

Description

The site relates to a piece of land which is located within a residential housing estate and allocated under policy RT1/1 - Protection of Recreation Provision in the Urban Area, being land which was provided as recreation space in conjunction with the existing residential development at Newham Drive/Kingston Close.

The land is approx 1600 sqm in area and is grassed over and open and currently does not provide any formal recreation facilities. There is a main water pipe which crosses through the site in an east/westerly direction.

To the north is a church with associated parking area with houses on the residential estate formed around the site.

The application seeks the erection of 4 no. new dwellings and community facilities/recreation area with associated parking and landscaping.

The site would be split into two parts, with the eastern and middle area (just over two thirds) of the site for the new dwellings and the remaining smaller area to the west as a community facility/recreation area.

The dwellings would be semi detached types fronting Kingston Close. Plots 1 and 2 would be centrally positioned with a driveway either side for 2 cars for each dwelling. Plots 3 and 4 would be located in the eastern part of the site, again with parking either side of the gable ends, with 2 spaces for plot 3 and plot 4 accommodating parking for 3 cars.

The dwellings would essentially be of the same type and design, 2 and a half storey in height, with living accommodation at ground floor, 2 beds and a study at 1st floor and a master bedroom and en-suite in the roof space and front dormers. The ground floors of plots 3 and 4 would extend slightly deeper at the rear by 0.9m. The roofs would be pitched with grey tiles and the frontages would incorporate ground floor bay/canopied windows with main elevations comprising red brick.

Gardens for each dwelling would be approx 13m to the rear boundary, separated from each other by a 2m high timber fence.

The proposed play area would be in the remaining part of the site to the west which is shown to be a grassed recreation space on the proposed plans. However the Planning Statement and submitted document - Sovereign Play - states that play equipment, benches and landscaping would be provided in this area. It is also stated that there would be a support package for the ongoing inspection and maintenance of the equipment.

Relevant Planning History

02683/E - 2 detached dwellings and play area - Enquiry completed 14/02/2022

68408 - 2 no. detached dwellings and play area - Refused 28/7/22

Publicity

Letters sent to 27 properties on 6/6/23.

Site notice posted 16/6/23.

32 representations received.

31 objections 1 support.

Objections

- The area is currently used by all members of the local community for recreation. The land so far has been maintained by the local residents.
- There is also wildlife in the nearby trees such as bats which we should try preserve and

protect.

- By having a park there, it will only increase vandalism and anti social behaviour in this area. It will bring the area down. It will not be safe for our children to use this greenery
- There was a previous application which also went through this process and many residents also objected raising various concerns.
- When I purchased the property I was given plans and drawings of the lay out of every thing on the estate. That area would be kept clear and no development to be made on it. It would be used for the Resident's use only as a play area for children on the estate.
- It is maintained by all the residents on the estate.
- Only purchased for someone's profit not the interests of the public.
- There are enough houses being built around the lodges extension to the estate and further up Bolton Road - there is no need for this development. I totally object to the development.
- The land was for many years in the ownership of the Church which is adjacent.
- When planning consents were granted for the housing estate the Green was excluded as the Council earmarked the green for recreational purposes. Over the years all previous applications for the site have been refused on amenity grounds and it would be unacceptable to the community for the council to reverse its policy without alternative provision being made else where in the neighbourhood.
- Used daily for sport and other recreational activities through the years and the last 20+ years by residents on the estate and the church.
- Retention of the Green for amenity purposes is important as it is the only recreational space in the vicinity.
- The owners of the green have no interest in the Green or action to maintain it. This has been arranged and paid for by the Church and the neighbouring residential properties.
- The proposed development would prevent use by the residents
- The proposed amenity area is of limited size (now 4 houses not 2 as previously) and of its nature likely to be used by children only or as a magnet for youths.
- The current use by adults for recreation, to play games, walk their dogs, open air church services will all be removed.
- No indication of who will run or maintain any play equipment.
- The Church already has a problem with youths gathering on the church car park and the Green. Some evidence of drug taking has been seen. Likely to increase anti social behaviour in the evenings.
- Proposed dwellings likely to need boundary fences. The car park is used daily.
- The development would remove a substantial part of the open aspect enjoyed by residents.
- Parking is an issue around the Church when events are held with cars parking on the road around the green. Access required by the new dwellings would create additional difficulties.
- The main utilities serving the site run under the Green and will probably have to be relocated.
- Doubling the numbers of units constructed is seen to be overdevelopment of the site and not in keeping.
- I hope that the local authority will review their previous findings related to applications for development on this site and reach the same conclusion for this application - that it should be denied.
- United Utilities were clear that the services for the whole estate run under this land. United Utilities were also clear in their objection to development.
- There are already plans to diminish green space in the area by building on the land surrounding Elton Reservoir, so the prospect of losing the only green space on the estate is upsetting and insulting.
- Not only were we promised this land would not be built on, I believe it has a 99 year covenant on it.
- All residents on our estate should have been informed, as it affects everyone living on our estate, including the Church. Our Green is used pretty much everyday mainly by local children and outdoor events held by the Church. It is maintained by us the

