MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	128072/LE/2020
Date registered valid:	30 September 2020
Proposal:	Certificate of lawful existing use of the property as a House in Multiple Occupation (C4 use)
Address:	Ground Floor Flat, 387 Wilmslow Road, Manchester, M14 6AH
Ward(s):	Withington Ward
Applicant:	Mr Dermot McKenna Unit 3 Boundary Court, Crossley Road, Stockport, SK4 5GA
Agent (if any):	
Case officer:	Janet Lawless Tel: 0161 234 4535 Email: janet.lawless@manchester.gov.uk
Recommendation:	Approve
Date of recommendation:	17 November 2020

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: 6 October 2020 Expired: 27 October 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 property that is the subject of this Certificate of Lawful Existing use application is a detached red brick Victorian villa style property. It is located on a triangular plot at the junction of Wilmslow Road and Brook Road. It comprises of basement, ground, first and second floors, each of which have been subdivided into flats which in turn it is claimed are used as HMO's. The property has a boundary of a low brick wall with hedging to the Wilmslow Road frontage, which increases in height as a brick wall with coping stones on the top as it turns into Brook Road. There are double metal vehicular gates giving vehicular access to parking within the rear yard area off Brook Road.

The pedestrian gate leads directly off Wilmslow Road. The front garden is a combination of lawn and hardstanding, and there is a stepped access leading up to the main central entrance door. There are large lightwell windows that serve the basement, and there are additional access points to the property located on the side (Brooks Road) elevation. The bins are located within the yard area to the side of the property.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The area is predominantly residential in nature, with properties of a similar age to the application property. There is a hotel on the opposite side of the Wilmslow Road Brook Road junction and one on the opposite side of Wilmslow Road. The site adjacent on Wilmslow road is occupied by a petrol filling station.

Description of development
The application relates to a certificate of lawful development for the existing use of the property as large house in multiple occupation (sui generis).

It is claimed that the property has been in used as an house in multiple occupation for an uninterrupted period of 10 years or more. The accommodation comprises of 7 bedrooms 3 bathrooms / shower rooms and a communal lounge and kitchen/ diner.
This Certificate is to cover the ground floor area of 387 Wilmslow Road, and there are other Certificate of lawful existing use applications in for the accommodation on the other floors. These are being assessed under references:

128071- Basement floor
128074- First Floor
128075- Second floor

Consultations & Notification Responses
Neighbouring properties were informed- no representations have been received

Issues

Lawfulness

The applicant has submitted evidence in the form of copies of signed tenancy agreements dating back to 2010. These indicate that the first floor of the property has been occupied as house in multiple occupation (sui generis) for multiple, unrelated people, including up to 7 occupiers. The submitted evidence covers every year on June to following July basis from 2010 to present date. It is therefore evidenced as a HMO for up to 7 people for a period of greater than 10 years.

Given the above, based on the balance of probability it is considered that the property subject to this application has been in use as a 7 bedroom house in multiple occupation for at least 10 years. The Certificate of Lawful Use should therefore be granted in accordance with relevant legislative provisions.

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

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

0) From the evidence available and with reference to the relevant planning legislation, Manchester City Council is satisfied that in relation to the property referred to in the Second Schedule hereto, the use 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.

Appendix 1 – List of consultees & neighbours notified

Flat 1, 1 Brook Road, Manchester, M14 6UJ
1B Brook Road, Manchester, M14 6UJ
2 Brook Road, Manchester, M14 6UH
4A Brook Road, Manchester, M14 6UH
1 Mitford Road, Manchester, M14 6UL
Second Floor Flat, 387 Wilmslow Road, Manchester, M14 6AH
Basement Flat, 387 Wilmslow Road, Manchester, M14 6AH
Flat 6, 1 Brook Road, Manchester, M14 6UJ
Flat 3, 1 Brook Road, Manchester, M14 6UJ
Flat 2, 1 Brook Road, Manchester, M14 6UJ
Inferno, 393 Wilmslow Road, Manchester, M20 4WA
Ground Floor Flat, 387 Wilmslow Road, Manchester, M14 6AH
First Floor Flat, 387 Wilmslow Road, Manchester, M14 6AH
Fallowfield Service Station, 377 - 385 Wilmslow Road, Manchester, M14 6AH
360 Wilmslow Road, Manchester, M14 6AB
377 - 385 Wilmslow Road, Manchester, M14 6AH
Wilmslow Hotel, 356 - 358 Wilmslow Road, Manchester, M14 6AB
Wilmslow Court Residential Home, 362 Wilmslow Road, Manchester, M14 6DT
Flat 7, 1 Brook Road, Manchester, M14 6UJ
4C Brook Road, Manchester, M14 6UH
354 Wilmslow Road, Manchester, M14 6AB
Flat 9, 1 Brook Road, Manchester, M14 6UJ
Flat 8, 1 Brook Road, Manchester, M14 6UJ
Flat 5, 1 Brook Road, Manchester, M14 6UJ
Flat 4, 1 Brook Road, Manchester, M14 6UJ
4 Brook Road, Manchester, M14 6UH
4B Brook Road, Manchester, M14 6UH

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 (Wilmslow Road/Egerton Road)
Area Team Boundary - Name: SOUTH