

DELEGATED REPORT

Report by Helen Leach	Date of report: 15/06/2023	Ref: 69485/FUL
Registration: 27/04/2023	LDfC: 07/06/2023	Expiry Date: 22/06/2023
Site Visit: 16/05/2023	Site Notice: 16/05/2023	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Erection of 3 no. dwellings and associated works

Location: Land adjacent to 6 Bentley Lane, Bury, BL9 6RZ

Description

The application site forms part of the garden to No. 6 Bentley Lane. The garden is slightly lower than the road and there is a 2 metre high stone wall along the frontage of the site. The garden contains a stone structure along the southern boundary and a hardstanding in the north eastern corner. The remainder of the site is overgrown with shrubs and trees. Access to the site is via steps from the rear garden of No. 6 Bentley Lane.

Bentley Lane forms the boundary to the north and there are garages and open land beyond. There is a terrace of dwellings to the east with the M66 motorway beyond. There is a detached dwelling to the west with a car park beyond, which has consent for residential development. There is open land to the south, which is at a lower level and has consent to be used for recreation purposes as part of the residential development at the Bevis Green site.

Outline and reserved matters consent have been granted for 3 dwellings on this site in 2020 and 2022 respectively.

The proposed development involves the erection of 3 dwellings in a terrace. The proposed dwellings would be two storeys at the front and would have a lower ground floor creating three storeys in total. Access would be taken from Bentley Lane.

Relevant Planning History

64525 - Outline application for residential development of up to 3 no. dwellings with all matters reserved at land adjacent to 6 Bentley Lane, Bury. Approved with conditions - 13 May 2020.

67808 - Application for reserved matters approval (access, appearance, landscaping, layout and scale) for the erection of 3 no.dwellings and associated works at land adjacent to 6 Bentley Lane, Bury. Approved with conditions - 1 June 2022.

Adjacent site

34658 - Two storey extension at side of 2 Bentley Lane, Bury. Approved with conditions - 12 October 1998.

63533 - Residential development comprising 268 dwellings (Class C3) with associated access, car parking, landscaping and open space at Bevis Green Works, Mill Road, Bury. Approved with conditions - 6 February 2020.

Publicity

The neighbouring properties were notified by means of a letter on 3 May 2023 and site notices were posted on 16 May 2023.

There has been no response.

Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal.

Drainage Section - No response.

Environmental Health - Contaminated Land - No objections, subject to the inclusion of conditions relating to contaminated land.

Environmental Health - Air Quality - No objections, subject to the inclusion of conditions relating to EV charging points.

Waste Management - No response.

Environment Agency - No response.

GM Ecology Unit - No objections, subject to the inclusion of conditions relating to nesting birds and landscaping and informatives relating to badgers and invasive species.

United Utilities - No objections, subject to the inclusion of informatives relating to foul and surface water drainage.

Pre-start Conditions - Not relevant.

Unitary 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
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN1/4	Street Furniture
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/1	Atmospheric Pollution
EN7/5	Waste Water Management
EN8	Woodland and Trees
OL1/2	New Buildings in the Green Belt
OL1/3	Infilling in Existing Villages in the Green Belt
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
SPD16	Design and Layout of New Development 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.

Principle (Green Belt) - NPPF Chapter 13 - Protecting Green Belt Land and OL policies of the UDP set out the national and local considerations of development within the Green Belt. UDP Policies are largely consistent with the NPPF and therefore hold significant weight. The policies of the NPPF hold substantial weight in terms of the consideration of development within the Green Belt, not least as these policies are more up to date than the UDP.

Para 143 considers that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 145 states that the construction of new buildings in the Green Belt should be regarded as inappropriate unless it meets the following exceptions:

- a. buildings for agriculture and forestry;
- b. the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c. the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d. the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e. limited infilling in villages;
- f. limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g. limited infilling or the partial or complete redevelopment of previously developed land,

whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable.

Paragraph 144 of the NPPF states that when considering an application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Policy OL1/2 states that the construction of new buildings within the Green Belt will be inappropriate development unless it is for agriculture, forestry, essential facilities for outdoor recreation, limited extensions of existing dwellings and for other uses of land which do not conflict with the purposes of including land in it. Proposals for buildings, which do not fall into one of the above categories are inappropriate development and will only be permitted in special circumstances.

Policy OL1/3 states that in all named villages which lie within the Green Belt, limited infill development may be permitted, provided that it is in scale with the village and would not adversely affect its character or surroundings.

