

JP/MM/n1609

Chief Planning Officer
Planning
Manchester City Council
P O Box 532
MANCHESTER
M60 2LA

08th July 2021

Dear Sir/Madam

Section 191 Town and Country Planning Act 1990 (as amended)
Application for Certificate of Lawfulness of Existing Use or Development
40 Central Road, Manchester. M20 4ZD.

nineteen47 Ltd have been instructed by Mr A Abod (the 'Applicant') to submit an application under the provisions of Section 191 of the Town and Country Planning Act 1990 (as amended) for a Certificate of Lawfulness for Existing Use or Development in respect of the use of 40 Central Road, Manchester, as a 8 bedroom House in Multiple Occupation (HMO) (sui generis use).

Background

The application site of 40 Central Road, Manchester, was purchased by Dr Falah Abod (the applicant's father) in 2007.

Dr Falah Abod was the founder of GPC Computer Software Ltd (Trading as Autocab), and he bought the host property for occupation by employees of his business. At the point of the purchase of the property, Dr Abod began renovations and decorations he prepared it for occupation. The works resulted in the creation of the 9-bedroom HMO, although one of the bedrooms has been used for storage purposes.

Autocab is a global supplier of taxi booking & dispatch systems founded in 1990. Having sold their first system in 1991, Autocab has grown to become the largest supplier of booking & dispatch systems in the world today. Their bespoke cloud-based SaaS solutions help power over 1500 companies across the world. Over 25 years of taxi company-inspired features have been built into our system to ensure it is the best booking & dispatch system on the market. The headquarters for the company

are located in Manchester which employs some 150 employees at any one time.

40 Central Road has therefore become an important part of the business as it offers short term accommodation for the employees of the business who are in need of it. Since the property was prepared for occupation by Dr Abod in 2007, the property has been continually occupied by various employees of Autocab who have entered in to Assured Shorthold Tenancy (AST) Agreements.

Mr Abod owned the property prior to his passing away in 2012. The ownership of the property transferred to Dr Falah Abod's wife in 2010, Dr Faiza Abod. Dr Faiza Abod has remained the owner of the property since that time.

The Site

The Site comprises a 3 storey semi-detached property located in the West Didsbury area of Manchester. Shared vehicular access to the side of the property provides access to a parking/hardstanding area to the rear of the property.

The property was purchased by Dr Falah Abod in 2007 for the purpose of providing accommodation for employees of Autocab. At that time, Dr Falah Abod undertook renovations and decorations of the property, and since that time the property has operated continuously as a 8-bedroom House of Multiple Occupation (HMO).

The Site is located within the Manchester's Article 4 area which restricts the change of use of properties from C3 (dwellinghouse) use to an HMO use.

Reasons for the Application

The property, 40 Central Road, has operated for many years as a 8-bedroom HMO. On 8th October 2011, Manchester City Council brought in to affect an Article 4 Direction restricting C3 uses to HMO uses (C4 use and sui generis). If it were not for the Article 4 Direction, a change from C3 to C4 use would be deemed to be a permitted change. However, a change of use to a HMO comprising more than 6 people (sui generis use) would require planning permission.

As the property was in use as an HMO prior the Article 4 Direction coming into effect in 2011 and has been used continually for these purposes for a period in excess of 10 years, this application for a Certificate of

Lawfulness seeks to regularise the use of this property as a 8-bedroom HMO.

Case in Support of the Application

An application under Section 191(1)(a) of the Town and Country Planning Act 1990 ('the Act') enables a person to seek a decision that any existing use of buildings or other land is lawful. Section 191(1)(b) of the same Act allows a person to ascertain whether any operations which have been carried out, in, on, over or under land are lawful. In both instances:

“He may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.”

By virtue of Section 191(2) uses and operations are lawful if no enforcement action may be taken against them because the time for enforcement action has expired and they are not in contravention of any enforcement notice which is in force.

The statutory definition of 'development' is set out in Section 55 of the Act which states that development means:

“the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”

In the appeal case, *Parkes vs Secretary of State for the Environment* (1978), Lord Denning considered that “operation” comprises physical alterations to the land which have some degree of permanence in relation to the land itself, whereas “use” refers to activities carried out on the land but which do not interfere with the actual physical characteristics of the land.

