

Planning

Growth & Development

Delegated officer report for planning application

Application no. 144617/LP/2025

Date registered valid: 26 November 2025

Proposal: Proposed Change of Use from C3 (1no. four-bedroom dwellinghouse) to Class C2 (1no. children's care home providing emergency accommodation).

Address: 23 Dorset Road, Manchester, M19 3NB

Ward(s): Levenshulme Ward

Applicant: Mrs Sara Muzamil Comfort Care Ltd

Agent (if any): Mr R Anwar RA Design & Project Management Ltd

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

Recommendation: Refuse

Date of recommendation: 19 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 for the proposed use of Class C3 (a four-bedroom dwellinghouse) as Class C2 (a children's care home providing emergency accommodation).

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.

The applicant states that the existing use falls under: *“C3 – Dwellinghouses” and that the proposed use is “C2 – Residential institutions”.*

In response to the question “Why do you consider that a Lawful Development Certificate should be granted for this proposal? The applicant response was as follows:

“Small Children’s Homes do not require full planning permission, as the change does not materially affect the property’s residential nature. The proposed use involves a small-scale use (up to 3 children) in a standard residential property, similar in character to a large family household under C3. Therefore, the proposed use falls within the scope of a Lawful Change from C3 to C2 without requiring full planning permission.”

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 (Dwellings) 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 to the use of the property as children's care home providing emergency accommodation (Use Class C2), is not development requiring planning permission.

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 and areas of green space such as playing fields and a large allotment.

The submitted drawings show that the property comprises a lounge, dining room, and kitchen at ground-floor level. The first floor contains three bedrooms and a bathroom, with the second floor accommodating a fourth bedroom. Externally, the property benefits from front and rear gardens. There appears to be no off-road car parking; however, there are no parking restrictions on the adjoining public highway. The rear garden can be accessed via a gated rear alleyway, which is accessible from Dorset Road, Curtis Street, and Molyneux Road.

In terms of the proposed use, the applicant confirms that there will be no external changes to the dwelling or site. It is proposed that three children aged between 8 and 16 years old, with no special needs or disabilities, would live at the property on a temporary basis whilst they await permanent housing. Care would be provided by up to four staff members in total, with one or two on duty depending on the needs of the children. Staff would work on a rota basis to provide 24-hour care and may stay overnight if required, making use of the master bedroom which would become a bedroom/office. No carers would permanently reside at the address.

Case meetings, or management meetings, would occur at the property and be attended by staff already at the premises, along with occasional external persons such as social workers. The statement anticipates that there would be typically two to four attendees at the meetings that would last no more than one hour and expected to happen twice a day.

In terms of other visits to the property such as family or friends, the applicant says that these will be pre-arranged but expected one to two visits per week per child, depending on the child needs and lasting one to two hours.

As noted, there is no off-road car parking at the property, with all parking needs required to be accommodated by on-street parking. The applicant anticipates four to six vehicle movements associated with staff changes; two to four movements related to transporting children to and from schools; two to four movements for family visits; two movements associated with twice-daily meetings; and up to two movements for welfare services. This is equated to approximately 10 to 18 vehicle movements per day.

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. Details have been provided confirming that the property is currently tenanted and occupied by a family comprising two adults and three children and has been occupied for at least 10 years during the period of the applicant's ownership.

The applicant argues that the proposed use of the property as a children's residential home would not constitute a material change of use, as it would involve a small-scale operation accommodating up to three children within a standard residential property. It is suggested that the use would be similar in character to that of a large family household, with traffic, noise, and activity levels comparable to those of a typical dwellinghouse.

However, while it is noted that the three children would be cared for by two adults, the proposed use would not operate on a medium- or long-term basis. Instead, the property would be used for emergency care, with children housed on a short-term basis for periods ranging from days to weeks while awaiting permanent accommodation. Notwithstanding the applicant's conclusion that the activity would be comparable to the existing use of the property, the nature of this arrangement raises additional considerations.

In particular, the regularity of staff shifts turnovers and meetings, together with associated vehicular and pedestrian movements on a day-to-day basis, would be noticeably greater than those ordinarily associated with a typical family dwellinghouse. Furthermore, the regular turnover of up to three children at a time, potentially staying for only a few days or weeks, would likely result in a higher frequency of comings and goings, with new residents arriving on a daily or weekly basis. In addition, other visitors such as social workers or family/friends may, depending on the needs of individual children, be required to attend the property on a frequent, and potentially daily, basis.

Therefore, it is considered that the proposal would have a more institutional character and would be materially different in character from the existing lawful use of the property as a dwellinghouse.

The proposal would result in a more transient pattern of day-to-day occupation by both carers and children and, as a result, would give rise to a significant difference in character when compared to the current use of the property.

Accordingly, it is considered that the proposal would amount to a material change of use and therefore constitutes development as defined under Section 55(1) of the Town and Country Planning Act 1990. Planning permission is therefore required for the proposal.

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: Refuse

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

The proposed use of the dwellinghouse (Class C3) as a children's care home for emergency care (Class C2) would amount to a material change of use, and therefore constitutes development as defined by Section 55 of the Town and Country Planning Act 1990. Planning permission is therefore required for the proposal.

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
Area Team Boundary - Name: NORTH AREA