

Planning

Growth & Development

Delegated officer report for planning application

Application no. 145112/FO/2026

Date registered valid: 24 March 2026

Proposal: Change of use from a Dwellinghouse (Use Class C3 (a)) to a Guest House (Use Class C1) with a maximum of nine guests at any one time.

Address: 31 Milverton Road, Manchester, M14 5PJ

Ward(s): Rusholme Ward

Applicant: Mrs Eva Lu

Agent (if any): Ms H Barter, D2H Land Planning Development Limited

Case officer: Katie Raw
Tel: 0161 234 4164
Email: katie.raw@manchester.gov.uk

Recommendation: Decline to Determine Application

Date of recommendation: **11 May 2026**

Application details

Type of application: Full Application Consent

Development type: Change of use

Standard consultations:

Printed: 27 March 2026 Expired: 19 April 2026

Neighbour notifications

Printed: 27 March 2026 Expired: 19 April 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

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

The application site relates to 31 Milverton Road within the south Manchester ward of Rusholme. The application site relates to a two storey, red brick, Victorian dwellinghouse characterised by a timber patterned gable, brick detailing and stone cills and lintels. Amenity space to the front of the property relates to a forecourt enclosed by low brick walls and to the rear amenity space is characterised by a small courtyard enclosed by brick walls. The property benefits from an extension from the rear that extends up to the rear boundary line of the site. Bins are stored in the front forecourt.

The application site operates as Birchfield Guesthouse. The use first started operating on 17 April 2016 (as per the information within the submitted application form).

Description of area

The immediate area is residential in nature.

Description of development

The current application seeks planning permission for the change of use from a Dwellinghouse (Use Class C3 (a)) to a Guest House (Use Class C1) with a maximum of nine guests at any one time.

The guest house offers 7no. guest rooms. On the ground floor there is 1no. WC and 2no. bathrooms. Whilst room 3 benefits from an en-suite, guest rooms 1 and 2 have no private bathroom facilities. On the ground floor there is a communal dining room. On the first floor there are 4no. rooms with 1no. communal bathroom. There is a back yard for guests.

Within the submitted documentation, it is noted that 2no. members of staff are on site, and a manager inspects the house every day. 24/7 phone support is available for guests. CCTV cover all communal areas and there are quiet hours of 22:00 to 08:00.

The purpose of the current application is to try to overcome the reasons for refusal for the previously refused application 144291/FO/2025 (see further planning details below).

The main differences between the current scheme and the previous scheme is as follows:

- Guests restricted to 9no. guests:

- >Ground floor rooms:

- Bedroom 1- 2 persons

- Bedroom 2- 2 persons

- Bedroom 3 – single occupancy

- >First floor rooms:

- Bedroom 4- single occupancy

- Bedroom 5- single occupancy

- Bedroom 6- single occupancy

- Bedroom 7- single occupancy

The scheme of 144291/FO/2025 had capacity of up to 20 guests at any one time.

- The Planning Statement notes bookings must be made online in advance.

Planning History

ENF/15377/22- Enforcement Enquiry- Change of Use- Unauthorised change of use to a guest house.

Notice Issued on 29 January 2026.

The Notice states property must be ceased for use as a guest house (Use Class C1). The notice was due to take effect on 5 March 2026.

Appeal: 26/03010/ENF

Appeal against enforcement notice- APPEAL 6005897.

Appeal in progress (appeal received 4 March 2026).

144291/FO/2025- Retrospective change of use from a Dwellinghouse (Use Class C3 (a)) to a Guest House (Use Class C1).

Refused 10 December 2025.

Consultations & Notification Responses

Local Residents

Local residents were consulted and no responses were received.

Highway Services

The following comments were received from colleagues in Highway Services:

It is noted that there will be a maximum of 9no. guests at any one time at the site.

Trip generation:

The level of vehicular trips generated by the proposed guest house is not anticipated to be significant. As such no highways concerns are expected.

Site accessibility:

The site is accessed by sustainable modes. Regular bus services are available within walking distance of the site on Anson Road.

Parking and access:

No on-site car parking is proposed for the site. All vehicular demands associated with the site are anticipated to contribute to the level of vehicles parked on-street. Pedestrian access to remain as existing.

