

## Item No. 5

### Application Reference Number P/11/2740/2

<b>Application Type:</b>	Full	<b>Date Valid:</b>	16/11/2011
<b>Applicant:</b>	Mrs Elizabeth White		
<b>Proposal:</b>	Change of use from residential dwelling (Class C3) to House in Multiple Occupation (Class C/4).		
<b>Location:</b>	23 Moorhen Way, Loughborough, Leicestershire.		
<b>Parish:</b>	Loughborough	<b>Ward:</b>	Loughborough Southfields
<b>Case Officer:</b>	Peter Blitz	<b>Tel No:</b>	01509 634738

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### Description of the Development

The application is for the change of the use of 23 Moorhen Way as a class C3 dwelling, which is a dwelling used for family occupation or by up to two unrelated persons living as a household, to a Class C4 dwelling, which is a dwelling used for between 3 and 6 unrelated persons living together as a household. Class C4 dwellings are the new HMO Class of dwelling introduced by the change in the Use Classes Order legislation in April 2010. . This change of use is currently “permitted development” but, following the instigation of the Article 4 Direction on the 12<sup>th</sup> February, permission will be required.

The house is a detached, 4-bedroom property on the Kingfisher Way estate, which is located very close to the Loughborough College and Loughborough University campuses and close to the town centre. It is adjacent to 1, Adam Dale, which is the subject of a similar application that is considered elsewhere on this agenda. The development was built on College grounds back in 2000/2001. The house has space for two cars in a tandem type garage and 2 spaces on the driveway in front.

In making the application, the applicant has submitted the following justification.

- The application is made to ease the process of disposing of the property, which may have to happen in the near future for personal reasons.
- The area is already mainly student accommodation.
- The estate is only bordered by university property, tennis courts, allotments and roads
- It is realistically now only of interest to a landlord. It is unlikely that a family would now wish to move to the estate

### Relevant Development Plan Policies

East Midlands Regional Plan

There are no policies in the regional plan that are of specific relevance to this application.

### Borough of Charnwood Local Plan

Policy H/13 applies to houses in multiple occupation. The policy provides a permissive framework, subject to avoidance of noise and disturbance, injury to the character and appearance of the area, the need for damaging extensions or alterations and, critically, the avoidance of concentrations of such uses damaging to the character and amenity of the area.

Policy EV/39 indicates that planning permission will not be granted for new development which would be likely to result in a serious risk to the health or general amenities of nearby residents, the public generally or the natural environment. Planning permission will only be granted in these instances where appropriate measures to overcome the potential pollution problems are proposed and implemented to the satisfaction of the local planning authority.

Policy TR/6 says that planning permission will not be granted for development on non-designated sites where the impact of traffic generated by an individual proposal or the cumulative impact together with other committed and allocated development in the locality would:

- result in unsafe and unsatisfactory operation of the highway system; or
- have a significant adverse impact on the environment,

Measures to overcome any harmful effects need to be environmentally acceptable, minimise land take and have a reasonable design life. In all cases measures should help to reduce car use to and from development and contribute to genuine and effective transport choice facilities through the encouragement of walking, cycling and the use of public transport for occupiers jointly or separately.

Policy TR/18 indicates that planning permission will not be granted for development unless off-street parking for vehicles, including cycles, and servicing arrangements are included to secure highway safety and minimise harm to visual and local amenities. The promotes standards that would require 3 parking spaces for a 4 bedroom dwelling, although it states that this will be used as the starting point in assessing the level of provision and represent the maximum level. In the central areas of Loughborough the quantity of parking within new development will be determined through negotiation based on containing car parking provision. The quantity of parking allowed will reflect the proposed use and the location of development, the availability of public off-street parking; the current, or potential accessibility by non-car modes; the feasibility for commuted payments; the scope for practical measures to significantly reduce the use of private car trips to and from a site; and the need to reduce existing levels of private non-residential (PNR) car parking.