As detailed above, the property was in use as an HMO before the Article 4 Direction came in to effect in October 2011 and has been operated as a HMO continuously since at least 2004 i.e for a period well in excess of 10 years.

Section 171(B) of the Town and Country Planning Act confirms the time limits in which where there has been a breach of planning control, enforcement action cannot be taken. Para 3 of this sections states;

“In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.”

The onus of proving the lawfulness of an existing use rests with the applicant. The Courts have held in *Gabbittas v Secretary of State for the Environment* [1985] that the relevant test of the evidence on such matters is ‘the balance of probability’. Moreover the Courts have held that the applicant’s own evidence does not need to be corroborated by independent evidence in order to be accepted. The applicant’s evidence needs to be sufficiently precise and unambiguous to justify the grant of the certificate on the balance of probability.

Paragraph 006 Reference ID: 17c-006-20140306 of the Planning Practice Guidance provides guidance in relation to the assessment of certificates for existing use, stating that:

“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.”

This application is supported by several pieces of evidence which demonstrate on the balance of probability that the existing use of the property is that a 8 bedroom HMO. These pieces of evidence are:

1. Statutory Declarations from members of the Abod family, employees of the business and residents of the property;
2. Tenancy Agreements from a number of residents who resided in the property;
3. Council Tax Bills dating from 2015 – 2020;
4. Electoral Roll Data of those residents of the property which registered on the electoral roll; and
5. Accounts of the property dating from 2014 – 2019.

1. Statutory Declarations

There are 8 statutory declarations made under the provisions of the Statutory Declaration Act 1835 and which are provided as evidence to support the Application:

- Statutory Declaration from Ali Abod
- Statutory Declaration from Alison Clift

- Statutory Declaration from Charlotte Malcolm
- Statutory Declaration from Dean Riley
- Statutory Declaration from Faiza Abod
- Statutory Declaration from Hassan Abod
- Statutory Declaration from Sebastian Leiszys
- Statutory Declaration from Veri Nalluri.

Statutory Declaration from Ali Abod

Mr Abod worked as the Marketing Executive with GPC Computer Software Ltd (Trading as Autocab) between 2017 and March 2021. GPC Computer Software Ltd was founded by his father Dr Falah Abod, in 1991 which he ran until he passed away in 2012. Mr Ali Abod has therefore known about the business activities of Autocab for his entire life.

Mr Ali Abod first was aware of 40 Central Road, Disbury, in 2007 when his father purchased the property. He recalls visiting the property with his father soon after the purchase to look at the renovations/decorations that were underway as it was prepared for occupation by employees of his business.

Thereafter, Mr Abod advises that he was aware that employees had moved into the property included Sebastian who is a handyman for Autocab and was responsible for maintenance of the property.

Mr Abod recalls that in terms of the managing the financial aspects of the property and ensuring the tenants paid rent, that this was originally undertaken by Alison Cliff who is PA to Autocab as well as the Abod family. Mr Abod states that in 2017, when he joined Autocab, he gradually started to take responsibility away from Alison in respect of the property and is now wholly responsible for its management.

Statutory Declaration from Ms Alison Cliff

Ms Alison Cliff has been the Company and Family PA to the Abod Family and GPC Computer Software Ltd (Trading as Autocab) since 1999. As part of her role, Ms Cliff worked closely with Dr Falah Abod on business and personal matters until he passed away in 2012. Thereafter, Ms Cliff has continued to provide support to the family and business including Dr Abod's widow, Dr Faiza Abod.

Ms Cliff recalls that in around 2007, Dr Falah Abod purchased 40 Central Road with the intent to renovate the property and let as multiple occupancy predominately for GPC Staff. Ms Cliff recalls that she oversaw the renovation of the property and communal areas being

created, and that she visited the property several times at that time and over the following years.

