

Grounds of Appeal

Proposal: Change of use from existing 6 no. bedroom house in multiple occupation (HMO – Class C4) to 7 no. bedroom (7 person) house in multiple occupation (HMO - Sui Generis)

Local Planning Authority (LPA) Application Ref. 69132

Address: 104 Ainsworth Road, Bury, BL8 2RS

Date: 2nd June 2023



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1 INTRODUCTION

Scope of Statement

- 1.1** This Statement of Case has been prepared on behalf of Mr Carlo Maria Ciaroni of Emerald Property Capital Limited (the appellant) in respect of his planning appeal made under Section 78 of the Town and Country Planning Act (as amended) against the refusal of planning permission for the change of use from existing 6 no. bedroom house in multiple occupation (HMO – Class C4) to 7 no. bedroom (7 person) house in multiple occupation (HMO - Sui Generis) at 104 Ainsworth Road, Bury, BL8 2RS [Local Planning Authority (LPA) Application Ref. 69132]. Mr Ciaroni's first names were not included on the application but for completeness we have specified his first name for the avoidance of doubt.
- 1.2** This Statement sets out the appellant's full planning case relating to the refusal of planning permission, responding to the reason for refusal given in the LPA's decision notice (attached as Appendix 1) and detailing the planning merits of the development.
- 1.3** A copy of the Case Officer's Report on the application has been obtained from the Council website and it is accepted that the site is described accurately in the report.
- 1.4** The format of this statement, following this introductory chapter, is then as follows:
- Section 2 describes the planning history relevant to the site.
 - Section 3 provides a summary of relevant planning policy.
 - Section 4 sets out the grounds of appeal and the appellant's case.
 - Section 5 provides a summary and conclusion.

2. PLANNING HISTORY

- 2.1 The planning application subject to this appeal (Ref. 69132) was submitted on 25th January 2023 and the Decision Notice issued by the Council is dated 15th March 2023. The application was determined under delegated powers and the Decision Notice contained the following one reason for refusal:-

Reason for Refusal (1)

The proposed development, by virtue of the increased occupation and loss of communal 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.

- 2.2 According to the Council's published on-line Planning records, there has been no previous planning applications lodged in respect of the appeal site.

3. POLICY CONTEXT

- 3.1** The policy context governing the determination of the application is given by the Bury Council Unitary Development Plan (UDP) that was adopted by the Council on 29 August 1997.
- 3.2** Section 38 of the Planning Act requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) was revised in July 2021 and is a material consideration in planning decisions.
- 3.3** The reason for refusal as stated in the Decision Notice refers to the proposed development being contrary to the following Bury Council Unitary Development Plan Policies. The Council has not included any specific sections or paragraphs of the National Planning Policy Framework in the reason for refusal.

Relevant Bury Council Unitary Development Plan (UDP) Policies

Policy H1/2 - Further Housing Development

The Council will have regard to the following factors when assessing proposals for housing development on sites not identified on the Proposals Map:

- the need to direct development towards the urban area;
- the availability of infrastructure;
- the need to avoid the release of peripheral open land, unless this can be shown to be consistent with urban regeneration;

- the suitability of the site in land use terms with regard to amenity, the nature of the local environment and surrounding land uses;
- other policies and proposals of the Plan.

It is important, however, that the development of small sites and large "windfall" sites contributes to the objectives of urban regeneration and concentration, whilst making efficient use of the existing infrastructure. It is particularly important that development allowed under this policy does not damage the local environment or detract from the amenity of existing residential areas or other surrounding land uses.

Policy 2/1 - The Form of New Residential Development

All new residential development will be expected to make a positive contribution to the form and quality of the surrounding area. Factors to be considered when assessing proposals will include:

- the height and roof type of adjacent buildings;
- the impact of developments on residential amenity;
- the density and character of the surrounding area;
- the position and proximity of neighbouring properties;
- the materials to be used in proposed developments, especially their colour and texture.

Justification

This policy is intended to establish a basis for assessing the impact of proposals for new residential development upon the surrounding environment. Such development will be

assessed in terms of its relationship to its setting and by reference to the quality and character of the surrounding environment. In addition, it is essential that reasonable standards of privacy and residential amenity are maintained for neighbouring residents. In this way it is hoped that it will be possible to balance the continued demand for housing with the need to improve the quality of life for the Borough's residents.

