

Planning

Growth & Development

Delegated officer report for planning application

Application no. 133077/LE/2022

Date registered valid: 28 February 2022

Proposal: Certificate of Lawful Existing Use of property as Small HMO (Use Class C4)

Address: 168 Yew Tree Road, Manchester, M14 7DG

Ward(s): Fallowfield Ward

Applicant: G Rafferty, GR Student Properties Limited, 13 Chandos Road South, Manchester, M21 0TH

Agent (if any): Stephen Lamb, 11 Princes Road, Stockport, SK4 3NQ

Case officer: Janet Lawless
Tel: 0161 234 4535
Email: janet.lawless@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 21 April 2022

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit: Non required for this type of application

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 3 March 2022 Expired: 24 March 2022

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 property that is the subject of this Certificate of Existing Lawful Development Certificate is a two storey brick built semi- detached property identified as 168 Yew Tree Road towards its junction with Wilbraham Road. It sits within the Fallowfield ward of the City. It has garden area to the front and rear, with the frontage being enclosed by a concrete and decorative block low wall. The front garden is hard surfaced with a driveway that accommodates a parking space in curtilage . The garden to the rear is laid mainly to lawn. There has historically been a single storey wrap around extension added to the property which was granted consent in 2010.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The area is predominantly residential in nature, with a small amount of commercial at the junction on Wilbraham Road.

Description of development

The application for the Certificate of Lawful Existing Development is claiming that the property has been used as a small HMO for over 10 years and, continues to be used as such for a maximum of 6 tenants. In support of the application Tenancy Agreements have been provided covering the 10 year period.

Consultations & Notification Responses

Local residents - None required as the application seeks to establish an existing lawful use. Notwithstanding the above, neighbouring residents have been notified. As no comments have been received, no evidence relating to the use of the property has been forthcoming.

Issues

Policy

Core Strategy Development Plan Document Adopted 11th July 2012

Houses in Multiple Occupation

From 1st October 2010 change of use from a Class C3 dwellinghouse to a Class C4 House in Multiple Occupation (HMO) became permitted development, therefore planning permission is no longer needed. The Council made an Article 4 Direction on 7th October 2010 which means that planning permission will be needed for this type of development. The direction was confirmed by the Council in January 2011 and came into force on 8th October 2011. The Council will use the policy below to control further changes of use from a C3 to a C4. The policy also controls change of use to HMOs which are 'sui generis'.

The assessment has been made in relation to the submission of the following information.
Signed Shorthold Tenancy agreements:

Tenancy Agreement July 2011 to June 2012- 4 occupants.
Tenancy Agreement July 2012 to June 2013- 4 occupants.
Tenancy Agreement July 2013 to June 2014- 4 occupants
Tenancy Agreement September 2014 to June 2015 - 6 occupants.
Tenancy Agreement July 2015 to June 2016- 6 occupants.
Tenancy Agreement July 2016 to June 2017- 6 occupants.
Tenancy Agreement July 2017 to June 2018- 6 occupants
Tenancy Agreement July 2018 to June 2019- 6 occupants.
Tenancy Agreement July 2019 to June 2020- 6 occupants.
Tenancy Agreement July 2020 to June 2021- 6 occupants
Tenancy Agreement July 2021 ongoing - 6 occupants.

Conclusion - From the information that has been provided it is considered, that on the balance of probabilities, the rooms comprising the property had been let to individual tenants with access to shared facilities for a period of 10 years prior to the submission of this application, and this use has subsequently continued accommodating up to 6 people. The use of the premises as a HMO (Class C4) is considered to be the lawful use of the house.

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: Approve

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

0) From the evidence available and with reference to the relevant planning legislation, Manchester City Council is satisfied that in relation to the property referred to in the Second Schedule hereto, the use described in the First Schedule, is lawful by reason of the said use having been in existence for a period of 10 years up to the date of this application.

Appendix 1 – List of consultees & neighbours notified

153 Yew Tree Road, Manchester, M14 7DQ
170 Yew Tree Road, Manchester, M14 7DG
15 Avro Close, Manchester, M14 7FF
157 Yew Tree Road, Manchester, M14 7DQ
166 Yew Tree Road, Manchester, M14 7DG
3 Avro Close, Manchester, M14 7FF
17 Avro Close, Manchester, M14 7FF
11 Avro Close, Manchester, M14 7FF
9 Avro Close, Manchester, M14 7FF
7 Avro Close, Manchester, M14 7FF
5 Avro Close, Manchester, M14 7FF
1 Avro Close, Manchester, M14 7FF
32 Sopwith Drive, Manchester, M14 7FE
30 Sopwith Drive, Manchester, M14 7FE
28 Sopwith Drive, Manchester, M14 7FE
26 Sopwith Drive, Manchester, M14 7FE
24 Sopwith Drive, Manchester, M14 7FE
22 Sopwith Drive, Manchester, M14 7FE
20 Sopwith Drive, Manchester, M14 7FE
18 Sopwith Drive, Manchester, M14 7FE
155 Yew Tree Road, Manchester, M14 7DQ

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH