



Appeal Decision

Hearing held on 11 February 2025

Site visit made on 11 February 2025

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Appeal Ref: APP/T4210/W/24/3354556

1-5 Porter Street, Bury BL9 5DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr O Small (Sonelight Living Ltd) against the decision of Bury Council.
 - The application Ref is 71023.
 - The development proposed is the partial conversion of existing building to form 1x7 bedroom HMO and 1x8 bedroom HMO with associated car parking, system storage, refuse storage and external alterations to provide new windows and doors and lightwell.
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Decision

1. The appeal is allowed and planning permission is granted for the partial conversion of existing building to form 1x7 bedroom HMO and 1x 8 Bedroom HMO with associated car parking, system storage, refuse storage and external alterations to provide new windows and doors and lightwell at 1-5 Porter Street, Bury BL9 5DZ in accordance with the terms of the application Ref 71023 subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr O Small (Sonelight Living Ltd) against the decision of Bury Council. This application is the subject of a separate decision.

Preliminary Matter

3. Amended plans were submitted with the appeal which included revisions to the refuse storage area. As the amendment would not materially change the proposed development, I do not consider there would be any prejudice caused to the parties to this appeal by accepting the revised plans. I have therefore considered the appeal based on the revised plans.

Main Issues

4. The main issues are:
 - a) the effect of the development on the character of the area with regard to the proportion of houses in multiple occupation (HMO),
 - b) whether the development would provide satisfactory accommodation for its future occupiers with regards to internal layout,
 - c) the effect of the proposed development on highway safety in relation to the proposed car parking provision and visibility, and

- d) whether the proposal would make adequate provision for waste storage.

Reasons

Character

5. The appellant has made reference to the approach adopted by other authorities to assessing HMO concentrations. Whilst this method of assessment may be commonly used, the other areas referred to differ from Bury in that they are mainly areas that contain Universities. I therefore attach limited weight to this approach. Policy H2/4 of the Bury Unitary Development Plan (UDP) addresses a range of considerations. This includes assessing the general character of the area for proposals including the conversion of a building into a HMO.
6. The appeal site comprises of an end terrace building located on Porter Street. It is situated in a largely residential area that is characterised by rows of terraced properties that are set back from the pavement. These predominantly consist of family dwellings, but with flats and HMO's being present in the larger properties along Walmersley Road.
7. The proposal would see the introduction of two HMO's at this location, but there are no other known HMO's on Porter Street. Although the proposed development would result in a small cluster of HMO's close to each other, given there is an existing HMO at No. 171 Walmersley Road which is on the junction with Porter Street, family dwellings would continue to predominate in the area. Some properties have been converted to flats in the wider area, but these are situated away from the site in larger terraced properties on Walmersley Road.
8. The proposed HMO's would add a large number of bedrooms, and reference was made to how such a use can manifest in negative effects. Many of these relate to poor maintenance which I heard can be addressed by effective management. There is limited evidence of why this management would change over time to the detriment of the character of the area, and is in any event, a matter covered by the licensing regime.
9. To conclude, the proposal would not have a harmful effect on the character of the area with specific regard to the proportion of HMOs. As such, it would comply with Policies H1/2 and H2/4 of the UDP, Policies JP-H3 and JP-H4 of the Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan (Places for Everyone DPD) and Paragraph 135 of the Framework which seek, amongst other matters, development that is sympathetic to local character.
10. Reference has been made to the Supplementary Planning Document – Conversion of Buildings to Houses in Multiple Occupation (SPD). Given the SPD dates from 2007 and subsequent changes to national policy, I afford this document limited weight. In any event, the proposal would not conflict with the aims of the policy, which include safeguarding the character of areas.

Living conditions

11. One of the proposed HMO's would have a number of bedrooms at ground floor level that would front directly on to Porter Street. Although there would be some overlooking from those passing along the footway, any views would be fleeting and therefore would not be at a harmful level. The ground floor bedrooms to the side

also directly look over Back Walmersley Road West, but there are few movements along this thoroughfare. There are no parking restrictions outside the front or side of the appeal property, and whilst vehicles may be parked in these locations, given the height of a typical car relative to the ground floor windows on these two elevations, the outlook of future occupants would not be adversely affected.

