

Public Document Pack

AGENDA FOR

PLANNING CONTROL COMMITTEE



Contact: Michael Cunliffe
Direct Line: 0161 253 5399
E-mail: m.cunliffe@bury.gov.uk
Web Site: www.bury.gov.uk

To: All Members of Planning Control Committee

Councillors : G McGill (Chair), S Arif, C Boles, D Duncalfe, D Green, J Harris, M Hayes, D Quinn, S Thorpe, D Vernon and M Walsh

Dear Member/Colleague

Planning Control Committee

You are invited to attend a meeting of the Planning Control Committee which will be held as follows:-

Date:	Tuesday, 31 May 2022
Place:	Council Chamber, Bury Town Hall
Time:	7.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

4 PLANNING APPLICATIONS (*Pages 3 - 16*)

Reports attached.

BURY COUNCIL
DEPARTMENT FOR BUSINESS, GROWTH AND INFRASTRUCTURE
PLANNING SERVICES

PLANNING CONTROL COMMITTEE

31 May 2022

SUPPLEMENTARY INFORMATION

**Item:01 Former Mondri/Holcombe Mill, Bridge Street, Ramsbottom, Bury, BL0 0BS
Application No. 65844**

Erection of 73 no. dwellings including the retention and conversion of 2 existing buildings to residential use (5 no. units), the retention of a chimney and the demolition of a derelict building, together with engineering operations to create a development platform and associated parking, landscaping, drainage, the layout of internal estate roads and footways and other associated works

Publicity

31 letters have been received, which have raised the following issues:

- How can over 70 dwellings be of benefit to Ramsbottom? Is it the goal of Bury Council to gridlock the town.
- Every time this raises its head, it gets objections. Do something that will benefit the area and visitors.
- Object due to the increase in traffic, which will only add to pollution.
- The materials will not be in keeping with the area
- The houses will not be affordable to young residents of the town
- The flood defence proposals will not work and cause further flooding.
- There is limited car parking in the town and this will add to the problem.
- The site should be purchased using the Levelling up fund and developed as a recreational, and entertainment site with car parking.
- Any residential area will cause massive issues to the infrastructure of Ramsbottom.
- There are a number of rare species of bird that live along the riverbank, including Kingfishers.
- The developer has not taken into consideration the local area or its residents.
- There are already 2-3 housing developments in Ramsbottom and another one is not needed.
- The houses do not enhance the conservation area - they diminish it.
- How does this fit into the Ramsbottom town centre plan, which had alternative uses for this land?
- Too many houses with massive implications for overstretched infrastructure
- I'm sure no one who had their say on the Ramsbottom Town Plan suggested increasing congestion by building poorly built mock Tudor houses in a town that has no relevance to Tudor architecture.
- Dormers are objected to and permissions declined because they contradict the area's buildings so surely such a carbuncle will not be allowed.
- The town is desperate for more parking and the land should be used for this.
- The space would be better used as car parking and a community space.
- The council need to dig deep and find some creativity with this. The town plan identifies the Mondri site as an area that could be used for parking so it sounds like we need some funding to buy it or compulsory purchase if possible.
- The mock Tudor style of buildings proposed is not in keeping with the stone buildings in the Ramsbottom conservation area. This development is the entrance to Ramsbottom for many visitors and should reflect its proud heritage.
- The development only has one entrance and exit road which is very close to the level crossing at Ramsbottom station. This area already suffers from traffic congestion during rush hour and the extra houses in this area would contribute to making this situation worse.
- This land should also include extra parking for Ramsbottom visitors.
- This development is totally out of character of a charming stone built Pennine

village. Permitting this would run contra to Conservation mandate, requiring benefit or enhancement, and the Council's own duty of care.