Cycle parking:

4no. cycle parking spaces are to be provided within rear yard of the site - Acceptable in principle subject to monitoring demand. Cycle parking is to be secure and sheltered.

Boundary treatments:

The applicant should be advised that all gated accesses will need to provide inward opening gates to ensure they do not impact on the adopted footway or highway.

Refuse and servicing

Refuse bins are to be located within the front yard - Acceptable in principle. Noted that refuse bins will be relocated to Milverton Road for kerbside collection. Refuse bins must be returned immediately following collection. A Waste Servicing Strategy should be conditioned with any planning approval.

Construction management:

Detail should be sought from the applicant in relation to any proposed construction or fit-out arrangements, where there is an impact on the highway.

The applicant is required to discuss and agree any requirements for licensing, hoarding / scaffolding, and skips with MCC's Highways Licensing Team via Email to: highwaylicences@manchester.gov.uk.

The applicant is required to discuss and agree any requirements for temporary pedestrian and traffic management with MCC's Event and Traffic Management Team via Email to highwaynetworkmanagement@manchester.gov.uk and add something in about section 50.

Environmental Health

Colleagues in Environmental Health requested a refuse condition be attached to any approval granted.

Issues **POLICY**

Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012, updated April 2024 following Adoption of Places for Everyone.

It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development. A number of UDP policies have been saved until replaced by further development plan documents to

accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents.

The following policies contained within the Core Strategy are considered relevant:

Policy SP1 (Spatial Principles) (partially superseded by PfE);

Policy DM1 (Development Management);

Policy H1 (Overall Housing Provision) (partially superseded by PfE);

Policy H5 (Central Manchester);

Policy EN19 (Waste);

Policy T1 (Sustainable transport) (partially superseded by PfE);

Policy T2 (Accessible areas of opportunity and need);

Policy EN1 (Employment and Economic Growth in Manchester);

Policy EC8 (Central Manchester);

Policy CC4 (Visitors- Tourism, Culture and Leisure).

Unitary Development Plan for the City of Manchester, 1995 (Saved Policies)

The below saved policies of the Unitary Development Plan are considered relevant:

DC4. Bed and Breakfast establishments

DC4.1 In determining planning applications for developments involving the use of the premises for bed and breakfast accommodation (Class C1), the Council will have regard to:

- a. the general location of the proposed development;
- b. the effect on the amenity of neighbouring residents;
- c. the standard of the accommodation for the intended occupiers of the premises;
- d. adequate private outdoor amenity space;
- e. the availability of adequate, safe and convenient arrangements for car parking and servicing;
- f. the ease of access for all, including disabled people;
- g. the desirability of avoiding an over-concentration of special needs or housing in any one area of the City; and
- h. the desirability of broadly maintaining the existing character of a residential street or group of adjoining streets.

DC4.2 The Council will normally accept the principle of developments of this kind in residential areas, in commercial areas, and on main road frontages, subject to other relevant policies of the Plan.

DC4.3 Notwithstanding policy DC4.2, the Council will require any developments in this category to provide:

- a. accommodation to the Council's current approved standards for developments of this kind;
- b. adequate usable external amenity space;
- c. satisfactory refuse storage and collection facilities;
- d. satisfactory communal facilities for residents.

DC4.4 In determining applications of this kind, the Council will normally seek to limit the use within Class C1 to bed and breakfast establishments only, except where satisfactory off-street car parking can be provided in accordance with the Council's current guidelines for hotels and guest houses, and where the Council is satisfied that these more commercial activities will not adversely affect local amenity.

DC26. Development and Noise

Policy DC26.1 states that the Council intends to use the development control process to reduce the impact of noise on people living and working in, or visiting, the City. In giving effect to this

intention, the Council will consider both: a. the effect of new development proposals which are likely to be generators of noise. b. the implications of new development being exposed to existing noise sources, which are effectively outside planning control.

The Guide to Development in Manchester Supplementary Planning Document (2007)

The Guide aims to support and enhance the on-going shaping of the City by providing a set of reasoned principles which will guide developers, designers and residents to the sort of development appropriate to Manchester. It seeks to retain the essential distinctiveness of its character areas, whilst not precluding new development.

Manchester Residential Quality Guidance (2017)

This guidance provides clear direction on what is required to deliver sustainable neighbourhoods of choice where people will want to live and also raise the quality of life across Manchester.

