
PLANNING STATEMENT FOR THE REMOVAL OF CONDITION NUMBER 6 ATTACHED TO PLANNING PERMISSION 66467 VARIATION OF CONDITIONS FOLLOWING APPROVAL OF 65626 IN RELATION TO THE BUNGALOW, AINSWORTH NURSING HOME, KNOWSLEY ROAD, AINSWORTH, BOLTON BL2 5PT

PREPARED BY: ABL Planning & Development

REV: FINAL

DATE: AUGUST 2023

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1. INTRODUCTION

1.1 This statement has been prepared by ABL Planning & Development to support a S73 application by Mr Jordan Smith for the removal of condition 6 attached to planning permission 66467. A copy of the decision notice and officer can be found in appendix 1. For ease of reference, condition no. 6 states that:

1.2 The reason given on the decision notice is as follows:

‘Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, no development shall be carried out within the terms of Classes A to G of Part 1 of Schedule 2 of the Order, without the submission and approval of a relevant planning application.

Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed’.

1.3 This application seeks the removal of the condition, on the basis that it is not necessary to make the development acceptable and is an unreasonable planning condition.

1.4 The same condition was attached to the initial permission (condition no. 7 attached to 65626). The grant of the S73 application is a planning permission in its own right and in this instance, the applicant either has a choice of which permission they choose to implement. The applicant has carried out development works in accordance with the varied planning permission (ref:66467) and as such we do not consider it necessary to apply for removal of condition no.7 attached to planning permission 65626.

2. SITE DESCRIPTION

2.1 The application site is located within the grounds of the former Ainsworth nursing home site. The former nursing home site is steadily being re-developed with existing buildings within the grounds are gradually being converted and/ or extended to residential dwellings. In addition, new dwellings have been permitted within the grounds of the former nursing home.

2.2 The former nursing home site is now a ‘gated community’. The dwelling known as ‘The Bungalow’, is described as a two storey dwelling however, is more akin to a one and a half storey contemporary dwelling. The dwelling is located off an unadopted private road and is located to the east of the main gated entrance to the wider site. The former nursing home building is located to the north of the site whilst countryside is located to the east of the site. To the south lies countryside beyond which lies the settlement of Ainsworth.

2.3 According to the Council’s interactive policy map, the application site is located within the Green Belt. There are no other constraints identified in regard to the application site or wider nursing home area.

- 2.4 The dwelling which currently occupies the application site is a contemporary dormer bungalow. Planning permission has recently been granted for a first floor infill extension on an existing balcony area. The site was formerly occupied by a single storey bungalow which was used as workers accommodation by employees of the nursing home when the site was operational and remained for a period after the closure of the nursing home as a residential dwelling.

3. RELEVANT PLANNING HISTORY

- 3.1 The planning history as available on the Council's website is as follows:

- 69713 – First floor side / rear extension – approved 03.08.2023 (see appendix 3)
- 66467 – Variation of conditions following approval of 65626 – Amendment to approved plans with addition of a porch – approved 03.03.2021 (see appendix 1)
- 65626 – Conversion of property to 1 no. residential building; increase to the roof height, two storey extension and associated parking and landscaping, change of use of land to residential dwelling – approved 23.09.2020 (A copy of the decision notice and officer report is at appendix 2)

4. PLANNING POLICY CONTEXT

4.1 NATIONAL PLANNING POLICY FRAMEWORK (JULY 2021)

- 4.1.1 The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives; economic, social and environmental which are interdependent and need to be pursued in mutually supportive ways.

- 4.1.2 At the heart of the Framework is the 'presumption in favour of sustainable development'. Paragraph 11 of the Framework states:

"...c) approving development proposals that accord with an up-to-date development plan without delay; or

- *d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

i. the application of policies in this 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 this Framework taken as a whole".

- 4.1.3 Section 13 of the NPPF sets out the policy in regard to Green Belt. Paragraph 149 (c) states that the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

4.1.4 Paragraphs 54 to 56 of the Framework sets out the policy position in relation to conditions.

4.1.5 Paragraph 54 of the Framework states that:

‘ Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.’

4.1.6 Paragraph 55 of the NPPF goes on to state that:

‘ Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations...’

4.1.7 Paragraph 56 of the Frameworks further states that:

‘ Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in other other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is clear justification’.

4.2 NATIONAL PLANNING PRACTICE GUIDANCE (NPPG)

4.2.1 The NPPG provides further guidance on the use of planning conditions. Paragraph 001 (21a-001-20140306) sets out the following:

‘Why are conditions imposed on a planning permission?’

When used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls’.

4.2.2 Paragraph 005 (21a-005-20190723) sets out circumstances of when planning conditions should not be used. The guidance is clear that any proposed condition that fails to meet one of the 6 tests should not be used. This even applies if the applicant had suggested the condition of agreed to it. Paragraph 017 (21a-017-20190723) poses the following question:

Is it appropriate to use conditions to restrict the future use of permitted development rights or changes of use?

Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General

Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn. Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. The local planning authority also has powers under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to enable them to withdraw permitted development rights across a defined area, where justified.

4.3 ADOPTED DEVELOPMENT PLAN

- 4.3.1 The adopted Development Plan comprises the Bury Unitary Development Plan , adopted 29th August 1997. The application site is identified on the UDP proposals map as being within the West Pennine Moors, Green Belt and a Special Landscape Area.

4.4 OTHER MATERIAL CONSIDERATIONS

- 4.4.1 The Council is in the process of preparing a new Local Plan. Consultation on the Policy Directions for the Bury Local Plan ended on 30th November 2018. Whilst Local Planning Authorities may give weight to relevant policies within emerging plans, it is considered that given the stage of the Plan, limited weight, if any, can be given to the the eLP.

5 PLANNING CONSIDERATIONS

- 5.1 The proposed development is not ‘otherwise acceptable’ without the attachment of condition no.6. The development is clearly acceptable without this condition. It is our view that based on the officers reason, the condition was attached to the grant of planning permission simply because the property is located within the Green Belt and for no other purpose. The officers reason for attaching the condition is given as ‘*To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed.*’ The condition is not reasonable or necessary.

- 5.2 Paragraph 21a-017 of the NPPG states that:

Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn. Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.

- 5.3 If the Government had intended to restrict permitted development rights in the Green Belt, they would have done so. The General Permitted Development Order 2015 (as amended) Schedule 2, Part 1 applies to the Green Belt, unless there are other reasons why they are restricted.

5.4 The officers report for this application, and the preceding application confirms that the development represents appropriate development within the Green Belt. The Council has not identified any harm to the Green Belt which would arise from the restriction of permitted development rights, which would not arise in any other case. Whether the implementation of permitted development rights at a later date would result in the dwelling having disproportionate additions (para 149c) or have greater impact on openness than the existing building (para 149g) (therefore conflicting with Green Belt Policy) is irrelevant. As set out in paragraph 5.3, had the Government's intentions been to restrict permitted development in the Green Belt, it would have done so by the placing of a restriction in the GPDO.

5.5 At appendix 4, are a number of appeal decisions regarding where such restricted conditions meet the tests of reasonableness and necessity.

5.6 In the case of **Danzey Green Lane, Danzey Green (Appeal Ref: APP/J3720/W/20/3251058)**, the appeal related to the demolition of an existing building and erection of a replacement dwelling, granted permission in 2020. A condition has been attached removing permitted development rights of the GPDO 2015 (as amended) Schedule 2, Part 1, Classes A, B, D and E. The Inspector found that:

'The Framework states that planning conditions should be kept to a minimum and only imposed where, amongst other tests, they are reasonable and necessary. It also states that conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. Furthermore, the PPG, advises against conditions that blanket remove freedoms to carry out small scale domestic alterations without the need for planning permission.'

'The disputed condition adopts a broad-brush approach that would remove whole range of permitted development rights for the alteration, maintenance and improvement works, as well as the erection of extensions or outbuildings. The blanket removal of permitted development rights would require permission to be sought for small scale domestic alterations and so is contrary to the aforementioned PPG advice. As such, the condition is unreasonable.'

5.7 In the case of Lightwood, Stoke-on-Trent (**Appeal Ref: APP/M3455/W/19/3226953**) planning permission was granted for the change of use of stables to form one residential dwelling in 2019. A condition was attached to the permission restricting permitted development rights. The issue of the disputed condition was whether the condition was reasonable and necessary with regard to the effect of the development on the openness of the Green Belt. The Inspector found that:

'... The position of the appeal site within the Green Belt is not, in itself, an exceptional circumstance in this instance, and no other such circumstances have been raised by the Council. Therefore, in the light of the provisions of the NPPF and PPG, regarding the imposition of conditions restricting the future use of permitted development rights, there are no exceptional circumstances to justify the removal of permitted development rights at this appeal site'

‘... It continues that the blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity’.

- 5.8 In the case of **Hardcastle Lane, Wakefield (Appeal Ref: APP/X4725/D/18/3201609)**, planning permission had been granted in 2010 for extensions to a dwelling in the Green Belt and a condition had been applied to removed permitted development rights as this on the basis that this may lead to unacceptable additions to the dwelling in the Green Belt, above and beyond what had been approved by the application. The Inspector found that :

‘ The PPG makes it clear that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances...blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity’.

6. CONCLUSION

- 6.1 Planning permission (ref:65626) was granted for the conversion of property to 1 no. residential building; increase to the roof height, two storey extension and associated parking and landscaping, change of use of land to residential dwelling. A subsequent S73 application (ref: 66467) was made to incorporate an addition of a front porch to the dwelling. If the applicant had there permitted development rights, the porch could have constructed under the GPDO 2015 (as amended) Schedule 2, Part 1, Class D once the dwelling had been constructed and occupied as such.
- 6.2 This application seeks to remove condition no.6 attached to permission 66467 on the basis that it is not necessary and not reasonable to make the development acceptable. No exceptional circumstances existed at the time that the application was determined to justify the blanket removal of residential permitted development rights and nor do they exist not to justify the retention of this condition.
- 6.3 It is clear that national planning policy and guidance states that conditions restricting permitted development rights will rarely pass the test of necessity and reasonableness. The Government has chosen not to restrict permitted development rights within the Green Belt. If it had, it would have done so in the recent updates which have been made to the Order.
- 6.4 It is respectfully requested that condition 6 attached to permission 66467 is removed in its entirety.

