HOLME PLANNING
Partnership

Planning Statement

Certificate of Lawfulness for Existing Use and Development (CLEUD)
Class C4 House in Multiple Occupation

1 Crofton Street
Manchester
M14 4DX

July 2024

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1.0 Introduction

1.1 This Planning Statement (the 'statement') has been drafted on behalf of the Applicant, Mr Syed Hassan Mansoor Jaferi ('the Applicant'), to support a Certificate of Lawfulness for Existing Use and Development for the following:

> *'Use of 1 Crofton Street, Manchester as a Class C4 House in Multiple Occupation (for up to 6 persons)."*

1.2 This Certificate application seeks to demonstrate the lawfulness of the existing use of the property as a House in Multiple Occupation (HMO) for no more than 6 persons living together as a single household, under the provisions of Use Class C4.

1.3 The following sections of this report will apply the requirements of Section 191 of the Town and Country Planning Act 1990, to demonstrate the lawfulness of the existing use of the site.

Submitted Documentation

1.4 This certificate application is supported by the following documents and drawings:

- Existing and Proposed Floor Plans;
- Location Plan;
- Planning Statement; and
- Documentary Evidence on the historic use of the site.

2.0 Site Context

2.1 The application site is located within the authority of Manchester City Council. The property comprises of a four bedroom mid terrace HMO with garden area to the rear, and small yard space to the site frontage.

2.2 The property is located within the main built up development area and within the settlement of Rusholme. The site is surrounded to the north, east and south by residential properties, with additional residential uses to the west on the other side of Crofton Street. In that regard the use of the application site is deemed to be commensurate with the character of the wider local area.

2.3 The site is well located for access to the main highway network and local public transport connections, including bus stops which are available within walking distance of the site on Upper Lloyd Street, with alternative public transport also available in the wider locality and within the City Centre. The site is well positioned for access to places of worship, recreation facilities, medical facilities, shops, public houses and other key services and facilities. There is also noted to be on street car parking within the immediate vicinity of the application site.

2.4 The site was specifically chosen by the Applicant given its proximity to local services and amenities within the local area, and the ability for residents and visitors to access the site with ease, and on public transport. The site is therefore deemed to be sustainably and suitably located to meet the needs of the development.

2.5 The application site is not understood to be listed, nor locally listed and there are no listed buildings within the immediate vicinity of the application site. The property is also not understood to be located within a conservation area.

2.6 From a review of the Environment Agency Flood Map, the application site is not understood to be located within an area at risk from flooding.

Planning History

2.7 From a review of the local planning authority's online mapping service for historic planning applications, we are not aware of any recent proposals at the application site.

Site History and Existing Use

2.8 The property has been occupied as a Class C4 HMO since the applicant took ownership of the property in 2007. This Certificate application has been supported not only with documentary evidence confirming longstanding tenancy agreements over a period of time in excess of 10 years (as included at Appendix 3), but also with evidence from the Council itself confirming the use of the site as a HMO as at June 2013 (see Appendices 1 and 2). The site is understood to currently be vacant pending a refurbishment of the property, but there has been no change or interruption in the use of the site.

3.0 Section 191 of the Town and Country Planning Act 1990

3.1 Certificates of Lawfulness for existing use or development are to be determined in line with the provisions of Section 191 of the Town and Country Planning Act 1990 which reads as follows:

> **"191Certificate of lawfulness of existing use or development.**
> (1)If any person wishes to ascertain whether—
>
> (a)any existing use of buildings or other land is lawful;
>
> (b)any operations which have been carried out in, on, over or under land are lawful; or
>
> (c)any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.
>
> (2)For the purposes of this Act uses and operations are lawful at any time if—
>
> (a)no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
>
> (b)they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
>
> (3)For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—
>
> (a)the time for taking enforcement action in respect of the failure has then expired; and
>
> (b)it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.
>
> [**F3**(3A)In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—
>
> (a)the time for applying for an order under section 171BA(1) (a "planning enforcement order") in relation to the matter has not expired,
>
> (b)an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or

(c)a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.]

(4)If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(5)A certificate under this section shall—

(a)specify the land to which it relates;

(b)describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c)give the reasons for determining the use, operations or other matter to be lawful; and

(d)specify the date of the application for the certificate.

