

DELEGATED REPORT

Report by Helen Pressley	Date of report: 07/03/2023	Ref: 69247/FUL
Registration: 31/01/2023	LDFC: 24/02/2023	Expiry Date: 28/03/2023
Site Visit: 09/02/2023	Site Notice: N/A	Press Date: N/A
Objections: 5	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Retention of storage container

Location: 417 Bury Old Road, Prestwich, Manchester, M25 1PS

Description

The application relates to the rear yard/parking area of a terraced property located on Bury Old Road. The host property is commercial in use, currently occupied by a company that is a registered provider of social housing. The site is bounded by residential properties to the east and south, with a mixture of commercial and residential properties to the north and west.

Planning permission is sought for the retention of an existing shipping container within the rear yard/parking area. The container is 2438 mm wide, 6096mm long and 2620mm high. The supporting letter and application form states that the container is for storage. The applicant is seeking temporary consent for siting of the container for 2 years.

Relevant Planning History

Enforcement

22/0357 - Storage container at the rear of property - 17/01/2023

Publicity

Neighbour letters sent to 15 properties on 03/02/2023. 6 objections received in relation to:

- Container placed in parking area for the building has led to staff parking their cars blocking driveways and access road.
- Staff are using private parking areas to turn their cars and causing possible damage to property and vehicles.
- Staff have used private parking spaces to park without consent of landowners.
- Cars and vans are parked and left overnight and at weekends outside the container which restricts access to properties.
- Large deliveries are made to the container which block access to the road.
- Staff and delivery drivers have been abusive and rude.
- Anti-social behaviour
- I do not want to see a steel shipping container when looking out of my window, living in an residential area. Who would?
- A shipping container in between a residential housing area does not seem a suitable storage solution.
- It seems to lead to more people/noise in the back alley as well as additional vehicle movements around the car park and back alley (adopted highway) area, which is already in a very poor state.
- Should be noted that no work seems to have taken place to restore the back alley from the damage the works to 399-415 Bury Old Road caused.
- The shipping container is in a poor dilapidated physical condition.
- The container extends to the rear curtilage of the applicant's property. It therefore forms the boundary to the premises and directly faces the rear (and habitable rooms) of

- premises on Milton Road and Bury Old Road.
- Significant portions of the container are visible from all sides. This results in a significant loss of character and amenity for the local residential area.
 - The property seems to have two small (residential standard) wheely bins for refuse. This does not seem appropriate for a commercial property or for the scale of business they currently operate. There was so much waste (cardboard, packaging etc.) left on the site prior to the container arriving, that I originally assumed it was to hold waste rather than additional commercial stock.
 - The alley to the rear property is now regularly littered with packaging, which is left, blown around and becomes wet. I've seen rodents on multiple occasions around the collections of waste that have accumulated.
 - The application states 3 spaces were originally on site. In reality it was 2 spaces, which is now 1 parking space after the proposed storage container. This one space also has poor access (due to the bent/dangerous lamp post which was knocked by the applicant when the container arrived).
 - The applicant states there are 10 FTE roles onsite, with a further 2 part time. 1 parking space for a commercial premises with up to 12 people onsite and/or visiting multiple times each day is not compatible within a predominantly residential area with access of a single track back alley.
 - The level of staff and traffic movements from the site are increasing the level of noise and disruption to residents in an area surrounded by private rear gardens. We have the noise from the operation of the container itself and have deliveries (incl. sprinter vans, 7.5 & 18 tonne lorries) backing down the lane for large deliveries.
 - These movements place additional pressure on the junction between the alley and Holyrood Road. This area is adjacent to a day nursery with multiple pick ups. This makes access to our lane dangerous with cars often waiting either side of the junction, blocking visibility splays. This is dangerous for the families using the nursery and motorists.
 - It should also be noted, that when the applicant's cars are not parked blocking the lane they're on the kerb on Holyrood Road, exacerbating the above mentioned highway safety issues.
 - The container's doors also open directly onto the adopted highway which creates its own highway safety issues. The doors are large and care is needed when driving past as they're swinging into the path of on coming traffic.
 - Blocking access for emergency and home care services.
 - Preventing refuse collection - All residents (about 18 properties) now place their bins at the end of the lane/Holyrood Road. This creates access issues, safety issues for the junction and the pathway is often completely blocked (pictures enclosed).
 - The area has improved a lot and happy when derelict shops were converted to family homes.
 - Business as 417 use the back alley as a rat run, delivery space, parking forecourt and smoking area. The building is too small for whatever they're doing there.
 - The neighbouring business (hair salon) is no trouble. They park in their bays, no deliveries and clean up their mess. This shows what a considerate business owner should be like.