APPENDICES

NOTICE OF PLANNING PERMISSION

Town and Country Planning Act 1990 Town and Country Planning (Development Management Procedure) (England) Order 2015

To:
Mr Steve Shiels
Archiplan Design & Build Ltd
19 Lane Drive
Grotton
OL4 5QZ

On Behalf Of:
Mr Jordan Smith
The Bungalow
Knowsley Road
Ainsworth
Bolton
BL2 5PT

PART 1 - Particulars of Application

Application Number: 66467

Date of Registration: 04/02/2021

Proposal:

Variation of conditions following approval of 65626- Amendment to approved plans with the addition of a porch

Location:

The Bungalow, Ainsworth Nursing Home, Knowsley Road, Ainsworth, Bolton, BL2 5PT

PART 2 - Particulars of Decision

Bury Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been **GRANTED** for the carrying out of the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

- 1 This decision relates to drawings numbered Location plan A.01.1.1 rev C; Site plan A.01.1.2 rev A; Ground floor proposed A.01.2.2 rev C; First floor proposed A.01.2.3 rev C; Proposed elevations A.01.2.4 rev B; Site section A.01.2.5 rev A; Site plan/Landscape A.01.2.6 Rev A; 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.
- 2 Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validity evidence (soil descriptions, laboratory certificates, photographs etc) submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning

Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 3 Where during any works on site, unforeseen contamination is suspected or found, or contamination is caused, works on the site shall cease and the Local Planning Authority shall be notified immediately. The developer shall then produce a risk assessment and submit remediation proposals, if required, for approval to the Local Planning Authority. On approval of the remediation strategy, the development shall then be carried out in accordance with the approved details and process including any required timescales.
Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 4 No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been approved by the Local Planning Authority.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 - Conservation of the Natural Environment and EN6/3 - Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 5 The development hereby approved shall be carried out in accordance with the landscaping scheme hereby approved for planning reference 65626, condition 6 (Revised landscaping plan received 14/12/20; Planting plan agreed under the TPO application; Bat and bird boxes to be incorporated into the scheme) and shall be implemented not later than 12 months from the date the building is first occupied or within the first available tree planting season,; and any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees or shrubs of a similar size or species to those originally required to be planted.
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policy EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan..
- 6 Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, no development shall be carried out within the terms of Classes A to G of Part 1 of Schedule 2 of the Order, without the submission and approval of a relevant planning application.
Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed.
- 7 The development hereby approved shall be carried out in accordance with the boundary treatment approved under condition 8 of planning reference 65626 (Revised landscaping plan received 14/12/20 and boundary fence shown set back into the site to align with site edging).
Reason - To secure the satisfactory development of the site and in the interests of the visual amenities of the area pursuant to Policies EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development, OL1/4 - Conversion and Re-use of Buildings in the Green Belt of Bury Unitary Development Plan.
- 8 Prior to first occupation of the development hereby approved, a sprinkler system to meet the requirements of BS 9251:2014 shall be installed in the dwelling hereby

approved. The sprinkler system shall thereafter be maintained at all times.
Reason. In the interests of fire safety and to ensure the safe and satisfactory development of the site and for its future occupiers pursuant to Bury Unitary Development Plan Policies H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design.

- 9 The car parking indicated on the approved plans shall be surfaced and made available for use prior to first occupation of the dwelling hereby approved and thereafter maintained available for use at all times.
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policies H2/2 - The Layout of New Residential Development and HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
- 10 The development hereby approved shall be carried out in accordance with the hierarchy of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). This must include assessment of potential SuDS options for surface water drainage with appropriate calculations and test results to support the chosen solution. The drainage scheme shall be implemented prior to first occupation and thereafter maintained.
Reason. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.
- 11 The external finishing materials for the development hereby approved shall be carried out in accordance with the approved plans and condition 12 of approved application 65626.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policies EN1/1 Visual Amenity, H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design, OL1/4 - Conversion and Re-use of Buildings in the Green Belt and SPD 8 and 9.

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.

The following policies of the Bury Unitary Development Plan, National and Regional Government were considered relevant:

This decision relates only to the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Applicant Plan Numbers:

Location plan A.01.1.1 rev C; Site plan A.01.1.2 rev A; Ground floor proposed A.01.2.2 rev C; First floor proposed A.01.2.3 rev C; Proposed elevations A.01.2.4 rev B; Site section A.01.2.5 rev A; Site plan/Landscape A.01.2.6 Rev A

NOTES TO APPLICANT

1. Bury Council has been identified by DEFRA as an area requiring to significantly improve air quality. The required measures to do this are currently under discussion. Due to this requirement, this Section recommends applicants provide EV charging points for each residential unit. EV chargepoints shall be chosen for the Electric Vehicle Homecharge Scheme approved chargepoint model list.

2. INFORMATIVE - The Control of Noise Regulations 1975, Section 60. Control of Noise on Construction Sites

Works carried out in connection with the planning permission shall comply with the above regulations which require the following:

1. All works and ancillary operations which are audible at the boundary of the nearest house or noise receptor, or at such other place as may be agreed with the Council, shall be carried out only between the hours of 0800 and 1800 on Mondays to Fridays and between the hours of 0900 and 1400 on Saturdays and at no time on Sundays and Bank Holidays.

2. The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.

3. All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturer's instructions.

4. Any emergency deviation from the above (1 - 3) shall be notified to Bury Council without delay.

Any contravention of these requirements will trigger the serving of a Notice under Section 60 of The Control of Noise Regulations 1975.

Please note that any construction takes place before 13 May 2021, would be subject to COVID-19 Extended Hours:

<https://www.gov.uk/government/publications/construction-working-hours-draft-guidance/draft-guidance-construction-site-hours-deemed-consent>

Department of Operations - Environment Section.
23 June 2020

3. Whilst the building to be refurbished and extended has been assessed as low risk for bats, the applicant is reminded that under the Habitat Regulation it is an offence to disturb, harm or kill bats. If a bat is found all work should cease immediately and a suitably licensed bat worker employed to assess how best to safeguard the bat(s). Natural England should also be informed.
4. The applicant is reminded that under the Protection of Badgers Act 1992 it is an offence to intentionally or recklessly interfere with a badger sett. If a badger sett is found on or near the developments site work should cease immediately and a suitably experienced ecologist employed to advise on how best to proceed.
- 5.
6. Vehicular access for a fire appliance to within 45m of all points within the dwellings;

The access road should be a minimum width of 4.5m and capable of carrying 12.5 tonnes;
If the access road is more than 20m long a turning circle, hammerhead, or other turning point for fire appliances will be required;
There should be a suitable fire hydrant within 165m of the furthest dwelling.

Signed:

A handwritten signature in black ink, appearing to read 'P. H. H.', written in a cursive style.

5 of 5

.....
On behalf of the Council

Date of Decision: 30/03/2021

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 29/03/2021	Ref: 66467/FUL
Registration: 04/02/2021	LDFC:	Expiry Date: 01/04/2021
Site Visit: 27/02/2021	Site Notice: 27/02/2021	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Variation of conditions following approval of 65626- Amendment to approved plans with the addition of a porch

Location: The Bungalow, Ainsworth Nursing Home, Knowsley Road, Ainsworth, Bolton, BL2 5PT

Description

The site relates to a plot and building which forms part of the former Ainsworth Nursing Home. The site is accessed via a private lane which is formed from the top of Ainsworth Road. The whole site is located in the Green Belt, Special Landscape Area and West Pennine Moors and is on the Council's Draft local list as a Non-Designated Heritage Asset. The site is covered by a blanket TPO.

The nursing home site is rectangular in shape and the existing built development is generally focused centrally within the site, with the main internal access running north through the site which branches to the east to serve the main building and other buildings to the north.

By way of background, the site has been sold off as separate plots for residential development and approval has been granted for the conversion of 3 no. properties on the site.

This application relates to the approval of 1 no. plot, known as the Bungalow. This property is located at the entrance of the site adjacent to the southern boundary. The plot comprised a detached single storey bungalow which was constructed in the 1970's as manager's accommodation to serve the nursing home.

Approval has been granted for the conversion of the building to a single dwelling with proposed extensions and alterations comprising the increase to the roof height, and addition of a 2 storey extension with associated landscaping and parking (planing reference 65626). Permitted development rights were removed and therefore any further extensions or alterations would require a planning application.

The works to implement the planning permission have commenced.

This application seeks a variation of condition of the approved planning application ref 65626 for the addition of a porch.

The porch would be located on the main entrance and north elevation which faces internally into the site. The porch would project 1.2m from the front elevation and be 2.6m wide and 3.7m high. The porch would have a pitched roof and be constructed of the same brick material and roof slate as the approved dwelling.

Relevant Planning History

02424/E - Proposed two storey rear extension/porch to front elevation and increase ridge height to provide 4 bed home in the place of existing 3 bed bungalow - Enquiry completed 08/04/2020

65626 - Conversion of property to 1 no. residential building; increase to the roof height, two storey extension and associated parking and landscaping, change of use of land to residential garden - Approve with Conditions 23/09/2020

Publicity

Site notice posted 27/2/21

No responses received as a result of the publicity

Statutory/Non-Statutory Consultations

N/a

Pre-start Conditions -Not relevant

Unitary Development Plan and Policies

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.

Housing Principle - Established in principle by approval of planning reference 65626.

Green Belt Principle - The principle of the proposed development for the residential development was assessed in line with para 145 c) for proportionate additions and g) for partial or complete re-development of previously developed land, which would not have a greater impact on the openness than existing, and para 146 d) for the re-use of buildings, provided they preserve openness.

SPD8 advises that extension should not be disproportionate to the existing dwelling and generally considers extensions up to a third of the volume of the original dwelling, and in consideration of individual merits.

The volume increase of the approved dwelling was 30% and there was an increase in height of 1.1m. The applicant also advanced a case and justification for the proposed development and the application was assessed as compliant with Green Belt planning policy principles.

This application for the addition of a porch would add an additional 2% volume (11.5 cubic metres) to the dwelling.

The porch would be located on the north side of the property and would not be visible outside the site. It would be a relatively minimal addition and the volume increase would not be significant and still within the third increase which is advised in policy guidance.

As such, the proposed development is considered to be acceptable and would comply with the principles of the NPPF, UDP Policies OL1/2, EN9/1 and SPD8.

Heritage - The approved dwelling was assessed as acceptable and in compliance with the principles of the NPPF.

The addition of the porch would compliment the approach taken for the redevelopment of the property and given its size and position on the site it is considered that the proposed development would not cause harm to the significance of the building or the setting of the group as a whole and would comply with the principles of the NPPF.

Siting, design and appearance - The porch would be located on the north elevation and contained within the site boundary. It would not affect the arrangements around the dwelling or impact on the parking provision.

The porch would be a relatively small addition to the dwelling. It would be a modest design with a pitched roof to match the existing dwelling and the adjacent buildings and be constructed of brick elevations and a slate roof to match the existing.

As such, it is considered the proposed development would be acceptable and comply with UDP Policies H2/1 - The Form of New Residential Development, H2/2 - The Layout of New Residential Development, EN1/2, OL1/2, OL1/4 and SPD 8 and 9.

Impact on residential amenity - Given the size, position and design of the porch, there would be no issues of overlooking or impacts on privacy or outlook of neighbouring properties.

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 This decision relates to drawings numbered Location plan A.01.1.1 rev C; Site plan A.01.1.2 rev A; Ground floor proposed A.01.2.2 rev C; First floor proposed A.01.2.3 rev C; Proposed elevations A.01.2.4 rev B; Site section A.01.2.5 rev A; Site plan/Landscape A.01.2.6 Rev A; 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.
- 2 Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validatory evidence (soil descriptions, laboratory certificates, photographs etc) submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 3 Where during any works on site, unforeseen contamination is suspected or found, or contamination is caused, works on the site shall cease and the Local Planning Authority shall be notified immediately. The developer shall then produce a risk assessment and submit remediation proposals, if required, for approval to the Local Planning Authority. On approval of the remediation strategy, the development shall then be carried out in accordance with the approved details and process including any required timescales.
Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 4 No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been approved by the Local Planning Authority.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 - Conservation of the Natural Environment and EN6/3 - Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy

Framework Section 15 - Conserving and enhancing the natural environment.

- 5 The development hereby approved shall be carried out in accordance with the landscaping scheme hereby approved for planning reference 65626, condition 6 (Revised landscaping plan received 14/12/20; Planting plan agreed under the TPO application; Bat and bird boxes to be incorporated into the scheme) and shall be implemented not later than 12 months from the date the building is first occupied or within the first available tree planting season,; and any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees or shrubs of a similar size or species to those originally required to be planted.
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policy EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan..
- 6 Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, no development shall be carried out within the terms of Classes A to G of Part 1 of Schedule 2 of the Order, without the submission and approval of a relevant planning application.
Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed.
- 7 The development hereby approved shall be carried out in accordance with the boundary treatment approved under condition 8 of planning reference 65626 (Revised landscaping plan received 14/12/20 and boundary fence shown set back into the site to align with site edging).
Reason - To secure the satisfactory development of the site and in the interests of the visual amenities of the area pursuant to Policies EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development, OL1/4 - Conversion and Re-use of Buildings in the Green Belt of Bury Unitary Development Plan.
- 8 Prior to first occupation of the development hereby approved, a sprinkler system to meet the requirements of BS 9251:2014 shall be installed in the dwelling hereby approved. The sprinkler system shall thereafter be maintained at all times.
Reason. In the interests of fire safety and to ensure the safe and satisfactory development of the site and for its future occupiers pursuant to Bury Unitary Development Plan Policies H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design.
- 9 The car parking indicated on the approved plans shall be surfaced and made available for use prior to first occupation of the dwelling hereby approved and thereafter maintained available for use at all times.
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policies H2/2 - The Layout of New Residential Development and HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
- 10 The development hereby approved shall be carried out in accordance with the hierarchy of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). This must include assessment of potential SuDS options for surface water drainage with appropriate calculations and test results to support the chosen solution. The drainage scheme shall be implemented prior to first occupation and thereafter maintained.
Reason. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 -

Meeting the challenge of climate change, flooding and coastal change of the NPPF.

- 11 The external finishing materials for the development hereby approved shall be carried out in accordance with the approved plans and condition 12 of approved application 65626.

Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policies EN1/1 Visual Amenity, H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design, OL1/4 - Conversion and Re-use of Buildings in the Green Belt and SPD 8 and 9.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	29/3/21	DM	29/03/21

APPENDIX 2

NOTICE OF PLANNING PERMISSION

**Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England)
Order 2015**

To:

Mr Shiels
ARCHIPLAN DESIGN & BUILD LTD
19 Lane Drive
Grotton
OL4 5QZ

On Behalf Of:

Mr Smith
The Bungalow
Knowsley Road
Ainsworth
Radcliffe
BL2 5PT

PART 1 - Particulars of Application**Application Number:** 65626**Date of Registration:** 07/07/2020**Proposal:**

Conversion of property to 1 no. residential building; increase to the roof height, two storey extension and associated parking and landscaping, change of use of land to residential garden

Location:

The Bungalow, Ainsworth Nursing Home, Knowsley Road, Ainsworth, Bolton, BL2 5PT

PART 2 - Particulars of Decision

Bury Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been **GRANTED** for the carrying out of the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

- 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 Location plan A.01.1.1 rev C; Site plan proposed A.01.2.1 rev A; Ground floor proposed A.01.2.2 rev A; First floor proposed A.01.2.3 rev B; Proposed elevations A.01.2.4 rev A; Site section A.01.2.5; 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.
- 3 Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;

The approved contamination testing shall then be carried out and validity evidence (soil descriptions, laboratory certificates, photographs etc) submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 4 Where during any works on site, unforeseen contamination is suspected or found, or contamination is caused, works on the site shall cease and the Local Planning Authority shall be notified immediately. The developer shall then produce a risk assessment and submit remediation proposals, if required, for approval to the Local Planning Authority. On approval of the remediation strategy, the development shall then be carried out in accordance with the approved details and process including any required timescales.

Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 5 No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.

Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 - Conservation of the Natural Environment and EN6/3 - Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 6 Within 2 months of the development hereby approved, a landscaping scheme shall be submitted to, and approved by the Local Planning Authority. The contents of the plan should include native tree and shrub planting and the provision of bat bricks/tubes within the new development and one bird box on the retained mature tree. The approved scheme shall thereafter be implemented not later than 12 months from the date the building(s) is first occupied or within the first available tree planting season,; and any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees or shrubs of a similar size or species to those originally required to be planted.

Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and EN8/2 - Woodland and Tree Planting of the Bury Unitary Development Plan and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

- 7 Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, no development shall be carried out within the terms of Classes A to G of Part 1 of Schedule 2 of the Order, without the submission and approval of a relevant planning application.

Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed.

- 8 Prior to the erection of any boundary treatment, details relating to the proposed boundary treatment for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details only shall be implemented as part of the approved development.

Reason - To secure the satisfactory development of the site and in the interests of the visual amenities of the area pursuant to Policies EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development, OL1/4 - Conversion and Re-use of Buildings in the Green Belt of Bury Unitary Development Plan.

- 9 Prior to first occupation of the development hereby approved, a sprinkler system to meet the requirements of BS 9251:2014 shall be installed in the dwelling hereby approved. The sprinkler system shall thereafter be maintained at all times.
Reason. In the interests of fire safety and to ensure the safe and satisfactory development of the site and for its future occupiers pursuant to Bury Unitary Development Plan Policies H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design.
- 10 The car parking indicated on the approved plans shall be surfaced and made available for use prior to first occupation of the dwelling hereby approved and thereafter maintained available for use at all times.
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policies H2/2 - The Layout of New Residential Development and HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
- 11 The development hereby approved shall be carried out in accordance with the hierarchy of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). This must include assessment of potential SuDS options for surface water drainage with appropriate calculations and test results to support the chosen solution. The drainage scheme shall be implemented prior to first occupation and thereafter maintained.
Reason. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.
- 12 Following groundworks and prior to the construction of any extension or the carrying out of any external alterations, details/samples of the materials to be used, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall be used for the construction and alterations of the development.
Reason. No material samples have been submitted and are required in the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policies EN1/1 Visual Amenity, H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design, OL1/4 - Conversion and Re-use of Buildings in the Green Belt and SPD 8 and 9.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

The following policies of the Bury Unitary Development Plan, National and Regional Government were considered relevant:

NPPF	National Planning Policy Framework
H1/2	H1/2 - Further Housing Development
H2/1	H2/1 - The Form of New Residential Development
H2/2	H2/2 - The Layout of New Residential Development
H2/4	H2/4 - Conversions
EN1/1	EN1/1 - Visual Amenity
EN1/2	EN1/2 - Townscape and Built Design
EN1/3	EN1/3 - Landscaping Provision
EN2/1	EN2/1 - Character of Conservation Areas
EN2/2	EN2/2 - Conservation Area Control
EN2/3	EN2/3 - Listed Buildings
EN3/1	EN3/1 - Impact of Development on Archaeological Sites
EN5/1	EN5/1 - New Development and Flood Risk
EN6	EN6 - Conservation of the Natural Environment
EN6/3	EN6/3 - Features of Ecological Value
EN9/1	EN9/1 - Special Landscape Areas
OL1/2	OL1/2 - New Buildings in the Green Belt
OL1/4	OL1/4 - Conversion and Re-use of Buildings in the Green Belt
OL7/2	OL7/2 - West Pennine Moors
HT2/4	HT2/4 - Car Parking and New Development
HT6/2	HT6/2 - Pedestrian/Vehicular Conflict
SPD8	Development Control Policy Guidance Note 8 - New Buildings and Associated Development in the Green Belt
SPD 9	Development Control Policy Guidance Note 9 - Conversion and Re-use of Buildings in the Green Belt
SPD11	Development Control Policy Guidance Note 11 - Parking Standards in Bury
EN5/1	EN5/1 - New Development and Flood Risk

This decision relates only to the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Applicant Plan Numbers:

Location plan A.01.1.1 rev C; Site plan proposed A.01.2.1 rev A; Ground floor proposed A.01.2.2 rev A; First floor proposed A.01.2.3 rev B; Proposed elevations A.01.2.4 rev A; Site section A.01.2.5;

NOTES TO APPLICANT

- . Bury Council has been identified by DEFRA as an area requiring to significantly improve air quality. The required measures to do this are currently under discussion. Due to this requirement, this Section recommends applicants provide EV charging points for each residential unit. EV chargepoints shall be chosen for the Electric Vehicle Homecharge Scheme approved chargepoint model list.
- . INFORMATIVE - The Control of Noise Regulations 1975, Section 60. Control of Noise on Construction Sites

Works carried out in connection with the planning permission shall comply with the above regulations which require the following:

1. All works and ancillary operations which are audible at the boundary of the nearest house or noise receptor, or at such other place as may be agreed with the

Council, shall be carried out only between the hours of 0800 and 1800 on Mondays to Fridays and between the hours of 0900 and 1400 on Saturdays and at no time on Sundays and Bank Holidays.

2. The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.

3. All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturer's instructions.

4. Any emergency deviation from the above (1 - 3) shall be notified to Bury Council without delay.

Any contravention of these requirements will trigger the serving of a Notice under Section 60 of The Control of Noise Regulations 1975.

Please note that any construction takes place before 13 May 2021, would be subject to COVID-19 Extended Hours:

<https://www.gov.uk/government/publications/construction-working-hours-draft-guidance/draft-guidance-construction-site-hours-deemed-consent>

Department of Operations - Environment Section.
23 June 2020

. Whilst the building to be refurbished and extended has been assessed as low risk for bats, the applicant is reminded that under the Habitat Regulation it is an offence to disturb, harm or kill bats. If a bat is found all work should cease immediately and a suitably licensed bat worker employed to assess how best to safeguard the bat(s). Natural England should also be informed.

