

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 10/06/2024	Ref: 70679/FUL
Registration: 19/04/2024	LDfC: 16/05/2024	Expiry Date: 14/06/2024
Site Visit: 02/05/2024	Site Notice: 02/05/2024	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: COUS

Proposal: Alterations to first floor to combine two existing House in Multiple Occupation units (HMO) into one 6 bedroom (single occupancy) House in Multiple Occupation (HMO)

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 the application was refused.

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 -

Ground floor

Unit A - 4 bed

Unit B - 4 bed

Unit C - 5 bed

First floor

Unit A - 5 bed

Unit B - 3 bed

Unit C - 2 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.

An application ref 70341 to carry out alterations to the first floor only, to combine two of the existing 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, was refused February 2024 for the following reason -

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.

This application proposes the exact same development as the previously refused application ref 70341, to combine two of the existing first floor HMO's to create a single 6 no bed HMO unit by changing the communal room in one of the HMO's to an en suite bedroom and merging the existing units B and C to form a single unit B.

The first floor would therefore be configured as follows -

Unit A - 5 no bed HMO (no change)

Unit B - 6 no bed HMO (new)

The applicant has provided a supporting statement which seeks to address the previously refused scheme -

- compliance with HMO Licensing space standards for bedrooms and shared facilities
- increased refuse provision
- 9 parking spaces and 11 cycle spaces (as previously approved)

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

70341 - Alterations to existing first floor two HMO into one HMO to include an additional bedroom (single occupancy) - Refused 29/02/2024

Publicity

Letters sent to 42 properties on 23/4/24.

Site notice posted 2/5/24.

No responses received as a result of the publicity.

Statutory/Non-Statutory Consultations

Traffic Section - Recommends refusal on lack of parking.

Environmental Health - Pollution Control - No comments to make

Waste Management - No response received.

Housing - Public Protection - No response received.

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
SPD11	Parking Standards in Bury
EN7/2	Noise Pollution
JP-C2	Digital Connectivity
JP-S2	Carbon and Energy
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing

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.

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.

These issues were assessed in the previously refused scheme and given this application essentially proposes the same scale of development, there is no change to the assessment and conclusions reached in this application, which are detailed below.

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 B-1P2 on the proposed 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 in their response to the previous application), 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 and areas away from bedrooms 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 sperate 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 in their Planning Statement that a larger living space would be created while complying with minimum space standards but this is factually incorrect as there would only be one communal room with shared facilities for an increased occupation.

In terms of the refuse provision, the previous application proposed 9 bins including those for recycling which for the current occupancy of 23 seems a relatively low provision. For this application, an additional general waste bin is proposed. The waste management team have been consulted on the proposed development and have made no comments.

It is therefore surmised that the waste management department do not have an issue with the number of bins which would be provided for both the existing and additional occupancy.

Whilst the applicant has provided a supporting Planning Statement, apart from the additional refuse bin, there is no new evidence or changes made to the previously refused scheme which would enable the application to be supported.

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

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.

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 objected to the previous application on inadequate parking to serve the development and similarly objected to the current application. As such, the proposed development would not be supported.

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.

HMO licensing

The Housing Section have been consulted on the application but no comments have been received.

However, comments were made to the previous application which were as follows -

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.

Type, Size and Design of New Housing - Policy JP-H3

Requires new residential to be built to an accessible and adaptable standard in accordance with PartM4(2) of Building Regulations.

The proposal relates to the conversion of existing residential accommodation at first floor level and therefore it is accepted that there will be occasions such as this when it is not practical to fully comply with this policy.

Carbon and energy - Policy JP-S2

The applicant has stated that the requirements to introduce energy saving systems where the existing infrastructure is already in place would not be required.

This is accepted given the small scale development.

Digital Connectivity - Policy JP-C2

The existing building is served by full fibre and as such policy compliant.

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 and parking for the future and existing occupiers of the property and as such would have a detrimental impact on residential amenity and highway safety. 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>
JT10/6/24		DM - 11/06/24	