

DELEGATED REPORT

Report by Steven Gunn
Russell

Date of report: 31/01/2022

Ref:67554/FUL

Registration: 17/09/2021

LDfC: 19/10/2021

Expiry Date: 12/11/2021

Site Visit: 05/10/2021

Site Notice: N/A

Press Date: N/A

Objections: 1

Con Area: N/A

Adv Type: NONE

Reason for Delay:

EIA: NA

N/A

Dec Level: DEL

Stat Class: COUS

Proposal: Change of use from dwelling (Class C3) to residential institution (Class C2) for proposed children's care home (for up to 4 children with a minimum of 2 full time carers overnight, 1 sleeping, 3 full time carers during the day and living together as a single household)

Location: 73 Brierley Street, Bury, BL9 9HW

Description

The application relates to an existing three-storey (plus basement) end-terraced house with rear outrigger and small rear yard, on a corner plot in a residential street. It is in a dense residential area with back lanes including Back Horne Street South to the rear. The property includes a small yard at the rear but there is no off-street parking, and only on street parking. There is a separation of 4.8m to the rear boundary which has no tree or shrub planting.

Planning permission is sought to change the use of the property, currently a dwelling (Class C3) into a residential institution children's home (Class C2) with 24 hour a day care. Provision would be for up to 4 children with a minimum of 2 full time carers overnight (1 sleeping), 3 full time carers during the day and living together as a single household. There are no external alterations proposed other than minor improvements making good to the external garden wall.

The care home would comprise 5 bedrooms for up to 4 looked after children and 1 adult, plus a study. No information is provided as to the nature and ages of the children. There would be a minimum of 2 full time staff overnight and normally 3 full time residential carers during the day although there is no indication as to part-time staff or hours of working, nor any details of accommodation for the the second night staffer. No information is provided as to the numbers and nature of visitors. A design & access statement has been submitted to put forward a case to indicate the suitability of the location, provided with the application.

The care staff would work on shifts and would not be permanently resident. The accommodation would primarily be for looked after children in need of safe, family centres, nurturing homes in safe neighbourhoods.

There are local amenities within reasonable walking distance without the need for additional vehicle trips.

The applicant and care provider MJ's Children's Homes Ltd. and be 'active in engaging, motivating and working with the child to ensure that they have increased positive outcomes for their life when they leave care'. They will have care plans which will ensure that when they leave care that they are independent.

Relevant Planning History

None relevant.

Publicity

Immediate neighbours notified by letter dated 29/09/2021 sent to 22 neighbours in Home Street and Brierley Street. One objection was received.

Objections -

Concerns are summarised below:

- The applicant has advised the property has not been occupied since June 2020, this is not correct. There has been at least 2 different families that have lived in the property since June 2020, as the property had been rented out.
- I have looked into the Company MJ Children's Homes Ltd and this has recently been incorporated, registered to a residential address in Oldham. There is no website for them, and have a similar name to another Children's home based in Peterborough. This raises my concerns in itself.
- I am NOT against these homes as I know personally know people who have had use of these homes.
- I do not think this is the right area for this sort of home for children in care. There is a risk that they will be easily able to get involved in anti-social behavior that is already a high presence in the area which definitely has increased significantly over the last few years. They require nice quiet estates not this area.

Relevant concerns of the neighbours have been addressed in this report.

Statutory/Non-Statutory Consultations

Highways – Objection due to “the proposed development would involve the introduction of an isolated commercial use into a residential area, to the detriment of nearby residents and the proposed servicing and 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”.

Environmental Health (Pollution) – No response

Children's Centre & Early Years – Object to the proposal due to “inadequate parking and no outdoor space would be an issue, children need outdoor space to play, and staff and partner agencies would need space to park”.

Waste Management – No response

Planning Policy – No response.

GMP – No objection nbd states “this type of facility is best situated within the community”.

