

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 28/02/2024	Ref: 70341/FUL
Registration: 11/01/2024	LDfC: 01/02/2024	Expiry Date: 07/03/2024
Site Visit: 19/01/2024	Site Notice: 19/01/2024	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Alterations to existing first floor two HMO into one HMO to include an additional bedroom (single occupancy)

Location: Heaton House, Brierley Street, Bury, BL9 9HN

Description

The site relates to a 2 storey detached building, Heaton House which is in an HMO use. The site is located on a road of predominantly residential properties, although directly adjacent to the north is a commercial building comprising units and workshops, together with its car park directly behind Heaton House to the west.

Associated with the building is a vacant piece of triangular land to the south west of Heaton House which is bounded by a brick wall and mesh fencing and accessed via a set of double gates off Back Brierley Street.

Heaton House itself is an attractive red brick building, the front elevation being the more important with original features and a bay fronted window on the ground floor. It is a Non-Designated Heritage Asset on the Council's draft local list.

The building has an involved planning history.

Planning permission was granted in 2018 for the conversion of the building to 6 no. residential flats (Class C3) in a mix of 1, 2,3 and 4 bed. Each flat had living accommodation comprising a living room/lounge and kitchen/dining area with shared bathroom and some en-suite facilities. Total number of bedrooms in the building equalled 16.

The triangular piece of land at the rear was included in the application and proposed as a car park for 9 cars with an area for bin storage. External alterations to the building comprised changes to the windows.

The changes to implement the external alterations and works to form the car park commenced, and some works to the internal layout were carried out but these did not accord with the approved plans. The use of the building as C3 dwellings was also not implemented as the flats were never occupied.

The Applicant however, contended that as operational development had been started/implemented, the planning permission per se had been implemented and subsequently submitted a planning application for a Variation of Condition (ref 66603) seeking alterations to the internal layout of the flats including additional bedrooms and bathrooms and some external changes to window openings.

The LPA concluded that the proposed amendments would go beyond the scope and character of the approved scheme, and as such the application could not be considered as a Section 73 and refused the application.

A planning application (ref 68331) was thereafter submitted for a change of use to 6 no HMO's comprising 23 bedrooms in total (single occupancy). The application was approved in August 2022 and the use has been implemented.

The building currently comprises 6 separate HMO's, 3 at ground floor and 3 at first floor, configured as follows -

1 x 2no bed
1 x 3no bed
2 x 4no bed
2 x 5no bed

Each HMO has a communal facility of a kitchen/living room and all bedrooms are en-suite. The associated land at the rear provides 9 no parking spaces, cycle store and bin storage.

This application relates to the first floor only and seeks alterations to combine two of the HMO's (1 no 3 bed and 1 no 2 bed) to create a single 6 no bed HMO unit by changing a communal room into an en suite bedroom.

The first floor would therefore be configured as follows

1 x 6 no bed HMO (new)
1 x 5 no bed HMO (no change)

Relevant Planning History

63186 - Change of use from training centre (Class D1) to 6 no. flats (Class C3) and associated car park - Approve with Conditions 15/11/2018

66603 - Variation of condition no. 2 (approved plans) of planning permission 63186 (Change of use from training centre (Class D1) to 6 no. flats (Class C3) and associated car park) -

Alterations to internal layout of flats including additional bedroom to flats 1-6 inclusive (7 no. additional bedrooms in total) ; 11 no. total additional en suite bathrooms; external alterations including the omission of 1 windows to flats 2 & 4 and the omission of 2 windows to flat 3 - Refused 14/05/2021

66913 - Non material amendment following approval of planning permission 63186- Retention of vehicular access gate not in compliance with condition no.06 - Approve 13/05/2021

68331 - Change of Use from Training Centre (Class E) to 6 no. HMO's comprising 23 bedrooms (single occupancy) - Approve with Conditions 17/08/2022

68839 - Non-material amendment following grant of planning permission ref. 68331 - Amendments to windows on the proposed rear and side elevations - Approve 24/10/2022

Publicity

Letters sent to 36 properties on 11/1/24.

Site notice posted 19/1/24.

No responses received.

Statutory/Non-Statutory Consultations

Traffic Section - Recommends refusal on lack of parking

Environmental Health - Pollution Control - No comments to make

Waste Management - No comments received.

Housing - Public Protection - Would require additional communal facilities and an HMO license.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF National Planning Policy Framework

H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/4	Conversions
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
SPD11	Parking Standards in Bury
EN7/2	Noise Pollution
PFE	Places for Everyone

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations, including relevant policies in the emerging Places for Everyone Joint Development Plan.

The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can

to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Places for Everyone

The Places for Everyone Joint Development Plan Document (PfE) is a joint plan covering nine of the ten Greater Manchester districts, including Bury, and is intended to provide the overarching framework to strategically manage growth across the boroughs.

PfE was submitted to the Government for examination in February 2022 and this marked the start of the independent examination into the plan, the final stage in the plan making process.

The Inspectors have now concluded their examination of the plan and have issued their findings and recommendations in their Inspectors' Report which was received on 14 February 2024. In that report the Inspectors conclude that all legal requirements have been met and that with the recommended main modifications set out in the Appendix of their report, the Places for Everyone Joint Development Plan Document satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

The next step is for all nine PfE Councils to consider the Inspectors' recommendations and adoption of the Plan. Currently it is anticipated that these Council meetings will be held between 28 February and 20 March 2024, with Bury Council due to consider this on 20 March.

If it is agreed by all nine Council's, Places for Everyone will become a key part of Bury's statutory development plan.