Ms Cliff advises that since 2011 there became a demand for more permanent accommodation for staff therefore 40 Central Road was rented by Dr Abod to Autocab who in turn sub-let the individual bedrooms to members to members of staff on an Assured Shorthold Tenancy Basis. Ms Cliff recalls that she was one of the main people responsible for letting the room and the property has been subsequently occupied by many staff within the business.

Ms Cliff states Dr Faiza Abod inherited the property in 2010 and has continued to rent it to Autocab since then.

Statutory Declaration from Ms Charlotte Malcolm

Ms Malcolm has been an employee of Autocab Ltd since 2011 working within their Finance/Accounts Payable Team. Ms Malcolm rented a room at 40 Central Road between 2013 and 2014. Ms Malcolm recalls that at that time her partner plus approximately 5 other employees of Autocab Ltd were renting out individual rooms at the property.

Ms Malcolm confirms that prior to moving into the property, she was already aware of 40 Central Road due to her partner already living at the premises as well as other colleagues of Autocab Ltd. After Ms Malcolm moved out of the property, she has continued to be aware that colleagues from Autocab Ltd have continued to live in it.

Statutory Declaration from Mr Dean Riley

Mr Riley has been an Installation Engineer for GPC Computer Software Ltd (Trading as Autocab) since 2001. Mr Riley recalls that he resided in the property on two separate occasions. The first in 2012 for a short period before returning on 12th March 2018, staying until 25th June 2019.

Mr Riley recalls that Sebastian Leiszys, a friend and close colleague who he has known since around 2007 was living at 40 Central Road and was responsible for the day-to-day maintenance within the house.

Statutory Declaration from Faiza Abod

Dr Faiza Abod was Company Secretary with GPC Computer Software Ltd (Trading as Autocab) between 1999 and April 2021. GPC Computer Software Ltd was founded by her late husband Dr Falah Abod, which he ran until he passed away in 2012. Given her role in the business and her

relationship to Dr Falah Abod, Dr Faiza Abod has therefore known about the business activities of Autocab since that time.

In 2010, Dr Faiza Abod took ownership of the property prior to her husband's passing away. Thereafter, she has had a direct sight and knowledge of the property. In terms of managing the financial aspects of the property and ensuring the tenants paid rent, Dr Faiza Abods states that this was originally undertaken by Alison Cliff who is PA to Autocab as well as PA to her family. She then states that in 2017 when her son Ali Abod joined Autocab, he gradually started to take responsibility away from Alison in respect of the property and is now wholly responsible for its management.

Statutory Declaration from Mr Hassan Abod

Mr Hassan Abod has been a shareholder and director with GPC Computer Software Ltd (Trading as Autocab) since June 2012. He also sits on the board of the company.

Mr Hassan Abod states that GPC Computer Software Ltd was founded by my father Dr Falah Abod, in 1991 which he ran until he passed away in 2012. He has therefore known about the business activities of Autocab for his entire life as his father regularly talked about his work.

He recalls that in around 2007, his father purchased 40 Central Road, West Didsbury. He remembers visiting the property with his father and brother, Ali Abod, soon after the purchase to look at the renovations/decorations that were underway as he prepared it for occupation by employees of his business.

Mr Hassan Abod states that given his role within the business, this he has detailed knowledge of which employees have been living in the property.

Statutory Declaration from Mr Sebastian Leiszys

Mr Sebastian Leiszys was employed as a fitter at GPC Computer Software since December 2007 to March 2018. As part of his role, he was responsible for the installation of networking cabling in taxi firms and fitting communication equipment in taxis. In addition, Mr Leiszys has also undertaken various maintenance projects for the Abod Family.

Mr Leiszys recalls that in around 2008/09 he moved into 40 Central Road, which is owned by the Abod family. He recalls that this was a shared property occupied by other employees of Autocab. He lived in the property until approximately October 2019. Mr Leiszys advised that his

rent was included on the basis that he took responsibility for managing property which included undertaking repairs, and cleaning and decorating rooms inbetween tenants moving in and out.

Statutory Declaration from Ms Veni Nalluri

Ms Nalluri is Group Finance Manager of GPC Computer Software originally joining in 1993 before leaving for a job in America in 1999. Ms Nalluri returned to the UK an Autocab in 2009. At that point Ms. Nalluri recalls Dr Abod had purchased 40 Central Road and was renting this out on a room-by-room basis for employees.

