

Planning

Growth & Development

Delegated officer report for planning application

Application no. 132813/LE/2022

Date registered valid: 1 February 2022

Proposal: Certificate of Existing Lawful Development for House in Multiple Occupation (Class C4)

Address: 32 Mabfield Road, Manchester, M14 6LW

Ward(s): Fallowfield Ward

Applicant: Mr Marc Larsen 4B Hastings Mount, Sheffield, S7 2GX

Agent (if any): Mr Brian Ratcliffe Building Design Consultant 89 Summerseat Lane, Bury, BL0 9RQ

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

Recommendation: Approve

Date of recommendation: 29 March 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: 10 February 2022 Expired: 3 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 use application is a red brick next to end of terrace property. It is 2 storey in nature and sits to the back of the pavement to the front, and to the rear is a yard that is accessed from the rear off a communal alleyway off Riga Road. It has a bay window to the ground floor with a recessed porch the canopy of which runs across the whole of the terrace. Like many of the other properties within the immediate local, the rear yard has been partially built over. It is located within the Fallowfield ward of Manchester.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The area is predominantly residential in nature with Plat fields to the west and Owens Park Fallowfield Campus to the north. The majority of the residential properties within the area comprise of terraced and semi- detached properties of a similar age style and footprint.

Description of development

The application for the Certificate of Lawful Existing Development is claiming 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.

Tenancy agreements: Dating from July 2010- present day ongoing

1/ 1st July 2010- 1st July 2011 - 6 Tenants

2/ 1st July 2011- 1st July 2012 - 6 Tenants

3/ 1st July 2012- 1st July 2013 - 6 Tenants

4/ 1st July 2013- 1st July 2014 - 5 Tenants
5/ 1st July 2014- 1st July 2015 - 6 Tenants
6/ 1st July 2015- 1st July 2016 - 6 Tenants
7/ 1st July 2016- 1st July 2017 - 6 Tenants
8/ 1st July 2017- 1st July 2018 - 6 Tenants
9/ 9th July 2018- 30th June 2019- 6 Tenants
10/ 1st July 2019- 7th July 2021- refurbished the property, then Covid struck work on hold no tenants part way through academic year.
11/ July 2021- ongoing to June 2022

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'.

Issues

The supporting information comprises of the following:

- 1 A site location plan edged in red.
- 2 Copies of Tenancy Agreements, spanning the period of greater than 10 years from July 2010 to July 2021 (ongoing).

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. It is therefore considered that the premises were in use for Class C4 purposes at the time that the Article 4 Direction was introduced, and this use has subsequently continued accommodating up to 6 people. The use of the premises as an 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

1) 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

34 Mabfield Road, Manchester, M14 6LW
31 Langley Road, Manchester, M14 6LN
4 Riga Road, Manchester, M14 6JN
2 Riga Road, Manchester, M14 6JH
30 Mabfield Road, Manchester, M14 6LW
19 Mabfield Road, Manchester, M14 6LW
29 Langley Road, Manchester, M14 6LN
21 Mabfield Road, Manchester, M14 6LW

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 (Fallowfield Central)
Area Team Boundary - Name: SOUTH