residents at a cost, so we can keep using the green. Not only will the building of 4 houses cause parking issues, it will affect the line of sight for cyclists coming onto the estate using the cycle path behind Kingston Close and make an accident more likely to happen.

- There is too much green space being destroyed locally, this is why we need to keep this land as it is. No positive reasons for this to get passed apart from financial gain in my opinion.
- The statement "the creation of a useable recreation area with trees" is invalid given this is exactly what exists - the application it reduces said space to 1/5th of what it is presently making it unusable and thus a detriment to local community who's children and pets play on the land. Note the Current land owner does not maintain land. Local community group has had to do this to avoid land becoming unusable. Application provides no evidence as to how this reduced "recreational" space will be maintained.
- Block natural light to our house.
- Residents of the estate annually pay for its upkeep and have done so for over 10 years.
- The building of any houses on this land would be a breach of the restrictive covenant and unlawful. The application should be refused on that basis alone.
- There is no aesthetic cohesion between the proposed housing design and materials and the existing development. The development was originally planned to co-ordinate the Church, houses and nursing home around a public green space thus creating a desirable and visually pleasing aesthetic, this will be drastically compromised under the proposed plans.
- Do not understand why Bury Council have even considered this plan as the previous plan 68408 was rejected for many reasons, this new plan is not fundamentally different,
- The residents also feel we have not been given enough time to review the plans, complete land and legal searches before the consultation deadline. Drawings on the plans do not appear to be correctly scaled giving a false impression of the development, has Bury council checked the plans are accurately drawn/presented.

Support

Think it's a great idea for community facilities this is exactly what the needs.

Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal on sub-standard access, parking and turning facilities and inconsistent and insufficient information.

Environmental Health - Contaminated Land - Require a full desk study and preliminary risk assessment prior to determination.

United Utilities (Water and waste) - Object due to the lack of information to determine the location of the water main which crosses the site.

Greater Manchester Ecology Unit - No objection subject to conditions

Borough Engineer - Drainage Section - No response received.

Waste Management - No response received.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

<SQLDCPolicyComRep>

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be

specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Land use principle - The application area provided towards recreation space in conjunction with the existing residential development at Newham Drive/Kingston Close. As such, it requires consideration under UDP Policy RT1/1 - Protection of Recreation Provision in the Urban Area which states that development will not be allowed on recreation space unless it meets specific criteria, where:

- i) sports and recreation facilities can best be retained and enhanced through the redevelopment of a small part of the site;
- ii) alternative provision of equivalent community benefit is made available; or
- iii) it can be demonstrated that there is an excess of sports pitch provision and public open space in the area, taking account of the recreation and amenity value of such provision.

Paragraph 99(b) of the NPPF states that "existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements;
- The loss resulting from the proposed development would be replaced by equivalent or

- better provision in terms of the quantity and quality in a suitable location;
- The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

The proposal is to create four new dwellings and a community recreation area.

In their justification, the Planning Statement states that 'apart from being mowed and kept as grassland there is no other apparent use' of the land and that the application site would be more useable for the local community and of benefit to everyone.

It is also stated that within a central urban district (which this site is), the loss in part of the open grassland area at the application site would be unacceptable but within the wider context and location there are other open spaces which could be used by local residents which would be preferable.

