

HINCKLEY AND BOSWORTH BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990



Hinckley & Bosworth
Borough Council

**WRITTEN STATEMENT ON BEHALF OF
THE LOCAL PLANNING AUTHORITY**

PLANNING APPEAL BY MR SCOTT WHEATLEY

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE CHANGE OF USE
FROM RESIDENTIAL DWELLING (C3) TO A 10-BEDROOM HMO (SUI GENERIS)**

AT:

**5A DRAGON LANE, NEWBOLD VERDON, LEICESTER, LEICESTERSHIRE,
LE9 9NG**

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE:
23/01047/FUL**

**THE PLANNING INSPECTORATE REFERENCE:
APP/K2420/W/24/3339777**

CONTENTS:

Section 1: Introduction.....	03
Section 2: Description of the Appeal Site, the Surrounding Area, and the Proposal..	03
Section 3: Site History.....	04
Section 4: National Policies.....	05
Section 5: Local Policies.....	05
Section 6: The Case for the Local Planning Authority.....	05
Section 7: Conclusions.....	10
Section 8: Conditions.....	11

1. **INTRODUCTION**

- 1.1. This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers, in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission for the change of use of a residential dwelling (Use Class C3) to a ten-bedroom House In Multiple Occupation (Sui-Generis) at 5A Dragon Lane, Newbold Verdon.

2. **DESCRIPTION OF THE APPEAL SITE, THE SURROUNDING AREA, AND THE PROPOSAL**

The Appeal Site

- 2.1. The 659sqm appeal site is located within the centre of Newbold Verdon, which is identified as a Key Rural Centre Stand Alone within the adopted Core Strategy (2009). The site consists of a large, brick-built, residential property that comprises a single-storey, gable-fronted element that leads to a two-storey gable-ended section of the dwelling further into the site. The single storey aspect of the dwellinghouse is set back from the public highway by 11m, which increases to 25m for the two-storey element of the property.
- 2.2. Dragon Lane is an adopted, but unclassified, public highway that is subject to a 30mph speed limit. Dragon Lane is wholly residential in character with dwellinghouses bordering the site to the north and south, and to the east on the opposite side of Dragon Lane. However, due to the variety of styles and designs of buildings, there is no discernible unique character to the street scene.
- 2.3. The appeal site is also adjacent to the Newbold Verdon Conservation Area to the south and the west of the site. Notably, the Church of St. James adjoins the western boundary of the site, which is a Grade II Listed Building, and a locally important building to the southern boundary of the site. Main Street is approximately 50 metres to the south of the site.
- 2.4. In 1997 the appeal site was permitted a change of use from a residential dwelling (Use Class C3) to a residential care home (Use Class C2) via planning permission 99/00772/FUL. It is noted that Planning Condition 02 of this planning permission restricted the use of the appeal site to the purposes of a residential care home for the elderly for no more than eight residents to ensure that the proposed use did not become a source of annoyance to nearby residents. Nevertheless, two additional bedrooms were provided within the extensions to the property via planning permission 99/00722/FUL, bringing the number of bedrooms for residents to ten, and no planning condition was reinstated to restrict the capacity of the property.
- 2.5. In 2022, the appeal site was permitted a change of use to revert the site back to a residential use (Use Class C3) via planning permission 22/00429/COU.

The Appeal Proposal

- 2.6. This appeal proposal seeks full planning permission for the for the change of use of a residential dwelling (Use Class C3) to a ten-bedroom House in Multiple Occupation (Sui-Generis) at 5A Dragon Lane, Newbold Verdon. The scheme makes no alterations to the external appearance of the property, nor the site's access and off-street parking arrangements.

