

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 28/11/2024	Ref: 71156/FUL
Registration: 08/10/2024	LDfC: 01/11/2024	Expiry Date: 03/12/2024
Site Visit: 21/10/2024	Site Notice: N/A	Press Date: N/A
Objections: 5	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use from a 6 bed House in Multiple Occupation (HMO) to a 9 bed (single occupancy) House in Multiple Occupation (HMO)

Location: 17 Belle Vue Terrace, Bury, BL9 0SY

Description

The application relates to a mid-terraced property, currently a 6 bed House in Multiple Occupation (HMO) which is located on Belle Vue Terrace. This street comprises 11 properties - 10 terrace houses and a block of apartments at the end of the street where the road terminates at a turning head.

Belle Vue Terrace is designated as residents permit parking only on the south side leaving a single lane to access the rest of the street.

Manchester Road Car Park is located directly opposite the front of the houses and to the rear is a cobbled back street which serves the rear of the houses and those on Maudsley Street.

The application property is 2 storey with a bay fronted window and a rear outrigger and rear dormer. Part of the rear yard is decked and elevated above the back street and the lower part of the yard has a parking space and where the bins are stored.

The existing plans show that there are two en-suite basement bedrooms (nos 1 & 2 as labelled on the plans), each of which are served by a lightwell. At the ground floor are 3 vacant rooms and a kitchen/living room. There are 2 en-suite bedrooms (nos 3 & 4) and a kitchen at first floor and 2 en-suite bedrooms in the roofspace and dormers (nos 5 and 6).

The proposal is to change the use from a 6 bed HMO to a 9 bed HMO (single occupancy).

The additional 3 en-suite bedrooms would be located on the ground floor (7, 8 & 9) with the existing facilities shared.

The proposed site plan shows that one parking space would be retained in the rear yard, and a cycle store for 10 bikes, rotary dryer, seating and 8 x 240 litre wheelie bins also provided.

Relevant Planning History

20/0074 - Conversion of property into 9 no. flats - 26/03/2020

22/0137 - Works to roof - 02/05/2022

23/0349 - Change of use of property to house of multiple occupation - 29/12/2023

24/0214 - Change of use to house of multiple occupation - 10/09/2024

Publicity

Letters sent on 10/10/24 to 23 properties.

Five objections received with the following issues -

General issues

- The area already has too high a concentration HMOs, a poor standard of housing which increase traffic and social disturbance in the area which was a quiet street of family homes.
- House size isn't suitable for that many different households
- Over flowing bins already
- Already excessive noise due to a laundry room on the first floor adjacent to a bedroom.
- We have been informed that the building works have already been completed to change from a 6 bed to a nine bed HMO.
- I would like to state that this property was always intended to be a 9 bed HMO. This is not a recent decision taken by the owner. Once the property was sold and work started in 2023, the building foreman informed adjacent residents during a conversation that this was the plan. Indeed, it was also the plan of the previous owner. In January of this year, I watched and counted 9 sets of bedroom furniture arrive.
- In March I was invited in for a look round and was shown all 9 rooms fully furnished with beds/bedding and accessories, including the 2 basement rooms. Perhaps the thinking is that as the rooms are already completed that planning permission to increase his property from 6 to 9 bedrooms is simply a formality and tick box exercise without due consideration to the residents of this street.
- Should this application for no. 17 be approved then a precedent will be set and there will be no reasonable cause to object to a further increase of tenants should no. 9 also wish to add to its headcount. There are too many HMOs in this area of Manchester Road and the council needs to consider the importance to the limitation of any further HMOs and additional tenants and the impact this is having on the area.

