

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 27/02/2024	Ref: 69766/FUL
Registration: 02/11/2023	LDfC: 24/11/2023	Expiry Date: 28/12/2023
Site Visit: 17/11/2023	Site Notice: N/A	Press Date: N/A
Objections: 3	Con Area:	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Demolition and rebuilding of dwelling; basement and ground floor extension at rear and single storey extension at front

Location: 39 Bradshaw Road, Walshaw, Tottington, Bury, BL8 3PW

Description

The application relates to a mid-terraced cottage property which is located in a semi-rural area and on land which is in the Green Belt, Special Landscape Area and West Pennine Moors.

The property, No 39 Bradshaw Road is set within a row of 3 other cottages and fronts a main road which is close to a crossroads known as Four Lane Ends.

Along the front of the cottages is a footway which steps up to meet the road level and beyond the rear boundary of the cottages is an open field.

The property itself is a '2 up 2 down' cottage and has a small basement level. There is a rear yard which is set at a lower level comparative to the internal ground floor level, accessed via a set of steps from the rear of the property.

The adjacent dwelling, No 37 has been extended single storey at the rear and has a detached garden store adjacent to the site boundary.

On the other side, the rear elevation of No 39a projects approx 1.6m past the rear wall of the application dwelling and has a large detached single storey stone outbuilding.

An application was originally submitted for an extension and alterations to the dwelling. Significant works were also required to the structure of the property as the front and rear walls had steadily deteriorated and would need to be removed and re-built along with the roof.

It was considered these works would go beyond the scope of what would reasonably be considered as extensions to a property as the works would amount to a demolition and re-build.

The applicant was therefore advised a full application would be required for demolition and redevelopment for 1 no dwelling which includes a single storey extension, basement extension and front porch, which is the subject of this application.

The main footprint of the dwelling would be retained and it is proposed to add a single storey rear extension which would project 3m beyond the original rear elevation and span the full width of the house. The extension would have a mono-pitched roof to a height of 4.8m. The basement level would be extended by 3m with a window added. At the front, the porch would project 0.63m from the front elevation and be 1.85m wide with a pitched roof.

The existing rendered property would be rebuilt in stone with a slate roof, grey window frames and sandstone surrounds. The windows on the front elevation would be proportioned similar to No 37.

Original dwelling volume - 185m³
Proposed dwelling volume - 241m³

Relevant Planning History

67599 - Two storey rear basement and ground floor extension; Single storey front extension; Juliet balcony at rear - Withdrawn - Invalid 31/08/2022
21/0308 - Building works - 03/10/2022

Publicity

Letters sent to 4 properties on 3/11/23.

Three objections received from two addresses:

- Wish to object to the Saturday working hours. A 5 day a week is enough.
- The plan called Location Plan, delineated by a red line is inaccurate.
- Who has confirmed that there is no asbestos at the property?
- Where are the designated parking spaces referred to, if on land owned by the Council has appropriate permission been obtained?
- Can we have confirmation waste will be removed from site completely and not dumped in the farmer's field as was the case previously.
- Can we have confirmation that all external lighting at the property will only be switched on between the hours of 9 a.m. and 5 p.m. Monday to Friday, and when work is being undertaken.
- In principle support work being undertaken to 39 Bradshaw Road to improve its appearance but do though have reservations. Aware the Party Wall Act is not covered by planning, our Party Wall surveyor has been waiting for over a year to be supplied with accurate plans and information the same plans appear to have been submitted with this application by the applicant.
- Would expect for a project of this nature that an architect would be appointed. Also note no structural engineers report has been submitted and would expect a structural engineer to have been appointed as a first step to building a basement, particularly in such close proximity to other properties and would assume a competent qualified professional would be involved who has the appropriate indemnity insurance in place to indemnify against any damage to surrounding property.
- Object to the porch plan submitted at the front of the property is not on Mr. Kenyon's land and would obstruct the public path.
- Has the soil at the rear of the property been confirmed as being contamination free? Due to the previous commercial nature of the property this raises concerns when excavating and extending onto unmade ground..
- The plans submitted by Mr. Kenyon Drawing Number 3A show existing common fowl water drain between properties 39 and 39a. No plans have been submitted showing changes to this drainage system and an extension to the rear could prevent essential access to this fowl water drain. The impact of this cannot be assessed due to lack of detail of the dimensions of rear extension plans. I would request provisions for access for essential maintenance of this drain to be included in the planning conditions.
- The application states "prior agreement with the owner of the field confirmed" for access to the rear of the property, land owners have not given their permission for access through their field, instead he has approached the renter.
- No official location plan submitted, and I dispute the boundaries.
- No previous building experience.
- Would not object to demolition and rebuild of the front or rear of the property but cannot support an extension of a basement or rear extension which could damage the structural integrity of the properties.
- Request the applicant has sufficient insurance to cover structural damage to 37 or 39a and this to be made a condition of planning.

