

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131982/LE/2021

Date registered valid: 20 October 2021

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

Address: 7 Kingswood Road, Manchester, M14 6RZ

Ward(s): Withington Ward

Applicant: Mr Ian Corcoran, 14 Westholme Road, Manchester, M20 3QN

Agent (if any):

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

Recommendation: Approve

Date of recommendation: 7 January 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: 28 October 2021 Expired: 18 November 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

The property that is the subject of the Certificate of Lawful Use application is identified as 7 Kingswood Road. It is a mid- terraced 2 storey brick- built property. The front elevation comprises of a brick elevation to the ground floor with the first floor having a render finish. It has a low walled garden to the frontage, with the rear being accessed of a gated alleyway. The rear yard is enclosed by a 1.8 m brick boundary wall.

There is in no dedicated parking with the property, with spaces being available on street. The property is located within a sustainable area for modes of public transport. There are no TRO's on either side of the road, so on street parking is also available. Access around the area is also possible on cycle.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

The applicant seeks to demonstrate that at the time the Article 4 Direction requiring planning permission, for Class C4, came into effect, that the house was in use as a small scale House in Multiple Occupation (HMO), since prior to 2010, with evidence submitted for assessment from 2010, occupied by a maximum of 5 tenants and that the use has been subsequently and continuously undertaken.

The information submitted is a comprehensive record of 10 years shorthold tenancy agreements from 2012 with a maximum of 5 occupants. The applicant states that the property has been in use as an HMO since 1997 whilst in their ownership.

Description of area

The remainder of the area is predominantly residential in nature, with roads comprising of large runs of terraced houses similar in footprint and size to the proposal site. Immediately opposite

the property is a development of 8 bungalows with Kingswood Christian centre beyond that. To the rear of the site is Kingswood recreation ground.

Description of development

Local residents were informed for information purposes only- three representations has been received which raised concerns about the continued use as an HMO, a telephone conversation from one of the objectors confirmed the use of the property for a long period of time. The issues that have been raised cannot be addressed through this planning application, and the residents have been advised of the alternative mechanisms in place through which they can be addressed.

Consultations & Notification Responses

Local residents were informed for information purposes only- three representations has been received which raised concerns about the continued use as an HMO, a telephone conversation from one of the objectors confirmed the use of the property for a long period of time. The issues that have been raised cannot be addressed through this planning application, and the residents have been advised of the alternative mechanisms in place through which they can be addressed.

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 supporting information comprises of the following:-

- 1 A site location plan edged in red.
- 2 Copies of Tenancy Agreements, spanning the period of 10 years from March 2011 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

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

9 Kingswood Road, Manchester, M14 6RZ
5 Kingswood Road, Manchester, M14 6RZ
2C Kingswood Road, Manchester, M14 6SB

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
Area Team Boundary - Name: SOUTH