

Planning

Growth & Development

Delegated officer report for planning application

Application no. 144474/LP/2025

Date registered valid: 7 November 2025

Proposal: Use of dwellinghouse (Use Class C3) to provide residential care accommodation (Use Class C2) for 3 young people (aged 8-18 years)

Address: 11 Chataway Road, Manchester, M8 5UU

Ward(s): Crumpsall Ward

Applicant: Mr Kheyaam Shafqat

Agent (if any): Mr Subhan Saleem Saleem Architects

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Grant

Date of recommendation: 6 February 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

The applications site relates to a three storey mid-terraced dwellinghouse.

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 for the proposed use of dwellinghouse (Use Class C3) to provide residential care accommodation (Use Class C2) for 3 young people (aged 8-18 years).

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 have been no previous planning applications at this address.

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.

During the application the applicant has sought to amend the proposal to as follows:

Proposed use of C3 Dwelling to provide residential care accommodation (use class C2) for 3 young people.

This establishes that the applicant considers the existing use of the property to fall within Use Class C3 – Dwellinghouse and that the proposed use of the property falls within Use Class C2 – Residential Institutions.

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

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories. As noted, the existing use as stated on the application form falls within Class C3 (Dwellinghouses) which 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).

Use Class C2 (Residential Institutions) is 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 (dwelling houses)).

- Use as a hospital or nursing home.
- Use as a residential school, college or training centre.

The applicant seeks a lawful development certificate for the use of dwellinghouse (Use Class C3) to provide residential care accommodation (Use Class C2) for 3 young people (aged 8-18 years).

Under normal circumstances, there would be no permitted change to Use Class C2. However, as established in the North Devon District Council v First Secretary of State and Southern Childcare [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.

Therefore, an assessment based on 'fact and degree' is necessary to determine whether there is a material change of use.

The application property is a three-storey terraced dwellinghouse situated within a predominantly residential street.

The submitted drawings show that the property comprises of a lounge, dining room and a kitchen at ground-floor level. The first floor contains three bedrooms and a bathroom. The second floor contains a further three bedrooms and a toilet. Externally, the property benefits from both front and rear gardens.

In terms of the proposed use, three children aged between 8 and 18 years would live at the property. Care would be provided by a Responsible Individual, the Registered Manager, a Senior Care Worker, and Residential Care Workers, including staff who undertake late sleep-in and early shift duties.

The Management Plan explains that from Monday to Friday, the Registered Manager will be on site from 09:00 to 17:00. They will be supported by at least one Residential Care Worker, who will also provide overnight sleep-in cover. The plan says that at no time will young people be left unsupervised. The Home is staffed 24 hours a day, 7 days a week, 52 weeks a year, ensuring continuous care, supervision, and safeguarding.

There will be two care staff on duty at any one time, in addition to the Registered Manager during their working hours. Furthermore, the plan says that the Responsible Individual would provide expert oversight and supervision, either in person or remotely.

Staff shifts are rotated on a weekly basis and follow the structure below:

- Shift pattern: 10:00 until 14:30 the following day
- Shift change and handover: 14:00

Staff will be encouraged to use public transport, within the applicant noting that the property has good access to public transport and goes on to say that most staff members are situated close to the site enabling them to arrive on foot.

A monthly team meeting is held for staff, which the applicant explains that the staff can attend virtually, or the applicant will provide transport support for staff attending meetings.

The proposal would provide sleeping arrangements for both children and carers. The proposed plans indicate that the lounge would be changed to a staff bedroom and office, with the rest of the ground floor unchanged from the existing plans.

The first floor would remain unchanged except for the rear bedroom (no.3) would be changed into a sensory room. On the second floor one of the bedrooms would be changed into a games room and the rear bedroom labelled as a spare room. Although not specified on the proposed plans according to the document "Statement of Purpose and Function" the smallest bedroom would also be used by carers as a staff bedroom.

In terms of visitors to the property, the supporting documents explain that the Responsible Individual and an Independent Visitors, who are required to attend the service once per month. Parking arrangements are said to be managed in advance of any visit and that for less frequent, schedule basis, visitors will be required to notify staff and management ahead of their visit. This is to ensure that there is clear access is maintained for staff vehicles and for emergency or urgent situations.

Given that there is no off-road car parking at the property this is likely to take place on the public highway as there are no restrictions for parking part from at the junction with Hazelbottom Road where double yellow lines are located on the corner.

A child's social worker is expected to visit approximately once every three months. Each child will also have two formal review meetings per year, involving the social worker, the Chair, and relevant health and education professionals. Children with additional educational support needs may require learning to take place at the address, which may involve an on-site tutor attending for approximately 2–3 hours each weekday.

Children requiring therapeutic support may also engage with a professional at the home as part of their individual support plan. This will typically involve a one-hour session monthly, or more frequently if deemed necessary based on the child's needs.

The Registered Manager will have overall responsibility for scheduling and managing visits.

In addition, children may receive visits from their parents, carers, or family members. However, these visits are also planned in advance to ensure safety and wellbeing of the children and the documentation states that the majority of review meetings will be conducted remotely rather than at the property.

Conclusion

The onus in this respect is firmly on the appellant as details of its actual use or last known use are what is needed to compare with what is proposed.

A house of this size could accommodate a typical family with two or three children and two adults. Therefore, the use of the house as a Class C2 home for a maximum of three young people and their carers would not be materially different from the authorised use as a family home. The pattern of comings and goings might be different to a private family home in some respects, but there is no evidence that this would amount to a material change of use.

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 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: Grant

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

Whilst falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), the use of the dwellinghouse (Use Class C3) to provide residential care accommodation (Use Class C2) for 3 young people (aged 8-18 years), with staff working on a 24 hour, 7 days a week rota, would not represent a material change from the existing use as a Class C3 dwellinghouse.

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 Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
HSE COMAH Zone - H3654 Tenants Distribution Ltd Outer Zone
Area Team Boundary - Name: NORTH AREA