Planning

Growth & Development

Delegated officer report for planning application

Application no.	144563/LE/2025
Date registered valid:	15 December 2025
Proposal:	Use of premises as a House in Multiple Occupation (Use Class C4).
Address:	67 Viscount Street, Manchester, M14 5UJ
Ward(s):	Moss Side Ward
Applicant:	Mr Mohammed Reza Rizvi Pentapura Properties Ltd
Agent (if any):	Mr Daanyal Shairaz DS Design & Planning
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Refuse

Date of recommendation: 4 February 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: 13 January 2026 Expired: 3 February 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 two storey mid-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 – No objections, comments or representations in support of the application have been 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 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 *“A Lawful Development Certificate should be granted because the property has been used continuously as a House in Multiple Occupation (HMO) for a period exceeding 10 years. During this time, the use has been uninterrupted, open, and without concealment. In accordance with Section 191 of the Town and Country Planning Act 1990, the continued use of the property as an HMO has therefore become lawful through the passage of time. The evidence submitted demonstrates that the HMO use has been established for the required 10-year period, and as*

such, the local planning authority is required to recognise this lawful use by issuing the certificate"

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 **19 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 22 March 2013. This is supported by the following documents:

- Floor Plans
- Design and Access Statement
- Tenancy Agreement 2012/13

A floor plan has been provided that shows a communal living room, a bedroom and kitchen on the ground floor, two bedrooms and a bathroom on the first floor.

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. In this case, a floor plan, a Design and Access Statement and a tenancy agreement for 2012/13 have been submitted.

The tenancy agreement shows 3 tenants occupied the property from 1 July 2012 until 30 June 2013, which appears to contradict the application form which states that the use of the property as a C4 HMO only began on the 22 March 2013. No other tenancy agreements have been provided for the property.

The design and access statement lacks specific details about tenants, dates of occupation, and other relevant information about how the property was let and occupied.

Under the heading "Planning Justification", the statement claims that "*The existing use of the property as a small HMO (C4) falls within the scope of permitted development rights granted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3, Class L — "change of use from a dwellinghouse (C3) to a small house in multiple occupation (C4)"".*

The key points supporting the application state that "*The use commenced lawfully and continuously for a period exceeding 10 years." and that "The property has not been subject to any Article 4 Direction restricting permitted HMO use within this locality (confirmation available from the Council).*

In respect of the first point, no evidence other than the one tenancy agreement has been provided to demonstrate this claim, and whilst this does show three tenants it falls outside of 10-year period, 19 November 2015 to 19 November 2025. As such, it does not provide a basis to conclude, with sufficient confidence, that the property has been in continuous use as a house in multiple occupation over the 10 years.

The latter point is incorrect. The whole of Manchester has been subject to an Article 4 Direction since 8 October 2011. The Direction removes permitted development rights for changes of use from Class C3 (dwellinghouses) to Class C4 (houses in multiple occupation), meaning planning permission is required for such changes.

The certificate is therefore recommended for refusal.

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

1) 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

30 Fleeson Street, Manchester, M14 5NQ
34 Fleeson Street, Manchester, M14 5NQ
32 Fleeson Street, Manchester, M14 5NQ
69 Viscount Street, Manchester, M14 5UJ
62 Viscount Street, Manchester, M14 5UH
65 Viscount Street, Manchester, M14 5UJ

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) -
Area Team Boundary - Name: SOUTH AREA