One comment -

- Note that revised plans and additional documents have been added to the portal. It also seems that the proposal to extract waste materials from the premises through the farmer's field at the rear of the property have been withdrawn. I would ask that a further period of time is given to consider the revised plans and proposals and I would ask for details of how waste materials are proposed to be removed from the site and access gained to the site if the farmer's field is not available. Would object to the private right way behind no. 37 being used for this purpose.
- Properties 39 and 39A were originally one property. When they were split Rights were reserved for the benefit of other land on the Deeds of number 39.
- This states that the land directly behind number 39 and to the side of number 39A is a Common Access Area for the use of both properties and it cannot be built on.

The revised plans received relate to changes made to the design of the windows and porch on the front elevation and details of the layout of the rear extension.

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to conditions.

Waste Management - No response received

Borough Engineer - Drainage Section - No response received

Environmental Health - Contaminated Land - No objection subject to conditions

United Utilities (Water and waste) - No objection. The development should consider the hierarchy for SuDS.

Greater Manchester Ecology Unit - No objection subject to conditions.

Minerals and Waste Planning Unit (Urban Vision Partnership Ltd) - No comments to make.

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

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN6/3	Features of Ecological Value
EN9/1	Special Landscape Areas
OL1	Green Belt
OL1/2	New Buildings in the Green Belt
OL7/2	West Pennine Moors
HT6/2	Pedestrian/Vehicular Conflict
SPD6	Supplementary Planning Document 6: Alterations & Extensions
MW1/1	Areas of Search
HT2/4	Car Parking and New Development
PFE	Places for Everyone

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations, including relevant policies in the emerging Places for Everyone Joint Development Plan.

The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically

mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Policies

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.

Chapter 13 - Protecting Green Belt Land, Paragraphs 152 and 153 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.

Para 154 of the NPF regards new buildings in the Green Belt as inappropriate development.

One of the exceptions to this is d) for the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.

OL1/2 - New Buildings in the Green Belt states that extensions should not be disproportionate to the size of the original dwelling or in the case of a replacement dwelling should not be materially larger than the one it replaces.

Principle

The proposed development would involve a replacement dwelling with extensions. The proposed extensions would result in a volume increase of built development of approx. 30% above the existing volume. The front porch would be a relatively small addition and at the rear, the proposed extension would be single storey, set against the backdrop of the property and would project no further than the existing extension to the neighbour at No 37. It is considered the extent of new build (above that of the existing) would not be disproportionate or harmful to the openness of the Green Belt and not result in a materially larger dwelling than the one it would replace.

The main walls and roof line of the replacement dwelling would replicate the existing pattern of development on this row of cottages.

As such it is considered the proposed development would be acceptable and comply with H2/1, OL1/2, SPD6 and para 154 of the NPPF.

Layout

The form and layout would essentially remain the same as the existing dwelling, with the main front and rear walls of the property built on the same footprint as the existing. The porch at the front would not impede or obstruct the pedestrian footpath which runs along the front of the properties to a significant degree as there would still be access for pedestrians along this part of the street. It is also noted that the proposed porch would not project further forward of the porch to the neighbour at No 37.

At the rear, the extension would project 3m from the rear wall. There is an existing pedestrian access route which runs along the back of these cottages and this would be retained. There would be ample space in the rear yard for amenity purposes and for the storage of bins.

It is therefore considered that the proposed development would be acceptable and comply with H2/2, EN1/2 and SPD6.

Design and appearance - The existing property is currently rendered at the front and rear. The other 3 cottages on this row comprise either stone or rendered elevations. It is proposed to build the exterior walls in random stone, similar to that of Nos 37 and 41 and as a traditional terraced style cottage this is considered to be an acceptable approach. The proposed porch, window proportions and positions on the front elevation would reflect the style of the openings to No 37 which would retain the cottage type appearance. Unlike the dwellings either side, a second window is proposed to the 1st floor but this would be a small narrow type and would not over dominate the front elevation and as such considered not to harm the character of the new build or this row.

