

Planning

Growth & Development

Delegated officer report for planning application

Application no. 133505/LE/2022

Date registered valid: 14 April 2022

Proposal: Certificate for Lawful Existing Use of property as small House in Multiple Occupation (Use Class C4)

Address: 19 Mornington Crescent, Manchester, M14 6DF

Ward(s): Old Moat Ward

Applicant: Mr Simon Shah Zataso Ltd 9 Staplehurst Road, Carshalton, London, SM5 3JU

Agent (if any): Farhan Rama Archirama Ltd 3 Parkgate Avenue, Manchester, M20 3BZ

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

Recommendation: Approve

Date of recommendation: 09.06.2022

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit:

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 19 April 2022 Expired: 10 May 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

This application relates to a two storey interwar style semi detached house. The property has a lean to kitchen annex and in April 2005 planning permission, reference 074908/FH/2005/S1, was granted for the erection of a single storey side extension. The permission has been implemented. The property has gardens to the front, side and rear and there is off street parking within the curtilage of the site.

Listed building: Not applicable

Conservation area:

Tree Preservation Order:

Description of area

This is a predominantly residential area.

Description of development

It is claimed that the property has been used as a small HMO within Class C4 of the Use Classes Order. In support of the application copies of tenancy agreement covering the period 01.07 2011 to 30.06.2022 have been provided.

Consultations & Notification Responses

Local residents

One letter has been received from a local resident who made the following comments
“We are objecting to this due to privacy reasons and also having two disabled children who rely on the back garden for relaxation etc we feel if the property is extended it will overlook our garden and also block out natural sunlight etc”

Assessment of Evidence

Tenancy Agreements

The applicant has provided tenancy agreement covering the period 01.07.2012 to 30.06.2022 during which time the property was continuously occupied by 6 persons. A summary of the tenancy agreements is set out below.

6 persons 01.07.2011 to 30.06.2012
6 persons 01.07.2012 to 30.06.2013
6 persons 01.07.2013 to 30.06.2014
6 persons 01.07.2014 to 30.06.2015
6 persons 01.07.2015 to 30.06.2016
6 persons 01.07.2016 to 30.06.2017
6 persons 01.07.2017 to 30.06.2018
6 persons 01.07.2018 to 30.06.2019
6 persons 01.07.2019 to 30.06.2020
6 persons 01.07.2020 to 30.06.2021
6 persons 01.07.2021 to 30.06.2022

Planning History

The property has been the subject of one application for planning permission, reference 074908/FH/2005/S1, for the erection of a single storey side extension to form additional living accommodation. Approved April 2005

No reference in application to use as a HMO. The plans show three bedrooms and bathroom at first floor level and a lounge, reception room, two dining rooms, a kitchen and shower room on the extended ground floor. The layout may be indicative that in 2005 the property may have been in use as a HMO.

Objection

The objector has been advised as to the nature of applications for Certificated of Lawful Existing Uses and now understands that this is not an application to enlarge the property.

Conclusion.

It is considered that on the balance of probability the use of the property as a small HMO within Class C4 of the Use Classes order has been carried on for at least 10 years and is therefore established.

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

42 Mornington Crescent, Manchester, M14 6DE
17 Mornington Crescent, Manchester, M14 6DF
38 Mornington Crescent, Manchester, M14 6DE
80 Victoria Road, Old Moat, Manchester, M14 6BZ
78 Victoria Road, Old Moat, Manchester, M14 6BZ
76 Victoria Road, Old Moat, Manchester, M14 6BZ
21 Mornington Crescent, Manchester, M14 6DF
44 Mornington Crescent, Manchester, M14 6DE
40 Mornington Crescent, Manchester, M14 6DE

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
Flood Zones Type 2 (low to medium risk) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH