

Application Number	18/00772/FUL
Proposal	Change of use from a dwellinghouse (use class C3) to a 9 bed House in Multiple Occupation (Sui generis), including minor elevation changes and the installation of a dormer window.
Site	35 Stamford Road, Mossley
Applicant	Mr A Rothwell
Recommendation	Refuse planning permission
Reason for report	A Speakers Panel decision is required because, in accordance with the Council's Constitution the applicant and a member of the council has requested the opportunity to address the Panel before a decision is made.

REPORT

1. SITE AND SURROUNDINGS

- 1.1 The application site comprises of a large red brick terraced property benefitting from a raised basement, ground and first floor and habitable space in the roof. The property is currently empty and was last used as a single family dwelling. The property is situated in a residential area with dwellings adjoining the site on both sides fronting onto Stamford Street.
- 1.2 Stamford Street rises steeply in a northerly direction from its junction with Manchester Road and the land also falls steeply from Hanover Street to the rear of the application site down to Stamford Road. The property is in very close proximity to Mossley railway station to the south and Mossley town centre to the north-west.

2 THE PROPOSAL

- 2.1 The application seeks change of use of the property to a 9 bedroom House in Multiple Occupation (HMO). Four of the bedrooms will have en-suite facilities and 5 will have access to two shared bathrooms. A kitchen/living/ dining space on the lower ground floor and a separate lounge room on the first floor will be shared by all the residents. There is an internal storage room which will be used for bin storage.
- 2.2 The only external changes proposed that require planning permission is the provision of a rear dormer window to serve a bathroom in the roof-space.

3 RELEVANT PLANNING HISTORY

- 3.1 17/00864/FUL, for Change of use from dwelling to 9 bed House of Multiple Occupation (HMO) (Sui generis), including installation of a rear dormer. Refused 25.05.2018. Appeal dismissed 22.10.2018.

4 RELEVANT PLANNING POLICIES

4.1 Tameside Unitary Development Plan (UDP) Allocation: Unallocated

4.2 Part 1 Policies

1.3: Creating a Cleaner and Greener Environment

1.4: Providing More Choice and Quality Homes.

1.5: Following the Principles of Sustainable Development

1.12: Ensuring an Accessible, Safe and Healthy Environment

4.3 Part 2 Policies

H7: Mixed Use and Density.

H10: Detailed Design of Housing Developments.

T1: Highway Improvement and Traffic Management.

C1: Townscape and Urban Form

MW11: Contaminated Land.

4.4 National Planning Policy Framework (NPPF) (revised 2018)

Achieving Sustainable Development;

Section 2 Achieving sustainable development

Section 5 Delivering a sufficient supply of homes

Section 8 Promoting healthy and safe communities

Section 12 Achieving well-designed places

4.5 Planning Practice Guidance (PPG)

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

4.6 Other Policies

Residential Design Supplementary Planning Document

Technical Housing Standards - Nationally Described Space Standard.

5 PUBLICITY CARRIED OUT

5.1 The application has been advertised by means of neighbour notification letters dispatched to 34 properties on 24 August 2018 and re-consulted on the 19 December 2018 following the receipt of a revised site location plan.

6 RESPONSES FROM CONSULTEES

6.1 Head of Environmental Services (Highways) - It is not considered that the development will have any significant or severe impact on highway safety or operation, such as would warrant refusal.

6.2 Head of Environmental Services (Environmental Health) – Having regard to the recent appeal decision concern raised about the potential for noise and disturbance to occupiers of neighbouring properties and the proposed bin storage area is not of sufficient size to accommodate the required number, and size, of bins required to provide the correct capacity for a 9 bed HMO.

6.3 Mossley Town Council - recommends refusal for the following reasons:

- The proposal is an over-intensive use of the property, which due to its age and position is not suitable for conversion on the scale proposed.
- The development will have a significant detrimental effect not just on the residential amenity of immediate neighbours, and the local community by reason of noise, general disturbance and intensified use of the residential accommodation.
- There are no plans for off-road parking so the development will negatively impact on traffic and pedestrian safety on the already busy and dangerous Stamford Road.
- The character of the neighbourhood comprises family homes. The level of activity resulting from a group of 9 unconnected people is likely to result in more frequent comings and goings and differing patterns of behaviour.
- The property has passing over rights to the adjoining terraced houses. Residents are concerned that 9 unrelated people and their visitors using the space will result in serious detriment to amenity and loss of privacy.
- The proposed additional bathrooms will place an unacceptable burden on the existing infrastructure and drainage systems.
- The proposed development will result in a lack of space and accessibility for potential occupants and the plans represent a significant change to the internal structure of the property and the number of people using that space.
- The residential accommodation proposed does not match local housing need. The proposed HMO is not needed, would be an over-intensive development for the area, and there is a continuing need for family homes in this part of Mossley.

6.4 Councillors - A representation offering objection to the proposals has been received from Councillor Sharif on behalf of the residents of Mossley and requested for a determination at Speakers Panel. Concerns raised are size of the development from a home to a 9 bedroom HMO and the affect it will have on neighbours, parking, traffic, no. of bins and noise.

7 SUMMARY OF THIRD PARTY REPRESENTATIONS

7.1 18 letters of objection have been received from neighbouring properties in the initial consultation and 3 following the re-consultation. Raising the following matters:

- Cause additional pressure on the road in terms of parking;
- Lack of parking leads to congestion;
- No garage or cycle provision;
- Application doesn't comply with Policy in terms of parking standards;
- A HMO is counter to the very nature of this residential, family area and be detrimental to the character of the area and the amenity of neighbouring properties;
- The property should be refurbished, but back to the original family home in keeping with the existing residential ethos of the area;
- Accommodation for nine persons appears excessive and disproportionate to the house in question;
- Additional noise levels that may accompany multiple separate occupants within the same building;
- Concerns about the additional footfall, disturbance, potential intrusion and lack of security across the easement at the back of our terrace owing to increased use of our dual shared access routes through private garden areas;
- Limited refuse storage capacity;
- There are already plenty of apartments on Stamford Road including those currently being built, there is no evidence that this property type is needed;
- Noise and disturbance during construction;

- The proposed development is providing very poor accommodation for people in terms of personal space and communal space and is not compliant with The National Space Standards; Single Bedroom - min.2.15m wide and concern that the bedrooms will be double occupancy and therefore contravene "The National Space Standards". Some of the rooms do not have a window or ventilation?;
- The outside amenity space for tenants is extremely small (smaller than for the previous, refused application);
- The financial costs and loss of value to surrounding properties;
- Increased risk of crime, vandalism and antisocial behaviour;
- Fire risk increased by the amount of occupants that could be in the only kitchen space cooking at any one time. Residents smoking in the rooms increases the fire risk;
- Additional impact on the electricity, drainage and sewage systems;
- Does not meet the policy requirements of H10;
- Additional impact on local services such as NHS, refuse, schools and transport network;
- Reduction in local living standards;
- Precedent set by refusal of scheme previously, no changes to this proposal apart from a management report and does not address previous refusal;
- No need for properties of this type in Mossley;
- In the Management of the House Multiple Occupancy document refers to errors in the waste collection services;
- Why has the work been allowed to continue at the property; and,
- The work is described as Minor development, this is not the case.

Comments received following re-consultation.

- This correction gives further weight to our main objection which the potential overuse of the property and relates to the lack of outside amenity for resident;
- The revised plans now show correctly that the only accessible outside space for this property is a small yard measuring 5.2 metres x 1.8 metres which would not provide a functional area of amenity open space as required by SPD Policy RD11;
- There is no evidence to suggest that the number of bins shown on the plan would be enough for up to 18 occupants of the house or there is any planning-related condition that could be used to ensure that, in shared accommodation, bins would be put out and returned to the store after the refuse has been collected; and,
- There is nothing in this new application, nor in the amended information / plans submitted that has made any attempt to overcome the specific concerns raised by the Inspector.

8 ANALYSIS

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission are determined in accordance with the development plan unless material planning considerations indicate otherwise.
- 8.2 The site is unallocated on the Proposals Map associated with the Unitary Development Plan for Tameside (2004).
- 8.3 This application is an identical resubmission to the previously submitted scheme that was refused and subsequently dismissed at appeal. This scheme must be treated on its own merits in accordance with current local and national policies. Consideration must be given to the previous refusal and the recent appeal decision as material planning considerations that have significant weight in the assessment of this current submission.

8.4 The application must be assessed against the following:

1. Principle of development;
2. Character of the area;
3. Intensity of use;
4. Residential amenity; and,
5. Parking and highway safety.

9 PRINCIPLE

- 9.1 The NPPF has a presumption in favour of sustainable development and confirms that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.2 The proposed development is for a residential use in a residential area and would make a positive contribution to the Council's Housing Requirements and provides a sustainable reuse of a vacant building. Furthermore, the site is in a sustainable location adjoining existing residential properties in close proximity to the town centre, bus routes and the railway station. On balance, it is considered that the principle of development is acceptable.

10 CHARACTER OF THE AREA

- 10.1 The area surrounding the site is predominantly residential and although the tenure is proposed to be changed the use is still a residential one. In the appeal decision relating to the previous refusal the inspector notes that:
- [as] "...there are few HMO's in this part of the borough, and the majority of the surrounding properties appear to be self-contained dwellings. In this context, I do not consider that there would be any significant impact on the character of the area through the introduction of a single HMO."*
- 10.2 As such, it is not considered there would be any significant impact on the character of the area resulting from this proposal. However, the impact caused by the intensification of residential use will be considered further below. What should be noted is if more HMO proposals follow in the area than the Local Planning Authority would need to consider those against a cumulative impact.

11. INTENSITY OF USE

- 11.1 The application property is a large Victorian Terrace which originally would have provided generous size accommodation and suited a large family. The existing lawful use of the property is residential falling within Use Class C3 - family home or 6 persons living as a single household. To convert the property into a 9-bedroom House in Multiple Occupation (HMO) would lead to a significant change in the occupancy of the building compared to a family dwelling.
- 11.2 The planning inspector, in their assessment of the earlier scheme, gave considerable weight to the additional impact and frequency of comings and goings of 9 unrelated adults living at the property and that it would be a far more intensive use of the building. It is considered that this would result in an increase in comings and goings, at various times of the day, with a higher incidence of visitors and that this has the potential for increased noise and disturbance and the potential for harm by noise and disturbance to the amenity of neighbouring properties.

- 11.3 The proposed room sizes are shown on the submitted plans as single bedrooms comply with the guidance laid out in the 'Technical Housing Standards - Nationally Described Space Standard' and as a result this part of the proposal is acceptable and there is no evidence to suggest that the living accommodation is sub-standard or of an unsatisfactory quality.

12. RESIDENTIAL AMENITY

- 12.1 UDP Policy H10 requires new development to be of high quality, provide a good standard of amenity for future occupiers, and for there to be no unacceptable impact on the amenity of neighbouring properties.
- 12.2 The decision of both the Speakers Panel (Planning) Committee and the Inspector during the appeal process concluded that the proposal would cause harm by noise and disturbance to the amenity of neighbouring properties due to intensification of use. The impact on amenity would be exacerbated by bedrooms likely being used for recreation, TV watching, listening to music and receiving guests, leading to noise transmission through the shared party walls. As five of the bedrooms adjoin the party wall with No. 37 Stamford Road this has the potential to significantly harm the living conditions of that property. The applicant in their justification has stated that the HMO would be managed to a high standard to prevent this. However, this is not something that can be controlled by planning condition and could not be used to control an unacceptable situation.
- 12.3 Within the applicants' justification is the argument that a 'fall-back' position exists. This is on the basis that the property can be converted to a six bedroom House in Multiple Occupation (HMO) without the need for planning consent. They continue that if this was carried out 5 of the bedrooms would adjoin the party wall with no. 37 Stamford Road. Presumably, with the potential to cause the same level of disturbance as suggested by the Inspector. Whilst the fall-back position is acknowledged the proposal submitted does require planning permission in its entirety and has to be assessed against adopted policies, guidance, and the recent appeal decision which holds significant weight as a material planning consideration.
- 12.4 It would be unrealistic to assume that the impact of the proposal compared to the existing lawfully permitted use would be the same. The revised NPPF (2018) gives weight to this and planning decision must ensure that development must create places that have a high standard of amenity for existing and future users which for the reasons outline above this does not.
- 12.5 With regard to access over the rear easement this is a private matter for agreement between the property owners. There is no reason to suggest that residents from a HMO would require any more or frequent access than would reasonable be required for the existing dwelling or that the nature of access would cause unreasonable disturbance or reduction in security.
- 12.6 The proposed plans for the building show existing window and door openings to be re-used, the only external change being the addition of a dormer window to facilitate a bathroom within the roof space. The proposed external alterations raise no issues with regard to residential amenity and all habitable rooms are shown with external ventilation.

13 PARKING AND HIGHWAY SAFETY

- 13.1 The application site fronts Stamford Road where local residents park their cars on the highway or in an extended layby located across Stamford Road. This road is a bus route and also the main access from that direction towards Mossley town centre.

