

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	3 September 2019
SUBJECT:	PLANNING APPEALS
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - Lodged - Determined
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

David Marno, Head of Development Management
Planning Services, Department for Resources and Regulation,
3 Knowsley Place ,Bury BL9 0EJ

Tel: 0161 253 5291

Email: d.marno@bury.gov.uk

**Planning Appeals Lodged
between 22/07/2019 and 25/08/2019**



Application No.: 63825/FUL

Appeal lodged: 02/08/2019

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Refuse

Applicant: Mrs Michaela Beckett

Location 220 Rochdale Road, Bury, BL9 7HP

Proposal Part change of use of residential dwelling for the breeding and housing of dogs with kennel outbuildings at rear

Total Number of Appeals Lodged: 1

**Planning Appeals Decided
between 22/07/2019 and 25/08/2019**



Application No.: 63156/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: The Great Northern Property Company Limited

Location: 19 Cobden Street, Radcliffe, Manchester, M26 4HR

Proposal: Conversion of existing community centre/club to form 2 no. dwellings; New pitched roof and alterations to fenestration

Appeal Decision: Dismissed

Date: 13/08/2019

Appeal type: Written Representations

Application No.: 63294/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Sohail Afsar

Location: 8 Bolton Street, Bury, BL9 0LQ

Proposal: Change of use from estate agents (Class A2) to private hire taxi booking office (Sui Generis)

Appeal Decision: Dismissed

Date: 22/07/2019

Appeal type: Written Representations



Appeal Decision

Site visit made on 23 July 2019

by David Storrie DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Appeal Ref: APP/T4210/W/19/3224408

19 Cobden Street, Radcliffe, Manchester M26 4HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Chris Jenkins of The Great Northern Property Company Limited against the decision of Bury Metropolitan Borough Council.
 - The application Ref 63156, dated 17 September 2018, was refused by notice dated 8 November 2018.
 - The development proposed is the conversion of existing community centre/club to form two new dwellings, including alterations to fenestration and new pitched roof.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site address on the application form is different from that on the appeal form and decision notice. I have taken the address from the latter two as this is consistent with the site address on the submitted plans. This has previously been agreed by the main parties.
3. The appellant says that the appeal should be considered in respect of two sets of amended plans that they submitted during the processing of the planning application, but they were not considered by the Council, who made their decision on the initial plans submitted with the application. I have not been provided with the amended plans nor full reasons as to why they were not considered by the Council but understand the changes involved a need to amend the red line boundary and that this could not be done as an amendment. I must therefore determine the appeal in accordance with the plans considered by the Council. For the avoidance of doubt, they are *Plans and Elevations as Existing and Proposed 18022.01 A*.
4. The fourth reason for refusal refers to conflict with *SPD8*. The Council say this is an error and that this should be *SPD6*. Whilst *SPD8* was mentioned in the Officer Report, the contents referred to related to *SPD6*. The appellant was made aware of this in the Council's Statement of Case and is not prejudiced by this error.

Main Issues

5. The main issues are a) the effect of the proposal on pedestrian and highway safety having particular regard to a satisfactory access into the site and

adequate parking and servicing provision, and b) whether the proposal provides acceptable living conditions for future occupiers having regard to outdoor amenity space and bin storage provision and privacy with specific regard to overlooking to and from neighbouring properties.

