

Development Management
Manchester City Council
Floor 6 Town Hall Extension
Albert Square
Manchester
M2 5DB

Our ref EKPS/230611/JK

Neo
9 Charlotte Street
Manchester
M1 4ET

Submitted via the Planning
Portal

www.euankellie.co.uk

17 July 2023

Dear Sir or Madam,

Application for a Lawful Development Certificate (Existing): 14 Albion Road, Fallowfield, M14 6LT.

On behalf of our client Rachel Jane Cuthbert, please find enclosed an application for a lawful Development Certificate covering the following works:

“Application for Lawful Development Certificate to establish the existing use of the Property as a C4 House in Multiple Occupation and the existing rear extension and garage outbuilding as lawful.”

Background

The application property is an end of terrace dwelling situated on the western side of Albion Road, Fallowfield opposite its junction with Cawdor Road. It provides six bedrooms over two floors, with a yard area to the rear, accessed via an alleyway that runs along the southern side of the site.

Since 2006 14 Albion Road has been occupied by five or six unrelated adults and consequently has operated as a small House in Multiple Occupation (HMO), which falls within Class C4 of the Town and Country Planning (Use Classes) Order 1987. Planning permission for a change of use to a small HMO was not required in 2006, however on 8th October 2010 Manchester City Council introduced an Article 4 Direction across the whole of the City, which removed the ability for properties in C3 use (dwellinghouses) to be converted to Use Class C4 under permitted development.

In 2012 a single-storey rear extension was added to the property under permitted development. At the same time the existing, dilapidated garage structure within the rear yard was rebuilt, albeit without the benefit of express permission.

Relevant Legislation

Section 191 of the Town and Country Planning Act 1990 (“the TCPA”) allows for an applicant to apply for a Lawful Development Certificate in order to confirm that an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes.

By virtue of Section 191(2), uses and operations are ‘lawful’ at any time if they did not involve ‘development’, if no enforcement action may be taken against them, and they are not in contravention of any enforcement notice which is in force.

Section 171B of the TCPA sets out the relevant timescales for taking enforcement action. This states that where there has been a breach of planning control consisting in the carrying out without permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

In the case of any other breach of planning control (except change of use to a single dwellinghouse or demolition works), no enforcement action may be taken after the end of the period of ten years, beginning with the date of the breach.

Planning Practice Guidance ("PPG") regarding Lawful Development Certificates (LDC's) advises 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 seeks to establish the lawful use of 14 Albion Road by providing the necessary evidence to demonstrate that it has been used continuously as a HMO for at least 10 years (i.e. since July 2013). It also seeks to confirm that the garage outbuilding within the rear yard, and the single-storey rear extension, are lawful development by virtue of the fact that they have been in-situ for over four years (i.e. were in place prior to July 2019). These timescales match those referenced within Section 171B of the TCPA.

The lawfulness of both the use of the property and the development to the rear of the property shall be demonstrated via references to several different sources of factual information and evidence, which are set out in the section below.

Supporting Information and Documents

The following information has been submitted via the Planning Portal in support of this 'LDC' application:

- Planning Application Form and Certificate A;
- Statutory Declaration for both the continuous use of 14 Albion Road as a small HMO (Use Class C4) and for the presence of the garage;
- Tenancy agreements demonstrating continuous use of 14 Albion Road as a small HMO (use Class C4) between 2011 and 2023;
- Invoice dating from 28 June 2012 for supply and fixing of a garage roller shutter door, colour BS 04 C 39; and
- Schedule of photographs, taken between 2012 and 2019, appended to this covering letter at Appendix 1.
- Existing and proposed construction plan – 14 Albion Road

The main body of evidence demonstrating the lawfulness of the garage outbuilding and rear extension is presented within the next section of this extended covering letter.