### **Other material considerations**

#### Student Housing SPD

The national commitment, articulated through PPS3 to the creation of mixed and inclusive communities offering a choice of housing and lifestyle and promoting, through development, a better social mix by avoiding the creation of large areas of housing of similar characteristics and the Local Plan Policies provide the platform upon which the current Student Housing Provision in Loughborough Supplementary Planning Document (SPD) adopted in December 2005 is based. The purpose of the SPD is to expand upon policy and provide further detail as to the implementation of policies endorsed through the Local Plan. Although aimed at encouraging a greater variety of housing style, type and tenure in new developments the commitment was considered to be equally applicable to communities in transition such as the “conversion” of large numbers of properties into small “houses in multiple occupation” in response to the growth in demand for short term lettings related to the growth in students numbers.

The SPD introduced a threshold mechanism as a means of controlling the concentration of houses in multiple occupation. It indicates that in normal circumstances permission will not be granted for the conversion of Class C3 dwellings to Large Unmanaged Residences for Students (LURS) for more than 6 people living as a household where the percentage of the households in an area that are student households exceeds 10%. For new houses in areas where the percentage exceeds 20%, control over student occupancy will be sought through conditions or agreements. Extensions to houses in student occupation will be resisted where the household percentage exceeds 20%. The matrix does not specify a threshold for changes of use to Class C4 dwellings because these did not exist at the time of the adoption of the SPD. The calculation of the household percentage is the subject of a methodology specified in the SPD that uses data held for Council Tax purposes, which gives the best indication available of the relevant household situation. The way the data is held, based on small geographic output areas, means that some interpretation to align it with the community areas in which applications sites sit is necessary to enable the most accurate picture of balance and amenity to be gained.

It is pertinent to say that the SPD has had mixed fortunes when scrutinised by Appeal Inspectors. The case for seeking to limit extensions to student properties when all other development control criteria have been met has proved unpersuasive. It has proved difficult to persuade inspectors of the impact of student living solely on the basis of the SPD, where there has been a lack of other detailed evidence of harm. Conversely in a recent decision in Loughborough, close to the College and University, an inspector strongly supported the SPD and the principle of restricting the occupation of new houses by students, by agreement.

#### The Article 4 Direction

Members will be aware that the Council has taken steps to regain control over changes of use from Class C3 to Class C4 HMO dwellings in Loughborough, where otherwise changes from Class C3 to Class C4 do not require permission, by the designation of this Direction, which will come into effect on the 12<sup>th</sup> February 2011. It has taken this step because it believes that this is in

the interests of the balance of communities on the town and the amenities of residents in those areas.

### Planning Policy Statement 3

PPS3, at paragraph 3, sets out the key characteristics of a mixed community in terms of tenure and price and a mix of different households such as families with children, single person households and older people.

### Local Development Framework

The Borough Council is in the process of preparing a Core Strategy for the Borough. It is likely that a policy on Houses in Multiple Occupation will be included within the Core Strategy. This policy will not be supportive of concentrations of houses in multiple occupation. The Core Strategy Policy is likely to be supported by further policies within the Development Management DPD. This approach was emphasised in the 2008 when the Council published the Core Strategy Further Consultation Document which set the commitment to reducing the concentration of student accommodation in Loughborough where concentrations are already high.

Whilst it is important to emphasise that the Core Strategy has limited weight at this stage in its preparation, the evidence base used to inform the preparation of the consultation document is a material consideration.

It must also be borne in mind that the relevant saved policies and the Student Housing SPD were formulated and adopted before the advent of the new C4 HMO Use Class.

### **Relevant Planning History**

There is no relevant history in respect of the site itself. It is pertinent to bear in mind that the current circumstances surrounding the use of properties in the area as, what are now classed as, HMOs has arisen as a result of the previous use Class regime where houses occupied by up to 6 unrelated persons fell within the definition of the previous Class C3.

