

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 15/06/2023	Ref: 68888/FUL
Registration: 18/04/2023	LDfC: 23/05/2023	Expiry Date: 13/06/2023
Site Visit: 15/05/2023	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Erection of 1 no. single storey detached dwelling in rear garden of existing dwelling with shared access

Location: 13 New Hall Road, Bury, BL9 7TQ

Description

The site relates to an existing detached bungalow, No 13 New Hall Road which is located within an established residential estate. To the north are Nos 15 - 21 which are also bungalows, whose rear elevations and gardens face the side boundary of the site. Adjacent to the site to the south is No 11, a 2 storey semi-detached property. Beyond the rear boundary of the site is No 1 Chadwick Street which is separated from the site by a PRow.

The bungalow has been extended single storey at the rear and has a generous rear garden which is entirely gravelled and enclosed by a timber fence on all sides. There is a tree and shrubbery beyond the rear boundary and hedging to parts of the side boundary. The dwelling is accessed via a single driveway off New Hall Road adjacent to No 11.

A mobile home has been sited directly adjacent to the rear boundary and is currently used as ancillary accommodation to the main dwelling.

The application seeks the erection of 1 no. bungalow dwelling in the rear garden of No 13.

The proposed dwelling would be separated from No 13 by a hedge which would be equidistant between the front elevation of the new dwelling and the rear elevation of No 13 to define the separate curtilages.

The proposed dwelling would have an 'L' shaped footprint and be orientated to face the rear elevation of No 13. There would be a 5m deep garden at the rear with a 3m high hedge along the rear boundary with further hedge planting to parts of the side boundaries. The proposed dwelling would share the existing access and driveway and would follow the southern boundary of the site leading to 2 parking spaces with bin storage located behind the spaces.

The proposed dwelling would provide living accommodation and 3 bedrooms.

The existing mobile home would be removed from the site.

No 13

The rear garden would be reduced in size to 6m in depth and the existing gravel surface would be grassed over.

Two parking spaces would be located next to the dwelling.

Relevant Planning History

22/0015 - Digging out rear garden to create caravan park - 03/10/2022

Publicity

Letters sent to adjacent properties on 27/4/23

Two responses received.

- Is the distance of the new build sufficient enough for the development given the proximity of the tree and its roots?
- As there is no TPO in place, are the trees likely to be cut down? If this is the case, there would be no objection.
- As you will be aware, there is no vehicle access to the back of that property from Chadwick Street.
- I draw to your attention the regulations that for the avoidance of doubt the "dirt track" roadway off Chadwick Street is a private road to provide access to numbers 1 and 3 Chadwick Street and footpath only. It is not part as set out by National Highways. With regards to the planning application there is no access lawfully available to 13 New Hall Road. Access to the dwelling would only be appropriate from New Hall Road. I draw to your attention that the private road is historically part of the area formerly owned by Taylors bricks. The border of the said land includes the private road. However, the boundary of ownership of Newbold never included the private road, as set out on the attached plan therefore no access would be appropriate nor available.
- Usage of the land applies to Numbers 1 and 3 Chadwick Street only and is subject to the following rights reserved by the Conveyance

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

United Utilities (Water and waste) - No objection.

Waste Management - No response received.

GMEU - No objection.

Pre-start Conditions -Agreed

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
H2/6	Garden and Backland Development
EN1/2	Townscape and Built Design
EN5/1	New Development and Flood Risk
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury

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.

Principle - 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.

UDP Policy H2/6 - Garden and Backland Development - When assessing proposals, regard will be given to the concentration of such development in the surrounding area; the relative density of the proposal to that of the surrounding area; the impact on neighbouring properties and the local environment and access arrangements.

Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties provides useful guidance in terms of acceptable aspect standards between dwellings and design criteria.

The proposed development would be located in an established residential area and therefore would not conflict with the local environment in terms of character and surrounding uses. There is existing infrastructure in place to facilitate the development.

Acceptability of a dwelling on this site would be subject to consideration of scale, density, impact on adjacent properties and access and parking.

Layout and scale of development - The proposed dwelling would be located in the rear garden of No13, and would be orientated with the front elevation directly facing the rear of No 13, approx 14m away. To define the curtilage of the development, a hedge would be planted between the two properties equidistant from the rear elevation of No 13 and the front elevation of the new dwelling which is considered to be an acceptable solution to separating the two sites.

The proposed dwelling would be positioned more or less centrally within its plot, with a garden area at the front and a 5m deep garden at the rear and this is considered to be an acceptable level of garden amenity space given the scale of development and that there would also be space either side of the property.

The site would provide an area for cars to manoeuvre and exit the driveway in a forward gear and two parking spaces would be provided for the new dwelling.

