

Planning

Growth & Development

Delegated officer report for planning application

Application no. 130231/LE/2021

Date registered valid: 28 April 2021

Proposal: Certificate of lawful existing use of the property as a C4 use - House in Multiple Occupation

Address: 3C Wald Avenue, Manchester, M14 6TW

Ward(s): Withington Ward

Applicant: Cuthbert Warbrick Property Company Ltd 208 Wilmslow Road, Manchester, M14 6LF

Agent (if any): David Busby 208 Wilmslow Road, Wilmslow Road, Manchester, M14 6LF

Case officer: Robert Griffin
Tel: 0161 234 4527
Email: robert.griffin@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 17.06.2021

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: 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

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The property that is the subject of this Certificate of Lawful Development application is one of a pair of bungalows constructed in the 1990s located towards the rear of number 3 Wald Avenue and accessed via a gated access road.

The remainder of the area is predominantly residential in nature.

Description of application

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 October 2011, with evidence submitted for assessment from 20th October 2011, the lettings agency have confirmed in writing that the property has in fact been occupied by 4 tenants and that the use has been subsequently and continuously undertaken since 2008. A sworn statutory declaration has also been provided confirming that the property has been rented to 4 unrelated individuals since prior to the 8th October 2011.

Consultations & Notification Responses

Local Residents were informed of the application, 3 objections were received in response. These comments raised concerns with noise and anti-social behaviour associated with student occupation of the properties that has taken place.

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'.

Issues

The supporting information comprises of the following:-

- 1 A site location plan edged in red.
- 2 Confirmation from lettings agency of continuous occupation from 2008 onwards together with a Sworn Declaration indicating the property has been used as a HMO since 2008.
- 3 Copies of Tenancy Agreements, from October 2011 to 2021 (ongoing) together with lists of tenant transactions for 2014, 2015 2016 and 2017 although there is no corresponding address to confirm that the transactions related to this property other than the tenancy agreement for 2015 includes the named individuals for the 2015,2016 and 2017 transactions.

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. No evidence has been provided to counter the information provided with the application in comments received in response to the notification . 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 4 people. The use of the premises as a 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

1) From the evidence available and the planning law applicable to the property, Manchester City Council is satisfied that the use is lawful by reason of the said use having been in existence since before 8th October 2011.

From the information that has been provided it is considered that, on the balance of probabilities, the lawful use of the premises was as a House in Multiple Occupation (Class C4) at the time that the Article 4 Direction was introduced and has continued up until the date of the application.

Appendix 1 – List of consultees & neighbours notified

2 Senior Avenue, Manchester, M14 6TT
53 Talbot Road, Manchester, M14 6TS
31 Green Street, Manchester, M14 6TD
57 Talbot Road, Manchester, M14 6TS
39 Green Street, Manchester, M14 6TD
33 Green Street, Manchester, M14 6TD
4 Senior Avenue, Manchester, M14 6TT
55 Talbot Road, Manchester, M14 6TS
41 Green Street, Manchester, M14 6TD
37 Green Street, Manchester, M14 6TD
35 Green Street, Manchester, M14 6TD
29 Green Street, Manchester, M14 6TD

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 (Less) -
Area Team Boundary - Name: SOUTH