MANCHESTER CITY COUNCIL

# Planning

## Growth & Development

## Delegated officer report for planning application

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|---|---|
| **Application no.** | 138969/LE/2024 |
| **Date registered valid:** | 10 January 2024 |
| **Proposal:** | Use of property as a place of worship (Use Class F.1(f)). |
| **Address:** | 52 Crossley Street, Manchester, M18 8BA |
| **Ward(s):** | Gorton & Abbey Hey Ward |
| **Applicant:** | Mr James Boateng The Christ Apostolic Congregation Church |
| **Agent (if any):** | |
| **Case officer:** | Robert Tyrer<br>Tel: 0161 234 4068<br>Email: robert.tyrer@manchester.gov.uk |
| **Recommendation:** | Grant |
| **Date of recommendation:** | 22 February 2024 |

**Application details**

**Type of application:** Certificate Lawful Development Existing

**Development type:** Certificates of lawfulness

**Date of site visit:** 22 February 2024

**Standard consultations:**
No consultations have been printed and sent.

**Neighbour notifications**
Printed: 12 January 2024 Expired: 2 February 2024

**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 site relates to a utilitarian design, flat roofed , brick built, single storey, semi-detached property.







**Listed building:** Not applicable

**Conservation area:** Not applicable

**Tree Preservation Order:** Not applicable

**Description of area**

The surrounding area is a mixture of post war and modern family housing located in an area of land that is enclosed by Gorton Lane to the north, Hyde Road to the south, Gorton Park to the west and the Manchester/Belle Vue Railway line to the east.

**Description of development**

The applicant is seeking a certificates of lawfulness for the use of property as a place of worship (Use Class F.1(f)).

**Consultations & Notification Responses**

Publicity – Notification letters were sent to nearby residential properties (see appendix 1 for the list of properties).

Local residents/public opinion – No objections, comments or representations in support of the application have been received.

**Planning History** – There have been no planning applications at this address.

**Application Reference:** F03510
**Proposal:** Use of shop as hot food shop (fish & chips).
**Decision:** Approved 03.12.1975

**The Application**

This application is pursued under subsection (1) of section 191 which provides for an application to determine whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land is lawful for planning purposes.

In a case of this type, the onus is on the applicant to substantiate his or her case, on the balance of probability. The applicant needs to demonstrate that the use of property as a place of worship (Use Class F.1(f)) commenced more than ten years prior to the date of the application (i.e. by 8th January 2014) and continued without a significant break for ten years.

Class F.1 incorporates those uses from the former Use Class D1 (Non residential institutions) of a kind which involve buildings which are regularly in wider public use such as schools, libraries and art galleries.

It comprises any use not including residential use –

(a) for the provision of education [formerly D1(c)],

(b) for the display of works of art (otherwise than for sale or hire) [formerly D1(d)],

(c) as a museum [formerly D1(e)],

(d) as a public library or public reading room [formerly D1(f)],

(e) as a public hall or exhibition hall [formerly D1(g)],

**(f) for, or in connection with, public worship or religious instruction [formerly D1(h)],**

(g) as a law court [formerly D1(i)].

The Planning Practice Guidance points to the need for evidence to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

The relevant test, established by the court in Thrasyvoulou v SSE [1984], is the balance of probabilities – whether something is more likely than not.

In this case the evidence provided was a series of emails and letters from various parties including the Lead Pastor from Authentic City Church confirming both the sale of the property in 2022 and that turned 52 Crossley Road into a place of worship and community centre in October 2008. A letter from a neighbour was also included to confirm that there has been a church within the premises for at least 16 years,

Google Earth Images (see below) reveal that from May 2011 to its more recent image dated March 2021 that the property has been in use as a place of worship.

| | | |
|---|---|---|
|  |  |  |
| May 2011 | October 2012 | July 2014 |
|  |  |  |
| July 2015 | April 2016 | June 2017 |
|  |  | |
| July 2019 | March 2021 | |

The applicant does not have to “demonstrated beyond all reasonable doubt”, as that that is the standard of proof required for criminal cases and would be wrong test to apply.

Therefore, on balance of probability and without any evidence to the contrary the properties have been in use as place of worship and the certificate should be granted.

**Other Legislative Requirements**
**Equality Act 2010**
Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a

legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

**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:** Grant

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

1) From the evidence available, and with reference to the relevant planning legislation, Manchester City Council is satisfied that the use is lawful by reason of the said use having been in existence for a period of 10 years up to the date of this application.

**Appendix 1 – List of consultees & neighbours notified**

4 Hillcote Walk, Manchester, M18 8AG
5 Marjorie Close, Manchester, M18 8AE
16 Jennison Close, Manchester, M18 8AD
10 Jennison Close, Manchester, M18 8AD
44 Crossley Street, Manchester, M18 8BA
14 Jennison Close, Manchester, M18 8AD
12 Jennison Close, Manchester, M18 8AD
48 Crossley Street, Manchester, M18 8BA
46 Crossley Street, Manchester, M18 8BA
42 Crossley Street, Manchester, M18 8BA
7 Marjorie Close, Manchester, M18 8AE
1 Marjorie Close, Manchester, M18 8AE
3 Marjorie Close, Manchester, M18 8AE
Gorton Brook Post Office, 50 Crossley Street, Manchester, M18 8BA
2 Hillcote Walk, Manchester, M18 8AG

**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: NORTH AREA