

DELEGATED REPORT

Report by Tom Beirne	Date of report: 22/12/2021	Ref: 67485/FUL
Registration: 08/11/2021	LDFC: 29/11/2021	Expiry Date: 03/01/2022
Site Visit: 10/11/2021	Site Notice: 10/11/2021	Press Date: 11/11/2021
Objections: 1	Con Area: RAMS	Adv Type: CAAF
Reason for Delay: N/A		EIA: NA Dec Level: DEL Stat Class: HOUS

Proposal: Erection of wooden slatted fence on top of existing stone wall to the side of the property adjacent to The Rake

Location: The Coach House, Foot O Th Rake, Ramsbottom, Bury, BL0 9HE

Description

The application relates to a two storey stone built house within Ramsbottom Conservation Area at the bottom of The Rake. The immediate area is residential in character with a row of terraced houses to the east and detached houses to the south and west.

The new timber fence, which has already been erected, sits on top of the existing retaining wall (2.3m high) along the boundary with The Rake. The fence is between 1.53m and 1.83m in height and encloses the rear/side garden area.

Relevant Planning History

21/0385 - Turning the land into a car park and erection of wall - ongoing

Publicity

Immediate neighbours notified by letter dated 08/11/2021 and site notice posed 10/11/2021. Press notice dated 11/11/2021. One objection received from the occupier of 7A Douglas Street. Objections are summarised below:

- The fence is completely out of character with the conservation area.
- Inappropriate height and construction above the retaining wall.
- Inappropriate finishing materials.
- The retaining wall appears to be dangerous and needs rebuilding.
- A more appropriate scheme would be to rebuild the retaining wall and lower the garden level.

More detailed comments were submitted by the objector and are available to view.

Statutory/Non-Statutory Consultations

Conservation Officer- Recommends refusal - see issues.

Traffic Section - No objection

Pre-start Conditions - N/A

Unitary Development Plan and Policies

EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
H2/3	Extensions and Alterations
SPD16	Design and Layout of New Development in Bury
SPD6	Supplementary Planning Document 6: Alterations & Extensions

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.

Conservation/ Visual amenity and Streetscape

The development has been carried out and is within Ramsbottom Conservation area. The boundary treatment on which the closed boarded timber fencing is sited on is constructed from natural random coursed stone. The site is on a slope and the highest part of the existing stone wall is approximately 2.30m above the existing ground level with the fence a further 1.80m above that at its highest point. The wall acts as a retaining wall.

The character of this part of the conservation area is set out in the Ramsbottom Conservation Area Appraisal. Inter alia:

- The distinctive character of this area derives from the steep topography, which has led to the building of flights of steps and steep alleyways linking the terraces and gardens.
- The houses range from two to four storeys, built on steeply rising ground.
- The area is tightly-knit with a predominately dense, intimate feel, interspersed with a few larger gardens that provide the setting for larger villas.
- Substantial retaining walls mark dramatic changes in level and provide excellent viewpoints over the valley and wider countryside.
- The topography also creates a layered effect; on Douglas Street, for example, the four-storey houses overlook lower houses on Eccles Street and near to Tanners Street.
- Domestic gardens contribute significantly to the character of the area.
- Such is the character of this part of the conservation area. Its boundary treatments provides an homogeneity of vernacular stone construction which is a strong contributor to the special distinctiveness, character and appearance of the conservation area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in the exercise of their planning functions to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Paragraph 199 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 202 of the NPPF requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The conservation area is characterised in part by its boundary treatments built from local stone. They represent a strong vernacular presence and together with their homogeneity throughout the conservation area represent a strong contributor to the special character and distinctiveness of the conservation area.

The proposed development, by virtue of its design and materials would represent an incongruous feature within the conservation area. It would be at odds with the setting of the conservation area and vernacular built form. It would also represent a utilitarian feature within the conservation area which would be at odds with its special character and appearance. As such the proposal would represent less substantial harm to the character and appearance of the conservation area and would not represent a public benefit that would outweigh the harm identified.

The proposal would not satisfy the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in the desirability to preserve or enhance the character and appearance of the conservation area or comply with the following paragraphs of the National Planning Policy Framework: 194, 199, 202, 206.

Residential amenity

Although the fence is quite prominent within the streetscape, it would not pose any serious residential amenity issues with regard to neighbours.

Highway Safety

There are no highway safety issues arising from the new fence.

Objection

The issues relating to visual amenity and character of the conservation area are reflected in the reason for refusal. The comments relating to the retaining wall do not necessarily

relate to this planning application.

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 fence would constitute a prominent and incongruous feature that would be out of character with the Ramsbottom Conservation Area and as such it would not satisfy the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in the desirability to preserve or enhance the character and appearance of the conservation area or comply with the the National Planning Policy Framework. The proposal would also be contrary to the following UDP Policies: EN1/1 Visual Amenity, EN1/2 Townscape and Built Design, EN2/1 Character of Conservation Areas, EN2/2 Conservation Area Control and H2/3 Alterations and Extensions and associated guidance.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>