

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 26/07/2023	Ref: 69703/FUL
Registration: 02/06/2023	LDfC: 30/06/2023	Expiry Date: 28/07/2023
Site Visit: 26/05/2022	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: 1 no. new dwelling in side garden of no. 115 Park Lane

Location: 115 Park Lane, Whitefield, Manchester, M45 7GT

Description

The proposal relates to the side/rear garden of an end terrace dwelling and pertains to an area of 207 square metres (8.5m wide (narrowing to 7.6m) x 23m. The garden slopes down gently from front to rear and from the gable end to the boundary with Philips Drive. The site is bounded by concrete post and timber fencing and is flanked by Park Lane, Philips Drive and a pedestrian access that serves rear gardens of opposing terraced dwellings relating to Park Lane and Agecroft Road.

The proposal is for the construction of a two storey dwelling that would be attached to the gable of 115 Park Lane. The front and rear elevations would be set in slightly from the corresponding elevations of the adjoining dwelling and the ridge would step down (proportionate to the lower proposed ground floor level). It would project 5.8m from the existing gable to retain a gap of between 2m - 2.4m to the boundary with Philips Drive. It would have a pitched roof dormer on the rear roof slope and would be finished in red facing brick and grey concrete roof tiles.

Externally, there would be a ramp up to the front door and a retaining wall flanking the proposed parking, storage and bin store areas, with steps up to the rear patio area.

The proposal is identical to the approved scheme under 68351, aside from the inclusion of a small area of additional garden (formerly garden to the neighbouring dwelling), thus requiring a new full application for planning permission.

Relevant Planning History

68351 - 1 no. new dwelling in side garden of no. 115 Park Lane - Approve with Conditions 22/07/2022

Publicity

Direct neighbour notification undertaken 10/06/2023. No representations received.

Statutory/Non-Statutory Consultations

Traffic Section: No objection, subject to conditions relating to construction traffic management plan, implementation of car parking, bin storage and visibility splays

Environmental Health - Contaminated Land: No objection, subject to contaminated land conditions.

Waste Management: No comments received.

United Utilities (Water and waste): No objection, subject to a condition relating surface

water treatment.

Borough Engineer - Drainage Section: No comments received.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

H1/2	Further Housing Development
H2/2	The Layout of New Residential Development
H2/1	The Form of New Residential Development
HT2/4	Car Parking and New Development
EN1/2	Townscape and Built Design
EN5/1	New Development and Flood Risk
HT6/2	Pedestrian/Vehicular Conflict
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework

Issues and Analysis

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

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

The elimination of discrimination, harassment and victimisation;

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

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

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

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

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

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

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

ASSESSMENT

Policy

Policy H1/2: Further Housing Development - requires the council to have regard for the suitability of proposals for housing development on sites not identified on the Proposals Map.

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. This is further supported by SPD 16 - Design and Layout of New Development in Bury.

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.

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.

Policy HT2/4: Car Parking and New Development - requires all applications for development to make adequate provision for their car parking and servicing requirements. This is further supported by SPD 11 - Parking Standards in Bury.

Principle (Residential)

The National Planning Policy Framework should be treated as a significant 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 area, surrounded by established residential areas and close to routes well served by public transport and to facilities, goods and services.

As such, the site is the most sequentially preferable for the release of land for housing. Furthermore, the site falls in a sustainable location with regard to services and public transport. Thus, the principle of the development is acceptable, subject to consideration of the subsequent matters.

Layout and Design

The immediate context of the site is characterised by traditional terraced dwellings with passively routine suburban semi-detached dwellings opposing the site.

The site is larger than neighbouring terraced plots and can therefore adequately accommodate a dwelling. The dwelling would be positioned such that a gap of between 2m 2.4m would be retained to the boundary with Philips Drive. The design is traditional in character and appearance and would replicate the scale, form, proportions and materials exhibited at the adjoining terraces. The set in at front and rear would avoid an awkward assimilation of brick types. The raised wall head above the first floor windows (to accommodate the roof space accommodation) would be relatively short and would not undermine the traditional format of the dwelling. The rear dormer would be of limited scale and assimilate appropriately in form and position with the overall design. Whilst neighbouring dwellings do not exhibit rear dormers, a dormer of the scale, form and position of the one proposed could be installed without the need for planning permission.

The proposed dwelling would not have any unacceptable impacts on the street scene and would therefore be compliant with the above relevant policies.

Residential Amenity

The proposed dwelling would be set in very slightly from the front and rear of the dwelling it would adjoin and would maintain a distance of over 25m to opposing dwelling to the front and 20m to the extended dwelling at the rear. A distance of 12m would be maintained to the rear boundary. Whilst there is an objection, at such separation distances, neighbouring residential amenity would not be unacceptably undermined. The existing garden is raised higher than the footway and boundary at Philips Drive and the proposed patio area would be to the same general level and would be bounded by a high rear boundary fence.

