MANCHESTER CITY COUNCIL

Planning

Growth & Development

Delegated officer report for planning application

Application no.	126304/LE/2020
Date registered valid:	28 February 2020
Proposal:	Certificate of Lawful Existing Use - Use of the property as a House in Multiple Occupation (sui generis)
Address:	93 Wellington Road, Old Moat, Manchester, M14 6BN
Ward(s):	Old Moat Ward
Applicant:	Mr Syed Ahmad, 93 Wellington Road, Old Moat, Manchester, M14 6BN
Agent (if any):	
Case officer:	Robert Griffin Tel: 0161 234 4527 Email: r.griffin@manchester.gov.uk
Recommendation:	REFUSE
Date of recommendation:	**23.04.2020**

Application details

Type of application: Certificate Lawful Development Existing
Development type: Certificates of lawfulness
Date of site visit: None undertaken

Standard consultations:
No consultations have been printed and sent.

Neighbour notifications
Printed: 4 March 2020 Expired: 25 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

Listed building: Not applicable
Conservation area: Not applicable
Tree Preservation Order: Not applicable

This application relates to a two storey semi-detached property situated on Wellington Road. The property has hard standing to the front with a sizeable rear garden.

It is claimed that the property has been in use as a large scale House in Multiple Occupation (sui generis use) for a period of at least 10 years prior to the submission of this application.

No 93 is the property to the left hand side

Consultations & Notification Responses

No responses received.

Issues

The following information has been submitted in support of the application:
- Contact list of tenants 2011,2012, 2013, 2014, 2015,2016 (7 tenants), 2018-2019 (5 tenants on info from TDS), 2019-2020 (8 no.)
- Monthly Rent from July 2011
- Rent reconciliation May 2012
- A list of tenants for academic years 2009 -2010 and 2010 -2011
-No information for 2017

The information provided relating to occupancy is very limited with only a tenancy agreement from 2019 which is unsigned. It is considered that this evidence is not sufficient to substantiate that the property has been in use/occupation as a sui generis HMO for the last 10 years.

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: REFUSE

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

1) The applicant has failed to demonstrate on the balance of probability that the property was in use/occupation as a large scale HMO property (sui generis use) of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), for a continual period of 10 years up to 28 February 2020.

Appendix 1 – List of consultees & neighbours notified

99 Wellington Road, Old Moat, Manchester, M14 6BN
7 Victoria Grove, Manchester, M14 6BF
97 Wellington Road, Old Moat, Manchester, M14 6BN
95 Wellington Road, Old Moat, Manchester, M14 6BN
87D Wellington Road, Old Moat, Manchester, M14 6BN
87C Wellington Road, Old Moat, Manchester, M14 6BN
87B Wellington Road, Old Moat, Manchester, M14 6BN
87A Wellington Road, Old Moat, Manchester, M14 6BN
Basement Flat, 99 Wellington Road, Old Moat, Manchester, M14 6BN
91 Wellington Road, Old Moat, Manchester, M14 6BN
Withington Girls School, 100 Wellington Road, Old Moat, Manchester, M14 6BL
9 Victoria Grove, Manchester, M14 6BF

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/Wellington Road)
Area Team Boundary - Name: SOUTH