No quantitative or qualitative analysis of the site has been carried out by the applicant. It is just stated that the space is open grassland and remains unused.

Analysis

The Greenspace Audit identifies that Bury West, which this site falls within, has a deficiency in amenity greenspace. The information submitted does not demonstrate that the site is surplus to requirements and the applicant is not proposing to off-set the loss of part of the existing RT1/1 site. It is considered that the proposal for the remaining part of the site would not bring benefits which clearly outweigh the loss of the current recreational use which was dedicated as informal recreation space within the housing development

The area is open and usable and provides a relief and break between the built development which was provided as part of the original housing estate.

At the moment the space in an open piece of land, to be enjoyed for what it is and the visual amenity and sense of space it also provides. A formalised park area with the provision of play equipment does not necessarily 'improve' recreation in the area and could in fact target the area to a specific user, such as the younger population.

Policy RT1/1 aims to safeguard the existing level of provision for recreation in the urban area. Recreation sites are valuable as greenspace in their own right, by providing a break in the urban form and in this respect the piece of land was designated as informal open space in association with the original residential development.

Given the above, the principle of the application is considered to be unacceptable unless the recreation area could be re-provided for elsewhere, on land that was equivalent or of a better quality and directly accessible to local residents in line with the NPPF and Bury UDP Policy RT1/1.

Principle - housing

The National Planning Policy Framework (NPPF) should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. The Framework maintains the emphasis on identifying a rolling five year supply of deliverable housing land.

Bury's Strategic Housing Land Availability Assessment sets out the latest housing supply position, which is made up of sites that have an extant planning permission and sites that have potential to obtain planning permission in the future. This shows that there are a number of sites within the Borough with the potential to deliver a significant amount of housing. However, not all of these sites will contribute to the five year supply calculations as many sites will take longer than five years to come forward and be fully developed (e.g. some large sites could take up to ten years to be completed). As such, latest monitoring indicates that the Council is unable to demonstrate a five year supply of deliverable housing land and this needs to be treated as a material factor when determining applications for residential developments.

The National Planning Policy Framework also sets out the Housing Delivery Test, which is an assessment of net additional dwellings provided over the previous three years against the homes required. Where the test indicates that the delivery of housing was substantially below (less than 75%) of the housing requirement over the previous years, this needs to be taken into account in the decision-taking process. The latest results published by the Government show that Bury has a housing delivery test result of less than 75%, and therefore, this needs to be treated as a material factor when determining applications for residential development.

Therefore, in relation to the proposed dwelling, paragraph 11d) of the National Planning Policy Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

- i. The application of policies in the Framework that protect areas, or assets of particular importance, provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.

Therefore, in this case the 'titled balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

UDP Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

Whilst housing need is a material consideration, it does not in this instance outweigh the harm to the loss of protected recreation land which, in this case is considered to be of a greater weighted value.

The proposed development for 4 dwellings would be extremely modest at best in terms of contribution to the Borough's Housing stock and would not make a significant difference to housing supply when considering that in principle, the development of this site would not to meet any of the exceptions of UDP Policy RT1/1 or para 99 of the NPPF, and as such would be inappropriate development as assessed above.

Layout - UDP Policies H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development takes into consideration factors relating to the height and roof type of adjacent buildings, the impact of developments on residential amenity, the density and character of the surrounding area and the position and proximity of neighbouring properties. Regard is also given to parking provision and access, landscaping and protection of trees/hedgerows and external areas.

The site is located within a residential estate and sits between houses to the east, south and west, with a church to the north which fronts the main road and entrance to the estate.

There is a United Utilities water main which runs across the site in an east/westerly direction. The proposed dwellings are shown to be located in the middle and towards the front of the site with the recreation area to the west and the plans show an easement of 5m to avoid the water main. The acceptability of siting the houses in relation to the drainage pipe is discussed further below.

In terms of general layout, the residential layout would broadly appear to be acceptable. The site would be set back from the road frontage with small front gardens, driveways to the front and side gables and rear gardens and as such the layout would generally reflect the surrounding pattern of development.