Policy H2/2 – The Layout of New Residential Development

New residential development will be required to demonstrate acceptable standards of layout. Factors to be considered when assessing proposals will include:

- car parking provision;
- access for both vehicles and pedestrians, and provision for public transport;
- the possible need for traffic calming measures;
- density;
- space about and between dwellings;
- landscaping and screening;
- protection/provision of trees and hedgerows;
- open space/children's play areas;
- design for safety and security;

- access/facilities for the disabled;
- the existence of any public rights of way.

Justification

This policy is concerned with ensuring that good standards of layout are maintained within residential development in order to provide a good quality residential environment. Many of the factors listed in this policy are considered in detail in other policies of the Plan. In particular, the following policies are considered relevant:- Environment Policies EN1/3 - Landscaping Provision; EN1/5 – Crime Prevention; and EN6/3 - Features of Ecological Value; Recreation and Tourism Policy RT2/2 -Recreation Provision in New Housing Development; Highways and Transportation Policies HT2/4 -Car Parking and New Development; HT3/3 - Design of Roads for Bus Routes; HT5/1 - Access for Those with Special Needs; and HT6/1 - Pedestrian and Cyclist Movement. It should also be noted that in connection with factor (c), the layout of residential developments should incorporate speed reduction measures where appropriate and in connection with factor (k), the re-routing of public rights of way along estate roads should be avoided in accordance with Department of the Environment Circular 2/93 - Public Rights of Way. Where appropriate, the Council will prepare planning briefs to provide detailed site specific guidance for developers on the factors listed in the Policy.

Policy H2/4 – Conversions

Applications for the conversion of buildings into two or more self contained units, or the conversion of a building into a house of multiple occupation, will be considered with regard to the following factors:

- the effect on the amenity of neighbouring property through noise, visual intrusion, the position of entrances, impact of parking areas, extensions and fire escapes;
- the general character of the area and the existing concentration of flats;
- the amenity of occupants;
- the effect on the street scene of any changes to the external appearance of the building;
- car parking and servicing requirements.

Justification

Given the trend towards smaller households, the conversion of buildings into self contained units and houses in multiple occupation can be an effective way of providing small, relatively low cost accommodation. However, it is necessary to ensure that dwelling standards are maintained and to ensure that, generally, an over provision of such property does not adversely affect the need to maintain a good mix of housing types, or adversely affects the character and amenity of residential areas. The car parking requirements in factor (e) should accord with the Council's car parking standards referred to under Highways and Transportation Policy HT2/4 - Car Parking and New Development and set out in Appendix 4 of the Plan.

National Planning Policy Framework revised in July 2021

The following sections of the NPPF are considered of most relevance to the appeal: -

- Chapter 5: Delivering a sufficient supply of homes (paras. 60-80)

- Chapter 8: Promoting healthy and safe communities (paras. 92-103)
- Chapter 9: Promoting sustainable transport (paras. 104-113)
- Chapter 11: Making effective use of land (paras. 119-125)
- Chapter 12: Achieving Well-Designed Places (paras. 126-136)

Paragraph 60 in Chapter 5 (Delivering a sufficient supply of homes) mentions that the Government has an objective to significantly boost the supply of homes and that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. Paragraph 62 states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Paragraph 75 seeks to ensure Councils can deliver and demonstrate a 5-year supply of housing (including appropriate buffer).

Paragraph 91 in Chapter 8 (Promoting healthy and safe communities) states that planning system should aim to achieve healthy, inclusive and safe communities. Planning policies and decisions should promote social interaction and aim to achieve places which promote, amongst other things, safe and accessible developments, where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Paragraph 104 in Chapter 9 (Promoting sustainable transport) states that planning policies should support an appropriate mix of uses across an area to minimise the number and length of journeys needed for employment, shopping, leisure, education

and other activities. Paragraph 108 goes on to state that in assessing specific applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes have been taken up given the type of development and its location, and that safe and suitable access to the site can be achieved for all users. Paragraph 110 mentions that applications for development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use. Paragraph 109 advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 119 in Chapter 11 (Making effective use of land) states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraphs 126 -136 in Chapter 12 (Achieving well-designed places) advocates a requirement for good design. This is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 130 advises that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

4 GROUNDS OF APPEAL

4.1 Reason for Refusal 1

The proposed development, by virtue of the increased occupation and loss of communal 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.

4.2 The appeal site (104 Ainsworth Road) consists of a traditional two storey with dormer roof extension, mid-terraced dwelling house, with garden area to the front and a private yard area to the rear that is enclosed by boundary walling and a gate. The property is situated in a predominantly residential area, and there is similar type terraced dwelling houses on the same side and directly opposite on Ainsworth Road, and also at the rear on Ramsey Grove. To the northeast (offset at the rear) is a small commercial / industrial complex consisting of several business units and associated car parking and storage. Ainsworth Road is a wide adopted highway (B6196) with traditional roadway and footpaths on each side and it is unrestricted directly outside the appeal site.