- This site, given its central location next to the station and close to shops and businesses should complement the existing buildings in the area and provide further amenities for local residents.
- This development is the biggest in many generations in Ramsbottom. Yet there has not been a public town consultation. Why not?
- This planning application is being rushed through in a very short time period. A handful of local residents were informed on 20 May 2022 with the Planning Meeting taking place on Tuesday 31 May 2022. This looks and feels like an ambush
- This planned development will be situated on an established flood plain next to the River Irwell in the centre of Ramsbottom. This site as well as the land on the other side of the road from the planned development flood on a regular basis. Most notably there was significant flooding in February 2020 and on Boxing Day 2015 when the area including homes and businesses were devastated by flooding. Notably the River Irwell is not even on the site plan. Why is this ?
- This site sits at a low level. Flood water runs off the hills and rises up from drains/sewers as well as from the river when the banks overflow. Flooding will only get worse as climate change progresses.
- In 2016 at a public meeting in Radcliffe following the devastating floods in the Borough on Boxing Day 2015, the then CEO Mr Owen and the then Leader of the Labour Council gave a solemn promise to the people living in the Borough that there would not be any further residential developments built on flood plains in the Borough. This is patently untrue given the fact that Bury MBC is now entertaining this application. Will the current Labour Leader and Chief Executive honour this pledge?
- Building on a flood plain places residents at risk of serious harm and/or death.
- Is Bury Council aware of the Corporate Manslaughter legislation enacted in 2007 which allows bodies including local councils to be face criminal prosecution should its actions or inactions result in the death of members of the public.
- Increasing the vehicle pollution levels in Ramsbottom is at clear odds with the Green Air Policy which is being rolled out.
- Placing over 400 people in a small area in the centre of the town which is increasingly polluted by 24/7 traffic, a local recycling plants, a carpet factory, a Fedex depot and industrial pollution is not good from a public health angle or the quality of life of anyone. Where is the public health report?
- There should be a limit on the number of houses that a developer can build in an area. Large parts of Ramsbottom are designated a conservation area.
- Is there sufficient power to pump electric, water and gas etc to these homes?
- Ramsbottom already suffers regular power outages with its current population.
- This developer does not build affordable housing . By affordable I mean what the average ordinary person on the average wage in this town can afford to buy
- Has the Planning Committee visited the site and if so when?
- Unfortunately however it appears the application is anything but prize-winning according to of the Conservation Officers, detailed analysis
- The redevelopment simply has nothing at all in common with its immediate surroundings of 19th century stone buildings and streets of two up and two down natural stone cottages with blue slate roofs as far as the eye can see. This is the essential character of the Ramsbottom Conservation Area The general public seem unaware of the sheer size and scale of the threat. Far from being a couple of bungalows off the beaten track, this application proposes the biggest housing scheme since the Broadhey estate off Nuttall Lane in the 1970s. It will change the

town centre more comprehensively than anything since the railway arrived in 1846.

- Ramsbottom let's face it, deserves better, much better, can you honestly imagine for one minute Hebden Bridge, Haworth, or Grassington or any other small town with a conservation area protecting its unique heritage, even considering an application to build 73 Mock Tudor executive style homes right in the middle of it?
- However any granting of permission should, we believe only be approved on the following conditions:- 1. All the houses are built in natural stone. 2. All the houses should be roofed in blue slate tiles. 3. Mock Tudor (plastic) boards banned. 4. A riverside public path is provided within the site. 5. Building 'C' the historic chimneys boiler house should be retained and restored to enhance the chimney site and increase its heritage value. 6. Restore the 150 year old goit, hand dug across the site to supply water to a moat around Square Mill.
- You may be aware of the recent Ramsbottom town centre plan that was subject up for consultation. Among many issues contained in the draft plan were the following:- 1. Parking problems. 2. The need to attract further inward investment and retail opportunities. 3. The need to relocate and support the Saturday Market area. 4. The need to find a better solution and location for the Sunday car boot sales. 5. The need to free up current parking spaces on Union Street and surrounding areas. 6. The desire to create more retail and al fresco dining outlets. 7. The need to find a new long term development site. 8. There were also plans to develop out of town parking with walk in footpaths. The Council must move decisively and quickly to secure the Mondi site from the hands of developers, even if this means refusal of planning.
- The Ramsbottom town plan mentions but fails to identify the former Mondi paper mill land as the highly prized and transformational site Bury council should be seeking to acquire. It makes no mention of this option as an alternative to the cost of displacing one or more businesses.

The objectors have been notified of the Planning Control Committee meeting.

Consultations

Traffic Section - No objections, subject to the inclusion of conditions relating to highway alterations, a construction traffic management plan, a travel plan, a scheme for the management and maintenance of the estate roads, visibility splays, turning facilities, car parking, driveways and cycle storage.