As well as sharing responsibility with Alison Cliff for the administration of the property. Ms Nalluri recalls that employees of Autocab regularly hosted parties and gatherings for staff at the property and that such events were often talked about in the office.

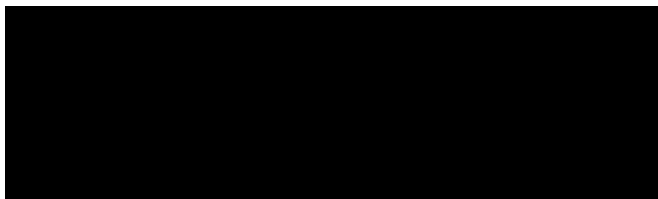
Ms Nalluri clarifies her responsibilities for this property over the years and how she has assisted the handyman (Sebastian) in purchasing anything that was needed for the property.

2. Tenancy Agreements

In addition to the statutory declarations outlined above, further evidence is submitted in the form of tenancy agreements dating from 2013. These tenancy agreements provide a legal contract which demonstrate the occupation of the property by these residents at that time.

The following tenancy agreements have been submitted:

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3. Council Tax Records

Another piece of evidence is formed by Council Tax Bills for the property between 2015 and 2020.

Whilst the property has been in the ownership of the Abod family since 2007, this information demonstrates that the business has been paying Council Tax on the property and collaborates the arrangements of the premises effectively being managed by the business.

4. Electoral Roll Data

This piece of evidence provides the Electoral Roll Data for the property from 2002 onwards. The evidence also identifies the position of each person on the electoral role within the business.

This evidence demonstrates that the persons registered on the electoral roll were residents of the property and were employees of the business.

5. Property Accounts

The final piece of evidence are the accounts for the property between 2014 and 2019.

The accounts show information such as the rental payments received by the tenants, Council tax payments for the property, utility bills, and more general spending such as household supply and cleaning costs.

This evidence demonstrates that finances were being received and spent in accordance with the use of the property as a HMO.

Summary Conclusions

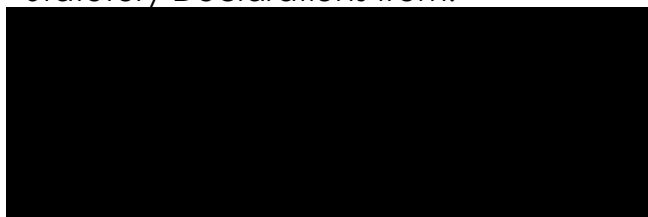
This application is made under the terms of Section 191 of the Town and Country Planning Act 1990 and seeks a Certificate of Lawfulness in respect of 40 Central Road, Manchester.

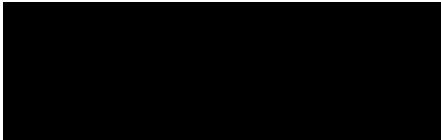
The Certificate being sought relates to the use of the property as a 8-bedroom HMO sui generis use.

It has been shown within the evidence presented as part of this submission that on the “balance of probability” the property in question was in use as a HMO for a period in excess of 10 years and in accordance with Section 171B of the Act, is therefore lawful.

In support of this application, the following information is provided;

- Completed application forms;
- Site Location Plan;
- Statutory Declarations from:

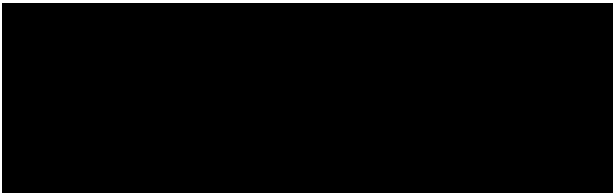


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- Tenancy Agreement;
 - Council Tax Records - 2015 – 2020;
 - Electoral Roll Data; and
 - Accounts - 2014 – 2019.

The statutory application fee of £462 is to follow under separate cover.

On the basis of the above, it is respectfully requested that a Certificate of Lawfulness be requested.

Yours faithfully



Principal Planner

