

DELEGATED REPORT

Report by Helen Pressley	Date of report: 16/01/2024	Ref: 70259/FUL
Registration: 30/11/2023	LDfC: 04/01/2023	Expiry Date: 25/01/2024
Site Visit: 14/12/2023	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Single storey extension at rear to form 1 no. ground floor flat

Location: 212A Bell Lane, Bury, BL9 6HS

Description

The application relates to an end terraced property located on Bell Lane. The property currently comprises of a cafe at ground floor, a 3no. bedroom flat, and a yard area to the rear. The yard is separated into an area for the existing flat and an area for the existing cafe. The flat is currently divided between 2 floors, with a bedroom at ground floor that can be accessed internally and from the rear yard, and 2no. further bedrooms, a kitchen living area and bathroom to the first floor. The flat is accessed from it's own entrance door to the side of the property.

Planning permission is sought for a single storey rear extension that projects approximately 4 metres to the rear of the property. Permission is also sought to divide the existing flat into two separate units, utilising this proposed single storey extension. This would provide a 2no. bedroom flat at first floor accessed from the existing entrance door to the side of the property, and a 1no. bedroom flat at ground floor accessed via the rear yard.

The existing cafe use would remain as existing, and will retain access to the yard area to the rear.

Relevant Planning History

None

Publicity

Neighbour letters sent 4/12/2023 and 11/12/2023. No representations received.

Statutory/Non-Statutory Consultations

Traffic Section - Recommendation for refusal due to insufficient information in relation to foundations and surface water drainage.

Waste Management - no response.

Borough Engineer - Drainage Section - no response.

Environmental Health - Pollution Control - no comments to make.

Environmental Health - Contaminated Land - no comments to make regarding contaminated land or air quality.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN5/1	New Development and Flood Risk
EN6	Conservation of the Natural Environment
EN7/5	Waste Water Management
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework

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, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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.

Principle

The National Planning Policy Framework is 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. There is a particular emphasis to identify 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 with 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. In addition to this, past under delivery of housing has resulted in Bury having a 'low' housing delivery test result. This needs to be treated as a material factor when determining applications for residential developments.

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.

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.

The site is located within the urban boundary and there are residential properties to all boundaries, with a post office located to the east and a cafe at ground floor within the existing unit. The proposed development would not conflict with the surrounding land uses and would be located in a sustainable location with regard to public transport and services. Therefore, the proposed development would be in accordance with Policy H1/2 of the Bury Unitary Development Plan.

Design and Layout

Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area. H2/1 - The Layout of New Residential Development and H2/2 - The Layout of New Residential Development, provides the assessment criteria for detailed matters relating to height, appearance, density and character, aspects and finish materials.

The proposed extension would be located to the rear of the property. The extension would have a flat roof that would replicate the flat roofs of the garage extensions that can be seen to the rear of some of the properties within the adjacent terraces. The proposed windows are considered to be suitably aligned and the use of matching materials is acceptable.

The proposal would lead to an increase in planning units at the property. The dwelling is an end terraced dwelling that appears to have historically had a shop/E use at ground floor with associated flat at first floor. At some point it appears that the flat use has been separated from the ground floor unit although some ground floor accommodation was retained for the flat. The rear yard has subsequently been subdivided to provide bin storage and rear access for the cafe use, and an area of amenity space and bin storage for the flat. The property however is the type that would generally provide enough accommodation for a small family.

UDP Policies H2/1 and H2/2 require good quality residential environments and consideration of the density and character of the area. Paragraph 128 d) of the NPPF states that LPAs should take into account “the desirability of maintaining an area’s prevailing character and setting (including residential gardens)”. The need for carefully designed open spaces, and gardens is also highlighted in the MHCLG National Design Guidance.

The private residential amenity spaces associated with the terraces within the row are depicted by walled yard areas, it is acknowledged that some of these yards have been reduced through extensions. Any extensions however should not significantly reduce the amount of usable amenity space for a property to an unacceptable degree.

A yard area of 2.9 metres in depth would be retained to the rear of the proposed extension. It is unclear if this yard area is to be utilised as amenity space by both properties, or just by the new ground floor unit that would have direct access to this area. It has been noted that the bins for the first floor flat would be stored within the rear yard area and as such this unit would also have access to this space and as such it would appear that the ground floor flat would not have exclusive use of this area. The potentially shared residential amenity area would be directly outside of the bedroom window of the ground floor flat. Should the first floor flat also utilise this space as private amenity space, as well as for their bin storage, this could potentially impact on the amenity of the ground floor flat occupiers through noise and disturbance.