- 13.2 The application proposes no off street car parking facilities. Any demand generated from the proposed use for car parking would have to be accommodated on street along with the other properties on that stretch of Stamford Road.
- 13.3 There are currently no parking restrictions in the vicinity of the application property and during the day this road appears to be relatively quiet and capable of providing adequate on street car parking. It is acknowledged that traffic levels would be greater in the morning and evening peak hours and demand for parking would be greater at the end of the working day.
- 13.4 The site is in a highly sustainable location on a bus route and in close proximity to Mossley Railway Station and Town Centre. There have been no objections raised to the proposal from the Highways Engineer in terms of the impact of the development on highway and pedestrian safety. It must also be acknowledged that the occupation of the building for its current lawful use would result in demand for parking.
- 13.5 This application is identical to the earlier refused scheme in terms of the proposed number of bedrooms as such the impact of the proposal on the highway network has been considered in relation to the previous scheme. In the appeal decision the inspector noted the lack of allocated parking spaces, alongside the accessible location of the site and that much of Stamford Road and the surrounding streets were free from parking restrictions. In assessing the highways impact the inspector concluded that the development would not lead to nuisance or dangerous parking in the area and as such there was no unacceptable harm to highway safety and the impact of the scheme on the road network was not severe.
- 13.6 Given the highly sustainable location the expected levels of car ownership for occupiers of the scheme would be lower than in other areas. This alongside the significant material consideration of the appeal decision, means, it is considered that the demand for any car parking generated by the proposed use would not result in such severe harm being caused to amenity of existing residents in terms of increased demand for spaces to justify a refusal of planning permission on this basis.

14 OTHER MATTERS

- 14.1 With regard to refuse storage there has been concern raised by the council's environmental health section that insufficient storage for waste and recycling provision has been provided. The plan has been amended during the course of the application to enlarge the refuse area but still falls short of the amount suggested by the Environmental Health Team.
- 14.2 It should be noted that under Council policy a house of multiple occupation would be allocated a single refuse bin of each type. The applicants acknowledged this is insufficient for a House in Multiple Occupation. Within the additional supporting information it states that an annual contract will be undertaken with a private waste company to control the waste with a weekly collection.
- 14.3 The level of waste storage was referenced as part of the reason for refusal on the earlier scheme and was subsequently considered during the appeal process. The Inspector noted that bin and cycle storage would be provided in the garage that fronts onto Stamford Road at basement level and that this is an appropriate arrangement. Taking the significant material consideration of the Inspectors view into account it is considered that there is sufficient space within the curtilage of the site to provide the necessary level of refuse facilities for the building.
- 14.4 Again cycle storage is suggested within the additional information as being provided within the basement of the building. This was also deemed an appropriate location by the

Inspector. It is acknowledged that there is currently no cycle storage provision shown on the submitted plans, though as in many domestic properties, this could be provided within either the basement or the rear garden area. Therefore, if this scheme was to be recommended for approval, then a condition would have been recommended requiring this to be provided prior to the occupation of the building and permanently maintained.

- 14.5 Comments have been received from neighbours regarding the concern that work has continued at the property regardless of the planning decisions made. Any internal work on this property is not considered by the planning system to be development. It is purely the use of the building over and above the existing lawful use as a dwelling house that requires planning permission. As such any work to the property whilst at risk by the applicants that permission will not be granted is not subject to planning control.
- 14.6 Objections regarding the loss of value to existing properties, impact on the drainage and sewage of the additional bathrooms, concern about residents smoking and the character of the residents are not material considerations to be considered when assessing a planning application.

15 CONCLUSION

- 15.1 The site is considered to be situated in a sustainable location, within walking distance of public transport and the services and facilities in Mossley town centre. The proposals would, however, involve the intensification of the use of the property which would be detrimental to the amenity of surrounding properties by causing significant harm to the living conditions with regard to noise and disturbance.
- 15.2 The proposals are therefore considered to be contrary to the provisions of policy H10 of the UDP and paragraph 127 of the NPPF (2018). The level of harm caused by potential for noise and disturbance is considered to significantly and demonstrably outweigh the benefit of contributing to the supply of housing in the Borough. In accordance with the guidance contained within paragraph 11 of the NPPF, planning permission should therefore be refused.

16. RECOMMENDATION

Refuse Planning Permission for the following reason:

1. The proposed House in Multiple Occupation with nine bedrooms occupied by unrelated people would result in a significant intensification of the usage of the existing dwelling-house which would be detrimental to the amenity of occupiers of neighbouring properties. In particular, the increased frequency of comings and goings of occupiers and their visitors likely to be associated with the proposed use, coupled with the internal layout with five bedrooms adjoining the party wall with no.37 Stamford Road, would result in increased noise and disturbance to the occupiers of this property. As such, the proposal is contrary to Policy H10 of the Unitary Development Plan for Tameside and the requirement of the core planning principles of the National Planning Policy Framework to secure a good standard of amenity for all existing and future occupants of land and buildings.