

## **APPEAL STATEMENT**

Ref: Application 72985 – 33 Knowsley Street, Bury, BL9 0ST

Project number: GSS22070

Date: 23rd June 2026

Proposal: Change of use from a 6 bed/6 person HMO (Use Class C4) to a 7 bed/7 person HMO (Sui Generis)

### **1. Introduction**

- 1.1 This appeal statement is submitted on behalf of AJ & MH Properties Ltd (the Appellant) against the decision of Bury Metropolitan Borough Council (the Council) to refuse planning application 72985 on 21 May 2026. The application sought permission for the change of use of 33 Knowsley Street, Bury, BL9 0ST from a 6-bedroom, 6-person House in Multiple Occupation (Use Class C4) to a 7-bedroom, 7-person HMO (Sui Generis).
- 1.2 The application was refused for seven reasons. It is the Appellant's case that each of those reasons is without merit and that the appeal should be allowed.
- 1.3 The central argument running through this statement is that the property is already an established and lawfully operating 6-bedroom HMO under planning terms. The proposal does no more than add a single additional bedroom within the existing building envelope and no external alterations are proposed. The Council's concerns about lawful establishment of use and loss of employment relate to the historic background of the site, not to its current and established reality. It is submitted that the degree of change proposed is negligible and that the seven reasons for refusal, considered individually and cumulatively, do not justify the withholding of planning permission.

### **2. Site and Proposal**

- 2.1 33 Knowsley Street is a mid-terrace Victorian property on Knowsley Street in the Bury town centre fringe area. The property is arranged over three floors plus a cellar level.
- 2.2 The property currently operates as a 6-bedroom, 6-person HMO in Use Class C4. It is fully licensed, having received its HMO licence on 19 March 2026. Each of the six bedrooms is fitted with an en-suite bathroom and the property provides a shared kitchen and dining space at ground floor level.
- 2.3 The rear of the property provides one off-street parking space with a 7kW EV charging point, covered cycle storage for 8 bicycles, and bin storage. There is an additional on-street parking space to the front of the property.
- 2.4 The sole change proposed is the conversion of currently unused ancillary storage space at second floor rear into a 7th bedroom with en-suite. No structural alterations are required. No external changes are proposed. All existing bedrooms are retained in their current form.

- 2.5 All seven proposed bedrooms exceed the minimum bedroom size standards required by Bury Council HMO guidelines. The smallest bedroom in the scheme measures 12.3 square metres, well in excess of the 7.5 square metre minimum for single occupancy.

### **3. Planning History**

- 3.1 Planning permission 68845 was granted on 29 September 2022 for the change of use of the property from office (Class E) to residential (Class C3). Permission was implemented and the conversion works were physically completed.
- 3.2 A tenancy agreement between AJ & MH Properties Ltd and Jay Garrity, dated 10 December 2022, confirms that the property was occupied as a C3 dwelling from that date. The tenancy was entered into as a letting of an unfurnished dwelling house on an assured shorthold tenancy under Part 1 of the Housing Act 1988, at a monthly rent of £500.
- 3.3 Building Control formally signed off the conversion to a C3 dwelling under reference RG/25/02025, with a completion date of 9 December 2025. This was a retrospective regularisation certificate, reflecting that the physical works had been completed and occupied considerably earlier. The retrospective nature of the building control application does not affect the lawfulness of the C3 use.
- 3.4 An Electrical Installation Certificate was issued by GRS Electrical on 12 January 2024 confirming the fixed wiring installation at the property as a new domestic dwelling.
- 3.5 The property was subsequently converted from C3 to a C4 6-bedroom HMO under the Permitted Development rights afforded by Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015. Building Control signed off the conversion from C3 to C4 under reference RG/24/02066, with a completion date of 9 December 2025. An HMO licence was formally issued on 19 March 2026.
- 3.6 A previous application 71010, refused on 24 March 2025, sought permission for a 7-bedroom HMO but was refused in part due to insufficient evidence to demonstrate the lawful establishment of the C3 use. In response, retrospective building control regularisation was obtained for both the commercial-to-domestic conversion and the subsequent conversion from C3 to C4, under references RG/25/02025 and RG/24/02066 respectively. The current application was accompanied by a significantly expanded evidence base, including the tenancy agreement, a planning statement setting out the full history and proposal of the site, both regularisation certificates, and the electrical installation certificate.

