

DELEGATED REPORT

Report by Helen Pressley	Date of report: 08/08/2024	Ref: 70852/FUL
Registration: 27/06/2024	LDfC: 15/08/2024	Expiry Date: 22/08/2024
Site Visit: 25/07/2024	Site Notice: 25/07/2024	Press Date: 11/07/2024
Objections: 0	Con Area: MARY	Adv Type: CA
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Variation of condition no. 2 (approved plans) of planning permission 66779:

Amendment to cill heights, omission of some windows and balcony; reduction in the length of the boundary retaining wall and change from brickwork to a white render

Location: 10 Butterstile Lane, Prestwich, Manchester, M25 9PW

Description

The application relates to an existing block of flats located on Butterstile Lane. The building was previously utilised to provide 1 no. 3 bed flat and 1 no. 2 bed flat with storage provided within the basement. The site is accessed from Butterstile Lane and has parking to the rear. The site was previously extended to the front. The site is towards the edge of St Mary's Conservation Area, between Prestwich Park Road South to the north and Butterstile Road to the south.

Planning permission was granted for the conversion of the existing building to provide 5 no. flats. The proposal would provide 2 no. 2 bed flats and 3 no. 1 bed flats utilising the existing basement. The proposal also seeks the following external alterations that make up:

- demolition of the existing single storey front extensions;
- new front porch;
- balconies and terrace garden to front;
- replacement windows;
- parking; and
- bin store.

The development was completed, without discharging any of the pre-commencement conditions. An application was made to discharge these conditions in June 2026, however a number of the conditions were refused due to non-compliance with the approved plans and the breaches were reported to planning enforcement.

The application seeks to vary condition 2 (approved plans) of planning permission 6677.

The proposal seeks to approval to:

- Amendment to cill heights;
- omission of some windows and balcony;
- reduction in the length of the boundary retaining wall; and
- change from brickwork to a white render

Relevant Planning History

55286 - New balcony walls to flat roof area and new entrance arch at front (resubmission) - Approve with Conditions 13/08/2012

66779 - Demolition of single storey front extensions; Conversion of existing building to form 5 No flats over 3 floors; alterations to include new front porch, balconies and terrace garden to front; replacement windows; parking and bin store. - Approve with Conditions 14/10/2021

Enforcement

24/0211 - Not built in accordance with approved plans of planning permission 66779 - 31/07/2024

Publicity

Letters sent to neighbouring properties on 4th July 2024

Site Notice 25th July 2024

Press Notice in the Bury Times 11th July 2024.

No representations received.

Statutory/Non-Statutory Consultations

Conservation Officer - no response

Prestwich Village Neighbourhood Forum - no response

Traffic Section - recommendation for refusal due to substandard parking and access.

Pre-start Conditions - Not relevant

Development Plan and Policies

H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/4	Conversions
EN1/2	Townscape and Built Design
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
EN6/3	Features of Ecological Value
EN8/2	Woodland and Tree Planting
HT2/4	Car Parking and New Development
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework
JP-P1	Sustainable Places
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C8	Transport Requirements of New Development
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing
JP-G7	Trees and Woodland
JP-G8	A Net Enhancement of Biodiversity and Geodiversity

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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PfE Policies 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 (Residential)

The National Planning Policy Framework (NPPF) should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. The Framework states that unless they have an adopted plan that is less than five years old that identified a five year supply of specific deliverable sites at the time of conclusion of the examination, then local planning authorities should identify and update annually a supply of specific developable sites to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing in certain circumstances set out in NPPF paragraph 226.

The joint Places for Everyone Plan was adopted with effect from 21 March 2024 and sets the up-to-date housing requirement for Bury against which the deliverable supply of housing land must be assessed. PfE Policy JP-H1 sets the following stepped targets for Bury:

- 246 homes per year from 2022-2025;
- 452 homes per year from 2025-2030; then
- 520 homes per year from 2030-2039.

Bury's Strategic Housing Land Availability Assessment sets out the latest housing supply

position, which is made up of sites that have an extant planning permission and sites that have potential to obtain planning permission in the future. This shows that there are a number of sites within the Borough with the potential to deliver a significant amount of housing. However, not all of these sites will contribute to the deliverable land supply calculations as many sites will take longer than five years to come forward and be fully developed (e.g. some large sites could take up to ten years to be completed). In addition to the housing land supply in the SHLAA, the joint Places for Everyone Plan allocates significant strategic sites for housing within Bury and will accelerate housing delivery within the Borough to meet housing needs.