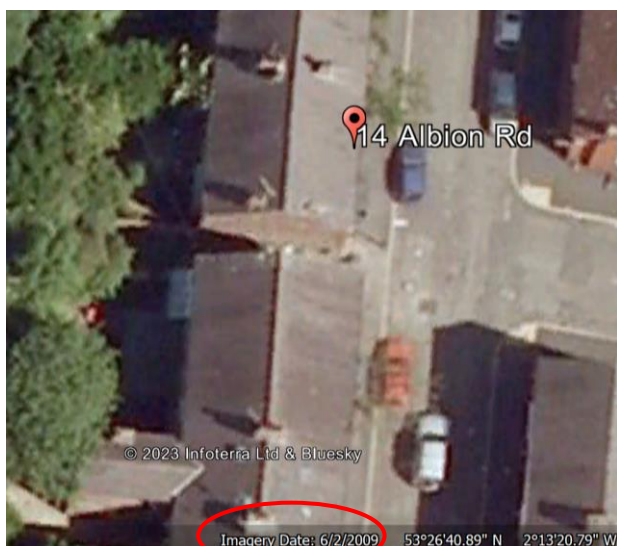
The lawful use of 14 Albion Road as a small HMO is considered to be evident from a review of the relevant individual documents listed above.

Garage / outbuilding and single-storey rear extension as lawful development

As set out above, both the rear extension and the garage outbuilding to which this application relates, were constructed in their present form in 2012; however, under Section 17B of the TCPA, it is only necessary to demonstrate that the structure has been in-situ for at least four years.

Figures 1-6 below present a series of aerial images of the site, taken from Google Earth, which date between June 2009 and April 2023. **Figure 1** shows the application site prior to the current outbuilding and the extension being erected, whereas the 'new' structures are readily apparent within **Figure 2**, which dates from March 2016. **Figures 3-6** go on to show an outbuilding and a rear extension of consistent footprint and siting, leading up to 2023.

Consequently it is evident that both the outbuilding and the rear extension which stand today have existed in their current position for over seven years, which comfortably exceeds the four years required to demonstrate that the structure is lawful.