Places for Everyone (Joint Development Plan) 2022- 2039

The Places for Everyone Plan is a strategic plan for nine of the 10 boroughs in Greater Manchester and forms part of the city's development plan. The Plan identifies the essential aspect of the efficient and effective use of land with the preference to be given to making as much use as possible of suitable previously developed brownfield land and vacant buildings when meeting development needs.

Relevant policies of PfE in this instance are:
JP-S1: Sustainable development

National Planning Policy Framework (December 2024)

The central theme to the revised NPPF is to achieve sustainable development. The Government states that there are three dimensions to sustainable development: an economic role, social role and environmental role.

Section 4 provides guidance on the decision-making process and mirrors legislation in stating that planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Section 5 refers to the need to deliver a sufficient supply of homes and states that strategic policies should be informed by a local need assessment and the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.

Draft National Planning Policy Framework (16th December 2025)

The government has published a consultation National Planning Policy Framework which is intended to improve housebuilding rates through a clearer, more predictable and faster policy basis for decision and plan making.

Of relevance to the application proposals the draft NPPF makes it clear that local planning authorities should amongst other things:

- Work with the applicant in a positive and proactive manner, where necessary seeking solutions to problems arising from initial proposals, to enable a timely decision.
- Take account of planning matters raised during any pre-application engagement, including any positive responses to this engagement, as well as representations on the proposals.
- Decisions on development proposals should apply a presumption in favour of sustainable development and this means that for development within settlements should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework.

ISSUES

Consideration of Planning Application 145112/FO/2026 with regards to Section 70A and 70C of the Town and Country Planning Act 1990.

Legislation

Section 70A of the Act states that:

“(1) A local planning authority may decline to determine a relevant application if—

(a) any of the conditions in subsections (2) to (4) is satisfied, and

(b) the authority think there has been no significant change in the relevant considerations since the relevant event.

(2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application made to the Secretary of State under section 62A or referred to him under section 76A or 77.

(3) The condition is that in that period the Secretary of State has dismissed an appeal—

(a) against the refusal of a similar application, or

(b) under section 78(2) in respect of a similar application.

(4) The condition is that—

(a) in that period the local planning authority have refused more than one similar application, and

(b) there has been no appeal to the Secretary of State against any such refusal”

Section 70C of the Act states that:

“(1) A local planning authority may decline to determine an application if granting planning permission for the development "would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control."

Does Section 70A apply?

In this instance, on 17 October 2025, the applicant submitted a planning application (ref. 144291/FO/2025) for “Retrospective change of use from a Dwellinghouse (Use Class C3 (a)) to a Guest House (Use Class C1)”. On 10 December 2025 the Council refused planning permission for the following reasons:

1) The proposed guest house is not located on a main radial route, nor would it be located within the City Centre or a District Centre, or location devoted to leisure or recreation activity, where uses of this nature are usually considered to be appropriately located, to avoid any adverse impacts on the character or amenities of the occupiers of residential premises. The proposed use is therefore considered to be contrary to policies SP1, CC4 and DM1 of the Manchester Core Strategy.

2) *The retrospective Change of use from a Dwellinghouse (Use Class C3 (a)) to a Guest House (Use Class C1) has resulted in the loss of a family dwellinghouse, thereby reducing the availability of family housing, and undermine the formation of sustainable communities. The proposal would therefore be contrary to the provision of policies SP1, H1, H5, and DM1 of the Manchester Core Strategy (2012), the Guide to Development in Manchester Supplementary Planning Document (2007) and the National Planning Policy Framework (2019).*

3) *The use of dwellinghouse (Use Class C3 (a)) to a Guest House (Use Class C1) would by reason of the additional comings and goings and general activity associated with such uses have a detrimental impact on the amenity of local residents. The proposed development is therefore contrary to the provisions of Core Strategy policy DM1 and saved Unitary Development Plan policy DC4.*

4) *The Guest House provides sub-standard accommodation, given the number of guests that can stay at the property at any one time, the density of guests per room and the facilities afforded to the accommodation. The proposed development is therefore contrary to the provisions of Core Strategy policy DM1, UDP policy DC4 and the guidance contained in the Manchester Residential Quality Guidance.*

No appeal was made against the decision made under planning ref: 144291/FO/2025. Only one refusal has been determined and so it is considered the circumstances do not apply with section 70A.