### **The Responses of Consultees**

The highway authority has advised that the proposed plan implies that there are 4 car parking spaces available within the curtilage of the property. Firstly neither the access drive nor the garage appears to have sufficient space to provide the parking suggested and secondly, as this parking is tandem parking, the last car in would block all other spaces. As such the car parking is not likely to work, not likely to be used efficiently and lead to parking within the highway to the detriment of highway safety. The highway authority recommends refusal of permission on the basis that the proposed development is likely to lead to parking within the highway. The likely increase in demand for on street parking would exacerbate the existing parking problems to the detriment of highway safety.

There has been a letter from the resident at 1 Adam Dale supporting the application. The letter of support make the point that the level of student property is already disproportionate and that existing HMOs will continue to be let, because they are popular and therefore the proportion in the area will not decline. An additional one will not change the character of the area. The problems of parking will be solved by the resident parking restrictions being introduced. Without an HMO permission the property will become “stranded” and unsellable.

The Storer and Ashby Area Residents Group object to the application. They claim that the Kingfisher estate has some 55-60% student occupied houses, not 80-90% as claimed by the applicant. The purpose of the Article 4 Direction is to halt the increase in such percentages and to allow a slow reversion to family households. It should not be ignored because a householder may wish to sell to a landlord. Otherwise the Article 4 would have no validity and this would make life worse for those residents who remain on the estate. The Group has argued long and hard to obtain the Direction, and it should be implemented everywhere in Loughborough where it applies.

The Council’s Street Management Team has been consulted and has provided information regarding the record of anti-social behaviour in the immediate area. Between the 1st August 2010 to date, there were a total of 19 Anti Social Behaviour related complaints where either the complainant address or the incident address is located on the Kingfisher estate. Of the 19, 74% of those are complaints made this academic year, with the remaining 24% in the preceding academic year. From the figures it can be demonstrated that incidents at the location have increased significantly, which does not follow the trend nationally. 86% of the complaints received this academic year, relate to HMO’s in student accommodation. The disparity in the figures can be down to a number of factors. For example, in the previous academic year, anecdotal evidence suggests residents tended to report their concerns direct to the University and therefore the Council would not hold a record. As a result of this, a tremendous amount of work has been done with local residents, by both the Police and CBC, and confidence in reporting to both agencies has dramatically increased.

### **Consideration of Planning Issues**

Using the adopted SPD methodology in full, the percentage of student households in the output area applicable to the case is 34%. However this does, because of the specifics of the Council tax output areas, includes areas of the university campus, which probably have limited impact on the area in terms of community balance and noise and disturbance. Adjusting the figure allowing for this reduces the figure to 20.7%. However the figure for the output area in which the property falls generates a figure of 44%. A scrutiny of the estate itself, using the electoral roll of Dec 2011, and picking out those properties with occupants with more than two different surnames, generates a figure of 57.8%. The significance of this last figure is that it more closely reflects the definition of an HMO, because it is not defined by student

occupation. HMOs, and therefore the application of planning control, is not defined by occupancy by students. The recent introduction of the Class C4 dwelling applies to all houses occupied by unrelated persons. The adopted SPD has sought to impose control by reference to occupation by students, but the introduction of the new use class makes this principle less sustainable. The evidence is that the percentage of households in the area which are houses in multiple occupation (a good proportion of which are likely to be student households) is high, but not as high as claimed in the application.

However, decisions on applications need to be made in accordance with the adopted development plan policies and the material considerations that support them, in this case, the adopted SPD. The policies that under score the SPD, that are set out above, are still part of the development plan. The new LDF Core Strategy is expected to continue with the aim of limiting or reducing the concentrations of student accommodation in vulnerable areas, and therefore there does not appear to be a policy basis for taking a different stance to that currently in operation, unless there are overwhelming planning considerations for doing so. Ultimately, the SPD will be replaced with a new development management policy document to give effect to the intentions of the Core Strategy.

