

DELEGATED REPORT

Report by Helen Pressley	Date of report: 24/04/2023	Ref: 69215/FUL
Registration: 08/03/2023	LDfC: 03/04/2023	Expiry Date: 03/05/2023
Site Visit: 22/03/2023	Site Notice: N/A	Press Date: N/A
Objections: 21	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Erection of 1 no. dwelling

Location: Land adjacent to 78 Countess Lane, Radcliffe, Manchester, M26 3NH

Description

The application relates to an area of land between No. 78 Countess Lane and 2 - 6 Ashcombe Drive. The site is bounded by dwellings to all sides and is allocated as recreation land under UDP Policy RT1/1. The site is located in a Coal Authority Development High Risk Area. The site is currently grassed over with a post and rail fence depicting the front boundary with Countess Lane, close board fencing is located along the side boundaries of the site that depict the boundaries of the residential amenity spaces associated with these dwellings, and open to the rear.

Planning permission is sought for the construction of a detached 4 bedroom dwelling, and associated detached garage. The proposed dwelling would be accessed from Countess Lane, and also includes pedestrian access from Westminster Avenue. Parking is proposed to the front of the dwelling with the detached garage, and amenity space located to the rear. The proposal seeks to utilise existing close boarded fencing along the side of the site, with new close boarded fencing along the rear boundaries and a 1 metre high boundary wall along the front of the site.

Relevant Planning History

32245 - Outline - Residential Development - 1 detached dwelling - Withdrawn

Publicity

Neighbour letters sent to 17 neighbour properties. 21 objections received in relation to:

- Mining reports (2022, 2023) clearly indicate that the site is within a High Development Risk Area (Mine Entry with Mine Entry Potential Zones of Influence - centre of site; Probable Shallow Coal Mine Workings relating to coal outcrops - whole site). The reports say...collapse of the shafts could occur particularly when ground is disturbed, and loadings are increased (i.e. as part of earthworks and construction work). A full intrusive survey (Coal Mining Risk Assessment (CMRA) or Site Investigation) must be carried out before approval of planning.
- The fact that this land is high risk due to a coal mining shaft says it all. It puts all the surrounding properties and residents at risk.
- Would there be insurances in place for any damage caused to the surrounding properties.
- This build shouldn't be allowed as it was knocked back in 1996 because of the Mineshaft, I can't see why things have changed now.
- The Council refused itself building permission due to the culvert and mine shafts under the land making possible problems for surrounding properties.
- If this land is developed it would mean the loss of yet another green space along with at least 2 mature trees.
- It is used by at least 2 'Red List' bird species for feeding (House Sparrow and Starling).

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Birds also nest in at least one of the trees due for removal.

- Wild flowers are found on this area in the summer. There is a 10m strip of Hawthorn that is heavily used by the birds.
- The proposal includes the removal of a street tree which seems unnecessary, it also states that biodiversity and green infrastructure will be maintained, this is not evident in the Proposed Site / Landscaping Plan.
- The green area will be lost for other animals eg. hedgehogs, squirrels and foxes.
- Removal of healthy trees which I have been told Bury council are against.
- The development involves the removal of 75% of the trees at the site.
- It was my understanding when I bought my house that the open space would never be developed and was preserved for recreation. Previous applications for planning have been refused due to the detrimental effect of closing off the remaining green space in this area.
- If this space was maintained, it would be a welcome spot for our children to play outside as the rest of the estate is full of cars.
- The land is not maintained therefore isn't classed as a recreation area! If the land was maintained then it would most definitely get used by local residents. The land has been neglected and had signs saying no Ball games. So the report about it not being a recreational area is not justified at all, the choice was taken away when it was sold!
- This area would be missed by local residents as it is used for dog walking etc. It was not initially developed when the estate was built and several application to buy or develop the land have previously been turned down.
- It is not a crime spot and is kept litter free by volunteers.
- New young families have properties in the area I think the land should revert back to which it was intended for.
- Local residents were refused permission to buy this land to keep it green.
- Another green space mopped up by properties.
- The area is already densely populated with buildings and needs more open space not less.
- The owner needs to focus on the removal of the unsafe tree at Westminster Ave and maintain the green space instead of allowing it to become overgrown.
- The application site serves as an important local function for open recreational space in addition to the significant visual amenity and sense of openness it provides.
- The applicants submitted supporting document contends that the loss of this land for recreation will be replaced by existing recreational provision locations elsewhere. However, this is not correct, as any replacement recreational space should be 'additional' not 'existing'.
- Supporting statement suggests alternative open spaces that are approximately a 15 minute walk away from the site, but these are clearly of little benefit to the local community and as stated above (are not actually being provided additionally by the applicant).
- The construction of a large new dwelling will result in the introduction of additional new driveway, garden and building lighting in this tranquil undisturbed green space which could have a detrimental impact upon the established wildlife especially bats and birds and therefore, it is considered a professional ecology report is required given the development includes removal of trees on the planning application site.
- The objectors understand that the application site was allocated as recreational land at the time of the original planning permission for surrounding housing development and is believed to be subject to a planning condition in this regard. It is thus considered the development could result in a breach of planning conditions appertaining to the original 'Wimpey' housing estate development approved by the LPA previously, as this site is likely to have been granted as 'open space provision'.
- The design of the proposed dwelling is not of a design which is keeping within the scale character or appearance of the area.
- Where it says in the plans the roof tiles will match the surrounding houses I don't think a double aspect house rendered white with floor to roof glass matches the surrounding houses.
- I feel a 4 bedroomed double fronted house is too large for Countess Lane, when

