

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 08/10/2026	Ref: 73533/LDCE
Registration: 17/08/2026	LDFC:	Expiry Date: 12/10/2026
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful Development Certificate for existing 5 bedroom HMO (change of use from C3 to C4)

Location: 14 Butterworth Street, Radcliffe, Manchester, M26 2QY

Description

The application is for a Lawful Development Certificate for an existing 5 bedroom HMO.

The property is an end terraced property located on a residential street.

The submitted plans show the ground floor accommodates 2 bedrooms (one en-suite), communal kitchen/diner and utility room and at the first floor 3 bedrooms (one en-suite) and shared bathroom.

The submission includes a Supporting Statement to include evidence of HMO licenses granted by Bury MBC, the most recent dated 23rd April 2025.

The LPA's enforcement records also show that the property operated as an HMO when investigated in 2017. The case was closed when it was concluded as having permitted development rights as a property and a household for 5 occupants living together as a single householder.

Relevant Planning History

17/0001 - Change of use to house in multiple occupation - 22/02/2017

Publicity

n/a

Objections received from two Councillors with the following comments -

- It has been known for a while, by the residents of Butterworth Street that this property has been an HMO for some time.
- It is my belief that the wastewater system is not compliant with legislation as the pipework goes along the footpath.
- Register my objection against an Lawful Certificate being granted and that there is a very close inspection of the entirety of the property to ensure that it meets all legal requirements set for room sizes, amenities et al, including the siting of bins, which are often left on the pavement itself.
- Until this time, may I suggest that this property is not used as an HMO and is subject to full planning considerations.
- the planned layout some of the rooms appear to be very small
- There is a kitchen diner but no separate lounge area thus limiting access to shared living space.
- Notice that Room 2 on the ground floor would have very poor lighting since the window directly faces the kitchen diner and opens onto a very small, enclosed yard.
- Concerns about parking spaces. This road is relatively narrow with very

- Restricted on street parking.

Statutory/Non-Statutory Consultations

n/a

Pre-start Conditions - Not relevant

Development Plan and Policies

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.

Relevant legislation

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.

There is no planning history or any other evidence to suggest that the building has been anything other than in lawful use as single dwellinghouse. As such on the balance of probability the building was in domestic use class C3(a) and so would qualify for the permitted development right. Permitted Development Rights have not been removed.

The submitted plans show a total of five bedrooms. rooms 2 and 3 have en-suites and rooms 1,4 and 5 share a bathroom on the first floor. There is a communal kitchen/diner and utility room.

As such, the building is capable of being occupied by up to 5 individuals living as a single household.

Article 4 Direction

At the Planning Control Committee meeting 27th January 2026, Planning Committee Members voted to approve with immediate effect, an Article 4 Direction to give greater planning controls over proposals for any material change of use from Use Class C3 (dwellinghouse) to Use Class C4 (HMO).

The effect of an Article 4 Direction is that planning permission would be required for conversion from a Use Class C3 (dwellinghouse) to a Use Class C4 (small HMO) if there is a material change of use.

An Article 4 Direction cannot apply retrospectively. It would have no effect on any existing HMOs and would not require landlords of existing HMOs to do anything.

They could, however, choose to apply for a Lawful Development Certificate (LDC) under section 191 Town and Country Planning Act 1990 (as amended) to confirm that the use as an existing HMO is lawful.

The onus / burden of proof would always rest with the applicant to demonstrate that the use existed prior to the introduction of the Article 4 Direction.

The Article 4 Direction came into effect on the date on which a notice was first published in the local paper and Article 4 Direction site notices displayed in at least two locations in the Borough and the placing a notice on the Council's website.

The Article 4 Direction came into effect on Thursday 16th July 2026.

The LDC application is for an existing 5 bed HMO. The application was validated 17th August 2026.

The applicant has submitted -

- Copy of an HMO license issued 16/12/2019 for 5 people (for 5 years).

DELEGATED REPORT

- An HMO licence issued 23/4/25 for 5 people (for 5 years).
- There is a record of enforcement action taken to investigate the use of the property as an HMO in 2017. It was established that there was no breach of planning permission as permitted development rights existed for 5 occupants living together as a single householder (enforcement record 17/0001)
- The property is on the Council's latest HMO register as operating as an HMO with an HMO license.

Given the above documentation and date the application was made, it is considered that on the balance of probability, the use of the property as an HMO is lawful.

Recommendation: LAWFUL

Conditions and Reasons:

- 1 The existing use as described in the First Schedule, is deemed to be 'Permitted Development' having regard Article 3, Schedule 2, Part 3, Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

<u>Case Officer</u> JT 8/10/26	<u>Date</u>	<u>Sign off Officer</u> DM 8/10/26	<u>Date</u>
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