

Delegated Report

Planning Ref: 23/00625/FUL
Applicant: Dr Davie Kananda
Ward: Hinckley



Hinckley & Bosworth
Borough Council

Site: The Limes, Derby Road, Hinckley,
Leicestershire

Proposal: Increase the number of occupants from 23-bed HMO (sui generis) to 40-bed HMO (sui generis) with associated works

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 planning application seeks full planning permission to Increase the number of occupants from 23-bed HMO (sui generis) to 40-bed HMO (sui generis) with associated works at 'The Limes', Derby Road, Hinckley.
- 2.2 No extensions to the footprint are proposed within this development to facilitate the scheme. A previous use was for a 40 bed care home, the existing use is for a 23 bed HMO and is used as staff accommodation for senior care home employees. No internal modifications are proposed.
- 2.3 The proposed would use the full internal space which has capacity for a 40 bed HMO. Each bedroom would satisfy bedroom size requirement for a HMO. The proposal does not involve any external changes except provision of a cycle storage facility, which would be located at the western side of the site.

3. Description of the site and surrounding area

- 3.1 The application property is an existing HMO, occupying a large corner plot located on the junction of Derby Road and Chamwood Road. The building has a courtyard arrangement with parking available to the front and rear. The property is set back from the highway by large grass verges and mature trees along Derby Road. The building itself is constructed from brown facing brick with a mixture of pitched roof and flat roof forms on various parts of the building, grey concrete interlocking tiles and white uPVC windows and door frames. The surrounding area is wholly residential with a mix two storey terraced, detached and semi-detached dwellings.

4. Relevant planning history

22/00611/FUL

- Change of use of premises from a care home (Use Class C2) to 23-bed HMO (sui generis) with associated works for the provision of staff accommodation for senior care home employees
- Approved
- 20.12.2022

15/01199/FUL

- Proposed extensions and alterations to create 6 additional bedrooms, new support facilities, entrance porch and part change of use from day care centre (D1) to residential care home (C2)
- Approved
- 25.02.2016

14/00570/FUL

- Extensions and alterations to premises
- Approved
- 01.08.2014

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents and a site notice was placed by the site.
- 5.2. 1 letter of representation has been received as an objection to the proposal. The main points of objection are:
- More people will lead to more traffic
 - More people leads to greater impact on local services
 - The owners of the site have a bad reputation on being able to manage the site well

6. Consultation

- 6.1. There have been no objections from the following consultants:
- HBBC Waste
 - HBBC Pollution
 - Private Sector Housing
- 6.2. The Local Highway Authority (LHA) requested clarity on how parking provision would be allocated within the site between residents/ staff and managed in the event an additional 17 bedrooms were provided and why additional parking provision is not considered necessary by the applicant.
- 6.3. The agent for the application provided additional info to say that 'the HMO will be exclusively utilised by company care staff, all of whom rely on public transport for their daily commute. As a result, there will be no increase in the number of cars associated with the property, and the usage of car parking

spaces will remain unchanged. Currently, only two cars are involved - one designated for maintenance purposes and the other for the manager’.

- 6.4. Following re-consultation LCC Highways confirmed that they have no objections to the proposal subject to the addition of a condition on any approval, if granted.

7. Policy

7.1. Core Strategy (2009)

- Policy 1: Development in Hinckley

7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

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

7.4. Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)
- National Design Guide (2019)
- Technical Housing Standards – Nationally Described Space Standards (2015)

Appraisal

7.5. The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

Principle of Development

- 7.6. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted SADMP set out a presumption in favour of sustainable development, and state that development proposals that accord with the Development Plan should be approved unless other material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that Planning Law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions.

- 7.7. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. Where planning applications conflict with an up to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 7.8. The current Development Plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 7.9. The application site lies within the settlement boundary of Hinckley, and therefore the development is supported in principle by Policy 1 of the adopted Core Strategy, and Policy DM1 of the SADMP, subject to compliance with other policies within the Development Plan, National Planning Policy, and satisfying all other material planning conditions.

Design and Impact upon the Character of the Area

- 7.10. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features. Paragraph 134 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.
- 7.11. Houses in Multiple Occupation (HMOs) are classified by the Town and Country Planning (Use Classes) Order 1987 (as amended) as Use Class C4, which is described as, "Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom." As the site has existing HMO use for 23 people & the development increases the capacity of the property to 40 persons, the development is considered to be a sui generis use as opposed to use class C4.
- 7.12. No extensions to the footprint of the dwelling are proposed within this scheme & the proposed is not considered to have a significant adverse impact on the character of the surrounding area.
- 7.13. By virtue of these factors, the proposal respects the character of the existing dwelling and the surrounding area in accordance with Policy 1 of the adopted Core Strategy, Policy DM10 of the SADMP, and the Good Design Guide.