The issue is whether the considerations set out by the applicant, and by those that support the application, amount to a compelling case for the setting aside of the development plan policies and the SPD. Whilst there is sympathy with the circumstances that residents find themselves in, the conclusion reached is that, with the control over street parking that will shortly be introduced and the steps that are being taken to deal with anti-social behaviour, the situation is not such that control over the increase in HMO use on this estate should be relinquished. Nearly half of the dwellings in the area appear to be still in family or non-HMO use, and it is their amenity that needs also to be considered. The fact is that the Kingfisher estate is not part of the college or university campuses, and, as such, there is no policy context that recognises this.

The property valuation implications of the changes to the composition of HMOs and other dwellings in this area are, again, understood but it is a well recognised tenet that planning control must be exercised independently of the valuation implications of planning decisions. In this case those decisions have come about as a response to national planning legislation, not decisions of the local planning authority.

The fact that, at the time of the decision, the change of use of the property to a HMO is permitted development is not considered to be a material consideration of any great weight. The right will only exist for 10 days after the decision date and this must be weighed against the consideration of the Article 4 Direction. The option to implement a permission would last well into the period when permission would be required and might be a compromising consideration for any decision in the area in the future, after the Article 4 Direction takes effect.

The evidence is that there are issues of recorded noise and disturbance in the Kingfisher Way area and that these can be largely attributed to student behaviour. Whilst the application is for a Class C4 HMO, it could be reasonably expected that it would be occupied by students. Whilst attempts will continue to be made to mitigate this by various agencies, the further concentration of HMOs will not make this any easier.

Loughborough University's car usage policy does deter students from using a motor vehicle in Loughborough during their studies, and students with cars must register them with the university, whether or not they intend to take them into campus. The university has provided statistics showing that some 20% of all students have registered a car with the university. However the experience on the estate is that parking on the street is a significant problem, sufficient to warrant the introduction of parking restrictions. This suggests that the high proportion of HMOs in the area does cause parking problems, perhaps because of the lack of coordination of the use of off-street parking by separate occupants, something that is better achieved with the occupation by a family or a smaller group of people. The concern is that the long term parking of cars that are used only infrequently would be exported to surrounding, uncontrolled, areas.

On balance, it is concluded that permission should be refused.

## **RECOMMENDATION**

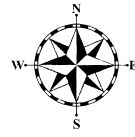
It is recommended that permission be refused for the following reason:

1. The application is located in an area which already contains a high proportion of houses in multiple occupation, often but not exclusively occupied by students, and this results in impacts in the area greater than those normally associated with dwellings used within the scope of Use Class C3. The local planning authority is of the opinion that the proposed use would be likely to increase the potential for further noise and disturbance within this primarily residential area which would be detrimental to the amenities of residents living in the surrounding area. It would also increase the already high concentration of student households in this area leading to a further fragmentation and unbalancing of the local permanent community and cause further detriment to the general amenities of the local area for the reasons stated above. The proposal would, therefore, also be contrary to the intentions of saved Policies H/13 and EV/39 of the adopted Borough of Charnwood Local Plan and the adopted Supplementary Planning Document on Student Housing in Loughborough.
2. The planning authority is of the view that because of the level of occupancy that could be generated by an occupation that is within the scope of Use Class C4, the development has the potential to generate a demand for car parking that cannot be conveniently accommodated within the site and will not be able to use the public highway, due to the limited availability following the

imminent introduction of parking restrictions in the area by the highway authority, specifically to deal with dangers caused in the estate by the surcharging of private parking spaces arising from the high proportion of houses used as HMOs already. That need would be likely to result in areas outside the scope of those restrictions being populated by vehicles from the site, with the effect of exacerbating existing parking problems, to the detriment of highway safety and the residential amenities of surrounding residential areas.



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**Application No:** P/11/2740/2  
**Location:** 23 Moorhen Way □ □ Loughborough  
**Scale:** 1:1250

