

DELEGATED REPORT

Report by Mark Kilby	Date of report: 04/12/2020	Ref: 65975/LDCP
Registration: 05/10/2020	LDFC:	Expiry Date: 30/11/2020
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area: N/A	Adv Type: N/A
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful development certificate for proposed change of use from a residential dwelling (Class C3a) to a house in multiple occupation for up to 6 unrelated individual (Class C4) with installation of a new first floor window to side elevation

Location: 17 Turf Street, Radcliffe, Manchester, M26 3SZ

Description

An application for a lawful development certificate for the proposed change of use from a dwellinghouse in use class C3(a) to a house in multiple occupation (HMO) under class C4 for up to 6 persons living as a single household.

The application site is a late 19th century end of terrace two storey brick and slate dwellinghouse.

Also proposed is a small bathroom window at first floor level in the gable end.

Relevant Planning History

18/0225 - Untidy land - 24/07/2018.

Publicity - Not applicable.

Statutory/Non-Statutory Consultations - None.

Pre-start Conditions - None.

Unitary Development Plan and Policies

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;
The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;
The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Part 3, Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) allows a permitted change of use between dwellinghouses in Use Class C3(a) and small HMOs in Use Class C4 (up to 6 persons living as a single household) and vice versa

Permitted development

Development consisting of a change of use of a building—

(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.

Development not permitted

L.1 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.

There is no planning history or any other evidence that the building has only ever been in lawful use as single dwellinghouse. There is a current domestic council tax liability on the property. As such on the balance of probability the building is in domestic use class C3(a) and so would qualify for the permitted development right. Permitted Development Rights have not been removed.

The submitted proposed floor plans show an additional two bedrooms with a smaller bathroom with all the communal spaces and facilities retained. As such the building would capable of being occupied by up to 6 individuals as a single household. Therefore the proposed change of use would be lawful.

The proposed insertion of a window at first floor level in the gable end would be lawful subject to the compliance with the statutory condition requiring obscure glazing under condition A.3(b) of Part 1, Class A of the General Permitted Development Order.

Recommendation: LAWFUL

Conditions and Reasons:

- 1 The proposal as described in the First Schedule, is deemed to be 'Permitted Development' having regard Article 3, Schedule 2, Part 1, Class A and Part 3, Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 2 Any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be-
 - (i) obscure-glazed, and
 - (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed as require by condition A.3(b) of Part 1, Class A of The Town and Country Planning (General permitted development) (England) Order 2015 (as amended).

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Mark Kilby	4/12/20	DM	07/12/20