

## **Delegated Report**

**Planning Ref: 25/00959/CLP**

**Applicant: Mr Daniel Green**

**Ward: Hinckley Trinity**

**Site: 103 Factory Road, Hinckley**



**Hinckley & Bosworth  
Borough Council**

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### **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 5-bedroom House in Multiple Occupation (HMO) (Use Class C4) at 103 Factory Road, Hinckley.

2.2. The proposal involves alterations to the existing dwelling. The alterations include internal alterations to create an additional bedroom both on the ground and first floors, reconfigure the internal staircase, relocate the ground floor bathroom and install an additional bathroom on the first floor, and to reconfigure and combine the kitchen and dining area on the ground floor.

2.3. The proposal involves the division of the existing front first floor window between the proposed second and third bedrooms. There are no other external alterations proposed.

2.4. 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 Hinckley, to the north of the Hinckley Town Centre. It is located on the western side of Factory Road.

3.2. The application site comprises a two-storey mid-row terraced dwelling with existing rear extensions. The existing dwelling is constructed of red facing brick and has a grey tiled roof.

3.3. The application site is located in predominantly residential surrounds with intermittent examples of employment or commercial uses, particularly along Factory 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.

#### **6. Policy**

6.1. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and the Housing Act 2004.

## 7. Appraisal

7.1 The main considerations for the determination of this proposal are 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 3, Class L, and whether it 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 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.

### **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 dwellinghouse 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 development does not involve a verandah, balcony or raised platform, nor a microwave antenna or a chimney, flue or soil and vent pipe. There is no alteration to any part of the roof of the dwellinghouse.

- (I) 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 to be altered does not form part of the 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.

**Licencing Requirements**

- 7.3 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.
- 7.4 The proposed HMO is for the occupation of five individuals in single occupancy bedrooms. It would therefore be required that the HMO be licenced under the Housing Act through application to the LHA.
- 7.5 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.
- 7.6 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.

- 7.7 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 one to five people, the kitchen must have a minimum floor area of 7 square metres and there must be an additional living room or dining room with a minimum size of 11 square metres. In the case of a combined kitchen diner, the minimum floor area is 16.5 square metres.
- 7.8 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 are unlikely to have ceiling heights below the minimum required, and that all bedrooms have sufficient floor area. The combined kitchen diner exceeds the minimum floor area required for a five-bedroom HMO.
- 7.9 However, irrespective of meeting some of the requirements as set out above, in the case of this application, two of the proposed five bedrooms are considered to have a diminished access to natural light. Whilst there are no issues with access to natural light for bedrooms 1, 4 and 5, for bedrooms 2 and 3 the proposed plans include the splitting of an existing single window across two proposed bedrooms. The exiting window, to the first floor front elevation, is approx. 1.70m in width. And approx. 1.50m in height. To divide this window between two bedrooms, through an internal partition wall, reduces the windows to 0.85m in width each. However, this 0.85m in width does not take into account the internal partition wall to the centre of the window. Assuming a partition wall would be of at least 0.10m in width, this further reduces each window to a maximum of 0.8m in total width. This reduced window would serve two new bedrooms of 7.3m<sup>2</sup> and 9.2m<sup>2</sup> for bedrooms 2 and 3 respectively.
- 7.10 This reduced access to natural light, to two principal rooms, is considered to be detrimental to the amenity of future occupiers of these two bedrooms (bed 2 and bed 3), with insufficient access to natural light for both the use of and size of the rooms. This is considered to be contrary to Policy DM10 of the Site Allocations and Development Management Policies DPD (2016).
- 7.11 The proposed HMO, at five bedrooms is size, all with individual occupancy, may lead to an additional five vehicles on the highway. The site is located on a street of a row of terraced houses, most of which do not have access to off road parking. As a result, the street, narrow in nature, is regularly if not permanently reduced to single lane traffic due to the prevalent nature of on road parking to both sides of the street. It is noted that as a residential dwelling, of two to three bedrooms, this could result in two to three vehicles from the property. However, in this case, five single occupancy bedrooms are proposed, with the potential for five vehicles all accessing the site.
- 7.12 In addition to the potential for up to five addition vehicles from the site, the property is also located one dwelling up from the corner with Edward Street, and with double yellow lines across the entirety of the frontage of the property. Therefore, the closest any vehicle associated with the property could park would be outside of the neighbouring dwelling, no. 105 Factory Road. In addition to the double yellow lines, with stretch down Edward Road to the side of the property, opposite the site is a wide site access, required for a commercial unit, further addition to the lack of any parking in close proximity to the dwelling. This lack of any reasonable parking opportunity in close proximity to the dwelling, together with the potential for five additional vehicles

resulting from this application, is considered to be detrimental to Policy DM18 of the Site Allocations and Development Management Policies DPD (2016). Whilst located on the edge of the Hinckley Town Centre, the proposal is not considered to adequately demonstrate that it would not exacerbate existing problems in the vicinity through an increase in on street parking.

## **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 proposed development constitutes part permitted development by virtue of the provisions of Schedule 2, Part 3, Class L, Schedule 2, Part 1, Class A and Schedule 2, Part 1, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), however the proposal fails to meet licensing requirements or requirements of local planning policy.

9.2 The proposed development would exacerbate existing parking problems in the vicinity through an increase of on street parking, with an existing lack of parking access to the property, increased through a potential five vehicles (an addition of at least two over any fall back use of the property as a residential dwelling (C3). Further, the proposed development is considered to be detrimental to the amenity of future occupiers of bedrooms 2 and 3 through diminished access to natural light to these bedrooms.

9.3 The proposed development is therefore considered to be contrary to Policies DM18 and DM10 of the Site Allocations and Development Management Policies DPD (2016) and paragraphs 115 and 135 of the NPPF (2024).

## **10. Recommendation**

10.1 **Refuse Certificate of Lawful Proposed Development**

## **10.2 Notes to applicant**

1. The application has been determined with consideration to the following submitted documents:

- Certificate of Lawful Proposed Use Application Form
- Existing Elevations and Floor Plans, Drg No. 25/123/P04
- Proposed Elevations and Floor Plans, Drg No. 25/123/P04