



# Appeal Decision

Site visit made on 18 December 2023

**by Hannah Ellison BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> January 2024**

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**Appeal Ref: APP/T4210/W/23/3324587**

**104 Ainsworth Road, Bury BL8 2RS**

- 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 Ciaroni, Emerald Property Capital Limited, against the decision of Bury Metropolitan Borough Council.
  - The application Ref 69132, dated 29 November 2022, was refused by notice dated 15 March 2023.
  - The development proposed is the conversion of existing 6 bed C4 HMO to 7 bed Sui Generis HMO.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The Government published on 19 December 2023 a revised version of the National Planning Policy Framework (the Framework). Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issue of this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.

## Main Issue

3. Whether satisfactory living conditions would be provided for occupiers of the host property, with particular regard to the provision of indoor and outdoor space.

## Reasons

4. This appeal concerns a mid-terraced property which, at the time of my site visit, was in use as a 6 bedroom house in multiple occupation (HMO).
5. I note the Council's concerns regarding the loss of communal internal space at the property as a result of the appeal proposal. It seems to me that, whilst the proposal would not result from the loss of a communal room as the room with which this appeal is concerned is currently used as storage, it would nevertheless result in an overall reduction in internal communal space available within the property by virtue of the proposed intensified occupation.
6. With the exception of the bathroom on the second floor, the existing kitchen/dining room would be the only communal room provided in the property. I acknowledge that this room provides all necessary facilities for day to day living and meets the Council's licensing requirements. Nevertheless,

there is no further living room or other space which residents could spend time and relax in.

7. The appellant asserts that not all of the rooms in the appeal property are occupied on a full-time basis and that occupiers of HMOs are unlikely to prepare food and eat together at the same time, thus this communal room would never be at full capacity at any one time. There is no conclusive evidence to support the suggestion that occupiers would cook and dine at varying times and, moreover, it is important that I consider a worst-case scenario.
8. Should seven persons be using this space at one time, either to cook, eat or relax, it would feel very cramped, with space around the table restricted and additional options for seating away from the table very limited. The proposed occupancy level would significantly restrict the functionality of this communal room, to the detriment of the living conditions of occupiers.
9. In terms of the private outdoor space provided at the property, this is predominantly located at the rear and comprises an enclosed yard. Whilst it is a somewhat narrow strip, I nevertheless observed that outdoor seating could be provided as well as areas to dry clothes.
10. There is also a generously sized and secure garage/outbuilding which provides adequate space for bicycle stands and the storing of bins. As such, the external space would be sufficient to meet the domestic needs of seven occupiers.
11. Whilst the appeal property has been finished to a high standard, and even if it is well managed, this does not overcome the harm resulting from the lack of suitable internal communal living space for occupiers.
12. Accordingly, the proposal would fail to provide satisfactory living conditions for occupiers of the appeal property and thus would conflict with Policies H2/1 and H2/4 of the Bury Unitary Development Plan (1997) (the UDP). Together, these policies aim to ensure that developments consider the impact on residential amenity.
13. The Development Control Policy Guidance Note 13: Conversion of Buildings to Houses in Multiple Occupation (May 2007) sets out general guidance for HMO's and notes that this type of conversion should provide an acceptable standard of accommodation for occupants. The proposal would fail to do so for the reasons given above.
14. Policies H1/2 and H2/2 of the UDP are referred to in the Council's decision notice however they do not appear to be of direct relevance to the main issue in this case.

### **Other Matter**

15. Within its officer report the Council noted that the proposed additional bedroom would have limited, if any, outlook given the positioning of the rooflight. I observed this at the time of my site visit. However, this concern was not reflected in the reason for refusal or the Council's statement of case. Nonetheless, even if I had considered this matter as part of this appeal, it would not have altered my overall conclusion.

## **Conclusion**

16. The proposal would provide an additional bedroom in an HMO and it is suggested that there is a need and demand for this type of accommodation in the locality. I afford this benefit limited weight due to the small scale of the proposed development.
17. The proposal would fail to provide satisfactory living conditions for occupiers, harm which leads to conflict with the development plan as a whole. There are no material considerations which indicate a decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

*H Ellison*

INSPECTOR