

DELEGATED REPORT

Report by Tom Beirne	Date of report: 13/10/2022	Ref: 68398/FUL
Registration: 15/09/2022	LDFC: 08/10/2022	Expiry Date: 10/11/2022
Site Visit: 11/10/2022	Site Notice: N/A	Press Date: 22/09/2022
Objections: 0	Con Area: N/A	Adv Type: ARW
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Replacement of existing 2m high fence with a 2.5m high timber fence on side boundary

Location: Coachmans Corner, 10 Bridge Hall Drive, Bury, BL9 7NX

Description

The application relates to a large detached dwellinghouse within a large garden at the end of Bridge Hall Drive. There is an existing 2m high timber fence along the western boundary which is situated on a heavily treed embankment and adjacent to a public footpath running along Cuckoo Lane to the west.

The proposal is to replace the existing fence along the western garden boundary with a new 2.5m high timber fence of similar design.

Relevant Planning History

56050 - Creation of an additional car park (resubmission) - Approve with Conditions
24/05/2013

Publicity

Immediate neighbours notified by letter dated 15/09/2022. Press and site notice posted 22/09/2022. No objections received.

Statutory/Non-Statutory Consultations

Public Rights of Way Officer -

Pre-start Conditions - N/A

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
SPD6	Supplementary Planning Document 6: Alterations & Extensions
H2/3	Extensions and Alterations
RT3/4	Recreational Routes

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.

Visual amenity - The fence line along the western side of the garden is well screened by trees and shrubs and would not be particularly visible from the public arena. Views from the public footway along Cuckoo Lane would be limited by existing planting. The additional height of the new fence would not be so significant as to be incongruous or warrant refusal. The proposed fence is therefore acceptable and complies with UDP Policies EN1/2 Townscape and Built Design, H2/3 Extensions and Alterations and associated guidance within SPD6.

Residential amenity - Given the position of the new fence, there are no immediate neighbours that would be seriously impacted. As such the proposal is considered to be acceptable and complies with UDP Policies EN1/2 Townscape and Built Design, H2/3 Extensions and Alterations and associated guidance within SPD6 with regard to residential amenity.

Public Rights of Way - The new fence is a replacement for the existing fence, in the same position and as such would not have any impact on the existing public footpath. There are no objections from the PRoW officer. An informative relating to construction works and obstruction of PRoW would be appropriate.

Statement in accordance with Article 35(2) Town and Country Planning (Development

Management Procedure) (England) (Amendment) Order 2015

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The development must be begun not later than three years beginning with the date of this permission.
 Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings numbered ZT22-196-00 and 01 and the development shall not be carried out except in accordance with the drawings hereby approved.
 Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	13/10/22		