

## Delegated Report

Planning Reference	25/00880/CLP	 Hinckley & Bosworth Borough Council
Applicant(s)	Mr Jagtar Gill	
Ward	Hinckley Castle	
Application Site	56 Lower 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 at 56 Lower 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 to the west of Lower Bond Street in the centre of Hinckley. To the east of the site is the North Warwickshire and South Leicestershire College. To the north of the site is the junction of Upper Bond Street, Lower Bond Street, Trinity Lane, and Hollycroft. To the northwest of the site is a former cinema building. To the south and southwest of the site are further terraced residential properties.

### 4. Relevant Planning History

4.1. There is no relevant planning history for this proposal and this application site within the last 25 years.

### 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.

### 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).
- 6.3 The Housing Act 2004.
- 6.4 The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018.

## 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 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 The Applicant has stated that the proposal is justified under Permitted Development Rights.

Proposed Change of Use to a Use Class C4 Use

7.8 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 Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO').

7.9 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.

7.10 However, Section 55 of Part 2 of the Housing Act 2004 (Licencing of Houses in Multiple Occupation) confirms that HMOs to which this Part applies are required to be licenced. Section 4 of The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 confirms that an HMO is of a prescribed description for the purposes of Section 55(2)(a) of the Housing Act if it is occupied by five or more persons who are living in two or more householders.

7.11 Section 2 of the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 details the licencing conditions for the acceptable minimum bedroom floor area standards of an HMO. The Council's Private Sector Housing Department provides the local licencing conditions for the minimum acceptable size of common rooms within HMOs.

7.12 The Council's Private Sector Housing Department requirements state that no one should sleep in a room without any access to natural light, heating and ventilation, for example, basements without windows.

7.13 It is noted that Bedroom 5 within the submitted plans would not feature any access to natural light. Therefore, the proposal is contrary to the Council's licensing requirements and therefore the Housing Act 2004.

7.14 As such, the Applicant has failed to demonstrate that the development would be able to meet the licensing requirements of an HMO and therefore the proposed change of use of the existing dwellinghouse to a six-bedroom HMO would not be considered to represent lawful development in these site-specific circumstances.

### Proposed Alterations

7.15 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.

7.16 The Proposed Side Elevation suggests that these alterations include the provision of a new rear dormer to the property. However, evidence of this rear dormer has not been included on the Proposed Rear Elevation in the submitted plans.

7.17 Therefore, whilst 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, the Applicant has failed to demonstrate that the current proposal complies with these limitations.

7.18 In light of these factors, the Applicant has failed to provide sufficient clarity and precision to enable to the Local Planning Authority to understand exactly what is involved, nor that the scheme complies within the limitations of the GPDO. In light of the above, insufficient information has been submitted to demonstrate that the development is lawful, and therefore a Lawful Development Certificate is refused in these site-specific circumstances.

## **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 provide sufficient clarity and precision to enable to the Local Planning Authority to understand exactly what is involved, nor that the scheme complies within the limitations of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). In light of the above, insufficient information has been submitted to demonstrate that the development is lawful, and therefore a Lawful Development Certificate is refused in these site-specific circumstances.

9.2 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 Elevations & Floor Plans Dwg no.25/107/P01
- Proposed Floor Plans and Elevations Dwg no.25/107/P02

## **10. Recommendation**

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