The proposed play area would make up less than a third of the total site area and would be separated from plot 1 by a 2m high fence and hedge planting. Whilst a sales brochure for a company who supplies play equipment plus a quote for play equipment has been submitted as part of the application (document 'Sovereign Play'), the proposed site and landscaping plan provides no other detail other than that this area would be grassed. There is no indication of boundary treatment or how the site would be accessed.

The Planning Statement also states that the equipment would come with a package for ongoing maintenance and inspection to ensure its safety and longevity. There is no indication of how this would be managed, funded or for how long.

Notwithstanding this lack of information and detail, the compensatory play area would not be accepted in principle as analysed in the land use principle section above.

Residential amenity - Supplementary Planning Document 6 is used as a guide to assess relationships and aspect standards between properties and new built development to ensure that suitable separation distances are maintained and that a new development would not cause undue harm to adjacent neighbours.

A separation of 13m between a blank gable and habitable room and 6.5m between a single storey blank wall and habitable room window are generally required.

The proposed dwellings would be located in a linear row fronting Kingston Close.

Nos 1 and 3 Finchley Close are directly to the east of the site with the front of the dwellings facing the plot of land. There would be a difference of 15m between the blank side gable of plot 4 and the front elevation of Nos 1 and 3 Finchley Close and as such aspect standards would be satisfied.

From the proposed dwellings to the houses opposite, there would be a distance of 21m which would satisfy aspect standards.

The garden length would be over 13m which would be acceptable to the rear boundary and comply with policy standards.

In terms of the positions of the proposed dwellings, the development would comply with aspect standards and policy SPD6.

In consideration of the impacts of the proposed recreation area to the surrounding residents, this is a different matter.

At the moment, the land is open and provides a pleasant outlook from a number of houses on the estate and as the area is open and grassed it can be used in an informal way by local residents. There are also no identifiable areas which could encourage gathering of groups comparative to more formal play areas where equipment and structures can offer the opportunity to 'hang out'.

By creating a smaller and intensified play area with formal pieces of play equipment, this could generate significantly more noise, activity and disturbances to the area than residents should reasonably expect, especially when the piece of land was dedicated to the estate as an area of public open space in conjunction with the original housing development.

The applicant has not provided any quantitative or qualitative assessment of the current usage of the property, just making a general statement that the space is open grassland and remains unused and that making the application site more useable for the local community would be of benefit to everyone. The proposed application, whilst suggesting there would be a management plan in place for the maintenance of the equipment does not state who would be responsible for the area or for what length of time.

Public open space is not just about usage, but to provide breaks between built development to create open and pleasant vistas and spaces within residential estates. Such green spaces are often found within other similar types of housing developments.

Public play areas and especially those with equipment tend to have a degree of separation to houses in its vicinity, as they can encourage larger groups of people to use a more intensified and smaller space. It is considered in this case, given the proximity of this recreation facility to the adjacent houses, there would be unacceptable levels of associated activity, noise and disturbances which would be detrimental to the amenity of the future occupiers and would likely give rise to complaints.

It is therefore considered that the proposed play area would significantly intensify and formalise a piece of public open space which would have a significantly detrimental impact on the amenity of the future occupiers.

It would also reduce the amount of land available for public use and would restrict the number and type of people able to enjoy the open space.

It is therefore considered that the proposed development would have a detrimental impact on the amenity of adjacent occupiers and those on the wider housing estate and as such would be contrary to policies RT1/1, EN1/2 and H2/2.

Design and appearance - The proposed dwellings would have a pitched roof and would be 2 and a half storey to facilitate dormer accommodation in the roofspace. The ridge height would be 9.5m but with an eaves height of 5.4m set evenly over 2 floors, the roof would be 'top heavy' and result in an unbalanced and disproportionate appearance. The disproportionate appearance would be even more evident within the context of the established residential estate, where the houses are of a 'standard' 2 storey type with shallower hipped roof styles.

The proposed fenestrations would pick up some design reference of the surrounding housing stock by incorporating a bay/canopied ground floor window and brick elevations and fairly standard windows but given the overall appearance and disproportionate form of the building, the proposed design is considered to be incompatible and incongruous in the streetscene.

It is therefore considered the proposed development would be unacceptable and would be contrary to policies H2/1, H2/2 and EN1/2.