compared to the mix of 3 bedroomed semis and bungalows that currently exist on the road.

- This property will not be in keeping with its surrounding dwellings, there are no other white dwellings, all others are brick construction.
- The proposed detached house is of a substantial size measuring approximately 12.5 m x 12.7 m = 158.75 square metres overall footprint. This substantial detached building located immediately adjoining existing properties and garden boundaries will be an oppressive and alien feature due to its size, bulk, massing, design and materials which are considered to have a detrimental impact on the established character and appearance of the area, exacerbated by the proposed location (resulting in the large house appearing to be tightly squashed onto the land).
- The contemporary design and extensive use of render / glazing is also considered out of keeping with the existing residential grain and vernacular in the local area which consists of a mixture of smaller bungalows, semi-detached and detached houses.
- The front boundary wall will also sit proud of existing properties on Countess Lane.
- The proposed dwelling is overly large for the site and creates a cramped form of development.
- The north side elevation has minimal fenestration detailing resulting in an oppressive and overbearing effect on the outlook for the occupiers of 2 and 4 Ashcombe Drive.
- We object to the existing fence being used as a shared boundary.
- Adding a 6ft high fence along the footpath between Westminster Avenue and Ashcombe Drive would create a dark narrow ginnel which could create anti social behaviour.
- Oppose a gate in the fencing, backing on to Westminster Avenue, as the proposed property would be on Countess Lane so why is access needed to a small cul de sac. Presumably it would be for parking, which is already a problem.
- A two metre fence onto Westminster avenue will be an eye sore, and a gate at the rear is inappropriate as the house will be addressed as Countess lane and it will open onto a bend where parking would be obstructive.
- The ground in this area is often marshy. Appropriate surveys must be carried out prior to granting planning approval and the development risks evaluated. Whatever building foundations and drainage option is adopted, all the houses in the surrounding area must be insured by the developer against damage caused by disruption of the current land drainage and the new drainage load for the planned development.
- This plot of land should not have been sold for development.
- Where would all the building materials be dumped?
- The plans are sprawling & would undoubtedly infringe on existing properties privacy & overlook/overshadow causing a loss of light.
- Loss of light.
- The development breaches the BRE (Building Research Establishment) 45 degree line from habitable room windows of the new house to the rear elevation at 6 Ashcombe Drive and the 25 degree line from 78 Countess Lane.
- The submitted plan ref number: SHT 5 of 8 'Propsoal' [sic] shows the development in context with an outline of properties in Ashcombe Drive for comparison, which confirms the building and drive is also being sited close to the common boundaries being approximately 2.4 - 3.2 metres of numbers 2, 4 and 6 Ashcombe Drive.
- It is considered the submitted plans do not incorporate sufficient distances between the proposed and existing habitable room windows of surrounding properties. Indeed, it is very notable that the positioning of the new dwelling is disadvantageous to the residents of Westminster Avenue, Ashcombe Drive and Countess Lane.
- Noise and disturbance will therefore be created by the introduction of approximately 6 vehicle movements per day from the occupiers along with visitor, post and general delivery vehicles being introduced along rear garden boundaries where occupiers should rightly be able to expect a degree of peace and solitude to enjoy their gardens without the continual noise of vehicles manoeuvring and reversing.
- I will fight this legally if necessary.
- If this land was suitable for development then it would be been developed as part of the original estate build, and in times after.

