

Delegated Report

Planning Ref: 24/00002/CLP

Applicant: Mr M. Kamola

Ward: Hinckley DeMontfort



Hinckley & Bosworth
Borough Council

Site: 65 Highfields Road Hinckley Leicestershire LE10 1UT

Proposal: Lawful Development Certificate for the conversion of garage into habitable accommodation.

Recommendation

1. Issue a certificate of lawful proposed development for the conversion of garage into habitable room.
2. **Application description**
 - 2.1. The application is for a Certificate of Lawful Proposed Development for the conversion of a detached garage into a habitable accommodation. The proposal does not include any material change to the garage.
 - 2.2. Planning permission was granted in January 1977 for the erection of the detached garage and conditioned to remain at all times incidental to the enjoyment of dwellinghouse and no trade or business shall be carried out therefrom.
 - 2.3. 65 Highfields Road was the subject of a Lawful Development Certificate in September 2023 regarding a change the use of the use from C3 dwellinghouse to a residential institution (C2) for the provision of care for a single child. It was confirmed that the change did not amount to a material change in the use of the site and that no development requiring planning permission was taking place.
 - 2.4. The agent has confirmed that the accommodation is ancillary to 65 Highfields Road.
3. **Description of the site and surrounding area**
 - 3.1. The property is a two storey end terrace property located on the corner of Highfields Road and John Street. The site has a flat roof rendered detached garage. In between the main dwelling and the detached garage is a hardstanding driveway that serves the dwelling and a footpath leading to the rear of 51 John Street. Both Highfields Road and John Street consist of two storey terrace properties with high prevalence of on street car parking.
 - 3.2. The property is within the residential boundary of Hinckley, not listed and not within a conservation area.
4. **Relevant planning history**

23/00688/CLP – Lawful Development Certificate for a change of use from dwellinghouse (C3) to residential institution (C2). Granted September 2023

76/018800/4M – Erection of garage – Planning Permission – 11.01.1997.
5. **Publicity**
 - 5.1. None required.
6. **Consultation**
 - 6.1. None required.

7. Policy

- 7.1. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 7.2. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.
- 7.3. Section 55 of the Town and Country Planning Act 2015 (as amended).

8. Appraisal

- 8.1. The main consideration is whether the proposed use of the garage to provide ancillary residential accommodation constitutes a change of use and whether the proposal is considered as development under Section 55 of Town and Country Planning Act 2015 (as amended).

For the purpose of section 55 of the Town and Country Planning Act 2015 (as amended);

‘Development’ means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(a) For the purposes of this Act “ building operations ” includes—

- (i) demolition of buildings;
- (ii) rebuilding;
- (iii) structural alterations of or additions to buildings; and
- (iv) other operations normally undertaken by a person carrying on business as a builder.

The proposed development does not fall under any of the above and the conversion of the garage to provide ancillary residential accommodation is not considered a material change in the use of the garage.

(b) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

- (bb) the carrying out for the maintenance, improvement or other alteration of any building or works which—
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building

(c) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse.

The proposal does not materially affect the external appearance of the building, is within the curtilage of the dwellinghouse and remains incidental to the enjoyment of the main dwelling. It should be noted that the application does not relate to the conversion of the garage to a separate unit of accommodation.

9. Equality implications

9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2. Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3. There are no known equality implications arising directly from this development.

9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

The use of the existing dwellinghouse falls under Class C2 (Residential accommodation and care to people in need of care, residential schools, colleges or training centres, hospitals, nursing homes) under the Use Classes Order.

The proposed use of the garage to provide ancillary accommodation does not amount to a material change of use, the improvement does not materially affect the external appearance of the garage, and the garage falls within the curtilage of 65 Highfield Road.

By virtue of the above the proposal complies with section 55 of the Town and Country Planning Act 2015 (as amended), Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

11. Recommendation

11.1 Issue certificate of lawful proposed development for the conversion of garage into habitable accommodation.

11.2 Notes to applicant

- 1) The proposed use of the garage shall at all times remain incidental to the enjoyment of the dwellinghouse as such and no trade or business shall be carried out therefrom in order to safeguard residential character of the area and ensure compliance with section 55 of the Town and Country Planning Act 2015 (as amended), Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 2) The application has been determined with consideration to the following submitted documents:

Site Location and Site Plan Drawing Number 65HR/20231/2 Proposed Floor Plans Drawing Number 65/HR/20232/2, submitted to the Local Planning Authority on 03 January 2024.

- 3) The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.