In terms of No 13, the garden would be reduced to facilitate the development, but would still leave an acceptable level of amenity space which would only effect the occupier of this property who is also the applicant.

Two parking spaces at the side of No 13 would be provided for this property which would be clear of the driveway access which would lead to the proposed dwelling.

In terms of the layout and surrounding urban grain, the existing property is the end of a row of dwellings which have similarly large rear gardens which extend some 38m or so from their rear elevations and which are devoid from built form. That said, there are dwellings in the cul de sac directly to the north of the site which are formed along the length of the site's rear boundary and therefore the siting of the proposed dwelling would in effect extend the existing urban grain in a similar type formation and therefore considered acceptable in this instance.

The proposed dwelling would be similar in terms of scale and size as No 13 and the bungalows in the cul de sac to the north.

It is therefore considered that the proposed development would be acceptable in layout and scale and would comply with policies H2/1, H2/2 and H2/6.

Design and appearance - The proposed bungalow would be 4.8m in height not dissimilar to the height of No 13 and also similar in footprint to the original built form of No 13. The bungalow would be modest in design, with brickwork at the lower level and render to the remaining materials with grey roof tiles which would be similar in design and appearance to the surrounding housing stock.

As the property would be located in a rear garden, it would not be highly visible to public areas or the streetscene.

It is therefore considered the proposed development would be acceptable and comply with EN1/2, H2/1 and H2/6.

Impact on the surrounding area - In relation to the existing bungalow on site, No 13, there would be a distance of 14m from the front elevation and a habitable room window of the new build to the rear elevation of No 13. This property has been extended at the rear

by the addition of a conservatory and as such is given limited weight in assessing impacts. There would be an intervening hedge which would screen part of the front elevation of the new build and given it would be a bungalow it is considered that overlooking and privacy issues to No 13 would not be significant.

To the north, the properties which bound the site are bungalows which are set at a slightly lower level, whereby the roof lines of Nos 19 and 21 are visible above the existing boundary fence.

There would be a distance of 12m between the side elevation of the proposed dwelling and the rear of No 21. No 21 is set at an oblique angle and the rear elevation would not directly face the proposed dwelling. The 1.8m high existing boundary fence and proposed hedge planting would also screen a large part of the new dwelling.

The rear elevation of No 19 would face the gap between the proposed dwelling and No 13 and there would be no direct relationship to the proposed dwelling. No 19 also has a garage at the rear which would block some views of the site from this property and there is also the intervening 1.8m high boundary fence which would provide screening.

It is therefore considered that the proposed development would not have a significant impact on the amenity of the occupiers of Nos 19 and 21 in terms of an overbearing relationship or privacy and overlooking issues.

To No 11 to the south, there would be a distance of 4m between the side elevation of the proposed dwelling to the boundary. The proposed dwelling would be sited at the furthest end of the garden in relation to No 11 and would be more than 25m away from the nearest point of this property. There is also an intervening 1.8m high boundary fence and proposals to plant a hedge along the shared boundary. It is considered that given the siting of the proposed dwelling, distance away from No 11 and intervening boundary treatments there would not be a significantly adverse impact on this property or their rear garden area.

Behind the rear boundary of the site is a PRoW which follows Chadwick Street and beyond the PRoW is No 1 Chadwick Street which is set side-on to the PRoW and off-set to the development site and as such there would be no direct relationship between the proposed dwelling and No 1. There is an intervening boundary fence and planting along the rear boundary which would screen the site from views.

As such, it is considered the occupiers of No 1 would not be adversely affected by the proposed development.

It is therefore considered the proposed development would be acceptable and comply with H2/1, H2/2, H2/6 and EN1/2.

Trees - There are bushes and a tree which run across the rear of the site and from google street images and photographs supplied by a local resident, it appears that the tree is actually within the site boundary and on the 'site side' of a boundary fence. It transpires that a second fence has been erected along the rear boundary (which would not require planning permission) but further into the site so essentially, the tree is located between the two fencelines.

The applicant has confirmed that should the proposed dwelling be approved, and whilst the tree is not the subject to a TPO, tree protection measures would be provided during the construction and the inner fence would be removed.

This would be an acceptable solution and a condition for tree protection measures would be included.

Access and parking - The proposed dwelling would utilise the existing driveway to No 13 and would follow the southern boundary leading to 2 parking spaces. It is considered that given the relatively small scale development for a single dwelling, the use of a shared driveway would not cause highway safety issues and parking would be an acceptable level for a 3 bed property.

The development also proposes dual car charging points.

Works have already been carried out to widen the existing driveway and as such will require the dropped kerb to be extended and parts of the footway made good. This can be conditioned.

As such it is considered the proposed development would comply with H2/1, H2/2, H2/6 and HT2/4.

