

Planning

Growth & Development

Delegated officer report for planning application

Application no. 130378/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: 35 Mabfield Road, Manchester, M14 6LW

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: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 29 June 2021

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit: Not Required

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 application site relates to a two storey mid terraced property as show in photograph 1.



Photograph 1 Application site shown in red. (Source: Google Streetview accessed 22.06.2021)

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

Description of area

The area is located to the north of Fallowfield District Centre and comprises mostly residential with a few commercial properties facing Wilmslow Road. There is a large open space in the form of Platts Field Park

Description of development

The applicant is seeking a certificate of lawful existing use of the property as a C4 use (House in Multiple Occupation) for more than 10 years

Consultations & Notification Responses

Local residents/public opinion – No objections, comments or representations in support of the application have been 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:

1. A site location plan edged in red.
2. Floor Plan Drawing identified as 35 Mabfield Road showing 5 bedrooms.
3. Copies of Tenancy Agreements, spanning the period from June 2011 to June 2013 and July 2014 to June 2022. The year June 2013 to June 2014 the application form explains that the property was vacant during this period.
4. Email to provide further explanation regarding the year 2013 to 2014 due to a fall in students numbers as a result of an increase in tuition fees the year before.

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. 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 5 people. The use of the premises as an HMO (Class C4) is considered to be the lawful use of the dwellinghouse known as 35 Mabfield Road.

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 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 to the date of submission of the application.

Appendix 1 – List of consultees & neighbours notified

37 Mabfield Road, Manchester, M14 6LW

33 Mabfield Road, Manchester, M14 6LW

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