At the rear, stone would remain the main material but full height window openings would be inserted on the rear elevation of the single storey extension. The extension would be on the rear and not highly visible and it is considered the extent of glazing would not impact on the overall character of the cottage or the surrounding area.

Windows would have grey frames with sandstone surrounds and the roof would be slate

which is considered acceptable.

It is therefore considered the design and appearance would be compliant with policies EN1/2, OL1/2 and SPD6.

Impact on residential amenity - The proposed porch would project 0.63m from the front elevation and be 1.85m wide. It would be a relatively minor addition to the property and there would be no impact to the habitable room windows on the adjacent neighbours.

At the rear, the single storey extension would project 3m . Both neighbours have extensions on the back of their houses and the extension would also accord with guidance in SPD6 which allows extension of up to 3m deep on terraced houses.

The position of the proposed extension would not obstruct the existing pedestrian access which runs along the rear of this row of terraces.

As such, the proposed development would comply with policies H2/2 and SPD6.

Highways

The proposed porch would not encroach the adopted highway and a pedestrian access across the front of the site would be retained.

In terms of parking, there is no existing provision to park a car and none is proposed. There would not be an increase in the number of bedrooms provided and the scale of development would not significantly exceed the current situation.

It is therefore considered the proposed development would be acceptable and comply with H2/2, HT2/4 and HT6/2.

Ecology

Summary

Further clarification relating to bats is recommended. Other ecological issues relating to nesting birds, invasive species, proximity to a watercourse and ecological mitigation can be dealt with via condition and or informative.

Bats

A valid bat assessment has been provided. The consultant has discounted the likelihood of any disturbance to bats as they were assured that there would be no direct impacts to the fascia board or roof. GMEU note however the demolitions statement refers to demolition of both elevations from eaves to foundation. It therefore appears likely that at least some disturbance could occur.

GMEU therefore require written confirmation from the bat consultant that they are satisfied that the development could occur without the need for a further survey.

The bat consultant confirmed that there could be bat roosting potential at any time and therefore a necessary level of investigative work would need to be carried out to assess whether this is the case or not. This would delay the processing of the application until at least the spring of 2024 to enable the further survey to be carried out.

The question therefore is whether there is a public over-riding need to the granting of planning permission which would outweigh the requirement to provide further bat surveys prior to the determination of the application.

The property is in a very poor state of repair and since 2006 the structural stability of the front and back elevations has steadily deteriorated resulting in the removal of the rear wall of the property. The existing dwelling is a small two up and two down cottage and the family have been residing in one 18 sqm room downstairs with a sleeping area at the first floor for a number of months. The family also have a young child who has a medical condition which makes the current living conditions even more challenging especially in the

Winter months.

Discussions have been ongoing with the bat consultant and GMEU and the bat consultant have acknowledged that it is ultimately the LPA's decision to determine that there would be over-riding public need and that there is no satisfactory alternative to granting permission for this development prior to further bat surveys.

The LPA are of the view that this is a particularly unique set of circumstances and whilst not at all usual practice, would be satisfied on this occasion, that the health and welfare of the family is of paramount importance.

GMEU accept that there appear to be grounds for the LPA to determine that there are over-riding public needs and no satisfactory alternative to granting permission for this development prior to further bat surveys. In such circumstances, the bat consultant would provide an alternative approach to safeguarding the conservation status of bats assuming only single storey extension were proposed once the external walls have been taken down. Having checked the most recent elevation plans GMEU are satisfied this still appears to be the case.

Ideally, a bat method statement and mitigation strategy demonstrating how bats would be safeguarded should be submitted prior to determination so as to be sure that all that could be done was being proposed and that this document could then be conditioned. However, if this is urgent GMEU are confident that the consultant involved would provide adequate safeguarding measures such as clerking during demolition and construction along with adequate mitigation and enhancement and the details provided via a condition along the following lines -

Prior to any further demolition or construction works a reasonable avoidance measures method statement and mitigation strategy for bats written by a suitably experienced bat consultant shall be provided to and agreed in writing by the LPA, with all agreed measures and mitigations adhered to throughout the course of the development.

The applicant is agreeable to such a condition.

It is therefore considered that with such measures in place, no harm would be caused to the protected species as a result of the development and that the development could proceed subject to full compliance with the condition.

Other Protected Species

GMEU are satisfied that it is very unlikely that any other protected species such as water vole or great crested newts will be effected by this development. No further information or measures are required.

