

Planning

Growth & Development

Delegated officer report for planning application

Application no. 144686/LP/2025

Date registered valid: 9 December 2025

Proposal: Change of Use from Dwellinghouse (Use Class C3) to a Children's Home (Use Class C2) for a maximum of two children, with up to three carers (including a site manager), two of whom will sleep overnight on a rota basis.

Address: 7 Birwood Road, Manchester, M8 4GL

Ward(s): Crumpsall Ward

Applicant: Mrs Nazma Ahmad Cove Child Care Ltd

Agent (if any): Faraz Ahmed X Architecture

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

Recommendation: Grant

Date of recommendation: 28 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 in 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 for the proposed change of use from a dwellinghouse (Use Class C3) to a Children's Home (Use Class C2) for a maximum of two children, with up to three carers (including a site manager), two of whom will sleep overnight on a rota basis.

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 than 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.

The applicant states that the existing use falls under: *“C3 – Dwellinghouses” and that the proposed use is “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 a proposed change of use from a dwellinghouse (Use Class C3) to a Children's Home (Use Class C2) for a maximum of two children, with up to three carers (including a site manager), two of whom will sleep overnight on a rota basis.

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 two storey mid-terraced dwellinghouse situated within a predominantly residential street.

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

In terms of the proposed use, two children aged between 7 and 18 years would live at the property and will primarily serve medium to long term placements. Care would be provided by two full-time carers on site, with a registered manager also present at the property Monday to Friday between 9:00am and 5:00pm.

Staff would operate on a 48-hour rotational basis, which would include one change over a day. A detail indicative rota has been provided to show days and times when staff members would be present at the property including which staff members would sleep at the property.

The proposal would provide sleeping arrangements for both children and carers, using all of the existing three bedrooms. One of the bedrooms is shown on the proposed floor plan being a dedicated staff sleep/office space.

The submitted proposed floor plan of the property remains unchanged from the existing use.

There is no dedicated off-road parking for the property, however the applicant notes that there is no restrictions to on road car parking. The applicant states that it is the company policy to encourage staff to use public transport or cycle to work and not to allow street parking.

However, a vehicle will be available to transport the children when necessary to school and other recreational activities.

In terms of visitors to the property the applicant has confirmed that in addition to OFSTED's one visit per year, there will be visits by local social service every four to six weeks and one Regulation 44 each month. In terms of social workers, the applicant explains that it is usual practice for one social worker to visit all the children, however this may increase if more than one child is from a different local authority area.

The planning statement confirms that visits from family and friends will be carefully managed in advance depending on the respective child's care plan.

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.

The applicant explains that the home would operate in a way that is very similar to a normal family home. The property would provide the young people with their sole and main residence, with free and shared access to living, dining, and kitchen facilities, an ability to take shared meals prepared for them or make their own food or drink.

Conclusion

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

The applicant says that the dwelling's operation will closely mirror a conventional family home. The three children and support staff will function as a single household unit, engaging in a typical day-to-day routine, including education, home-cooked meals, and leisure activities.

The dwelling cannot accommodate one vehicle off road however, there are no restrictions on the public highway.

In this case, it is accepted that the proposed use falls under Class C2, however, its use to care for three children 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 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 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 C3a) as a children's care home (Use Class C2) for a maximum of two children, with up to three carers (including a site manager), two of whom will sleep overnight on a rota basis 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

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: NORTH AREA