

Delegated Report

Planning Ref: 23/00441/P3CMA

Applicant: Mr P Collis

Ward: Hinckley DeMontfort



Hinckley & Bosworth
Borough Council

Site: Former Severn Trent Reservoir Off, Leicester Road, Hinckley

Proposal: Change of use of existing light industrial unit (Class E) to bungalow (Class C3)

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. This is an application for prior notification under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of an existing light industrial (Class E) unit to a single storey bungalow (Class C3)

3. Description of the site and surrounding area

- 3.1. The application site is an existing former industrial building, located within the new housing development of the Former Severn Trent Reservoir Off Leicester Road, Hinckley. The development proposed minor external changes, including velux windows and the improvement of the existing openings to the site frontage. Off-street parking provision is afforded to the bungalow.

4. Relevant planning history

19/00567/FUL

- Erection of 14 residential units including access and parking
- Planning permission
- 27.09.2019

20/00523/P3CPA

- Prior notification for change of use of building from light industrial (Class B1(c)) to one dwelling (Class C3)
- Prior approval given
- 17.08.2020

23/00064/NMA

- Non material amendment to planning permission 19/00567/FUL. Amendment to include alteration to parking for plot 13 and 14
- Permitted
- 27.02.2023

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. Two objection letters were received from neighbouring residents which includes concerns regarding privacy connected to the velux windows, the party wall, noise impacts from the proposed development and concerns of safety relating to the existing wall being unsound.

6. Consultation

6.1. The consultation responses are below:

- HBBC Drainage Officer – Note to application has been suggested.
- HBBC Waste Officer – No objections, condition suggested.
- The Local Highway Authority – No objections, condition and note to application suggested.

7. Policy

7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class MA

7.2. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. The main considerations in respect of this application are whether the proposed change of use meets the criteria for permitted development of Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), which relates to development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) Schedule 2 to that Order.

MA.1. – (1) Development is not permitted by Class MA –

(a) *unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;*

The building has been regarded as vacant for business rates purposes for over 3 months prior to the date of the application.

(b) *unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;*

The use of the building fell within one or more of the classes for a continuous period of 2 years prior to the date of the application for prior approval.

(c) *if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;*

The total site area does not exceed 1,500sqm.

(d) *if land covered by, or within the curtilage of, the building—*

- (i) *is or forms part of a site of special scientific interest;*
- (ii) *is or forms part of a listed building or land within its curtilage;*
- (iii) *is or forms part of a scheduled monument or land within its curtilage;*
- (iv) *is or forms part of a safety hazard area; or*
- (v) *is or forms part of a military explosives storage area;*

The land covered by, or within the curtilage of the building isn't and doesn't form a part of any of the specified areas.

- (e) *if the building is within—*
 - (i) *an area of outstanding natural beauty;*
 - (ii) *an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;*
 - (iii) *the Broads;*
 - (iv) *a National Park; or*
 - (v) *a World Heritage Site;*

The site is not within any of these specified areas.

- (f) *if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or*

The site is not occupied under an agricultural tenancy.

- (g) *before 1 August 2022, if—*
 - (i) *the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and*
 - (ii) *the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.*

The site has never been permitted by Class O.

- (2) *The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—*
- (a) *the following classes of the Schedule as it had effect before 1st September 2020—*
 - (i) *Class A1 (shops);*
 - (ii) *Class A2 (financial and professional services);*
 - (iii) *Class A3 (food and drink);*
 - (iv) *Class B1 (business);*
 - (vi) *Class D1(a) (non-residential institutions – medical or health services);*
 - (vii) *Class D1(b) (non-residential institutions – crèche, day nursery or day centre);*
 - (vii) *Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;*
- (b) *on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.*

The property falls under Class E (commercial, business, service) since 1st September 2020.

Conditions

MA.2. – (1) Development under Class MA is permitted subject to the following conditions

- (2) *Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—*
- (a) *transport impacts of the development, particularly to ensure safe site access*

The site has existing available car parking to the front of the site, which is sufficient for the provision of the two bedroom bungalow.

The application does not impact upon the existing off-street car parking facilities.

LCC highways have no objection to the proposal. Access would be via Leicester Road, a B classified road subject to a 30mph speed limit. Given the scale of the development the LHA consider the proposals are unlikely to create a highway safety situation or a significant increase in trip generation. The site is in an otherwise sustainable location with facilities/services within walking distance.

