

Delegated Report

Planning Ref: 25/00851/CLP

Applicant: Mr Jagtar Gill

Ward: Hinckley Castle

Site: 32 Mill Hill Road, Hinckley



**Hinckley & Bosworth
Borough Council**

Proposal: Certificate of proposed lawful development for the change of use from a dwellinghouse (C3) to HMO (C4)

1. Recommendations

1.1. Refuse Certificate of Lawful Proposed Development

2. Planning application description

- 2.1. The application seeks a Certificate of Lawful Proposed Development to confirm that the change of use to the existing dwellinghouse (Use Class C3) to a 6-bedroom House in Multiple Occupation (HMO) (Use Class C4) at 32 Mill Hill Road, Hinckley.
- 2.2. The proposal involves alterations to the existing dwelling. The alterations include internal alterations to create an additional bedroom on each of the three floors of the dwellinghouse, relocate the internal staircase between each level, and to combine the kitchen and dining area and remove the external bathroom hallway on the ground floor.
- 2.3. The proposal as submitted involves the removal of the existing rear dormer window and replacement with a larger box dormer. It also involves the creation of an additional rear elevation window on the first floor.
- 2.4. It has been observed on site that external alterations to the dwelling have already occurred.
- 2.5. The Applicant has declared that the proposed use has not commenced within the site.

3. Description of the site and surrounding area

- 3.1. The application site is located within the settlement boundary and the Town Centre area of Hinckley. It is located on the northern side of Mill Hill Road.
- 3.2. The application site comprises a two-storey end of row terraced dwelling with a rear box dormer and a previous ground floor rear extension. The existing dwelling is constructed of red facing brick and has a grey tiled roof.
- 3.3. The application site is located to the west and north-west of the core of Hinckley Town centre. It is generally immediately surrounded by residential development, with increasing incidence of commercial premises further to the south and east. Hollycroft Park is located to the north-west of the site.

4. Relevant planning history

Nil.

5. Publicity/Consultation

- 5.1. There is no statutory requirement to consult third parties on applications for a lawful development certificate. As such, no consultation has been undertaken for this application.

6. Policy

6.1 The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Town and Country Planning (Development Management Procedure) (England) Order 2015, Planning Practice Guidance (PPG) and the Housing Act 2004.

7. Appraisal

7.1 The main considerations for the determination of this proposal are the sufficiency of the information provided to determine the Certificate of Lawful Proposed Development in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015, whether the proposed development falls within permitted development as set out under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) under Schedule 2, Part 1, Class A, and Schedule 2, Part 1, Class B and Schedule 2, Part 3, Class L, and whether the development would satisfy the Housing Act 2004 by way of meeting the Local Housing Authority (LHA) requirements for houses in multiple occupation.

7.2 It is noted that Class A covers the enlargement, improvement or other alteration of a dwellinghouse, Class B covers additions to the roof of a dwellinghouse, and Class L covers the change of use from small HMOs (up to six residents) to dwellinghouses and vice versa.

7.3 The Applicant has stated that the existing use of the building is as a single dwellinghouse (C3). There is no planning history recorded for the application site, however online details from July 2024 when the property was last listed for sale appear to support the previous use as a dwellinghouse. Therefore, the Local Planning Authority (LPA) do not dispute the stated existing use of the site.

Sufficiency of Factual Information and Evidence

7.4 Article 39 of the Town and Country (Development Management Procedure) (England) Order 2015 specifies the content required for a Lawful Development Certificate and how that information must be submitted. The Planning Practice Guidance (PPG) confirms that each application for a certificate must be accompanied by sufficient factual information and evidence to allow the LPA to decide the application.

7.5 The PPG states that where sufficient, precise information is not provided, the LPA may be justified in refusing a certificate.

7.6 The information provided with the submission includes plans demonstrating the existing internal layout and external elevations of the dwellinghouse and the proposed internal layout and external elevations of the HMO. The plans indicate that the dwelling has a single rear dormer window central to the rear roof slope and one first-floor rear elevation window and that it would be proposed to replace the existing dormer with a larger box dormer roof extension and install a second first-floor window.

7.7 It has been observed by the LPA during a physical inspection of the site undertaken on 19 November 2025 that the larger rear box dormer and additional first-floor window have already been installed. The rear box dormer roof extension could be only viewed on two elevations at the time of inspection; however, it was evident to the Planning Officer that the physical form of the dormer was not wholly consistent with the information provided on the proposed plans.