Does Section 70C apply?

In this instance, on 29 January 2026, the Council issued an Enforcement Notice ("the notice") (reference ENF/15377/22) in relation to the following specified breach of planning control:

"Without planning permission, the material change of use of the property to a guest house (Use Class C1)".

The notice was due to take effect on 5 March 2026 and required the following steps to be taken:

"Cease the use of the property as a guest house (Use Class C1)".

The reasons for issuing the notice were as follows:

"It appears to the Council that the above breach of planning control has occurred within the last ten years.

The Council considers that it is expedient to issue this notice because the unauthorised development has resulted in the loss of a family dwellinghouse, thereby reducing the availability of family housing, and undermine the formation of sustainable communities. Furthermore, the additional comings and goings and general activity associated with the use is considered to be having a detrimental impact on the amenity of local residents, whilst it provides sub-standard accommodation, given the number of guests that can stay at the property at any one time, the density of guests per room and the facilities afforded to the accommodation.

In addition, the guest house is not located on a main radial route, nor is it be located within the City Centre or a District Centre, or location devoted to leisure or recreation activity, where uses of this nature are usually considered to be appropriately located to avoid any adverse impacts on the character or amenities of the occupiers of residential premises.

The development is considered to be contrary to policies SP1, DM1, CC4 and H5 of Manchester's Core Strategy, Policies JP-S1 and JP-H1 of the Places for Everyone Joint Development Plan Saved UDP Policy DC4, the Manchester Residential Quality Guidance (2017) and guidance contained within the National Planning Policy Framework”.

Should Section 70C be used?

No appeal was made against the decision made under planning ref: 144291/FO/2025. Only one refusal has been determined and so it is considered the circumstances do not apply with section 70A.

In relation to Section 70C, the Council has a discretion as to whether or not to use the power in Section 70C. The following matters appear relevant to the exercise of that discretion.

The aim of Section 70C is to prevent a developer from having ‘two bites of the cherry’ in respect of unauthorised development.

In this instance, the applicant was refused planning permission under planning ref: 144291/FO/2025, refused 10 December 2025. The Council issued a notice against the unauthorised development and an appeal was lodged with the Secretary of State against that notice on 4 March 2026. The appeal is proceeding under Grounds (f) and (g) and has not yet been determined.

On 4 February 2026, a second application was submitted to try to overcome the reasons for refusal under 144291/FO/2025, together with the reasons for the Council issuing the notice. This application proposes lower guest numbers (with a maximum capacity of 9 and the Planning Statement notes bookings must be made online in advance).

The notice clearly sets out the Council's objections to the unauthorised development, and the determination and refusal of this planning application will give the applicant another ‘bite of the cherry’ by way of an appeal under Section 78 of the Act. Whilst it is accepted that the planning merits have not been assessed by the Secretary of State on appeal, the applicant had a right of appeal, even after the notice was issued, but chose not to exercise that right. The legislation exists in order to prevent developers from being able to repeatedly appeal refusal of planning permission for developments that the Council has clearly stated are considered to be unacceptable on their planning merits.

The enforcement notice has still not been complied with, which suggests that this latest planning application is yet a further play for time. This is supportive of the use of Section 70C, which was introduced to prevent the making of such tactical applications.

In *Moran, R (On the Application Of) v Medway Council [2026] EWCA Civ 484 (17 April 2026)*, the Court of Appeal upheld the use of Section 70C, by Local Planning Authorities, to decline to determine planning applications in just these circumstances:

64. *In the light of the conclusions that I have reached in relation to the proper understanding of section 70C of the 1990 Act and its statutory purpose the following questions arise for consideration by a local planning authority contemplating the use of section 70C in respect of an application they have received. Firstly, is there a pre-existing enforcement notice on the whole or part of the application site? If so, does the application seek permission for development which (in whole or in part) includes development identified as a breach of planning*

control in the pre-existing enforcement notice? If it does, then the local planning authority has a discretion as to whether to decline to consider the application or to accept it and determine it on its merits.

