

**DELEGATED REPORT**

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| <b>Report by</b> Jennie Townsend | <b>Date of report:</b> 31/07/2023 | <b>Ref:</b> 68772/FUL          |
| <b>Registration:</b> 06/06/2023  | <b>LDfC:</b> 29/06/2023           | <b>Expiry Date:</b> 01/08/2023 |
| <b>Site Visit:</b> 19/06/2023    | <b>Site Notice:</b> 19/06/2023    | <b>Press Date:</b> 15/06/2023  |
| <b>Objections:</b> 3             | <b>Con Area:</b> N/A              | <b>Adv Type:</b> ARW           |
| <b>Reason for Delay:</b><br>N/A  |                                   | <b>EIA:</b> NA                 |
|                                  |                                   | <b>Dec Level:</b> DEL          |
|                                  |                                   | <b>Stat Class:</b> MIOT        |

**Proposal:** Erection of two storey garage/garden outbuilding

**Location:** Higher Ash Barn, 12 Hawkshaw Lane, Tottington, Bury, BL8 4LD

**Description**

The application relates to a site which comprises of Higher Ash Barn and associated land. The Barn was granted planning permission by appeal for the conversion to 1 no. dwelling in July 2021. Works to convert the barn have commenced on site.

The site is located in the Green Belt, Special Landscape Area and West Pennine Moors and is in an area characterised by open land and fields. It is accessed off Hawkshaw Lane which leads from the village of Hawkshaw just over half a mile away. The nearest residential property is Higher Ash Farm directly to the north which shares the access to the site from Hawkshaw Lane. Withins Farm is just over 100m away to the north west. To the south west is Hawkshaw Hall approx 200m away.

All three of these neighbouring properties and the application site are on the Council's Draft Local List as Non-Designated Heritage Assets.

In terms of the site itself, the Barn is a 2 storey stone building formed in a 'T' arrangement which is set close to a raised area of land along the western elevation and there is stoned/loose gravel access on the southern side which appears to have been cut out from the field. There is an area of land to the east bounded by trees, part of which is the garden to Higher Ash Farm. The applicant's land ownership however, extends to the south and includes a field which runs parallel with Hawkshaw Lane.

Two PRoW cut through the site and run between the Barn and Higher Ash Farm in a west to easterly direction and cross the site directly adjacent to the western elevation of the barn in a north southerly direction.

The application seeks the erection of a two storey garage/garden outbuilding.

The building would be located directly to the east of the Barn approximately 8.2m away and would be 9m in length, 4m wide, 2.6m to eaves level and 5.3m high

The ground floor would be a double garage with 2 EV chargepoints which would be accessed via two full height openings on the south elevations.

The first floor would be accessed via an external staircase on the west elevation and would be used to store plant equipment and water filtration tanks to serve the main house. The applicant states that this specialist equipment is to be housed within the garage with pipework being connected to the main dwelling. It is also stated that the equipment is cumbersome and can be noisy therefore it has been advised to located it within the garage rather than the house itself.

The elevations would comprise natural stone with a slate roof. The material for the garage door is not specified but elevations appear to be roller shutter door types.

**Relevant Planning History**

01551/E - Proposed conversion of barn to one dwelling - Enquiry completed 14/08/2014

02530/E - Proposed change of use/conversion of barn to form one dwelling with associated single storey extension, external alterations (including new/replacement doors and windows), external works associated with access/parking/hardstanding areas, new pond and hard/soft landscaping - Enquiry completed 23/03/2021

02741/E - Construction of a garage/garden outbuilding - Enquiry completed 20/07/2022

59866 - Conversion of barn to one dwelling including roof extension - Approve with Conditions 28/04/2016

66085 - Change of use of barn to form dwelling including single storey, two storey and roof extensions; External alterations include hardstanding area, new pond and landscaping - Refused 11/12/2020

66739 - Change of use from barn to dwelling; Associated single storey, two storey and roof extensions; External alterations; External works soft and hard landscaping - Approve with Conditions 07/06/2021

**Publicity**

Letters sent to 4 properties.