Following the adoption of Places for Everyone, the Council is now able to demonstrate a deliverable 5 year supply of housing land when assessed against the adopted PfE housing requirement.

The National Planning Policy Framework also sets out the Housing Delivery Test, which is an assessment of net additional dwellings provided over the previous three years against the homes required. Where the test indicates that the delivery of housing was substantially below (less than 75%) the housing requirement over the previous years, this needs to be taken into account in the decision-taking process. The latest results published by the Government show that Bury has a housing delivery test result of less than 75%, and therefore, this needs to be treated as a material factor when determining applications for residential development.

Therefore, paragraph 11d) of the National Planning Policy Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

- i. The application of policies in the Framework that protect areas, or assets of particular importance, provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.

In terms of housing delivery the Borough has underdelivered against the local housing need, and as a result the 'tilted balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

The site is considered to be in a sustainable location for housing within the urban area and sitting outside the Green Belt. The national requirement to significantly boost the supply of housing under the NPPF is a material consideration that would favour the residential development of this site in principle.

Heritage, Design and Layout

Policy JP-H4 requires new housing development to be delivered at a density appropriate to the location, reflecting the relative accessibility of the site by walking, cycling and public transport and the need to achieve efficient use of land and high quality design. Policy JP-H4 sets out minimum densities that should be considered.

The minimum density for the site would be 50 dwellings per hectare. The application form states that the site area is 0.0447 hectares. The proposal would therefore lead to a density of 111 dwellings per hectare. The proposal would therefore exceed the minimum density required. As such, it is considered that the proposal would achieve efficient use of land.

Policies H2/1 and H2/2 provide the assessment criteria for detailed matters relating to height, appearance, density and character, aspects and finishing materials for new residential developments. Policy JP-H3 - Seeks to provide an appropriate mix of dwelling types and sizes reflecting local plan policies and having regard to relevant local evidence. Development across the plan area should seek to incorporate a range of dwelling types and sizes, including for self-build. Policy H2/4 - Conversions requires the application to be

assessed in relation to the general character of the area, and the existing concentration of flats and the effect on the street scene of any changes to the external appearance of the building.

Policy EN1/2 seeks to ensure that development proposals would not have a detrimental effect on the visual amenity and character of a particular area. Policy JP-P1 Sustainable Places aims to promote a series of beautiful, healthy and varied places.

The NPPF makes it clear that creating high quality buildings and places is fundamental. This is further supported by the National Design Guide. The National Design Guide, published by the Ministry of Housing, Communities and Local Government in 2019 states that well designed new development is influenced by " an appreciation and understanding of vernacular.....including existing built form, landscape and local architectural precedents."

The application site is within St Mary's Conservation Area and is not considered to be a Non-Designated Heritage Asset (NDHA). There is a requirement for the desirability of local planning authorities to preserve or enhance the character and appearance of the conservation area. (Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This is further supported by UDP Policies EN2/1 - Character of Conservation Areas and EN2/2 - Conservation Area Control that require any development within a Conservation Area to preserve or enhance the special character or appearance of the area.

The dwelling house dates from the late 19th century and its original front elevation, evidenced by its design of two storey bays either side of the main entrance to the house and would have been accessed from Prestwich Park Road South and serviced from Butterstile Lane, is now referred to as the rear elevation.

The site is not in a particularly sensitive part of the conservation area by virtue of the surrounding late 20th century and early 21st century residential developments. The buildings' "front" elevation fronting Butterstile Lane is the buildings' original rear elevation and because of the surrounding residential development and in particular the development of 5, 5a and 7 Prestwich Park Road South has rendered the original front and principal elevation unable to function as such. This has turned the original rear elevation into the front elevation as now referred to. The original front elevation is no longer visible from Prestwich Park Road South and therefore as a matter of fact is not visible from within the conservation area.

The now referred to front elevation had been substantially altered in the 20th and 21st centuries with unsympathetic extensions and previously represented a negative feature in the conservation area when viewed from along Butterstile Road.

As with the previously approved scheme, the proposal to demolish the unsympathetic extensions is welcomed and supported and would remove a negative feature in the street scene of the conservation area. Smooth render finish would also be acceptable as it would represent a neutral impact on the character and appearance of that part of the conservation area.

The previously approved scheme has elements of interest to the front elevation, through the introduction of balconies, a doorway arch and header stone above the front door that replicated the details on the rear elevation and elements of vertical emphasis through windows that also reflected the rear elevation. This gave the site a sense of presence in the streetscene that was previously lacking due to the developments that had preceded the application.

