

Planning

Growth & Development

Delegated officer report for planning application

Application no. 132957/LE/2022

Date registered valid: 16 February 2022

Proposal: Certificate of Existing Lawful Development for use of the property as a House in Multiple Occupation (Class C4)

Address: 4A Clifton Avenue, Manchester, M14 6UB

Ward(s): Withington Ward

Applicant: Denise Miller, 4A Clifton Avenue, Manchester, M14 6UB

Agent (if any):

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

Recommendation: Approve

Date of recommendation: 07.04.2022

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: 18 February 2022 Expired: 11 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 application is a large red brick 2 storey semi-detached property. It has full height apron front bays with 2 individual dormer windows within the roof providing additional accommodation. It has garden areas to the front side and rear. The side of the property running the full length of the building has been paved over to provide in curtilage parking for several vehicles. The rear garden is laid mainly to lawn, the front garden has also been paved over with established shrubs and tree planting along the frontage. The property has previously been converted to 2 self-contained flats 4 and 4A Clifton Road. 4A is the subject property for this application. It is located within the Withington ward of the City.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The area is predominantly residential in nature, with properties comprising of a mix of Victorian Villa style properties and more modern day semi-detached dwellinghouses. Some of the properties along Clifton Road have also been previously converted into flats or shared accommodation historically. To the far west of the site lies Wilmslow Road, which provides for a wide variety of retail offers and eateries. It is well served by public transport and is easily travelled by sustainable modes of transport as an alternative to the car.

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 5 tenants. In support of the application Tenancy Agreements and maintenance bills 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 September 2012 to June 2013- 5 occupants.

Tenancy Agreement July 2013 to June 2014- 5 occupants.

Homes 4U Building Management Statements listing the 5 occupants from July 2014 to November 2015

Tenancy Agreement July 2015 to June 2016 - 5 occupants.

Tenancy Agreement September 2016- June 2017- 5 occupants.

Tenancy Agreement July 2017 to June 2018- 5 occupants.

Tenancy Agreement July 2018 to June 2019- 5 occupants

Tenancy Agreement July 2019 to June 2020- 5 occupants.

Tenancy Agreement July 2020 to June 2021- 5 occupants.

Tenancy Agreement July 2021 to June 2011- 5 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 5 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

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner in this instance no problems have arisen in relation to dealing with the planning application. The submitted information has been sufficient allow the application to be viewed positively.

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

9 Clifton Avenue, Manchester, M14 6UD
13 Clifton Avenue, Manchester, M14 6UD
11 Clifton Avenue, Manchester, M14 6UD
2 Clifton Avenue, Manchester, M14 6UB
Flat 16, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 14, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 11, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 9, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 6, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 18, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 15, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 13, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 11, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 8, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 6, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 3, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 1, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
4 Clifton Avenue, Manchester, M14 6UB
Flat 18, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 17, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 15, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 13, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 12, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 10, The Portland, 1 Whiteoak Road, Manchester, M14 6WT

Flat 8, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 7, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 5, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 4, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 3, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 2, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 1, The Portland, 1 Whiteoak Road, Manchester, M14 6WT
Flat 17, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 16, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 14, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 12, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 10, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 9, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 7, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 5, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 4, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
Flat 2, The Alexandra, 1 Whiteoak Road, Manchester, M14 6WT
15 Clifton Avenue, Manchester, M14 6UD
6 Clifton Avenue, Manchester, M14 6UB

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 (Wilmslow Road/Egerton Road)

Area Team Boundary - Name: SOUTH