^ Figure 1: Image date 02 June 2009



^ Figure 2: Image date 14 March 2016



^ Figure 3: Image date 19 April 2018



^ Figure 4: Image date 22 April 2020



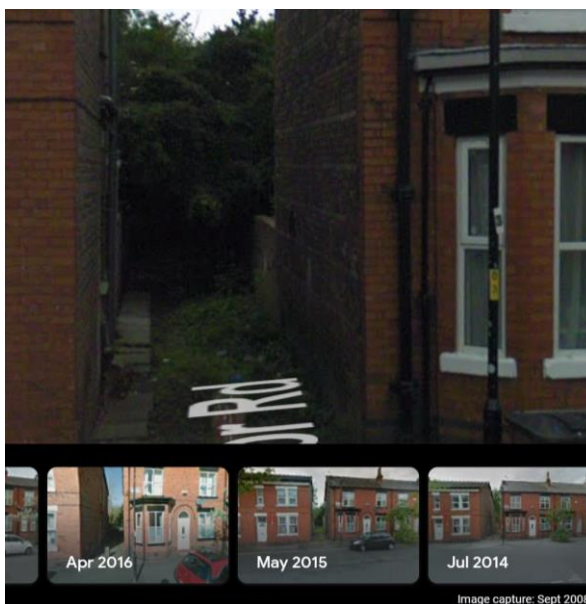
^ Figure 5: Image date 22 April 2021



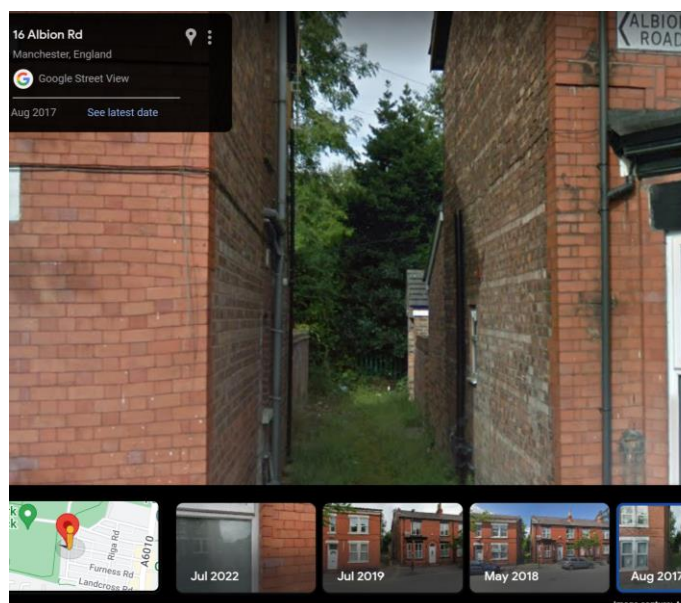
^ Figure 6: Image date, 04 April 2023

Figures 7 – 10 below provide further evidence that the outbuilding and rear extension are established and lawful structures, this time drawing upon imagery from Google Streetview. **Figure 7** shows part of the rear yard area as it existed in 2008, prior to development taking place. The viewpoint is taken from the Albion Road highway, close to the junction with Cawdor Road. This image is included to enable a comparison to be made with subsequent images.

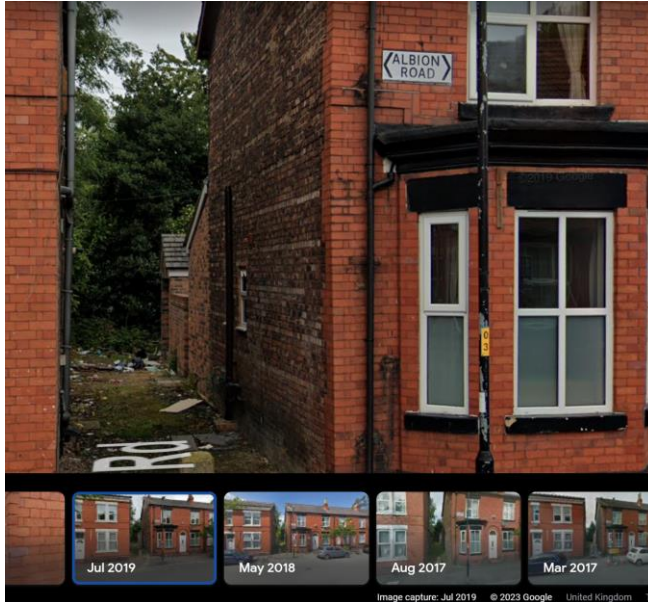
The southern end of both the garage outbuilding and the rear extension are clearly visible within **Figure 8**, which dates from August 2017. **Figures 9 and 10** go on to show an outbuilding and a rear extension of consistent form and height, in July 2019 and 2022 respectively. This is further evidence that the structures which stand today had existed in their current position for a noticeably longer period than the four years required to demonstrate that the structure is lawful.



