MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	130188/LE/2021
Date registered valid:	5 May 2021
Proposal:	Certificate of Existing Lawful Development for use of the property as a House in Multiple Occupation (Class C4)
Address:	10 Exbury Street, Manchester, M14 6RF
Ward(s):	Withington Ward
Applicant:	Cuthbert DGD Properties Ltd 208 Wilmslow Road, Manchester, M14 6LF
Agent (if any):	Mr David Busby 208 Wilmslow Road, Manchester, M14 6LF
Case officer:	David Lawless Tel: 0161 234 4543 Email: david.lawless@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	8/6/2021

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit: n/a

Standard consultations:
No consultations have been printed and sent.

Neighbour notifications
Printed: 7 May 2021 Expired: 28 May 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/area

10 Exbury Street is a 2 storey mid-terraced dwellinghouse situated in a predominantly residential area. Garden to rear, car parking to the front.

Listed building: no
Conservation area: no
Tree Preservation Order: no

Description of development

The applicant is applying for a Certificate of Existing Lawful Development for the use of the property as a House in Multiple Occupation (Class C4)

Consultations & Notification Responses

Local Residents – no comments received.

Issues

The burden of proof required of Section 191 TCPA 1990 requires the applicant to show that on the balance of probabilities the use described above should be certified as lawful. The test of balance of probabilities also requires that the local planning authority (LPA) present its own evidence if it wishes to contradict the evidence provided by the applicant. In the absence of contradictory information, the LPA is required to approve the certificate.

In this case, the application has been accompanied by:

a) As series of tenancy agreements dating from 5th October 2011 to February 2020 demonstrating multiple occupancy of the property.
b) A letter from the management company stating that the premises has been in multiple occupancy since 2011.

There is no evidence to demonstrate that the Class C4 use has been interrupted

Conclusion - As the LPA has no evidence to contradict the applicant's evidence and it is considered that, on the balance of probabilities, the lawful use of 10 Exbury Street is a Class C4 house in multiple occupation accommodating between 3 and 6 unrelated people. On this basis, Certificate of Existing Lawful Development is approved.

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 polices 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 to resolve any matters arising in relation to dealing with the planning application.

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

1) From the evidence available and the planning law applicable to the property, Manchester City Council is satisfied that in relation to the property referred to in the Second Schedule hereto, the use of the premises as a House in Multiple Occupation within Class C4 of the Town and Country Planning (Use Classes) Order (as amended), 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 and prior to the introduction of the City Council's Article 4 Direction, introduced on 8th October 2011, relating to Houses in Multiple Occupation.

Appendix 1 – List of consultees & neighbours notified

37 Exbury Street, Manchester, M14 6RF
Flat 2, 41 Exbury Street, Manchester, M14 6RF
Flat 1, 41 Exbury Street, Manchester, M14 6RF
39 Exbury Street, Manchester, M14 6RF
41 Exbury Street, Manchester, M14 6RF
12 Exbury Street, Manchester, M14 6RF
8 Exbury Street, Manchester, M14 6RF

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) -
Flood Zones Type 3 (high risk) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH