

DELEGATED REPORT

Report by Claire Booth	Date of report: 09/10/2026	Ref: 73381/LDCE
Registration: 30/06/2026	LDFC:	Expiry Date: 25/08/2026
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area:	Adv Type: N/A
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful development certificate for existing use of the existing premises, including existing garage building, for the purpose of short-term let overnight accommodation (Sui Generis Use)

Location: Summerfield Bungalow, Summerfield Drive, Prestwich, Manchester, M25 9XS

Description

The application site is a 2-storey building located at the top of a cobbled lane, called Summerfield Drive, Prestwich. The property has a detached gable roofed single storey outbuilding a former garage. The gable of the garage faces Summerfield Lane contains a garage door opening.

This application seeks a Certificate of Lawful Development under section 191 of the Town and Country Planning Act 1990 for the existing use of premises, including the existing garage/ outbuilding, for the purpose of short-term let overnight accommodation falling outside a defined use class and therefore comprising a sui generis use, as four self-contained units.

The applicant's case is that the premises and garage/outbuilding have operated as four short-term letting units since early 2015 and that the use has continued for a period exceeding ten years. The application is supported by an evidence verification statement, drawings previously prepared in connection with planning application 71212, Airbnb booking and payout information covering parts of the period between February 2015 and December 2025, customer reviews and a statutory declaration from the former owner and current managing agent, Lukas Hall.

This application is concerned solely with whether the specific use described was lawful at the date of the application. The planning merits of the use, including its effect on neighbouring amenity, highway safety, parking, local character or housing supply, do not form part of the assessment.

Relevant Planning History

45158 - DORMER AT REAR; GARAGE EXTENSION AT FRONT - Approved with Conditions 18/10/2005

57875 - Conversion of garage to store (Retrospective) - Refused, 05/12/2014

71212 - Conversion from 1 no. dwelling to 3 no. apartments - Withdrawn by Applicant 24/06/2025

Enforcement Record

10/0102 - UNTIDY PROPERTY - No Breach of Planning Control, 23/03/2010

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14/0021 - Erection of structure/ extension to side of garage/ outbuilding - Enforcement Notice served, 23/10/2014
Prosecuted: 08/12/2015 and fined:
Fine £2000
Costs £1260
VSC £200
Notice Complied with: 19/02/2016 as Extension removed

18/0033 - Change of use from garage to residential unit - No Further Action, 19/10/2018

20/0057 - Change of use from residential to short let holiday stays - No Action Taken, 11/09/2020

22/0316 - Change of use of garage to short term holiday let - No Action Taken, 24/03/2023

23/0368 - Change of use of garage to short term let accommodation - 28/01/2025

24/0250 - Installation of rear elevation window (clear glass not obscure glazed) - Not expedient to take action, 30/09/2024

25/0261 - Conversion from one house to 3 apartments - Withdrawn as application 71212 received, 30/09/2025

The enforcement history confirms that allegations concerning residential occupation of the garage and short-term letting at the site have been investigated on several occasions. No previous investigation identified that a material change of use had occurred from the lawful use of the property as a single dwellinghouse and associated outbuilding. No enforcement action has been taken in respect of any alleged change to short-term letting.

The absence of enforcement action is relevant factual evidence. However, the closure of an enforcement investigation does not, by itself, amount to the issue of a Certificate of Lawfulness or conclusively establish the precise planning status of the land. The current application must be determined on the evidence now before the Local Planning Authority.

Publicity

There is no statutory requirement to

The 3 Ward Councillors for the Ward in which the application property is sited are automatically notified of all applications received within their Ward.

Cllr Thorpe has advised the following:

- 2018 evidence is only for March, July, August, October, November and December.
- 2021 evidence is only for November and December.
- 2022 evidence is only for January, November and December.
- 2024 evidence is only for January, February, June and October.
- 2025 evidence is only for May, June, July and December

He also states that it appears that the evidence is curated rather than objectively collated which points to the fragility of the applicant's case, the evidence is largely uncorroborated, and no witnessed statutory declaration is provided.

Officers agree that the declaration received cannot be taken into account as it has not been witnessed by a Solicitor.

Statutory/Non-Statutory Consultations

N/A

Pre-start Conditions - N/A

Development Plan and Policies - As this application relates to a certificate of lawfulness, the policies of the development plan are of no specific relevance in this case.

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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PfE Policies 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.

Scope of Application & Corroborating Evidence

The material date for this application is 10 years from the date of submission. The start date for this application is 30/06/2026 meaning the material date is 30/06/2016.

The application has been submitted with an accompanying Planning Statement which asserts that:

The statement asserts that:

- The property was refurbished between 2012 and early 2015.
- By early 2015 there were allegedly four separate short-term letting units:
 - Lower ground floor unit
 - Upper left unit
 - Upper right unit
 - Garage/outbuilding unit
- The first Airbnb listing was created in early 2015.
- Airbnb booking confirmations, payouts and reviews have been submitted for the period February 2015 to December 2025.
- A declaration from the former owner states that the use has continued since 2015. This is unsigned and undated.