Pre-start Conditions

N/A

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN1/5	Crime Prevention
EN7	Pollution Control
EN7/2	Noise Pollution
EN7/5	Waste Water Management
CF1/1	Location of New Community Facilities
CF3	Social Services
CF3/1	Residential Care Homes and Nursing Homes

H4/2	Special Needs Housing
HT5/1	Access For Those with Special Needs
HT6/2	Pedestrian/Vehicular Conflict
HT2/4	Car Parking and New Development
SPD11	Parking Standards in Bury

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 of Use - Although the use of a house as a children's home may be acceptable in principle, the crucial factor is the nature of the property and its surroundings including the amenity of anticipated occupiers, adequate outdoor amenity space, access for staff or

visitors, and impact on neighbouring residents. Overall, it is considered that the location is not ideal for a children's home as discussed below.

Visual amenity - As there are no external alterations to the property other than minor rendering of rear yard walls, there are no serious concerns with regard to visual amenity.

Residential amenity – Policy CF1/1 refers to the location of new community facilities and says these types of uses can be appropriate in residential areas as they are co-residential uses. Residents in the immediate vicinity have expressed concerns about siting a children's home in the property, in an unsuitable location and with concerns about anti-social behaviour. Whilst the concerns of residents may be valid, the broad principle in land use planning terms is acceptable subject to detailed assessment of the site itself. However, there would be an impact from the lack of parking given the scale of the proposed operation, servicing and staffing. Children's Services have submitted an objection due to the constraints of the site with inadequate parking and lack of private outdoor space. The LPA is in agreement with this and it is considered that there would be a significant detrimental impact arising from the use as it is proposed.

Parking and Access - There is no dedicated on-site parking proposed and the application appears to rely on availability of on-street parking. However, during the site visit it was noted that there are difficulties locating a parking space even during the middle of the day.

Given that there would be at least two staff at the premises at any one time, plus other professionals or agencies providing specialist support, and visitors, there is insufficient provision for parking within the proposal. The application states that the changeover of staff on shifts would be 'seamless' but has not demonstrated how this can be achieved while there is a presumption of reliance on using on-street parking in a highly dense residential area.

The design & access statement mentions that there is public transport available nearby, and although this might mitigate the need for parking slightly, the nature of the car home use suggests that the majority of professional visitors are likely to require adequate parking in addition to 24/7 on site care home staff.

It is therefore considered that the car parking provision is inadequate and is likely to lead to vehicles parking and carrying out manoeuvres on the highway to the serious detriment of the free flow of traffic and road safety.

Note to objectors - The use of a property is a relevant planning consideration although if the property has previously been rented out to an individual renter that would be considered to be within the same use class as a private dwelling (Class C3), provided that it is not an HMO. The issue of anti-social behaviour is a matter for the GM Police who were consulted on this application but submitted no objections.

Conclusion – In consideration of the above, it is considered that the proposed development would be unacceptable. In this case the expected primary residents are children and are likely to have a number of visitors during the day including professional support staff and hence the requirement for adequate parking provision. As such the change of use would alter the character of the area and be severely detrimental to residential amenity by an increase in traffic, noise and disturbance or have the potential for activity, noise and disturbance in the future that goes beyond what would be expected in a residential setting.

It is recognised that there is a vital need in the community for this type of use/accommodation for children/young people, however the proposal is inadequate particularly with regard to parking provision and outdoor private amenity space. As such, the proposed development is therefore considered to be unacceptable, contrary to the NPPF, and fails to comply with UDP Policies H2/2 - The Layout of New Residential

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Development, EN1/2 - Townscape and Built Design, HT2/4 Car Parking and New Development, CF3 Social Services, CF3/1 Residential Care Homes and Nursing Homes, and CF5 Childcare Facilities, and associated guidance in Supplementary Planning Document 11 Parking Standards in Bury.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed servicing and 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 therefore conflicts with the following policies of the Bury Unitary Development Plan: HT2/4 Car Parking and New Development, CF3 Social Services, CF3/1 Residential Care Homes and Nursing Homes and CF5 Childcare Facilities, Supplementary Planning Document 11 Parking Standards in Bury.

- 2 The size of the site is inadequate to accommodate the development proposed whilst satisfying reasonable requirements for outdoor private amenity space. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design, CF3 Social Services, CF3/1 Residential Care Homes and Nursing Homes, and CF5 Childcare Facilities.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
SGR	31/01/2022		