

DELEGATED REPORT

Report by Helen Pressley	Date of report: 13/03/2023	Ref: 69132/FUL
Registration: 25/01/2023	LDFC: 17/02/2023	Expiry Date: 22/03/2023
Site Visit: 02/02/2023	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use from existing 6 no. bedroom house in multiple occupation (HMO - Class C4) to 7 no. bedroom (7 person) house in multiple occupation (HMO - Sui Generis)
Location: 104 Ainsworth Road, Bury, BL8 2RS

Description

The application relates to a mid-terraced dwelling located on Ainsworth Road. The dwelling was converted to a 6no. house of multiple occupation (HMO) under permitted development (Use Class C4). The site is a 2 storey property with accommodation in the roofspace and rear dormer. There is also a 2 storey rear outrigger. To the rear there is a yard where bins are stored and which provides a small level of outdoor amenity space which is enclosed by a high wall and gate. A single storey out building is also located within the rear yard of the site that is utilised to store bikes.

The application seeks the change of use from a 6 no. bedroom HMO (Class C4) to a 7 no. bedroomed person HMO (Sui generis). It is proposed to convert a current storage space within the loft to provide an additional bedroom. The remainder of the internal and external arrangements and accommodation would not change.

Relevant Planning History

None

Publicity

Neighbour letters sent 26/01/2023.

Objection received in relation to:

- The present tenants are leaving all their food waste at the rear of the property, it is unwrapped and has been there for at least 6 months. The bin people will not empty their bins as the wrong things are being placed in the bins. There is not enough bins for the property and it is in a disgusting state. If it is this bad with 6 people it will only get worse with 7. I have complained to the letting company several times but nothing is done.
- It is a health hazard and looks like a fly tipping site.

Statutory/Non-Statutory Consultations

Traffic Section

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
H1/2	Further Housing Development
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
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
SPD11	Parking Standards in Bury
SPD13	Conversion of Buildings to Houses in Multiple Occupation

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. 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.

Principle

The property is currently a 6 person HMO which is permitted under Class C4.

This application seeks permission to change an existing loft storage room to an additional bedroom to allow accommodation for a further resident, for a 7no HMO.

The conversion of houses to HMO's can often make an important contribution to local housing stock. However, it is recognised that such conversions can put pressures on the amount of accommodation provided, put demands on parking and have an adverse effect on residential amenity and the character of an area.

As such the main issue is what impact the additional accommodation would have in planning terms and in relation to the suitability of the site and location, impacts on amenity, nature of the local environment, surrounding land uses and highway issues.

Policy H2/4 - Conversions specifically has regard to effects on amenity of neighbouring properties, general character of the area, amenity of occupants, effects from external changes on the street scene and car parking and servicing requirements.

These issues are discussed in more detail below and in light of policies H1/2, H2/1, H2/2 and H2/4.

Layout

In terms of the internal arrangements, it is proposed to convert the store room within the loft into a bedroom.

In terms of size of resulting bedroom accommodation provided in the property, the applicant states that the 7 no. proposed bedrooms would exceed the minimum size for a double bedroom set out in the Council's HMO licensing standards (10.2 sqm). This standard is only just achieved for the size of proposed additional bedroom in terms of floor space and the room is located in the loft where floor space can be limited. The applicant however has been asked to provide a section of the property and confirmed that appropriate head space can be accommodated. The only windows for this bedroom however would be rooflights which would give future occupants limited, if any outlook.

It is also stated by the applicant that a single communal room in the form of a kitchen, lounge and dining area would exceed HMO Licensing standards. One kitchen/living area of 18.6 sqm however is a relatively small space for 7 separate occupiers to cook food, relax and spend time outside of their bedroom areas. The property is essentially a 2 storey terraced house, and provides what is a level of accommodation of a typical terraced house, in that it is a 'two up two down' that has been extended and altered to provide a kitchen and bathroom and additional accommodation within the loft through the provision of a dormer. The property is the type which would generally provide enough accommodation for small families. External amenity space has also been previously reduced through the extension of the property.