Assessment

Under section 191 of the Town and Country Planning Act 1990, a certificate must be issued where the LPA is provided with information satisfying it that the use described was lawful at the date of the application. A use is lawful where enforcement action can no longer be taken and no relevant enforcement notice remains in force.

The applicant bears the evidential burden. The civil standard is the balance of probability. Where the LPA has no contradictory evidence, an applicant's evidence may be sufficient, but it must still be sufficiently precise and unambiguous. A certificate can properly be refused where the description or supporting evidence is insufficiently precise.

For a sui generis use in particular, the certificate must identify the lawful use and its defining characteristics with precision. Simply describing it as "short-term let accommodation" or "sui generis" may not adequately define the planning use, its component units, or its lawful scale.

The evidence shows:

The applicant claims that the property comprises four short-term let units:

- Garage/outbuilding ("Amazing Open Plan Living");
- Upper left unit;
- Upper right unit; and
- Lower ground floor unit.
- Transactional Airbnb evidence has been submitted for selected months between February 2015 and December 2025.
- The evidence verification statement (unsigned and undated) asserts that the premises has operated as short-term accommodation throughout this period and that the booking evidence relates solely to Summerfield Bungalow and the outbuilding.

However, the evidence also reveals several shortcomings which mean the property and garage known as Summerfield Bungalow. These are as follows:

The evidence does not prove all four units for the full period

The central claim is not merely that some short-term letting occurred at the address. It is that four distinct short-term letting units, including the converted garage/outbuilding, have collectively constituted the claimed planning use for more than ten years.

The submitted supporting statement lists four unit names, but it does not provide a clear

schedule allocating every booking, payout and review to:

- a particular unit;
- the relevant Airbnb account ID;
- the precise part of the site occupied;
- the date of occupation; and
- the duration of the stay.

Consequently, a significant volume of transaction evidence may establish activity at the address while failing to prove that each constituent unit was in the claimed use throughout the relevant period.

This issue is particularly important for the garage/outbuilding. The former owner says it was refurbished between 2012 and early 2015, but there is no clearly identified completion date, first occupation date, dated photographs, building-control records, utility information, or unit-specific early booking evidence.

The start date is insufficiently precise

The submitted Supporting Statement variously refers to:

- refurbishment works carried out “between purchase in 2012 and early 2015”;
- the first Airbnb listing being created in “early 2015”; and
- transactional evidence beginning in February 2015.

Creating a listing does not itself necessarily constitute commencement of a material change of use. The relevant date would ordinarily be when the materially different use (as four separate short-term lets) actually commenced, evidenced by occupation or other substantive implementation.

Significant gaps in letting the property out

The evidence schedule identifies short-term letting in the following years and months:

2015: no evidence for January, April and July.
2016: no evidence for April.
2017: no evidence for June.
2018: evidence only for March, July, August, October, November and December.
2019: no evidence for January to May.
2020: no evidence for January, April, May and June.
2021: evidence only for November and December.
2022: evidence only for January, November and December.
2023: (subject to what evidence exists for that year).
2024: evidence only for January, February, June and October.
2025: evidence only for May, June, July and December.

The submitted evidence demonstrates instances of short-term letting activity occurring at the property between 2015 and 2025. However, the evidence is intermittent, contains significant temporal gaps and does not satisfactorily demonstrate, on the balance of probabilities, that four separate short-term letting units were in continuous operation throughout the requisite ten-year period. Accordingly, the Local Planning Authority is not satisfied that the claimed use has been proven for the purposes of Section 191 of the Town and Country Planning Act 1990.

Weight attributed to the statutory declaration

A statutory declaration can carry significant evidential weight where it is properly executed, based on direct personal knowledge and provides a detailed and internally consistent account of the relevant events.

The declaration from Lukas Hall states that he purchased the premises in 2012, undertook

refurbishment works before early 2015, commenced Airbnb listings in early 2015 and has maintained a management role following the sale of the property.

The declaration also states that the premises and garage/outbuilding have been used for short-term letting since 2015. However, the declaration is general in nature and does not provide:

- the first occupation date for each unit;
- a year-by-year account of each unit's use;
- details of periods when units were unavailable;
- an explanation of how each account ID corresponds with each unit;
- details of any alternative letting platforms;
- information concerning typical occupancy or length of stay; or
- evidence addressing the substantial gaps in the records.

The version reproduced within the evidence statement also contains blank spaces for the place and date of declaration, the declarant's signature and the details of the solicitor or Commissioner for Oaths. There is an additional image-only page following the declaration, but the evidence statement as presented does not clearly demonstrate through its text that all formalities have been completed. Even if the declaration has been properly signed and witnessed, its general terms do not overcome the lack of precise unit-by-unit evidence.

Submitted Drawings inaccurate

The drawings do not accurately evidence the claimed historic use.