7.8 Notwithstanding that the Applicant seeks a Certificate of Lawful Proposed Development only for the change of use of the property from a dwellinghouse (C3) to HMO (C4), the external alterations and additions to the building do not benefit from any separate planning permission and are therefore reasonably assumed to have been constructed in reliance upon permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

7.9 Section 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) confirms that Schedule 2 of the Order does not apply where building operations involved in the construction of the existing building are unlawful.

7.10 Given the inconsistency of the plans submitted with the physical works observed to have been undertaken on site, the information provided is insufficient for the LPA to accurately determine if the additions to the existing dwellinghouse would be lawful. It is therefore not possible for the LPA to determine whether the site continues to benefit from permitted development rights under Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

7.11 For the absence of doubt, assessment under Classes A and B of Schedule 2, Part 1 and Class L of Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and consideration of licencing requirements under the Housing Act 2004 are nonetheless undertaken below, to the extent to which they reasonably can be given the inaccuracy of the information submitted.

Development is not permitted by Class L if it would result in the use-

- (a) *as two or more separate dwellinghouses falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order of any building previously used as a single dwellinghouse falling within Class C4 (houses in multiple occupation) of that Schedule; or*
- (b) *as two or more separate dwellinghouses falling within Class C4 (houses in multiple occupation) of that Schedule of any building previously used as a single dwellinghouse falling within Class C3 (dwellinghouses) of that Schedule.*

The development does not involve two or more separate dwellinghouses.

Development is not permitted by Class A if-

- (a) *permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);*

The use of the dwellinghouse was not granted by virtue of the abovementioned Classes of this Schedule.

- (b) *as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);*

The total ground area covered by the building does not increase.

(c) *the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;*

The alterations would not increase the height of the existing dwellinghouse.

(d) *the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;*

The alterations would not exceed the height of the eaves of the existing dwellinghouse.

(e) *the enlarged part of the dwellinghouse would extend beyond a wall which—*

(i) *forms the principal elevation of the original dwellinghouse; or*

(ii) *fronts a highway and forms a side elevation of the original dwellinghouse;*

The alterations would not extend beyond the principal elevation of the original dwelling house and the side elevations do not front a highway.

(f) *subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—*

(i) *extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or*

(ii) *exceed 4 metres in height;*

The development does not involve any extension to the dwellinghouse.

(g) *for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—*

(i) *extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or*

(ii) *exceed 4 metres in height;*

The development does not involve any extension to the dwellinghouse.

(h) *the enlarged part of the dwellinghouse would have more than a single storey and—*

(i) *extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or*

(ii) *be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse;*

The development does not involve any extension to the dwellinghouse.

(i) *the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;*

The development does not involve any extension to the dwellinghouse.

(j) *the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—*

(i) *exceed 4 metres in height,*

(ii) *have more than a single storey, or*

(iii) have a width greater than half the width of the original dwellinghouse;

The development does not involve any extension to the dwellinghouse.

(k) it would consist of or include—

- (i) the construction or provision of a verandah, balcony or raised platform,*
- (ii) the installation, alteration or replacement of a microwave antenna,*
- (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or*
- (iv) an alteration to any part of the roof of the dwellinghouse; or*

The proposed addition to the roof is dealt with below in this report under Schedule 2 Part 1 Class B. The development does not involve any of the other above listed elements.

(l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)

The dwellinghouse was not built under Part 20 of this Schedule.

Development is permitted by Class A subject to the following conditions-

(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

Note to Applicant.

(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—

- (i) obscure-glazed, and*
- (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and*

The upper-floor window is not located on a side elevation of the dwellinghouse.

(c) where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

The development does not involve any extension to the dwellinghouse.

Development is not permitted by Class B if-

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);

The use of the dwellinghouse was not granted by virtue of the abovementioned Classes of this Schedule.

(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;

The plans submitted for the roof addition are inconsistent with the physical construction of the addition on site, and as such compliance with this requirement has not been reasonably demonstrated.

(c) *any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;*

The plans submitted for the roof addition are inconsistent with the physical construction of the addition on site, and as such compliance with this requirement has not been reasonably demonstrated.

(d) *the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than —*
(i) *40 cubic metres in the case of a terrace house, or*
(ii) *50 cubic metres in any other case;*

The plans submitted for the roof addition are inconsistent with the physical construction of the addition on site, and as such compliance with this requirement has not been reasonably demonstrated.