## **4. Response to Refusal Reasons**

### **4.1 Refusal Reason 1: Lawful Establishment of C3 Use**

*"The applicant has failed to prove, on the balance of probability, that the application 68845 was lawfully implemented and that the use to which the application relates has been lawfully established. The applicant has therefore failed to demonstrate that the property would benefit from the permitted development rights set out under Part 3, Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)."*

- 4.1.1 The Council has refused permission on the basis that the Appellant has failed to prove, on the balance of probability, that application 68845 was lawfully implemented and that the C3 use was lawfully established.
- 4.1.2 It is submitted that this reason for refusal does not reflect a fair and balanced assessment of the evidence submitted. The Appellant has provided a tenancy agreement dated 10 December 2022, executed between the landlord and a named tenant, for the letting of the property as a dwelling house under the Housing Act 1988. This is a legally binding document establishing that a residential tenancy was in place from December 2022, immediately following the grant of planning permission on 29 September 2022. The works were physically complete and the tenant was in occupation.
- 4.1.3 The officer report acknowledges the tenancy agreement but concludes that it does not confirm lawful occupation in accordance with the planning consent, citing the absence of council tax records or utility bills. It is submitted that this sets an unreasonably high evidential bar. A signed tenancy agreement under Part 1 of the Housing Act 1988 for a residential letting is, in itself, compelling evidence of residential occupation. There is no requirement in law or planning policy that a tenancy agreement must be accompanied by council tax records to constitute evidence of use.
- 4.1.4 Both regularisation certificates were issued by Bury Council's own Building Control department, confirming satisfaction of the Building Regulations in respect of both the commercial-to-domestic conversion and the subsequent conversion to HMO. Whilst issued retrospectively, they confirm that the physical works described were carried out to the required standard. Retrospective building control regularisation is a well-established mechanism and does not diminish the lawfulness of works carried out.
- 4.1.5 Taken together, the tenancy agreement, the two regularisation certificates, and the electrical installation certificate provide a coherent and mutually corroborating body of evidence demonstrating that the C3 use was lawfully implemented following the grant of permission 68845. It is submitted that on the balance of probability, the standard expressly stated in refusal reason 1, the evidence demonstrates lawful establishment of the C3 use.

- 4.1.6 It is further noted that, even if any residual doubt were to remain on this point, the property has been operating as a licensed HMO since at least March 2026 with the full knowledge of the Council, including its Housing department. The HMO licensing process requires the Council to be satisfied as to the fitness of the premises and its management. The grant of that licence is a further material indication of the established residential nature of the property.

## **4.2 Refusal Reason 2: Loss of Employment**

*"The application contains insufficient detail to demonstrate there is no reasonable prospect of the site being retained or re-developed for employment uses, contrary to the requirements of Policy EC2/2 - 'Employment Land and Premises Outside the Employment Generating Areas' of the Bury Unitary Development Plan, SPD 14 and the National Planning Policy Framework."*

- 4.2.1 The Council has refused permission on the basis that the Appellant has not demonstrated there is no reasonable prospect of the site being retained or redeveloped for employment uses, contrary to Policy EC2/2 and SPD14.
- 4.2.2 It is submitted that this reason for refusal has no realistic prospect of being sustained in the context of the current application. The property is already, in practice, a fully functioning and licensed 6-bedroom HMO. The question of whether the employment use should have been lost is not the question before this appeal. The question is whether permission should be granted to increase the number of occupants from six to seven.
- 4.2.3 The pre-application advice issued by the Council on 27 May 2022 (ref 02713/E) expressed a broadly positive view of the conversion of this property to residential use, noting that the building was originally built as a dwelling, was flanked by dwellings, and that the proposal was acceptable in principle. The former office use was vacant at the time of the original application. The Council's own officer at pre-application stage recognised there was no meaningful conflict with the surrounding land use context.
- 4.2.4 To apply Policy EC2/2 and SPD14 in full force to an application which merely proposes to add a single bedroom to an already established and licensed HMO would be wholly disproportionate. The property is a modest Victorian mid-terrace of a type and scale that is not realistically suited to commercial employment use in the current market. The Council's concern about employment loss, whatever its merits in the abstract, cannot rationally bear upon a proposal of this nature.
- 4.2.5 It is respectfully noted that if the Council were genuinely concerned about the loss of employment uses in this location, it had available to it a number of mechanisms to restrict such changes of use, including the introduction of an Article 4 Direction removing permitted development rights for commercial-to-residential conversions. The Council chose not to pursue any such mechanism.

Furthermore, the Council itself granted planning permission for the change of use from office to residential under application 68845. In those circumstances, it is submitted that it would not be reasonable to seek to apply employment protection policies to an application that does no more than add one bedroom to a dwelling that the Council itself approved.