The appended drawings within the submitted supporting statement originate from the withdrawn 2024 application for the conversion of one dwelling to three apartments. They are labelled as proposed plans and appear to show three apartments, whereas the LDC application concerns four short-term letting units, including the garage/outbuilding.

They therefore do not, by themselves, prove the precise layout at the commencement of the claimed use; when that layout was created; the separate arrangement of all four units; whether the garage unit existed in its present form throughout the period; or the extent of the land associated with each unit.

The LPA site visit can verify the current layout, but it cannot establish when that layout came into existence.

Whether the use is properly described

The occupation of a property on a short-term letting basis is not automatically a sui generis use. Whether a material change of use has occurred is a matter of fact and degree, having regard to the character of the use and its differences from the lawful use.

The submitted evidence indicates transient accommodation activity, but the operational characteristics of the use are not defined with the precision required for a sui generis certificate. A certificate must provide certainty as to what was lawful on the application date and must not leave the nature or scale of the certified use open to interpretation. Government guidance identifies this as particularly important for sui generis uses

The Planning Unit

The application description refers to the existing premises and garage building collectively. The supporting evidence nevertheless identifies four separately named accommodation units that appear capable of being booked independently.

It is unclear whether the applicant contends that:

1. the whole site comprises a single planning unit used as a short-term accommodation business;

2. the site comprises four separate planning units, each in a short-term letting use; or
3. the site is in a mixed or composite use.

The identification of the correct planning unit is material because it determines the use that must be established and the land to which any certificate would relate. The submitted evidence does not provide a sufficiently clear factual basis for the Authority to determine this matter.

Accordingly, the precise planning use and planning unit for which lawfulness is claimed remain uncertain.

Use at the date of the application

A certificate under section 191 relates to the state of affairs existing at the date of the application. The documentary booking evidence identified in the statement extends to December 2025, while the evidence verification statement is dated June 2026.

The declaration states that the use continues, but the submission does not provide sufficiently detailed, current evidence, establishing which units remained operational on the application date; the accommodation available within each unit; whether all four units were being advertised; the operational arrangements at that date; and whether the use continued in materially the same form as that alleged to have commenced in 2015.

The current extent and characteristics of the claimed use have therefore not been demonstrated with sufficient precision.

Other Considerations

The Planning Enforcement team have been visiting the property for in excess of ten years. The enforcement history confirms that allegations concerning residential occupation of the garage and short-term letting at the site have been investigated on several occasions. No previous investigation identified that a material change of use had occurred from the lawful use of the property as a single dwellinghouse and associated outbuilding. No enforcement action has been taken in respect of any alleged change to short-term letting.

The absence of enforcement action is relevant factual evidence. However, the closure of an enforcement investigation does not, by itself, amount to the issue of a Certificate of Lawfulness or conclusively establish the precise planning status of the land. The current application must be determined on the evidence now before the Local Planning Authority.

In addition, the Council's Building Regulation application records show no record of any subdivision occurring at the property. Moreover, the Council's Tax Section has confirmed that the application site is subject to a single Council Tax assessment under the address Summerfield Bungalow. The individual areas described by the applicant as four short-term letting units are not separately assessed for Council Tax. The premises are not separately assessed for Business Rates as commercial visitor accommodation.

Council Tax and Business Rates records and Building Regulations records are not determinative of the planning use of land because the planning, building regulations and taxation regimes apply different legal tests. However, the records constitute relevant factual evidence.

The records referred to above, is consistent with Summerfield Bungalow continuing to be treated administratively as one residential property. The records do not independently support the applicant's contention that four separate planning units have been established or that the property has been formally recognised as commercial short-term visitor accommodation for a period of ten years. Accordingly, the Local Planning Authority cannot be satisfied that the alleged use has been proven.

Overall Conclusions

The submitted information provides evidence that short-term letting activity has occurred at

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the site since 2015. However, the submitted evidence does not presently demonstrate, with sufficient precision and clarity, that the main building and garage/outbuilding have operated continuously as four short-term letting units forming the claimed sui generis use for the full relevant period. In particular, the evidence is not adequately attributed to each unit, the commencement date of the four-unit use is unclear, there are significant unexplained gaps in the transactional records, and the submitted plans do not accurately define the development for which a certificate is sought. It has therefore not been demonstrated, on the balance of probability, that the specific use described in the application was lawful at the date of application.

Recommendation: Refuse

Conditions and Reasons:

- 1 The Local Planning Authority is not satisfied, on the balance of probabilities, that the premises and garage building have operated continuously as four self-contained short-term letting units comprising the claimed sui generis use for a period exceeding ten years prior to the application. The submitted evidence contains significant gaps, does not adequately demonstrate the use of each individual unit throughout the relevant period, fails to clearly establish the commencement of the claimed use, and does not define with sufficient precision the planning unit or lawful use for which a certificate is sought. The applicant has therefore failed to demonstrate that the use described was lawful at the date of the application, contrary to Section 191 of the Town and Country Planning Act 1990.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	09/10/2026	DM	12/10/2026