The proposed dwelling would exceed the minimum gross internal floor area requirements and associated minimum bedroom dimensions of the 'Technical housing standards – nationally described space standard'.

Given the above, the proposal would not have unacceptable impacts on neighbouring or

occupiers amenity

Access and highway safety

The Highway Officer does not object to the proposal, subject to conditions.

Other matters

Conditions - The development has commenced further to the discharge of all conditions requiring the submission and agreement of details with the Local Planning Authority in relation to planning permission 68351.

Given that the Contaminated Land and Air Quality Section did not provide a consultation response in relation to the extant planning permission (which could now be completed) following commencement. It would not therefore be reasonable to impose the conditions recommended in relation to contaminated land (noting also that the site has not had any known contaminating land use).

Additionally, it would be appropriate to require the development to proceed in accordance with the materials and the Construction Traffic Management Plan agreed in relation to 68351

It is not considered to be either necessary or reasonable to remove permitted development rights given the more limited allowances for terraced dwellings and due to all the neighbouring dwellings benefitting from the usual rights without restrictions. Furthermore, the rear garden would be around 12m long between the rear elevation and the rear boundary.

Given that the site is presently a garden and the owner is free to landscape this area as they wish without local planning authority control, and the limited size of the remaining undeveloped area, it would not be necessary to require a landscaping scheme to be agreed.

The site would have two off-street parking spaces, so it would be reasonable to require the installation of an electric vehicle charging point.

Conclusion

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. The proposal would deliver much needed residential development in a sustainable location and without detriment to the character and appearance of the area, highway safety or amenity. As such, the proposal would comply with the above policies of the Local Plan and the NPPF. Therefore, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act, the proposal merits approval.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings:
Location Plan dated 31/05/2023
Proposed Plans, Elevations & Site Plan (Dwg no. 2 C)
Section A-A (Dwg no. 3 A)
Revised Side Car Parking/Bins Store Area and Pavement Crossing (Dwg No. 6)
and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.
- 3 The Development shall be carried out in accordance with the materials approved in relation to planning permission 68351. The materials to be used throughout the development shall be consistent in terms of colour, size and texture with the approved details.
Reason. No material samples have been submitted and are required in the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policy EN1/1 Visual Amenity.
- 4 The development shall be constructed in accordance with the 'Construction Traffic Management Plan' (CTMP) submitted and agreed with the Local Planning Authority in relation to planning permission 68351.

The approved plan shall be adhered to throughout the construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the construction period. The areas identified shall not be used for any other purposes other than the parking of vehicles and storage of construction materials. All highway remedial works identified as a result of the dilapidation survey shall be implemented prior to the development hereby approved being occupied.
Reason. To mitigate the impact of the construction traffic generated by the proposed development on the adjacent residential streets, and ensure adequate off street car parking provision and materials storage arrangements for the duration of the construction period and that the adopted highways are kept free of deposited material from the ground works operations. pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.
- 5 The development hereby approved shall not be first occupied unless and until the car parking and bin storage arrangements indicated on approved plan reference 2 Revision C, incorporating boundary wall foundations that do not encroach under, or surface water drainage that does not discharge onto, the adjacent adopted highway, the provision of a new footway crossing to limits to be agreed on site with flush edgings at the back of the footway to demarcate the limits of the adopted highway, new hardstanding a minimum of 5.0m in length in a porous/permeable material and/or measures to prevent the discharge of surface water onto the adopted highway and all associated footway remedial works that may be required to reinstate the footway to its former condition prior to commencement of the development, have been implemented in full to an agreed specification with the Local Planning Authority.
Reason. To ensure good highway design, allow adequate space to maintain a vehicle clear of the highway and maintain the integrity of the adopted highway in the interests of highway safety, pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

- 6 The visibility splays indicated on approved drawing number 2 C shall be implemented in full before occupation of the dwelling and subsequently maintained free of obstruction above the height of 0.6m.
Reason. To ensure the intervisibility of the users of the site and the adjacent highways in the interests of road safety, pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.
- 7 Prior to the occupation of the dwelling hereby approved, one electric vehicle (EV) charging point (minimum 7kW*) shall be installed.
*Mode 3, 7kW (32A) single phase, or 22kW (32A) three phase, and for 50kW Mode 4 rapid charging may be required. British Standard BS EN 61851-1:2011 to be used (note this version is due to be replaced by BS EN 61851-1:2019 on 5 July 2022).
Reason. To encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable. To safeguard residential amenity, public health and quality of life pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 8 The development hereby approved shall be carried out in accordance with a surface water drainage scheme which shall be based on the hierarchy of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). This must include provision of potential SuDS options for surface water drainage, which shall be drained on a separate system to foul sewage. The drainage scheme shall be implemented prior to first occupation of any dwelling and thereafter maintained.
Reason. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the National Planning Policy Framework.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DSC	26/07/2023	DM 27/07/23	