Reasons

Pedestrian and highway safety

6. The appeal site is rectangular in shape with a single storey brick building occupying most of the site. It sits at right angles to Cobden Street with two roads either side that I am informed are unadopted. The character of the area is predominantly residential although a commercial building exists to the south-east of the building. The building was vacant at the time of my site visit and has been for some 10 years. Prior to that it was used as a community centre/club.
7. The proposed development would involve cosmetic changes to the external face of the eastern and western elevations of the building to insert doors and windows and the construction of a pitched roof to provide two 1-bed units. Each unit would have one car parking space set at an angle to the western face of the building taking access off the unadopted road.
8. The unadopted road that would serve the parking spaces does not form part of the application redline boundary although the appellant says that they have a legal pedestrian and vehicular right of way over it. Whilst that may well be the case, the fact that the application redline does not clearly demonstrate that a secure vehicular access can be achieved from the adopted highway is a concern.
9. The submitted plans indicate that vehicles would enter the parking spaces nose in. This would then result in vehicles having to reverse out of the spaces onto the unadopted road. In the absence of any turning facilities within the site they would then have to reverse out into Cobden Street. This would be unacceptable in terms of pedestrian and highway safety and have the potential to cause danger to other road users and pedestrians.
10. There is no indication on the submitted plans for bin storage or how service vehicles would access the site. Given the constraints I have identified in relation to accessing the proposed parking spaces and limitations on manoeuvres on the adjacent unadopted road, this adds to my concerns in respect of the impact on pedestrian and highway safety.
11. No details of bin storage have been provided on the plans determined by the Council so I am unable to consider this aspect fully. However, I do note that space is limited around the building for bin storage and so I cannot be certain that it would be possible to provide suitable on-site bin storage facilities.
12. The appellant says that these concerns were addressed in amended plans that were submitted to the Council during consideration of the application. As I have already said above, I have not been provided with these plans and the Council have made it very clear that they were not considered by them in determining the application. It is necessary that I determine this appeal on the basis of the plans that were considered by the Council as part of its refusal of planning permission.

13. Given the above, I conclude on that the proposed development would not provide satisfactory parking spaces for the development and would have an unacceptable impact on pedestrian and highway safety in the area. This would be contrary to Policies H1/2 - Further housing development, H2/2 - The layout of New Residential Development, EN1/2 - Townscape and Built Design and HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan (1997) (UDP) and paragraph 109 of the National Planning Policy Framework (the Framework) that, amongst other things, require development to have regard to acceptable and safe access, servicing and parking provision.

Living conditions

14. Given that the existing building occupies the majority of the site, there is only a small area of land fronting Cobden Street and a further area on the western side of the building towards the rear that would provide amenity space for future occupiers. Both these areas would be adjacent to the proposed parking space and are shown as open areas with some indicative planting on the submitted plans. This coupled with their small size and location adjacent to Cobden Street and the unadopted road to the west, would be open to public view and provide a poor level of amenity for future occupiers.
15. The internal layout, coupled with the juxtaposition of the eastern elevation to the unadopted access road serving the commercial building on this side of the property, results in habitable room windows looking out onto this road that is also used by vehicles parking in association with the commercial use. This would present a poor outlook with potential loss of privacy and overlooking from users of the adjacent unadopted road.
16. The appellant suggests that the units would likely be occupied by single people or the elderly who are unlikely to want or need any amenity space to maintain and that there is a park within some 170m and a bowling green within approximately 140m of the site. This is noted but, given the scale and location of the proposed development, the amenity space as set out would not be satisfactory given the clear lack of privacy. Future occupiers should not be expected to walk to nearby public parks or other amenity spaces to meet their private outdoor amenity space needs.
17. Taking the above into account I conclude that the proposed development would provide unsatisfactory living conditions for future occupiers in terms of inadequate private outdoor amenity space and loss of privacy given the juxtaposition of neighbouring land close to habitable room windows. This would be contrary to UDP Policies H2/1 - The Form of New residential Development, H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and Supplementary Planning Document "Alterations and Extensions to Residential Properties Adopted 17th March 2004 and updated 13th January 2010" that, amongst other things consider the impact of development on the residential amenity of existing and future occupiers.

Other considerations

18. There is no dispute between the parties that the local planning authority cannot demonstrate a deliverable five-year supply of housing sites in the area. Consequently, the provision of an additional two dwellings in the area would positively contribute to the housing under-supply position. Furthermore, there is no dispute between the parties that the site is located in an accessible

location. These are matters which weigh in favour of allowing the development, although the contribution to the housing under-supply would be somewhat limited from the provision of two dwellings. These matters need to be weighed against the harm I have found in respect of my conclusions on the main issues, taking into account paragraph 11d of the Framework.

Planning balance and conclusion

19. In respect of my conclusions on the main issues, I have found that harm would be caused to pedestrian and highway safety and to the living conditions of future occupiers of the dwellings and neighbouring properties. Such adverse impacts would significantly and demonstrably outweigh the identified benefits of allowing the development, including the supply of additional homes in the area, when assessed against the policies in the Framework taken as a whole.
20. Consequently, and considering all other matters raised, I conclude that the appeal should be dismissed.

David Storrie

INSPECTOR

Appeal Decision

Site visit made on 8 July 2019 by Hilary Senior BA(Hons) MCD MRTPI

by Susan Ashworth BA(Hons) BPL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 July 2019

Appeal Ref: APP/T4210/W/19/3228016

Local cars, 8 Bolton Street, Bury, BL8 0LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Sohail Afsar against the decision of Bury Metropolitan Borough Council.
 - The application Ref 63294, dated 17 September 2018, was refused by notice dated 20 November 2018.
 - The development proposed is change of use from A2 Estate Agents to Sui-Generis Private hire taxi booking office.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The original proposal submitted to the Council included a plan showing a passenger pick up point from outside the premises. This part of the proposal has been withdrawn from the appeal through the issuing of a revised plan with the appeal documentation. The Council is aware of this change and the appeal has been determined with reference to this revised plan.
4. The appeal site is in the Town Centre Conservation Area (CA). I have not been provided with any relevant development plan policies relating the conservation area. Nonetheless I have had special regard to the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. In this respect as the proposal seeks only a change of use and does not involve external alterations, I am satisfied that it would preserve those interests.
5. Since this application was refused a subsequent application for a private hire booking office without a customer waiting area has been approved and has been implemented.¹ The appellant contends that a waiting area is necessary as operating without it is not in the best interests of the business or local area.

¹ Planning Application reference 63589 Granted subject to conditions 20 February 2019

Main Issue

6. The main issue is the effect of proposed change of use on highway safety.

Reasons for the Recommendation

7. The site is on the north side of Bolton Street, within the secondary shopping area and frontage of Bury town centre as defined in the Bury Unitary Development Plan (1997). The street includes a mix of commercial and leisure uses, and it lies within the Town Centre Conservation Area. It is between the White Lion public house and an estate agent's office. There are double yellow lines with 24 hour waiting restrictions on the north side of Bolton Street. Although Bolton Street is an unclassified road, it is an important and busy bus route into and out of the town centre. The site is close to the junction of Silver Street which forms part of the one-way system around the town centre meaning that buses and other traffic use the junction of Bolton Street and Silver Street when leaving the town centre.
8. The proposal, which will attract customers who will wait to be picked up, is likely to generate more vehicular activity outside the premises than an estate agent, or indeed the current use as a private hire office. Whilst vehicles may not park outside the premises because of the parking restrictions, additional vehicle manoeuvres would adversely affect the safe and efficient operation of the highway network in the vicinity of the appeal site because of the prevailing highway conditions.
9. Reference is made to the presence of parking and loading areas within the vicinity of the premises including land at rear off Cooper Street. These areas do not form part of the appeal proposal as they are not within the red edge plan, and there is no evidence to indicate the level of control the appellant would have on these areas for the parking of vehicles and pick up of passengers. It is unlikely that the rear of the premises would be convenient for the picking up of passengers as there is no rear access through the building for waiting customers to this area. As the pay and display parking bays, shown on the plans, are for use by the general public, they would not be within the control of the appellant, and so could not be reserved for the use of the taxi business, even if the drivers wished to use them.
10. I acknowledge the Council's concerns that the proposal could lead to illegal parking and conflict with the hackney cab rank. However, there is no evidence to indicate this would happen, and in any event, there are other mechanisms available to enforce against this should it occur.
11. Nevertheless, for the above reasons the inclusion of a customer waiting area at the premises would be detrimental to highway safety. As such, the proposal would be in conflict with Policy HT2/8 Taxi and Private Hire Businesses in the Bury Unitary Development Plan (1997) along with Policy EC4/1 Small Businesses, Policy HT2/4 Car Parking and New Development and Policy HT6/2 Pedestrian/Vehicular Conflict which seek to allow business uses unless they have an unacceptable adverse effect on the local highway network. The National Planning Policy Framework in paragraph 108 seeks to ensure that there is safe and suitable access for all users.
12. The benefits of allowing customers to wait inside in a safe space and the potential to reduce possible anti-social behaviour attract limited weight in

favour of the proposal but do not outweigh the significant risk to highway safety.

Conclusion and Recommendation

13. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

Hilary Senior

APPEALS PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Susan Ashworth

INSPECTOR