4.3 The property has been previously converted into a 6no. bedroom House in Multiple Occupation (HMO) by the appellant using permitted development rights and it would

currently fall under the Class C4 use category. The HMO conversion has been undertaken to the necessary Bury Council HMO Licensing standard requirements and the accommodation that is being provided to the tenants is of a high quality and the facility is well managed. All the rooms in the HMO are designed for one occupant only.

4.4 The residential accommodation at the HMO is provided over three floors following the conversion of the roof space and the addition of a rear dormer extension. The ground floor contains two en-suite bedrooms and a shared open plan kitchen and dining space. The first floor contains three en-suite bedrooms, and the second floor (loft space) contains one bedroom, a shared bathroom, and a storage room. The private yard area to the rear contains an outbuilding / garage that is used to store bicycles belonging to the occupants. This building has both pedestrian and garage doorway openings. There is a wide private unmade road (Back Ainsworth Road North) that runs behind the terraced properties providing good and easy access to the rear for both vehicles and pedestrians. Photograph images of the appeal site and surroundings are contained in Appendix 1.

4.5 The refused planning application (Ref. 69132) that is the subject of this appeal is for one additional bedroom within the HMO, which would make 7no. in total at the property and this larger HMO would fall under the Sui Generis use category. The additional bedroom would be located on the third floor of the property within the previously converted roof space. The room in question is currently utilised for storage purposes by the appellant but not by tenants of the HMO; it is of sufficient size and height to be used as an additional bedroom. The room is situated within the middle and front section of the roof space, and it benefits from having a large velux window

in the roof slope, which would provide the user with the necessary natural light, ventilation, and outlook. There is some restricted head space in part of the room due to the slope of the roof, but the architects have supplied the Council with the room size and head height related details / information as part of the application and shown that the room meets HMO standard requirements.

4.6 The third floor of the HMO already contains bedroom No.6, and this room faces the rear of the property and takes in the roof dormer extension. There is a separate bathroom located on the landing area and the appellants proposal includes the two bedrooms (Nos.6+7) sharing this facility as it is very easily accessible to both rooms. There is a velux roof light at the top of the stairwell which provides natural light on to the landing area. The reason for refusal does not include the above factors; the refusal simply alleges that the conversion of the 'seventh bedroom' would lead to the loss of communal facilities – this as we demonstrate is not the case.

4.7 From assessing the Planning Officer Report and the justifications outlined / explained within it, the main concerns for refusing the planning application relate to the 'Layout' and specifically the size of the internal accommodation and the outside amenity space at the property. The Planning Officer considers the property is already occupied to full capacity with 6no. residents. They have stated that it is not of a sufficient size for further residents, and it will provide a poor level of shared accommodation and residential amenity for the existing and future occupiers and may not comply in terms of the communal space provision. They have also commented that there is insufficient outside amenity yard space at the property for the residents to enjoy for sitting outside and drying clothes etc.

- 4.8** The case officer does not appear to have any issues with the proposal in terms of the impact on neighbouring residential amenity and highways and parking according to the report. In terms of residential amenity, the case officer has commented that the property is in a predominantly residential area containing similar terraced family houses and they accept that the additional noise, disturbance, and activity from one extra resident will be minimal and not significant to a harmful degree to the neighbours.
- 4.9** With regard to the highways and parking arrangements, the case officer has stated that the property is situated in an accessible and sustainable location and there are shops and services and public transport options available nearby. They have correctly and fairly pointed out that HMOs tend to attract occupiers with lower-than-average levels of car ownership compared to other households. They have also accepted that there is some on-street car parking available nearby in this residential area and one potential additional car is unlikely to put additional pressure on the car parking capacity in the area. We would also wish to highlight that the Council's Highways Engineers do not appear to have raised any formal objections to the proposal according to the case report and the application details shown on the Council website.
- 4.10** Therefore, we do not intend to comment further in respect of the neighbouring amenity and highways and parking aspects of the application proposal in this appeal statement, and our arguments will be entirely focused on the layout related concerns.
- 4.11** With regard to the existing and proposed layouts of the HMO, we would wish to point out that the appellant and his team have worked closely with the Bury Council HMO

Licensing Department who have guided the design and inspected property and they have confirmed that it is compliant with local standard requirements. A proposed schedule of accommodation for the HMO has been prepared by the architect, Grant Erskine, and it is shown in the table below. This schedule confirms the various room sizes in the property, the local licensing HMO standards, and whether the rooms in the property comply with the local licensing HMO standards. The schedule clearly shows that every room in the HMO property is fully compliant with the Council's local licensing HMO standards in all aspects. This includes the proposed seventh bedroom.