Nesting Birds

The development is low risk for nesting birds. GMEU recommend an informative along the following lines is applied to any permission -

The applicant is reminded that, under the Wildlife and Countryside Act 1981 as amended it is an offence to remove, damage, or destroy the nest of a wild bird, while the nest is in use or being built. Planning consent does not provide a defence against prosecution under this act. If a birds nest is suspected work should cease immediately and a suitably experienced ecologist employed to assess how best to safeguard the nest(s).

Himalayan Balsam

This species listed under schedule 9 part 2 of the Wildlife & Countryside Act 1981 (as amended) is located along the watercourse adjacent to the site. There will be biosecurity risks associated with development resulting from seed being accidentally carried off-site in spoil and on clothing and machinery. This is however a minor development and it would

seem unreasonable to request a full method statement. GMEU are satisfied that for this development the risks can be covered by an informative.

Proximity to a Watercourse

Works to the rear elevation poses a risk to the watercourse from dust, pollutants, debris and sediment falling or being washed during heavy rain in to the channel. GMEU recommend simple measures such as heras fencing and sand bagging along the edge of the channel to minimise the risk. The details can be conditioned.

Contributing to and Enhancing the Natural Environment & Biodiversity Net Gain

Section 174 of the NPPF 2021 states that the planning policies and decisions should contribute to and enhance the natural and local environment. There appears to be no vegetation on the site, that requires mitigation. A condition to install a bat/bird box would be included.

Response to objectors

- The red edge location plan has been amended to reflect the correct site area within the applicant's ownership. The plan is drawn to a recognised scale and identifies the adjacent properties and a named road which is acceptable for validation purposes.
- The representations relating to the structural integrity of the building, the physical works to be carried out, references to 3rd party walls and drainage connections are matters for Building Regulations and or the Health and Safety Executive or are private matters between the two parties and are not material planning considerations.
- The applicant would be advised by an informative to comply with The Control of Noise (Appeals) Regulations 1975, Section 60. Control of Noise on Construction Sites with regards to Saturday working hours. Any undue noise or disturbance as a result of the carrying out of the works would be a matter for the Environmental Health Section under the Environmental Protection Act.
- Conditions for the control of land contamination are covered in conditions 3 and 4.
- The removal of waste and use of a private rights of way to access the property during or after construction of the development are not material planning considerations.
- 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 -
Location plan dwg 2M; Existing site plan dwg 4M; Existing elevations 8M R1;
Existing plan 9M; Proposed site plan dwg 3M; Rear property access plan dwg 16C;
Revised proposed elevations dwg 6M dated 4/12/23; Revised proposed floor plans dwg 7M dated 27/11/23; Revised existing and proposed streetscene elevations dwg

1SR2 dated 4/12/23

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 3 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 No development shall commence unless and until the following details have been submitted to and agreed with the Local Planning Authority:

- (1) Photographic dilapidation survey of the footway abutting the site in the event that subsequent remedial works are required following demolition works and construction of the development;
- (2) If proposed, details of site hoarding and/or scaffolding positions, incorporating the provision, where necessary, of temporary pedestrian facilities/protection measures on the adopted highway;
- (3) Facilities for the storage on site or on land within the applicant's control of demolition and construction materials;
- (4) 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 construction period.

Reason. Information not submitted at application stage. To ensure adequate off highway materials storage arrangements for the duration of the construction period and that the adopted highways are kept free of deposited material from the ground

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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.

- 6 The development hereby approved shall be carried out in accordance with the proposed materials schedule dwg no 5M dated 1/9/23.
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.
- 7 Prior to the commencement of development to the rear of the building, measures to protect the watercourse from dust, pollutants, debris and sediment shall be implemented. The measures could include heras fencing and/or sand bags. The protection measures shall thereafter be maintained for the duration of the demolition and construction works to the rear elevation.
Reason. To ensure the safe and satisfactory development of the site and in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 8 The development hereby approved shall incorporate a bat/bird box which shall be installed within the first available tree planting season following substantial completion of the development and shall thereafter be maintained.
Reason. To secure the satisfactory development of the site and in the interests of ecological enhancement pursuant to policies EN1/2 - Townscape and Built Design and chapter 15 - Conserving and enhancing the natural environment of the NPPF.
- 9 Prior to any further demolition or construction works, a reasonable avoidance measures method statement and mitigation strategy for bats written by a suitably experienced bat consultant shall be provided to and agreed in writing by the Local Planning Authority.
All mitigation measures shall thereafter be fully implemented prior to the commencement of the works and remain in situ on the site for an agreed period of time.
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 Section 11 of the National Planning Policy Framework.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	27/2/24	DM	28/02/24