. The applicant is reminded that under the Protection of Badgers Act 1992 it is an offence to intentionally or recklessly interfere with a badger sett. If a badger sett is found on or near the developments site work should cease immediately and a suitably experienced ecologist employed to advise on how best to proceed.

. Vehicular access for a fire appliance to within 45m of all points within the dwellings; The access road should be a minimum width of 4.5m and capable of carrying 12.5 tonnes; If the access road is more than 20m long a turning circle, hammerhead, or other turning point for fire appliances will be required; There should be a suitable fire hydrant within 165m of the furthest dwelling.

Signed:

A handwritten signature in black ink, appearing to read 'P. H. H.', written in a cursive style.

6 of 6

.....
On behalf of the Council

Date of Decision: 23/09/2020

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 22/09/2020	Ref: 65626/FUL
Registration: 07/07/2020	LDFC: 31/07/2020	Expiry Date: 01/09/2020
Site Visit: 24/07/2020	Site Notice: 24/07/2020	Press Date: 16/07/2020
Objections: 0	Con Area: N/A	Adv Type: ARW
Reason for Delay: N/A		EIA: NA
		Dec Level: COM
		Stat Class: MIDW

Proposal: Conversion of property to 1 no. residential building; increase to the roof height, two storey extension and associated parking and landscaping, change of use of land to residential garden

Location: The Bungalow, Ainsworth Nursing Home, Knowsley Road, Ainsworth, Bolton, BL2 5PT

Description

The site relates to a plot and building which forms part of the former Ainsworth Nursing Home. The site is accessed via a private lane which is formed from the top of Ainsworth Road. The whole site is located in the Green Belt, Special Landscape Area and West Pennine Moors and is on the Council's Draft local list as a Non-Designated Heritage Asset. The site is covered by a blanket TPO.

The site is located to the north of Ainsworth Village and is self-contained and remote from the rest of the village and nearby farm settlements and residential dwellings, having formally being an isolation hospital for infectious diseases, although it was predominantly maintained as a functioning hospital, and later used as a nursing home for the elderly up until the time it closed down.

The nursing home site is rectangular in shape and the existing built development is generally focused centrally within the site, with the main internal access running north through the site which branches to the east to serve the main building and other buildings to the north. The remaining land is grassed, treed or vegetated. Surrounding the site is a mix of low level fencing and trees beyond which and surrounding the site is open land and fields.

The nursing home has been developed and extended over a period of time with the main 2 storey building located centrally, added to by later single and 2 storey elements. There are also buildings which are detached from the main cluster, used previously as additional care facilities or staff accommodation.

By way of background, the site has now been sold off as separate plots and it is understood that the intention is for proposals to come forward by the individual purchasers for developing out each individual plot for residential purposes. It is also to be noted that there has been unlawful tree clearance and removal from the site prior to the plots being sold at auction.

This application involves one plot and a residential development.

The plot is located at the entrance to the site adjacent to the southern boundary and set within approximately 0.093 ha of land. The plot comprises a detached single storey bungalow constructed of red brick with upvc infill panels and a pitched roof. The bungalow

DELEGATED REPORT

is relatively modest in size, with accommodation of 3 bedrooms, kitchen, lounge and bathroom. The main access is on the northern elevation which faces the internal part of the site.

The bungalow was originally constructed in the 1970's as manager's accommodation to serve the nursing home. However, the application states that following the closure of the nursing home, it has been in a private residential use. However, no planning permission or lawful development certificate has been granted for its use as a private dwelling and it is currently classed as ancillary accommodation to the nursing home.

The proposed development involves the conversion of the building to a single dwelling in order to regularise the planning permission in respect of its use for residential purposes.

It is also proposed to increase the roof height, extend the property with a 2 storey and provide associated landscaping and parking.

The proposed extension would be added to the southern elevation and project 1.72m with a first floor balcony on the eastern side. The roof would be raised to accommodate a first floor. The design would be one of a contemporary approach to incorporate dormer window and pitched roof detailing. Part of the ground floor of the east and south elevation would comprise full height glazing with a flat roof balcony above enclosed by a balustrade.

Materials would comprise brickwork up to first floor level, render above and slate roof.

Internally, accommodation would provide living spaces at ground floor and 4 bedrooms at first floor with en suite and bathroom facilities with the balcony accessed from the master bedroom.

The areas around the dwelling would be paved and a garden area provided to the east of the property. The remaining site area to the north of the dwelling would be used for parking.

The applicant also owns a slither of land in the field to the south directly adjacent to the site. This is not included within the red edge application site area. A 2m high timber fence would be erected to form the southern boundary of the site along the existing boundary line between the site and the field and would enclose the garden at the side. Three small trees would be removed.

Volume and height comparisons of the existing and proposed areas follows:

existing volume - 388.04 cubic m
proposed volume 504.92 cubic m
%age increase = 30%

existing height - 5.2m
proposed height 6.3
Increase - 1.1m

Relevant Planning History

02424/E - Proposed two storey rear extension/porch to front elevation and increase ridge height to provide 4 bed home in the place of existing 3 bed bungalow - Enquiry completed 08/04/2020

65412 - Conversion of wash house to 1 no. dwelling with single storey extensions and dormer to rear - Approved 22/6/20

Publicity

Letters sent on 9/7/20 to 41 properties on Knowsley Road, Church Street, Arthur Lane.
Site notice posted 24/7/20.

No responses received as a result of the publicity.

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to conditions.

Borough Engineer - Drainage Section - No response received.

Environmental Health - Contaminated Land - No objection subject to conditions and informatives.

Conservation Officer - No objection

Public Rights of Way Officer - No comments received.

Waste Management - No response received.

United Utilities (Water and waste) - No response received.

Greater Manchester Ecology Unit - No objection subject to conditions and informatives

Minerals and Waste Planning Unit (Urban Vision Partnership Ltd) - No response received.

Fire Protection Dept Bury Fire Station (BS 9999) - No objections - recommend residential sprinkler systems and advisories re fire safety.

Pre-start Conditions - Applicant/Agent has agreed with pre-start conditions

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/4	Conversions
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN2/3	Listed Buildings
EN3/1	Impact of Development on Archaeological Sites
EN5/1	New Development and Flood Risk
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN9/1	Special Landscape Areas
OL1/2	New Buildings in the Green Belt
OL1/4	Conversion and Re-use of Buildings in the Green Belt
OL7/2	West Pennine Moors
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
SPD8	DC Policy Guidance Note 8 - New Buildings in the Green Belt
SPD 9	Conversion and Re-use of Buildings in the Green Belt
SPD11	Parking Standards in Bury
EN5/1	New Development and Flood Risk

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.

Green Belt/Environment Policies -

Chapter 13 - Protecting Green Belt Land, Paragraphs 143 and 144 state that inappropriate development in the Green Belt is by definition, harmful and should not be approved except in Very Special Circumstances (VSC). Planning Authorities should ensure that substantial weight is given to any harm in the Green Belt. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 145 considers the construction of new buildings as inappropriate development in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) provision of appropriate facilities for outdoor sport, recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green belt and do not conflict with the purpose of including land;
- c) the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs; and

g) limited infilling or partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: not have a greater impact on the openness of the green belt than the existing development: or not cause substantial harm to the openness of the Green Belt, where the development would re--use previously developed land and contribute to meeting identified affordable housing need within the area of the Local Planning Authority.

Paragraph 146 states that other certain forms of development are also not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. One of the exceptions to this is bullet point d) the re-use of buildings provided that the buildings are of permanent and substantial construction.

OL1/2 - UDP Policy OL1/2 - New Buildings in the Green Belt states that the construction of new buildings in the Green Belt is inappropriate development unless -
for agriculture and forestry,
essential facilities for outdoor sports and recreation,
limited extension, alteration or replacement dwelling provided it would not result in disproportionate additions over and above the size of the original dwelling or not materially larger than the one it is to replace;
limited infilling in existing villages as set out under Policy OL1/3.

UDP Policy OL1/4 - Conversion and Re-use of Buildings in the Green Belt is not inappropriate development and would be permitted provided that:

- it would not have a materially greater impact than the present use on openness;
- any extensions of re-used buildings and any associated uses of land surrounding the building do not conflict with the openness of the green belt;
- the buildings would be capable of conversion without major or complete reconstruction;
- form, bulk and design would be in keeping with the surroundings;
- suitable access and traffic can be accommodated;
- necessary services can be provided;
- no damage to habitats or protected species.

UDP Policy OL7/2 - West Pennine Moors ensures the important character of the area is protected and focuses not only on the control of development but measures to enhance the environment.

SPD8 - New Buildings and Associated Development in the Green Belt and SPD9 - Conversion of Buildings in the Green Belt and provides additional advice and guidance, particularly with reference to siting, design, materials, scale and form of a development.

UDP Policy EN1/1 - Visual Amenity - Development should not be permitted where proposals would have a detrimental effect on the visual amenity both within, or viewed from, areas of environmental interest such as the Green Belt, Special Landscape Area or the river valleys. The wider consideration of the effect on visual amenity is necessary in sensitive areas to ensure that developments are not inappropriate by reason of their siting, materials or design.

UDP Policy EN9/1 - Area of Special Landscape seeks to strictly control development and is required to be sympathetic to its surroundings in terms of visual impact. High standards of design, siting and landscaping will be expected and unduly obtrusive development will not be permitted in such areas.

Principle - The application proposes the conversion of and extension to a building which is located on a previously developed and historically established site.

National Planning Policy states that there are some exceptions which would allow for

development in the Green Belt. In this respect, para 145 c) for proportionate additions and g) for partial or complete re-development of previously developed land, which would not have a greater impact on the openness than existing, and para 146 d) for the re-use of buildings, provided they preserve openness, are relevant.

The property is a red brick build of a permanent and substantial construction and up until recently has been inhabited as a private dwelling. It is evident that the building is capable of conversion without major re-structural works or any significant re-build.

In terms of extensions to the building, proposed works comprise a 2 storey extension and increase the roof height to accommodate a 1st floor.

The volume increase would be 30% and height increase 1.1m.

SPD8 advises that additions should not be disproportionate to the existing dwelling, and in general terms, may consider extensions up to a third of the volume of the original dwelling. However, each proposal is considered on its own merits.

According to case law in the Court of Appeal judgement *Turner v Secretary of State* 2016 at para 14, "The concept of openness of the green belt is not narrowly limited to volumetric approach..... (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspects which the Green belt presents."

Whilst within the guide of the third percentage increase, the applicant has also submitted a case to justify the extensions and the increase in height, which includes its setting within the site, perception from long range views and screening to this part of the site.

Whilst located at the entrance to the site and visible from the south and public vantage points, the building is set against the backdrop of larger 2 storey buildings which are located within the site. Whilst the roof extension would increase the height of the property by 1.1m, views of the build are long range, and with the proposed boundary fencing and tree planting which would form the southern boundary of the site, it is considered that the increase in height would not be perceptible from outside the site.