- The new access point is particularly wide across the pedestrian highway presenting an increased risk to pedestrians at this location.
- Access proposed is close to a mature tree located in the highway verge resulting in a lack of forward visibility.
- There is inadequate manoeuvring space provided within the site and vehicles can not access and egress the site in forward gear due to the layout.
- The access is not owned by the applicant and involves Highway land.
- The detached garage shown is only large enough to accommodate 1 vehicle and due to the staggered positioning in relation to the narrow driveway running along the side of the proposed house, would be very difficult to access with a large vehicle.
- The construction of a substantially sized new dwellinghouse on this established and tranquil urban green space site, will inevitably result in noise and disturbance to all of the houses which surround the land including those on Countess Lane, Ashcombe Drive and Westminster Avenue.
- Therefore, whilst ownership may have changed, the responsibility to maintain the land appropriately for its designated recreational use and maintenance now falls upon the applicant given the likelihood that it was an allocated parcel of land in the original housing scheme. It is therefore considered that the LPA should contemplate serving an 'untidy land notice' under their powers contained in Section 215 of the Town and Country Planning Act 1990 to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area.

Statutory/Non-Statutory Consultations

Traffic Section - Recommendation for refusal in relation to substandard access, pedestrian/personal safety issues, obstructed visibility, discharge of surface water onto the adopted highway, impact on the highway tree and impact on the existing street lighting column.

Environmental Health - Contaminated Land - A desk study and preliminary risk assessment report has not been submitted with the application and is required for submission

Waste Management - No response

Greater Manchester Ecology Unit - Potential ecological issues include nesting birds and mitigation for loss of 2 or 3 native trees.

United Utilities (Water and waste) - Water main and public sewer located within the vicinity of the site and need to be reviewed prior to finalising a layout for the proposed dwelling.

Planning Policy - On balance, given the identified surplus of Amenity Greenspace provision in the Radcliffe area, the proposal to redevelop the site would be considered in line with NPPF paragraph 99 a).

The Coal Authority - Objects to this planning application as a result of the significant layout implications presented by the recorded mine entries. We consider that the applicant has failed to demonstrate to the LPA that the application site can safely accommodate the development proposed.

Drainage Section - No response.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN5	Flood Protection and Defence
EN5/1	New Development and Flood Risk

EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/3	Water Pollution
EN7/5	Waste Water Management
EN8/2	Woodland and Tree Planting
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
HT2/1	The Strategic Route Network
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
NPPF	National Planning Policy Framework
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

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

The elimination of discrimination, harassment and victimisation;

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

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

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

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

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

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

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation

imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Principle (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 maintains the emphasis on identifying a rolling five year supply of deliverable housing land.

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 five year 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). As such, latest monitoring indicates that the Council is unable to demonstrate a five year supply of deliverable housing land and this needs to be treated as a material factor when determining applications for residential developments.

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%) of 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, in relation to the proposed dwelling, 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.

Therefore, in this case the 'titled balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

The site is located within the urban boundary, and there are residential properties to all boundaries. The proposed development would not conflict with the surrounding land uses and would be located in a sustainable location with regard to public transport and services. Therefore, the proposed development would be acceptable in principle and would be in accordance with Policy H1/2 of the Bury Unitary Development Plan.

Principle (Recreation)

The site is designated as protected recreation provision in the urban area under UDP Policy

RT1/1.

Policy RT1/1 seeks to safeguard the provision of recreation land within the urban area and development will not be allowed where it would result in the loss of outdoor public or private recreation facilities including parks and gardens unless it meets specific criteria.

Whilst similar, the approach in Policy RT1/1 has now been superseded by Paragraph 99 of the NPPF which states that "existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of the quantity and quality in a suitable location; or
- The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

The Greenspace Audit and Strategy (February 2015) categorised the site as amenity greenspace (sub type informal recreation) of good quality (RP/RD023/00).