Impact upon Residential Amenity

- 8.10 Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.11 Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development. Developments within the town centre should demonstrate that they would not exacerbate existing problems in the vicinity with increased on-street parking. Policy DM10 (g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.12 Paragraph 185 of the NPPF states that decisions should 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. Development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 8.13 The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. Proposals should demonstrate there will not be a loss of amenity to a habitable room by loss of light or outlook. The SPD states that habitable rooms include living rooms, bedrooms and kitchens. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.14 Due to the scale, massing, orientation & distance of the adjacent properties (80 Derby Road, 30 Jefferies Close & dwellings along Charnwood Road) from the proposed, the development is not considered to result in any overbearing or loss of light impacts to the neighbouring residents. No extension or additional window is proposed. In addition the site is well screened on the western side. It is not considered the proposed would result in any loss of privacy or overlooking impacts on the adjacent neighbouring dwellings.
- 8.15 Given the fact that the site is currently used as a 23 bed HMO it is not considered an increased capacity to a 40 bed HMO would result in a significant adverse impact to neighbouring residential amenity in relation to noise pollution.
- 8.16 A neighbour has raised concern about the proposed in relation to increased traffic but this will be addressed in the Highway section below. The proposal would increase the current 23 bed HMO bedrooms to a 40 bed HMO. The site's previous use was as a 40 bed care home. Whilst in theory 40 HMO bedrooms seems large, there is no increase in footprint proposed or no internal modifications. Moreover, the description of the development makes it clear that

these HMO rooms are intended for staff accommodation of senior care home employees & the agent has confirmed all the care staff rely on public transport for their daily commute & there will be no increase in the number of cars associated with the property. The site has current capacity for the parking of 23 cars and the proposal would not lead to indiscriminate parking on the public highway.

- 8.17 Whilst the patterns of behaviour of HMO residents are commonly different to those of occupants of a single family dwelling, given that the application site is a large plot with neighbouring properties located at considerable distance away or over well screened boundaries it is considered that the proposed increase to a 40 bed HMO would not result in a significant adverse effect on the living conditions of neighbours as a consequence of noise and disturbance.
- 8.18 To support the residential amenity of future occupiers of the scheme, Regulation 2 of The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licenses) (England) Regulations 2018 within the amended Schedule 4 of the Housing Act 2004 requires the floor area of any room in a HMO used as sleeping accommodation by one person aged over 10 years to be a minimum of 6.51sqm and 10.22sqm when any room in a HMO is used as sleeping accommodation by two persons aged over 10 years.
- 8.19 All 40 bedrooms exceed 6.51sqm in floor space, in accordance with Regulation 2 of the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licenses) (England) Regulations 2018 within the amended Schedule 4 of the House Act 2004.
- 8.20 Furthermore, HMOs within the Borough are required to have a kitchen with a minimum size of 10sqm and there must be an additional living room or dining room with a minimum size of 16.5sqm. Alternatively, there must be a kitchen diner with a minimum size of 19.5sqm. As there are 3 ground floor kitchens & 1 upstairs kitchens it is considered acceptable. There are also several lounge areas, dining rooms and sitting areas as well as multiple bathrooms and wc's. The building was purpose built as a 40 bed care home.
- 8.21 The Good Design Guide states that well designed internal and external amenity space is critical to the quality of life of residents, and that ensuring adequate space between and around buildings is recognised as a core component of residential amenity. Whilst the requirements of the Good Design Guide apply to Use Class C3 dwellinghouses, the principle of the necessity for external residential amenity within the Good Design Guide reflects the requirements of Paragraph 130(f) of the NPPF, and Policy DM10 of the SADMP. Therefore, the requirements of the Good Design Guide can be considered within this development.
- 8.22 To comply with the Good Design Guide, dwellings with three or more bedrooms must also provide a minimum of 80sqm of private outdoor amenity space with a minimum length of 7m. The proposal retains the existing private outdoor

amenity space, which has a large garden at the front and side and smaller areas of amenity at the rear & complies with the Good Design Guide.

