

DELEGATED REPORT

Report by Helen Pressley	Date of report: 13/05/2026	Ref: 73017/LDCE
Registration: 25/03/2026	LDFC:	Expiry Date: 20/05/2026
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 5 Bed HMO

Location: 72 Tenters Street, Bury, BL9 0HL

Description

Lawful development certificate for existing 5 Bed HMO

Relevant Planning History

72 - 74 Tenters Street

48197 - Change of use from community centre (Use Class D1) to Solicitors Office (Use Class A2)- Approve with Conditions 25/07/2007

59417 - Change of use from non-residential institution (Class D1) to design consultancy office (Class B1) - Approve with Conditions 04/12/2015

70748 - Prior approval for proposed change of use from offices (Class E) to 2 no. dwellings (Class C3) - Prior Approval Required and Refused 03/07/2024

70965 - Change of use from offices (Class E) to 2 no. dwellings (Class C3) Reinstating 1m high metal fence along boundary - Approve with Conditions 11/09/2024

71391 - Removal of condition 5 - The extensive works required to convert this property into two, part M4(2) compliant dwellings is not feasible and we are requesting that the condition is removed - Approve with Conditions 30/01/2025

74 Tenters Street

73008 - Lawful development certificate for existing 5 Bed HMO - Pending

Publicity

N/A

Statutory/Non-Statutory Consultations

N/A

Pre-start Conditions - N/A

Development Plan and Policies

Issues and Analysis

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:

L. 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.

Assessment

Timeline set out by applicant

- September 2024 - Planning permission granted (Ref: 70965 - Change of use from offices (Class E) to 2 no. dwellings (Class C3) Reinstating 1m high metal fence along boundary).
- 4 September 2025 - Building Control Initial Notice submitted to Sweco (Ref: 66116924) for the conversion works.
- 19 February 2026 - Sweco issue the Final Certificate (Ref: 66116924) confirming that all works are complete and compliant with Building Regulations
- 20th February - Property let as whole dwelling and occupied. Attached property at No. 72 also let).
- 20 - 24th February - Tenant (and separate tenant at No. 72) cancelled their tenancy agreement within the first week.
- 24 February 2026 - Following the termination of both tenancies, the landlord decided to convert both properties to C4 HMO use under Permitted Development rights (Class L of the Town and Country Planning (General Permitted Development) Order 2015). A new Building Control Initial Notice was submitted to Sweco (Ref: 66119526) on this date and was accepted by Bury Council, again as required before works could commence.
- 18 March 2026 - Sweco issue the Final Certificate (Ref: 66119526) confirming that the HMO conversion works for both properties are complete and compliant.
- Later on 18 March 2026 - The landlord advertised both properties as HMOs on the same day Building Control signed them off
- 19 March 2026 - Room-by-room Assured Shorthold Tenancy Agreements signed for both properties

In order to evidence the above timeline the applicant has submitted the following documentation:

- Covering Letter
- Time Line
- Building Control Final Certificate (Office to Dwelling)
- Building Control Final Certificate (Dwelling to HMO)
- Existing floor plans and elevations
- Proposed floor plans and elevations
- Assured Short Term Tenancy - Dwelling
- Assured Short Term Tenancy x 3 - HMO rooms.

Whilst the timeline states that Council Tax documents in relation to the C3 Use will be submitted in due course these have not been received to date and the application expires on the 20th May 2026.

C3 Use

Following receipt of the lawful development certificate the Case Officer wrote to the applicant's agent on the 22nd April 2026 to request the following:

- Fully evidenced timeline for the property
- Confirmation of plans and information submitted for building control notices. What works were required to convert from office to dwelling, what works were required from dwelling to HMO.
- Clarification in relation to the 6 month assured short term tenancy agreement that was signed for the property as a whole dwelling, 1 month before the HMO use commenced.

In response to this the applicant submitted a timeline that also detailed the works undertaken to the property.

The applicant states that both the tenant of this property, and the tenant of the attached property (no. 74) broke their 6 month tenancy agreements within the first week of signing the tenancy but did occupy the dwellings.

A tenancy agreement is not proof that the dwelling was occupied lawfully to establish the permitted development rights that applicant now seeks to confirm. No evidence has been provided to show that the dwelling was occupied eg Council Tax, bills etc. No evidence has been submitted to prove that the tenant cancelled their tenancy agreement.

Given the short time between the signing of the tenancy agreement and the submission of the building regulations for the HMO use for both this and the attached property, and the evidence supplied in support of the application it is considered that on the balance of probabilities the property was not lawfully occupied as a C3 dwelling prior to conversion to an HMO. As such the property would not benefit from the permitted development rights set out under Part 3, Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The onus is on the applicant to provide evidence to pass the legal test that on the balance of probability what has been applied for is or would be lawful. The applicant has failed to prove, on the balance of probability, that the use to which the application relates has been lawfully established and has not confirmed that the property would benefit from the permitted development rights set out under Part 3, Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such a Lawful Development Certificate cannot be granted.

A full planning application for the use of the property as an HMO and its operational development will need to be submitted.

Recommendation: Refuse

Conditions and Reasons:

- 1 The onus is on the applicant to provide evidence to pass the legal test that on the balance of probability what has been applied for is or would be lawful. The applicant has failed to prove, on the balance of probability, that the use to which the application relates has been lawfully established and has not confirmed that the property would benefit from the permitted development rights set out under Part 3, Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such a Lawful Development Certificate cannot be granted.

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<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP	13/05/2026	DM	13.05.26