

Planning

Growth & Development

Delegated officer report for planning application

Application no. 126354/LE/2020

Date registered valid: 26 February 2020

Proposal: Certificate of Lawful Existing Use - Use of the property as a House in Multiple Occupation (Class C4).

Address: 88 Royce Road, Manchester, M15 5LA

Ward(s): Hulme Ward

Applicant: Mr Joe Critchley, 542 Newton Road, WA3 1PQ

Agent (if any):

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: r.tyrer@manchester.gov.uk

Recommendation: REFUSE

Date of recommendation: 21 April 2020

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit: None Required

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 2 March 2020 Expired: 23 March 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 relates to a three storey contemporary designed mid terraced townhouse on Royce Road in the Hulme Ward of Manchester. The property has low iron level railings to the front of the property, the property is constructed of a buff yellow brick and has a glass balcony with a blue metal at first floor. To the rear the property the building is constructed of a red brick and has a small rear yard leading onto an communal car parking area that also serves the other properties

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The area surrounding the application site is predominantly residential comprising of properties built as part of the Hulme redevelopment in the 1990s and early 2000s. More recent development has introduced a university campus to the area which is situated close to retail and other services.

Description of development

The applicant is seeking a Certificate of Lawful Existing Use - Use of the property as a House in Multiple Occupation (Class C4).

Consultations & Notification Responses

Local residents/public opinion – No comments, objections 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 applicant has submitted a limited range of information in support of the application for the Lawful Development Certificate this information includes:

Tenancy Agreements

Tenant/Persons	Term	Dates	Signatures/Dates
4 Persons	6 months	07/06/2007 to 06/12/2007	Yes
3 Persons	6 months	04/10/2008 to 03/04/2009	Yes
4 Persons	12 months	15/06/2009 to 14/06/2010	Yes
3 persons	8 months	24/10/2011 to 23/06/2012	YEs

The above information is a limited range of tenancy agreements ranging from 2007 to 2012, indeed even the 2008 date is after the article 4 direction introduction. No further tenancy agreements were provided from 2012 to show a continued uninterrupted use until the date of this application on the 26 February 2020. Therefore given this lack of evidence it is considered that on the balance of probabilities number 88 Royce Road has not been used as a C4 HMO for between 3 and 6 unrelated persons since prior to the introduction of the Article 4 direction removing permitted development rights for the change of use from a C3 to a C4 use on the 8th October 2011 and such a use has not continued uninterrupted until the date of the current application.

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:

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

1) On the balance of probability the applicant has failed to demonstrate that the dwellinghouse at 88 Royce Road, Manchester, M15 5LA has been occupied as a small scale house in multiple occupation (Class C4 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)) for a continual period between 8th October 2011 to 26th February 2020.

Appendix 1 – List of consultees & neighbours notified

90 Royce Road, Manchester, M15 5LA
86 Royce Road, Manchester, M15 5LA

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
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: SOUTH