

Planning

Growth & Development

Delegated officer report for planning application

Application no. 130185/LE/2021

Date registered valid: 5 May 2021

Proposal: Certificate of Lawful Existing Use of property as a C4 House in Multiple Occupation

Address: 2 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: Dave Morris
Tel: 0161 600 7924
Email: dave.morris@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 18.06.2021

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 11 May 2021 Expired: 1 June 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 modern two storey end terraced property. There is a hard surfaced forecourt to the front of the property and a two storey outrigger and small yard at the rear. There is an area of incidental open space adjacent to the gable of the property

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 premises have been used as a small house in multiple occupation class C4 since before the adoption of the article 4 Direction removing the permitted change from class C3 to class C4 on 8 October 2011.

Consultations & Notification Responses

Local residents

No representations received.

Evidence.

Tenancy Agreements

3 persons	01 July 2011 to 30 June 2012
3 persons	01 July 2012 to 30 June 2013
3 persons	01 July 2013 to 30 June 2014
1 Person	08 September 2014 to 30 June 2015 (according to TA only one room let, not whole house)
3 persons	01 July 2015 to 30 June 2016
3 persons	01 July 2016 to 30 June 2017
3 persons	01 July 2017 to 30 June 2018
3 persons	30 June 2018 to 30 June 2019
3 Persons	18 September 2019 to 30 June 2020
3 persons	28 July 2020 to 30 June 2021

Landlord/tenant transaction sheet 10 September 2014 to 06 July 2015, no reference to property address

Letter from Around Town Flats. No a sworn declaration.

Sworn Declaration from Around Town Flats. The premises has been used as a hmo since 2008

Issues

The submitted Tenancy Agreements cover the requisite period for a CLU, although there is a gap in 2014-15 when the TA only shows a single tenant, however, the TA indicates that the tenant was letting one bedroom and the shared areas and not the whole property. In support of the TA's is a Sworn Declaration from Around Town Properties who manage the property and indicate that it has been used as a small HMO class C4 since 2008.

On the balance of probability it is considered that the submitted evidence supports the claim.

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 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 since 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

63 Derby Road, Manchester, M14 6RE
96 Derby Road, Manchester, M14 6RE
69 Derby Road, Manchester, M14 6RE
67 Derby Road, Manchester, M14 6RE
61 Derby Road, Manchester, M14 6RE
33 Exbury Street, Manchester, M14 6RF
27 Exbury Street, Manchester, M14 6RF
4 Exbury Street, Manchester, M14 6RF
31 Exbury Street, Manchester, M14 6RF
29 Exbury Street, Manchester, M14 6RF
65 Derby Road, Manchester, M14 6RE

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