Highways - Each dwelling would have its own driveway accessed off Kingston Close. The parking would be arranged in a tandem formation along the side of each plot to provide 2 parking spaces, with plot 4 facilitating 3 spaces along the gable end. For 3 bed properties, the level of parking is considered to be acceptable.

The access and driveways to the plots would be located close to the junction of Kingston Close with Finchley Close and Sutton Close and the bend in the road but no details have been provided to show that a car or cars could manoeuvre from the site safely or that adequate visibility would be provided out of each plot, particularly as the driveways would be close together and so close to the road junction.

In addition, the proposed plans for the recreation area are poor and do not provide any indication as to how this area would be accessed by members of the public or what safety proposals for children in particular have been considered at the interface of the junctions where Kingston Close meets Newham Drive.

The other issue to consider is that, whilst it *may* be unlikely, the proposed play area with the children's equipment could draw people from a wider area who could drive to the site, thereby putting pressure on parking on the adjacent estate roads and which would be

detrimental to highway safety.

It is therefore considered that in view of the highway safety concerns in respect of vehicular conflict and pedestrian safety, identified above, the proposed development would be contrary to policies H2/2 - The Layout of New Residential Development, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.

Drainage

A United Utilities water main crosses the site.

Regarding this the applicant states that a 5-metre easement in relation to the position of the dwellings has been agreed between the applicant and United Utilities for the proposed development as shown on the submitted drainage plan.

The response received (on 14/7/23) from United Utilities however, contradicts this statement. Whilst the applicant has identified the broad location of the water main, Water Developer Services (WDS) would need to agree the proposals with the applicant in advance of the determination of the application as an accurate location for the main is required. The proposed plan shows the dwellings would be located directly on the edge of the easement. Should the pipe not be in the position as shown on the plan, then the houses would be inside the easement which would be unacceptable. WDS also have other technical matters they would need to resolve with the applicant

The acceptability of any proposal is dependent upon the applicant knowing the exact location (line and depth) of the asset, confirmed through their site specific investigations. The precise location of United Utilities assets is critical as this could be material to the detail of the final site design; including any proposed crossings of the asset with either above or below ground features (including utility services).

The scheme would therefore not be acceptable to United Utilities who object at this time. Evidence must be submitted as part of the planning application that the water main has been accurately located by way of appropriate survey. The proposal also shows drainage services within the easement which has not been agreed.

The proposed development would therefore be unacceptable and should be refused.

EH Contaminated Land - The site is currently a grassed area within a housing estate that was developed in the late 1990s. Current uses in the surrounding area include residential and a church. Historically the site was part of a brick works and brick field from at least 1893 until prior to 1910 when it became a recreational ground. Former land uses in the surrounding area have included a colliery and coal pit, and railway land. The site is not located within 250m of a former landfill site and is not in close proximity to a major surface watercourse, however, Elton Reservoir is located approximately 330m to the south east. The site is situated on glacial till over the Lower Coal Measures Secondary A Aquifer. It is likely that deposits of made ground exist at the site.

Due to the sensitivity of the proposed land use, a Desk Study and Preliminary Risk Assessment will be required to be followed by a site investigation.

This has not been provided. As such, the EH Section cannot make comments.

Ecology

Summary

The only potential ecological issue is ensuring mitigation for the loss of amenity grassland.

Protected Species

The site consists of amenity grassland surrounded by houses and roads. It is very unlikely that there will be any protected species issues associated with this development. No

further information or measures are required.

Nesting Birds

There appears to be no bird nesting habitat on the site. No further information or measures are required.

Contributing to and Enhancing the Natural Environment

Section 174 of the NPPF 2021 states that the planning policies and decisions should contribute to and enhance the natural and local environment. The development will result in the loss of a small area of amenity grassland a low ecological value habitat. Tree planting is proposed some of which is native. I am satisfied that adequate mitigation can be achieved the details can be conditioned.

Response to objectors

- Issues relating to land designation, design and appearance of the dwellings, highways, ecology and UU asset's have been covered in the above report.
- Payments made by local residents for the upkeep and maintenance of the site would be private matters.
- Consultation - Letters were sent to 27 adjacent properties and the application was advertised by site notice on 16/6/23. As such the LPA has fulfilled the statutory requirements for advertising the application.