Site notice posted 19/6/23

Press advert 15/6/12

21 representations received.

3 objections

16 support

2 comments

**Objections**

- Recent construction work at the address involved an increase in the number of HGVs travelling up and down Hawkshaw Lane. The condition of the lane has been the subject of numerous requests for repair. If planning is granted the Council will be expected to repair any damage caused.
- The application suggests the proposed garage/garden outbuilding is to house water filtration equipment. Where is the said filtration equipment being stored at present as the house is now occupied?
- The building of the present new residence over the last two years has caused disruption for those travelling the lane by foot and vehicle and became a source of noise pollution due to the heavy plant machinery used. Why wasn't the permission for the proposed outbuilding sought at the time the original application was made? The area is Greenbelt in nature. What consideration has been given to this? A new address has already been added to Hawkshaw Lane as a result of the original planning permission.
- This is a Greenbelt area. Very special circumstances would need to be shown to allow planning permission. I don't think there are any.
- There is no visual impact assessment with the application either just very basic information and plans.
- Policy OL1/2 +OL4/5 need to be applied as this proposal would be harmful to the local landscape and visual amenity.
- I am concerned about the size of this 'garage' - this suggests both many more vehicles will be on the lane adding to the already busy and dangerous for pedestrians and cyclists, lane. I question why an upstairs is required in a garage. The house is exceptionally large, I am sure people could be accommodated within it rather than an additional property. What is the true usage of this property?
- Incorrect boundary
- If positioned in the position shown the garage would substantially obscure the historic views of the NDHA Higher Ash Farm if Hawkshaw Village and Affetside.
- Unacceptable noise pollution from the plant and equipment proposed.

**Support**

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- From walking down the lane for some years, I've seen the current building has come on to be a lovely home, in keeping with the area and scenery far surpassing its previous shell.
- I'm sure the outbuilding & garage will follow suit in quality, aesthetics and admired for a long period of time.
- I support this application. This road was already damaged before the work began on this property. The road was previously repaired to a poor standard and not cause by the wagons. I have no issues with this build.
- This development has turned a derelict barn into a super family home, it's been done using natural materials and sympathetic to the surrounding area, the proposed garage/ garden room will only enhance this property and will finish of a superb development
- Support, a house with land to tend will no doubt require storage for equipment etc.
- Erection of a garage / outbuilding will only enhance the look of the landscape surrounding the existing building allowing the owners to park vehicles and machinery out of sight.
- As there is a public footpath along the border of this property it is important for the owners to have secure storage for their vehicles and equipment. The use for filtration equipment and electric car charging is consistent with the government's guidelines in order to reduce the carbon footprint, therefore can only be a good thing for the environment.
- By repurposing an already existing structure the owner has demonstrated their commitment to sustainable development and minimizing the impact of construction on green belt land.
- The addition of this garage is being designed to complement the barn and the style of the local area to blend in as much as possible. This in my opinion is much more practical for anyone who is objecting. It will be much better to store any of the owner's vehicle, garden equipment or water filtration equipment in a well-built garage than out in the open.

### **Comments**

- Extensive construction work on Hawkshaw Lane in recent years has highlighted the problem that construction vehicles and deliveries of building materials cause to the fabric of the lane. The council should accept that if granting this permission, and all future permissions, more regular maintenance, repair and resurfacing of Hawkshaw Lane must be provided for.
- The site is known as Higher Ash Farm, not Higher Ash as originally advertised. Question whether the location address is correct as 12 Hawkshaw Lane.
- The boundary has been incorrectly shown on the plan and shows the proposed building would encroach on land not in the applicant's ownership.
- If approved, the historical amenity of views over parts of Hawkshaw Village and Affetside would be obscured and impact on Higher Ash farmhouse which is an NDHA.
- The deployment of plant and equipment would risk the creation of unacceptable noise pollution. Unable to comment further on the risk level since the amount and type of the plant and equipment or the associated noise output is unknown.

