

DELEGATED REPORT

Report by Sam Summers	Date of report: 05/09/2025	Ref: 72133/LDCP
Registration: 04/07/2025	LDFC:	Expiry Date: 29/08/2025
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful development certificate for proposed loft conversion including dormer window to rear elevation, roof lights to front elevation and change of use from Dwellinghouse (C3) to 6 person HMO (C4)

Location: 459 Rochdale Old Road, Bury, BL9 7TB

Description

Lawful development certificate for proposed loft conversion including dormer window to rear elevation, roof lights to front elevation and change of use from Dwellinghouse (C3) to 6 person HMO (C4)

Relevant Planning History

71331 - Prior approval for proposed single storey rear extension
- Prior Approval Not Required - Extension 13/12/2024

Publicity

None

Statutory/Non-Statutory Consultations

None

Pre-start Conditions - None

Development Plan and Policies

Issues and Analysis

The dwelling is not listed nor is it in a Conservation Area.

There is no enforcement and the proposed development would be on land wholly owned or controlled by the applicant.

Permitted Development rights have not been removed.

Rear Dormer

There have been no previous roof extensions and development would not extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway.

The proposed roof extensions would not be higher than the highest part of the original roof.

The volume of the proposed roof extension would be 18m³ (cubic metres), the total allowable being 40m³.

The proposed dormer extension would be set back from the eaves by not less than 200mm.

There are no side windows proposed.

L shaped dormers fall under Class B as confirmed in the technical guidance where it states the enlarged part of the roof may join the original roof to the roof of a rear or side extension (generally referred to as an 'L-shaped dormer on a main roof and 'outrigger' or 'back addition' roof), whether the part of the house being extended forms part of the original house or is an enlargement, or the shape or level of the pitch of the roofs are different in relation to each other.

Having regard to the above the proposed development would be lawful as it complies with the limitations of Part 1 Class B of The town and Country Planning (General Permitted Development) (England) Order 2015.

Rooflights

The proposed rooflights to the front roof slope would not protrude more than 150mm beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof. It would not be higher than the highest part of the original roof.

Having regard to the above the proposal would be lawful as it falls within the limitations of Part 1 Class C of The Town and Country Planning (General Permitted Development) (England) Order 2015.

HMO Use

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. 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 six bedrooms with ensuites and a communal bathroom along with other 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 high court judgement London Borough of Brent v Secretary of State for Levelling Up, Housing and Communities & Anor [2022] EWHC 2051 (Admin). This judgement confirms that the meaning of a 'dwellinghouse' is wider than Use Class C3. It includes Use Class C4 and may also include large HMOs and other uses provided they meet the Gravesham test. As such even if the conversion to an HMO has taken place the property would retain its permitted development rights and would therefore be lawful

Having regard to the above the proposal would be lawful as it falls within the limitations of Part 1 Class B & C and Part 3 Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Recommendation: LAWFUL

Conditions and Reasons:

- 1 The proposal, described in the First Schedule, is deemed to be 'Permitted Development' having regard to Article 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 in that it falls within the limitations Part 1 Classes B and C & Part 3 Class L.
- 2 The materials used in any exterior work shall be of similar appearance to those used in the construction of the exterior of the existing dwellinghouse as required by condition B.2(a) of The Town and Country Planning (General Permitted Development) (England) Order 2015.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
SS	05/09/2025	DM - 05/09/2025	