The proposal as built has sterilised this character. The windows no longer have vertical emphasis, the balconies are removed entirely, the windows are no longer suitably aligned at first and ground floor and there is little to tie the principal front and rear elevations together. The now front elevation, appears more like a rear elevation and is devoid of any character

and pays little respect to the original architectural character of the property.

The amendments to the cill and window heights on the rear elevation have also removed some of the original features of the building further eroding it's character.

The agent has been written to and asked to address this, and to provide amended plans but no response has been received by the date requested. No reply was received when this response was chased.

Overall, it is considered that the proposal as built would have a detrimental impact on the quality of the residential environment and would fail to preserve the character of the original building or the conservation area. As such, it is considered that the proposal would be contrary to the policy considerations set out above.

Four out of five of the flats in the originally approved scheme were provided residential amenity space through the use of balconies and terraces. Whilst the basement would not have direct access to these spaces it was considered that the proposed amenity space and would reflect the quality of the residential amenity space of other similar style developments within the vicinity and as such is considered to be acceptable. The as built layout has removed all residential amenity space.

UDP Policies H2/1 and H2/2 require good quality residential environments and consideration of the density and character of the area. Paragraph 128d of the NPPF states that LPAs should take into account "the desirability of maintaining an area's prevailing character and setting (including residential gardens)". The need for carefully designed open spaces, gardens and amenity areas is also highlighted in the MHCLG National Design Guidance.

There are benefits to achieving additional units of accommodation, particularly given the Council's housing land supply position. The additional units (3no.) would offer both social benefits from the provision of further housing and economic benefits from its construction and occupation. It is considered however that the provision of some sort of amenity space within the site should be made considering that there are 5no. properties within the building where previously there were 2no. units. It can be accepted that there can be instances whereby the provision of outdoor amenity space is not practical and the benefits of a new flat can outweigh this shortcoming. Within the design Changes and Revised Heritage Statement the applicant has states that "during construction the balconies and patio windows were abandoned as being impractical and not really required for the use of the rooms". No evidence has been provided with the application to address the lack of any on site recreation and outdoor amenity space required for the 5no. units and their occupiers. As above this information was requested but no response was received. As such it is considered that insufficient information has been provided with the application to enable an assessment of the amenity requirements of existing and future occupiers to be made.

Policy JP-H3: states that all new dwelling must:

1. Comply with the nationally described space standards; and
2. Be built to the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations unless specific site conditions make this impracticable

No as built floor plans have been submitted with the application to make this assessment, however there is an extant permission at this site that can be implemented.

Residential Amenity

No amended floor plans have been submitted to allow an assessment of the proposed window locations.

It is assumed however that the internal layout has not changed substantially and as such residential is likely to have been maintained in relation to the previous assessment at the

site.

Ecology and Biodiversity Net Gain

Policy JP-G8 states that through local planning and associated activities a net enhancement of biodiversity resources will be sought. This is supported by Policy EN6/3 that seeks to retain, protect and enhance the natural environment and seeks to retain features of ecological or wildlife value. Paragraph 180 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment. Policy EN8/2 supports and encourages new woodland and tree planting within the borough. This is further supported by Policy JP-G7 that aims to significantly increase tree cover and requires 2no. replacement trees for each tree lost or other measures that would also result in a net enhancement in the character and quality of the treescape and biodiversity value in the local area.

As the application is a retrospective and a S.73 application it is exempt from statutory Biodiversity Net Gain.

Greater Manchester Ecology Unit were consulted as part of the condition discharge application and considered that the provisions made through landscaping were acceptable to however the as built, submitted landscaping plan P09 did not comply with the approved site plan and as such the condition was not discharged. It is considered however that the proposed landscaping if integrated with the previous site layout would contribute to and enhance the natural and local environment comply with the policy considerations set out above.

Highways and Parking

Policy EN1/2 requires the consideration of the design and appearance of access, parking and service provision. This is further supported by Policy H2/2 that requires proposals to demonstrate adequate car parking provision, access for both vehicles and pedestrians, and provision for public transport and the existence of any public rights of way. Policies JP-C5 and JP-C6 require streets to be well designed and managed to make a significant positive contribution to the quality of place and support high levels of walking, cycling and public transport.

The as built scheme has removed a wall that was previously proposed across the front elevation of the site, the intention of which was to prevent "nose in" parking on the proposed hardstanding to the front of the site.