### **Statutory/Non-Statutory Consultations**

**Public Rights of Way Officer** - No comments

**Conservation Officer** - Not support due to lack of information, inappropriate design and impact on the Higher Ash Barn NDHA.

**Environmental Health - Contaminated Land** - No comments to make.

**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

|       |                                                             |
|-------|-------------------------------------------------------------|
| EN9/1 | Special Landscape Areas                                     |
| OL1   | Green Belt                                                  |
| OL7/2 | West Pennine Moors                                          |
| OL1/2 | New Buildings in the Green Belt                             |
| HT2/4 | Car Parking and New Development                             |
| SPD8  | DC Policy Guidance Note 8 - New Buildings in the Green Belt |
| H2/3  | Extensions and Alterations                                  |

## **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**

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. Exceptions to this include:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities ((in connection with the existing use of land or a change of use) for outdoor sport, outdoor 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 in it.
- 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) replacement of a building provided the new dwelling does not result in disproportionate additions over and above the size of the original building;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); 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 an identified affordable housing need within the area of the local planning authority.

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.

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

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

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.

Garages and outbuildings are normally considered to be an urban element and not normal practice to construct in the Green belt. Where garaging and other buildings are required, the design should be subservient to and closely related to existing buildings.

In the Planning Statement, the applicant has stated that the proposal is for the purpose of storing items associated with outdoor sport and recreation in conjunction with the main dwelling house. This is incorrect as the proposed development is for a domestic building

ancillary to the purposes of the dwellinghouse, for a garage and plant storage. As such, the proposed development cannot be considered under para 149 point b) for essential facilities for outdoor sport/recreation of the NPPF.

Point c) extension or alteration of a building provided it does not result in disproportionate additions, could be considered relevant, being an outbuilding/extension ancillary to a residential dwelling, providing this would not be a disproportionate addition over and above the size of the original building.

In addition, SPD8 advises that whilst all applications are considered on their own merits, in general terms, up to a third of the volume of the original dwelling is the starting point. The proposed development would go beyond what is considered acceptable in volumetric terms

The approval which was granted for the Barn conversion allowed for a circa 20% increase to both the volume and floor area of the original barn. The proposed garage building would add to the amount of built form on site, to almost 40% when compared to the original building and as such this is considered to be a disproportionate addition over and above the size of the original building and therefore considered to be inappropriate development and contrary to the principles of para 149 of the NPPF.

Openness and impacts on openness however are not just defined by volume alone. Indeed, 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 and appearance**

Whilst located off Hawkshaw Lane, the site is located in an elevated position comparative to the lane and land to the east and south east of the site and is clearly visible from longer range views when travelling up the lane in a south/north direction. There are also public rights of way crossing directly through the site. As such, the proposed two storey building would be highly visible to open views and would add an imposing built form on the landscape and in turn impact on the openness of the Green Belt.

The application site is also within one of the Boroughs Special Landscape Areas and West Pennine Moors area and as such is an area considered to be highly sensitive to new development, which should be particularly sympathetic to an area in terms of its visual impact. High standards of design is also expected and development should not be unduly obtrusive. As the building would be set on a higher level comparative to the land to the south and east which slopes downwards to wards Hawkshaw Village and Hawkshaw Lane, views of the site within the setting of the West Pennine Moors and Special Landscape Area would be far reaching.

Furthermore, in terms of design, the front elevation would face southwards towards Hawkshaw Lane and the open fields where it is proposed to incorporate two full height openings, each 3m wide and whilst the material of the openings is not specified, the plans appear to show roller shutter type or 'up and over' type doors, which would be prominent and introduce discordant and urbanising features to the character of the special landscape area and especially facing such public views, thereby exacerbating the detrimental impact on the openness of the Green Belt, Special Landscape Area and the West Pennine Moors.

