

Planning

Growth & Development

Delegated officer report for planning application

Application no. 132509/LE/2021

Date registered valid: 15 December 2021

Proposal: Certificate of lawful existing use of the property as House in Multiple Occupation (Use Class C4)

Address: 24 Filey Road, Manchester, M14 6GQ

Ward(s): Withington Ward

Applicant: N Brook, Red Roofs, Church Lane, Stockport, SK7 1RQ

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

Case officer: Robert Griffin
Tel: 0161 234 4527
Email: robert.griffin@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 02.02.2022

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit: None undertaken for this type of application

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 21 December 2021

Expired: 11 January 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

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

The property relates to a two storey red brick terraced property with low front boundary wall and private amenity space to the front and two storey outrigger and rear yard beyond which is a communal alleyway.



Application property edged red

It is claimed that the property has been used as a small HMO since before the introduction of the Article 4 Direction on 8 October 2011. In support of the application the following evidence has been provided.

Sworn affidavit in the form of a statutory declaration of the owner of the property confirming that the property has been used as a small C4 HMO occupied unrelated individuals since prior to 8th October 2011 (the date if the Article 4 direction coming into effect in Manchester removing the permitted development rights for change of use from a C3 residential dwellinghouse to a small C4 house in multiple occupation). Copies of the assured tenancy agreements from July 2011 up until the present time have been submitted as evidence alongside the application, confirming uninterrupted occupation by between 3 and 4 unrelated individuals.

The Council as local planning authority holds no other record that disputes the statutory declaration submitted with the application or the tenancy agreements provided.

Conclusion

On the balance of probability it is considered that the application has demonstrated that the property has been in use as a small HMO class C4 and that use commenced prior to the introduction of the Article 4 Direction on the 8th October 2011. The certificate is therefore granted.

1/7/11 - 30/6/12 - 4
23/8/12 - 30/6/13 – 4
7/10/13- 31/08/14 - 3
1/9/14 -31/8/15 - 3
1/9/15 - 31/8/16 - 3
1/9/16 - 30/6/17 - 3
1/9/17 - 30/6/18 - 3
1/7/18 - 30/6/19 - 3
1/9/19 - 29/2/20 -3 plus extended till 1/7/20
1/9/20 - 30/6/21 - 4
1/7/21-30/6/22 – 4

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

1) From the submitted 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 over 10 years up to the date of this application and prior to the introduction of the City Council's Article 4 Direction relating to houses in multiple occupation on the 8th October 2011 and has carried on up until the date of the application.

Appendix 1 – List of consultees & neighbours notified

27 Filey Road, Manchester, M14 6GG
26 Filey Road, Manchester, M14 6GQ
22 Filey Road, Manchester, M14 6GQ
25 Filey Road, Manchester, M14 6GG
21 Richmond Road, Manchester, M14 6YW
23 Richmond Road, Manchester, M14 6YW

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
Regulation 7 Direction (Control Advert) - Control Of To Let Boards (Moseley Road/Ladybarn Lane)
Area Team Boundary - Name: SOUTH