

Planning

Delegated Officer Report

Summary of application details

Application reference:	145352/LP/2026
Application type:	Lawful development: Proposed use
Proposal:	Proposed use of the C3 dwelling to provide residential care accommodation (Use Class C2) for 1 young person.
Site address:	10 Stephen Oake Close Manchester M8 8AZ
Ward(s):	Cheetham
Date application valid:	03 April 2026
Applicant name:	Mr Kay Shafqat
Agent (if any):	Mr Subhan Saleem
Case officer:	Robert Tyrer
Recommendation:	Refuse
Date of recommendation:	28 May 2026

Description of site, building and/or area

Application site relates to a two-storey semi-detached dwellinghouse, located within a predominantly residential area.

Description of development

The applicant is seeking a certificate of lawful development for the proposed use of the C3 dwelling to provide residential care accommodation (Use Class C2) for 1 young person.

Relevant planning history

Consultation, notification and publicity responses

Consultations

Notifications and publicity

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.

Negotiations

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.

Relevant policies

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.

Assessment

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 application form includes a section titled "Information About the Proposed Use," which asks the applicant for the use class that the proposal falls under, as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended).

The applicant states that the existing or last use falls under: "C3 - Dwellinghouses" and the proposed use relates to "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 has responded as follow:

"The proposal aligns perfectly with a number of MCC strategies. Services as a safe and suitable location that does not suffer from an over supply of similar accomodation. Please also refer to mission statement. The strategy in place will be no different to a C3 dwelling house therefore will not constitute a material change of use. Residents will also be told that they will not have cars and the company will not allow any young person to take up residence if they have a car".

In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.

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."*

Change of Use?

The applicant is seeking a lawful development certificate (LDC) to allow the use of a dwellinghouse (Use Class C3) as a small residential care home (Use Class C2).

Use

The applicant has confirmed that the existing or last known use of the property is a dwellinghouse in use class C3. This is considered to be the current lawful use of the property.

The use classes order provides the following definitions:

Use Class C3: Use as a dwelling house (whether or not as a sole or main residence) by —

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (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: Covers residential institutions - use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3), which includes homes that provide care for children

It follows that a care home with no more than six residents falls into Class C3(b), unless it involves personal care of children or medical care and treatment. Therefore, only those care homes accommodating more than six adult residents, or which involve personal care of children or medical care and treatment, fall within Class C2. Clearly, there is meant to be no overlap between the Use Classes.

Planning permission is usually required to change from a family Dwellinghouse (Use Class C3) to a Children's Home (Use Class C2). However, where applicants have demonstrated that the use of a property as a children's home would not be materially different to that of a family dwelling house, lawful development certificates have been granted.

One notable case that addresses the conversion from Use Class C3 to C2 is North Devon District Council v First Secretary of State (2003). In this case, the court considered whether a dwellinghouse used to provide residential care for two children fell within Class C2 or C3(b).

The case made clear that children need to be looked after and cannot run a house or deal with all the matters involved in running a home. Children require full-time care from an adult to manage the household and ensure it operates properly. The term "household" implies that its members are capable of functioning as a unit, which includes the ability to manage and run the household.

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.

However, Class C3 does require at least one residential carer, living together with those who are being cared for.

The question nevertheless arose as to whether there had, as a matter of fact and degree, been a material change of use. On the special facts of this case, 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. overall that the proposed use would not result in a definable change in the character of the use of the property compared to the current C3(a) residential use. As such there would be no material change of use.

This case is important for the general principle that it establishes.

Another relevant case is the Appeal Decision for 316 Westrow Drive, Barking. The inspector considered whether the property was being used as a single household (C3 use class) or as a residential care home (C2 use class). The enforcement notice alleged the unauthorised material change of use from a single-family dwelling house (C3 use class) to a residential care home (C2 use class).

The key issue was whether the residents formed a single household and received care, which would classify the use under C3(b) rather than C2. In this case the occupants were young adults and not children. The inspector concluded that the property was being used as a single household where care was provided, fitting within the C3(b) use class. Therefore, the appeal was allowed, and the enforcement notice was quashed.

The onus is firmly on the applicant to provide as much detail as possible in relation to its actual use or last known use so that an appropriate comparison can be made with what is now being proposed.