Given the context of the site and relationship to the surrounding area, its status as previously developed land, together with the scale, form and size of the proposed development which would be within the volumetric guidance of a third increase, it is considered that there would not be a detrimental impact on the openness or the special character of the Green Belt.

As such, it is considered that the proposed development would comply with the principles of the NPPF, UDP Policies OL1/2, EN9/1 and SPD8.

Housing - Policies

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.

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.

Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties

provides useful guidance in terms of acceptable aspect standards between dwellings and design criteria.

Housing - Principle -

The property was originally constructed in the 1970's as manager's accommodation, and since the closure of the nursing home was used as a private residential use. However, there has been no formal planning permission granted for the use of the property from ancillary accommodation to a private dwelling.

The proposed building is located on a brownfield site, close to the village of Ainsworth. It lies within an existing complex of buildings formerly used as a nursing home and therefore residential in character to some degree. There is existing infrastructure in place to facilitate the development and considered that the proposal to convert the building would not conflict with the character of the surrounding area or land uses.

As such, it is considered that the proposed development would be acceptable in principle and would comply with H1/2 and the principles of the NPPF.

Heritage

Paragraph 197 of the NPPF requires - "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset".

Paragraph 189 of the NPPF requires that:

"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation".

Ainsworth Nursing Home is considered to be A Non-Designated Heritage Asset. It was built around the turn of 19th century. It was purpose built as a smallpox isolation hospital and later became a nursing home remaining in that use until 1986. The wash house is part of the group asset that is the former nursing home. The former nursing home is a good example of civic/hospital architecture of that period and is largely intact and unaltered and it also possesses other heritage values.

The submitted heritage statement satisfactorily identifies and describes the significance the building as having architectural, historical and associative/communal heritage values relating to its use as an isolation hospital and latterly as a nursing home.

The proposed design and materials for the proposed conversion of the bungalow takes an architecture lead from the existing group of buildings. As such the proposal would harmonise with the existing group and would represent an improvement on the existing 1970s bungalow. It would also improve the setting of the NHDA in removing an incongruous feature.

The conversion of the building into a 3 bed single dwelling would bring the building back into a viable and sustainable use compatible with its conservation, so complying with paragraph 192 of the NPPF.

As such, it is considered that the proposed development would not cause harm to the significance of the building or the setting of the group as a whole and would comply with the principles of the NPPF.

Layout - The plot is 0.093ha in size with the building located to the front of the site adjacent to the existing main entrance.

As the development would comprise conversion with extension, the footprint and position of the existing building within the plot would not change. The main alterations would relate to the external layout of the areas proposed for parking and amenity space.

It is proposed to orientate the build with the main entrance or 'front' of the dwelling located on the north elevation facing internally into the site. The frontage would be paved to provide a driveway and parking for 3 cars. The land to the east would comprise a patio and garden area. Whilst this piece of land is fairly extensive it already forms the existing curtilage for the property and with the removal of p.d rights which would ensure that no built development could take place without consent, utilising this area as amenity space is considered to be acceptable.

It is proposed to erect a 2m high timber boarded fence along the north, south and western boundary. Whilst it is understood that the occupiers would expect a certain degree of privacy into their garden and property, a 2m high solid boundary fence, particularly along the southern boundary which is highly visible to views, may not be the most appropriate solution for a site which is within the Green Belt and where openness is characteristic of such special areas. The submitted 'visual' plans show that a hedge would be provided along parts of the boundary which would soften the appearance of the boundary fence, the site and the dwelling but this is not detailed on the proposed plans. To ensure appropriate boundary treatment would be erected to the site, it is therefore considered reasonable to include a condition requiring details to be submitted.

Permission was granted for the removal of 3 trees and replacement trees required to be planted. However, there are still trees within the plot which should be retained. As these are covered by the site's blanket TPO an application for removal would be required in any event, and as such a condition to ensure their retention would not be necessary.

Access to the site would be as existing and via the private lane which is formed at the head of Knowsley Road and would lead directly to the site.

It is considered that the proposed layout would not fundamentally alter from the existing arrangement and would not affect the wider site or any future development which may come forward. As such, the proposed layout is considered to be acceptable and would comply with UDP Policies H2/1, H2/2, EN1/2, OL1/4 and SPD8 and 9.

Scale, design and appearance - The existing property is a detached single storey bungalow. Built after the original nursing home, it is a newer addition to the site and whilst it forms part of the historic character of the site, it is a relatively average and ordinary 1970's building with no particular architectural merits.

The design strategy has been to take design cues from the existing main buildings so as to better reflect and harmonise with the character and appearance of the surrounding heritage buildings. The additional roof space would incorporate dormers and gable feature projections taking reference from the surrounding original features and window openings of similar size and style to similarly reflect the appearance of other buildings on the site. As the building is located at the forefront of the site, it would be one of the more visible built forms from public views and this approach to design is considered to be reflective of the character of the site.

In respect of materials, the build would predominantly use a facing red brick, in keeping

with the rest of the site. Whilst there would be elements of render with the south/east corner fully formed by a large glazed opening and balcony above, these would add a modern interpretation and interest to the building.

In terms of the scale of the development, whilst there would be additions to the build and an increase in height, the design of the extensions would be sensitively incorporated within the fabric of the build so as not to result in an overly dominant built form in relation to the other buildings within the site, and the wider context of the character of the area in general.

As such, it is considered that the proposed alterations and extensions would be acceptable and in keeping with the traditional character of the building and the site itself and would comply with UDP Policies H2/1 - The Form of New Residential Development, H2/2 - The Layout of New Residential Development, EN1/2, OL1/2, OL1/4 and SPD 8 and 9.

Impact on residential amenity - The site is in a rural and countryside location and at almost 700m away from the main centre of Ainsworth Village, the nearest properties being the cottages to the site access lane approx 200m away to the south and as such there would not be an issue of overlooking or privacy.

With regards to any impacts from overlooking or privacy issues within the site, the nearest building is the main 2 storey nursing home facility, directly to the north.

Although the main building has not in itself yet come forward for development as a private residential dwelling, as this building forms one of the plots which has been sold off for re-development, it is anticipated that a similar application for conversion and or extensions will likely be a submission in the future.

There is a distance of 15.5m between the 2 buildings. Whilst it is proposed to increase the height and insert windows in the north elevation which would face the existing nursing home, the proposed windows would be slimline secondary type windows where views out would be more limited. There would be an intervening boundary fence to the site and there is also an access road which separates the 2 buildings and provides a sense of separation and space. As aspect standards are already sub-standard, it is considered that any impacts on the opposite property from the proposed development would not be significant or adverse to future occupiers.

In terms of likely traffic generation, the proposed development would be of such a relatively small scale, that it is considered there would not be significant traffic levels to the site. Taking a wider view, and should the other plots come forward for re-development, given the scale of the site and numbers of potential plots available for development, it is considered that there would not be significant levels of traffic generation created, particularly when compared to the traffic which could be generated by a nursing home from employees, visitors and medical/support.

As such, it is considered that there would not be a detrimental impact on residential amenity and the development would comply with UDP Policies H2/1, H2/2 and EN1/2.

Highways -

Access - The existing access to the site is from the head of Ainsworth Road. It is an unadopted single wide, but well-maintained and surfaced lane. This is the only access into the site and would be utilised by not just this plot but by other plots which may come forward for development in the future.

For a development of a single plot, the standard of the access is considered to be acceptable for the amount of traffic which would be generated, and that given the number of plots which could come forward in the future, which is likely to be no more than 6 or 7, the existing access would be of a standard to suitably serve the whole of the site. (If a future development were to be larger scale, the access may need to be considered).

As the site is in a remote location and given there is only one access to the site, GMF&RS have been consulted on the application.

The Fire Service are of the opinion that given the proposed site layout would create a cul-de-sac in excess of 250 metres in length the single point of entry to the proposed development would be unsatisfactory as any obstruction along the single access road could prevent emergency vehicles from entering the estate and restrict access to the dwelling, increasing attendance time and posing a risk to public life.

A site layout which is considered unacceptable on the grounds of accessibility for fire appliances may become acceptable if the buildings are equipped with sprinkler systems which are strongly recommended for buildings that are more than 250 meters from an access road. Residential sprinkler systems are therefore recommended by GMFRS for this development as they allow for a longer response time to emergency situations and may be deemed suitable to overcome the site deficiencies of the proposal.

In addition, GMF&RS advise the proposal should meet the recognised Approved Document requirements for Fire Service access:

- Vehicular access for a fire appliance to within 45m of all points within the dwellings
- The access road should be a minimum width of 4.5m and capable of carrying 12.5 tonnes
- If the access road is more than 20m long a turning circle, hammerhead, or other turning point for fire appliances will be required
- There should be a suitable fire hydrant within 165m of the furthest dwelling.

With suitable conditions, it is considered that the proposed development and access arrangements would be acceptable and comply with UDP Policies H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design.

Parking - For a 4 bed property in a low access area, SPD11 advises that 3 spaces are provided. The application proposes to provide 3 parking spaces within the curtilage of the property which would be located to the north side of the property and directly from the internal driveway.

As such the proposed development would suitably comply with the parking standard guidance and in accordance with UDP Policies HT2/4 and SPD11.

Public Right of Way - The PRow Officer has not made comments on this application. However, in relation to a previous application which was recently granted approve on the site (ref 65412 approved 22/6/20), comments were made as follows:

The section of access road from the end of the adopted section of Knowsley Road through to the boundary gates is recorded as a public footpath. This section of footpath forms part of an application received under the Wildlife and Countryside Act 1981 which claims that the route should have the status of a bridleway - adding access for the public on horse and cycle. This matter is currently being investigated, but will take several months to reach a conclusion. The PRow Officer had no objection and given the character, scale and nature of this development, it would be reasonable to consider these as relevant comments to this application and as such there would be no objections.

Trees - The wider site is covered by a blanket TPO and treed and vegetated with a number of mature and valuable trees, particularly around the periphery. Consent was granted in July 2020 for the removal of 3 trees and a scheme for the planting of 3 replacement trees was a condition of this approval (Ref - LP/TPO/0729).

It is considered that with the retention of the existing trees and the proposed replacement

planting, the scheme would provide satisfactory mitigation for ecological and arboricultural enhancement.

Ecology

GMEU have been consulted on the application.

Summary - No significant ecological constraints are present. Issues associated with bats, badgers, nesting birds and ecological enhancements can be dealt with via condition and or informative.