The staircase which is proposed to the side of the building on the western side would be flush with the front elevation and therefore also highly visible to views, again introducing an alien and jarring feature to a sensitive landscape.

The remainder of the elevations would be natural stone with the roof a slate covering, and whilst these materials would be sympathetic and appropriate to a Green Belt setting, the very scale, height and massing of the building and disproportionate addition to the site would be inappropriate development in the Green Belt.

In terms of its setting within the site, the proposed building would be approximately 8.2m away from the Barn. Whilst SPD8 states that outbuildings should be closely related to existing buildings, as a 2 storey outbuilding of fairly substantial proportions, it is considered its siting would detract from and challenge the setting of the historic Barn and farmstead in this rural location.

It is therefore considered that the proposed development by virtue of the proposed siting, scale, bulk and massing of the building would be significantly harmful to the openness of the Green Belt and would detract from the traditional character of the rural landscape character of the West Pennine Moors and the Special Landscape Area.

The applicant has not advanced any special circumstances which would outweigh the harm which would be caused to the openness of the Green Belt.

As such, the proposed development would be contrary to the principles of para 149 of the NPPF, UDP Policy OL1/2, EN7/2 and EN9/1 and guidance of SPD8.

**Impact on residential amenity** - The proposed building would be approximately 20m away from the nearest property, Higher Ash Farm which is located to the north/north west. This property is slightly elevated above the site and directly faces the north elevation of the Barn. Whilst there would be no direct interface between the proposed building and this neighbour, the proposed building would be 2 storey and sited along the same building line as the Barn on the northern side, and therefore would result in a row of substantial solid form in front of Higher Ash Farm.

Whilst there is not a 'right to a view' as such, there is a right to having an outlook which is currently across the countryside and open land to the south, and occupiers of Higher Ash Farm opposite the application site enjoy an open outlook. It is reasonable for development to secure high quality and healthy living conditions for occupants or neighbours by ensuring an acceptable outlook.

In this instance, given the open aspects currently enjoyed by the neighbours, it is considered the siting and scale of the proposed building would be harmful to the amenity of the occupiers of Higher Ash Farm.

In terms of the noise from the store and specifically the plant equipment, as the openings would front southwards and would be on the opposite side to Higher Ash Farm, it is considered that there would not be a significant impact on these neighbours with regards to noise.

It is therefore considered the proposed development would be contrary to policies EN1/2 and H2/3.

### **Heritage**

The proposal would be within the setting of two Non-Designated Heritage Assets (NDHA): Higher Ash barn currently being converted into a dwellinghouse under Appeal and Higher Ash Barn Farmhouse.

The National Planning Policy Framework (NPPF) at Annex 2 states the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Paragraph 203 of the NPPF states 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 proposal would indirectly affect the NDHAs by being located within their setting. The submitted plan appears to show the garage doors to the proposal as being of a roller shutter design. The doors would be viewed within the setting of the NDHAs and would represent a utilitarian and incongruous feature with the rural landscape and setting of the NDHAs which would have negative impact on how the NDHAs are experienced and enjoyed, as such the garage doors would cause an unacceptable loss of architectural significance of the NDHAs.

The external staircase would also represent a utilitarian and incongruous feature within the setting of the NDHAs for the same reasons as the proposed roller shutters and as such would cause an unacceptable loss of architectural significance of the NDHAs.

The proposed development would therefore be contrary to the principles of the NPPF.