(6)The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

(7)A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission—

(a)section 3(3) of the **M1**Caravan Sites and Control of Development Act 1960 [**F4**or section 7(1) of the Mobile Homes (Wales) Act 2013;]

(b)section 5(2) of the **M2**Control of Pollution Act 1974; and

(c)section 36(2)(a) of the **M3**Environmental Protection Act 1990.]"

3.2 In the determination of Certificates of Lawfulness, it is accepted that the onus of proof is on the applicant to demonstrate that the use or development being applied for is lawful on the date of the application. It is noted that the standard of proof in respect of a certificate is on the balance of probability. Furthermore, it was held in F. W. Gabbitas v Secretary of State and Newham London Borough Council [1985] J.P.L 630 that an applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted.

3.3 Further, if the local planning authority or an Inspector have no evidence of their own or from third parties to contradict or otherwise dispute the applicant's version of events, rendering them less than probable, then 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 the certificate on the balance of probability.

The Town and Country Planning (General Permitted Development((England) Order 2015

3.4 The Town and Country Planning (General Permitted Development) (England) Order 2015 confirms at Schedule 2, Part 3, Class L that the development consisting of a change of use of a building from Use Class C3 to Use Class C4 is permitted as follows:

> *"(a)*from a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule;
>
> *(b)*from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule."

3.5 The Order confirms that development is not permitted by Class L if it would result in the use:

> "(a)as two or more separate dwellinghouses falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order of any building previously used as a single dwellinghouse falling within Class C4 (houses in multiple occupation) of that Schedule; or
>
> (b)as two or more separate dwellinghouses falling within Class C4 (houses in multiple occupation) of that Schedule of any building previously used as a single dwellinghouse falling within Class C3 (dwellinghouses) of that Schedule."

3.6 It is understood that Manchester City Council implemented an Article 4 Direction on 8th October 2010 precluding the freedoms to move between Class C3 and Class C4 uses as set out within the above legislation. However, given that 1 Crofton Street has been shown to have been in use as a small HMO for in excess of a 10 year period prior to the submission of this certificate application, and in fact was in use as a small HMO in advance of the implementation of the article 4 direction, it is our view that the use as existing is lawful through the passage of time.

4.0 Planning Comment

4.1 Subsection (5) of section 191 provides for certain matters a Lawful Development Certificate (LDC) must contain. The LDC is particularly valuable because its effect is similar to a grant of planning permission. It is therefore vital that the certificate indicates precisely the area of land to which it relates (normally by means of an attached, scaled site-plan); precise details of what use, operations or failure to comply with a condition are found to be lawful, why, and when. For example, if a certificate is for a use of land - unless the use falls within one of the "use classes" specified in the Use Classes Order current at the time, or the certificate is granted on the basis that a specific grant of planning permission confers lawfulness on the use, it is important for it to state the limits of the use at a particular date.

4.2 These details will not be legally equivalent to a planning condition or limitation. They will be a point of reference, specifying what was lawful at a particular date, against which any subsequent change may be assessed. If the use subsequently intensifies, or changes in some way to the point where a "material" change of use takes place, the LPA may then take enforcement action against that subsequent breach of planning control (which a less precise certificate might well preclude). An LDC must therefore be precisely drafted in all respects.

4.3 By virtue of section 191(5)(b), an LDC must include a description of the use, operations or other matter for which it is granted regardless of whether the matters fall within a "use class" of the UCO. But where within a "use class", an LDC must also specify the relevant "class". In all cases the description must be more than simply a title or label, if future interpretational problems are to be avoided. The LDC should therefore state the characteristics of the matter so as to define it unambiguously.