Room	Area and Description	No. Occu pants	Room Area Provided	Local HMO Standards Require	Comply with local HMO Standards?
Bed 1	13.8sqm – 1 Person, Ensuite Bathroom	1	10.4sqm	10.0sqm	Y
Bed 2	10.9sqm – 1 person, Ensuite Bedroom	1	10.6sqm	10.0sqm	Y
Bed 3	11.3sqm – 1 person, Ensuite Bedroom	1	11.1sqm	10.0sqm	Y
Bed 4	16.5sqm – 1 Person, Ensuite Bathroom	1	12.4sqm	10.0sqm	Y
Bed 5	10.9sqm – 1 Person, Ensuite Bathroom	1	10.3sqm	10.0sqm	Y
Bed 6	11.4sqm – 1 Person, shared Bathroom	1	10.8sqm	10.0sqm	Y
Bed 7	11.4sqm – 1 Person, shared Bathroom	1	10.4sqm	10.0sqm	Y
Total		7			
Kitchen	10.2 sqm - Kitchen Diner for 7 people		18.5sqm	10.2sqm	Y

- 4.12 We do not believe that the provision of one additional person (1no. bedroom) in the HMO will result in the loss of any of the communal space, or the loss of any existing facilities and amenities as mentioned by the Council. None of the existing bedrooms or the communal spaces are being reduced in size or altered to facilitate the provision of the additional bedroom in the property. The storage room on the second floor is basically an under-utilised landlord space that is not essential to the functioning of the property and the current items stored there can be easily transferred elsewhere. The kitchen diner at the property appears to exceed the Councils local HMO minimum standard (10.2sqm) by a large margin being 18.5sqm in size, so this would not be regarded as a small communal space, and it could comfortably accommodate one

additional person. The appellants fully promote social interaction in their HMOs between the respective tenants, but realistically, it is unlikely that all the tenants will choose to prepare food and eat together at the same time, so the kitchen diner will never be at full capacity at any one time.

4.13 The case planning officer has mentioned in their report that it is unusual for 'two up two down' terraced houses such as this one to have 6no. people residing there, but we would dispute this view. This particular property would not be considered a small standard 'two up and two down' house given that it benefits from having a two-storey rear outrigger and other extensions / additions (single storey extension and roof dormer / loft conversion). It is a good-sized dwelling house, and it is not uncommon nowadays for some extended families to all live together within one property. This is sometimes out of choice or because the owners or occupiers cannot afford to rent or buy a larger dwelling house. It would be fair to say that the use of a property by an extended family along with their associated comings and goings could potentially have a similar or greater impact to an HMO. These older traditional types of terraced property also benefit internally from having high ceilings which provide an additional feeling of space for the occupiers.

4.14 It should also be noted that not all the rooms in HMOs are necessarily occupied on a full-time basis (7 days a week 24 hours a day). The occupancy situation will obviously be dependent on the tenants and their associated movements. Many of the higher specification HMOs like this one often target professional occupants and they might be working away from home and therefore only occupy the rooms during the normal working week (Monday to Friday) or part thereof. The HMO is basically used as an

alternative to a hotel stay and financially, they offer better value for money accommodation for the longer-term stays. We do accept however that the Council must make their judgement on a worse scenario basis. Nonetheless, we still believe that this property with its own private rooms and the shared communal facilities can function perfectly adequately with one additional tenant living there.

- 4.15** With regard to the outside private rear yard space at the property, it is accepted that it is not huge, but this is often the case with many terraced properties. Some terraced properties do not have any private outside yard or garden space whatsoever. The yard space at the appeal site has been reduced due to the buildings that have been previously constructed within the curtilage, but the remaining space is sufficient in size, private, level and fully functional for the occupants to use for sitting out and drying clothes etc. There are several properties in the terrace and the terrace opposite that have built similar garage type buildings in the rear yards for parking / storage purposes as they can be easily accessed via the private roadways that run behind the terraced properties. They are therefore a common feature of the area, as are the associated small outside spaces. This can be seen in the aerial photograph image below.