#### **4.3 Refusal Reason 3: HMO Concentration Threshold**

*"The proposal would exceed the HMO concentration threshold as set out within emerging Supplementary Planning Document 13: Houses in Multiple Occupation. It is therefore considered that the proposal would fail to ensure that a mixed and balanced community is retained in the area contrary to Bury Unitary Development Plan Policies H1/2 - Further Housing Development, H2/4 - Conversions, Places for Everyone Joint Development Plan Policy JP-H4 - Density of New Housing, the National Planning Policy Framework and emerging Supplementary Planning Document 13: Houses in Multiple Occupation - Updated Version."*

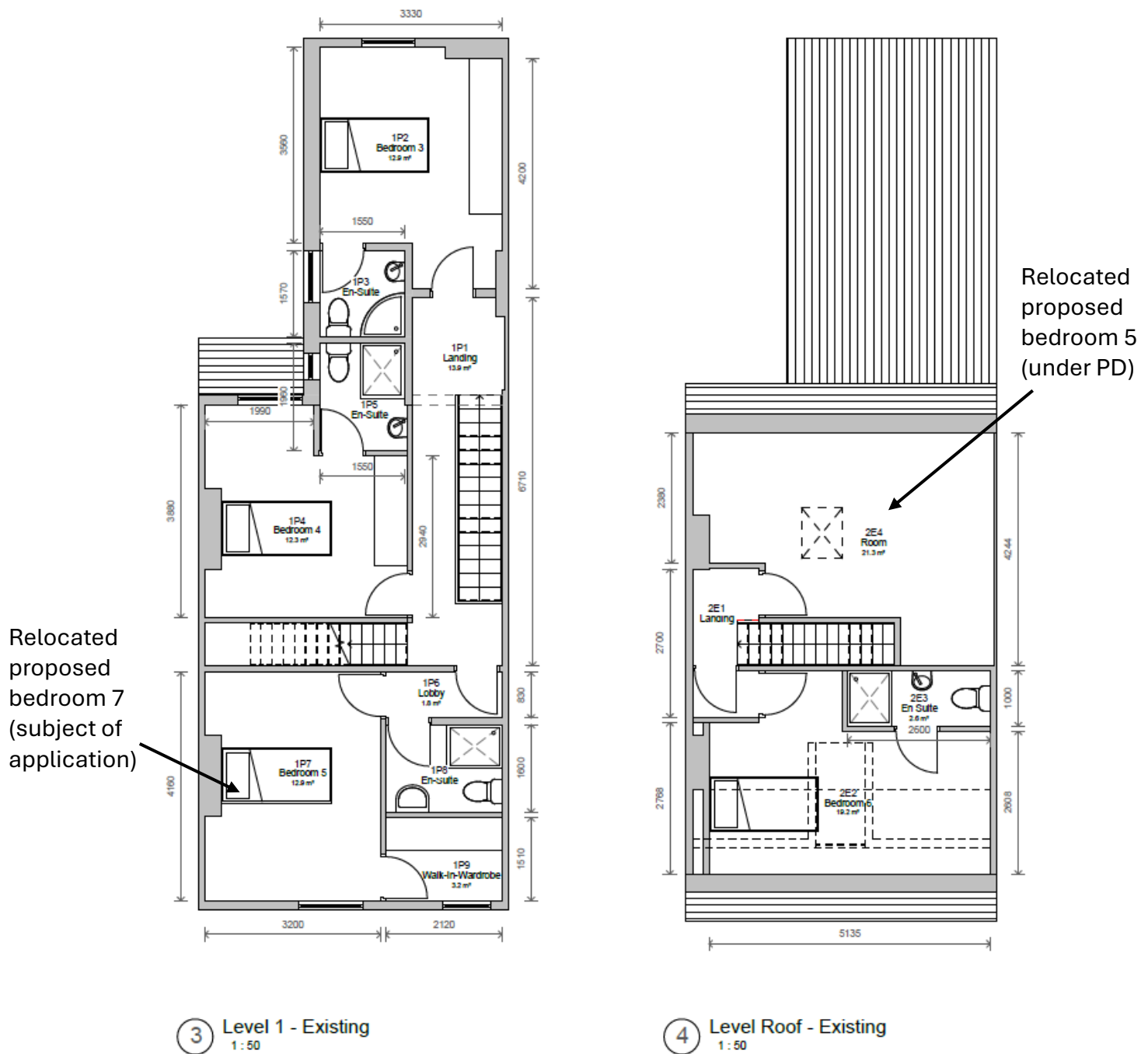
- 4.3.1 The Council has refused permission on the basis that the proposal would exceed the HMO concentration threshold set out in SPD13.
- 4.3.2 It is submitted that this reason is misconceived in its application to this appeal. The concentration threshold under SPD13 is directed at controlling the proliferation of HMOs in an area, specifically by limiting the number of separate HMO properties within a 100-metre radius. The proposal does not create a new HMO. The property is already a C4 HMO and has been for some time. The proposal simply increases the number of occupants within that same existing HMO from six to seven.
- 4.3.3 No additional property within the 100-metre radius is proposed to become an HMO. The concentration of HMO properties in the locality is entirely unchanged by this proposal. The SPD13 threshold is not exceeded by this application in any meaningful sense: the application site is already counted within the existing concentration.
- 4.3.4 It would be irrational to apply the concentration threshold as a basis for refusing an internal reconfiguration of an existing HMO that adds no new HMO property to the area. To do so would be to use a policy tool designed to manage geographic spread as a mechanism to control the internal capacity of an already established use.