The Audit and Strategy shows that there is an excess of amenity greenspace in Radcliffe and the quality of amenity green space in Radcliffe is shown to meet the minimum standard.

The submitted Planning Statement provides an assessment of recreation provision and makes reference to the above findings of the Greenspace Audit and Strategy.

On balance, given the identified surplus of Amenity Greenspace provision in the Radcliffe area, the proposal to redevelop the site would be considered in line with NPPF paragraph 99 a). The redevelopment of the land for residential purposes is therefore considered to be acceptable in principle.

Development High Risk Area - Coal

The Coal Authority records indicate that within the application site is the presence of a recorded on-site mine entry (CA shaft ref: 376407-010); probable historic shallow coal mining and a coal seam of workable thickness infers to outcrop at or close to the north of the site that may also have been historically worked at shallow depths beneath the site. These coal mining features have a significant risk to public safety and surface stability for the proposed development.

The planning application is accompanied by a Desk Based Coal Mining Risk Assessment Report (LKC 23 1042, February 20223) prepared for the proposed development by LK Consult. The Report has been informed by an appropriate range of historical, geological and coal mining information.

Having carried out a review of the available information, the report author identifies the coal mining risks at this site. Appropriate recommendations have been made that further, intrusive site investigations are required to determine the exact ground conditions (shallow coal mining / location and condition of the mine entry) in order to inform the remedial measures that may be required to ensure that the development is, or can be made safe and stable (NPPF paras. 183 and 184).

Whilst the Coal Authority acknowledge that an adequate assessment has been made by LK Consult, as a result of the on-site mine entry and the significant layout implications that this has to the development, they would have expected the applicant to have commissioned the site investigations in order that the layout is informed by the confirmed position of this mining featured. The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have

been capped, in line with adopted policy. Therefore, adequate separation between any buildings and the mine entry should be incorporated within the overall design of the development.

Based the site layout being considered as part of this proposal (SHT 5 of 8 - Proposed Site Layout) the dwelling and potentially the garage could be over and within influencing distance of the mine entry. Therefore, the layout does not accord with our adopted policy.

Accordingly, the Coal Authority objects to this planning application as a result of the significant layout implications presented by the recorded mine entries. It is considered that the applicant has failed to demonstrate to the LPA that the application site can safely accommodate the development proposed.

The applicant should be advised that the recommended intrusive site investigations should be undertaken to locate and determine the condition of the recorded mine entry within the site. The zone of influence should be calculated for this mining feature and the zone should be considered as no-build exclusion zone. The no-build exclusion zone should then inform the site layout. We would expect that these works are undertaken prior to determination and a report of the findings along with a layout plan plotting the found location of the mine entry and its no-build exclusion zones should be submitted for consideration along with any remedial and mitigatory measures proposed. It would be prudent to carry out a positional review of the mine entry in order that the best plot position can inform the intrusive investigations.

As such, it is considered that the application contains insufficient information to show that the application site can safely accommodate the development proposed within a Development High Risk Area. The proposed development is therefore contrary to NPPF Paragraphs 183 and 184.

Layout and Design

Policy H2/1- The Form of New Residential Development requires all new residential development to make a positive contribution to the form and quality of the surrounding area. Policy H2/2 - The Layout of New Residential Development seeks to ensure that new residential development will be acceptable in terms of layout in order to provide a good quality residential environment. In addition to this, Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area.

The design of any new dwelling within the context of this street scene needs to be carefully considered, especially when reviewing the most recent updates to the NPPF with it's focus on design and the National Design Guide. The NPPF makes it clear that creating high quality buildings and places is fundamental with Paragraph 126 stating "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

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." In terms of layout the Design Guide states that a well designed place is unlikely to be achieved by focusing just on appearance, materials and detailing of buildings and that layout, including the grain pattern of development, blocks and lots needs to be considered and relate to one another to create spaces, open spaces and buildings.

The immediate street scene is depicted by detached and semi-detached two storey dwellings, with relatively open frontages and areas of private amenity space to the rear. The

footprints of properties, and their associated plots have lead to a regular pattern of development and established building grain. The site itself is an important gap in this built environment that equally adds to the visual amenity and character of the area. The site is effectively located at the end of a row of semi-detached, hipped roofed, bay fronted properties that front Countess Lane and it is considered that it is these properties that should be used to inform the scale, massing and design features of the proposal.

