

Planning

Growth & Development

Delegated officer report for planning application

Application no. 130381/LE/2021

Date registered valid: 13 May 2021

Proposal: Certificate of lawful existing use of the property as a C4 house in multiple occupation

Address: 34 Furness Road, Manchester, M14 6LX

Ward(s): Fallowfield Ward

Applicant: Ms Claudia Cuthbert 208 Wilmslow Road, Manchester, M14 6LF

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

Case officer: Melanie Tann
Tel: 0161 234 4538
Email: melanie.tann@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 7th July 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: 19 May 2021 Expired: 9 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

The property is a two-storey mid-terrace house

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The area is residential in character

Description of development

Certificate of lawful existing use of the property as a C4 house in multiple occupation

Consultations & Notification Responses

Neighbours – no comments received

Issues

Planning and Compensation Act 1991 - Section 10 of the Planning and Compensation Act 1991 established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether a proposed use or operation, or an existing operational development or an existing use of land, or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, is lawful, and if so, be granted a certificate to that effect.

The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority.

Evidence – The following evidence has been submitted for consideration:

- Tenancy agreement for 4 persons dated 01.09.2011 – 30.06.2012
- Tenancy agreement for 4 persons dated 01.07.2012 – 30.06.2013
- Tenancy agreement for 4 persons dated 01.07.2013 – 30.06.2014
- Tenancy agreement for 4 persons dated 01.07.2014 – 30.06.2015
- Tenancy agreement for 4 persons dated 01.07.2015 – 30.06.2016
- Tenancy agreement for 4 persons dated 30.06.2016 – 31.08.2017
- Tenancy agreement for 4 persons dated 01.09.2017 – 30.06.2018
- Tenancy agreement for 4 persons dated 01.07.2018 – 30.06.2019
- Tenancy agreement for 4 persons dated 06.09.2019 – 30.06.2020
- Tenancy agreement for 4 persons dated 28.07.2020 – 30.06.2020
- Tenancy agreement for 4 persons dated 27.07.2021 – 30.06.2022

Whilst no evidence has been provided for the period 30.06.2020 to 28.07.2020, council tax records indicate that the property was let to four students during this period, and therefore, the property has not reverted from a Class C4 use. Therefore, on the balance of probability the evidence provided is sufficient to demonstrate that the use commenced prior to 8 October 2011 and that the certificate can therefore be issued.

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 carried out continuously since before 8th October 2011 to the date of this application.

Appendix 1 – List of consultees & neighbours notified

32 Furness Road, Manchester, M14 6LX

36 Furness Road, Manchester, M14 6LX

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

Regulation 7 Direction (Control Advert) - Control Of To Let Boards (Fallowfield Central)

Area Team Boundary - Name: SOUTH