#### **4.4 Refusal Reason 4: Light and Outlook to Bedroom 7**

*"The applicant has failed to demonstrate that adequate light and outlook would be provided in relation to the rooflights proposed for the future occupier of proposed bedroom 7, or that these rooflights would not have a detrimental impact on the amenity of neighbouring properties by means*

*of loss of privacy. The proposal is therefore contrary to Bury Unitary Development Plan Policy EN1/2 - Townscape and Built Design, H2/4 - Conversions, H2/1 - The Form of New Residential Development, H2/2 - The Layout of New Residential Development, Places for Everyone Joint Development Framework Policy JP-P1: Sustainable Places, emerging Supplementary Planning Document 13: Houses in Multiple Occupation Updated Version and Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties."*

- 4.4.1 The Council has refused permission on the basis that the Appellant has failed to demonstrate that adequate light and outlook would be provided to the rooflights proposed for bedroom 7.
- 4.4.2 The proposed bedroom 7 is located at second floor rear. The room measures 18.7 square metres, well in excess of the minimum standard. Rooflights are proposed to serve this room. It is submitted that rooflights are a well-established means of providing natural light and ventilation to rooms within the roof structure of terraced properties, and that their use here is entirely consistent with common practice in HMO conversions of this type.
- 4.4.3 It is further submitted that the change of use between C3 and C4 is permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015. The internal arrangement of bedrooms within a C4 use is not a planning matter and the Council has no jurisdiction over which rooms are designated as bedrooms within that permitted use. It follows that the seventh bedroom the subject of this application is not fixed to the roof level room and could in principle be located anywhere within the property.
- 4.4.4 Were the Council to maintain its concern regarding the rooflight serving the roof level room, the Appellant could simply designate that room (2E4) as one of the six C4 bedrooms, which require no planning permission, and relocate the seventh room to first floor level (see **Figure 1** below). As demonstrated on the submitted plans, bedroom 5 (1P7) at first floor level benefits from a generous floor area and a good outlook over the street. It is submitted that the Council's concern about the rooflight cannot therefore rationally be used as a basis for refusing this application.



**Figure 1:** Existing floor plans demonstrating the ability to relocate bedroom 7 to first floor level if required.

#### 4.5 Refusal Reason 5: Communal Space and Outdoor Amenity

*"The proposed development, by virtue of the increased occupation and without increase of communal space and outdoor amenity 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 and emerging Supplementary Planning Document 13: Houses in Multiple Occupation Updated Version."*

- 4.5.1 The Council has refused permission on the basis that the increased occupation, without a corresponding increase in communal space and outdoor amenity space, would have a detrimental impact on the amenity of occupiers.
- 4.5.2 It is submitted that the addition of a single occupant to a 6-person HMO does not constitute a material change in the pressure exerted on the communal facilities. The shared kitchen and dining area at ground floor level has a floor area of 19.8 square metres. Bury's HMO Guidelines require a minimum of 19.5 square metres of shared kitchen and dining space for between 6 and 10 occupants. The proposed communal space therefore meets and marginally exceeds the required standard for the proposed 7-person occupation. It is submitted that the Council cannot reasonably apply a stricter test than its own adopted guidelines provide for, and that refusal reason 5 on the grounds of communal space is therefore not sustainable.
- 4.5.3 It is further noted that planning permission was granted by Bury Metropolitan Borough Council on 17 December 2025 for the change of use of Morning Star, 25 Thomas Street, Radcliffe to a 15-bedroom, 18-person HMO, with no requirements imposed in respect of communal space provision (see **Appendix 1** and **Appendix 2**). This demonstrates that the Council does not consider such matters to be a barrier to granting permission for HMO developments of a significantly greater scale than that proposed here.
- 4.5.4 The rear courtyard provides bin storage, one off-street parking space and covered cycle storage. It is acknowledged that the outdoor amenity space is limited, as is common in town centre terraced properties of this type. However, the addition of one further occupant does not meaningfully alter the amenity position when weighed against the well-connected and accessible town centre location of the property, where occupants have ready access to public open space and town centre facilities.

