

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131500/LE/2021

Date registered valid: 13 September 2021

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

Address: 2A Davenport Avenue, Manchester, M20 3EY

Ward(s): Old Moat Ward

Applicant: Mr Philip James Philip James Lettings, 151 Burton Road, Didsbury, Manchester, M20 1LD

Agent (if any):

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

Recommendation: Refuse

Date of recommendation: 05.11.2021

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 September 2021 Expired: 12 October 2021

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: Withington Conservation Area 1983

Tree Preservation Order: Not applicable

The application relates to a two storey rendered end terrace property on Davenport Avenue in close proximity to the Withington District Centre. The property has a low red brick boundary wall to the front with a small front private yard area. To the rear the property has a single storey outrigger and rear yard leading onto an alleyway serving the rear of the terrace of properties.



The converted property containing 2A Davenport Avenue

The application relates to a certificate of lawful use of the property as a C4 House in Multiple Occupation prior to the Article 4 direction coming into place in Manchester which removed permitted development changes from a C3 to C4 use on the 8th October 2011. The application form indicates that this use started prior to that date and has continued up to the date of the application submission.

Evidence

The applicant has submitted signed tenancy agreements confirming occupation of the property by 3 unrelated individuals. These agreements are for the following timescales:

Tenancy Agreements signed

- 3 tenants 01.07.2012 - 30.06.2013 (2B)
- 3 tenants 01.07.2013 - 30.06.2014 (2B)
- 3 tenants 01.07.2014 - 30.06.2015 (2B)
- 3 tenants 01.07.2015 - 30.06.2016 (2B)
- 3 tenants 1.07.2016 - 30.06.2017 (2B)
- 3 tenants 01.07.2017 - 01.07.2018 (2B)
- 3 tenants 01.07.2018 - 30.06.2019 (2B)
- 3 tenants 01.07.2019 - 30.06.2020 (2A)
- 3 tenants 01.07.2021 - 30.06.2022 (2A)

As set out there are no tenancy agreements to cover the period leading immediately up to the introduction of the Article 4 direction on 8th October 2011 that removed permitted development rights for a change of use from a C3 to a C4 use and the tenancy agreements do not cover a 10 year period. The submitted information is therefore not considered sufficient to grant a certificate of lawful use of the property as a C4 HMO use.

It is noted that the tenancy agreements for the period 2012 -2019 cover a differing address reference (2B Davenport Avenue) to that contained on the application forms. The applicant indicates that this was an address correction they undertook when taking forward the management of the letting of this property. A review of the governments Council tax pages

identifies addresses at 2 and 2A Davenport Avenue and in the absence of other information the explanation of the applicants agent is accepted. However, this does not overcome the deficiency in the provision of an adequate evidence to corroborate the statement in the submitted application form that the property has been rented out as a HMO since purchase in February 2011.

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: Refuse

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

1) The applicant has failed to demonstrate that number 2A Davenport Avenue has been occupied as a small scale house in multiple occupation (Class C4 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) for a continual 10 year period up to the date of the application or that the use was begun immediately prior to 8th October 2011 and that this has continued up to the present time.

Appendix 1 – List of consultees & neighbours notified

7A Davenport Avenue, Manchester, M20 3GA
Flat 1, 1 Rippingham Road, Manchester, M20 3FX
Flat 2, 1 Rippingham Road, Manchester, M20 3FX
3 Rippingham Road, Manchester, M20 3FX
6 Davenport Avenue, Manchester, M20 3EY
Jordan Fishwick, Unit 1B, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
Unit 1C, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
First Floor, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
Ground Floor Rear, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
11A Davenport Avenue, Manchester, M20 3GA
11 Davenport Avenue, Manchester, M20 3GA
414 Wilmslow Road, Manchester, M20 3BW
416 Wilmslow Road, Manchester, M20 3BW
9A Davenport Avenue, Manchester, M20 3GA
Flat 9, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
Flat 6, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
Flat 4, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
Flat 2, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
9B Davenport Avenue, Manchester, M20 3GA
9 Davenport Avenue, Manchester, M20 3GA
Flat 8, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
Flat 7, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
Flat 5, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
Flat 3, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
Flat 1, 160 - 164 Wellington Road, Old Moat, Manchester, M20 3FU
5 Rippingham Road, Manchester, M20 3FX
4 Davenport Avenue, Manchester, M20 3EY
2 Davenport Avenue, Manchester, M20 3EY
7 Davenport Avenue, Manchester, M20 3GA

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
Conservation Area - Withington Conservation Area 1983
Regulation 7 Direction (Control Advert) - Control Of To Let Boards (Yew Tree Road/Mauldeth Road West)
Susceptible to Surf Water Flood (Less) -
Area Team Boundary - Name: SOUTH