

DELEGATED REPORT

Report by Sam Summers	Date of report: 13/10/2023	Ref: 69977/LDCE
Registration: 25/08/2023	LDFC:	Expiry Date: 20/10/2023
Site Visit: 06/10/2023	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 existing outbuilding for use as a home office within the curtilage of the house

Location: 45 Grasmere Drive, Bury, BL9 9GA

Description

An Application under Section 191 of the Town and Country Planning Act 1990 (as amended) for a Certificate of Lawful Development for existing outbuilding for use as a home office within the curtilage of the house. The outbuilding is at the rear of 45 Grasmere Drive.

Relevant Planning History

55807 - First Floor extension to detached garage - Refused 15/01/2013

Publicity

None

Statutory/Non-Statutory Consultations

None

Pre-start Conditions - None

Unitary Development Plan and Policies

Issues and Analysis

The onus is on the applicant to show by way of evidence that the building to which the application relates has been in place for 4 years or more making it immune from planning enforcement action, thus making the building 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 council has access to aerial views of the property from 2005, 2009 & 2016. The 2016 aerial view shows the outbuilding in the same place. Therefore the outbuilding has been in place since at least 2016, making it immune from enforcement by virtue of being in the curtilage of a residential dwelling and having been in place for at least 4 years.

The outbuilding in question also complies with all the limits set out under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Aerial views from 2016 confirm that the outbuilding has been in place for a period of 4 years or more. This would therefore render the construction 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.

Recommendation: LAWFUL

Conditions and Reasons:

- 1 The outbuilding as 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 four years or more.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
SS	13/10/2023		