12. A communal bin store is proposed in the rear yard area, but this is set away from the windows that look out on to this shared space. I accept that there would be movements to and from this area but given the functional nature of the rear yard, there would not be prolonged stays in this space and therefore the future occupants of bedroom 3 of HMO 1 and bedroom 1 of HMO 2 would not face undue intrusion or nuisance arising from noise and smells. Bedroom 2 of HMO 1 would face the on-site parking proposed, but for the reasons set out above in relation to the ground floor bedroom windows facing Porter Street and Back Walmersley Road West, any overlooking would be short in duration and would not be detrimental to the occupant's privacy, and nor would it result in an unsatisfactory form of living environment in terms of their outlook due to the typical vehicle heights relative to the windows. There is no substantive evidence before me that noise or fumes from vehicles would be harmful to future occupants.
13. I therefore conclude that the proposed development would provide satisfactory accommodation for its future occupiers with regards to internal layout, and as such, it would be compliant with UDP Policy H2/4 and Paragraph 135 of the Framework, which seek, amongst other matters, a high standard of amenity for existing and future users.

Highway safety

14. In relation to parking, there are no specific car parking standards for HMO's, although it is common ground between the main parties that the proposal would give rise to a demand for 6 parking spaces.
15. Three parking spaces would be provided on-site with the remainder provision being provided by on-street parking. Parking stress surveys were undertaken at different times of the day by the appellant that demonstrate significant reserve capacity for on street parking. These surveys followed the industry recognised approach in the Lambeth Transport Parking Survey Methodology. Although the 200m distance results in an extensive area being covered by the surveys, this represents a short walking time from the appeal property. Even if a smaller area is considered, looking at the existing levels of parking along Porter Street, Clifton Street and Rake Street, there is still sufficient capacity to accommodate the demand for three additional parking spaces arising from the proposal.
16. The survey did not consider a number of back or side roads, but this does not detract from the robustness of the findings, as the inclusion of these roads would potentially have revealed additional parking capacity. This was confirmed at the time of my site visit during the middle of the day, where these back and side roads were not heavily parked. Reference was made to the need to provide parking for the existing flats on the appeal site that are to be retained. These flats would however continue to exist irrespective of the proposal. The parking needs for these flats is currently met by on-street provision, which would continue to be the case and the parking surveys undertaken will have taken account of parking arising from these existing flats. Therefore, for all of the aforementioned reasons,

additional on-street car parking in this area could be accommodated without detriment to the free flow of traffic.

17. In relation to the proposed on-site parking arrangements, concerns have been raised that there are inadequate arrangements to maintain vehicles clear of the highway, but the three parking spaces proposed are adequately sized and this is a matter that can be controlled by condition to ensure that the area remains available for car parking. The submitted plan¹ also provides details of pedestrian visibility and shows a western visibility splay of 2.4m by 2.4m, and an eastern visibility splay of 2.4m by 2.2m can be achieved. Although the latter is slightly substandard, there are little pedestrian movements along Back Rake Street and vehicles using the proposed parking spaces are likely to emerge at slow speed. The appellant has also referenced data that shows no accidents in the vicinity of the site between 2002-2022, and as such I do not consider there would be a detrimental impact arising from vehicles using the parking spaces, or nearby junctions that would be used for access.
18. I therefore conclude that the proposal would not have a significant adverse effect on highway safety with regards to car parking provision and visibility. As such, it would not conflict with UDP Policies HT2/4, H2/2, and H2/4, and Places for Everyone DPD Policies JP-C5 and JP-C6, which seek, amongst other matters, for developments to make adequate provision for car parking, and maximising the ability of pedestrians to navigate easily and safely. The proposal would also not conflict with Paragraph 116 of the Framework or Supplementary Planning Document – Parking Standards in Bury, which seek, amongst other matters, for development to only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation would be severe. Reference was made to UDP Policy EN1/2 but this is not directly relevant to highway safety matters.

