

Planning

Growth & Development

Delegated officer report for planning application

Application no. 133606/LP/2022

Date registered valid: 26 April 2022

Proposal: Certificate of Proposed Lawful Development for use of property as a single dwellinghouse (Use Class C3a)

Address: 20 Fraser Road, Manchester, M8 4HH

Ward(s): Crumpsall Ward

Applicant: Mr Scharf Michoel, 20 Fraser Road, Manchester, M8 4HH

Agent (if any): Mr David Bitan, Debtal Architecture Ltd, 72 Bury New Road, Prestwich, M25 0JU

Case officer: Steven McCoombe
Tel: 0161 234 4607
Email: steven.mccoombe@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 1 June 2022

Application details

Type of application: Certificate Lawful Development Proposed

Development type: Certificates of lawfulness

Date of site visit: 26 May 2022

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

No neighbour notifications have been printed and sent.

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 application site relates to a two storey, mid terraced property currently divided into 1 x 3 bedroom duplex flat (incorporating the roof space) and 1 x 1 bedroom, ground floor flat.



Application property – second from left

Listed building: Not applicable

Conservation area: Crumpsall Lane Conservation Area 2004

Tree Preservation Order: No

Description of area

The application site is situated within a predominantly residential area, containing a variety of properties of various architectural styles, tenures and a mixture of family dwellinghouses, flat conversions and purposes built flat developments.

The site is also situated within the Crumpsall Lane Conservation Area, characterised in part by period properties along tree lined roads.

Description of development

A certificate of proposed lawful development is sought for use of the property as a single dwellinghouse (Use Class C3a). It is currently divided into 2 flats.

Consultations & Notification Responses

None Required.

Issues

Lawfulness

S.55 of the Town and Country Planning Act 1990 defines “development,” as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

The Act goes on to state that the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

In this case, the amalgamation of two or more dwellings into one is not considered development. The works are internal and there will be no material changes to the use of the building.

Whilst there has been various case law in which the change from multiple flats to a single dwellinghouse has been the subject of conjecture and dispute, the City Council considers that in this case, there would be no material change of use to the property.

There is no development plan policy which would be affected by the change i.e a change to flat provision or housing stock throughout the city and as such the amalgamation of the units would not have any significant planning consequences or be contrary to policy.

On this basis the development would not be a material change of use and the certificate of lawfulness should be granted.

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

Approve on the basis that the City Council as Local Planning Authority does not consider that pursuant to Section 55 of the Town and Country Planning Act 1990, the amalgamation of two or more dwellings is considered development. In this instance it is considered that there would be no material change in the use class of the property (Class C3) and there would be no conflict with development plan policy. The decision is based on drawings referenced DA.21090.003 and DA.21090.001, received by the City Council as Local Planning Authority on 16 May 2022 and 26 April 2022 respectively.

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

Appendix 1 – List of consultees & neighbours notified

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 - Not Affected
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Conservation Area - Crumpsall Lane Conservation Area 2004
Area Team Boundary - Name: NORTH1