Statutory/Non-Statutory Consultations

Traffic Section - recommendation for refusal due to container doors opening onto highway and loss of parking.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution
H3	Incompatible Uses in Residential Areas
H3/1	Assessing Non-Conforming Uses

H3/2	Existing Incompatible Uses
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
SPD11	Parking Standards in Bury
SPD6	Supplementary Planning Document 6: Alterations & Extensions

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

UDP Policy H3 - Incompatible Uses in Residential Areas seeks to restrict the development of incompatible uses in areas which are primarily residential in nature and where possible

will seek to resolve existing conflicts. This is further supported by Policies H3/1 - Assessing Non-Conforming Uses and H3/2 - Existing Incompatible Uses that consider factors such as noise, vibration, smell, fumes, smoke, soot, ash, grit, dust, visual intrusion, traffic generation and parking arrangements, and hours of operation, and seeks to implement measures to control these where possible to minimise areas of conflict and potential nuisance.

The proposal seeks to retain the shipping container to the rear of the commercial property for a period of 2 years. A number of objections raise concerns that the use of the shipping container is causing nuisance in terms of traffic generation, parking and the creation of waste that is not being appropriately disposed of.

The supporting letter confirms that the applicant is a provider of social housing that operates nightly accommodation centres for various local authorities in the region. and that the management of these centres require regular visits to clean and replenish goods. The storage container has been introduced to give housing officers a space that they can access at any given moment, and that the container offers a temporary solution to this.

The applicant has been emailed in relation to the long term plans for the site and their storage needs, and they have confirmed that there are plans to rent a bigger office space and to find a storage unit once the applied for temporary period expires. The applicant has also been contacted in relation to hours of use and they have confirmed that their last bookings are usually around 18:30, and that they use the container outside of office hours on average once a fortnight.

The objections received confirm that a nuisance is being caused by the container, and whilst the site itself has a commercial use the introduction of a storage container intensifies this use beyond what might be expected from an office use. Whilst the out of hours use of the container appears to be infrequent, the additional visits to the site by housing officers and delivery persons during officer hours is also causing areas of conflict and would also go beyond the movements usually associated with an office use. There were no waste bins visible on the site visit, and no bin storage shown on the site layout plan. The introduction of further waste bins would likely encroach on the limited parking at the site in any event.

The host site appears to have a largely office based use, the shipping container introduces a storage use where previously there was none. Given the residential nature of the area, it is considered that the introduction of a storage unit in this locality is incompatible and the retention of this storage unit, even if for a limited period of 2 years, would cause a nuisance to the occupiers of the surrounding residential properties by means of increased traffic, disturbance, parking and waste generation. The proposal would therefore fail to comply with UDP Policies H3, H3/1 and H3/2.

The issues in relation to parking and highways obstruction will be further considered below.

Visual Amenity

Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area.

The container is located to the rear of the existing premises, abutting the rear boundary of the site. Whilst the site itself, and the attached neighbour to the west are commercial in nature the location itself is predominantly residential in use with parking areas and residential gardens depicting the character of the immediate locality. The container is in poor condition, discoloured and rusted in parts and generally appears unsightly. The container is readily available from outside of the, and from the occupiers of the adjacent residential properties. It is considered that the introduction of a shipping container in this location would introduce a discordant and incongruous feature that would be detrimental to the visual amenities of the area. The proposal is therefore considered to be contrary to UDP Policy EN1/2.

