

Planning

Growth & Development

Delegated officer report for planning application

Application no. 127304/LE/2020

Date registered valid: 30 June 2020

Proposal: Certificate of lawful existing use of the property as a House in Multiple Occupation (C4 use)

Address: 58 Whitby Road, Manchester, M14 6QL

Ward(s): Withington Ward

Applicant: Mr Barry Carter, 58 Whitby Road, Manchester, M14 6QL

Agent (if any):

Case officer: Dave Morris
Tel: 0161 600 7924
Email: d.morris@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 5 August 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: 1 July 2020 Expired: 22 July 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

This application relates to a two storey mid terraced property. There is a ground floor bay and small garden at the front and a two storey outrigger and yard to the rear. The property appears to be un-extended.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

A predominantly residential area popular containing large numbers of HMO's

Description of development

It is claimed that the property has been used as a small HMO Class C4 since before the Article 4 Direction was adopted on 8 October 2011.

In support of the application the following evidence has been provided.

1. Letter from accountant saying property was purchased in September 1987 for use as a student house. (not a sworn declaration)
2. MCC license for the period 09.12.2019 to 08.12.2024. Maximum five residents. Document does not provide evidence that the use occurred.
3. My Deposits statement for 58 Whitby Road covering the period 30.06.2009 to 30.06.2021. No indication of numbers of tenants.
4. Bank Statements for the applicant. These include references to other properties. Properties marked with a * show the numbers of residents attributable to 58 on the statement.

09.01.2011 to 08.02.2011 2 persons*

09.01.2014 to 08.02.2014 2 persons*

09.12.14 to 08.01.2015 2 persons*

09.02.2016 to 08.03.2016 5 Persons

09.03.2017 to 08.04.2017 3 persons *

09.02.2018 to 08.03.2018 4 persons*

09.05.2019 to 08.06.2019 3 persons*

09.02.2020 to 08.03.2020 1 person*

5. My Deposit records

01.07.2011 to 30.06.2012 4 persons

01.07.2012 to 30.06.2013 4 persons

01.07.2013 to 30.06.2014 4 persons

01.07.2014 to 30.06.2015 4 persons

01.07.2015 to 30.06.2016 4 persons

01.07.2016 to 30.06.2017 4 persons

01.07.2017 to 30.06.2018 4 persons

01.07.2018 to 29.06 2019 4 persons

01.07.2019 to 30.06.2020 4 persons

01.07.2020 to 30.06.2021 4 persons

6. Land Registry entry no relevant information.

Consultations & Notification Responses

Local residents

No representations received

Issues

The applicant has provide a range of documents in support of the application. The most useful being the My Deposit records which cover the whole of the requisite period. These are corroborated in part by the bank statements. The remaining documents it is considered are of little value in supporting the claim for the reasons outline above.

Conclusion

On the balance of probability it is considered that the use of the premises as a small HMO class C4 has been carried on since before 8 October 2011 and the Certificate should therefore 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:

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 in relation to the property referred to in the application namely 58 Whitby Road the use of the premises as a small house in multiple occupation Class C4 as described in the First Schedule, is lawful by reason of the said use beginning prior to 8 October 2011 and has been in no other use in accordance with the evidence and information provided in the submitted supporting information, as received on 30 June 2020 by the City Council as the Local Planning Authority.

Appendix 1 – List of consultees & neighbours notified

56 Whitby Road, Manchester, M14 6QL
1 Whitby Avenue, Withington, Manchester, M14 6QJ
60 Whitby Road, Manchester, M14 6QL
69 Whitby Road, Manchester, M14 6GJ
67 Whitby Road, Manchester, M14 6GJ
65 Whitby Road, Manchester, M14 6GJ

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: SOUTH