Given the advanced stage in the preparation of PfE, it is already considered reasonable that the Plan (as proposed to be modified) should be given significant weight in the decision-making process in line with paragraph 48 of the National Planning Policy Framework and full weight will be given to the policies once the Plan is adopted. Consequently, the principle of this application has been considered against the Plan (as proposed to be modified). However, the principle of this proposal does not give rise to any conflict with PfE policies.

Principle

UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development takes into consideration factors relating to the height and roof type of adjacent buildings, the impact of developments on residential amenity, the density and character of the surrounding area and the position and proximity of neighbouring properties. Regard is also given to parking provision and access, landscaping and protection of trees/hedgerows and external areas.

UDP Policy H2/4 - Conversions, has regard to factors including effect on the amenity of neighbouring properties, impact on the general character of the area and existing concentration of flats, amenity of occupants, effect on the street scene of any changes to the external appearance and car parking and servicing requirements.

The principle of the conversion of the proposed building to 6 separate HMO units within the building was approved under planning reference 68331.

The main issue relates to the resulting impacts by the proposed additional occupancy and the resulting level of shared facilities.

Scale of development

In terms of the proposed internal arrangements, it is proposed to combine two of the

HMO's (3 bed and 2 bed, each with its own communal room) to provide a single 6 bed HMO with one communal kitchen/dining room which would serve as the only shared facility. Essentially, occupation would increase and facilities and space would be reduced. The retained kitchen/dining room (annotated as area C-1E2 on the existing plans) would be the only communal room provided for the new HMO unit and whilst it may comply with the licensing requirements (once additional kitchen facilities and appliances have been incorporated as noted by the Council's HMO officer), nevertheless, there is no further room or living space where residents could spend time and relax in.

Should 6 persons be using the kitchen/diner area at one time, either to cook, eat or relax, it would feel considerably cramped. Space and movement around cooking areas and options for seating away from the food prep areas to either eat or relax would be very limited. As such, the proposed occupancy would significantly restrict the functionality of the communal room to the detriment of the living conditions of occupiers.

With the number of people now adapting to homeworking and hybrid working, there is an even greater need to ensure that the needs of all future occupiers are adequately provided for in terms of space and living accommodation, which may be to provide lounge or office space.

As an observation, *if* the LPA were to accept the merging of the two units and the conversion of shared space to bedroom this could very well open the door to proposals for the same to happen at the ground floor. It would therefore be reasonable and not unacceptable to draw the line at current capacity.

On reflection and looking at the plans which were originally approved for the change of use of the building to 6 separate HMO's within the one building, the approved level of accommodation already pushed the boundaries of what the LPA would consider acceptable in terms of the standard of accommodation and the level of facilities provided, which on balance would be considered mediocre at best.

There would be no justification making a 'just about acceptable' situation any worse and indeed the LPA would question whether the same level of development would be supported a second time round.

The addition of an extra occupier would therefore lead to an intensified use of the communal space to the detriment of the living conditions of occupiers and would also add to the concentration of occupiers of the whole of the building.

The applicant states that a larger living space would be created while complying with minimum space standards but this is factually incorrect and in real terms, occupancy would increase and facilities and space would be reduced.

In terms of other shared facilities there are currently 9 bins located in the rear yard, 2 bins for each waste type plus one additional. For the current level of occupancy of 23, this would seem to be relatively low provision and this was confirmed by a site visit on 19/1/24 where several large bin bags and boxes were stacked up next to the bin (evidenced by photographs taken of the rear yard area). A single person themselves can create a fair amount of waste (general household, paper/cardboard/bottles/plastic) and as such it is considered the bin store facilities would be sub-standard.

It is therefore considered that the proposed development would be contrary to Policies H1/2, H2/1, H2/2 and H2/4 and SPD13.

Impact on residential amenity - There are residential properties to the south and opposite the site and there would be no external alterations or extensions proposed which would affect the amenity of these occupiers. The closest neighbour would be the commercial

units to the north.

In terms of impacts on neighbours, it is considered that an additional occupier would not be of such significance to harm the amenity of nearby residents.

It is therefore considered that the proposed development would not have an adverse impact on any of the neighbouring properties and as such would comply with UDP Policies H2/1, H2/2 and H2/4.

Parking

There are currently nine parking spaces provided in the rear yard area for 23 residents.

There are no specific car parking standards for an HMO in SPD11. It is generally found that HMO's use tend to have a lower level of car usage than residential dwellings and it is often accepted that dedicated parking for these schemes are not always provided.

Whilst located in a relatively sustainable area, the proposal does not include any additional cycle storage area or parking for the additional occupier and given the property already functions to what is considered to be maximum capacity, any increase in occupation would put pressure on parking in the area.

The Highway Section have objected to the proposal on inadequate parking to serve the development and in this particular case it is considered justified to refuse the application on this issue.

HMO licensing

The combination of the 2 smaller first floor flats into one on the first floor of Heaton House will make a new 6 bedroom flat which will mean this flat will require a mandatory HMO licence as other flats in this development.

As the HMO standards require one kitchen for every five occupants additional kitchen amenities will be required to the remaining existing kitchen. The sink will need to be replaced for a one and a half bowl sink and a new cooker will be required or alternatively a combination microwave will be required.

The fire risk assessment will need to be updated for the property to ensure suitable detection is provided and this will be checked as part of the new HMO licence application.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development, by virtue of the increased occupation and intensified use would result in a loss of communal space and loss of facilities and amenities

available to the existing and future occupiers of the property and thereon provide sub-standard and unacceptable levels of accommodation and facilities, shared facilities, parking and refuse provision for the future and existing occupiers of the property and as such would have a detrimental impact on residential amenity. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies H1/2 - Further Housing Development, H2/1 - The Form of New Residential Development, H2/2 - The Layout of New Residential Development and H2/4 - Conversions.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	28/2/24		