- 8.23 By virtue of these factors, the proposal is not considered to result in any significant adverse impacts to neighbouring residential amenity in relation to loss of privacy, loss of light, overlooking, overbearing or noise impacts. In addition, the development is considered to provide an adequate standard of amenity to the future occupiers of the dwelling. Therefore, the scheme is considered to be in accordance with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.24 Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision to serve the development proposed. Paragraph 111 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.
- 8.25 There have been four Personal Injury Collisions (PIC's) along Derby Road within the last five years. One PIC was recorded as serious, which involved a vehicle and a pedestrian, while three were recorded as slight. Of these PIC's one involved a vehicle and a pedestrian which occurred immediately to the northwest of the access, one involved a turning vehicle and a cyclist and one involved a turning vehicle and a pedestrian. The LHA consider it is unlikely that the proposals would exacerbate the existing situation.
- 8.26 There are currently 23 parking spaces within the site and no changes are proposed. It is also stated that there would be no additional employees as a result of the proposals
- 8.27 The Local Highway Authority (LHA) requested clarity on how parking provision would be allocated within the site between residents/ staff and managed in the event an additional 17 bedrooms were provided and why additional parking provision is not considered necessary by the applicant.
- 8.28 The agent for the application provided additional info to say that 'the HMO will be exclusively utilised by company care staff, all of whom rely on public transport for their daily commute. As a result, there will be no increase in the number of cars associated with the property, and the usage of car parking spaces will remain unchanged. Currently, only two cars are involved - one designated for maintenance purposes and the other for the manager'.
- 8.29 Following re-consultation LCC Highways confirmed that they have no objections to the proposal.

8.30 Moreover, as highlighted by the Applicant, the application site is situated in a sustainable location close to Hinckley town centre, which has the potential to promote the use of sustainable and active modes of travel in accordance with Policy DM17 of the SADMP and is supported by the provision of cycle parking spaces within the development.

8.31 To summarise, whilst the application does not provide an adequate amount of offstreet vehicle parking for the site, the creation of additional off-street parking is considered to be detrimental to highway safety and passing pedestrians. Given the location of the site and the fact that there are no pre-existing highway safety concerns at the site and that secure cycle parking spaces are to be provided, the increase in capacity of the HMO at 'The Limes', Derby Road is not considered to result in a significant adverse impact on highway safety or on the road network. Therefore, the application is in accordance with Policies DM17 and DM18 of the SADMP.

9 Equality implications

9.10 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.

9.11 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.

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

9.13 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 proposed development is considered to be compliant with the relevant national and local policy as it:

- Is an appropriate scale and design
- Does not have an adverse impact upon the character and appearance of the area
- Retains sufficient amenity space

- Does not have a significant adverse impact upon the amenity of neighbours
- Does not have a significant adverse impact upon highway safety

10.2 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

11 Recommendation

11.1 **Grant** planning permission subject to:

- Planning conditions outlined at the end of this report

11.2 **Conditions and Reasons**

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 & Location Plans- Existing/Proposed Dwg # BLL-GA-EX (submitted: 23.06.2023)

Proposed Floor Plans FL0-GA-PR (submitted: 23.06.2023)

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 occupied until such time as secure cycle parking has been provided in accordance with details first submitted to, and agreed in writing by, the Local Planning Authority. Thereafter, the cycle parking shall be maintained and kept available for use.

Reason: To promote travel by sustainable modes in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Paragraphs 108 and 110 of the National Planning Policy Framework (2021).

4. The development hereby permitted shall not be occupied until such time as the parking (and turning facilities) have been implemented in accordance with drawing number BLL-GA-EX. Thereafter the onsite

parking (and turning) provision shall be kept available for such use(s) 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).

5. The development hereby permitted shall not be occupied until a scheme which provides adequate provision for waste and recycling storage and collection across the site has been submitted to and approved in writing by the Local Planning Authority. The details should address the accessibility to storage facilities and adequate collections point space at the adopted highway boundary.

Reason: To ensure that the development is served with a satisfactory waste collection scheme across the site to serve the amenity of the future occupants to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

6. The development hereby approved shall be for a maximum of 40 bedrooms only.

Reason: In accordance with the submitted application details and as a greater number of bedrooms may have significant detrimental impacts on the amenity of the area and neighbouring residents contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the NPPF (2021).

11.3 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. With effect from 1 October 2018, all HMOs having 5 or more occupants from 2 or more separate households require to be licensed by the Council.