

## Delegated Report

**Planning Ref: 25/00879/CLP**

**Applicant: Mr Jagtar Gill**

**Ward: Earl Shilton**



Hinckley & Bosworth  
Borough Council

**Site: 107 Station Road, Earl Shilton**

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

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### **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 107 Station Road, Earl Shilton.
- 2.2. The proposal involves alterations to the existing dwelling. The alterations include internal alterations to create two additional bedrooms on the ground floor and one additional bedroom on the first floor, addition of a new bathroom on the ground floor, reduction in the size of the first floor bathroom, reconfiguration and combining of the ground floor kitchen and living areas, and reconfiguration of the first floor staircase landing.
- 2.3. The proposal involves the separation of the existing rear first floor window into two individual windows to serve the fifth and sixth bedrooms, as well as the removal of a section of the existing first floor principal elevation window and replacement with a smaller window, to serve the third bedroom.
- 2.4. It is indicated that floor area to the rear of the existing dwelling is proposed to be used for bedroom two and the extension of the kitchen diner. This floor area is attributed to a single storey rear flat-roof extension that is shown as being existing on site. Contrary to this, it has been observed on site that the property instead has a rear lean-to extension that appears to have been recently constructed.
- 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 of Earl Shilton. It is located to the south of the centre of Earl Shilton, on the eastern side of Station Road.
- 3.2. The application site comprises a two-storey mid-row terraced dwelling. The existing dwelling is constructed of buff-brown facing brick and has a dark-brown boarded cladding feature between the entrance porch canopy and the first floor windows on the principal elevation. It has a grey tiled roof.
- 3.3. The application site is generally surrounded by residential development with the exception of a used car dealership and car wash to the west across Station Road.

### **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.
- 5.2 Notwithstanding the above, a neighbour has written to the Local Planning Authority to object to the application. The objection notes that works shown as proposed on the plans submitted have been carried out on the site and expresses concern with the intention to permit 6 adults to use the property at the detriment to the peace of neighbours. The letter mentions the existing parking demand on adjoining roads and lack of parking at the terraced houses in the area, and expresses that the proposal would therefore not be provided with adequate parking provision.

## **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 and Planning Practice Guidance (PPG).

## **7. Appraisal**

- 7.1 The main considerations for the determination of this proposal are the lawful status of existing development on the application site, the sufficiency of information provided to determine the Certificate of Lawful Proposed Development in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015, and 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 1, Part 1, Class A and Schedule 2, Part 3, Class L.
- 7.2 It is noted that Class A covers the enlargement, improvement or other alteration 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 and no other direct evidence before the Local Planning Authority (LPA) regarding the existing use. As the LPA have no evidence to the contrary and aerial and street imagery of the site does not appear to contradict the Applicant's assertion, the stated existing use as a dwellinghouse is therefore not disputed.

### **Sufficiency of Factual Information and Evidence**

- 7.3 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.
- 7.4 The PPG states that where sufficient, precise information is not provided, the LPA may be justified in refusing a certificate.
- 7.5 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 property has an existing single-storey rear ground-floor extension with a flat roof.

- 7.6 The LPA have reviewed aerial and street view imagery for the application site and find no evidence until at least July 2023 of a rear extension to the property. Aerial imagery from July 2024 also suggests there to be no rear extension on the site, though the quality of this imagery is significantly reduced due to shadowing.
- 7.7 It has been observed by the LPA at a physical inspection of the site undertaken on 19 November 2025 that a rear extension to the property has been constructed. This rear extension has been constructed of red facing brick with a grey tiled roof. The extension has a lean-to roof style and is evidently different in form to that shown on the submitted plans.
- 7.8 There is no history of other planning applications on the application site and therefore it can be confirmed that the rear extension observed on site does not benefit from planning permission.
- 7.9 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 addition to the rear of the building does not benefit from any separate planning permission and is 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).
- 7.10 Given the inconsistency between the submitted plans and the physical works observed on site, the information provided is not considered to be sufficient and precise.
- 7.11 For the absence of doubt, assessment under Classes A 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) 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 plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

- (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;*
- (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 plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

Notwithstanding this, it has been observed by the Planning Officer through physical inspection that the rear addition constructed on the site does 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 plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

Notwithstanding this, it has been observed by the Planning Officer through physical inspection that the rear addition constructed on the site does not extend beyond the principal elevation of the original dwellinghouse, nor does the side elevation 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 plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

- (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 dwellinghouse is not on article 2(3) land nor a site of specific scientific interest. Nonetheless, the plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

- (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 plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

Notwithstanding this, it has been observed by the Planning Officer through physical inspection that the rear addition constructed on the site does not have more than a single storey.

- (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 plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

- (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 plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

- (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 plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

- (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;*

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

Notwithstanding this, it has been observed by the Planning Officer through physical inspection that the rear addition constructed on the site is constructed of red facing brick. This is not of similar appearance to the buff-brown facing brick and brown-clad features of the existing dwelling.

The rear addition therefore fails to meet condition A.3(a) of Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- (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 plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

Notwithstanding this, due to the mid-terrace positioning of the existing dwellinghouse and the observed single-storey form of the rear addition, it can be confirmed that the building contains no upper-floor side elevation windows.

- (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 plans submitted are inconsistent with the physical construction of the building on site, and as such compliance with this requirement has not been reasonably demonstrated.

**Lawfulness of Existing Building Works on Site**

- 7.12 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.
- 7.13 Whilst the inaccuracy of the information submitted does not allow the LPA to undertake a complete assessment of the consistency of the extant rear addition against Class A of Part 1 of Schedule 2 of the Order, it has been demonstrated in the preceding section of this report that details physically observed on site fail to satisfy condition A.3(a) of Class A.

- 7.14 The rear addition to the property is therefore not permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As established previously in this report, the rear addition does not benefit from planning permission. The rear addition is therefore unlawful.
- 7.15 In light of the above, pursuant to Section 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) it is concluded that permitted development rights under Schedule 2 of the Order do not apply to the existing building.

## **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 existing building does not benefit from permitted development rights under Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as existing building operations involved in the construction of the building are unlawful.
- 9.2 The proposed change of use from a dwellinghouse (C3) to HMO (C4) is therefore not lawful under Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and the certificate must be refused.

## **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
  - Site Location Plan, Existing Floor Plans and Elevations, Drg No. 25/115/P01

- Proposed Floor Plans and Elevations, Drg No. 25/115/P02