4.16 It would be fair to say that it would be most unlikely that all the occupants of the HMO would choose to use the outside yard area at the same time, especially with the weather in the northwest of England not being particularly good most of the year. However, should the unusual situation arise, we would wish to point out that the yard area could accommodate 7no. persons. The appeal site does also benefit from having various outdoor recreation spaces located nearby that could be used and enjoyed by the tenants. These were suitably highlighted in the Design and Access Statement that was prepared by the architects for the submitted planning application. The outdoor spaces include Whitehead Park (2 mins walk away), Elton Vale Sports Facilities (5 mins walk away), and Westbury Sports Facilities (5 mins walk away). The close relationship between the appeal site and the various greenspace areas can be clearly seen on the Google Aerial Photograph image that is included below.

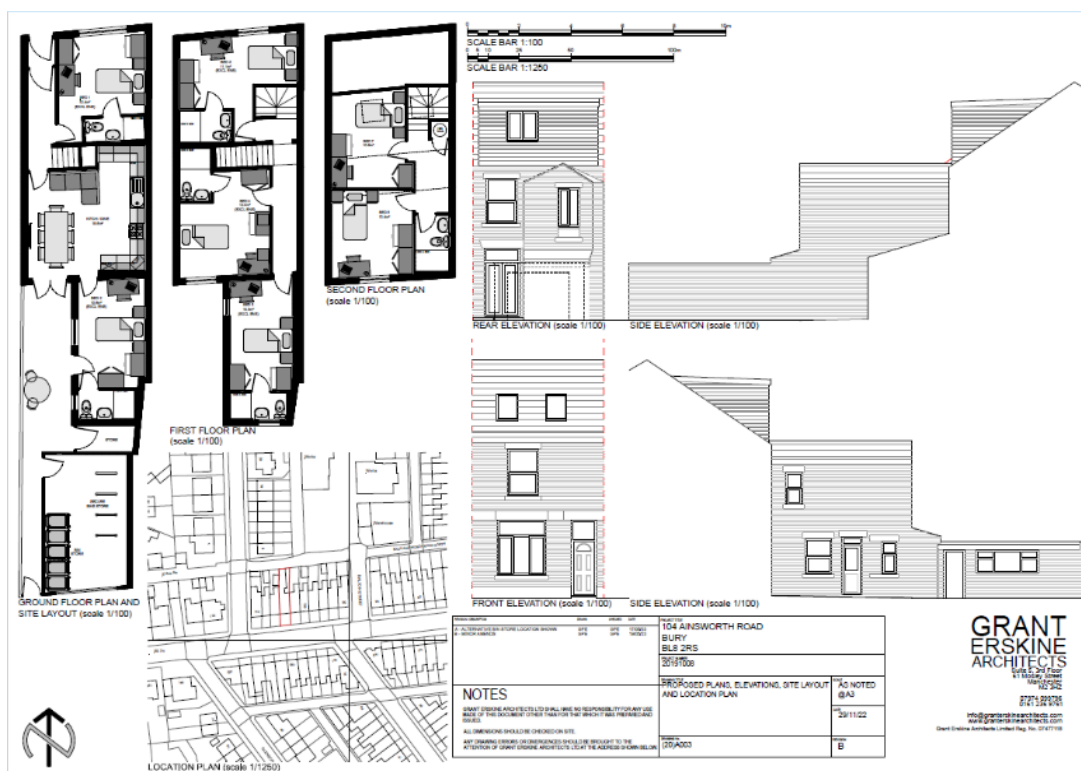


Appeal site shown with red identification marker

4.17 The appellant is also taking positive steps to improve the yard area situation for the tenants, and they propose to create more useable space by relocating the refuse and recycling bins into the garage / outbuilding. This building would then become a combined bicycle and bin store and the details are shown as part of the proposed ground floor plan and site layout on drawing Ref. (20)A003B prepared by Grant Erskine Architects. The bins can be easily retrieved from the storage building and taken out via the two doorway points into the private roadway at the rear of the property on collection day. The bins would then be returned to the storage building in the rear yard after collection.