Sustainable development

- NPPF 126 states a “fundamental” requirement to be sustainable development, development must make the places that people live their lives better. NPPF 2019 upgraded the policy position/benchmark. The harm to our amenities will not make our lives better. NPPF 126 explains the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve.
- NPPF 134 is clear that development that is not well designed should be refused.
- National Design Guide (‘NDG’) sets out 10 characteristics total expected for design to be sustainable. This proposal does not comply with – context, identity, design and homes and buildings.
- Allowing this scheme would result in poor design, fundamentally conflicting with the development plan; it is overdevelopment, harming amenities, and, as there is no SPG/Guidance, the NDG fully applies. It will be unsustainable development as defined by the Framework.
- Precedent - Judicial authority has long since recognised that in some circumstances precedent is created by planning decisions. The common mantra that each case is considered on its own merits, is applicable where circumstances are materially different. Approving this proposal would open the way for similar unsustainable schemes in this already densely populated area. It is noted that an application for an 8 bed HMO was submitted and subsequently withdrawn for 9 Belle Vue Terrace (Ref: 67914). If this application is approved, others in the street could all follow suit.
- Such would be a significant departure from Plan policy that puts as its priority the amenities of current residents. There is also the associated judicial authority of consistency in planning decisions.
- Scrutiny shows this proposal is fundamentally in conflict with the Plan. Per s38(6) Planning Compulsory Purchase Act 2004, planning permission must be refused, there are no material considerations that outweigh the harm to our amenities - matters of significant weight tipping the balance firmly against the scheme.

Parking and traffic

- Belle Vue Terrace is a row of 10 houses operating a residents permit parking scheme.

Due to the HMOs on Manchester Road and the associated parking restrictions on Manchester Road, the overflow from Houghton Street and Maudsley Street, parking has been and is an ongoing dreadful everyday situation. There are too many permits issued for the "zone" and residents of Belle Vue Terrace often find themselves unable to park.

- Personally when coming home during any time of the day unable to park either in the street or surrounding streets. I have even on occasions been unable to park in the Manchester Road car park as it is at full capacity.
- The very fact that it has already been allowed to be a 6 bed HMO without input from the residents is increasingly frustrating as it would surely have been objected to had we been given an opportunity to voice our opinions.
- Arranging utility visits such as gas engineers is also problematic.
- There have been occasions when residents have had to park on the footpath on the opposite side of the street due to lack of spaces. This in turn causes issues for the many pedestrians with prams and wheelchairs that use Belle Vue Terrace as a throughfare from Bolton Road and surrounding areas.
- This has also caused the grass verge on the border of the car park to become a mud bath and give a detrimental appearance to the street.
- There is increased traffic at the start and end of the school day at Bury Grammar and St Gabriel's Schools. The street gets blocked with so many cars wanting to drop off and collect their children, often filling the turning circle at the end of the street and leaving residents with no means of access to the street.
- There is another 6 bed HMO at no. 9 Belle Vue Terrace which seems to operate some sort of "facility" that requires official visits to it on a regular basis. These official visitors also use Visitor permits and spend many hours taking up resident's spaces adding to the parking congestion.
- Of the original 6 tenants at number 17 who moved into the property in July '24, there are at least 2 with cars. There have already been numerous occurrences of visitors to the property often staying overnight and again using resident spaces along the street causing issues with other householders being unable to park.
- There has been a recent car incident in the back street with one of the tenants as this gives access to the rear car park for the residents of the flats and again has caused increased traffic.
- This application should be refused based on the parking alone - the street simply cannot sustain any further demand for parking. The HMO policy guidance states that parking will be a major consideration when assessing an application for an HMO. No number of surveys will ever truly reflect the horrendous parking situation that residents are subjected to daily. And certainly, any additional increase to tenants to existing HMO's will only add to that. The policy guidelines state that the landlord should be able to provide reasonable off-road parking and in this case that is not possible.
- We already have access issues by people constantly blocking the back alley behind the property.