The removal of the wall has lead to parking arrangements at the front of the site that could lead to vehicles reversing out into traffic on Butterstile Lane without adequate visibility creating conflicts for highway and pedestrian safety. There is also no dropped kerb across the entire access to the front of the property which could lead to damage to the adopted highway to the front of the site.

The frontage is also considered to be too shallow to allow this style of parking which would lead to vehicles overhanging the site boundary onto the pedestrian footpath that runs along the frontage of the site.

It is therefore considered that the proposal would lead to substandard access and parking arrangements to the detriment of highway and pedestrian safety contrary to the policy considerations set out above.

In terms of parking standards, Policy JP-C8 requires new development to be located and designed to enable and encourage walking, cycling and public transport use and to reduce the negative effects of car dependency and Policy HT2/4 requires all applications for development to make adequate provision for their car parking and servicing requirements . Supplementary Planning Document 11 provides parking standards for developments.

For this scale of development the maximum number of parking spaces required would be 6. The proposal seeks to provide 5 spaces, and given the nature of the proposal and the locations proximity to local facilities and bus routes these 5 spaces are considered to be acceptable.

Other Matters

The application form states that the proposal seeks to vary condition 2, but this also indirectly relates to conditions 5, 7, 8, 9, and 10. The LPA disagrees with this statement, the amendments to the layout and approved plans directly impact on the other conditions that relate to landscaping, highway safety and parking provision.

The application form also requests that conditions 5, 7, 8, 9 and 10 are discharged. As the alterations made for the development directly, and detrimentally impact these conditions they can not be discharged. No evidence has been provided with the application that could allow for these conditions to be varied and still comply with the policy considerations set out above.

The application form also states that the development was started on the 3rd May 2024, but finished on the 1st April 2024. This is conflicting.

Building regulations applications appear to have been submitted in 2022 for the conversion of the building and in 2023 of the electrical installation. Unfortunately no further contact was made with the LPA in relation to the alterations that were completed in breach of the original planning conditions.

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

The Local Planning Authority offered solutions to the applicant in order to make the development acceptable. The applicant was however unwilling to amend the plans. Without these amendments the development would not improve the economic, social and environmental conditions of the area and therefore does not comprise sustainable development. 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 design of the alterations to the fenestration of the building are neither appropriate to, nor sympathetic with the existing structure, and would be detrimental to the visual amenity of the area. The proposed development would neither preserve nor enhance the character of the Conservation Area and therefore conflicts with the following policies of the Development Plan:
EN1/2 - Townscape and Built Design
H2/1 - The Form of New Residential Development
H2/2 - The Layout of New Residential Development
H2/4 - Conversions
JP-P1 - Sustainable Places
EN2/1 - Character of Conservation Areas
EN2/2 - Conservation Area Control
National Planning Policy Framework
- 2 The application and submitted plans contain insufficient information to enable them to be properly assessed in relation to the residential amenity space requirements proposed for current and future occupiers. The proposal therefore conflicts with the following policies of the Development Plan:
EN1/2 - Townscape and Built Design

H2/1 - The Form of New Residential Development
H2/2 - The Layout of New Residential Development
H2/4 - Conversions
JP-P1 - Sustainable Places
National Planning Policy Framework

- 3 The access and parking arrangements constructed are sub-standard and are highly likely to lead to conflicts between vehicles carrying out manoeuvres on the adjacent adopted highway at the junction of the site access with Butterstile Lane, to the detriment of the free flow of traffic and road safety. The proposal therefore conflicts with the following policies of the Development Plan:
EN1/2 - Townscape and Built Design
H2/2 - The Layout of New Residential Development
JP-C5 - Streets for All
JP-C6 - Walking and Cycling
- 4 The parking arrangements and boundary details constructed are sub-standard and are highly likely to lead to conflicts between parked vehicles at the front of the property and pedestrians on the adjacent adopted highway and lead to the obstruction of visibility at the adjacent site access, to the detriment of pedestrian safety and the free flow of traffic and road safety. The proposal therefore conflicts with the following policies of the Development Plan:
EN1/2 - Townscape and Built Design
H2/2 - The Layout of New Residential Development
JP-C5 - Streets for All
JP-C6 - Walking and Cycling

<u>Case Officer</u> HP 8/8/2024	<u>Date</u>	<u>Sign off Officer</u> DM - 16/08/2024	<u>Date</u>
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