Highways and Parking

UDP Policy EN1/2 - Townscape and Built Design requires the consideration of the design and appearance of access, parking and service provision. UDP Policy HT6/2 - Pedestrian/Vehicular Conflict that requires developments to reduce pedestrian/vehicular conflict. In terms of parking standards UDP Policy HT2/4 requires all applications for development to make adequate provision for their car parking and servicing requirements. Supplementary Planning Document 11 provides parking standards for developments.

The shipping container is located to the rear of the site, utilising one of the parking spaces associated with No. 417. Whilst the application form states that the applicant retains use of 2 spaces, one of these spaces is associated with No. 419 and is outside of the red edge. Whilst this premises may be owned by the same landowner, and the applicant states that there is an agreement in place at this time to use the parking at No. 419 there is no guarantee that any existing or future tenants of No. 419 will not want to utilise the parking to the rear of this site. As such, the proposal site only retains 1 parking space following the introduction of the shipping container.

For office use SPD 11 requires 1 space per 35 sqm. Whilst it is not clear within the application how much of the building the applicant occupies, the ground floor measures at approximately 114 square metres which equates to the requirement for approximately 3 spaces. If the first floor is also occupied this need would be increased. The storage use introduced by the container would also require 1 space. Whilst parking standards are a maximum, and the site is in a sustainable location in terms of access to public transport 1 space would not be sufficient for the uses and needs of this site given that housing officer's need to access the storage unit, and deliveries need to be made to the unit.

The proposal has resulted in the loss of existing parking facilities at the property. This was evident on the case officer's site visit where cars were parking outside of the red edge utilising the space at the adjacent property and through the submission of photographs by objectors that show vehicles parked in spaces associated with the residential properties, and blocking in driveways. Even the applicant's own photographs of the container show a car parked on the adopted highway blocking access to the parking within the site. The introduction of the shipping container has therefore led to vehicles parking and carrying out manoeuvres on the highway and causing obstruction problems for adjacent residents to the detriment of the free flow of traffic and road safety. The proposal is therefore contrary to UDP Policies EN1/2, HT6/2, HT2/4 and SPD 11

The shipping container is located adjacent to the rear boundary of the site, and the door open outwards. Whilst the limits of the adopted highway do not abut the site directly, the open doors would result in users of the storage container having to walk out into the adopted highway causing a hazard for themselves, and other road users. The proposal has resulted in the container doors opening out into the adopted highway, which is detrimental to highway safety contrary to UDP Policy HT6/2.

Response to objections

It is considered the material planning consideration raised by objectors have been assessed within the main body of the report.

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

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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 size, appearance and position of the container, would be seriously detrimental to the visual amenities of the site and surroundings. The proposed development therefore conflicts with the following policy of the Bury Unitary Development Plan: EN1/2 Townscape and Built Design.
- 2 The proposed development would introduce a non-conforming commercial storage use into a predominantly residential area that would cause a nuisance to the occupiers of the surrounding residential properties by means if increased traffic, disturbance, parking and waste generation. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan:
H3 - Incompatible Uses in Residential Areas
H3/1 - Assessing Non-Conforming Uses
H3/2 - Existing Incompatible Uses
- 3 The proposal has resulted in the container doors opening out into the adopted highway. The open doors would result in users of the storage container having to walk out into the adopted highway causing a hazard for themselves, and other road users which is detrimental to highway safety. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan:
HT6/2 - Pedestrian/Vehicular Conflict
- 4 The proposal has resulted in the loss of existing parking facilities at the property, which has led to vehicles parking and carrying out manoeuvres on the highway and causing obstruction problems for adjacent residents to the detriment of the free flow of traffic and road safety. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EN1/2 - Townscape and Built Design
HT6/2 - Pedestrian/Vehicular Conflict
HT2/4 - Car Parking and New Development
Supplementary Planning Document 11 - Parking Standards in Bury

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Helen Pressley	07/03/2023	DM	07/03/2023