

## Delegated Report

**Planning Reference** 25/00881/CLP  
**Applicant(s)** Mr Jagtar Gill  
**Ward** Hinckley DeMontfort



Hinckley & Bosworth  
Borough Council

**Application Site** 173 Upper Bond Street, Hinckley, Leicestershire

**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. This application seeks a Certificate of Lawful Proposed Development to confirm that the change of use of a Use Class C3 dwellinghouse to a six-bedroom Use Class C4 House in Multiple Occupation ('HMO') at 173 Upper Bond Street, Hinckley represents lawful development.

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

- 3.1. The application site consists of a two-storey terraced residential property that is located on the south-eastern side of Upper Bond Street in the centre of Hinckley. The site is bounded by other residential properties to the north, east and south, but on the opposite side of Upper Bond Street to the west is a car dealership.

### 4. Relevant Planning History

- 4.1 There is no relevant planning history for this proposal and this application site.

### 5. Publicity and Consultation

- 5.1. There is not statutory requirement to consult third parties on an application for a lawful development certificate. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is a good reason to believe they possess relevant information about the content of a specific application. In this instance, no consultation was undertaken.
- 5.2. However, a formal response from a member of the public was submitted in objection to the development due to the extensive works being undertaken at the site and the associated health and safety concerns with these works.

## **6. Policy**

- 6.1 Section 192 of the Town and Country Planning Act 1990.
- 6.2 Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

## **7. Appraisal**

- 7.1 Section 192 of the Town and Country Planning Act 1990 enables any person with the opportunity to ascertain whether any proposed use of buildings or other land, or any operations proposed to be carried out in, on, over or under land would be lawful.
- 7.2 The statutory framework covering, 'lawfulness,' for lawful development certificates is set out in Section 191(2) of the Town and Country Planning Act 1990. Section 191(2) of the Town and Country Planning Act 1990 confirms that uses and operations are lawful at any time if:
  - (a) No enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
  - (b) They do not constitute a contravention of any of the requirements of any enforcement notice then in force.
- 7.3 Paragraph 55(1) of the Town and Country Planning Act 1990 defines, 'development,' as the carrying out of building, engineering, mining, or other operations in, on, over, or under land, or the making of any material change in the use of any buildings or other land.
- 7.4 National Planning Practice Guidance (NPPG) confirms that there is no statutory definition of 'material change of use;' however it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case.
- 7.5 Given the above, NPPG states that the applicant is responsible for providing sufficient information to support an application. In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable to a local planning authority to understand exactly what is involved. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate. However, this does not preclude another application being submitted later on if more information can be produced.

- 7.6 Ultimately, NPPG highlights that a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is, or would be, lawful. Planning merits are not relevant at any stage in this particular application.
- 7.7 Development consisting of a change of use from a building from a use falling within Use Class C3 (dwellinghouse) to a use falling within Class C4 (houses in multiple occupation) can be considered to benefit from Permitted Development Rights, subject to the limitations of Class L of Part 3 of Schedule 2 of the GPDO.
- 7.8 The proposal does not result in the single residential property being converted into two or more dwellinghouses falling within Use Class C4 uses and therefore the proposal complies with Class L of this Part.
- 7.9 However, the Application Form states that the proposal includes the carrying out of building or other operations in the form of alterations and reconfigurations of the existing property.
- 7.10 Based on the submitted existing and proposed plans, the property benefits from two rear dormers. However, it is clear from historic satellite imagery that the existing property did not benefit from these two additions to the roof. Following an inspection of the application site on 19 November 2025, the Case Officer noted that the two rear dormers were being constructed on site.
- 7.11 Nevertheless, the enlargement of a dwellinghouse consisting of an addition or alteration to its roof can be considered to benefit to Permitted Development Rights, subject to the limitations of Class B of Part 1 of Schedule 2 of the GPDO.
- 7.12 Based on the submitted plans, the rear dormers are considered to comply with the limitations detailed at Paragraphs B.1(a), (b), (c), (d), (e), (f), (g), and (h) of this Class. In addition, the rear dormers are considered to comply with the limitations detailed at Paragraphs B.2(b) and (c) of this Class.
- 7.13 However, the Applicant has not confirmed the proposed materials of the rear dormers at this stage, and therefore the submitted details do not demonstrate that the scheme complies with Paragraph B.2(a) of this Class. Notwithstanding the above, based on a site visit to the application site on 19 November 2025, the rear dormers have already been constructed with a rendered finish, which is not considered to be of a similar appearance to the red brick materials used in the construction of the exterior of the existing dwellinghouse. As such, the proposal is not considered to comply with the requirements of Class B of Part 1 of Schedule 2 of the GPDO.
- 7.14 Given the above, the Applicant has failed to demonstrate that dormers to the rear of 173 Upper Bond Street represents lawful development that complies with the Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 7.15 In conclusion, the Applicant has failed to demonstrate that the alterations and reconfiguration of the existing property, including the provision of rear dormers, associated with the change of use of the property from a Use Class C3 dwellinghouse to a Use Class C4 six-bedroom HMO meet the conditions of Permitted Development Rights. Therefore, scheme will require planning permission. As a result, the development is not considered to be lawful, and a Lawful Development Certificate is refused.

## **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; and
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - (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.

- 8.4 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).

## **9. Conclusion**

- 9.1 The Applicant has failed to demonstrate that the alterations and reconfiguration of the existing property, including the provision of rear dormers, associated with the change of use of the property from a Use Class C3 dwellinghouse to a Use Class C4 six-bedroom house in multiple occupation at 173 Upper Bond Street, Hinckley meet the requirements of Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

9.2 Therefore, the development is not considered to be lawful and will require planning permission. In light of the above, a Lawful Development Certificate is refused.

9.3 This conclusion is made on the basis of details provided by the Applicant on 11 September 2025, and as shown on the following documents received by the Local Planning Authority:

- Application Form
- Existing & Proposed Elevations & Floor Plans Dwg no.25/113/P01
- Proposed Elevations & Floor Plans Dwg no.25/113/P02

## **10. Recommendation**

### **10.1 Refuse Certificate of Proposed Lawful Development**