Bats - The building has been assessed and surveyed by two bat consultants, though only the full report for one has been enclosed. No bats are reported to have been found by either consultant during both assessments and both emergence surveys which occurred during the peak activity season. GMEU have no reason to doubt these findings. As individual bats can turn up on occasion in unexpected locations and one of the survey recorded high levels of activity on the site, GMEU recommend an informative to advise the applicant of the habitat regulations should a bat/bats be found.

Badgers - Badgers are reported to be present in the wider landscape. GMEU therefore recommend an informative is applied to any permission to advise the applicant of their responsibilities under the Protection of Badgers Act 1992.

Nesting Birds - No evidence of nesting birds was recorded on site. Three small trees are however proposed for removal, potential bird nesting habitat. All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended. A condition to restrict vegetation clearance is recommended.

Contributing to and Enhancing the Natural Environment - Section 170 of the NPPF 2019 states that the planning policies and decisions should contribute to and enhance the natural and local environment. The development proposed to remove three small trees, two native and one ornamental. GMEU therefore recommend mitigation through replacement native trees and provision of one bird box on the retained mature tree. The details can be conditioned.

Air quality - Bury Council has been identified by DEFRA as an area requiring to significantly improve air quality. The required measures to do this are currently under discussion. Due to this requirement, this Section recommends a condition be placed on any grant of permission that the applicant shall provide EV charging points for each residential unit. EV chargepoints shall be chosen for the Electric Vehicle Homecharge Scheme approved chargepoint model list.

Given the scale and location, it is considered it would be appropriate to advise the applicant in an informative note of this preferred provision.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. 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 Location plan A.01.1.1 rev C; Site plan proposed A.01.2.1 rev A; Ground floor proposed A.01.2.2 rev A; First floor proposed A.01.2.3 rev B; Proposed elevations A.01.2.4 rev A; Site section A.01.2.5; 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.
- 3 Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validatory evidence (soil descriptions, laboratory certificates, photographs etc) submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 4 Where during any works on site, unforeseen contamination is suspected or found, or contamination is caused, works on the site shall cease and the Local Planning Authority shall be notified immediately. The developer shall then produce a risk assessment and submit remediation proposals, if required, for approval to the Local Planning Authority. On approval of the remediation strategy, the development shall then be carried out in accordance with the approved details and process including any required timescales.
Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 5 No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 - Conservation of the Natural Environment and EN6/3 - Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 6 Within 2 months of the development hereby approved, a landscaping scheme shall be submitted to, and approved by the Local Planning Authority. The contents of the plan should include native tree and shrub planting and the provision of bat bricks/tubes within the new development and one bird box on the retained mature tree. The approved scheme shall thereafter be implemented not later than 12 months from the date the building(s) is first occupied or within the first available tree planting season,; and any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be

replaced by trees or shrubs of a similar size or species to those originally required to be planted.

Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and EN8/2 - Woodland and Tree Planting of the Bury Unitary Development Plan and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

- 7 Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, no development shall be carried out within the terms of Classes A to G of Part 1 of Schedule 2 of the Order, without the submission and approval of a relevant planning application.

Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed.

- 8 Prior to the erection of any boundary treatment, details relating to the proposed boundary treatment for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details only shall be implemented as part of the approved development.

Reason - To secure the satisfactory development of the site and in the interests of the visual amenities of the area pursuant to Policies EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development, OL1/4 - Conversion and Re-use of Buildings in the Green Belt of Bury Unitary Development Plan.

- 9 Prior to first occupation of the development hereby approved, a sprinkler system to meet the requirements of BS 9251:2014 shall be installed in the dwelling hereby approved. The sprinkler system shall thereafter be maintained at all times.

Reason. In the interests of fire safety and to ensure the safe and satisfactory development of the site and for its future occupiers pursuant to Bury Unitary Development Plan Policies H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design.

- 10 The car parking indicated on the approved plans shall be surfaced and made available for use prior to first occupation of the dwelling hereby approved and thereafter maintained available for use at all times.

Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policies H2/2 - The Layout of New Residential Development and HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

- 11 The development hereby approved shall be carried out in accordance with the hierarchy of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). This must include assessment of potential SuDS options for surface water drainage with appropriate calculations and test results to support the chosen solution. The drainage scheme shall be implemented prior to first occupation and thereafter maintained.

Reason. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.

- 12 Following groundworks and prior to the construction of any extension or the carrying out of any external alterations, details/samples of the materials to be used, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall be used for the construction and alterations of the development.

Reason. No material samples have been submitted and are required in the interests

DELEGATED REPORT

of visual amenity and to ensure a satisfactory development pursuant to UDP Policies EN1/1 Visual Amenity, H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design, OL1/4 - Conversion and Re-use of Buildings in the Green Belt and SPD 8 and 9.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	22/9/20	DM	23/09/2020

NOTICE OF PLANNING PERMISSION**Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England)
Order 2015****To:**

Steve Shiels
Shiels Design Ltd
19 Lane Drive
Grotton
OL4 5QZ

On Behalf Of:

Mr Jordan Smith
7 Knowsley View
The Bungalow, Knowsley Road
Radcliffe
Manchester
BL2 5PT

PART 1 - Particulars of Application**Application Number:** 69713**Date of Registration:** 12/06/2023**Proposal:**

First floor side/rear extension

Location:

The Bungalow, 7 Knowsley View, Knowsley
Road, Ainsworth, Bolton, BL2 5PT

PART 2 - Particulars of Decision

Bury Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been **GRANTED** for the carrying out of the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

- 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 Proposed 1st floor plan dwg A.01.2.1 rev A; Proposed roof plan dwg A.01.2.2 rev A; Proposed south and east elevations Dwg A.01.2.3 rev A 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.
- 3 The external finishing materials for the proposal hereby approved shall be be render elevations and roof slate to match the existing.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

The following policies of the Bury Unitary Development Plan, National and Regional Government were considered relevant:

NPPF	National Planning Policy Framework
EN1/1	EN1/1 - Visual Amenity
EN1/2	EN1/2 - Townscape and Built Design
EN6	EN6 - Conservation of the Natural Environment
EN6/3	EN6/3 - Features of Ecological Value
EN9/1	EN9/1 - Special Landscape Areas
OL1/2	OL1/2 - New Buildings in the Green Belt
H2/3	H2/3 - Extensions and Alterations
SPD8	Development Control Policy Guidance Note 8 - New Buildings and Associated Development in the Green Belt
SPD 9	Development Control Policy Guidance Note 9 - Conversion and Re-use of Buildings in the Green Belt
EN2/3	EN2/3 - Listed Buildings

This decision relates only to the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Applicant Plan Numbers:

Proposed 1st floor plan dwg A.01.2.1 rev A; Proposed roof plan dwg A.01.2.2 rev A;
Proposed south and east elevations Dwg A.01.2.3 rev A

NOTES TO APPLICANT

- . The applicant is reminded that under the Habitat Regulation it is an offence to disturb, harm or kill bats. If a bat is found all work should cease immediately and a suitably licensed bat worker employed to assess how best to safeguard the bat(s). Natural England should also be informed.

Signed:

A handwritten signature in black ink, appearing to read 'for havi'.

3 of 3

.....
On behalf of the Council

Date of Decision: 03/08/2023

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 02/08/2023	Ref: 69713/FUL
Registration: 12/06/2023	LDfC: 05/07/2023	Expiry Date: 07/08/2023
Site Visit: 16/06/2023	Site Notice: 16/06/2023	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: First floor side/rear extension

Location: The Bungalow, 7 Knowsley View, Knowsley Road, Ainsworth, Bolton, BL2 5PT

Description

The site relates to a building located within a site which had previously been the former Ainsworth Nursing Home. The site is accessed via a private lane which is formed from the top of Ainsworth Road. The whole site is located in the Green Belt, Special Landscape Area and West Pennine Moors and is on the Council's Draft local list as a Non-Designated Heritage Asset. The site is covered by a blanket TPO.

By way of background, the site has now been sold off as separate plots and planning permissions have been granted for the conversion of some of the buildings to residential dwellings with alterations and extensions.

This application relates to one such building which was granted planning permission in 2020 to convert to a single residential dwelling with extensions and alterations comprising the increase to the roof height and a 2 storey extension. A porch has also been added. The property is known as the Bungalow but now has a postal address of 7 Knowsley View. This property is located at the entrance of the site adjacent to the southern boundary and has views of the open land to the south.

The nearest buildings are to the rear (north) of the site and are separated by an internal access road. Both these two buildings have planning permission for residential dwellings (known as 5 and 6 Knowsley View)

The application seeks a first floor extension which would infill the south eastern corner of the dwelling which is currently a 1st floor balcony. The extension would have a pitched roof and replicate the design of the existing east elevation in terms of roof slope and proportions.

Materials would match the existing and comprise render elevations and tiled roof with 3 rooflights on the south elevation.

The extension would facilitate a larger master bedroom/dressing room.

The original building has already been extended by the grant of the permission to convert the property resulting in a % age increase of 30%. The proposal would add to that volume increase.

The following is a breakdown of original, as existing and proposed volume calculations.

Original building - 390 cubic m

Dwelling as built - 504.9 cubic m = 30% increase

Proposed extension - 44.7 cubic m = 8.8% increase

Total proposed percentage increase (comparative to the original building) - 38.8%

Permitted development rights were removed and therefore any extensions or alterations

would require a planning application.

Relevant Planning History

02424/E - Proposed two storey rear extension/porch to front elevation and increase ridge height to provide 4 bed home in the place of existing 3 bed bungalow - Enquiry completed 08/04/2020

02825/E - Single storey side extension; Convert balcony to internal bedroom -

65626 - Conversion of property to 1 no. residential building; increase to the roof height, two storey extension and associated parking and landscaping, change of use of land to residential garden - Approve with Conditions 23/09/2020

66467 - Variation of conditions following approval of 65626- Amendment to approved plans with the addition of a porch - Approve with Conditions 30/03/2021

23/0058 - Erection of outbuilding in rear garden - 10/05/2023

Publicity

Letters sent to 3 adjacent properties.

Site notice posted 16/6/23

1 objection

2 support

Objection

Planing Statement -

- Paragraph 5.1.18 - is there a need to include the black shed in the west side of the applicant's garden as part of the volume calculations? Increasing the size of this contemporary building can only make it a more prominent out-of-character addition to the Edwardian nature of this historical site.
- Paragraph 5.3.1 of the planning statement is entirely inaccurate. Loss of view and loss of natural light when the sun is in a south-west position.
- Section 5.3 (or 5.5) makes no mention of disturbance to neighbours caused by the parking of vehicles from site workers if this planning application was permitted. Already experience inconsiderate parking and parking overflow from visitors and tradesmen to the applicant's property and this is detrimental to privacy.

Support

- Living in the village all my life, walking across the fields and able to see the Bungalow from my home, the new planning is more in keeping with the rest of the site. The balcony which is currently there looks too modern and more in keeping with a Manchester city apartment. Allowing the extension avoids people sitting on the balcony looking over the public footpath staring which I find intrusive
- We support this extension as this will make the building aesthetically more pleasing and will enhance the site further.

