

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	13 December 2022
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 31/10/2022 and 04/12/2022**



Application No.: 68245/PMBPA

Appeal lodged: 24/11/2022

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Prior Approval Required

Applicant: Mr Tony Rostron

Location Tottington Manor Farm, Turton Road, Bury, BL8 3QQ

Proposal Prior approval for the change of use from agricultural building to dwellinghouse

Application No.: 68723/FUL

Appeal lodged: 04/11/2022

Decision level: DEL

Appeal Type: Written Representations

Recommended Decision: Refuse

Applicant: Cardtronics UK Ltd, trading as CASHZONE

Location 237 Wash Lane, Bury, BL9 7DH

Proposal Retention of ATM (Automated teller machine)

Total Number of Appeals Lodged: 2

**Planning Appeals Decided
between 31/10/2022 and 04/12/2022**



Application No.: 67318/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mrs Janice McNally

Location: 273 Parr Lane, Bury, BL9 8PJ

Proposal: Retrospective planning permission for proposed change of use of land to the rear of property to be within the residential curtilage

Appeal Decision: No further action

Date: 19/11/2022

Appeal received too late

Application No.: 67554/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Abdullah Naveed

Location: 73 Brierley Street, Bury, BL9 9HW

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

Appeal Decision: Dismissed

Date: 04/11/2022

Appeal type: Written Representations

Application No.: 68263/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: harryjacksonsurveyorsltd

Location: 7 Burndale Drive, Bury, BL9 8EN

Proposal: Two storey side extension with gable roof plus new parking layout

Appeal Decision: Allowed

Date: 17/11/2022

Appeal type: Written Representations



Appeal Decision

Site visit made on 4 October 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2022

Appeal Ref: APP/T4210/W/22/3297379

73 Brierley Street, Bury BL9 9HW

- 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 Abdullah Naveed against the decision of Bury Metropolitan Borough Council.
 - The application Ref 67554, dated 17 September 2021, was refused by notice dated 31 January 2022.
 - The development proposed is a change of use from C3 dwelling to C2 residential institution for proposed children's care home, for up to 4 children with a minimum of 2 full time carers overnight [1 sleeping], 3 full time carers during the day & living together as a single household.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- the effect of the proposed development on highway safety, with particular reference to parking; and
- whether the living conditions for future occupiers would be acceptable, with particular regard to the availability of suitable outdoor amenity space.

Reasons

Highway Safety

3. The appeal property is a five bedroomed end-terraced dwelling located on a corner plot at the junction of Brierley Street and Sultan Street. The property is situated within a densely populated residential area, characterised by predominately terraced housing with small back lanes running in between the rows of terraces. The property includes a small enclosed rear yard, however as with most properties in the surrounding area there is no provision for off-street parking.
4. The proposed development would change the use of the existing dwelling to a children's care home. The proposed use would see the property occupied by up to 4 children who would be supported by 3 full-time residential carers during the day and 2 full-time residential carers overnight.
5. Saved Policy HT2/4 of the Bury Unitary Development Plan (adopted August 1997) (UDP) requires developments to make adequate provision for their car

parking and servicing requirements in accordance with the Council's car parking standards. The Council's current car parking standards are detailed within the Development Control Policy Guidance Note 11: Parking Standards in Bury (May 2007) (SPD11).

6. SPD11 includes a table listing different types of developments and the maximum standards for car parking provision applicable to each development type. This includes residential institutions where it is stated that 1 car parking space per 4 beds should be provided, although SPD11 also makes it clear that parking standards for care and nursing homes should be considered on their own merits depending upon the nature and location of the proposal.
7. The proposed development does not provide any car parking spaces, and the lack of any off-street parking at the property means that staff and any other visitors attending the site by car would have to park on the street. The carers would work shifts resulting in a changeover of staff and an increase in vehicle movements at the end of each shift period, although no information as to the time or frequency of shift patterns has been provided.
8. Whilst unrestricted on-street parking is available in the vicinity of the appeal site, the Council observed during their site visit that there were difficulties locating a parking space even during the day. At the time of my early afternoon site visit I also noted that there were a very limited number of on-street parking spaces available in the immediate vicinity of the appeal site, with vehicles parked along both sides of Brierley Street and Sultan Street. Although my site visit was only a snapshot in time, it is an indication that demand for on-street parking in the area is relatively high particularly given that I would expect demand to be at its greatest in the evening when residents would for example be likely to return from work.
9. Although the existing carriageway widths on Brierley Street and Sultan Street mean that on-street parking can be accommodated without jeopardising access to emergency vehicles, the on-street parking of vehicles, often along large stretches of both sides of the surrounding roads, makes manoeuvrability on the highway difficult. As shown in image 1 of the appellant's appeal statement, and from my observations, whilst there is sufficient room for a single vehicle to drive along the surrounding roads, should two vehicles meet then they would be unable to pass when there is on-street parking. I also observed that the number of vehicles parked along the highway often restricted visibility when entering or exiting one of the many connected side streets, as well as making parking itself more onerous.
10. I acknowledge that on-street parking is an existing situation for the majority of properties in the vicinity of the appeal site, and that the existing use of the appeal property as a five bedroomed dwelling would likely result in vehicles belonging to any occupiers being parked on the street. However, the proposed use would result in up to 3 carers being on site 24 hours a day with shift patterns resulting in a turnover of staff, in addition to any other visitors and professionals who may attend the property.
11. I recognise the location of the site is near to various facilities and services and that its proximity to public transport links mean that it would be possible for carers and other visitors to travel to and from the property without their car. In such circumstances, SPD11 states that residential related developments may be able to provide less than the stipulated maximum number of parking

spaces. However, I find that given the nature of the proposed use including the need for 24-hour care, shift patterns, and the fact that children housed at the property would be expected to attend local schools and other after school groups and sports clubs, it would be highly unlikely that staff would not travel to the site by car.

12. Therefore, notwithstanding SPD11 which sets out that 4 bed dwellings should provide 3 car parking spaces whereas residential institutions should provide only 1 space per 4 beds, from the information before me I find that the proposed use would likely result in an increase in both vehicle movements and demand for on-street parking spaces in comparison to the existing use of the property as a dwelling. Whilst this increase may be moderate, in the absence of any substantive evidence to the contrary, I find that the proposed use would only serve to exacerbate an existing issue which would not be conducive to securing good levels of highway safety.
13. Furthermore, despite the sites corner plot location providing a potentially better parking context than some other properties in the locality, the available evidence indicates that there is an existing relatively high demand for on-street parking spaces in the area. In addition, the presence of a small number of houses opposite the appeal site on Brierley Street which have off-street parking, does little to reduce pressure for on-street parking given that the presence of dropped kerbs prevents any such parking.
14. I also note that the Council's Highways department objected to the proposal on the basis that the proposed servicing and car parking provision is inadequate and would likely lead to vehicles parking and carrying out manoeuvres on the highway, to the detriment of the free flow of traffic and road safety. Although there is little substantive evidence before me which indicates that the appeal proposal would require any specific servicing provision, for the reasons given above I find no compelling reason to disagree with this conclusion in respect of the lack of adequate car parking provision. The lack of third-party objections on this matter does not lead me to a different conclusion.
15. The proposed development would therefore not provide adequate car parking provision, resulting in vehicles parking and manoeuvring on the highway to the detriment of highway safety. As such, the proposal would be contrary to Saved Policy HT2/4 of the UDP and guidance contained within SPD11. These require, among other things, that developments make adequate provision for their car parking requirements.
16. The Council also referred to Saved Policies CF3, CF3/1 and CF5 of the UDP its decision notice, which relate to Social Services, Residential Care Homes and Nursing Homes, and Childcare Facilities respectively. However, in respect of this main issue regarding highway safety, the provisions of these policies are not applicable.

Living Conditions

17. The appeal property includes a modest amount of external private amenity space. This space is predominately located to the rear of the property in the form of an enclosed yard which is hard surfaced and measures approximately 32 square metres in area.

18. The National Planning Policy Framework (the Framework) is a material consideration in the determination of the application. One of the overall aims and objectives of the Framework is to achieve well-designed places. Paragraph 130 requires, among other matters, that planning decisions should ensure that developments create places which promote health and well-being, with a high standard of amenity for existing and future users.
19. The Council's Children's Centre & Early Years team have objected to the proposal, including concerns that the lack of outdoor space would be an issue as "children need outdoor space to play". Whilst the external amenity space is comparable in size to other properties in the surrounding area, the proposed use would see the appeal property occupied by up to 4 children or young people at any one time. This would likely intensify the need for sufficient outdoor amenity space for use over a prolonged period in comparison to a residential dwelling.
20. The appellant has referred me to various national guidance and standards for residential and children's care, including the 'Children's Homes Regulations and Quality Standards (2015)', and I acknowledge that none of these stipulate a specific or minimum area of external amenity space to be provided. However, given its size and layout I find that the proposed external amenity space would be inadequate for regular use by 4 children or young people and would not provide opportunity for a variety of different activities to take place within it. I therefore consider that the useability of this space would likely be limited and insufficient for the proposed use of the site.
21. Although there are parks and sports fields within walking distance of the appeal site which could be used by occupants of the property, these would most likely assist in older children who participate in larger or team sports which do not commonly take place within domestic gardens. I do not consider therefore that this is an appropriate alternative, particularly for younger children, nor would it overcome the poor standard of external amenity space provided at the appeal property.
22. I therefore conclude that the proposed development would result in unacceptable living conditions for future occupiers, with particular regard to the provision of suitable outdoor amenity space. The development would therefore be contrary to the Framework which, although not detailing any specific requirement or size for outdoor amenity space, seeks that development provides a high standard of amenity for future users.
23. The Council has referred to Saved Policies H2/2, EN1/2, CF3, CF3/1 and CF5 of the UDP in its decision notice. However, as none of these policies are relevant to this main issue concerning the living conditions of future occupiers, they have not been determinative in relation to this matter.

Other Matters

24. I have had regard to other various matters raised including concerns relating to anti-social behaviour, and the potential for noise and disturbance to be generated by the proposed use to the detriment of the living conditions of occupiers of nearby residential properties. However, as I am dismissing the appeal on other grounds, I have not pursued these matters further.

Conclusion

25. The proposed development would provide a valuable service in the community by providing accommodation for children and young people who have been placed in social care. There would be benefits to the local economy through employment opportunities for local people. I acknowledge that a number of policies contained in the UDP also support the proposal in principle, including policies H4/2, CF3 and CF3/1. I find however that these benefits are outweighed by the adverse impacts that would arise from granting planning permission, by reason of unacceptable harm being caused to highway safety and to the living conditions of future occupiers.
26. The proposal would conflict with the development plan, when taken as a whole, and there are no material considerations, including the approach of the Framework, which would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

David Jones

INSPECTOR



Appeal Decision

Site visit made on 15 November 2022

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2022

Appeal Ref: APP/T4210/D/22/3306388

7 Burndale Drive, Bury BL9 8EN

- 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 and Mrs Katy and Christian Chivers against the decision of Bury Metropolitan Borough Council.
 - The application Ref 68263, dated 27 March 2022, was refused by notice dated 22 June 2022.
 - The development proposed is described as two storey side extension.
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Decision

1. The appeal is allowed, and planning permission is granted for two storey side extension at 7 Burndale Drive, Bury BL9 8EN, in accordance with the terms of the application Ref 68263, dated 27 March 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Site Plan Existing, Site Plan Proposed, Drawing No. 1 Existing Elevation, Drawing No. 2 Existing Ground Floor Plan, Drawing No. 3 Existing First Floor Plan, Drawing No. 4 Rev A Proposed Elevations, Drawing No. 5 Proposed Ground Floor Plan, Drawing No. 6 Proposed First Floor Plan, Drawing No. 7 Existing and Proposed Street Scene, Car Parking (Existing) (submitted to the Council on 13/04/22), and Car Parking (Proposed) (submitted to the Council on 13/06/22).
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) Prior to the development hereby approved being brought into use, the 2 No. car parking spaces shown on the approved car parking plan (proposed) shall be made available for use. These spaces shall be retained for the lifetime of the development, without impediment to their designated use.

- 5) Prior to the development hereby approved being used, details of the drop kerb denoted on the approved car parking plan (proposed) shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the approved development being brought into use.

Preliminary Matters

2. During the planning application process modified plans were submitted to the Council, basically setting the gable elevation in around 5 cm from the boundary and showing 2 No. on-site car parking spaces. I have made my Decision, as did the Council, based on the amended plans.
3. The planning application form gives the name of the agent as the applicant. However, the appeal form notes Mr & Mrs Chivers as the appellants. The Council's Decision Notice makes it clear that the Decision is for Mr & Mrs Chivers. I therefore consider Mr & Mrs Chivers to have been the applicants of the planning application and therefore the rightful appellants.
4. I have used the description of proposed development provided on the application form as this adequately describes the proposal. The approved plans show that the proposal would have a gable end and that there would be 2 No. on-site parking spaces. The conditions attached require development to be carried out in accordance with the approved plans and for the on-site parking spaces to be provided before the approved extension is brought into use.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal property is a two-storey dwelling with a dual-pitched roof and gable ends. It is sited towards the centre of a row of 6 No. detached dwellings which form part of a residential area, primarily consisting of 2-storey detached and semi-detached dwellings.
7. The 2 No. dwellings located at either end of the row are sited forward of the front elevations of the other 4 No. dwellings. Number 11 has a gable frontage. Number 9 has a hipped roof and a single-storey side with wrap-around front porch extension. Number 5 has a gable frontage and a 2-storey side extension. The 2-storey side extension is set-back from the front elevation around 1.5 m at first-floor level and is designed with a side gable. Number 3 has a hipped roof and a single-storey side/front porch extension like the extension at number 9. Number 1 has a 2-storey side extension which is set-back at first-floor level around 1 m with a flat roof design. There is some slight variation in the roof ridge heights of each of the 6 dwellings; and gaps of varying sizes are retained between each of the properties. These details need to be borne in mind in assessing whether the proposed extension would create a terracing effect.
8. The Council Officer's Report and its Decision Notice refer to what **could** happen **if** some of the other dwellings within the row made alterations to their properties, either under permitted development rights or via a planning

- application. However, the appraisal of the current proposal must be based on the site-specific circumstances as they are, and not on speculation about what occupiers of other properties within the row may or may not do in the future.
9. The proposal is for a 2-storey side extension located on the north-eastern side of the existing dwelling, towards the side boundary with number 9. The extension would be the full depth of the existing dwelling; hence, its front and rear elevations would be in line with the front and rear elevations of the existing, original property. The heights of the eaves and roof ridge would follow those of the existing dwelling.
 10. A gap of around 1 m would be retained between the gable end elevation of the proposed extension and the south-western facing side elevation of number 9, which, as noted above, has a hipped roof. Additionally, as noted above, the property the other side of the appeal site, number 5, has a 2-storey side extension which is set-back at first-floor level; I also note that there is a gap of around 1 m between the respective side elevations of the appeal property and number 5.
 11. Section 5 of the Council's Supplementary Planning Document 6: Alterations and Extensions to Residential Properties (adopted 2004 and updated 2010), (SPD), provides guidance regarding 2-storey side extensions. It recommends that the front elevation at first-floor level should be set-back at least 1.5 m from the main frontage of the original house. The objective of the guidance is to avoid the appearance of uncharacteristic terracing.
 12. The SPD notes that the requirement for a set-back may be relaxed in certain instances. Although the appeal site may not strictly fall within either of the scenarios listed, bearing in mind the existing characteristics of the site outlined above, eg a short row of 6 dwellings, some irregularity of building line in the row, the differing design details of properties within the row and the gaps that would remain between the appeal dwelling and the 2 dwellings either side, despite not being set back, within the specific circumstances of the site I consider that the proposal would not create a terracing effect.
 13. I therefore conclude that the proposal would not be out of keeping with the street scene and consequently would not harm the character or appearance of the area. As such, the proposal accords with saved policies EN1/2 and H2/3 of the Bury Unitary Development Plan, (1997), (policies which are broadly consistent with policies in the Framework¹ regarding protecting the character and appearance of areas). Collectively, and among other things, these policies require new development to not have an unacceptable adverse impact on the character or appearance of the area. The proposal also satisfies the relevant aims and objectives of the SPD.
 14. I have not assessed the proposal against saved policy EN1/1. Although this is entitled 'visual amenity', it seeks to not permit development that would have a detrimental effect on "*public views of prominent or important buildings, especially those in areas of architectural or historic interest*" or "*the visual amenity both within, or viewed from, areas of environmental interest such as the Green Belt, Special Landscape Areas or the river valleys*", neither of which are relevant to the appeal proposal.

¹ The National Planning Policy Framework

Other Matters

15. Concern has been raised regarding the potential effect of the proposal on living conditions of occupiers of existing neighbouring properties. However, for the reasons outlined in the Council Officer's Report, I, like the Council, consider that the proposal would not adversely affect the living conditions of occupiers of existing neighbouring properties. A concern has been raised regarding refuse bin storage. I note that on the approved plans (drawing No. 5) a combined bin store/cycle store is included. As such, I consider the proposal would not create any issues regarding refuse bin storage.

Conditions

16. I have taken account of the conditions suggested by the Council, the comments provided by the appellants, and the requirements of the Framework and the Planning Practice Guidance.
17. A condition specifying the approved plans has been attached to clearly identify what has been approved, as amended plans were submitted during the planning application. A condition specifying materials is attached to protect the character and appearance of the area. Conditions related to parking spaces and a drop kerb have been attached in the interest of highway safety.

Conclusion

18. For the reasons outlined, I conclude that the appeal is allowed.

J Williamson

INSPECTOR