4.18 The appellant took steps to employ a private waste collection agency to increase the number of bin collections in a month prior to submitting the planning application. This was done following a request from a neighbour via the council and the appellant employed the agency

in October 2022 just before submitting the planning application at the end of November 2022. The appellant took this step to improve waste collection management and improve the residential standards of the area. The Council's Department of Operations were consulted as part of the planning application process (refused scheme) and they confirmed that they were satisfied with the originally submitted bin storage arrangements at the property subject to the imposition of a condition controlling their location within the yard. There was a neighbour objection to the planning application that was primarily focused on the refuse bin management arrangements at the property, and it was alleged that there had been some previous waste related problems. The appellant is keen to have a good relationship with the neighbours, so they have taken the objection on board and had already, before making the planning application, taken positive steps to address and improve the situation as explained. The tenants are being reminded of the importance of disposing all waste correctly, and actively encouraged to recycle to reduce the amount of waste that would usually find its way to landfill. The appellants also intend to organise a bin rota system for their tenants with each taking a turn to take out and return the bins. They would also be happy to agree a formal Waste Management Strategy for the HMO with the Council if this was deemed necessary by the appointed Planning Inspector to provide some further assurance. We hope that proposed new bin storage arrangements as shown on drawing Ref. (20)A003B (copy shown on the following page) can be taken into consideration as part of the appeal as we believe that they do not prejudice any party.



Drawing Ref. (20)A003B showing proposed new internal bin storage arrangements

- 4.19 The government guidance on Houses in multiple occupation and residential property licensing reform: guidance for local housing authorities (Updated 9 October 2019) acknowledges that the private rented sector is an important part of our housing market, with 4.7 million households in England. It mentions that the sector has undergone rapid growth over the last 10 years, and it is the second largest tenure in England, representing 20% of all households in England. Houses in multiple occupation (HMOs) form a vital part of this sector, often providing cheaper accommodation for people whose housing options are limited. The guidance specifies that the government want to support good private landlords who provide decent well-maintained homes and not impose unnecessary regulation. We consider that 104 Ainsworth Road is a quality specification HMO that is being well-maintained and well-managed by decent law-abiding landlords. This is a property that you could be proud to say is your home.

This can be suitably verified in the photograph images of the appeal property that are included in Appendix 1.

4.20 Based on the external appearance of the property, there would be nothing obvious to indicate from the outside that it is being used as an HMO and the appellants have been keen to ensure this. It continues to have the appearance of an extended family home. The photographs included in Appendix 1 would again appear to provide suitable verification. This area does not have a high concentration of licensed HMOs according to the published Bury Council HMO register, so the local character is being fully respected and traditional family dwelling houses remain the predominant feature. The only time that it may be noticeable that the property is being used differently is when the appellants have erected a 'Room to Let' sign board outside on the front garden forecourt area in order to attract a new tenant, but this would likely only be for a brief period.

4.21 The Council has included several generic housing policies in the refusal decision notice, but we would take the view that 'Policy H2/4 – Conversions' has the most weight and relevance to the appeal matter under consideration. This policy specifically relates to conversions of buildings into two or more self-contained units, or into a house in multiple occupation. There are various factors in the policy that need to be considered when determining planning applications and they include the following:

- the effect on the amenity of neighbouring property through noise, visual intrusion, the position of entrances, impact of parking areas, extensions and fire escapes;
- the general character of the area and the existing concentration of flats;
- the amenity of occupants;

- the effect on the street scene of any changes to the external appearance of the building;
- car parking and servicing requirements.

4.22 The Council also has a Supplementary Planning Document (SPD) Policy Guidance Note 13 - Conversion of Buildings to Houses in Multiple Occupation that was adopted in May 2007, and this is intended to support the policies in the UDP and in particular Policy H2/4 (Conversions). The guidance note is a material planning consideration, and it is aimed at developers and providers of Houses in Multiple Occupation (HMOs) and contains detailed content on the various aspects relating to their set up, design, layout and management.

4.23 It is our view that the proposed scheme is satisfactory and broadly complies with all the relevant factors and criteria in Policy H2/4 and the SPD. This is an existing high quality, well maintained and well managed HMO that has been operational for a while, and it has not affected the character and appearance of the area or caused any significant nuisance or amenity related problems for the neighbouring properties. There are no visible changes being made to the existing building that materially affect its external appearance in the case of this appeal and it will retain the visual appearance of a single dwelling house in the wider street scene environment.

4.24 There was only one objection received in respect of the refused planning application and this related to the waste management arrangements at the property, which the appellants are actively and positively seeking to resolve. As previously highlighted in

this statement, the Council's main reason for refusing the application relates to concerns over the layout of the property and they consider that there is insufficient internal and external space. This is in spite of the fact that the proposed 7no. bedroom HMO meets the Council's own HMO licence standard requirements. As previously mentioned in Paragraphs 4.8 and 4.9, the Case Planning Officer does not appear to have any issues with the proposal in terms of the impact on neighbouring residential amenity and highways and parking.