Waste storage

19. The amended plans show an increased bin storage provision, comprising of 15 no. 240 litre bins. It was agreed between the main parties at the hearing that this level of provision would be sufficient. Although it would result in a greater coverage of the rear yard area, this would be in an area closest to the proposed car parking, and it would not therefore result in a significant reduction in the amenity space.
20. I therefore conclude that the proposal would make adequate provision for waste storage, and it would comply with UDP Policy H2/2, EN1/2, H2/4 and Places for Everyone DPD Policy JP-C5, which seek, amongst other matters, adequate service provision to be made.

Other Matters

21. Reference has been made to criminal activity and anti-social behaviour that would arise from the development. However, such matters are influenced by considerations such as the management of the HMO and the behaviour of the occupants. Such matters are not controlled under the planning regime. They are controlled by other legislation, and I am making a decision on the basis of the planning merits of the appeal. As such, I do not think it is necessary for any specific security measures such as CCTV.

¹ Drawing No: J32-8142-PS-001

22. Third party representations also make reference to a prayer room use at the appeal site but that does not form part of the proposal. The effect of the proposal on property values has also been raised, but this does not have a bearing on the planning merits of the case.
23. A number of decisions relating to prior approvals on the appeal site were submitted, but given my conclusions on the main issues, it is not necessary for me to consider them further.
24. An appeal decision was referenced by the Council², which although involving a similar main issue relating to living conditions as one of the main issues on this appeal, related to a development for proposed flat rather than a HMO. It was determined on its own merits, having regard to its context and circumstances and I have considered this appeal accordingly.

Conditions

25. I have considered the suggested conditions, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended those suggested conditions as appropriate.
26. A condition is necessary to ensure the provision of car and cycle parking in the interests of highway safety and to promote alternatives to the car as a mode of transport. The provision of bin storage facilities is necessary for highway safety reasons and in the interests of the visual amenity of the area. A condition is also necessary to ensure pedestrian visibility splays are provided and are kept free of obstruction for safety reasons.
27. A condition is also required removing Permitted Development rights for the existing flats in the interests of the living conditions of the surrounding residential occupiers and for highway safety reasons.
28. A condition relating to a management plan was suggested, but I do not think this is necessary as it would duplicate other requirements, in this case, the licensing regime as the proposed HMO's would be licensable.

Conclusion

29. I conclude that the proposal would accord with the development plan as a whole, and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this. I conclude that the appeal should be allowed.

F Rafiq

INSPECTOR

² Appeal Ref: APP/T4210/W/24/3338058

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Site & Location Plans (-9-A005 Rev -), Existing Plans (-9-A001 Rev A), Existing Elevations (-9-A002 Rev -), Proposed Location Plan (0-A004 Rev C), Proposed Plan & Section Through Lightwell (0-A003 Rev A), Proposed Elevations (0-A004 Rev E), Proposed Section (0-A005 Rev -), Proposed Plans Option 2 (0-A006 Rev C) and Vehicle Tracking and Pedestrian Visibility Drawing J32-8142-PS-001.
- 3) The car and cycle parking indicated on the approved plan Proposed Plans Option 2 (0-A006 Rev C) shall be made available for use prior to the first occupation of the development hereby approved and thereafter maintained at all times.
- 4) The bin storage facilities indicated on the approved plans Proposed Location Plan (0-A004 Rev C) and Proposed Plans Option 2 (0-A006 Rev C) shall be made available prior to the first occupation of the development hereby approved and maintained thereafter.
- 5) The pedestrian visibility splays shown on Drawing J32-8142-PS-001 shall be provided prior to the first occupation of the development hereby permitted and kept free of any obstruction exceeding 0.6m in height and shall be retained as such thereafter.
- 6) The existing flats at first floor level shall be used for purposes falling within Class C3 dwellinghouse(s) only and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Schedule 2, Part 3, Class L shall take place.

End of conditions

APPEARANCES

FOR THE APPELLANT:

Owen Small	Lightbox Properties
Jonathan McDermott	Town Planning Expert
Adrian Forte	Mode Transport
Patrick Magner	Mode Transport

FOR THE LOCAL PLANNING AUTHORITY:

Helen Pressley	Senior Planning Officer, Bury Council
Philippa Brunsden	Planning Officer, Bury Council
Peter Stokes	Head of Engineering and Streetscene, Bury Council

INTERESTED PARTIES:

Andrew Hilton	Local Resident
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