The existing internal arrangements are such that the property is currently occupied at an occupancy that has led to conversion of a family bathroom, living area and kitchen to bedrooms. Whilst these internal arrangement can be carried out without permission, 6 no persons occupying a traditionally 2 bed terraced is already pushing the boundaries in terms of providing quality living areas and associated bin storage, external amenity areas and parking. The objector has highlighted that bins and waste are a problem at the property, and the applicant has responded to state that a bigger bin has been applied for and arrangements have been made for a private company to collect bins weekly. Whilst this arrangement may help in relation to the accumulation of waste at the property, a larger bin will further reduce the amount of outside space for occupiers of the property.

Notwithstanding compliance with the Council's HMO Licensing Standards for bedrooms, it is considered that the proposed development would provide a poor level of shared

accommodation for future occupiers and may not comply in terms of space provided for communal space.

Externally, there would be little change to the existing arrangements and facilities outside of the introduction of a larger bin discussed above. This would see very little amount of amenity space for 7 no occupiers where it would be expected that suitable levels for sitting outside and/or areas to dry clothes should be provided.

Given the above, it is considered that the increase occupation of this terraced property would exert unacceptable pressure on a property which is considered to operate at a full enough capacity in any event for 6 people, regardless of the fact this is lawful, and in doing so would also be harmful to the amenity of existing and future occupiers.

As such, the proposed development would be contrary to Policies H1/2, H2/1, H2/2 and H2/4.

Residential Amenity

In terms of the nature of the surrounding area, this is predominantly residential and characterised by similar sized terraced houses for family living. It would therefore be more unusual for a terraced property of this size to accommodate 6 people.

That said, in terms of additional noise, disturbance and activity likely created by one additional occupier, this is considered to be relatively minimal and not significant to a harmful degree to those living nearby.

Highway and Parking

There is no specific car parking standards for HMO's in SPD11 Parking Standards in Bury, but SPD 13 The Conversion of Buildings to Houses in Multiple Occupation gives some general advice. It states that parking and road safety issues will be important considerations when assessing a planning application and any proposal that is considered to have a detrimental impact on highway safety or harm to amenity will not be permitted. Car parking provision should meet the requirements of the likely occupants and, where possible, should be provided off-street.

The application site is considered to be well located in relation to nearby shops and services and is on a bus route into the town centre. Given the sites accessibility to the town centre, and proximity to local services it is considered that the HMO is located within a sustainable location.

It is generally recognised that car ownership tends to be lower for those who occupy HMO compared to other households. Whilst some residents of the HMO may not require access to a car, there is however no means to secure this and any cars associated with the use would have to park on street. The proposal would be located within an established residential area with on street parking available for residents and visitors both on Ainsworth Road and the side streets. It is considered that the potential of one additional car utilising this existing on street parking, would not put additional pressure on the existing car parking capacity in this particular location. In this instance it is considered given the nature of the existing parking provision in the area the proposal is acceptable.

Response to objection

As stated above the contents of the objection have been forwarded to the applicant who is seeking a larger bin, and private bin collection to address the existing issues in relation to bins and waste.

Conclusion

It is considered that the contribution to local housing stock would not be of any notable significance or added benefit which would outweigh the harm caused to the amenity of the existing and future occupiers and detrimental on highway safety.

As permitted development for 6 no occupiers, the LPA does not have any control over the use of the property as an HMO. As the LPA now have an application in front of them to determine, it is reasonable for the LPA to make an informed and considered judgement on the development and proposal which have now been brought to the forefront by this application and hence the conclusions reached that the proposed development could not be supported.

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 loss of communal space, would result in a loss of facilities and amenities available to the existing and future occupiers of the property and as such would have a detrimental impact on residential amenity of the occupiers. 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>
HP	13/03/2023	DM	15/03/23