MANCHESTER CITY COUNCIL

Planning

Delegated Officer Report

Summary of application details

Application reference:	PLA-2026-000495
Application type:	Lawful development: Proposed use
Proposal:	Proposed use of dwellinghouse (use class c3) as a children's home (use class c2) for up to three children with up to three carers/manager, with two carers staying overnight working on a rota basis.
Site address:	348 Plymouth Grove Manchester M13 0LX
Ward(s):	Rusholme
Date application valid:	28 May 2026
Applicant name:	Mr Wasif Malik
Agent (if any):	Sadaf Malik
Case officer:	Robert Tyrer
Recommendation:	Refuse
Date of recommendation:	25 August 2026

Description of site, building and/or area

The 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 use of dwellinghouse (use class c3) as a children's home (use class c2) for up to three children with up to three carers/manager, with two carers staying overnight working on a rota basis.

Relevant planning history

There have been no previous planning applications at this address.

Consultation, notification and publicity 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.

However, comments have been received from the Flood Risk Management Team, who raise no objection to the proposal.

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.

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).

In response to the question, the applicant states that the existing or last use falls under: *“C3 - Dwellinghouses” and the proposed use relates to "C2 - Residential institutions"*.

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 change of use of a dwellinghouse (Use Class C3) to a children’s home (Use Class C2) for up to three children with up to three carers/manager, with two carers staying overnight working on a rota basis.

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.

Assessment of the Proposal

The application site relates to a two-storey semi-detached dwellinghouse, situated on a corner plot at the junction of Plymouth Grove and Daisy Avenue.

Plymouth Grove is subject to a Traffic Regulation Order (TRO) that prohibits parking between 8:00am and 6:00pm, Monday to Friday, and between 8:00am and 12:30pm on Saturdays.

Daisy Avenue is a cul-de-sac with a carriageway width of approximately 5.5 metres. During site visits conducted in both the morning and afternoon, a number of vehicles were observed parked on the highway in the vicinity of its junction with Plymouth Grove.

During site visits to the property, two vehicles were observed parked on the side driveway in the morning, and one vehicle was observed in the afternoon.

The property contains both front and rear gardens. Both gardens have been paved over and there are large double gates that form part of the side boundary with Daisy Avenue which provide access to the rear garden.

The Planning Statement (PS) explains the dwellinghouse will be used to accommodate up to three children on medium to long term placements. The children would be cared for by three carers/manager working on 12-hour rota basis, with change overs occurring at 10:00am and 10:00pm each day for around 10 minutes per change over. Two of the staff members would stay overnight and a manager would be at the premises most days between 9:30am to 5:30pm. Care staff would operate on a rota basis to provide continuous support, but would not permanently reside at the property.

The PS outlines that the intention is to operate the children's home in a manner to closely replicate a typical family environment. The property would provide the children with their sole and primary residence, providing shared access to domestic living, dining and kitchen facilities.

Before placement, each child will undergo an impact assessment, which will consider the home, environment, community, peer groups and the unique needs of each child.

Residents would have ability to have shared meals prepared for them or make their own food or drink and alongside their carers, they would interact with the property in much the same way as a parent, guardian. Children are expected to engage with various activities plus attend school (mainstream or special school) or be home schooled in the cases of children who have missed an extensive proportion of their education for example.

In terms of visitors the applicant contends that these will be limited, they explain that local social services would visit four to six weeks. One social worker would visit all the children, however it may be more than one if the children are from different local authority areas. There may also be visit from family members and friends.

In terms of car parking, the applicant contends that the application site can accommodate four vehicles and the existing drawing shows two vehicles back to back at the side and a further two vehicles back to back in the rear garden. A vehicle will be kept at the property and used to transport children when necessary to and from school etc. Visitors will be encouraged to use public transport and where this is not possible the applicant asserts that there is on street car parking within walking distance of the property. The applicant also states that the area has good transport links and that it is company policy to encourage all staff to use public transport with a variety of incentives such as free bus passes or subsidising taxi fares.

No external changes are proposed to the property; however, the proposal would see the room identified as living room 1 changed to a bedroom, which would increase the number of bedrooms from five to six in order to accommodate residents who may have difficulty using the stairs.

To determine whether a what is proposed would constitute a material change, it is necessary to compare the existing use with the proposed use.

In this regard the applicant has confirmed that the existing use is a private residential dwellinghouse within use class C3. The PS states that the property can accommodate a range of domestic living arrangements, including a large family household, a couple or a group of cohabiting adults. They contend that the proposed use as a small children's care home would not alter the residential character or function of the property when compared to the current use as a family dwellinghouse.

The onus to provide suitable information so that a genuine comparison can be made is firmly on the applicant; details of the actual use or last known use was, and how the property operated, is what is needed, to compare with what is now proposed.

During the course of the application a further supporting document was provided by the applicant after clarification was sought regarding the existing use of the property.

The applicant explains that the property is a five-bedroom residential dwellinghouse that has been occupied continuously by their family for over 20 years. The property currently accommodates six family members, two parents and four adult children.