- (b) *contamination risks in relation to the building;*

The Environment Team have advised that a Phase II assessment of the wider site was carried out previously and found no contaminants of concern above acceptable levels.

- (c) *flooding risks in relation to the building;*

The site lies within Flood Risk Zone 1 and no additional groundworks or extensions are proposed that may increase this risk.

- (d) *impacts of noise from commercial premises on the intended occupiers of the development;*

The development site is sited in an existing housing development which was approved in 2019. The uses found within proximity to the site are not expected to cause noise impacts on the intended occupiers.

- (e) *where—*

- (i) *the building is located in a conservation area, and*
(ii) *the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;*

The building is not located within a conservation area.

- (f) *the provision of adequate natural light in all habitable rooms of the dwellinghouses;*

The scheme creates four roof lights to the rear pitch, which in addition to the windows on the front elevation provide adequate natural light to all habitable rooms.

- (g) *the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;*

These uses are not prevalent or important in this location and as such would not impact upon the intended occupiers.

- (h) *where the development involves the loss of services provided by—*
 - (i) *a registered nursery, or*
 - (ii) *a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost; and*

The development does not involve the loss of services provided by a registered nurse or a health centre maintained under Section 2 or 3 of the National Health Service Act 2006.

- (i) *where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building*

The development meets the fire risk condition of article 9A because the building would not contain two or more dwellings and is not 18m or higher and does not contain 7 storeys or more as required by The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2021. Therefore the prior approval as to the fire safety impact is not required.

- (3) *An application for prior approval for development under Class MA may not be made before 1 August 2021.*

The application was submitted in 2023.

- (4) *The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if—*
 - (a) *for paragraph (e) of sub-paragraph (2) there were substituted—*
 - “(e)where—*
 - (i) *sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment;*
 - (ii) *sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development,”;*
 - (b) *in the introductory words in sub-paragraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”;*
 - (c) *after sub-paragraph (6) there were inserted—*
 - “(6A) Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.”;*
 - (d) *in sub-paragraph (7) for “(5) and (6)” there were substituted “(5), (6) and (6A)”;*

No comment from planning officer necessary.

- (5) *Development must be completed within a period of 3 years starting with the prior approval date.*

No comment from planning officer necessary.

- (6) *Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse*

The building is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose.

Interpretation of Class MA

MA.3. – (1) Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will—

- (a) contain two or more dwellinghouses; and
- (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

The development meets the fire risk condition referred to in paragraph MA.2(2)(i)

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

10.1 The application meets the conditions of Class MA of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is considered that the application is acceptable and is in accordance with the conditions and the provision of Paragraph W of the General Permitted Development Order (2015) (as amended). The prior approval matters have been judged as acceptable.

10.2 A condition was requested from the HBBC Waste department requiring the submission of a waste and recycling storage scheme. However, the condition isn't considered necessary/reasonable for the scale of development with respect to the prior-approval matters, the reasoning for the condition was streetscene impact which is not a prior-approval matter.

11. Recommendation

11.1 **Prior approval required and granted** subject to:

- Conditions outlined at the end of this report

11.2 Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Proposed site plan Drg No. COU-02

Proposed plans and elevations Drg No. COU-04

Supporting statement

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).

2. The development hereby permitted shall not be occupied until such time as the parking (and turning facilities) have been implemented in accordance with Lawrence Finley drawing number COU-02. Thereafter the onsite parking and turning provision shall be kept available for such uses 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 (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).

a. Notes to applicant

1. 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.
2. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this

occurring.

3. Adequate provision for waste and recycling storage of should be considered which addresses accessibility to storage facilities and provide adequate space at the adopted highway boundary to store and service wheeled containers.
4. According to the Environment Agency (EA) website, the application site is located within Flood Zone 1, designated as low probability of flooding from rivers and sea, and the principle of residential development in low flood risk areas is acceptable.

The EA Surface Water mapping also indicates that the application site is located in an area at very low risk of flooding from surface water.

The surface water drainage system for the proposed development should incorporate sustainable drainage principles (SuDS) to mitigate the risk of flooding on the site, and ensure that surface water runoff does not increase flood risk elsewhere. The proposals should also include measures to address issues of water quality in accordance with current SuDS guidance.

The proposed outfall for the discharge of surface water runoff from the development should be in accordance with the hierarchical approach outlined in Building Regulations Part H. The use of infiltration drainage is preferred, subject to the site being free from a contaminated ground legacy. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced.

If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.