The proposed dwelling has a much larger footprint when compared to the dwellings, and buildings that bound the site and would not replicate the grain pattern of development that is readily visible within the context of the site. The footprint of the proposal, and the impact of this on the immediate street scene would have a detrimental impact on the character of the locality. The proposed garage is not shown on any of the street scene plans, and whilst it would be sited behind the proposed dwelling it would still be visible at a distance from Countess Lane and would also be visible from Westminster Avenue. The garage would add to the amount of built form on the site, and therefore add to the overall footprint of development. It is considered that the footprint and layout of the proposal would significantly erode the sense of spaciousness within the street scene when viewed from Countess Lane and Westminster Avenue and would therefore appear out of context with the predominant layout and pattern of development in the immediate area.

The ridge and eaves height of the proposed dwelling would be higher than the adjacent semi-detached dwellings at No. 78 and No. 76 Countess Lane, however the proposed eaves height does appear to match the eaves of No. 2 Ashcombe Drive. It is noted that the proposal does have a hipped roof, and attempts to replicate the vertical emphasis created by the bay window features of the dwellings to the south through the use of tall glazing to the front elevation. These openings however appear to be at odds with the adjoining dwellings. The height of the glazing does not replicate the style or alignment of the neighbouring bay windows that have a horizontal emphasis due to the curve.

The dwelling itself would be approximately 12.4 metres in width which is approximately double the width of the semi-detached properties along Countess Lane. Whilst the frontages of two of these properties would have a similar width as the proposed dwelling, there is a clear division of the properties that allows them to be viewed as two separated dwellings. The centralised, two storey porch that is proposed would highlight that the proposal is a single dwelling rather than 2 separate properties. Projecting two storey porches are also not a design feature that is readily visible within the street scene and this element further highlights the scale and massing of the dwelling which is at odds with the dwellings within the street scene.

Little attention appears to have been paid to the design of the rear elevation that would be clearly visible from Westminster Avenue. The windows at ground floor and first floor do not align, and are of various widths and styles. Whilst simple rear elevations of the dwellings on Ashcombe Drive are visible from within the site and from Countess Lane and Westminster Avenue these openings are suitably aligned and replicate the overall style of the front elevation of the dwelling. The proposed rear elevation of the proposed dwelling however does not replicate any of the design styles of the front elevation, other than through use of materials.

The neighbouring dwellings are largely constructed from facing red brickwork with white window frames rather than white K-render and black uPVC doors and windows. Any elements of render are limited to the front, first floors as a design feature. The choice of proposed materials would further highlight the dwelling that is considered to be out of scale with the adjoining residential properties leading to a development that would be overbearing within the street scene.

Whilst the front boundary wall would be within the limits of permitted development, this element of the design would continue to replicate the style of materials within the host property. Enclosing the rear of the site with close boarded fencing would not be acceptable,

and would appear dominating and strident when viewed against the dwellings, hedges and open frontages of Westminster Avenue. The design of the proposed boundary treatments does not enhance the setting or visual quality of the landscape and it is considered that the proposal would set an unwelcome precedence in the area.

The proposal would lead to the construction of a closeboarded fence along a pathway that currently connects Ashcombe Drive and Westminster Avenue. The introduction of a fence along this access to the rear of the site could also impact on the security of the properties and should be adequately addressed as the access for members of the public is proposed to be reduced through development. 'Crime Prevention Through Environmental Design' (CPTED) is a crime prevention theory that focus on design and use of the built environment and is advocated by Greater Manchester Police's Design For Security.

CPTED comprises five principles: i) physical security ii) surveillance; iii) movement control; iv) management and maintenance and v) defensible space

In terms of the above principles, the introduction of the fencing would create a pathway with fencing either side that would reduce natural surveillance. By reducing this visible space and enclosing it the proposal would impact on this principle.

Overall, it is considered that the proposed development would, by reason of its size, position, design and impact on natural surveillance would be a prominent and intrusive feature in the street scene and would therefore, be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan H2/1- The Form of New Residential Development, H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and the National Planning Policy Framework.

Residential Amenity

UDP Policy H1/2 states that the council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses. UDP Policy H2/1 also requires the consideration of the impact of developments on residential amenity and the position and proximity of neighbouring properties. There are no adopted aspect standards for new build residential properties however, Supplementary Planning Document 6 provides guidance on aspect standards between residential properties and as such, would be a reasonable guide in this case.

The submitted plans have been formatted in such a way that they can not be accurately scaled electronically. SHT 6 of 8 for instance is supposed to have a scale 1:150 and indicates that the entrance is 4.9 metres wide. When measured at this scale electronically this measurement shows as 3264mm. SHT 5 of 8 is supposed to have a scale of 1:200 and indicates that a distance of 14418mm can be provided between the original rear elevation of No. 2 Ashcombe Drive and the proposed side elevation of the dwelling. When measured at this scale electronically this measurement shows as 7236mm. Even when changing the scale to 1:400 or 1:100 the same measurement of 7236mm is gained. The proposed topographical plan at a scale of 1:200 also does not align with these dimensions or plans, and altering the scale electronically does not alter the measurement given.

The proposed floor plans do appear to scale correctly, however as the proposed site layout can not be ascertained it is impossible to adequately assess the application in terms of aspect standards. It is noted that some dimensions have been added to the plans but not all dimensions have been added, and as the plans are incorrectly formatted no checks can be made to ensure that these dimensions are accurate.

SHT 5 of 8, SHT 6 of 8 and the Proposed topographical survey do not accurately scale. The application and submitted plans therefore contain insufficient information to enable

them to be properly assessed in terms of residential amenity and therefore conflicts with Unitary Development Plan Policy H2/1- The Form of New Residential Development and Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.

Ecology

Greater Manchester Ecology Unit (GMEU) have been consulted as part of the planning application process, and have provided a response in relation to ecological constraints of the site.

Protected Species

There are unlikely to be any protected species issues associated with this site. The trees to be removed are young mature and from streetview appear healthy with negligible bat roosting potential. No other species are likely to be present within the a zone of influence of the proposal. GMEU consider that no further information or measures are required.

Nesting Birds

Two or three trees are proposed for removal that are potential bird nesting habitat. All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended. A condition can be added to any planning permission for the site that prevents works to the trees during nesting season.

Contributing to and Enhancing the Natural Environment

Paragraph 174 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment. The development will result in the loss of a small area of low ecological value grassland and up to three native trees. Wildlife issues appear restricted to the loss of potential bird nesting habitat. GMEU therefore recommend that as part of any permission full mitigation for loss of native trees is provided through replacement native tree planting such as silver birch, rowan, hawthorn or holly. Mitigation for loss of grassland could be provided through planting of a native hedge along the front or rear boundaries. Eg beech, hornbeam, holly or hawthorn. GMEU also recommend one bird box is provided for loss of potential nesting habitat. This could be attached to the proposed new buildings or the retained tree. It is considered that these details could be adequately addressed through a landscaping condition.

Trees

UDP Policies EN8, EN8/1 and EN8/2 seek to support the retention of trees, woods, copses and hedgerows to encourage natural regeneration and new and replacement tree planting.

The 3no. Ash trees to the front of the site, including the Council street tree, and the Ash tree to the rear of the site are very prominent within the street scene as the site is not currently enclosed and as such they contribute to the visual amenity of the area. The trees are visible from Countess Lane, Westminster Avenue and Ashcombe Drive. Government guidance states that Orders should be used to protect selected trees if their removal would have a significant negative impact on the local environment and its enjoyment by the public. The amenity is under threat due to the proposed development and it is considered removal of the trees would have a negative impact on the local environment by removal of a significant element of soft landscaping. There are other trees within the street that also contribute to it's amenity and it is noted that these other trees within the locality are not TPO'd however, these trees are not under threat.

An assessment of the trees has been conducted by the Council's Trees and Woodland's Officer who deemed the trees worthy of a TPO. As such the 4 no. Ash trees have been protected by means of Tree Preservation Order No.361. The Order was sealed on the 20th April 2023 and takes effect immediately on a provisional basis. This will continue in force on a provisional basis for a further six months or until the Council makes a decision on whether the Order should be confirmed.