- 2.7. The scheme includes the employment of four full-time-equivalent members of staff who operate on a 24-hour-a-day basis through the provision of two full time employees and four part-time employees.
- 2.8. The Design and Access Statement states that the proposed use of the scheme is to support and accommodate up to ten single adults that are facing homelessness, substance misuse, offending behaviour, mental or physical health issues and/or unemployment. However, the proposed use does not accommodate applicants with convictions for offences such as serious violence, arson or that pose a risk to children.
- 2.9. The Appellant has stated that the appeal development would be managed by the charity The Bayith Trust in association with a partner charity, Green Pastures. The trustees of The Bayith Trust have helped to deliver supported accommodation in communities across three Leicestershire local authorities including Charnwood Borough Council, Melton Borough Council, and North West Leicestershire District Council since 2003, which now collectively currently support and accommodate 129 people. Green Pastures is a charity that have worked across the country to tackle homelessness since 1999 and has provided a home and support for over 1,500 people.
3. **SITE HISTORY**
- 3.1 **22/00429/COU**
- Change of use from residential care home to single dwelling.
 - Permitted
 - 18.10.2022
- 3.2 **99/00722/FUL**
- Extension to residential home to the elderly.
 - Permitted
 - 08.12.1999
- 3.3 **97/00534/COU**
- Change of use to residential care home for the elderly.
 - Permitted
 - 23.07.1997
- 3.4 **97/00340/COU**
- Change of use to residential care home for the elderly.
 - Refused
 - 29.05.1997
- 3.5 **95/00378/FUL**
- Extension to dwelling.
 - Refused
 - 30.06.1995
- 3.6 **95/00116/COU**
- Conversion of playroom/store to attached dwelling.
 - Permitted
 - 06.04.1995

4. **NATIONAL POLICIES**

4.1 National Planning Policy Framework (NPPF) (December 2023).

4.2 National Planning Practice Guidance (PPG).

4.3 National Design Guide (NDG) (2019).

5. **LOCAL POLICIES**

5.1 The Development Plan policies referred to for the purposes of the application were:

5.2 Core Strategy (2009):

- Policy 7: Key Rural Centre
- Policy 11: Key Rural Centres Stand Alone

5.3 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM17: Highway and Transportation
- Policy DM18: Vehicle Parking Standards

5.4 Other Relevant Guidance:

- Good Design Guide (GDG) (2020)
- Leicestershire Highways Design Guide (LHDG) (2022)

6. **THE CASE FOR THE LOCAL PLANNING AUTHORITY**

6.1 The planning application was refused on 01 February 2024 by Hinckley and Bosworth Borough Council's Planning Committee for the following reason:

1. The proposed development would be significantly detrimental to the amenity of neighbouring residents by reason of noise and general disturbance and as a result of the risk of antisocial behaviour. In addition, the proposal provides inadequate off-street parking in an area where on street parking is limited. The proposal would therefore be contrary to Policies DM10 and DM18 of the Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016), and the requirements Paragraph 135(f) of the National Planning Policy Framework (December 2023).

6.2 It is considered that the main planning issues in relation to this appeal are the adverse effects of the proposed development on the residential amenity of neighbouring properties as a result of noise pollution and general disturbance, and the inadequate provision of off-street vehicle parking spaces.

6.3 The Appellant disagrees with the Council's decision to refuse their proposal, and their comments within their Statement of Case are addressed within the Local Planning Authority's Statement of Case.

Impact upon the Residential Amenity of Neighbouring Properties

- 6.4 When Paragraph 11(d) of the NPPF is triggered, planning permission should be granted for development unless the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
- 6.5 Paragraph 139 of the NPPF states that, *“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.”*
- 6.6 Paragraph 123 of the NPPF states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.7 Paragraph 135(f) of the NPPF requires planning decisions to ensure that developments, *“Create places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.”*
- 6.8 Paragraph 191(a) of the NPPF necessitates that planning policies and decisions ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions, and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impact resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 6.9 In accordance with the NPPF, Policy DM10(a) and (b) of the SADMP requires development to, *“Not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings including matters of lighting, air quality (including odour), noise, vibration and visual instruction,”* and, *“The amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site,”* respectively.
- 6.10 Paragraph 14.2 of the SADMP states that, *“New development should be located and designed in such a way that the amenity of both existing residents and occupiers are fully considered when assessing planning applications. The amenity of future occupiers of any proposed development is also an important design consideration to avoid any future conflicts over incompatible uses.”*
- 6.11 Although the Appellant has highlighted that the term, *“General disturbance,”* is not featured in the wording of Policy DM10 of the SADMP, nor the NPPF, it is evident that an unacceptable level of noise and disturbance can result in significant harm to the residential amenity of neighbouring residents. This can be seen in Paragraph 004 (Reference ID: 30-004-20190722) of Planning Practice Guidance (PPG), which confirms:

“In some circumstances, adverse effects are defined in terms of a combination of more than one factor such as noise exposure, the number of occurrences of the noise in a given time period, the duration of the noise, and the time of day the noise occurs.”

