

Planning

Growth & Development

Delegated officer report for planning application

Application no. 128502/LE/2020

Date registered valid: 11 November 2020

Proposal: Certificate of Existing Lawful Development for use of the property as a 4 person house in multiple occupation (Class C4)

Address: 75 Braemar Road, Manchester, M14 6PQ

Ward(s): Fallowfield Ward

Applicant: Mr Paul Marsden, 11 Gaddum Road, Manchester, M20 6SY

Agent (if any):

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

Recommendation: Approve

Date of recommendation: 7 December 2020

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: 12 November 2020

Expired: 3 December 2020

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 dwellinghouse.

Listed building: Not applicable

Conservation area: No

Tree Preservation Order: No

Description of area

The application site is situated within a predominantly residential area, largely comprising of two-storey, terraced dwellinghouses. A large proportion of the properties are in multiple occupation by students of the nearby universities.

Description of development

A Certificate of Lawful Existing Use is sought for use of property as a house in multiple occupation (Class C4) i.e between 3 and 6 unrelated people.

The applicant has sought to establish the lawful use of the property within Use Class C4. It is claimed that the property has been occupied as a 4 bedroom house in multiple occupation and has been used as such prior to the implementation of the City Council's Article 4 direction which removed permitted development rights to change from Use Class C3 to Use Class C4.

A sworn affidavit supports the assertion that the property has been occupied by 4 unrelated people for a continuous period since 30 November 2005. This is supported by a letter from the City Council's Council Tax department stated that the property was occupied by students between 2010 and 2012.

Copies of signed shorthold tenancy agreements have also been submitted, although these do not demonstrate occupation of the property as a HMO either for a continuous 10 year period of prior to the implementation of the Article 4 direction.

Consultations & Notification Responses

Local Residents/Occupiers – No representations received.

Issues

Lawfulness

The applicant has submitted evidence in the form of a sworn affidavit signed on 23 October 2020 which states that the property was occupied by 4 unrelated people when the property was bought on 30 November 2005 and there has been no rental voids since. This part demonstrates the use of the property as a HMO prior to the introduction of the Article 4 Direction on 8th October 2011 (Since 1st July 2011).

A Council tax letter also indicates that the property was occupied by unrelated people (students) between 2010 and 2012 – again prior the implementation of the Article 4 Direction.

Whilst the evidence submitted to accompany the application is mixed and does not all demonstrate the lawful use of the property as small HMO, it is considered that based on the submitted information and on the balance of probability, the property has been in use as HMO within Class C4 at a time prior to the implementation of the Article 4 Direction on 8th October 2011 and would therefore constitute an existing lawful use.

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

None Required

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

0) 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 in existence for a period of 10 years up to the date of this application and prior to the introduction of the City Council's Article 4 Direction introduced on 8th October 2011, relating to houses in multiple occupation.

Appendix 1 – List of consultees & neighbours notified

77 Braemar Road, Manchester, M14 6PQ

73 Braemar Road, Manchester, M14 6PQ

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

HS2 Phase 2b Safeguarding Zones - HS2 Phase 2B Safeguarding Zones (July 2017)

Regulation 7 Direction (Control Advert) - Control Of To Let Boards (Moseley Road/Ladybarn Lane)

Area Team Boundary - Name: NORTH2