Noise and disturbance

- There are already 6 tenants in situ and the noise from banging doors is shocking. The washing machine vibrates against the wall and the noise carries over to the adjacent property. There has been no consideration to provide any kind of noise proofing and additional tenants will only add to that.
- There is no proposal for sound insulation in noise mitigation, for either the prospective occupants (e.g. between floors) or adjoining terrace homes. The considerable increase in the number of adult occupiers (who despite assertions otherwise, cannot be controlled in their day to day living) is very likely to have adverse impacts by reason of noise transmission, vibration, plus other disturbance through comings and goings. They are bound to have visitors, some who stay, the footfall and commotion also likely to be at anti-social times. The applicant's assurances are of no weight in planning terms because they are unenforceable per the NPPG 5 tests.
- UDP policies throughout, all seek to protect amenity of existing and proposed occupiers of land and buildings, H2/4 particularly highlights harm to neighbouring amenity through noise etc. The council cannot be satisfied the proposal will be harmless to neighbouring

amenities.

Outdoor amenity space for the scale of the HMO

- Insufficient outdoor amenity space for 9 tenants, in fact there isn't adequate space for the 6 already in place. As a family of 4 we ourselves struggle with outdoor space as do most terraced houses. There isn't any way possible to increase the outdoor space so therefore this HMO fails on these criteria imposed by the policy guidance also.
- There is inadequate sitting out space for 9 adults and guests unrelated to each other

Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal on inadequate parking and insufficient information with regards bin store/refuse arrangements

Waste Management - No response received

Adult Care Services - No response

Housing - Public Protection - No objection

Greater Manchester Police - designforsecurity - No objection

Pre-start Conditions - Not relevant

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
JP-C2	Digital Connectivity
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C8	Transport Requirements of New Development
JP-S2	Carbon and Energy
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing
SPD11	Parking Standards in Bury
SPD13	Conversion of Buildings to Houses in Multiple Occupation
Area	Bridge Road/Buckley Wells
BY2	

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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PfE Policies 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

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.

This is supported by SPD 13- The Conversion of Buildings to Houses in Multiple Occupation, that seeks to ensure that properties are of a sufficient size to accommodate the proposals and are large enough to offer satisfactory levels of accommodation for future residents. This document also seeks to ensure that HMO's are located in suitable locations.

SPD 13 is rather dated in absolute terms (adopted in May 2007). However, the general factors against which proposals should be assessed at UDP Policy H2/4 remain relevant.

PfE Policy JP-H3 - Type, Size and Design of New Housing seeks to provide an appropriate mix of dwelling types and sizes reflecting local plan policies and having regard to relevant local evidence. Development across the plan area should seek to incorporate a range of dwelling types and sizes, including for self-build.

Principle

The property already functions as an HMO for 6 no occupiers without the need for planning permission. The property also has an HMO license for 6 people.

The application proposes the change of use from a 6 no bed HMO to a 9 no bed HMO.

The main issue in relation to this proposal is what impact the additional accommodation and occupiers 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.

Layout and scale of development

In terms of the current accommodation, the existing plans show that the HMO provides 6 bedrooms over the basement, first and second floors, a communal room at ground floor and smaller kitchen/diner at first floor and a rear yard where there is a raised decked area, parking space and 3 bins.

The application proposes to use the 3 'vacant' ground floor rooms as additional bedroom accommodation.

In so far as the existing and proposed bedroom sizes are concerned, each would exceed the minimum for single occupancy as set out in the Council's HMO licensing standards. Two kitchen/communal rooms would be provided, one at the ground floor which shows limited dining facilities but does provide some seating and a small (9.5 sqm) kitchen/diner at the first floor.

The applicant states at 2.4 of the Planning Statement that the existing 6 bedroom HMO is operating at its full occupancy but the applicant wants to make more efficient use of the property by providing additional bedrooms within the unused rooms within the building, which from the submitted plans would be the 3 ground floor rooms.

However, at 3.3 of the Planning Statement it is stated that there are currently two rooms at ground floor, two at first floor and two at second floor which are occupied and then goes on to say it is proposed to install en-suite bathrooms to the new bedrooms, one at ground floor and two at basement level.

This directly contradicts both the existing and proposed plans which have been submitted where the existing plans show 3 'void' rooms at the ground floor with both basement rooms occupied and the proposed plans showing the ground floor rooms to be converted to 3 en-suite bedrooms.

The application therefore contains conflicting information.