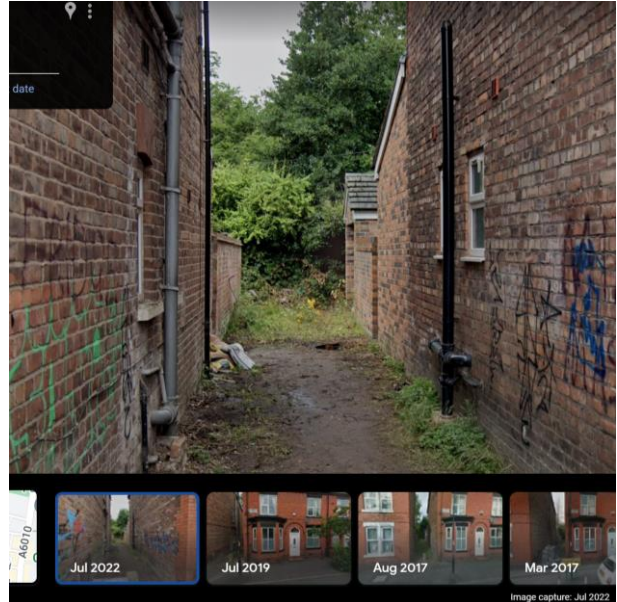
^ Figure 7: Image date September 2008



^ Figure 8: Image date August 2017

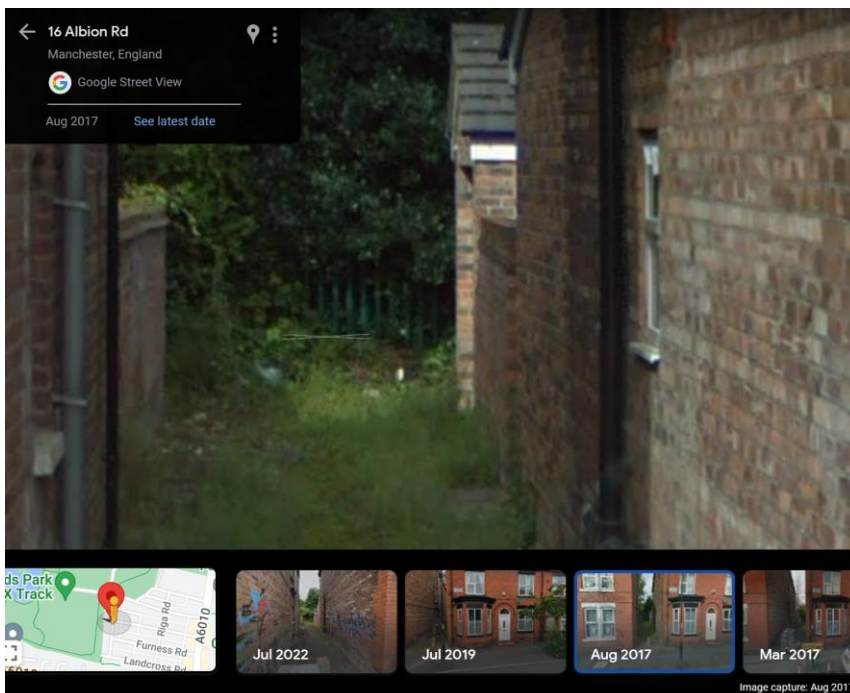


^ Figure 9: Image date July 2019

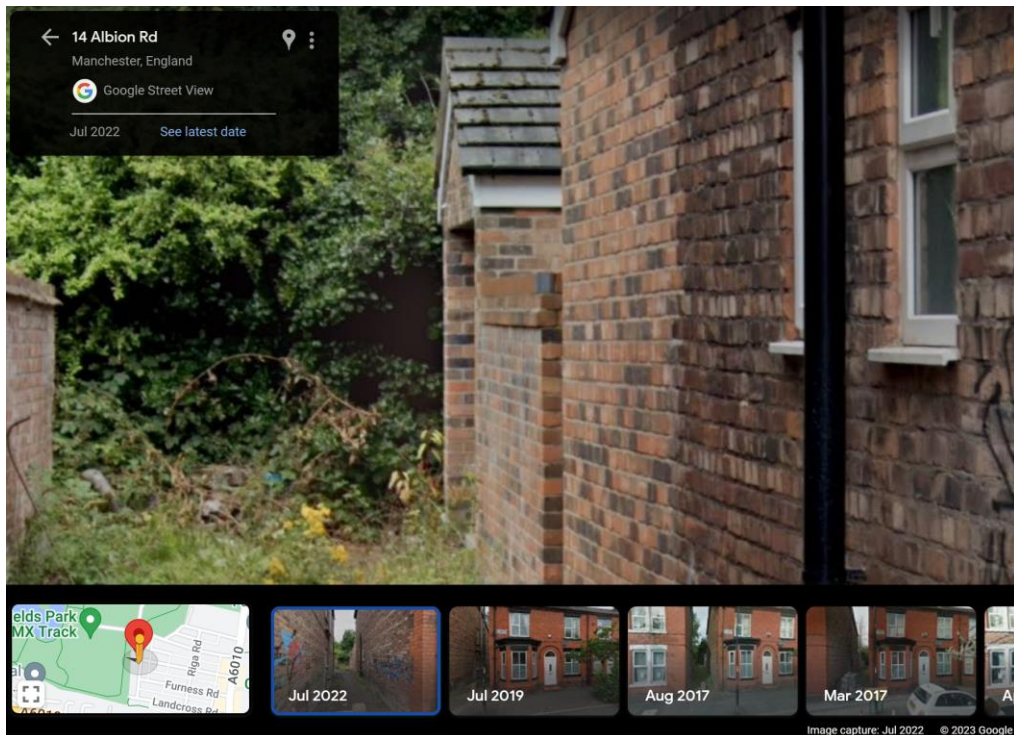


^ Figure 10: Image date July 2022

Figures 11 and 12, below, depict the outbuilding and rear extension in greater detail, again using imagery taken from Google Streetview. It is evident from the patterning to the brickwork, along with the position and construction of the bargeboard detail (garage), that there have been no substantive changes to the construction of these structures since August 2017. This position is further corroborated by the applicant's own pictures in **Appendix 1**, specifically image ii), which dates from June 2013.



^ Figure 11: Image taken August 2017



^ Figure 12: Image taken July 2022

The validity of the applicant's own photographs can be demonstrated by cross-referencing them with Google Streetview and its accompanying timeline. For example, the appearance and condition of the alleyway in photograph v) from **Appendix 1**, which was taken on 05 July 2018, is consistent with the Streetview image from May 2018 – See **Figures 13 and 14** below.

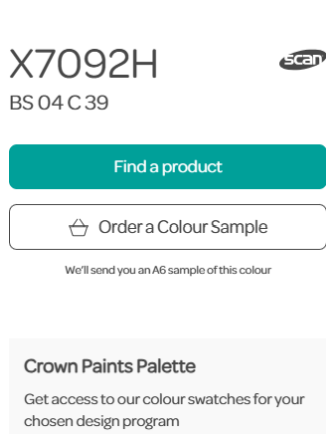


^ Figure 13: Applicant's own picture. Image taken on 05 July 2018



^ Figure 14 Source – Google Streetview. Image taken May 2018