(e) *it would consist of or include —*
(i) *the construction or provision of a verandah, balcony or raised platform, or*
(ii) *the installation, alteration or replacement of a chimney, flue or soil and vent pipe;*

The plans submitted for the roof addition are inconsistent with the physical construction of the addition on site, and as such compliance with this requirement has not been reasonably demonstrated.

(f) *the dwellinghouse is on article 2(3) land;*

The dwellinghouse is not on article 2(3) land.

(g) *the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses);*

The dwellinghouse was not built under Part 20 of this Schedule.

(h) *the existing dwellinghouse has been enlarged in reliance on the permission granted by Class AA (enlargement of a dwellinghouse by construction of additional storeys).*

The existing dwellinghouse has not been enlarged by permission granted under Class AA of this Schedule.

Development is permitted by Class B subject to the following conditions -

(a) *the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;*

Note to Applicant.

(b) *the enlargement must be constructed so that —*

- (i) *other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension –*
 - (aa) *the eaves of the original roof are maintained or reinstated; and*
 - (bb) *the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and*
- (ii) *other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and*

The plans submitted for the roof addition are inconsistent with the physical construction of the addition on site, and as such compliance with this requirement has not been reasonably demonstrated.

- (c) *any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be –*
 - (i) *obscure-glazed, and*
 - (ii) *non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.*

The plans submitted for the roof addition are inconsistent with the physical construction of the addition on site, and as such compliance with this requirement has not been reasonably demonstrated.

Licencing Requirements

- 7.12 It is a requirement that all HMOs to be occupied by five or more persons be licenced by the Local Housing Authority (LHA), in this case, Hinckley and Bosworth Borough Council. This is a matter under the Housing Act 2004.
- 7.13 The proposed HMO is for the occupation of six individuals in single occupancy bedrooms. It would therefore be required that the HMO be licenced under the Housing Act through application to the LHA.
- 7.14 To meet minimum licencing standards, HMOs must not include inner bedrooms. An inner bedroom is a bedroom which can only be accessed by passing through another room, such as a lounge, kitchen or bedroom. Every bedroom must have access to natural light, heating and ventilation.
- 7.15 The HMO licencing standards require that a bedroom occupied by a single person have a minimum floor area of 6.52 square metres. All bedrooms must have a ceiling height of at least 2.14 metres over a minimum of 75% of the room area. Any floor area where the ceiling height is less than 1.53 metres is disregarded when calculating room size. Irrespective of minimum floor areas, the LHA will consider the shape of the room and the usable living space within the room when determining whether or not it is suitable to be used as sleeping accommodation.
- 7.16 HMOs must have a kitchen with a minimum width of 1.8 metres with all passageways or walkways being at least 900mm wide. For HMOs occupied by six to ten people, the kitchen must have a minimum floor area of 10 square metres and there must be an additional living room or dining room with a minimum size of 16.5 square metres.

In the case of a combined kitchen diner, the minimum floor area is 19.5 square metres.

7.17 The Applicant has provided details of the internal layout and external elevations of the proposed development. The details provided demonstrate that the layout has no bedrooms reliant on other rooms for access, that all bedrooms have access to natural light and are unlikely to have ceiling heights below the minimum required, and that all bedrooms have sufficient floor area. The combined kitchen diner area exceeds the floor area minimums for a six person HMO.

7.18 It is therefore considered that the details provided demonstrate that the proposed HMO would likely be able to secure required licencing from the LHA under the Housing Act 2004.

8. Equality implications

8.1 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.

8.2 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.

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

9. Conclusion

9.1 The lawfulness of the proposed development cannot be determined from the information provided to the Local Planning Authority, as it has been demonstrated that the details on the submitted documentation are inconsistent with the observed built form of the property on site. The LPA has therefore been unable to determine whether the roof additions already undertaken are consistent with Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and subsequently, whether the site continues to benefit from permitted development rights under Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

9.2 The LPA are therefore unable to confirm without reasonable doubt whether the proposed development is lawful.

10. Recommendation

10.1 **Refuse Certificate of Lawful Proposed Development**

10.2 **Notes to applicant**

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

- Certificate of Lawful Proposed Use Application Form
- Existing Floor Plans, Elevations, Site Location Plan, Drg No. 25/112/P01
- Proposed Elevations, Floor Plans, Drg No. 25/112/P02