Statutory/Non-Statutory Consultations

Conservation Officer - No objection

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF National Planning Policy Framework

EN1/1 Visual Amenity

EN1/2 Townscape and Built Design

EN6 Conservation of the Natural Environment

EN6/3 Features of Ecological Value

EN9/1 Special Landscape Areas

OL1/2 New Buildings in the Green Belt

H2/3 Extensions and Alterations

SPD8 DC Policy Guidance Note 8 - New Buildings in the Green Belt

SPD 9 Conversion and Re-use of Buildings in the Green Belt
EN2/3 Listed Buildings

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.

Green Belt

Chapter 13 - Protecting Green Belt Land, Paragraphs 147 and 148 state that inappropriate development in the Green Belt is by definition, harmful and should not be approved except in Very Special Circumstances (VSC). Planning Authorities should ensure that substantial weight is given to any harm in the Green Belt. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the

proposal, is clearly outweighed by other considerations.

Paragraph 149 considers the construction of new buildings as inappropriate development in the Green Belt. However, there are exceptions to this which includes point c) *the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building.*

UDP Policy OL1/2 - New Buildings in the Green Belt states that the construction of new buildings in the Green Belt is inappropriate development. One exception to this policy is point c) for *limited extension, alteration or replacement dwelling provided it would not result in disproportionate additions over and above the size of the original dwelling*

SPD8 - New Buildings and Associated Development in the Green Belt provides additional advice and guidance, particularly with reference to siting, design, materials, scale and form of a development. It also advises that generally, circa a third increase in volume to an original building could be considered. However, each application is assessed on its own merits.

The building has already been added to circa one third by the grant of the planning permission for conversion and extension for residential purpose and the proposed development would add almost 9% of built form, resulting in a net increase of approx 40% above that of the original building. This proposed extension could therefore be considered as a disproportionate addition and would be contrary to para 149 c) of the NPPF and point c) of OL1/2. Very Special Circumstances would therefore be required.

According to case law in the Court of Appeal judgement *Turner v Secretary of State* 2016 at para 14, "The concept of openness of the green belt is not narrowly limited to volumetric approach..... (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspects which the Green belt presents."

In this respect, the siting and the setting of the building within the context of the surrounding land character and any visual impacts needs to be assessed.

Siting, design and visual impacts

The proposed 1st floor extension would infill a corner of the dwelling which currently accommodates a balcony and would not project any higher or extend beyond the current building lines.

The extension would be designed with a pitched gable on the east elevation which would mirror and project in the same form as the existing gable and roof form on the eastern elevation which is considered not to detract from the character of the existing build.

When viewed from outside the site from the south, the proposed extension would be viewed against the backdrop of the roof and first floor of the existing dwelling and as such it is considered that visual impacts would be limited and considered not to be severely detrimental. From within the site, the proposed extension would predominantly be screened from views by the existing built form.

Two windows on the east elevation would reflect the size and proportions of those fitted within the existing eastern elevation and on the south elevation, 3 conservation rooflights are proposed which are considered to be acceptable within the special landscape setting.

Materials of rendered elevations and slate roof to match the existing are proposed and considered acceptable.

The applicant has also provided a case for VSC which considers the position and scale of the infill extension, the limited visual impacts from public views, a spatial assessment and appropriateness of the use of materials to match the existing property.

These VSC's are not necessarily 'special' when considered in isolation but together, can make a case to outweigh harm caused to the openness of the Green Belt.

Whilst it is acknowledged that the proposed development would result in an increase in volume above that of the original conversion works and beyond the general guidance of a third increase in SPD8, each site and application are assessed on their own merits.

Given the setting of the building within the site, the position, size and scale of the extension to infill the south eastern gap, and with materials to match, it is considered that on balance, the proposed development would not have a significantly harmful impact on the character and openness of the Green Belt or the landscape qualities of the Special Landscape Area and West Pennine Moors. The Very Special Circumstances presented are considered to outweigh the harm caused to the Green Belt on this occasion.

The proposed development would therefore accord with policies OL1/2, EN9/1, OL7/2 and SPD8.

Heritage considerations

Paragraph 203 of the NPPF requires - "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset".

The former Ainsworth Nursing Home is considered to be A Non-Designated Heritage Asset although 'The Bungalow' is a modern addition added at a later date and did not form part of the original hospital buildings.

The building has undergone conversion and extension works in a modern contemporary approach and the proposed extension would reflect the design of the existing build. The extension would be set on the south eastern side of the dwelling and would not be viewed within the context of the NDHA site as the majority of the extension would be screened by the existing roofline.

It is therefore considered there would not be a harmful impact on the significance of the NDHA.

The proposed development is therefore considered to be acceptable and comply with the principles of the NPPF.

Impact on residential amenity

The proposed extension would replace a balcony and infill a gap on the south eastern elevation and therefore would be no closer to the other buildings on site which are to the north, circa 19m away. The extension would also not be highly visible, if at all to these other properties as it would be screened by the existing built form at first floor and no higher than the existing roof ridge.

As such, given the position and distance away, it is considered there would not be a harmful impact on privacy, light or outlook from these properties.

Therefore the proposed development would comply with H2/3 and SPD6.

Response to objection

- Impacts on residential amenity have been covered in the above report.
- In terms of disruption from construction traffic, any development in any locations are likely to give rise to some form of disruption and activity to an area and this should not necessarily be a reason to prevent development from taking place. As an extension to the property, it is considered the scale of development would not cause disruption to a significantly harmful degree.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. 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 Proposed 1st floor plan dwg A.01.2.1 rev A; Proposed roof plan dwg A.01.2.2 rev A; Proposed south and east elevations Dwg A.01.2.3 rev A 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.
- 3 The external finishing materials for the proposal hereby approved shall be be render elevations and roof slate to match the existing.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	2/8/23	DM	02/08/23



Appeal Decision

Site visit made on 10 August 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2020

Appeal Ref: APP/J3720/W/20/3251058

Pendeek, Danzey Green Lane, Danzey Green B94 5BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Lawrence Barton against the decision of Stratford-on-Avon District Council.
 - The application Ref 19/03194/FUL, dated 12 November 2019, was approved on 27 February 2020 and planning permission was granted subject to conditions.
 - The development permitted is demolition of existing building and erection of replacement dwelling (revision to approved 19/01490/FUL).
 - The condition in dispute is No 5 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no development covered by Part 1 Classes A, B, D and E shall be carried out without planning permission granted by the Local Planning Authority.
 - The reason given for the condition is: To prevent harm being caused to the openness of the Green Belt and the amenity of the area having regard to Policies CS.1, CS.9 and CS.10 of the Stratford-on-Avon Core Strategy (2011-2031).
-

Decision

1. The appeal is allowed and the planning permission Ref 19/03194/FUL for demolition of existing building and erection of replacement dwelling (revision to approved 19/01490/FUL) at Pendeek, Danzey Green Lane, Danzey Green B94 5BG, granted on 27 February 2020 by Stratford-on-Avon District Council, is varied by deleting condition No 5.

Procedural Matters

2. Despite the appellant's form stating the appeal is against the refusal of planning permission, it is clear from the other submissions that the appeal relates to a disputed planning condition as set out in the header above. I have determined the appeal on this basis. The description of development in the header and decision above is taken from the Council's decision notice rather than the application and appeal forms. I have used this description to be consistent with the planning permission subject of the appeal.

Main Issue

3. The main issue is whether the disputed condition is reasonable or necessary in light of the National Planning Policy Framework (the Framework) and any relevant local Green Belt policy and to protect the amenity of the area.

Reasons

4. The Framework states that planning conditions should be kept to a minimum and only imposed where, amongst other tests, they are reasonable and necessary. It also states that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Furthermore, the planning practice guidance (PPG) advises against conditions that blanket remove freedoms to carry out small scale domestic alterations without the need for a planning application.
5. The disputed condition adopts a broad-brush approach that would remove a whole range of permitted development rights for alteration, maintenance and improvement works as well as the erection of extensions or outbuildings. The blanket removal of permitted development rights would require permission to be sought for small scale domestic alterations and so is contrary to the aforementioned PPG advice. As such, the condition is unreasonable.
6. I find no reason to disagree with the main parties who both conclude the proposal would comply with Green Belt policy, albeit for different reasons. No local or national planning policy require or support the removal of permitted development rights when allowing a replacement building in the Green Belt. Also, the site is large and well screened and the Council provide no clear justification to remove permitted development rights on amenity grounds.
7. I note the Council's arguments in respect of a similar condition being imposed on a previous permission for development on the site and the works that could be carried out under permitted development rights in comparing the existing, proposed and already permitted schemes. However, these factors do not address the overriding issues in respect of the unreasonable blanket approach within the disputed condition and the lack of planning policy to justify its imposition.
8. As such, the appeal succeeds and the planning permission is varied by deleting the condition.

Jonathan Edwards

INSPECTOR



Appeal Decision

Site visit made on 9 July 2019

by Conor Rafferty LLB (Hons), AIEMA, Solicitor (Non-practising)

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/M3455/W/19/3226953

960 Lightwood Road, Lightwood, Stoke-on-Trent, ST3 7NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 as amended for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr L Sedzikowski against the decision of Stoke-on-Trent City Council
 - The application Ref 63503 dated 14 January 2019, was refused by notice dated 4 April 2019
 - The application sought planning permission for the change of use of existing stables to form one residential dwelling without complying with a condition attached to planning permission 54405.
 - The condition in dispute is No 5, which states that: *Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 or any order revoking and re-enacting that Order, with or without modification, no buildings or extensions shall be erected within the curtilage of the dwelling hereby approved without the prior consent of the Local Planning Authority.*
 - The reason given for the condition is: *In order to protect the openness of the Green Belt.*
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of stables to form one residential dwelling at 960 Lightwood Road, Lightwood, Stoke On Trent, ST3 7NF in accordance with the application Ref 63503 dated 14 January 2019, without compliance with condition No 5 previously imposed on planning permission Ref 54405 dated 24 January 2013, subject to the conditions annexed to this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. No specific policy relating to Green Belt has been provided by either party, and the Council's decision notice refers only to section 13 of the National Planning Policy Framework (the Framework). The proposal has therefore been considered relative to the Framework in this recommendation.

Main Issue

4. The main issue is whether the disputed conditions are reasonable and necessary with regard to the effect of the development on the openness of the Green Belt.

