

Officer Report

Case Reference: PL/2026/0126
Location: FLAT ABOVE, 32 BRIDGE STREET, HEYWOOD, OL10 1JF
Proposal: Application for a certificate of lawfulness for a change of use to residential
Recommendation: Approve
Officer: Aimee Bovaird

Site

The site is located at 32 Bridge Street, which is a two storey terraced dwelling. The application relates specifically to a flat situated above the ground floor shop.

Proposal

The application is for a lawful development certificate in relation to the use of the property as a residential dwelling. Information submitted with the application states the use as residential began no later than 2012 and has not ceased.

Relevant Planning Policy

Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991.

Town and Country Planning (General Development Procedure) Order (England) 2015

Relevant Site History

N/A

Consultation Response

N/A

Representations

N/A

Analysis

The application seeks to demonstrate that there is lawful use/occupation of the property as a single dwelling house.

Section 10 of the Planning and Compensation Act 1991 sets out the requirements for a Certificate of lawfulness of existing use or development. The requirements of the act which substituted section 191 of the principal Act (Town and Country Planning Act 1990) are summarised below:

191 Certificate of lawfulness of existing use or development.

Used if any person wishes to ascertain whether—

- (a) any existing use of buildings or other land is lawful;
- (b) any operations which have been carried out in, on, over or under land are lawful; or
- (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

The Act establishes that, if through application the local planning authority are provided with information satisfying them of the lawfulness at the time of the application, then they shall issue a certificate to that effect; and in any other case they shall refuse the application.

Section 171 of the Town and Country Planning Act 1990 is also relevant and establishes the time limits for enforcement as referenced above:

171B Time limits

(1)Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2)Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3)In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

Submitted Evidence

Information to support the application has been submitted in the form of the following evidence:

- Tenancy agreement dated 1st September 2024
- Tenancy agreement dated 13th March 2023
- Tenancy agreement dated 17th July 2022
- Tenancy agreement dated 10th December 2020
- Tenancy agreement dated 19th November 2016

- Tenancy agreement with a start date of 13th June 2013
- United utilities bill dated 16th May 2016
- United Utilities bill dated 20th February 2023

Assessment of Evidence

Evidence submitted to the Council in the form of tenancy agreements and utility bills demonstrates that the property has been in domestic use since at least 2013 and up to at least September 2025.

Publicly available imagery of the site shows that between 2009 and 2012 the upper floor was brought into an active use, with previously boarded up windows being restated and what appear to be domestic curtains internally. Furthermore public records indicate the property has potentially been sold as a residential property multiple times since the 1990s.

Based on the information submitted and the publicly available information reviewed, it is considered that the Council have sufficient evidence to demonstrate that, on the balance of probabilities, the building has been under continuous sole residential use for a period of over four years.

In accordance with section 171B of the Town and Country Planning Act 1990, where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

For the reasons above it is considered that sole use of the property as a residential dwelling is lawful and the lawful development certificate should be issued.

Recommendation

This Authority hereby certifies that on 21st April 2026 the use described in the First Schedule in respect of the land specified in the Second Schedule was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

On the balance of probability, the property has been under sole residential use for a continuous period of at least four years and is immune from enforcement action.

First Schedule

Lawful development certificate for an existing use of the dwellinghouse for a continuous period of 4 years or more

Second Schedule

Flat above 32 Bridge Street, Heywood

Recommendation: Approve

Approval Reason(s) (1)

2 This Authority hereby certifies that on 21st April 2026 the use described in the First Schedule in respect of the land specified in the Second Schedule was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

On the balance of probability, the property has been under sole residential use for a continuous period of at least four years and is immune from enforcement action.

Informatives (1)

For the avoidance of doubt, this decision relates to the following list of plans:

1

- Location Plan
- Existing first floor flat

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended). It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 191 of the 1990 Act, on that date. This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.