4.4 This Certificate application has been unambiguously described within this supporting statement as a Class C4 House in Multiple Occupation, and it can be confirmed in relation to the development subject of this Certificate application, that:

- The land to which this Certificate relates is 1 Crofton Street, Manchester, M14 4DX, as delineated on the location plan submitted with the certificate application;
- The site is in use as a Class C4 HMO and has been in such use since 2007. Prior to the implementation of the Class C4 Use, the site is understood to have been in use as a single dwelling (Use Class C3);
- The use of the site as a small HMO, did not result in any external alterations to the property, nor did it require internal alterations on site beyond standard modernisation and decorating, the same as would be expected for a single dwelling;
- The date of the application is as specified in the declaration made on the application form; and
- As evidenced with the correspondence from Manchester City Council (included at Appendix 1) the Council HMO officer is understood to have inspected the property back in June 2013 in relation to its use as a small HMO, with a schedule

of enhancement works set out, agreed and undertaken to the property to address the concerns of the Housing Team (as demonstrated at Appendix 2).

4.5 Paragraph 006 of the National Planning Practice Guidance on Lawful Development Certificates confirms as follows in relation to evidence:

> "The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.
>
> 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.
>
> In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved."

4.6 In this case, it is considered that the lawful use of the property is clearly as a Class C4 House in Multiple Occupation following the implementation of said use in 2007. The site has been in continuous and interrupted use as a small HMO since works on the conversion were completed and the property duly occupied as evidenced by the tenancy agreements included at Appendix 3, and the sworn statement included at Appendix 4.

4.7 Furthermore, the evidence submitted with this Certificate application, and included at Appendices 1-4 demonstrate such a conclusion beyond the balance of probability, and in this regard we would kindly request that the Council issue the Certificate without delay.

5.0 Conclusions

5.1 Based on the evidence submitted in support of this Certificate application, it is clear that the existing lawful use of the land edged in red is currently as a Class C4 House in Multiple Occupation. The use was implemented in 2007, and given the passage of time, and the fact that the use has been in situ for in excess of 10 years, confirms that such a use is now deemed to be lawful.

5.2 The Applicants are therefore of the view that the existing use of the site subject of this Certificate application is lawful, and we would therefore request that the local planning authority issue a Certificate of Lawfulness for the existing use of 1 Crofton Street, Manchester as a Class C4 House in Multiple Occupation at their earliest convenience.

Appendix 1

Housing Act 2004
Section 239

Ref: 075635

NOTICE OF ENTRY
AND TO INVOKE THE POWERS UNDER THE HOUSING ACT 2004

To: Mr Syed Hassan Mansoor Jaferia
Of: 48 Brantingham Road Whalley Range Manchester M16 8PP

1. You are the owner of the premises being a dwelling known as

   1 Crofton Street, Manchester M14 4DX "the premises".

2. Under section 239 of the Housing Act 2004 (the Act) I, John Hollinshead being a person authorised by Manchester City Council (the Council) intend on **19th June 2013** between the hours of **1.30pm and 3.30pm** to enter the premises for the purpose of survey or examination; these being a date and time of commencement of the inspection which gives at least 24 hours notice of intention to enter.

3. The Council consider that the survey or examination of the whole of the 'premises', as defined by section 1 (4 – 8) of the Act, is necessary in order to carry out an inspection under section 4 (1) or (2) of the Act or otherwise to determine whether any functions should be exercised in relation to the premises under :

   Part 1 of the Housing Act 2004 - Enforcement of housing standards
   Part 2 of the Housing Act 2004 - Licensing of Houses in Multiple Occupation
   Part 7 of the Housing Act 2004 - Supplementary & Final Provisions

4. The particular purpose for which entry to the "premises" is required is:-

   the enforcement of the housing standards
   the mandatory licensing of houses in multiple occupation
   the overcrowding of a house in multiple occupation
   the HMO Management Regulations

Dated this day 11th June 2013

Signature

Written enquiries about this notice should be made to:

John Hollinshead
PO Box 532 Town Hall
Manchester
M60 2LA

If telephoning please contact:-
Tel: 0161 953 8393

NOTES ON LEGISLATION

Statutory references are to the Housing Act 2004 (the Act) which can be viewed on the Office of Public Sector Information website address:
http://www.opsi.gov.uk/ACTS/acts2004/20040034.htm

Notice of Entry

Before entering any premises, the authorised person or the proper officer must have given at least 24 hours notice of intention to do so to the owner of the premises, if known, and to the occupier of the premises, if any.

section 239(5)

Investigation of Offences

Where the local housing authority considers that a premises needs to be entered for the purpose of ascertaining whether an offence has been committed under the following sections of the Act:-