Reasons for the Recommendation

5. The appeal site is located within the Green Belt, in a countryside setting towards the southern end of Lightwood Road. The immediate surroundings are predominantly open and undulating fields with buildings situated immediately to the west of the site and other groupings of residential dwellings visible. As Lightwood Road continues to the north these dwellings become more frequent, but the area retains a rural feel.
6. Planning permission was granted for the change of use of stables on the site to form one residential dwelling, subject to numerous conditions. While this has since been implemented, the appeal seeks permission for the change of use without complying with condition 5. This condition revoked permitted development rights such that no buildings or extensions shall be erected within the curtilage of the dwelling without the prior consent of the Council.
7. Paragraph 145 of the Framework states that the construction of new buildings should be regarded as inappropriate in Green Belt, unless it falls within certain listed exceptions. Paragraph 146 of the Framework sets out other forms of development which are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes, at point (d), the re-use of buildings provided that they are of permanent and substantial construction. The Council granted planning permission on this basis. Having regard to the evidence submitted there is no reason to take a different view. Consequently, the change of use from stables to form one residential dwelling as permitted by planning permission 54405 is not inappropriate development in the Green Belt.
8. Paragraph 55 of the Framework states that “*planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*”. The disputed condition appears to comply with paragraph 55 of the NPPF insofar as it is enforceable, relevant to the development to be permitted and relevant to planning.
9. With regards to the necessity and reasonableness of the disputed condition, the Council has stated that this condition ensures extensions and outbuildings cannot be constructed without first requiring permission, so as to avoid uncontrolled extensions and alterations. Given the location of the site within the Green Belt, the Council argues that removal of the condition could result in further development contrary to guidance set out the Framework which aims to safeguard the Green Belt from encroachment.
10. No evidence has been submitted by either party as to the extent to which permitted development rights are to be relied upon to further develop the site. As the Council has suggested, removing the condition has the potential to result in disproportionate additions over and above the size of the original building. Comments have also been received from neighbouring properties that the footprint of the dwelling has increased by 25% since its purchase by the appellant. However, the extent of further development would be constrained by the site itself and the physical criteria set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order), which although sizeable is relatively self-contained with limited space to the rear of the dwelling for further additions, restricting the available area for the application of permitted development rights. Similarly, no detailed evidence has been submitted to justify that the removal of permitted development rights in this instance would be necessary to prevent harm to the openness of the Green Belt or the other purposes of including land within it, including safeguarding from encroachment.

11. The Planning Practice Guidance (the PPG) states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. The position of the appeal site within the Green Belt is not, in itself, an exceptional circumstance in this instance, and no other such circumstances have been raised by the Council. Therefore, in the light of the provisions of the NPPF and PPG regarding imposition of conditions restricting the future use of permitted development rights, there are no exceptional circumstances to justify the removal of permitted development rights at the appeal site.
12. With regards to the precision of the disputed conditions, the PPG further states at paragraph 017 that the scope of conditions removing permitted development rights needs to be precisely defined by reference to the relevant provisions in the Order, so that it is clear exactly which rights have been limited or withdrawn¹. It continues that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. It is noted that the disputed condition has not been drafted with reference to the relevant provisions of the Order.
13. For the reasons given above, condition no 5 attached to planning permission 54405 is therefore not necessary or reasonable in the interests of the effect of the development on the openness of the Green Belt, and, furthermore, lacks precision. It therefore fails to comply with paragraph 55 of the NPPF in this regard.

Conditions

14. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As no information has been submitted about the status of the other conditions imposed on the original planning permission, all conditions that are considered to remain relevant are shall be imposed. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
15. Having regard to the above, condition 5 of planning permission Ref 54405 does not meet the requirements of paragraph 55 of the Framework. I therefore recommend the grant of a new planning permission that does not include this condition and that re-numbers the other conditions accordingly.

Conclusion and Recommendation

16. Having had regard to all matters raised, I recommend that the appeal should be allowed.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be allowed subject to conditions.

A U Ghafoor

INSPECTOR

¹ Reference ID: 21a-017-20140306

Appendix to appeal ref: APP/M3455/W/19/3226953

1. The development, hereby permitted, shall be begun not later than three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Unnumbered drawing - Proposed Elevations received 21 January 2013 Unnumbered drawing - Proposed Floor Layout received 21 January 2013 Unnumbered drawing - Proposed 1:200 Site Plan (excluding floor layout) received 3 December 2012
3. No development, including site works, shall commence until the existing tree shown on the approved 1:200 site plan, has been protected, in accordance with details that shall first be submitted and approved in writing by the Local Planning Authority. The tree shall be protected in the agreed manner for the duration of building operations on the application site. Within the areas agreed to be protected, the existing ground level shall neither be raised nor lowered, and no material or temporary building or surplus soil of any kind shall be placed or stored thereon. If any trenches for services are required in the protected area, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left un-severed.
4. Prior to the occupation of the residential dwelling hereby approved, windows in the existing south east elevation of the ancillary residential accommodation to the dwelling known as Rough Close Farm, 962 Lightwood Road, as shown on the approved site plan, shall be removed and the elevation made good to the satisfaction of the Local Planning Authority.
5. No development, excluding site works, shall take place until a scheme for the treatment of the application site boundaries has been submitted to, and agreed in writing by, the Local Planning Authority. The approved details shall be incorporated prior to occupation of the dwelling hereby permitted.
6. The external facing materials to be used in the construction of the new dwelling hereby permitted shall match as closely as possible those of the existing building.
7. Prior to commencement of the development hereby approved, drainage details incorporating sustainable drainage principles, where practicable, shall be submitted to, and approved in writing by, the Local Planning Authority and implemented in accordance with the approved details prior to the development being completed and occupied.
8. Prior to commencement of the development hereby approved, excluding site works, precise details of the parking, access and turning areas, shall be submitted to, and approved in writing by, the Local Planning Authority. Such parking, turning and access areas shall be sustainably surfaced in a suitable material where practicable and implemented prior to occupation of the dwelling hereby approved and retained for such purposes in perpetuity.

Appeal Decision

Site visit made on 4th July 2018

by Alison Roland BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2018

Appeal Ref: APP/X4725/D/18/3201609

Sunrising, Hardcastle Lane, Flockton, Wakefield, WF4 4AS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Schofield against the decision of Wakefield Metropolitan District Council.
 - The application Ref: 18/00293/FUL, dated 7 February 2018, was refused by notice dated 4 April 2018.
 - The application sought planning permission for pitched roof above existing flat roof to rear; balcony to rear; glazed atrium to rear; associated external alterations, without complying with a condition attached to planning permission Ref: 10/00182/FUL, dated 30 June 2010.
 - The condition in dispute is No 2 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 as amended (or any Order revoking or re-enacting that Order) no development included within classes A and E of part 1 of Schedule 2 to that Order shall be carried out at Sunrising, Hardcastle Lane without the prior written consent of the Local Planning Authority.
 - The reason given for the condition is: In the interests of amenity.
-

Procedural Matter

1. The appeal form refers to the appeal property as Sun Rising whereas the application form, covering letter, Decision Notice, as well as the plans submitted with the original planning application cite Sunrising. As the latter appears correct I have cited it in the header above and my decision below.

Decision

2. The appeal is allowed and planning permission is granted for pitched roof above existing flat roof to rear; balcony to rear; glazed atrium to rear; associated external alterations, at Sunrising, Hardcastle Lane, Flockton, Wakefield, WF4 4AS, in accordance with the application Ref: 18/00293/FUL, dated 7 February 2018, without compliance with condition number 2 previously imposed on planning permission 10/00182/FUL, dated 30 June 2010, subject to the following conditions:
 1. Within three months of the date of completion of the construction of the approved extensions and or before the extensions are brought into use,
-

(whichever is sooner), the existing detached garage and any other outbuilding located within the hatched area shown on the site plan hereby approved shall be demolished and removed from site.

2. The development shall not be occupied until the glazing in the south western (side) elevation of the glazed atrium hereby approved have been obscure glazed. The obscure glazing shall thereafter be retained for the life of the development.
3. The external walls and roofing materials of the extensions hereby approved, excluding those used in the construction of the glazed atrium, shall in all respects match those used in the construction of the existing building.

Main Issue

3. The main issue in this appeal is whether condition No 2 is reasonable and necessary having regard to the tests for conditions set out in the Planning Practice Guidance (PPG).

Reasons

4. Paragraph 89 of the Framework states that the extension or alteration of an existing building in the Green Belt (GB) is not inappropriate provided that it does not result in disproportionate additions over and above the size of the original building. This is reiterated in Policy D 23 of the Wakefield Metropolitan District Local Development Framework Development Policies (2009). Policy CS 1 of the Local Development Framework Core Strategy (2009) states that development in the GB should conform to national policy and LDF policies.
5. The delegated report on the application the subject of this appeal states that the earlier approval determined that the extensions were inappropriate development in the GB and that condition No 2 (and that relating to the removal of the garage), constituted very special circumstances which justified the proposal.
6. That is not however my reading of the original report. It states: "It is acknowledged that an increase of this size would normally be considered disproportionate. However, it is also noted that the scheme would result in the *consolidation of the built form* which would help to offset the increase in overall mass at the site. With this in mind and *given that the proposed balcony would be largely open*, and that the *single storey element of the scheme would be glazed* it is considered that the extensions *would not result in a disproportionate addition to the original dwelling* and would not significantly detract from the openness of the Green Belt in this location." (my emphasis).
7. The next paragraph goes on to define the acceptability of the scheme based on the removal of the existing garage and consolidation of built form. It suggests conditions ensuring the removal of the garage as well as preventing the construction of further structures within the domestic curtilage. There is a tension here between the preceding paragraph which clearly concluded the proposal was not a disproportionate addition. This being the case, the proposal would not amount to inappropriate development in the GB and there would be no need to demonstrate very special circumstances. It is therefore clear to me

that the condition was neither reasonable nor necessary. Merely because the applicant agreed to it at the time does not render it reasonable.

8. The exercise of permitted development rights is development for which the principle has been granted by secondary legislation and there are no restrictions on such rights for dwellings in the GB. Whilst potentially further development at the site could give rise to disproportionate additions relative to the size of the original dwelling, I have been furnished with no evidence to suggest that this is likely to be the case. Indeed, it might be argued that the implementation of the former consent could render the occupiers less inclined to carry out further development under Class A.
9. Development under Class E largely relates to detached buildings or structures within the curtilage, which would not amount to an extension to the dwelling unless considered to constitute a normal domestic adjunct. Hence, in addition to my concerns about the necessity of the condition, the removal of rights conferred by Class E does not fairly and reasonably relate to the development permitted.
10. The PPG¹ makes it clear that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances...blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
11. For these reasons, I conclude on the main issue that condition No 2 was neither reasonable nor necessary to render the original act of development acceptable and I shall therefore omit it.
12. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have limited information before me about the status of the other conditions imposed on the original planning permission, I shall impose those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties."

ALISON ROLAND

INSPECTOR

¹ Paragraph: 017 Reference ID: 21a-017-20140306