- 4.25** The fundamental issue for this appeal relates to whether the existing building is large enough to offer a satisfactory level of accommodation for 1no. additional person in the future without affecting the living conditions of the existing residents. The number of residents would be increased from 6no. to 7no. We consider that the proposed new bedroom space on the second floor of the building can be safely accessed, it would be fit for purpose as a bedroom, and it is of a sufficient size for the occupant to live comfortably within it. The bedroom benefits from having an opening window providing natural light and ventilation, and it has the use of a shared bathroom facility that is located directly outside on the landing area, and this is only being shared with one other resident. The communal kitchen and dining facilities on offer in the property are already of a good size and standard and one additional resident potentially using them will not affect the overall functionality of the area. It is accepted that the rear yard area is not a large outside space, but again we believe that it is sufficient for the residents to utilise as and when it is required for sitting out or drying washing etc. This would be no different if a large extended family were living in the house and there would be no restriction on the number of occupants in that case. The Council's SPD does not contain

a specific size of outside amenity space that is required for a HMO and it just mentions that the proposal should *‘provide an adequate amount of enclosed external amenity space for its residents where the opportunity exists. This should be at least in the form of a yard or a garden at the rear of the property. The exact amount of garden/yard space should be directly related to the needs of the likely residents’*. The SPD further mentions that *‘Whilst each proposal will be considered on its own merits, some flexibility may be allowed in certain circumstances, for example, where an applicant can demonstrate that less space is required due to the close proximity and accessibility of parks and other forms of public open space. The quality and nature of any ‘alternative’ amenity spaces will need to be considered, as will the specific requirements of the residents’*. We have already highlighted in this appeal statement that there are several greenspaces available within close proximity of the site including Whitehead Park which is a large urban park that is situated a 2 minute walk away (maximum) to the east. Details of the facilities available at Whitehead Park are included in Appendix 2.

5.0 Summary and Conclusion

5.1 We consider that this Appeal Statement has demonstrated that the proposed development is appropriate for this property and the site location, and therefore it is compliant with the relevant sections of the Bury Council Unitary Development Plan and the NPPF.

5.2 The development proposal will provide additional residential accommodation at the property and a further contribution towards meeting the housing needs of the Borough, which will help to support the Government’s objective to significantly boost the supply of homes.

- 5.3 We consider the development is acceptable in terms of its layout, its effect on neighbouring residential amenity, and its impact upon the highway network. The site is also located within an accessible and sustainable location.
- 5.4 The design, size and layout of the HMO fully complies with the Councils HMO Licensing standard requirements.
- 5.5 The presumption in favour of sustainable development means that a planning application should only be refused where the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole. We believe that the Council made an incorrect decision in refusing the planning application and the contents of this appeal have justified that the benefits of the proposal clearly outweigh any dis-benefits and the proposal conforms with both national and local planning guidance and therefore represents appropriate sustainable development.
- 5.6 Therefore, we respectfully request that the Planning Inspectorate allow this appeal at the earliest opportunity and allow our client to undertake a development that is appropriate for this residential property.
-

Appendix 1 – Photographs of the appeal site (104 Ainsworth Road)