An arboricultural statement has been submitted with the planning application, this

recommends the removal of the three trees to the front of the site to allow for the construction of the proposed dwelling and access. It should be noted however that this document was produced prior to the TPO being sealed and as such the author has not had the benefit of including this within their assessment. This survey categorises the trees to be removed as grade B1 (Moderate) to C2 (Low quality) and considered that T3 may have signs of Ash dieback. This was not noted by the Trees and Woodlands Officer who undertook the assessment on behalf of the Council. They consider the trees to be of a reasonable condition but did note that the trees should be checked periodically for dieback due to the species.

It should also be noted that the submitted arboricultural survey was undertaken in February when the tree would not have been in leaf, and whilst it would be possible to see if there were buds at the ends of the branches the author would not have been unable to make a full assessment in relation to canopy loss through potential ash dieback. Ash trees are also notorious for deadwood, and this is therefore not necessarily a sign of ash die back. A point to also remember is that infected trees can recover over subsequent years. A survey mid-summer for change in density foliage, with a further inspection late summer for any signs of fungal growth would be beneficial for T3.

The proposed development by virtue of its size and siting would result in threat to the continued well being of existing trees which are subject of Tree Preservation Order - 361. The damage to or loss of these trees is considered to be unacceptable because of the impact on the general amenity and character of the area in which the application site is located. The development is therefore contrary to the following policies of the Bury Unitary Development plan: EN8 - Woodland and Trees; EN8/1 - Tree preservation Orders.

Access and Parking

UDP Policy EN1/2 - Townscape and Built Design requires the consideration of the design and appearance of access, parking and service provision. This is further supported by UDP Policy H2/2 - The Layout of New Residential Development 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, and UDP Policy HT6/2 - Pedestrian/Vehicular Conflict that requires developments to reduce pedestrian/vehicular conflict.

The proposed site layout indicates a 4.9 metre wide access and 5.5 metre wide dropped kerb onto Countess Lane. This is an A Road, and part of the Strategic Route Network as identified under UDP Policy HT2/1. Visibility from the access onto Countess Lane has not been plotted. The Traffic Section considered that this proposed access would result in the creation of an unnecessarily wide, gated vehicular access onto a classified road (A665 Countess Lane) that would be sub-standard in terms of visibility, and would therefore be detrimental to highway safety contrary to UDP Policies EN1/2, H2/2, H6/2 and HT2/1.

The proposal would introduce a new access, dwelling, and solid boundary treatment that fronts onto Countess Lane. This would result in the obstruction of the approved visibility splay to the left on egress at the junction of Ashcombe Drive with Countess Lane, which would be detrimental to highway safety contrary to UDP Policies EN1/2, H2/2, H6/2 and HT2/1.

The Highways Officer also considers that the application and submitted plans contain insufficient information to ensure that access to/maintenance of the existing street lighting column on the adopted footpath to the rear of the site would not be adversely affected as a direct result of the proposed development and that insufficient information has been provided to properly assess the physical impact of the proposed development and access on the adjacent highway tree on Countess Lane. The Highways Officer also considers that the proposed 'stone effect concrete' hardstanding would result in the discharge of surface water onto the adjacent adopted highway.

Informatives have been added in relation to these aspects.

In terms of parking standards UDP 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.

In both high and low access areas, for a 4 bedroom house SPD 11 would require a maximum of 3 spaces per unit. The proposed site plan appears to indicate that 3 spaces can be provided but these spaces are not dimensioned and as discussed above the site plan can not be measured accurately to ensure that the indicative cars are actually of a suitable size, and that they can turn within the site so that they can access and exit the site in forward gear.

The application and submitted plans therefore contain insufficient information to enable them to be properly assessed in terms of parking and turning facilities within the site and therefore conflicts with Unitary Development Plan Policy H2/2 - The Layout of New Residential Development.

Utilities/Drainage

A water main is located in the vicinity of the site. It must not be built over, and United Utilities' access to the pipeline must not be compromised in any way. An access strip is therefore required to be considered as part of the layout to ensure pipelines are adequately protected both during and after the construction period.

A public sewer also crosses the site. United Utilities will not allow a new building to be erected over or in close proximity to a public sewer or any other wastewater pipeline. This will only be reviewed in exceptional circumstances. United Utilities also require an access strip for maintenance or replacement and this access must not be compromised in any way. The minimum distances that might be acceptable to United Utilities are detailed within Part H of the Building Regulations however, United Utilities recommend the applicant determines the precise location, size, depth and condition of the pipeline as this is likely to influence the required stand-off distance from any structure.