- 6.12 Therefore, the Local Planning Authority strongly refutes the Appellant's assertion at Paragraph 2.19 of their Statement of Case that the proposal would be likely to result in No Observed Adverse Effect Level in relation to its potential noise impact on neighbouring residential amenity.
- 6.13 Firstly, it is noted that the Appellant has failed to consider the impact of noise within their assessment of, "*General disturbance*," which they have defined within Paragraph 2.7 of their Statement of Case as, "*Lighting, air quality (including odour), vibration, and visual intrusion*."
- 6.14 The Local Planning Authority also acknowledge that the Appellant's assessment of the wording of Paragraph 135(f) of the NPPF within Paragraph 2.20 of their Statement of Case does not make any reference to the consideration of the development's impact upon the residential amenity of neighbouring residents, which is the primary reason for the Local Planning Authority's refusal of this appeal scheme.
- 6.15 Whilst the Appellant has raised the potential impact of anti-social behaviour on neighbouring residential amenity, Paragraph 8.21 of the Committee Report for the development clearly states that:
- "Furthermore, any issues with noise and anti-social behaviour can be addressed via governing bodies outside of the planning process."*
- 6.16 Although the appeal site has previously accommodated a ten-bedroom residential institute (Use Class C2) for the elderly, this is a materially different use to the Sui Generis Use within the currently proposed scheme. Furthermore, as per Paragraph 3.2 of the Officer's Report for the planning application 22/00429/FUL, the appeal site has not been utilised as a residential care home since 31 July 2021 and the property has since returned to a Use Class C3 dwelling since October 2022.
- 6.17 In comparison to the ten-bedroom care home for the elderly, Paragraph 3.6 of the Appellant's Statement of Case confirms that the appeal proposal is for a ten-bedroom house in multiple occupation for persons between the age of 18 and state retirement age. This would result in a noticeable intensification of the property and associated activity, when compared to its current use as a single-family home and previous use as a care home for the elderly.
- 6.18 For example, the proposed intensification of the property would increase comings and goings, including visitors and deliveries, as well as increased activity within the building, and people using the outside spaces around the property. This is further exacerbated by the "*Continuous staff presence*," as highlighted by the Appellant at Paragraph 2.16 of their Statement of Case.
- 6.19 As a result, the intermittent and arbitrary nature of these activities would be likely to cause an unacceptable impact on the living conditions of existing occupiers in terms of noise and disturbance. Thus, in the absence of substantive evidence to the contrary, the Local Planning Authority consider that the appeal proposal would result in an unacceptable level of noise and disturbance beyond levels which would be considered reasonable in a residential area.
- 6.20 The Appellant has referred several times to the "*Coarse grain of development*," within Newbold Verdon. Whilst the meaning of this description of the appeal site is not entirely clear, the Local Planning Authority note that the south of the site is bounded by a row of terraced housing along Main Street, including 1 and 3 Dragon

Lane, as well as further terraced housing along the opposite side of Dragon Lane from the appeal site. These properties, including 7 Dragon Lane to the north, are all in close proximity to the appeal site.

- 6.21 Nevertheless, in a quiet rural centre such as Newbold Verdon, one would expect a lower level of noise pollution and disturbance than that within a densely populated urban centre. Therefore, the experience and detrimental impact of noise and general disturbance in a quieter area like this rural centre would be likely to have more of a severe impact on the residential amenity of neighbouring residents.
- 6.22 Furthermore, it is not considered that the existing vegetation, such as hedges and shrubs, and the limited number of outbuildings near the site would be sufficient, nor effective, in mitigating the noise concerns of the intensified use of the property. Whilst mitigation measures such as warning, and sanctions may address certain anti-social behaviour such as amplified music and abuse or profane language as highlighted within Paragraph 2.16 of the Appellant's Statement of Case, these measures would not be sufficient in addressing the general disturbance and noise created by the proposal through the intensified use of the appeal site.
- 6.23 For the reasons outlined above, the proposed development would harm the living conditions of existing neighbouring occupiers by virtue of the unacceptable increased noise and disturbance. Therefore, the proposed development would not accord with Policy DM10 of the SADMP, which seeks, amongst other things, developments that do not have a significant adverse effect on the amenity of nearby residents and occupiers of adjacent buildings. This harm is considered to significantly and demonstrably outweigh the benefits of the scheme, when assessed against the NPPF taken as a whole in accordance with Paragraphs 11(d) and 135 of the NPPF.

