

DELEGATED REPORT

Report by Sam Summers	Date of report: 09/07/2024	Ref: 70758/LDCE
Registration: 14/05/2024	LDFC:	Expiry Date: 09/07/2024
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area:	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful development certificate for existing use as place of worship (F1)

Location: 106 Kings Road, Prestwich, Manchester, M25 0FY

Description

Lawful development certificate for existing use as place of worship (F1)

The application has been made on the basis that the entire building and grounds have been in use as a Place of worship in Class F1 for a period of 10 years or more, thus rendering the use of the building immune from planning enforcement action in accordance with the time limits set under Section 171B(3) of The Town and Country Planning Act 1990.

The applicant has provided proof of insurance, business rates, bills and various other documents as evidence of this usage.

Relevant Planning History

None

Publicity

None

Statutory/Non-Statutory Consultations

None

Pre-start Conditions - None

Development Plan and Policies

Issues and Analysis

Section 171B(3) of the Town and Country Planning Act 1990 states that no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach relating to the change of use of land.

The onus is on the applicant to show by way of evidence that the use to which the application relates has been carried out for 10 years or more making it immune from planning enforcement action, thus making the use lawful.

The legal test for evidence is on the "balance of probabilities" which in practice means that unless the authority has in its possession evidence that is clearly contrary to that submitted it must grant a certificate. Evidence submitted does not need to be corroborated by third parties.

The applicant has stated that the use began in 2009 and continued until the present day, they have submitted various documents in support of this statement. They have submitted

proof of insurance on the property from 2009 to 2022, on this insurance the building is listed as a 'study hall synagogue & library' and was insured against terrorism, both of these things would suggest that the building has been in use as a place of worship since 2009. The applicant has also provide business sates details, a lease agreement and various other property bills. All of these document corroborate that the building has been in use as a place of worship continuously since 2009

In conclusion, this evidence must meet the legal test to be applied which is "on the balance of probabilities". The evidence submitted does not require third party corroboration and if the Council does not have contradictory evidence, then a certificate must be granted. The Council has no evidence that would contradict that submitted by the applicant. The use of the site for a place of worship has not been abandoned as the use continues and there has been no other use of the site.

As such the Council has no grounds on which to refuse the granting of a certificate. On the balance of probability the property has been in use as a place of worship falling under class F1 for the requisite ten years or more before the date of the application and its use has not been abandoned. Therefore the use of the site for this use is lawful.

Other building works

It has been noted though the course of the application that some building works have taken place at the property without the benefit of planning permission. The agent for this application has indicated that a separate application for these works will be submitted once the use of the building has been established.

Recommendation: LAWFUL

Conditions and Reasons:

- 1 The use described in First Schedule is deemed to be established and not liable to enforcement action under Section 172 of the Town & Country Planning Act 1990 (as amended) by reason of it existing on site on a continuing basis for ten years or more.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
SS	09/07/2024	DM - 09/07/2024	