The Proposal

The application site relates to a two storey semi-detached dwellinghouse situated within a residential estate just off Waterloo Road within the Cheetham ward of Manchester.

The proposal is to use the property for the care of one child (aged between 8 and 17 years old), on a 24 hours, 7 days a week basis. It is stated that the home would not accept immediate or emergency admissions and that placements are offered to children and young people experiencing trauma or crisis, which may result in challenging behaviour that cannot be managed in their current residence. However, there is a discrepancy with the submitted planning statement states that the property "*would be occupied by one or two full time residents*" which differs to the one young person stated on the application form and later on within the statement where the proposal is described as a change of use of the building to a Use Class C2 providing accommodation for "*one child requiring care or support, with staff employed to deliver appropriate supervision and assistance*". Planning Practice Guidance (PPG) requires applicant in the case of a proposed LDC "*to describe the proposal with sufficient clarity and precision*" to understand what exactly is involved.

The submitted drawings do not indicate any external changes to the dwellinghouse.

The applicant's supporting document titled Management Plan explains that during the weekday (Monday to Friday), a registered manager would be on site from 09:00 to 17:00, supported by up to a maximum of three support staff members, with staffing levels determined in line with the individual needs of the children. During staff handover (09:00), the Staff Plan section of the submitted Management Plan indicates that they would not exceed 10 minutes and that during this time no more than three support staff would be present, in addition to the registered manager, as one staff member would leave as the next begins their shift.

The submitted drawings show that the property comprises of a kitchen/diner, W/C and lounge on the ground floor. On the first floor, the property contains three bedrooms, one with an en-suite, and a bathroom. No external changes are proposed and internally only some of the rooms functions would differ slightly, as the bedroom with the en-suite would serve as the staff sleep-in/office room, a second bedroom would also be used as an additional staff sleep-in room, and the other bedroom would be allocated to the child. The statement of purpose and function outlines how the child's education and social activities would be arranged.

The management plan goes on to explain that professionals visiting the property on a regular basis would include the Responsible Individual and an Independent Visitor, who is required to attend once a month. Other professional would attend on a less frequent, scheduled basis and will be required to notify staff and management in advance of their visit. The management plan explains that a child's social worker is expected to visit approximately once every three months and that each child would have two formal review meeting per year which involve a social worker, the chair and relevant health and education professionals. Family members would also visit the child.

The applicant explains that there is a dedicated residents' car park less than 300 yards from the home and would be available to be used by residents and their visitors. In addition there are no restrictions on the public highway.

The applicant contends that the proposed use would remain "*predominantly residential*" and, "*is not considered to generate activity of such intensity that it would unreasonably affect the amenity of neighbouring occupiers through noise or disturbance*". However, it is necessary to compare the proposed use with the actual existing use. Other than the existing property being described as a three bedroom dwellinghouse, very little to no information has been provided on the current or

previous number of residents or if they were an elderly couple or a family for example. Whilst, any child/children living in a family dwellinghouse may be cared for by adults (such as grandparents) in addition to their parents and they may also require support from professional visiting the home. However, without any information regarding the existing use it is unclear if a child, who would be cared for by a registered manager and a maximum of three support staff, in addition to the visitors would represent an intensification of activity such as comings and goings when compared with a family dwellinghouse. It is noted that there are off road parking, however, in the scenario where there are four staff members have driven separately to the address, this could mean four vehicles plus a fifth vehicle during handover or in the case when there are visitors to the property. It is unclear if the off road parking would be able to accommodate all the vehicles.

The onus in this respect is firmly on the applicant as details of its actual use or last known use are what is needed to compare with what is proposed. As a result, the current evidence does not enable an evaluation to be undertaken of whether the proposed use would or would not be materially different from how the property was last used.

The applicant has failed to demonstrate, with sufficient and precise evidence, that the proposed use of the C3 dwelling to provide residential care accommodation (Use Class C2) for 1 young person), does not amount to a material change of use requiring planning permission. The certificate is therefore recommended for refusal.

Conclusion

Based on the assessment above, the Certificate should be refused.

Recommendation: Refuse

Reasons for refusal

- 1) The applicant has failed to demonstrate, with sufficient and precise evidence, that the proposed use of the C3 dwelling to provide residential care accommodation (Use Class C2) for 1 young person), does not amount to a material change of use requiring planning permission.