroom.

The property has both a front and rear garden.

There are no proposed external changes to the property.

Visitor and Regulatory Oversight

The submitted statement indicates that visitors to the property would be on an ad-hoc appointment only basis and that the applicant has a centralised software system for care professionals to use. The statement states that this limits the number of visits needed by external bodies, as all paperwork is online, notes are uploaded rather than handed over and it allows staff to do their paperwork from home.

Parking and Transport

Clarification was sought regarding car parking at the property, as the supporting documentation indicated that there were two off-road parking spaces. However, the applicant has since confirmed that there is no driveway at the property and has provided photographs to demonstrate that vehicles can park on the public highway. The details provided show that the home manager would arrive by car, while other carers would travel by taxi, public transport, or bicycle.

Legal Precedent

The case **North Devon District Council v First Secretary of State [2003]** involved a legal dispute over whether the use of a property for residential care of children fell within Use Class C2 (residential institutions) or Use Class C3 (dwelling houses).

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
.
The judgment clarified that carers who provide continuous 24-hour care but do not live at the premises cannot be regarded as living together with the children, thus falling under Class C2.

This precedent is significant for determining the classification of properties used for residential care.

Conclusion

The current use of the property is considered to fall within Class C3(a), as a private dwellinghouse and contains three bedrooms.

It is considered that the use of the house as a home for one child and carers would not be materially different from its current use as a family home. The pattern of comings and goings might be different to a private family home in some aspects, but there is no evidence that this would amount to a material change of use. If anything, the tight restrictions on social visits to the house would be likely to lessen the overall number of trips generated.

Whilst there is no off-road parking at the property, there are no restrictions on the public highway. This situation is the same for the existing dwellinghouse, whereby the occupiers would have to park their vehicles on the street outside the property.

In this case, it is accepted that the proposed use falls under Class C2, however, its use to care for a child would not be materially different from that of a dwelling house (Class C3). This is due to the way the property will be operated and managed. The impact would be similar to that of a family home. Therefore, the proposed change of use would not result in a development requiring planning permission.

There are no known conditions attached to any previous planning permission that would restrict the use in such a way as to prevent any such change.

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

The change of use of the dwellinghouse (Use Class C3(a)) to provide a residential care accommodation (Use Class C2) for 1 young person would not be material and would therefore not require 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
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: SOUTH AREA