MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	130141/LE/2021
Date registered valid:	22 April 2021
Proposal:	Certificate of lawful existing use of the property as a C4 use (House in Multiple Occupation) for more than 10 years
Address:	47 Cawdor Road, Manchester, M14 6LS
Ward(s):	Fallowfield Ward
Applicant:	Cuthbert, David Navin Holdings Limited, 208 Wilmslow Road, Manchester, M14 6LF
Agent (if any):	Mr David Busby, David Navin Holdings, 208 Wilmslow Road, Manchester, M14 6LF
Case officer:	Janet Lawless Tel: 0161 234 4535 Email: janet.lawless@manchester.gov.uk
Recommendation:	Approve

Date of recommendation: 19 May 2021

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit: Non required for this type of application

Standard consultations:
No consultations have been printed and sent.

Neighbour notifications
Printed: 28 April 2021 Expired: 19 May 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 that is the subject of this Certificate of Lawful Development application is a bay fronted mid terraced property. It is identified as 47 Cawdor Road in the Fallowfield ward of the City. It has a stepped access to the front of the property and almost sits back of pavement save for a very small walled frontage. It has a yard area to the rear. The yard is accessed off an alleyway that runs to the rear of the property between the properties on Cawdor Road, Albion Road and Furness Road. There is also an alleyway that runs between the properties front to back from Cawdor Road through to Furness Road.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The remainder of the area is predominantly residential in nature, with roads comprising of large runs of terraced houses that mirror the age and design of the proposal site. To the west of the site is the large recreational facility of Platt Fields Park, and to the East Owens Park and Fallowfield Campus.
There is no in curtilage parking provided with the property, however, it is located within a sustainable area for modes of public transport. There are no TRO's on either side of the road, so on street parking is also available. Access around the area is also possible on cycle.
The bins are stored in the rear yard of the property and brought kerbside for collection on refuse day.

Description of development

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 June 2011, the lettings agency have confirmed in writing that the property has in fact been occupied by a maximum of 6 tenants and that the use has been subsequently and continuously undertaken since 2008.

Consultations & Notification Responses
Local Residents-were informed no representations have been received.

Issues

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.

3 Copies of Tenancy Agreements, spanning the period from June 2011 to 2021 (ongoing).

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 6 people. The use of the premises as an 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 polices 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

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. The submitted information has been sufficient allow the application to be viewed positively.

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.

Appendix 1 – List of consultees & neighbours notified

40 Cawdor Road, Manchester, M14 6LR
44 Furness Road, Manchester, M14 6LX
42 Furness Road, Manchester, M14 6LX
45 Cawdor Road, Manchester, M14 6LS
44 Cawdor Road, Manchester, M14 6LR
49 Cawdor Road, Manchester, M14 6LS
42 Cawdor Road, Manchester, M14 6LR

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