MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	144583/LE/2025
Date registered valid:	19 December 2025
Proposal:	Use of property as a house in multiple occupation (Use Class C4).
Address:	69 St Ives Road, Manchester, M14 5NH
Ward(s):	Moss Side Ward
Applicant:	Tokoro Capital
Agent (if any):	Mr Nathan McLoughlin McLoughlin Planning
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Grant
Date of recommendation:	29 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: 5 January 2026 Expired: 26 January 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 – One representation has been received objecting to the proposal on the basis that the applicant has provided insufficient evidence to demonstrate the use claimed.

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”*; 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 property has been in use as a C4 HMO for over 10 years”.*

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 **20 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 29 April 2010. This is supported by the following documents:

- Covering Letter/Summary Document
- Tenancy agreements covering the period from July 2010 to 2025 (current tenancy ending on the 30th June 2026)

No floor plan has been provided but the supporting letter states that the property contains three bedrooms.

The tenancy agreements show that for all of the period covered, there were predominantly three tenants from 1st July 2010 up and to the current tenancy agreement which term ends of the 30th June 2026.

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

Whilst an objection was received, no supporting evidence was provided, as it appears to be a comment on the information submitted. The comments state that the applicant acknowledges short void periods between tenancies and suggest that this represents a cessation of the C4 use.

Panton & Farmer v SSETR & Vale of White Horse DC [1999] JPL 461 established that once lawful use rights have been established they can only be lost in one of three ways. These are (i) by evidence of abandonment; (ii) by the formation of a new planning unit; or (iii) by being superseded by a further change of use. A use which was merely dormant or inactive could still be "existing", so long as it had already become lawful and had not been extinguished in one of these ways.

Accordingly, short void periods would not amount to a cessation of the C4 use, as the use and character of the property as a C4 HMO would have remained unchanged. The tenancy agreements spanning 15 years clearly demonstrate that the property was rented to three tenants each year, and no evidence has been provided to indicate any intervening uses.

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

72 St Ives Road, Manchester, M14 5NH
71 St Ives Road, Manchester, M14 5NH
72 Ealing Avenue, Manchester, M14 5WF
70 Ealing Avenue, Manchester, M14 5WF
74 St Ives Road, Manchester, M14 5NH
70 St Ives Road, Manchester, M14 5NH
67 St Ives Road, Manchester, M14 5NH
68 Ealing Avenue, Manchester, M14 5WF

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) -
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: SOUTH AREA