Issues and Analysis

Impact upon the Conservation Area - For the avoidance of doubt, following an inaccurate and misleading article in the Bury Times and Rossendale Free Press, the Conservation Officer has no objections to the proposed development, subject to the inclusion of conditions relating to materials.

8 of the 73 proposed dwellings and the two converted buildings would be located in the Conservation Area. All of the proposed dwellings, except 1 would be the Clitheroe house type, which would be smaller terraced and semi-detached plots with a simple design that respects the character of the historic built form of the Conservation Area.

The use of artificial stone would enable all of the proposed dwellings to be constructed from the same materials. The appearance of the materials in relation to the existing buildings on site is of key importance. Given that the majority of the site is outside of the Conservation Area, the viability constraints and the use of the material across the whole site, the use of reconstituted stone is considered to be acceptable, subject to conditional control. As such, the proposed development would preserve the

character of the Conservation Area and would be in accordance with Policies EN2/1 and EN2/2 of the Bury Unitary Development Plan and the NPPF.

Flood risk - As part of the FRA, a sequential assessment was submitted. The assessment concludes that there are no sequentially preferable sites which could accommodate the proposals and has drawn upon evidence from the Council's Strategic Housing Land Availability Assessment (SHLAA). It is accepted that there are no sequentially preferable sites that are appropriate or reasonably available within the search area and as such, the sequential test has been met.

The NPPF states that if, following the application of the sequential test, it is not possible for the development to be located in zones with a lower probability of flooding, the Exception Test should be applied.

The NPPF provides two criteria which should be met for the Exception Test to be passed. These are:

- the development would provide wider sustainability benefits to the community that outweigh the flood risk; and,
- the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall

The Flood Risk Sequential and Exception Test and Flood Risk Assessment submitted with the application seeks to respond to the requirements of the Exception Test and state that:

- The proposal clearly amounts to sustainable development
- The proposal would regenerate a derelict site
- There are no significant demonstrable adverse impacts from the proposals that would outweigh the considerable benefits of the scheme
- The proposal seeks to increase the provision of new housing into the borough meeting an identified need
- The proposal would regenerate a derelict brownfield site.

The applicant has agreed to increase the holding capacity of the drainage system, which would decrease the risk of flooding from surface water.

The application site is within walking distance of the town centre and is in a sustainable location. The proposed development would regenerate a site, which has been derelict for over a decade and provide housing to meet the identified need. The provision of greater surface waterholding capacity would help to address existing surface water drainage issues in the town centre, by holding more water as well as the surface water drainage from the proposed development. As such, the proposed development would provide wider sustainability benefits to the community and would meet the exceptions test.

A flood evacuation plan has been submitted as part of the application and has been assessed. The proposed evacuation plan is acceptable in principle although there are some areas of detail, which require amendments, and this would be sought via a condition. Therefore, the proposed development would be in accordance with Policy EN5/1 of the Bury Unitary Development Plan.

Highway issues - The proposed development would utilise the existing access road and there would be appropriate levels of visibility. An emergency access would be provided and would connect Bridge Street (adopted highway) to the shared access

way 1. GM Fire Service have no objections, subject to the provision of an emergency access and access for emergency services along it. This would be secured in a Section 106 agreement. The Traffic Section has no objections, subject to the inclusion of conditions relating to highway alterations, a construction traffic management plan, a travel plan, a scheme for the management and maintenance of the estate roads, visibility splays, turning facilities, car parking, driveways and cycle storage. Therefore, the proposed development would not be detrimental to highway safety and would be in accordance with Policies H2/1, H2/2 and EN1/2 of the Bury Unitary Development Plan.

Planning obligations - The proposed development would provide:

- Affordable housing - 10 affordable units would be provided, to be sold at a 25% discount on open market value and would be delivered in early phase.
- Recreation provision - A scheme for the ongoing management of the on-site recreation provision and public access thereto.
- Highways contribution - £110,000 towards the installation of MOVA
- Ensure access for emergency vehicles on the proposed access roads

