

DELEGATED REPORT**Report by** Amanda**Date of report:** 29/07/2022**Ref:**68484/FUL

Uhunmwagho

Registration: 14/06/2022**LDFC:** 06/07/2022**Expiry Date:** 09/08/2022**Site Visit:** 21/07/2022**Site Notice:** N/A**Press Date:** N/A**Objections:** 1**Con Area:** N/A**Adv Type:** NONE**Reason for Delay:****EIA:** NA

N/A

Dec Level: DEL**Stat Class:** HOUS**Proposal:** Fronch Porch and first floor balconies at front**Location:** 8 Nithe Walk, Bury, BL8 1WG**Description**

Nithe Walk is a short row of 7 terraced properties which has open land to the front. The whole of the estate is situated within the designated Green Belt. There is an access road to the front of 2, 4, 6 and 8 Nithe Walk leading to a parking area to the rear of the properties.

The application property, no.8 Nithe Walk is part two storey with a first floor section which is positioned above the vehicle entrance to the car park at the rear. At ground floor level there is an entrance lobby, bedroom, utility room, study and a bathroom. The main living areas are to the first floor comprising of a kitchen, lounge and dining area to the front with three bedrooms and a bathroom to the rear.

The application seeks to add a porch at ground floor level as well as rearranging the internal layout of the first floor level which would see the main bedroom being moved to the south side of the property with en-suite to the rear. The existing bathroom would be located next to the en-suite.

The main living area would be rearranged so the kitchen area would be moved to the rear of the existing living room and a new dining area would be located where the kitchen is currently. Bedrooms 2 and 3 would be removed to make way for the new kitchen area with one bedroom remaining to the north side. Once the internal arrangements have been altered it would result in changes of windows to the rear elevation at first floor level.

In addition to the above the proposal shows two balconies to the front of the property. One balcony would be accessed from bedroom one. It would measure 1m x 3m. The second balcony would be accessed from the dining area. It would project around 550mm x 1.87m wide.

Relevant Planning History

N/A

Publicity

Neighbours notified on 14/06/2022 - Two objections received. A summary of the objections is shown below;

- Impact on privacy.
- Detrimental impact on property value.
- They would not want the balcony attached to their property.
- Increase in noise levels from the balconies.
- Has the management company been informed of the proposed development?
- There is no objection to the proposed porch.

Statutory/Non-Statutory Consultations

None.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD8	DC Policy Guidance Note 8 - New Buildings in the Green Belt
H2/3	Extensions and Alterations
OL1	Green Belt
OL5/2	Development in River Valleys
EN6/4	Wildlife Links and Corridors
NPPF	National Planning Policy Framework

Issues and Analysis

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

The main considerations of this application are the impact of the proposal on visual and residential amenity.

Green Belt -

The whole of the housing estate where the application property is located is situated within the designated Green Belt. The agent has advised that the gross volume increase to the existing building would be 1.72% which would be well within the recommended 33% as set out in SPD 6. The development would be considered relatively small and would be built within the residential curtilage. As such there would be no significant detrimental effect on the surrounding Green Belt.

Visual Amenity -

SPD 6 and UDP Policy H2/3 seek to achieve a high standard of design that compliments the original building, and does not have a detrimental impact on the character and appearance of neighbouring properties and the general street scene.

The proposed porch would be built with materials and a design that would be considered in-keeping with the existing building as would the new windows to the rear elevation.

There is an existing Juliet balcony to the front elevation of the property and the proposed balconies would be finished with materials that would be similar in design. The design of the proposal is therefore considered to be in keeping with the existing building.

Given the above the proposal conforms to Bury UDP Policy H2/3 - Extensions and Alterations and the guidance in Supplementary Planning Document 6 – Alterations and Extensions to Residential Properties in terms of visual amenity.

Residential Amenity -

SPD 6 and H2/3 seek to reduce the impact of proposals on the residential amenity of neighbouring properties.

The plans show that the proposed balconies accessed from the new bedroom and dining area would not project forward of the attached properties to either side of the dwelling. At first glance the impact on privacy levels would not necessarily be a major concern given the balconies would not project forward of the front elevations of the neighbouring properties. However, given the close proximity to both adjacent properties if users of the balconies leant over the railings they could have views in to the bedroom windows at numbers 6 and 10 Nithe Walk. This would be considered seriously detrimental in terms of privacy and would not be acceptable.

On the 15/06/2015 a proposed development on a different site, which included a balcony close to a shared boundary was refused and later an appeal was dismissed on the grounds that it would result in an unacceptable loss of privacy with the adjacent neighbour. For information the reference number for that application is APP/T4210/D/15/3006999 and it relates to the planning ref 58340.

This application was for a single storey extension with a balcony above which would have had a larger floor area than what is currently proposed at 8 Nithe Walk. Despite the applicant proposing to erect high level privacy screens along the boundary side the application was refused due to its detrimental impact on privacy at the neighbouring property and noise levels from people using the balcony for socialising.

The balconies at 8 Nithe Walk would be much smaller than the one described above but given their close proximity to the neighbouring bedroom windows any noise from users of the balconies would be clearly heard from neighbouring properties and in particular from the first floor bedroom windows at both numbers 6 and 10 Nithe Walk which would be unacceptable in terms of SPD 6.

The proposed porch and alterations to the windows on the rear of the dwelling would not have any significant detrimental effect on residential amenity in the immediate area. Unfortunately as the dining room balcony would be built on the roof of the proposed porch it could not be built as a separate entity. As such the porch would not be acceptable at the current time.

Taking the above in to account the proposal does not conform to UDP Policy H2/3 - Extensions and Alterations and the requirements of Supplementary Planning Document 6 – Alterations and Extensions to Residential Properties in terms of its impact on the adjoining dwellings.

Parking -

The proposal would decrease the number of bedrooms from 4 to 3 therefore SPD 11 Parking Standards need not be considered. The parking arrangements would remain as existing where there is parking to the front garden and drive.

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

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

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed balconies to the front elevation would result in an unacceptable reduction in the level of privacy currently enjoyed by the occupiers of numbers 6 and 10 Nithe Walk by reason that the proposed balconies would be positioned directly adjacent to the party walls of both adjacent properties. The proposed development therefore conflicts with Unitary Development Plan Policy H2/3 Alterations and Extensions and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.
- 2 The proposed first floor balconies to the front elevation would be seriously detrimental to the residential amenities currently enjoyed by the occupiers of the adjoining dwelling houses, by reason of the size and position of the proposed balconies. The proposed development therefore conflicts with the following policy of the Bury Unitary Development Plan: H2/3 – Alterations and Extensions and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.

DELEGATED REPORT

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
AU - 29/07/2022			