#### **4.6 Refusal Reason 6: Car Parking**

*"The applicant has failed to demonstrate that the proposal would comply with the Council's car parking standards in respect of the proposed development. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: HT2/4 - Car Parking and New Development, H2/4 - Conversions, emerging Supplementary Document 13: Houses in Multiple Occupation Updated Version and Supplementary Planning Document 11 - Parking Standards in Bury."*

- 4.6.1 The Council has refused permission on the basis that the Appellant has failed to demonstrate compliance with the Council's car parking standards.
- 4.6.2 SPD11 confirms that for HMO and shared housing developments in Zone 1, parking should only be provided for disabled residents and visitor or drop-off purposes. The property is situated within Bury town centre fringe, which falls within Zone 1 for parking purposes. The Council's own standards therefore do not require standard parking provision for HMO occupants in this location.
- 4.6.3 One off-street parking space is provided to the rear, equipped with a 7kW EV charging point. Covered cycle storage for eight bicycles is also provided. It is submitted that this provision is fully consistent with the Council's Zone 1 standards and that refusal reason 6 is not sustainable.

#### **4.7 Refusal Reason 7: Bin Storage**

*"The applicant has failed to demonstrate the proposal would ensure that adequate off-highway bin storage arrangements can be provided for the proposed use, in order to ensure that the adjacent adopted highways are not used for refuse collection purposes or the storage of communal bins contrary to Bury Unitary Development Plan and Places for Everyone Joint Development Plan Policies EN1/2 - Townscape and Built Design, Policy H2/4: Conversions, JP-P1 - Sustainable Places, JP-C5 - Streets for All and JP-C6 - Walking and Cycling and emerging Supplementary Planning Document 13: Houses in Multiple Occupation Updated Version."*

- 4.7.1 The Council has refused permission on the basis that the Appellant has failed to demonstrate that adequate off-highway bin storage can be provided.
- 4.7.2 The proposed site plan identifies a dedicated bin storage area within the rear courtyard. The Council's concern is the absence of sufficient detail on the site plan as to the precise dimensions and capacity of the bin storage area.
- 4.7.3 It is submitted that this is a matter of detail that is readily capable of resolution. A revised site plan, drawing reference GSS22070.4 - 33 Knowsley Street, Bury - 502.1 - Site Existing and Proposed, has been submitted as part of this appeal. The drawing clearly shows the addition of one further bin per waste stream within the rear courtyard. It is noted that the proposal adds just one additional person to an already established 6-person HMO, and the addition of one further bin per waste stream is more than adequate to accommodate that negligible increase in waste generation. It is submitted that this resolves the officer's concern entirely and that refusal reason 7 cannot be sustained.

#### **5. Conclusion**

- 5.1 This appeal concerns a negligible increment of change to an already established and lawfully operating HMO under planning terms. The proposal adds one

bedroom within the existing building envelope and no external alterations are proposed.

- 5.2 The property is already an established 6-bedroom HMO. The proposal adds just one further bedroom within the existing building envelope. Any concerns the Council may have had regarding the lawful establishment of the use relate to the historic background of the site and do not reflect the current reality.
- 5.3 The concern about employment loss is wholly disproportionate in the context of a single additional bedroom, particularly given that the Council itself granted permission for the change of use from office to residential and chose not to introduce any mechanism to restrict such changes of use.
- 5.4 The concentration threshold is not engaged by this proposal. No new HMO is added to the area and the application site is already counted within the existing concentration.
- 5.5 The technical concern relating to bin storage is resolved by the revised site plan submitted as part of this appeal. The concern relating to rooflights is not sustainable, as the Appellant could simply designate the roof level room as one of the six C4 bedrooms and relocate bedroom 7 to first floor level, requiring no planning permission. The parking concern is not sustained having regard to the Council's own Zone 1 standards.
- 5.6 It is respectfully submitted that the appeal should be allowed and that planning permission should be granted, subject to any appropriate conditions.