Response to representations - The proposed development would be accessed from the existing driveway off New Hall Road and there would be no access, vehicular or otherwise from Chadwick Street.

All other issues have been covered in the above report.

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 Red edge site location plan; Front and rear elevations NHR/01 rev A; Side elevations NHR/02 rev A; Proposed floor plan NHR/03 rev A; Proposed site layout NHR/04 rev D; Site sections NHR/05; Existing site layout NHR/06 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 No development shall commence unless and until:-
 - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
 - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
 - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.Reason. The scheme does not provide full details of the actual contamination and subsequent remediation, which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 4 Following the provisions of Condition 4 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be 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.

- 5 Prior to occupation the applicant shall provide 1 Electric Vehicle Chargepoint (minimum 7kW*) for each dwelling.

*Mode 3, 7kW (32A) single phase, or 22kW (32A) three phase, and for 50kW Mode 4 rapid charging may be required. British Standard BS EN 61851-1:2011 to be used (note this version is due to be replaced by BS EN 61851-1:2019 on 5 July 2022).

Reason. In accordance with the NPPF, to encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable. To safeguard residential amenity, public health and quality of life.

- 6 All trees to be retained on site shall be protected in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction". The development shall not commence unless and until the measures required by the British Standard are implemented and all measures required shall remain in situ until the development has been completed.

Reason. To avoid the loss of trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

- 7 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.

- 8 Prior to the construction of the new dwelling hereby approved, the existing mobile home shall be permanently removed from site.

Reason. To ensure the scale of development is commensurate with the size of the site and to protect the residential amenity of adjacent occupiers pursuant to Bury Unitary Development Plan Policies H2/1, H2/2 and H2/6.

- 9 The hedge, and tree planting shown on the approved plan NHR/04 rev D shall be of a native species and shall 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.

The development shall provide bat/bird bricks/tubes within the new dwelling.

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.

- 10 The development hereby approved shall not be first occupied unless and until the access alterations onto New Hall Road indicated on approved plan reference NHR/04 Revision D, incorporating the reconstruction of the existing footway crossing, footway crossing extension, demarcation of the limits of the adopted highway, surface water drainage arrangements shown wholly within the curtilage of the site to ensure that surface water will not be discharged from the increased hardstanding/driveway areas onto the adjacent adopted highway and all associated highway remedial works required to reinstate the footway to its former condition prior to commencement of the development, have been implemented to an agreed scope and specification with the Local Planning Authority.

Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway, in the interests of highway safety pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design, HT6/2 - Pedestrian/Vehicular Conflict

- 11 No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and agreed in writing with the Local Planning Authority and shall confirm/provide the following:

- Dilapidation survey, to a scope to be agreed, of the footways and carriageways abutting the site in the event that subsequent remedial works are required following construction of the development, works to the site access and boundary and as a result of statutory undertakers connections to the site;
- Access point and route for construction traffic from the adopted highway;
- Hours of operation and number of vehicle movements;
- A scheme of appropriate warning/construction traffic speed signage in the vicinity of the site and its access;
- Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site, including any requisite phasing of the development to accommodate this;
- Parking on site of operatives' and construction vehicles together with storage on site of construction materials, including any requisite phasing of the development to accommodate this;
- If proposed, site hoarding/gate positions clear of the existing shared access, including the provision, where necessary, of temporary pedestrian facilities/protection measures;
- Measures to ensure that all mud and other loose materials are not spread onto the adjacent adopted highways as a result of the groundworks operations or carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the works. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of construction materials. All highway remedial works identified as a result of the dilapidation survey shall be implemented prior to the development hereby approved being occupied.

Reason. Information not submitted at application stage. To mitigate the impact of the construction traffic generated by the proposed development on the adjacent residential streets, and ensure adequate off street car parking provision and

materials storage arrangements for the duration of the construction period and that the adopted highways are kept free of deposited material from the ground works operations, in the interests of highway safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

- 12 The turning facilities indicated on approved plan reference NHR/04 Revision D shall be provided before the development is first occupied and the areas used for the manoeuvring of vehicles shall subsequently be maintained free of obstruction at all times.

Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design, HT6/2 - Pedestrian/Vehicular Conflict

- 13 The car parking indicated on approved plan reference NHR/04 Revision D shall be surfaced and made available for use prior to the development hereby approved being occupied and thereafter maintained at all times.

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

- 14 The bin storage arrangements indicated on approved plan reference NHR/04 Revision D shall be implemented prior to the development hereby approved being first occupied and thereafter be maintained available for use at all times.

Reason. To ensure adequate off-highway bin storage arrangements are provided within the curtilage of the site, in the interests of highway safety pursuant to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development and EN1/2 - Townscape and Built Design.

- 15 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.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	15/6/23	15/06/23 DM	