Day to day activities consist of the six adult family members living together as a single unit, sharing communal facilities, cooking, working, sleeping and partaking in normal family life.

The applicant has provided further explanation regarding the creation of an additional bedroom within one of the living rooms on the ground floor, which would be designed to accommodate any child who may have special requirements or mobility needs. Furthermore, whilst this would result in six bedrooms within the property, the applicants say only a maximum of five bedrooms will be used each night, which mirrors that of the existing use.

The applicant reasons that the overnight intensity and physical operation of the property will remain fundamentally unchanged. However, they also say that overnight occupancy would reduce from six family members presently to five occupants comprising of three children and two carers.

Further details are provided in terms of coming and goings whereby the applicant has provided two tables to compare the current weekly movements (18 during the week and 20 during the weekend) with that of the proposed use (10 during the week and 8 at weekends).

The applicant maintains that the property would look no different to the adjacent houses. There would be no material difference in planning terms between the proposed use and current use as a dwelling. During the day four members of staff would be in the property at any one time, but states that this would have no impact on the amenity of area.

The applicant has set out how the property is currently used and how it is proposed to be used. The focus of this assessment now turns to whether the proposed use as a children’s home amounts to development for which planning permission is required.

There are some differences between the existing and proposed internal layout of the property, as noted, a ground floor living room is to be changed to a child’s bedroom, at first floor there are currently three bedrooms and a bathroom. One of the bedrooms shown on the proposed plan is to become a staff room and office. The loft space is shown as being unchanged with two bedrooms and a bathroom.

The applicant has stated that whilst there would be six bedrooms, only five would be occupied at night. The children would require 24 hour care and two carers would sleep overnight at the property. Although the second staff bedroom has not been allocated on the proposed drawings.

During the day four staff members would be present, including a manager. The changeover of staff, on a rota basis, will occur twice a day at 10am and at 10pm respectively.

Whilst the supporting evidence demonstrates that the property's residential use would become more closely regulated than its existing use, the provision of 24-hour care would require staff to be present at all times. A manager and three carers would attend the site in accordance with a scheduled rota, generating regular staff movements throughout the day and night. These

movements are likely to be more apparent during weekdays, when the manager would be present on site between 9:00am and 5:00pm.

The comings and goings table provided indicates that the proposed use would generate fewer movements than the existing use. However, it is noted that visitor movements have been omitted from the table relating to the proposed use. In terms of visitors, the Planning Statement advises that, in addition to the monthly Regulation 44 visit and annual OFSTED inspection, visits from social workers would typically take place every four to six weeks. Whilst it is anticipated that these visits would generally be coordinated to coincide with visits to all children residing at the property, the statement acknowledges that there may be occasions when separate visits are required due to the individual needs of the children or where children are placed by different local authorities. Consequently, the frequency of visitor movements may be greater than that suggested by the submitted comings and goings assessment.

The likely level of visits from family members and friends remains unclear. Whilst the Planning Statement suggests that such visits would occur at a frequency comparable to that associated with a typical family dwelling, the applicant's supporting statement advises that family visits would be rare and would usually take place away from the property to avoid upsetting other children. Consequently, the submitted information presents conflicting expectations regarding the nature and frequency of family visits, making it difficult to fully assess the likely level of activity associated with the proposed use.

In any event, there are likely to be deliveries associated with the use of the property as a children's home as well as other trips away from the property (medical, social etc). Therefore, there is potential for further vehicular movements generated by the proposed use than the table indicates, from staff and other persons arriving and departing at different times of the day and night (10pm) when compared with the existing family use.

The proposed site layout indicates that parking provision is available for up to four vehicles within the curtilage of the property. However, during the site visit, only one vehicle was observed parked at the property in the afternoon and two vehicles in the morning. It was also noted that there appears to be a high demand for on-street parking in the surrounding area, and traffic regulation orders are in place on Plymouth Grove adjacent to the site. Whilst the property is capable of accommodating four vehicles, this would represent a notable increase compared to the level of parking activity associated with the existing use and may indicate an intensification of the use of the property.

In terms of the layout, the creation of a ground-floor bedroom through the conversion of an existing living room is not unusual and could be undertaken by a family adapting the property to meet specific circumstances, such as accommodating an elderly relative. However, the mere possibility that the additional bedroom could be used does not, by itself, demonstrate that it is required. Furthermore, it is unclear how the proposed occupancy cap of five persons would operate in practice, as limited information has been provided regarding the management and enforcement of this restriction.

Having considered all aspects of the proposal, it is concluded, on the balance of probabilities, that the evidence submitted does not demonstrate that the proposed use of the property as a children's home for up to three children, with staffing comprising a manager and up to three carers, including two carers staying overnight on a rota basis, would be compatible with the existing lawful use.

Therefore, the proposed development is considered to represent a material change of use for which planning permission is required.

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.

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 dwellinghouse (Use Class C3) as a children's home (Use Class C2) for up to three children with up to three carers/manager, with two carers staying overnight working on a rota basis, does not amount to a material change of use requiring planning permission.