

HYNDBURN BOROUGH COUNCIL - REPORT TO PLANNING COMMITTEE	
APPLICATION REF:	11/25/0299
APPLICATION ADDRESS:	450 Manchester Road, Accrington, Lancashire BB5 2QG
DEVELOPMENT DESCRIPTION:	Certificate of Lawful Use Proposed: Change of Use of Property from single dwelling (Class C3) to small House (with 3 bedrooms) in Multiple Occupation (Class C4)
DATE REPORT WRITTEN:	20 <sup>th</sup> August 2025

The application is brought before the Committee at the request of Councillor Pritchard and Councillor Heap.

### **Procedural**

Section 192 of the Town and Country Planning Act 1990 entitles any person wishing to ascertain whether any proposed use of buildings or other land would be lawful or any operations proposed to be carried out in, on, over or under land would be lawful.

This is known as a Certificate of Lawfulness of Proposed Use or Development.

A Certificate of Lawfulness (or Lawful Development Certificate) is a legal document from a local planning authority that confirms a proposed or existing use or development is lawful for planning purposes and does not require planning permission.

If the local planning authority is satisfied that the appropriate legal tests have been met, it must grant a lawful development certificate.

Of the decision-making process, the Government's Planning Practice Guidance (PPG) says:

*“A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.*

*In determining an application for a prospective development under section 192, a local planning authority needs to ask “if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?”*

## **Description of the Site and the Proposed Development**

The application relates to a two-storey end-of-terrace dwellinghouse. The proposed development is a change of use from a dwellinghouse to a small house in multiple occupation (HMO).

Briefly, the house would be laid out as 3 bedsitting rooms with self-contained shower rooms/wc; with kitchen and other facilities shared. No external alterations are proposed. The application seeks certification that the change would be 'permitted development'.

## **Consultation Responses/Representations**

There is no requirement to take specific steps to publicise an application for a Certificate of Lawfulness of a proposed development.

The PPG says:

*"There is no statutory requirement to consult third parties including parish councils or neighbours. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application."*

However, the planning authority maintains a planning register and a website, which includes a 'weekly list' of planning applications. It is, therefore, not unusual for neighbours/residents/ and others to make representations from time to time, where they have concerns about a proposed development. It is reasonable and proper that such representations be presented in the planning officer's report on the application but this should not be viewed as setting aside a decision made under planning law.

To date, 49 representations have been received making objections summarised and itemised as follows:

### **Traffic, parking, and access**

- Traffic and parking congestion
- Nearby pedestrian crossing with limited visibility due to topography and road layout.
- Many children use the roads to walk to local schools.

### Residential amenity

- Detrimental to residential amenity.
- Increased comings and goings. Increased noise and disturbance.
- Thin walls between the houses, internal noise and disturbance likely.
- Quality of life in neighbourhood affected
- Rubbish recycling problems
- The property is not large enough for an HMO.
- Elderly parents live nearby

### Character of area

- Undermine established character; intensified use of property
- Alter the balance of the community.
- Increases density of development
- Historically distinctive part of Baxenden
- Heritage harm
- Impact on village styles
- Traditionally an area of owner occupied properties,
- Detrimental cumulative impact with existing residential homes in area.
- Architectural distinctive part of Baxenden.
- Not sympathetic to local character
- HMO's not commonplace in Baxenden
- Precedent; open the door for further; Slow deterioration of area.

### Housing loss

- Baxenden needs affordable family of houses; shortage of family homes
- Alternative of renting as a family home would be preferable.
- Shortage of housing causing young people having to move out of the area

### Community/anti-social behaviour

- Young residents partying,
- Concerns about community safety,
- Loss of Community cohesion
- Criminal history checks needed; possible criminal history
- Will affect local property values.

### Local policy considerations/article 4 direction on HMOs

- No article four direction; Baxenden should have HMO article four direction
- HMO conversions against the spirit of Hyndburn's emerging policy.
- Contrary to NPPF.

### Relevant Planning History

N/A

### **Relevant Policies**

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

### **Observations**

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) provides under Article 3 that planning permission is granted for the classes of development described as permitted development in Schedule 2 to the Order.

Class L of Part 3 of Schedule 2 to the Order identifies as permitted development:

*“Development consisting of a change of use of a building 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.”*

The Town and Country Planning (Use Classes) Order 1987 (as amended in 2010 and otherwise), in Part C of the Schedule to the Order, identifies:

- *“Class C3. Dwellinghouses*
  - a) Use as a dwellinghouse (whether or not as a sole or main residence) by –*
  - b) a single person or by people to be regarded as forming a single household, or*
  - c) not more than six residents living together as a single household where care is provided for residents;*
  - d) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).”*
- *“Class C4. Houses in multiple occupation*  
*Use of a dwellinghouse by not more than six residents as a “house in multiple occupation.”*

The applicant seeks certification that the building is a dwellinghouse (Class C3) that can be lawfully used as a small HMO (Class C4), thereby not requiring the planning permission of the Council.

The applicant states that the present lawful use of the premises is as a dwellinghouse. There is no entry in the planning register indicating history of use for

any other purpose. External inspection of the premises supports, by its external appearance and characteristics, the conclusion that it is a dwellinghouse (Class C3).

The application describes the proposed use as a small HMO which is a use within Class C4. The submitted drawings show that it would have 3 bedrooms and that the room sizes would be of dimensions in compliance with the Nationally Described Space Standards.

The proposed change of use would be permitted under Class L of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It would therefore be 'permitted development'.

### **Conclusion**

The present use is within Class C3 and the proposed use would be within Class C4.

The proposed change of use would be granted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (i.e. it is 'permitted development').

As such, no planning permission is required for the change of use sought and the application for a Certificate of Lawfulness of Proposed Use must be granted.

It is recommended that the description be changed to insert the additional wording '(with 3 bedrooms)' in the description, to better describe the proposal and for the avoidance of future doubt. The recommendation is made on that basis.

### **Recommendation**

That a Certificate of Lawful Use be granted for the following reasons:

#### **Reasons:**

The proposed development comprising change of use of 450 Manchester Road, Accrington (BB5 2QG), from a single dwellinghouse to a small House (with 3 bedrooms) in Multiple Occupation (Use Class C4) meets the criteria listed within Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and would thereby not require the planning permission of the Council.

#### **Informatives**

Notes are attached to the standard certificate as relevant to/amended to relate to section 192.