Access to the rear yard for the first floor flat would involve the occupants of the first floor flat walking out onto the adopted highway, and accessing the bins via a gate into the rear yard rather than having direct access to the bin store. This appears to be a very convoluted way to access the bins, and may lead to bins for this flat being stored on the adopted highway/pavement to the side of the site to allow any future resident's better access.

The area indicated as a bin store on the proposed site plan is approximately 2 metres in depth, and 0.6metres in width. It is unclear if this would be adequate to accommodate the 8 bins that would be needed for the 2 residential units and would reduce the amount of amenity space for the properties even further in any event. The proposed extension would lead to the rear yard area being reduced from approximately 49 square metres for one residential unit to potentially 22 square metres for 2 residential units - excluding any further reductions required for storage of bins. It is therefore considered that the proposed extension, and intensification of the use of the site would lead to an insufficient amount of usable amenity space associated with the proposed flats.

It is acknowledged that there are examples of upper floor flats without direct, or exclusive use of amenity space, however given the policy considerations set out above with the emphasis on maintaining good quality residential environments it is considered given the constrained nature of this site the introduction of a further unit at this property would be unacceptable. Given the above, it is considered that the extension of the property and the

creation of an additional flat at the property would exert unacceptable pressure on a property and the associated residential amenity space which is considered to operate at a full enough capacity in any event and in doing so would also be harmful to the amenity of future occupiers.

The proposed development, by virtue of an increase in residential units at the site and reduction of private amenity space, would result in a loss of facilities and amenities available to the existing and future occupiers of the property. As such, the proposal would have a detrimental impact on residential amenity of the occupiers and would fail to provide a good quality residential environment. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies H1/2 - Further Housing Development, H2/1 - The Form of New residential development, H2/2 - The Layout of New Residential Development and the National Planning Policy Framework.

Residential Amenity

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. There are no adopted aspect standards for new build residential properties however, Supplementary Planning Document 6 provides guidance on aspect standards between residential properties and as such, would be a reasonable guide in this case.

The proposed extension would project more than 4 metres beyond the rear of the attached post office. This property has single storey extensions, sheds and outbuildings along this boundary and is separated from the site by the yard/bin storage associated with the ground floor cafe use. This property is also commercial at ground floor. Given the relationship to the site, it is considered that the proposal would not have a detrimental impact on the habitable room windows or the residential amenity space of this property.

No. 210 Bell Lane is separated from the site by a highway. As such it is considered that the proposed extension would not have a detrimental impact on the habitable room windows or the residential amenity space of this property.

The proposed rear bedroom window would be screened by the existing rear wall. The existing side bedroom window, would be amended to be a livingroom/kitchen window. Both uses are considered to relate to habitable rooms and as such residential amenity would be maintained. The proposed side window facing towards the cafe yard is a non-habitable room window (shower room).

Highways and Parking

UDP Policy EN1/2 - Townscape and Built Design requires the consideration of the design and appearance of access, parking and service provision. This is further supported by UDP Policy H2/2 - The Layout of New Residential Development that requires proposals to demonstrate adequate car parking provision, access for both vehicles and pedestrians, and provision for public transport and the existence of any public rights of way, and UDP Policy HT6/2 - Pedestrian/Vehicular Conflict that requires developments to reduce pedestrian/vehicular conflict.

The Traffic Section have recommended refusal of the application as they consider that the application and submitted plans contain insufficient information to ensure that the foundations and surface water drainage arrangements required for the proposed extension do not encroach under, project over or discharge onto the adjacent adopted highway.

Submitted plan 23/755/03A confirms that no part of the extension would encroach onto the highway, above or below ground. This would be a consideration under the Highways Act and could be dealt with by means of an informative ensuring that foundations do not encroach under the highway.

In terms of surface water drainage, whilst no details have been submitted at application stage these could be reasonably conditioned. As such the proposed reason for refusal has not been included within the recommendation.

In terms of parking standards UDP Policy HT2/2 requires all applications for development to make adequate provision for their car parking and servicing requirements .
Supplementary Planning Document 11 provides parking standards for developments.

The site and existing uses currently have no parking. The proposal would be located within an established residential area with on street parking available for residents, which the proposal site intends to utilise. The site is located within a sustainable location with links to public transport. In this instance it is considered given the nature of the existing parking provision in the area the proposal is acceptable.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development, by virtue of an increase in residential units at the site and reduction of private amenity space, would result in a loss of facilities and amenities available to the existing and future occupiers of the property. As such, the proposal would have a detrimental impact on residential amenity of the occupiers and would fail to provide a good quality residential environment. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies H1/2 - Further Housing Development, H2/1 - The Form of New residential development, H2/2 - The Layout of New Residential Development and the National Planning Policy Framework.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP 16/01/2024			