

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131087/LE/2021

Date registered valid: 26 July 2021

Proposal: Certificate of lawful existing use of the property as a 8 bedroom House in Mulitple Occupation (sui generis)

Address: 40 Central Road, Manchester, M20 4ZD

Ward(s): Old Moat Ward

Applicant: Mr Abod C/o Agent

Agent (if any): Mr Matthew Mortonson nineteen47 Third Floor , 106 Micklegate, York, YO1 6JX

Case officer: Dave Morris
Tel: 0161 600 7924
Email: dave.morris@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 16.09.2021

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit: None required for this type of application.

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 3 August 2021 Expired: 24 August 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

This application relates to a part two part three storey semi detached villa. The front garden has been converted to parking and at the rear there is a two storey outrigger and a small garden.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

This is a predominantly residential area

Description of development

It is claimed that the property has been used as a large 8 bed HMO for in excess of ten years.

Consultations & Notification Responses

No representations received.

Evidence

Transaction sheet dated 01.01.1980 to 15.04 2020 but actually covering the period 13.01.2014 to 30.06.2019. During this period 17 different people stayed at the address although not all at the same time

Electoral Roll 2002-2021 appears to have been produced by the agent.

2009- 1 person
2010-0 people
2011 – 0 people
2012- 3 people
2013 -2 people
2014 - 3 people
2015 – 1 person
2016 – 1 person
2017 0 people
2018 – 1 person
2019 – 1 person

This shows that only in 2012 and 2014 was the occupancy sufficient to qualify as a HMO and then only C4

Council Tax Bills

These show that the property was owned by the company but not how the premises were occupied.

Tenancy Agreements

4 TA have been provided for 12 months starting 01.03.2013. These relate to rooms 2,3,4 and 5 and each is for one person.

At best this demonstrates that the property was used as a C4 HMO in 2013

Notice of exemption from Council tax 24.11.2006 to 23.02.2007

Sworn Declarations

8 SD have been provided

Alison Clift- property purchased in 2007, 9 bedrooms one used for storage. The property was let to GPC staff. The property was refurbished in 2006/8. From 2011 let to Autocab who let individual bedrooms.

Hassan Abed – Purchased 2007, 9 bedrooms one used for storage

Dr Faiza Abed – Purchased 2007, 9 bedrooms, one used for storage, reference made to tenants.

Ali Abed – Purchased 2007 9 bedrooms, 1 used for storage.

Charlotte Malcolm – rented a room October 2013 to May 2014. 5 Others renting the property
Dean Riley – lived at the property 2001 approximately 5 others resident at the time. Lived there again 12.03.2018 to 25.01.2019 when there were 4 other people living there.

Sebastian Leiszys – Moved in to the property 2008/9. 8 bedrooms occupied by other employees. Moved out October 2019. Some residents signed TA's

Veri Nalluri – Aware that residents living there and paid the utility bills.

Whilst the declarations clearly indicate that there were 9 bedrooms one of which was used for storage there is very little about occupancy levels. Charlotte Malcolm and Dean Riley refer to numbers but these are only at the level for a C4 HMO. Sebastian Leiszy refer to 8 bedrooms occupied by other employees but does not specify how many employees.

Ali Abod – Was not aware of the nuances of describing the property as a dwelling when applying for planning permission. The property has been used as an 8 bed HMO since it was purchased by the company. In an earlier declaration Mr Abod had indicated the property was purchased in 2007.

Conclusion

Much of the supplied evidence in support of the application hints at the use of the premises as a HMO the most convincing item being the sworn statement from Mr Abed. This actually explains why the two applications submitted whilst it was claimed that the property was a HMO described it as a dwelling. It also refers to the use as a HMO which it states started when his father purchased the property. Mr Abed's earlier Sworn declaration states that the property was purchased in 2007.

On the balance of probability it is therefore considered that the certificate should be granted.

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

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

42A Central Road, Manchester, M20 4ZD
Flat 4, 38 Central Road, Manchester, M20 4ZD
Flat 4, 42 Central Road, Manchester, M20 4ZD
Flat 3, 42 Central Road, Manchester, M20 4ZD
Flat 2, 42 Central Road, Manchester, M20 4ZD
Flat 1, 42 Central Road, Manchester, M20 4ZD
39 Central Road, Manchester, M20 4YE
37 Central Road, Manchester, M20 4YE
Flat 3, 41 Central Road, Manchester, M20 4YE
Flat 1, 41 Central Road, Manchester, M20 4YE
Flat 4, 39 Central Road, Manchester, M20 4YE
Flat 1, 39 Central Road, Manchester, M20 4YE
Flat 1, 38 Central Road, Manchester, M20 4ZD
Flat 1, 37 Central Road, Manchester, M20 4YE
Flat 6, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 3, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 17, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 15, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 12, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 1, Hague Court, Hague Road, Manchester, M20 4ZB
41 Central Road, Manchester, M20 4YE
Flat 4, 41 Central Road, Manchester, M20 4YE
Flat 2, 41 Central Road, Manchester, M20 4YE
Flat 5, 39 Central Road, Manchester, M20 4YE
Flat 3, 39 Central Road, Manchester, M20 4YE
Flat 2, 39 Central Road, Manchester, M20 4YE
Flat 3, 38 Central Road, Manchester, M20 4ZD
Flat 2, 38 Central Road, Manchester, M20 4ZD
Flat 3, 37 Central Road, Manchester, M20 4YE
Flat 2, 37 Central Road, Manchester, M20 4YE
Flat 9, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 8, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 7, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 5, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 4, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 2, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 18, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 16, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 14, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 13, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 11, Hague Court, Hague Road, Manchester, M20 4ZB
Flat 10, Hague Court, Hague Road, Manchester, M20 4ZB

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