Response to objectors

- The issues of design, materials, dormers and the impact upon the conservation area have been addressed in the main report and above.
- As stated above, the Conservation Officer has no objections to the proposed development. The comments reported were based on the originally submitted plans which have subsequently been amended.
- The issues relating to highway safety and congestion have been addressed above and in the main report.
- The issues relating to flood risk have been addressed above and in the main report. It should be noted that the Environment Agency, United Utilities and the drainage Section have no objections to the scheme.
- The issue relating to Kingfishers has been addressed in the main report.
- The need for housing was addressed in the main report.
- A decision must be based on the proposed development and the application cannot be refused as an alternative development might be better.
- The Local Planning Authority must determine an application submitted in accordance with the Development Plan unless material considerations indicate otherwise. The development plan includes the Unitary Development Plan and the NPPF. The town centre masterplan is a non statutory document but does not advocate any particular development proposals. The development's proposals have been amended to ensure that the scheme assimilates into the town centre.
- does not hold any weight with regard to the decision making process and is not a material consideration.
- The proposed development would provide 10 affordable homes as required by Policy H4/1 of the Bury Unitary Development Plan and SPG5 in the early phases.
- A site visit has been arranged for the members of the Planning Control Committee.
- Each application is assessed on its own merits.
- Corporate manslaughter legislation is not a material planning consideration
- The public have been consulted on the proposed development and the dates are provided in the Publicity Section of the main report.
- The planning application was received in September 2020 and is being determined 2 years later. The public have been able to provide comments during this time.

Conditions

Conditions 6 and 9 should be amended and conditions 17 to 27 added in relation to highway alterations, a construction traffic management plan, a travel plan, a scheme for the management and maintenance of the estate roads, visibility splays, turning facilities, car parking, driveways, cycle storage and flood evacuation plan:

6. The conversion of buildings B1 and B2 shall not commence unless or until the following has been submitted to and approved in writing by the Local Planning Authority:

- A license issued by Natural England pursuant to Regulation 55, of the Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development go ahead: or
- A statement in writing from the relevant licensing body to the effect that it does not consider that the specified development will require a license

Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 - Conservation of the Natural Environment and EN6/3 - Features of Ecological Value of the Bury Unitary Development Plan and Section 11 of the National Planning Policy Framework.

9. The eradication and/or control and/or avoidance measures for Himalayan balsam, Japanese knotweed and Cotoneaster spp should be carried out in accordance with the recommendation of the Invasive Species Method Statement prepared by Ascerta reference P.1202. The approved method statement shall be adhered to and implemented.

Reason. The scheme does not provide full details of the actual extent of Japanese Knotweed and Himalayan Balsam in the interest of UDP Policy EN9 - Landscape and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

17. Notwithstanding the details indicated on the approved plans, no development shall commence unless and until full details of the following, to a scope and specification to be agreed, have been submitted on a topographical survey of the site and adjacent adopted highways to the Local Planning Authority:

- Reconstruction of the site access onto Bridge Street incorporating the provision of tactile paved pedestrian crossing points within the limits of the adopted highway;
- Reconstruction of the southerly footway on Bridge Street abutting the site, incorporating the identification of, and agreement to, the limits and demarcation of the adopted highway including realignment where appropriate, reinstatement of all redundant accesses to full height kerb levels, provision of a minimum footway width of 2.0m with 1 in 40 falls to the carriageway, edgings with a 50mm upstand and all boundary treatment alterations adjacent to the back of the footway along the northerly site boundary and in front of Plots 9 - 13, with any foundations required for the replacement walls/fencing designed to not encroach under the adopted highway;
- Provision of a street lighting assessment of the junction of the site access with Bridge Street (in addition to the and proposed private internal estate roads), and, if required as a result of the assessment, subsequent scheme of improvements on the existing adopted highway;
- Formation of the proposed Emergency Access to the site adjacent to Plot 13 to a width and specification to be agreed with Greater Manchester Fire and Rescue Service, incorporating adequate strengthening of the footway, levels and vertical alignment to ensure that the size, type and weight of a fully laden fire appliance can be accommodated at this point on the Highway Network in order to access

the site;

