

## Delegated Report

**Planning Ref: 23/00871/NMA**  
**Applicant: Mr Konrad Gajda**  
**Ward: Hinckley DeMonfort**



Hinckley & Bosworth  
Borough Council

**Site: 102 Druid Street Hinckley Leicestershire**

**Proposal: Non material amendment to appeal reference APP/K2420/W/21/3287157 (21/00775/FUL) to provide a larger HMO bedroom rather than 2 smaller HMO rooms on the second floor**

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### **1. Recommendations**

#### **1.1. Grant planning permission** subject to:

- Previously imposed conditions on appeal decision APP/K2420/W/21/3287157 of planning application (2100775/FUL).

### **2. Planning Application Description**

2.1. This application proposes a non-material amendment to the allowed appeal, APP/K2420/W/21/3287157 of planning application 21/00775/FUL, which was for a change of use of a six-person House in Multiple Occupation (HMO) (Use Class C4) to an eight-person HMO (Sui Generis) and the provision of a roof light at 102 Druid Street, Hinckley.

2.2. The proposed non-material amendment seeks to replace two smaller HMO bedrooms, Bedrooms 6 and 8, with one larger bedroom, Bedroom 6. This reduces the capacity of the property from an eight-person HMO to a seven-person HMO (Sui Generis).

### **3. Description of the Site and the Surrounding Area**

3.1. The site relates to a large, brick built, three-storey property located on the corner of Druid Street and Derby Road. It is surrounded by other residential properties, and it is within the settlement boundary for Hinckley. The property is in use as a House in Multiple Occupation (Sui Generis) following appeal decision APP/K2420/W/21/3287157 of planning application 21/00775/FUL. The HMO features shared facilities including a living room, bathrooms, and a kitchen. The application site has a small yard area to the rear, but it does not have any off-street parking. The site is within a swift nest alert area.

### **4. Relevant Planning History**

#### **4.1 22/00006/PP**

- Change of use from 6 person House in Multiple Occupation (Class C4) to 8 person House in Multiple Occupation (Sui Generis), roof light
- Allowed
- 06.05.2022

#### **4.2 21/00775/FUL**

- Change of use from 6 person House in Multiple Occupation (Class C4) to 8 person House in Multiple Occupation (Sui Generis), roof light
- Refused
- 27.09.2021

## **5. Publicity**

- 5.1. No publicity is required for a Section 96A application, and none has been undertaken.

## **6. Consultation**

- 6.1 A Section 96A application is not an application for a new planning permission, therefore, the existing Town and Country Planning (Development Management Procedure) Order, 2015, provisions outlined in Article 13 and Schedule 5 relating to publicity and statutory consultation do not apply. The Local Planning Authority can exercise discretion in whether and how they choose to inform interested parties or seek their views. In this instance, no publicity or consultations have been undertaken.

## **7. Policy**

- 7.1. Greater Flexibility for Planning Permissions Guidance (non-material amendments) states that the local planning authority must have regard to the effect of the change, together with any previous changes made under this section.
- 7.2. Since the original planning permission was issued there have been no significant changes to the policies within the development plan that would be material to the outcome of the assessment of the application in this case.

## **8. Appraisal**

- 8.1. The key issues in respect of this application are therefore:
- Assessment against strategic planning policies
  - Conditions

### *Assessment against Strategic Planning Policies*

- 8.2 Section 96A of the Town and Country Planning Act, 1990, allows a non-material amendment to be made to an existing planning permission. There is no statutory definition of “non-material”; this is because it is so dependent on the context of the overall scheme. That which may be non-material in one context may be material in another. It is for the Local Planning Authority to be satisfied that the amendment sought is non-material in order to grant an application under Section 96A.
- 8.3 With the above in mind, it is necessary to consider what the existing planning permission is for including its uses, and its scale. The planning permission approved the change of use of a six-person House in Multiple Occupation (HMO) (Use Class C4) to an eight-person HMO (Sui Generis) and the provision of a roof light at 102 Druid Street, Hinckley.
- 8.4 The non-material amendment reduces the capacity of the HMO and has no material impact on the external elevations of the property. Given the above, the proposed alterations to 102 Druid Street, Hinckley are minimal and non-material amendments to the extant planning permission that do not material alter the approved development or cause significant adverse impacts to the character of the building or the surrounding area.

### *Conditions*

- 8.5 Under Section 96A of the Town and Country Planning Act 1990 any decision issued should only relate to the non-material amendments sought and is not a reissue of the original planning permission, which still stands. However, it is necessary to

determine if additional conditions are required or whether existing conditions need to be removed or altered.

- 8.6 Appeal decision APP/K2420/W/21/3287157 was subject to two planning conditions. No additional conditions are necessary, and this application cannot grant further planning permission. Due to the amended plan submitted identifying the revised internal layout of the second floor of the property, the plan provided is to be read in conjunction with the plans submitted as part of the extant planning permission.

## **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. In line with the provisions of Section 96A of the Town and Country Planning Act, 1990, it is considered that the proposed amendments to the approved full planning application at 102 Druid Street, Hinckley that was permitted under appeal decision APP/K2420/W/21/3287157 are non-material in the context of the overall scheme.

- 10.2. It is considered that the proposed alterations do not have a material impact on the development as a whole and are non-material in the context of the overall scheme.

- 10.3. **This non-material amendment is not a separate planning permission and should be read in conjunction with extant appeal permission APP/K2420/W/21/3287157.**

## **11. Recommendation**

- 11.1 **Grant Non-Material Amendment** subject to:

- Previously imposed conditions on appeal decision APP/K2420/W/21/3287157.
- Replacing Bedrooms 6 and 8 with one larger bedroom, which is identified as Bedroom 6.

## 11.2 **Conditions and Reasons**

1. This non-material amendment is approved in accordance with the submitted application details received by the Local Planning Authority, as follows:
  - Proposed Floor Plans, Drg No. 21016-201-PL2 (submitted: 05.09.2023)

**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).