1. section 72 – Offences in relation to licensing of HMOs
2. section 95 – Offences in relation to licensing of houses under Part 3 of the Act; or
3. section 234(3) – Management regulations in respect of HMOs;

a person authorised by the local housing authority, or the proper officer, may enter the premises for that purpose at any reasonable time but without giving any prior notice.

section 239(6&7)

Survey or Examination

A person exercising the power of entry conferred by section 239 (3) or (7) may do such of the following as he thinks necessary for the purpose for which the power is being exercised—
(a) take other persons with him;
(b) take equipment or materials with him;
(c) take measurements or photographs or make recordings;
(d) leave recording equipment on the premises for later collection;
(e) take samples of any articles or substances found on the premises.

section 239(8)

Production of authorisation

A person authorised to enter the premises must, if required to do so, produce written authorisation from the Council for inspection by the owner or any occupier of the premises, or anyone acting on their behalf.

section 239(10)

Penalty for Obstruction

A person who obstructs a relevant person in the performance of functions under Parts 1 - 4 and 7 of the Act commits an offence unless they have a reasonable excuse. It is an offence punishable in the Magistrates' court by a fine not exceeding level 4 on the standard scale.

section 241(1, 2&3)

Appendix 2

eurotrend

From: j.hollinshead@manchester.gov.uk
Sent: 08 July 2013 13:09
To: EUROTREND
Subject: Re: 1 crofton st, manchester

Hi Mansoor,

I have no problems with that time scale.
I shall diary a revisit for early September to inspect progress.

Yours
John Hollinshead
Neighbourhood Officer
7th Floor Alexandra House
2 Southcombe Walk
Moss Side
M15 5NX

Tel; 0161 953 8393
Int: 811 8393
Fax: 0161 274 7216

"EUROTREND" <eurotrend@btinternet.com>

04/07/2013 21:24

To <j.hollinshead@manchester.gov.uk>
cc
Subject 1 crofton st, manchester

Hi John

Further to your visit and our meeting at 1 crofton st last Friday, you outlined a number of defectsin the property that needed attention. I can confirm that I have started the quote processand intend to start work on all the pointsmentioned.

I would appreciate if you could confirm that my worksschedule isok. Although work will start thismonth, I intend to do it on a phased basiswith an approximate completion in September 2013. I will be making a further visit to the property tomorrow with the letting agent and hop to have a more detailed list of work to be carried out by next week.

Regards

Mansoor

1

Appendix 3

Provided under separate cover

Appendix 4

STATUTORY DECLARATION

I, Syed Hassan Mansoor Jaferi, of 48 Brantingham Road, Manchester, M16 8PP **DO SOLEMNLY AND SINCERELY DECLARE** as follows

I purchased the property known as 1 Crofton Street, Manchester, M14 4DX in September 2007.

I can confirm that following my purchase of the property in September 2007, that the site has been in use as a four bedroom House in Multiple Occupation, and has been rented out and in use for that purpose ever since. This use has continued uninterrupted and without change, and remains in situ at the date of this statement.

I can confirm that Officers of Manchester City Council undertook a visit to the property in June 2013 to inspect the accommodation, and that whilst a licence was not needed for the site to operate as a small HMO, that works to enhance living standards were requested, agreed and implemented in advance of a further site inspection in September 2013.

It is my view that as the use of the site as a Class C4 HMO was implemented in advance of the article 4 direction imposed by the Council in 2010, further that the property has been in continuous and uninterrupted use as a small HMO for well in excess of 10 years prior to the date of this statement that the use of 1 Crofton Street as a small HMO is lawful.

AND I MAKE this solemn Declaration Conscientiously believing the same to be true by virtue of the provisions of the Statutory Declaration Act 1835.

DECLARED at In the County of MANCHESTER

Syed Hassan Mansoor Jaferi

Signature .....

This 24 Day of July 2024

SOLICITOR.....

Mohammad Osman BSc (Hons)
MSc (Hons) GDip Law
Solicitor
Silverdale Solicitors
404 Cheetham Hill Road
Manchester
M8 9LE
0161 740 0333

WE CERTIFY THIS TO BE A TRUE COPY OF THE ORIGINAL
Silverdale Solicitors
Silverdale House
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