Comparison of the Enforcement notice and application reference 145112/FO/2026

The notice requires the applicant to Cease the use of the property as a guest house (Use Class C1). The current application seeks planning permission for change of use from a Dwellinghouse (Use Class C3 (a)) to a Guest House (Use Class C1) with a maximum of nine guests at any one time.

The main differences between the current scheme and the previous scheme is as follows:

- Guests restricted to 9no. guests:

- >Ground floor rooms:

- Bedroom 1- 2 persons

- Bedroom 2- 2 persons

- Bedroom 3 – single occupancy

- >First floor rooms:

- Bedroom 4- single occupancy

- Bedroom 5- single occupancy

- Bedroom 6- single occupancy

- Bedroom 7- single occupancy

The scheme of 144291/FO/2025 had capacity of up to 20 guests at any one time.

- The Planning Statement notes bookings must be made online in advance.

Whilst the applicant has committed to a reduction in guest numbers, the Council raises concerns with the difficulties of controlling and monitoring such occupancy levels in practice. Such a commitment is not considered to adequately address reasons for the issuing of the notice, or indeed the reasons for the previous refusal of planning permission. The commitment to ensure bookings were made online in advance would not overcome concerns in relation to comings and goings, or disamenity to local residents as the property would still operate as a Guest House and in much the same way as at present. In addition, any attempt to control occupancy via the imposition of a planning condition would be entirely unenforceable. Lastly, such measures are not considered to overcome the Council's objections to the development in that the location is inappropriate for a Guest House and has also resulted in the loss of a family dwellinghouse.

Conclusion

It is clear that the proposal of this planning application (ref: 145112/FO/2026) as set out in the documents and associated plans, relates to matters pertaining to a "pre-existing" enforcement notice, i.e. one issued prior to the submission and the receipt of the second application on 4 February 2026 and are matters for which planning permission is deemed to be required.

As the Council have already deemed the development to be unacceptable and have taken formal action, any approval of the matters presently before the Council will be in direct contradiction to those decisions previously made.

The current submission is not considered to involve significant changes to overcome the relevant considerations and the Council's objections to the development

Therefore, pursuant to Section 70C of the Town and Country Planning Act 1990, the Council as Local Planning Authority, hereby declines to determine the application and the appropriate entry will be made in the planning register to reflect this decision.

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: Decline to Determine Application

Reasons for recommendation

Under Section 70C of the Town and Country Planning Act 1990 (as amended), a Local Planning Authority may decline to determine an application for planning permission, if granting that permission would involve granting, wholly or partly, a permission for any matters specified in a pre-existing enforcement notice. A notice is "pre-existing" if it had been issued before the receipt of the planning application being determined as specified by Section 70C(2).

On 29 January 2026, the Council issued an Enforcement Notice ("the notice") (reference ENF/15377/22) in relation to the following specified breach of planning control:

Without planning permission, the material change of use of the property to a guest house (Use Class C1).

The notice was due to take effect on 5 March 2026 and required the following steps to be taken:

Cease the use of the property as a guest house (Use Class C1).

In the opinion of the Local Planning Authority, the proposal of this planning application (ref: 145112/FO/2026) as set out in the documents and associated plans, relates to matters pertaining to a "pre-existing" enforcement notice, i.e. one issued prior to the submission and validation of the application on the 24 March 2026 and are matters for which planning permission is deemed to be required.

As the Council have already deemed the development to be unacceptable and have taken formal action, any approval of the matters presently before the Council will be in direct contradiction to those decisions previously made.

Therefore, pursuant to Section 70C of the Town and Country Planning Act 1990, the Council as Local Planning Authority, hereby declines to determine the application and the appropriate entry will be made in the planning register to reflect this decision.

As the decision to decline to determine the application has been made within the statutory 8 week period, there is no right of appeal to the Secretary of State against non-determination under Section 78 as that right is lost under the provision of Section 78(2)(aa).

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health

20 Kensington Avenue, Manchester, M14 5PG
36 Milverton Road, Manchester, M14 5PJ
22 Kensington Avenue, Manchester, M14 5PG
24 Kensington Avenue, Manchester, M14 5PG
34 Milverton Road, Manchester, M14 5PJ
33 Milverton Road, Manchester, M14 5PJ
32 Milverton Road, Manchester, M14 5PJ
29 Milverton Road, Manchester, M14 5PJ

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