Frontage of 104 Ainsworth Road



Street scene along Ainsworth Road



Rear of 104 Ainsworth Road – proposed combined bicycle and bin store in garage



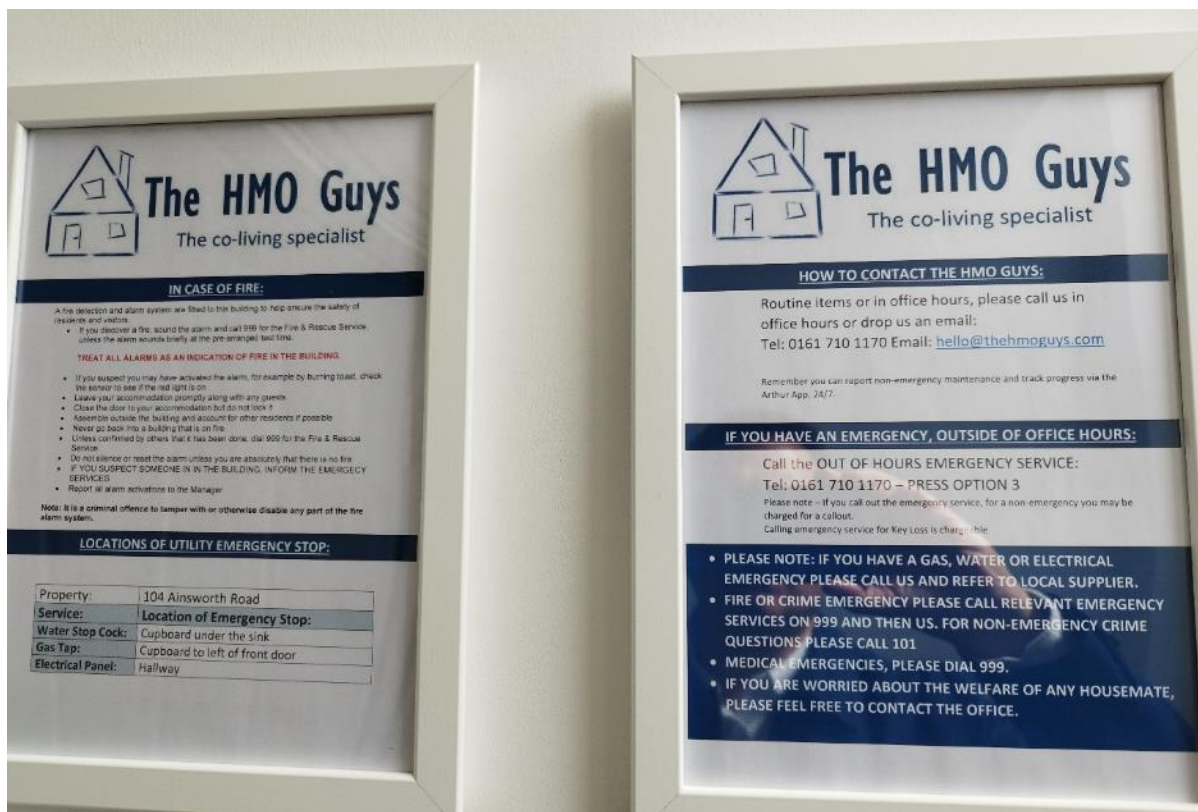
Rear elevation and rear yard area at 104 Ainsworth Road



Rear elevation and rear yard area at 104 Ainsworth Road



Front doorway and hallway at 104 Ainsworth Road



Details of the company who manage the HMO at 104 Ainsworth Road



Communal kitchen and dining room at 104 Ainsworth Road



Communal kitchen and dining room at 104 Ainsworth Road



Communal kitchen and dining room at 104 Ainsworth Road



Communal kitchen and dining room at 104 Ainsworth Road



Standard ensuite bedroom at 104 Ainsworth Road



Standard bedroom at 104 Ainsworth Road



Standard bedroom at 104 Ainsworth Road



Standard bedroom at 104 Ainsworth Road



Proposed new bedroom No.7 at 104 Ainsworth Road – currently being used for storage



Proposed new bedroom at 104 Ainsworth Road – currently being used for storage



Proposed new bedroom at 104 Ainsworth Road – currently being used for storage



Private accessway at rear of 104 Ainsworth Road (Back Ainsworth Road)



Private accessway at rear of 104 Ainsworth Road (Back Ainsworth Road)



Street scene along Ramsey Grove – unrestricted on street parking clearly available



Street scene along Ramsey Grove – unrestricted on street parking clearly available

Appendix 2 – Whitehead Park Details and Facilities

[Home](#) > [Local leisure and events](#) > [Public parks and open spaces](#) > [Whitehead Park](#)

Whitehead Park

Top tasks:

[Book a park or open space](#)[Get involved in your local park](#)[Bowling greens](#)[Football pitches](#)[Tennis courts](#)

Located just over a mile from Bury town centre in the Elton ward of the Borough, Whitehead Park is an urban public park surrounded by a close knit local community who take pride in their neighbouring facility. The park consists of the main park area and the King George V playing fields which in total is around 7.8 hectares.

- Ainsworth Road, Bury
- Grid Reference: (E) 379249, (N) 410901

The park is fairly level throughout with well-maintained footways and is accessible to people using wheelchairs and families with push-chairs.

Facilities

- Playing fields with football pitches (two full size and one junior size)
- Children's play area and youth zone
- Multi-play ball zone
- Two tennis courts
- Croquet and boules lawn and pavilion
- Car parks at the Lonsdale Street and Newbold Street entrances.

Bury Croquet Club

The bowling pavilion and croquet lawns are maintained by [Bury Croquet Club](#).

Green Flag Award

Whitehead Park has retained a [Green Flag Award](#) since 2005. The national Green Flag Award scheme recognises excellence in greenspace management and measures criteria such as cleanliness, maintenance, sustainability, community involvement, heritage, nature conservation, health, safety, security and overall management.