Impact upon the Site and the Surrounding Area due to Insufficient Off-Street Parking Provision

- 6.24 Paragraph 111 of the NPPF states that local parking standards for residential and non-residential development should take into account:
- a) The accessibility of the development.
 - b) The type, mix, and use of the development.
 - c) The availability of and opportunities for public transport.
 - d) Local car ownership levels.
 - e) The need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emissions vehicles.
- 6.25 In accordance with this, Policy DM18 of the SADMP states that:
- "All proposals for new development will be required to provide an appropriate level of parking provision justified by an assessment of the site location, type of housing, other modes of transport available (e.g. public transport and cycle provision) and appropriate design."*
- 6.26 For clarity, although the Appellant suggests that Newbold Verdon is not reflective of Hinckley in Paragraph 3.2 of their Statement of Case, Policy DM18 of the SADMP clearly refers to, *"All proposals,"* in relation to their requirement to provide an appropriate level off-street parking, which is justified by an assessment.

- 6.27 Although the Appellant has suggested at Paragraph 3.6 of their Statement of Case that, *“A typical cohort of residents at the proposed H.M.O. accommodation... has extremely low ownership of motor vehicles at this type of accommodation,”* which is supposedly supported by another similar provider, the Appellant has not provided any substantive evidence to demonstrate this. In addition, the granting of planning permission for a House in Multiple Occupation (HMO) in this location would outlast the Appellant’s requirement of the site, and this could lead to a further demand for parking in the area.
- 6.28 Moreover, whilst it is appreciated that the previous use of the site as a care home for the elderly (Use Class C2) was approved by the Local Planning Authority in 1997, contrary to the assertions of the Appellant at Paragraph 3.1 of their Statement of Case, the appeal proposal, as a Sui Generis Use, would be an entirely new development and a materially different use. It is also considered that there would be a significantly different parking provision requirement for ten elderly people who require care than ten individuals within a HMO. Therefore, the Local Planning Authority does not consider this previous use to be sufficient justification to suggest that the scheme accords with Policy DM18 of the SADMP.
- 6.29 As highlighted by Paragraph 8.40 of the Officer’s Committee Report, the Local Highway Authority do not have any specific parking standards for Houses in Multiple Occupation in the Leicestershire Highway Design Guide (LHDG). However, as Paragraph 3.151 of Part 3 of the LHDG typically requires three off-street vehicle parking spaces for a four-bedroom dwelling, this would suggest that at least seven off-street vehicle parking spaces should be provided for a property with ten individual occupants. This is prior to considering the number of off-street vehicle parking spaces for members of staff who are present on site at all times, as detailed within Paragraph 2.5 of the Appellant’s Statement of Case.
- 6.30 It is noted that this appeal proposal would not provide this number of off-street parking spaces. Moreover, as highlighted by the Local Highway Authority, the depth of the existing off-street parking spaces does not accord with the requirements of Paragraph 3.165 of Part 3 of the LHDG.
- 6.31 This under-provision in quantum and appropriately dimensioned parking spaces is further heightened by the pressure along Dragon Lane for parking associated with Newbold Verdon Primary School, which is recognised by the Appellant at Paragraph 3.19 of their Statement of Case.
- 6.32 The Appellant has also provided details of on- and off-street parking provision for Dragon Lane within Appendix 2 of their Statement of Case. It is clear from Appendix 2 of the Appellant’s Statement of Case that 13 of the 29 properties (44.8%) along Dragon Lane, including two commercial properties, do not benefit from off-street vehicle parking on Dragon Lane. In addition, there are only 14 on-street parking spaces along Dragon Lane to accommodate these properties, which is less than one parking space per dwelling.
- 6.33 Although the Appellant has referred to garage parking and on-street parking spaces on Bells Lane, the Appellant has failed to take into consideration the parking requirements of properties along Bells Lane and Main Street. In addition, Appendix 2’s consideration of on-street parking and garage parking provision is purely presumptuous and is not likely to reflect the use of these spaces in real life. This is because there are no restrictions on who can occupy these on-street parking spaces.