Proposal

Each of the 3 rooms at the ground floor would be converted to a bedroom en-suite with a modification to the room proposed as bedroom No 9 to increase the area of the communal kitchen/diner. The proposed plans (dwg 005 rev B) show 2 small windows which would be provided to bedroom no 9 would overlook the yard area, parking space and bins which is considered to provide a relatively unpleasant outlook for any future occupiers. The only access to bedroom No 9 would be through the communal kitchen/living area and it is considered that the residential amenity of the future occupants of these rooms would be adversely impacted by noise, activity and use of this communal area.

The existing basement accommodation provides 2 en-suite bedrooms, each served by a small lightwell. It is considered that a lightwell not only provides a very poor outlook at basement level but also limited light to rooms which for all intents and purposes would be

the main accommodation for these occupiers and as such considered to provide an unpleasant and unsatisfactory standard of living accommodation. In addition, the utility and pump are located at the basement level directly next to bedroom no 1 which would create a certain amount of noise and disruption for the resident occupying this room.

There would be 2 communal rooms, one at ground floor and one at first floor. The ground floor provides kitchen and cooking areas and some seating areas. However, should any more than 6 persons be using the kitchen/diner area at one time, either to cook or relax, it would feel considerably cramped.

The first floor kitchen at 9.5 sqm would be small and cramped if used by more than one or two people at a time.

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.

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. Seeking to 'cram' in as many people as possible into this particular property would be neither good planning nor considers the well being of future occupiers. An HMO should provide no lesser standards of accommodation or amenity than would be expected of similar types of development.

With the number of people now adapting to homeworking and hybrid working it can be argued that there is an even greater need to ensure that the needs for all future tenants is adequately provided in terms of adequate internal and external communal and amenity space outside of their own private rooms.

An additional three extra occupiers within the property would therefore lead to an intensified use of the communal and outdoor amenity spaces that would go beyond the existing use and would exert unacceptable pressure on a terraced property.

It is accepted that there would be no occupation limit on the property if it were retained as a dwelling and that the property can be utilised for intergenerational living if it were retained as a family property rather than an HMO. It is also accepted that the extent of built form is existing and could be utilised by a family in a different configuration than existing. The ability for any occupiers of this property to do this however is limited by the size and layout of the property, and their specific needs and circumstances.

Even if some of the downstairs living spaces were converted to a bedroom to meet the needs of family members, or a loft conversion were included to create an additional bedroom, it is considered highly unlikely that a family would convert the basement to additional bedrooms and en-suites to each room and as such this would naturally limit the amount of occupants. In any case, an HMO use is different to a dwelling use which is why planning permission is required if they applicant wishes to utilise the property as a 9 no. person HMO.

In terms of outdoor space, the existing rear yard has limited facilities for 6 occupants and comprises a decked area, one parking space and 3 bins.

The application proposes to provide a dryer, two benches, 8 bins and a cycle store with the parking space retained. Whilst this would be an improvement on the current facilities, amenity provision would be cramped and still relatively poor for 9 occupants and would significantly restrict the use of a small yard area for 9 people.

National Design Guide requires new housing to have adequate space for refuse storage provision and outside amenity and in this case, the increase in occupation would exert unacceptable pressure on a property to provide for future occupiers in these respects.

The applicant would therefore be advised to concentrate efforts on reconfiguring the

existing space.

Accordingly, the proposal would fail to provide satisfactory living conditions for occupiers of the property and thus would conflict with Policies H2/1 and H2/4 of the Bury Unitary Development Plan and SPD13. Together, these policies aim to ensure that developments consider the impact on residential amenity of existing and future occupiers.

Impact on 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 9 people.

That said, in terms of additional noise, disturbance and activity likely created by three additional occupiers, it is questionable as to whether there would be a significant harm to those living nearby.

Highway issues

There is no specific car parking standard 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.

The property is located on a side street where there is a residents permit parking scheme in place which runs down one side (southern side) of the road directly in front of the houses on Belle Vue Terrace.