It is the applicant's responsibility to investigate and demonstrate the exact relationship between United Utilities' assets and the proposed development and this has not been demonstrated in this instance. Whilst this can not be used as a reason for refusal, this has significant potential to amend the layout of the proposed scheme to ensure that the assets are adequately protected. An informative has been added in relation to this.

In terms of drainage any proposal should include a surface water scheme that must be based on the hierarchy of drainage options in the National Planning Practice Guidance and include assessment of potential SuDS options for surface water drainage with appropriate calculations and test results to support the chosen solution. It must be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). Details of proposed maintenance arrangements should also be provided. Details of this drainage scheme however could be conditioned.

Contaminated Land

The site is currently public open space comprising trees and rough grassland. Current uses within the surrounding area include housing. Previous uses at the site have included coal mining. A former mine shaft is located on site and other shafts are situated within the surrounding area. The site was left vacant when the surrounding area was developed for housing in the 1930s and later in the 1970s and 1980s. The site is not located within 250m of any registered landfills and is not in close proximity to any major surface water courses. The site is situated above the Middle Coal Measures Formation Secondary A Aquifer which is overlain by Glacial Till. The site is not located within a Radon Affected Area.

The Environment Section have been consulted as part of the application process and

consider a desk top study is required prior to determination to provide details of potential contamination within the site and to enable the Environment Section to identify any conditions that may be required to ensure that details and scale of remediation that would be required and if indeed if the whole of the plot would be developable without significant levels of removal and importation of material. They also highlighted that the Coal Mining Risk Assessment concluded that a site investigation should be undertaken that included rotary boreholes and a programme of gas monitoring. It is recommended that additional chemical testing of soil for contaminated land purposes is included within this investigation.

An invasive species survey should also be considered.

The scheme is therefore considered to include insufficient information in relation to potential contamination 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.

Response to objections

It is considered that the material planning considerations raised within the objections have been addressed within the main body of the report.

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 application and submitted plans contains insufficient information to show that the application site can safely accommodate the development proposed within a Coal Authority Development High Risk Area. The proposed development is therefore contrary to National Planning Policy Framework Paragraphs 183 and 184.
- 2 The proposed development would, by reason of its size, position, design and impact on natural surveillance be a prominent and intrusive feature in the street scene and would therefore, be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan H2/1- The Form of New Residential Development, H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and the National Planning Policy Framework.
- 3 SHT 5 of 8, SHT 6 of 8 and the proposed topographical survey do not accurately scale. The application and submitted plans therefore contain insufficient information to enable them to be properly assessed in terms of residential amenity, parking layout and on site turning facilities and therefore conflicts with Unitary Development Plan Policy H2/1- The Form of New Residential Development, H2/2 - The Layout of New Residential Development, HT2/4 - Car Parking and New Development, Supplementary Planning Document 6: Alterations and Extensions to Residential Properties ad Supplementary Planning Document 11: Parking Standards in Bury.

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- 4 The proposed development by virtue of its size and siting would result in threat to the continued well being of existing trees which are subject of Tree Preservation Order - 361 The damage to or loss of these trees is considered to be unacceptable because of the impact on the general amenity and character of the area in which the application site is located. The development is therefore contrary to the following policies of the Bury Unitary Development plan: EN8 - Woodland and Trees; EN8/1 - Tree preservation Orders.
- 5 The proposal would result in the creation of an unnecessarily wide, gated vehicular access onto a classified road (A665 Countess Lane) that would be sub-standard in terms of visibility, which would be detrimental to highway safety. The development is therefore contrary to the following policies of the Bury Unitary Development plan: EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development, HT6/2 - Pedestrian/Vehicular Conflict and HT2/1 - The Strategic Route Network.
- 6 The proposal would result in the obstruction of the approved visibility splay to the left on egress at the junction of Ashcombe Drive with Countess Lane, which would be detrimental to highway safety. The development is therefore contrary to the following policies of the Bury Unitary Development plan: EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development, HT6/2 - Pedestrian/Vehicular Conflict and HT2/1 - The Strategic Route Network.
- 7 The application and submitted plans contain insufficient information in relation to potential contamination and invasive species 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.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP	24/04/2023	DM	26/04/23