

Planning

Growth & Development

Delegated officer report for planning application

Application no. 144008/LP/2025

Date registered valid: 18 September 2025

Proposal: Use of a (C3a) dwelling as a children's home for a single child, with a manager and two carers who would stay overnight, working on a rota basis (C2).

Address: 7 Brentbridge Road, Manchester, M14 6AU

Ward(s): Old Moat Ward

Applicant: Numaan Zeb

Agent (if any): Adrian Rose Rose Consulting

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

Recommendation: Grant

Date of recommendation: 5 November 2025

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

The application site relates to a two storey semi-detached dwellinghouse with a single storey outridge and a driveway/ The property is 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 to allow the use of a (C3a) dwelling as a children's home for a single child, 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; views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.

Legal 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 applicants 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.

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.

Section 57(1) of the 1990 Act provides that planning permission is required for the carrying out of any development of land. Section 55(1) of the Act provides that “development” includes the making of any material change in the use of any buildings or other land.

The Town and Country Planning (Use Classes) Order 1987 (as amended) (the Use Classes Order) specifies use classes for the purposes of section 55(2)(f) of the 1990 Act. Section 55(2)(f) provides that a change of use of a building or other land does not involve development for the purposes of the Act if the new use and the former use are both within the same specified class.

This application for a Certificate of Lawful proposed Development seeks confirmation that using the property to house a child and a manager together with two carers staying overnight working on a rota basis, would fall within the use class C2 and there would be no material change of use from the existing use class C3(a) use.

As the existing lawful use as dwellinghouse falls within use class C3(a), under normal circumstances there would be no permitted change to use class C2. Therefore, it is necessary to make an assessment based on a 'fact and degree' as to whether there is a material change of use.

The proposed and existing floor plans submitted by the applicant, show that the property has two floors comprising of a ground floor, and a first floor. The proposed layout indicates that the ground floor would remain unchanged as a lounge/diner room, living room and kitchen. The first floor would have three bedrooms with one begin for the child, a second staff sleep room a further larger bedroom becoming a staff office/bedroom and a bathroom.

The accompanying Planning Statement outlines that the proposal is intended to replicate a typical family environment, consistent with the approach endorsed by the statutory regulator, Ofsted. The property would serve as the child's sole and main residence, with daily routines, responsibilities, and social activities reflective of those experienced by any child in a conventional family setting. Carers would engage with the property in a manner akin to that of a parent, guardian, or adult resident, thereby reinforcing the domestic character of the use.

The child residing at the property will have their care provision delivered by a team of two carers and a manager operating on a rota basis. Carers would work in 48 hour shifts, with staff changeovers occurring at approximately 8:30am daily, typically lasting no more than 30 minutes. If the child with a higher level of need is allocated and that the overnight carer would have to remain awake during the night, in the these set of circumstances, one of the two carers would arrived at 8:30pm and work until 08:30am In addition, a manager would ordinarily be present at the property during the weekdays arriving around 9am.

In terms of car parking, there are no parking or highway restrictions on Brentbridge Road and the property has driveway which it is said to be able accommodate two vehicles. The submitted planning statement states that the manager would arrive by car the other two carers would typically arrive by taxi, public transport or by cycling to the property.

The presence of one or two vehicles parked on the driveway would not result in any greater impact on the availability of on-street parking than would be expected from a typical residential use. While a space on the driveway will be retained for visitors, both staff and visitors will be encouraged to use public transport, as noted in the Planning Statement, which highlights the property's accessible location and proximity to transport links serving the City and surrounding areas.

Regarding visitors, the Planning Statement indicates that representatives from social services would attend the property approximately every four to six weeks. In addition, independent monthly monitoring, commonly referred to as a Regulation 44 visit would also take place. Visits from family members and friends may occur, subject to the provisions of each individual child's care plan.

Material Change of Use?

The question as to whether a semi-detached 3 bedroom dwellinghouse fell within Use Class C2 or C3 was considered in the High Court in *North Devon District Council v First Secretary of State* [2003]. In the judgement of Mr. Justice Collins was clear on the facts of that particular case, that carers who do not live but who provide, not necessarily through the same person, a continuous 24-hour care cannot be regarded as living together and that, whilst there would be less than 6 residents, the children, without at least one adult living with them at the premises, would not be capable of being regarded in the true sense as a household.

In his judgement, Mr. Justice Collins went on to reason that in the case before him, where three children would reside and be cared for by non-resident staff in a three-bedroom semi-detached property, the use would seem to clearly fall within Class C2 of the 'UCO 1987' as a 'residential institution' which includes a home that provides care for children.

As such it is accepted that the proposed C2 use would not be materially different to that of a C3 dwellinghouse and therefore would not be development requiring planning permission.

Lastly there are no known conditions attached to any previous planning permission which would restrict the use in such a way as to prevent any such change being made.

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

Article 35 Declaration

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

The change of use of the dwelling to a children's home for a single child, with a manager and two carers who would stay overnight, working on a rota basis (C2), would not be development consisting of a material change of use, as set out in Section 55 of the Act, and would therefore not require 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

Flood Zones Type 2 (low to medium risk) -

Flood Zones Type 3 (high risk) -

Flood Zone Plus Climate Change -

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 (Middle) -

Susceptible to Surf Water Flood (Middle) -

Area Team Boundary - Name: SOUTH AREA