Under the permit scheme residents can have permits for however many vehicles they have registered at the address plus a maximum of 2 visitor permits. In considering that even if half the existing occupiers had 1 vehicle and 1 visitor permit that could be a fair number of vehicles which the existing road space cannot accommodate. Increasing the occupation to 9 in total could potentially add another 2 or 3 car permit holders.

Complaints from existing residents living within the parking zone have been received by the Council's parking division, regarding the available but limited parking. There has also been issues with vehicles being parked in the back streets (there are yellow lines but the Traffic Regulation Order only operates 9am-5pm) and issues with access for the bin wagons.

There is a pay and display car park opposite the site but that is more often than not fully occupied during the day and the site is located close to the town centre where there is access to public transport. It is also recognised that car ownership tends to be lower than those who occupy HMO's compared to other households. However, it is likely that out of 9 occupiers, there would be several occupiers who would have cars, plus the visitor permits which are available for the household.

It is noted that a number of objections refer to the existing parking problems in the vicinity which would be worsened by the increase in occupation of this particular property. Any increase in occupation of this property would put additional pressure on parking in the area.

Carbon and Energy - PfE Plan, Policy JP-S2

During the renovation of the existing property to bring it into use as a 6 bed HMO, measures to reduce energy demand and maximise the energy efficiency of the property have been implemented through thermal insulation which was installed to comply with Part L of the Building Regulations.

The applicant has looked at other options which have been discounted given the physical

build and associated costs.

Given the property already functions as an HMO it is considered that in this instance no further measures would be required.

Response to objectors

Issues raised have been covered in the above report

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development, by virtue of the increased occupation which would result in the significant intensification of the use of the building which would provide poor and inadequate living conditions for existing and future occupiers by virtue of restricted outlooks, small windows, limited daylight . The proposed development would therefore be contrary to H2/1 - The Form of New Residential Development, H2/2 - The Layout of New Residential Development, H2/4 - Conversions of the Bury Unitary Development Plan, Supplementary Planning Document 13 - Conversion of Buildings to Houses in Multiple Occupation, Policy JP-H3: Type, Size and Design of New Housing of the Places for Everyone Joint Development Plan, and the National Planning Policy Framework.
- 2 The application and submitted plans contain conflicting information with regards to the existing and proposed occupation and use of the rooms labelled as bedrooms 1-6 and void on the existing plans and bedrooms labelled as 1-9 on the proposed plans to enable them to be properly assessed. The proposed development would therefore be contrary to H2/1 - The Form of New Residential Development, H2/2 - The Layout of New Residential Development, H2/4 - Conversions of the Bury Unitary Development Plan, Supplementary Planning Document 13 - Conversion of Buildings to Houses in Multiple Occupation, Policy JP-H3: Type, Size and Design of New Housing of the Places for Everyone Joint Development Plan, and the National Planning Policy Framework.
- 3 The proposed car parking provision is inadequate and is likely to lead to vehicles parking and carrying out manoeuvres on the highway to the detriment of the free flow of traffic and road safety.
The proposed development would therefore be contrary to UDP Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design, H2/4 - Conversions, HT2/4 - Car Parking and New Development and PfE Policies JP-C5: Streets For All, JP-C6: Walking and Cycling, JP-C8 - Transport Requirements of New Development and SPD13.
- 4 The application and submitted plans contain insufficient information to enable the adequacy of the proposed bin storage/refuse arrangements to ensure that the adopted highway will not be used for the storage of bins to be properly assessed. The proposed development would therefore be contrary to UDP Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design, H2/4 - Conversions, HT2/4 - Car Parking and New Development and PfE Policies JP-C5: Streets For All, JP-C6: Walking and Cycling, JP-C8 - Transport Requirements of New Development and SPD13.
- 5 The proposed development, if approved, would create a precedent for similar development in the area, with a resultant cumulative impact on highway safety. The proposed development would therefore be contrary to UDP Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design, H2/4 - Conversions, HT2/4 - Car Parking and New Development and PfE Policies JP-C5: Streets For All, JP-C6: Walking and Cycling, JP-C8 - Transport Requirements of

New Development and SPD13.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	28/11/24		29/11/2024