- 6.34 Therefore, the appeal proposal provides inadequate off-street parking in an area where off-street parking is limited. The development will intensify the demand for parking, which is likely to lead to instances of indiscriminate and inconsiderate parking taking place in the area resulting in a significant adverse effect on the safe and efficient operation of the highway network.
- 6.35 Although the appeal site is in close proximity to a bus stop, it is noted that the bus service only operates every hour. Moreover, whilst the appeal site is in walking distance of some services, the Local Planning Authority are not satisfied that this overcomes the harm of the development on the highway network when taking into account the number of individuals that would occupy the property.
- 6.36 For the reasons outlined above, the proposed development would intensify the use of the appeal site and provide insufficient off-street vehicle parking to accommodate this use in an area where off-street parking is limited. This is likely to lead to instances of indiscriminate and inconsiderate parking taking place in the area resulting in a significant adverse effect on the safe and efficient operation of the highway network, and significant harm to the residential amenity of neighbouring properties. This harm is contrary to Policies DM10 and DM18 of the SADMP.
7. **CONCLUSION**
- 7.1 To summarise, Section 38 (6) of the Planning and Compensation Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 indicates that planning permission should be granted for development proposals that accord with the Development Plan unless material considerations indicate otherwise.
- 7.2 Whilst it is acknowledged that the Development Plan was adopted prior to the publication of the latest NPPF, as a result of the strong consistency with the wording of the NPPF, due weight should be given to the policies within the Development Plan, such as Policies DM10 and DM18 of the SADMP, in accordance with Paragraph 225 of the NPPF.
- 7.3 As Paragraph 11(d) of the NPPF has been triggered, planning permission should be granted to development unless adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
- 7.4 The proposed development would harm the living conditions of existing neighbouring occupiers by virtue of the unacceptable increased noise and disturbance. In addition, the proposed development would intensify the use of the property and provide insufficient off-street vehicle parking to accommodate this use in an area where off-street parking is limited. This is likely to lead to instances of indiscriminate and inconsiderate parking taking place in the area resulting in a significant adverse effect on the safe and efficient operation of the highway network, and significant harm to the residential amenity of neighbouring properties.
- 7.5 Whilst there may be some economic and social gains from this proposal, as per the description of the development, the scheme is only for the intensification of the use of a standard Use Class C3 dwelling to a Sui Generis ten-bedroom House in Multiple Occupation. Although the property may be utilised to support adults that are facing issues such as homelessness and substance misuse, approving this development does not secure the use of this property for such a use and its associated social benefits. Therefore, these are considered in the main to be very limited, short-term benefits.

7.6 As a consequence of all these factors, the scheme does not comply with, and is contrary to, the requirements of local design policies, such as Policies DM10, and DM18 of the SADMP, and Government guidance, such as Paragraph 135 of the NPPF. In accordance with Paragraph 11(d) of the NPPF, it is requested that the appeal is dismissed because the benefits of this development do not outweigh the irreparable, significant adverse harm that the development has on neighbouring residential amenity when assessed against the policies in the NPPF taken as a whole.

7.7 There are no other material considerations to indicate that the proposal should be determined other than in accordance with the adopted Development Plan in this case. With regard to the information contained in this statement and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed. However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of the following conditions and reasons suggested below.

8. **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:
 - Block Plan (submitted: 02.11.2023)
 - Floor Plans and Elevations (submitted: 02.11.2023)
 - Site Location Plan (submitted: 02.11.2023)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be first used until such time as the scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted in writing to, and approved in writing by, the Local Planning Authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

4. The development hereby permitted shall not be occupied until such time as secure cycle parking shall be provided in accordance with details first submitted in writing to and agreed in writing by the Local Planning Authority. Thereafter the onsite cycle parking provision shall be kept available for such use in perpetuity.

Reason: To promote travel by sustainable modes in accordance with the National Planning Policy Framework (2023).

5. The development hereby permitted shall not be occupied until such time as the parking facilities have been implemented in accordance with the parking Provision Details Plan received by the Local Planning Authority on 2 November 2023. Thereafter the onsite parking provision shall be kept available for such use in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally in the interests of highway safety and in accordance with the National Planning Policy Framework (2023).