MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	144297/LP/2025
Date registered valid:	17 October 2025
Proposal:	Use of a Class C3a dwelling as a children's home for up to two children, with a manager and two carers who would stay overnight, working on a rota basis and falling in Class C2.
Address:	67 Cardinal Street, Manchester, M8 0WP
Ward(s):	Cheetham Ward
Applicant:	Mohammed Sajjad, Aspire Children Services
Agent (if any):	Adrian Rose, Rose Consulting
Case officer:	Robert Tyrer Tel: 0161 234 4068 Email: robert.tyrer@manchester.gov.uk
Recommendation:	Refuse

Date of recommendation: 9 December 2025

Application details

Type of application: Certificate Lawful Development Proposed

Development type: Certificates of lawfulness

Date of site visit: None 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 detached dwellinghouse located on the corner of Cardinal Street and Shaftesbury Road. The plot also contains a large double garage that is accessed from Shaftesbury Road. The surrounding area is best described as being residential in nature.

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 to allow the use of a dwellinghouse (Use Class 3a) as a children's home for up to two children, with a manager and two carers who would stay overnight, working on a rota basis(C2).

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
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> (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 has been one previous planning application at this address:

056116/FH/NORTH1/99 – Planning permission was **granted** on the **22 March 1999** for a two storey side extension to form family room and kitchen with en-suite bedroom over.

The Application

This application is pursued under subsection (1) of section 192, which provides for an application to determine whether any proposed use or operations would be lawful for planning purposes.

Material Change of Use?

The Town and Country Planning (General Permitted Development) Order states that where no more than six residents live together as a single household where care is provided, the lawful use is Use Class C3(b). The term "Care" also applies to Class C2, 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 (dwellinghouses)),
- Use as a hospital or nursing home,
- Use as a residential school, college, or training centre.

This application seeks a Certificate of Lawful Proposed Development for the use of the property as Use Class C2. The existing lawful use is Class 3(a), and under normal circumstances, there would be no permitted change to Use Class C2. Therefore, an assessment based on 'fact and degree' is necessary to determine whether there is a material change of use.

Proposal

The proposal involves housing up to two children who will have either been diagnosed with learning disabilities and or emotional and/or behavioural difficulties.

The home will be registered with Ofsted, as a specialist two bedroom children's home. The supporting statement explains that the children will undergo an impact risk assessment to ensure that they integrate with the local community. It further states that this assessment will consider, the home, the environment, the community, peer groups and risk assessments against each child.

The children would live at the property on a long term basis, the property would not be used as a halfway house or emergency care housing for children.

Existing Use and Accommodation

The existing property is in use as a four-bedroom dwellinghouse (use class C3) with two garages at the rear and is currently occupied by a family.

In terms of accommodation the ground floor would contain a lounge/diner and a kitchen.

On the second floor, there will be three bedrooms, one of which will be used solely by staff, together with a communal bathroom. The third floor/loft would be the fourth bedroom which will also be used a bedroom for staff.

In the garden there is a large double garage, which is labelled as such on the existing floor plans, but the proposed floor plans show that it will be used as an open plan office and staff area.

There is also a second garage attached to the larger garage which is shown as remaining as a garage.

There are no proposed external changes to the property.

Staffing

The children would be supported by two carers, working on a rota basis together with a manager.

- Shift Pattern:
    - Two carers will work 48-hour shifts, sleeping overnight at the property followed by 72 hours off.
- Changeover Times: Changeovers will occur at 8:30 am where one of the two overnight carers will swap.
- If a child of higher level of need is allocated to the home, the supporting statement indicates that it is sometime necessary for an overnight carer to stay awake. In these circumstances, one of the two overnight carers would arrive around 8:30pm and work until 8:30am, when a daytime carer would replace them.
- A manager would also visit on weekdays.

Visitor and Regulatory Oversight

The submitted statement indicates that there will be one OFSTED visit per year, visits by local social services every four to six weeks, and one Regulation 44 inspection (independent monitoring) each month.

Each child social worker would visit them, but it may be the case that a social worker may visit both children if they are from the same local authority.

All other professional or clinical appointments and meeting would take place away from the home where possible. However, the statement says that depending on the children's needs there may also be occasional visits from other professionals.

In addition, family members and friends may visit, subject to prior arrangement and in accordance with each child's individual care plan. The statement also provides a schedule that shows on average two friends of family visits over the weekend and one mid week visit by another professional.

Parking and Transport

The property features both a driveway, which the plans indicate can keep two vehicles off road and two garages at the rear. Details provided show that the home manager would arrive by car and other carers would normally arrive by taxi, public transport or by bicycle.

Legal Precedent

The case **North Devon District Council v First Secretary of State [2003]** involved a legal dispute over whether the use of a property for residential care of children fell within Use Class C2 (residential institutions) or Use Class C3 (dwelling houses).

The High Court ruled that the use of the premises for up to two children, with care provided by non-resident staff, did not constitute a material change of use from its C3 classification.
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The judgment clarified that carers who provide continuous 24-hour care but do not live at the premises cannot be regarded as living together with the children, thus falling under Class C2.

This precedent is significant for determining the classification of properties used for residential care.

Conclusion

The current use of the property is considered to fall within Class C3(a) as a private dwellinghouse; it contains four bedrooms and is currently occupied by a family. The supporting planning statement asserts that there is no material difference, in planning terms, between the proposed use and the existing use as a dwelling. A comparison of weekly movements is provided, which appear broadly similar to the existing use.

A comparison of the existing and proposed floor plans indicates that the garage is to be converted into a staff/office space. Although this could be indicative only, the proposed layout shows the intention to utilise the space in a more formal office setting, with a large sofa and four desks being provided. It is unclear from the information provided how this space will be used throughout the day, and what need there is for such a large office space; this level of use would certainly differ to that which currently exists. This increase in activity in the rear garden would, overall represent a different character in the use of the land and potentially bring its own land use issues that could be detrimental to other nearby properties.

According to the accompanying planning statement, the total number of carers will be six, with no more than three members of staff present on the premises at any one time (paragraph 2.10). The size of an outbuilding, relative to the dwellinghouse, may be an important consideration, although it is not conclusive on its own. However, the physical size of buildings could be relevant insofar as it may indicate the nature and scale of activities to be carried out inside. Unlike the rest of the property, the proposed plans have not been annotated to indicate the floor area of this space, but this is calculated to be 45.39 square metres, which is slightly larger than the ground floor of the dwellinghouse (37 square metres).

The proposed floor plan shows four desks for three carers, and the accompanying statement does not clarify the connection between this space and the occupants of the main dwelling, other than one of the garages containing a secure cycle rack. It is also unclear how the use of the garage as an office/staff room is similar to the existing character or activity as a garage to a dwellinghouse.

The office could function independently, creating a mixed use that potentially results in additional comings and goings. The onus is on the applicant to show that the proposal does not amount to material change of use and provide clear and unambiguous evidence to allow the local planning authority, as decision maker, to assess that evidence and formulate a view; this includes assessing that against any details of the actual or last known use, so as to enable a proper comparison with what is proposed.

It is therefore considered that the applicant has failed to demonstrate that overall use of the dwellinghouse (Use Class C3) and its associated buildings, as a children's home for up to two children with a manager and two carers who would stay overnight, working on a rota basis does not amount to a material change of use requiring planning permission.

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

The applicant has failed to demonstrate, with sufficient and precise evidence, that the use of the dwellinghouse (Use Class C3) as a children's home for up to two children with a manager and two carers who would stay overnight, working on a rota basis, does not amount to a material change of use requiring planning permission.

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
Area Team Boundary - Name: NORTH AREA