### **Other matters to note**

- The original application for the barn conversion shows adequate parking spaces close to the entrance of the site and the Barn and brings into question a) why an outbuilding was not applied for at this stage and b) why garage parking is now considered necessary.
- The original Barn (prior to the conversion application/works) already had a garage/store type building as part of the accommodation, which the applicant proposes to use as a gym. This could easily have been utilised to house a car and/or the plant equipment rather than requiring a separate building.
- The proposed internal layout of the Barn showed no provision for any plant equipment or water filtration which the applicant would surely have needed to consider to provide necessary living facilities for the Barn. Indeed, one representation made to the application notes the Barn is occupied and would surely require the water filtration equipment to be installed and available for use. This is not made clear in the application submission and again this facility was not part of the application for the barn conversion.
- The application does not detail the dimensions of the plant equipment. However, photographs of the equipment are shown in the Planning Statement and would appear to be relatively modest, fitting in the corner and side of a small garage type build and certainly not requiring a footprint area of 63sqm.
- The D&A/ Planning Statement states that the development for a garage would usually be permitted development but for the fact that pd rights have been removed on the application for the conversion of the barn to a dwelling. This is incorrect as the proposals for a 2 storey outbuilding would not benefit from permitted development rights under Part 1, Class E of the GPDO.

During the application process, in order to engage positively with the applicant, more information and details were requested, with advise that the applicant should also consider scaling down the size of the building and consider making changes to the design, which could potentially help to make their application more acceptable (email sent 19/6/23).

No response was received by the applicant by the date of the determination of the application.

### **Response to representations**

- The postal address has been confirmed by applicant as Higher Ash Barn, 12 Hawkshaw

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Lane.

- The applicant has confirmed the land ownership in the red edge site plan is correct.
- If supported, conditions would be included for the carrying out of a dilapidation survey prior to and post development and any damage caused as a result of the works would require repair.
- All other issues raised have been dealt with in the above report.
- The representations in support of the application are noted. The majority of comments have been made from those who live outside the area.

**Recommendation:** Refuse

### **Conditions and Reasons:**

- 1 The proposed development, by virtue of its siting, scale, massing and height would result in an incongruous and obtrusive incursion which would be a visually prominent feature and therefore detrimentally harmful to the openness of the Green Belt and the landscape qualities of the West Pennine Moors countryside area and the Special Landscape Area.  
No Very Special Circumstances have been demonstrated to outweigh the harm caused to the openness of the Green Belt.  
As such, the proposed development would be contrary to Bury Unitary Development Plan Policies EN1/1 - Visual Amenity, EN9/1 - Special Landscape Areas, OL1/2 - New Buildings in the Green Belt, OL7/2 - West Pennine Moors and SPD8 and the principles of the NPPF.
- 2 The proposed development by virtue of the scale, design and appearance, and in particular the full height garage door openings and external staircase, would introduce discordant, alien and unsympathetic features which would be seriously detrimental to the rural landscape and character and qualities of the Green Belt, Special Landscape Area and West Pennine Moors and which would have a negative and harmful impact of the setting of the adjacent Non-Designated Heritage Assets and how these Assets are viewed and experienced. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EN1/1 - Visual Amenity, EN9/1 - Special Landscape Areas, OL1/2 - New Buildings in the Green Belt and, SPD8 - New Buildings and Associated Development in the Green Belt and the principles of the NPPF.
- 3 The proposed development by virtue of its siting, scale, and massing and position would result in an undue sense of enclosure and detrimental impact on the outlook of the occupiers of the adjacent residential property. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design, H2/3 - Extensions and Alterations, SPD6 and SPD8.
- 4 The application and submitted plans contain insufficient information to enable them to be properly assessed with regards to the need for the proposed development, the proposed siting, design and appearance of the building and assessment of the impacts of the special qualities of the landscape area and the Green Belt which should include a case for Very Special Circumstances. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EN1/1 - Visual Amenity, EN9/1 - Special Landscape Areas, OL1/2 - New Buildings in the Green Belt, OL7/2 - West Pennine Moors and SPD8 and the principles of the NPPF.

|                     |             |                         |             |
|---------------------|-------------|-------------------------|-------------|
| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
| JT - 31/07/2023     |             | HL 31/07/23             |             |