- In association with the above, a scheme of bollards to a specification to be agreed with Greater Manchester Fire and Rescue Service and at appropriate centres located clear of the adopted highway, to ensure that there shall be no direct means of non-emergency vehicular access between the site and Bridge Street;
- Formation of the proposed pedestrian access to the site adjacent to Plot 9, incorporating the provision of pedestrian guardrailing of a length and type to be agreed, adequate footway width and levels at this access point and all associated accommodation works;
- A scheme of road markings to introduce 'Keep Clear' and give way markings at the junction with Bridge Street, in addition to the provision of appropriate white lining within the private development itself;
- Review of the Traffic Regulation Orders in the vicinity of the site to a scope to be agreed to cover whether any additional parking restrictions require introducing, as well as ensuring adequate parking restrictions remain in place, and are refreshed accordingly;
- Review of the bus stops in the vicinity of the site with a view to upgrading/improving any bus stops (as necessary). Should this review, undertaken in consultation with TfGM, determine that improvements are required, the application should include proposals for the upgrade of the bus stops, in accordance with 'Transport for Greater Manchester's Design Guidelines for Bus Stops';
- All associated highway redial/accommodation works to accommodate the required highway works.

The highway works subsequently approved shall be implemented to an agreed programme before each phase of the development subsequently agreed is first occupied.

Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway pursuant to the following Policies of the Bury Unitary Development Plan:

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development

Policy EN1/2 - Townscape and Built Design

18. No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and approved by the Local Planning Authority and shall confirm/provide the following:

- Photographic dilapidation survey of the footways and carriageways abutting the site in the event that subsequent remedial works are required following construction of the development/boundary treatment alterations and as a result of any statutory undertakers connections to the new dwelling;
- Access point for demolition/construction traffic from the adopted highway;
- Site hoardings (if proposed) clear of the adopted highway;
- Hours of operation and number of vehicle movements;
- A scheme of appropriate warning/construction traffic signage in the vicinity of the site and its access;
- Parking on site (or on land under the applicant's control) of operatives' and demolition/construction vehicles together with storage on site of demolition/construction materials, including any requisite phasing of the development to accommodate this;
- Measures to ensure that all mud and other loose materials are not spread onto the adjacent adopted highways as a result of the groundworks operations or carried on the wheels and chassis of any vehicles leaving the site and measures to

minimise dust nuisance caused by the operations

The approved plan shall be adhered to throughout the demolition/construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the demolition and construction periods. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of demolition/construction materials.

Reason. Information not submitted at application stage. To mitigate the impact of the construction traffic generated by the proposed development on the adjacent residential streets, and ensure adequate off street car parking provision and materials storage arrangements for the duration of the construction period and that the adopted highways are kept free of deposited material from the ground works operations, in the interests of highway safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

19. No development shall commence unless and until a Travel Plan has been submitted to and agreed in writing with the Local Planning Authority/TfGM and shall confirm/provide the following:

- A range of measures promoting a choice of transport mode, and a clear monitoring regime with agreed targets;
- A travel plan budget and resources for the implementation and day to day management of travel plan measures;
- Appropriate management structures;
- Detailed time frames for the delivery;
- Handover arrangements for the travel plan or its components when the developer's responsibility ceases;
- Targets and monitoring arrangements.

The approved plan shall be implemented within 6 months of occupation of the first dwelling and the measures and facilities proposed implemented to the satisfaction of the Local Planning Authority.

Reason. A travel plan has not been provided and to deliver sustainable transport objectives pursuant to Policy HT4 - New Development of the Bury Unitary Development Plan.

20. No development shall be commenced, except demolition and site clearance, unless and until details of the proposed arrangements for future management and maintenance of the proposed estate roads within the development have been submitted to and approved by the Local Planning Authority. The estate roads shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a private management and maintenance company has been established.

Reason. To ensure that the unadopted estate road serving the development is maintained to an acceptable standard in the interest of residential/highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway pursuant to the following Policies of the Bury Unitary Development Plan:
Policy H2/1 - The Form of New Residential Development
Policy H2/2 - The Layout of New Residential Development
Policy EN1/2 - Townscape and Built Design

21. The visibility splays indicated on the approved plans shall be implemented to the written satisfaction of the Local Planning Authority before the new site access is brought into use and subsequently maintained free of obstruction above the height of 0.6m.

Reason. To ensure the intervisibility of the users of the site and the adjacent highways in the interests of road safety pursuant to the following Policies of the Bury Unitary Development Plan:

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development

Policy EN1/2 - Townscape and Built Design

22. The private access roads, replacement parking facilities and turning facilities indicated on the approved plans shall be provided before the dwellings are first occupied and the areas used for the manoeuvring of vehicles shall subsequently be maintained free of obstruction at all times.

Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to the following Policies of the Bury Unitary Development Plan:

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development

Policy EN1/2 - Townscape and Built Design

23. The car parking indicated on the approved plans shall be surfaced, demarcated and made available for use prior to the development hereby approved being occupied and thereafter maintained at all times

Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

24. A minimum hardstanding of 5.5m measured between the highway/private estate road boundary and any proposed garage doors shall be provided and thereafter maintained.

Reason. To enable a vehicle to stand clear of the highway whilst the garage doors are opened and to allow adequate space to maintain a vehicle clear of the highway in the interests of road safety pursuant to Policy H2/3 - Extensions and Alterations of the Bury Unitary Development Plan and associated Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties.

25. Where dwellings are constructed without a garage, a minimum hardstanding of 5.0m measured from the highway/private estate road boundary shall be provided within the curtilage of each dwelling and thereafter maintained.

Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to the following Policies of the Bury Unitary Development Plan:

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development

Policy EN1/2 - Townscape and Built Design

26. Secure cycle storage facilities shall be provided within the curtilage of each dwelling and thereafter maintained.

Reason. To ensure the provision of adequate in-curtilage cycle storage facilities and in order to deliver sustainable transport objectives pursuant to the following Policies of the Bury Unitary Development Plan:

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development

Policy EN1/2 - Townscape and Built Design

27. Notwithstanding the information submitted, no development shall commence unless or until a flood evacuation plan has been submitted to and approved in writing

by the Local Planning Authority. The approved plan shall be implemented in full prior to first occupation of the dwellings and shall be maintained thereafter.

Reason. The scheme does not provide full details of the protection measures and to ensure the safety of residents during a flood event pursuant to Policy EN5/1 of the Bury Unitary Development Plan and the National Planning Policy Framework.

Item:02 Hollins House Farm, 247 Hollins Lane, Bury, BL9 8AS Application No. 67400

Conversion of existing single storey barn to form 1 no. dwelling and replacement of two storey barn with an attached two storey 1 no. dwelling

Nothing further to report



Appeal Decision

Site visit made on 26 April 2022

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/T4210/X/21/3288740

5 Shelley Road, Prestwich M25 9GH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Adil Ashraf of Safe Hands Care & Support Services Ltd against the decision of Bury Metropolitan Borough Council.
 - The application Ref 67603, dated 29 September 2021, was refused by notice dated 23 November 2021.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is as a care home for up to 4 young people and 1 support staff (Use Class C3(b)).
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant a certificate of lawful use or development was well-founded. In this case that turns on whether the proposed use is a material change of use from the lawful use as a single dwellinghouse falling within Class C3.

Reasons

3. The appeal site is a two storey three bedroom semi-detached house which is situated within a predominantly residential part of Prestwich. At ground floor there is a dining room, kitchen and living room and at first floor level there are three bedrooms (one en-suite), a main bathroom and an office. There is space for parking two cars on the hardstanding area to the front of the property and a private amenity space to the rear.
4. The application form states that the proposed use is for a care home for up to four young people and one support staff (Use Class C3(a)), but the details in the supporting statement relate to the proposed use as a C2 home for three young people and up to two support workers at any one time. The floor plan submitted shows only three bedrooms whereas the proposal on the form is for up to four young people.
5. I have considered case law relating to cases such as this and a similar scenario to this case was considered in the case of *North Devon District Council v FSS & Southern Childcare Ltd* [2003] EWHC 157 (Admin); [2003] JPL 1191 which

determined that carers who do not reside in a property, but who provide care, cannot be regarded as living together and as a consequence cannot be regarded as a single household as defined in Use Class C3 (b). Therefore, the use would fall within Class C2. This is defined as use for the provision of residential accommodation and care, other than within a Class C3 use.

6. In order to determine whether the proposed change of use would be material in planning terms I require clear and unambiguous evidence. In this case the appellant has failed to submit a precise and unambiguous description of the proposed use or clear evidence that the proposed use is lawful. Consequently, I find that the Council's decision to refuse to grant a certificate was well-founded.

Conclusion

7. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of use of the property as a care home for up to 4 young people and 1 support staff (Use Class C3(b)) was well-founded and that the appeal should fail. I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

A A Phillips

INSPECTOR

This page is intentionally left blank