Finally the applicant has provided an invoice for the installation of a garage door to the outbuilding, which dates from 28 June 2012. The document sets out the specification for the door, which it notes is a solid steel roller shutter, powder coated BS 04 C 39. This specification and colour clearly corresponds with the garage door that is visible within image b) of **Appendix 1**, which was taken in June 2013 – see **Figures 15 and 16** below.



^ Figure 15 – Colour BS 04 C 39 – Source Crown Paints website

^ Figure 16 – Applicant image from June 2013

Summary and Conclusions

With consideration to the information included within this letter and the evidence submitted with the applications, it is clear that the use of the property as small HMO (Use Class C4), and the existing garage and rear extension, are lawful for planning purposes under section 191 of the TCPA.

Application Fee and Validation

Payment of the required Planning Application in line with the Town and Country Planning (Fee for Applications, Deemed Applications, Requests and Site Visit) (England) Regulations 2012) has been made via the Planning Portal.

We would be grateful if you could confirm receipt of this planning application and confirm in writing that it has been successfully registered and validated.

Should any matters arising from the application require clarification, please do not hesitate to contact Rachel Cuthbert by 'phone (07738 939 955) or by e-mail (rachelc@dgdproperties.co.uk).

Yours faithfully,

James Ketley MRTPI
Associate Director
james@euankellie.co.uk

APPENDIX 1 | APPLICANT'S GARAGE OUTBUILDING PHOTOGRAPHS | 2012 - 2019**14 ALBION ROAD, FALLOWFIELD M14 6LT**

i)	10/09/2012	
ii)	25/06/2013	
iii)	25/06/2014	

iv) 090/7/2015	
v) 05/07/2018	
vi) 24/07/2019	