The application site is located between two dwellings located on Bentley Lane. The term 'limited infilling' is not specifically defined within the NPPF but would generally refer to gaps of land that may be capable of development without prejudicing Green Belt objectives. It may include forms of development other than frontage infilling, as long as the development would be in keeping with the village's character maintaining openness.

The character of this area of Walmersley is of ribbon development located along Walmersley Old Road and Bentley Lane. The proposed dwelling would be located between two dwellings and as such, would be an infill plot. Therefore, the proposed development would be in accordance with Policies OL1/2 and OL1/3 of the Bury Unitary Development Plan and the NPPF.

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 area and there is residential development to the east and west of the site. The proposed development would not conflict with the surrounding land uses. There would be adequate infrastructure available and there would be access to services. Therefore, the proposed development would be in accordance with Policy H1/2 of the Bury Unitary Development Plan and the NPPF.

Design and layout - The proposed development would provide a terrace of 3 dwellings. The proposed dwellings would be split level with two storeys at the front and 3 storeys at the rear. The proposed dwellings would be of a similar design to the existing terraced properties to the east. The proposed dwellings would be constructed from stone with a slate roof, which would be acceptable. The use of headers, cills and pike details add visual interest. As such, the proposed development would not be a prominent feature in the streetscene and would be in accordance with Policies H2/1, H2/2 and EN1/2 of the Bury Unitary Development Plan.

Impact upon surrounding area - All of the proposed dwellings would have a rear garden, which would be small and tiered. As such, due to the provision of parking spaces at the front of the proposed dwellings, the gardens would not provide a suitable level of amenity space.

The proposed gardens would be between 5 metres and 6.1 metres in depth, which would be below the required aspect standard of 7 metres. In addition, the proposed gardens would be tiered, which would reduce the amount of usable space.

The proposed site plan indicates that bin storage would be provided at the side of the proposed dwellings. There would be space for 6 bins adjacent to plot 1 and 3 bins adjacent to plot 3. Each dwelling would need 4 bins and as such, there would not be sufficient space for bin storage for the three properties.

No information on the proposed boundary treatments has been provided.

Therefore, the proposed development would not be in accordance with Policies EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan.

Impact upon residential amenity - SPD6 provides guidance on aspect standards between residential properties and would be relevant in this case.

There would be between 5 and 6.1 metres from the rear elevation of the proposed dwellings to the garden boundary, which would be below the aspect standard of 7 metres.

There would be 10.4 metres between the No. 2 Bentley Lane and the gable of the proposed dwellings. The main aspects for No. 2 Bentley Lane is to the north west and south east. As such, the proposed dwellings would not impact upon the habitable room windows in this property.

The proposed site plan indicates that the proposed dwellings would be set back from the frontage and as such, would impact upon the 45 degree line drawn from the existing terrace of dwellings.

Therefore, the proposed development would have a significant adverse impact upon the amenity of the neighbouring properties and would conflict with Policies EN1/2 and H2/1 of the Bury Unitary Development Plan.

Ecology - No ecological report was submitted as part of this application.

GM Ecology Unit have provided comments based upon the ecological assessment, which was submitted as part of the original outline application. This report is now over 3 years old and would normally be regarded as no longer valid. However, as the site is less than 0.05 hectare and was previously assessed as a landscaped garden, it would be acceptable for this application.

There are badgers present in the wider landscape but the risk from the proposed development is low. GM Ecology Unit recommends an informative. The main ecological impact from the development is loss of shrubs and associated bird nesting habitat. GM Ecology Unit has no objections, subject to conditions relating to bird nesting and a landscaping condition to provide mitigation through appropriate soft landscaping and the provision of bird box opportunities. Therefore, the proposed development would not cause harm to a protected species and would be in accordance with Policies EN6/3 of the Bury Unitary Development Plan and the NPPF.

Highways issues - The proposed development would be accessed from Bentley Lane and includes the provision of 6 parking spaces to the front of the dwellings. This was proposed on the reserved matters application from the same applicant and agent and it was made clear at that time that it would not be possible to achieve the required visibility splays from the driveways, due to the position of the existing dwellings. The situation on site and the required visibility splays have not changed since the reserved matters application was approved in June 2022. The Traffic Section objects as the access arrangements are substandard in terms of visibility and the proposed development would lead to the loss of on-street parking facilities. As such, the proposed development cannot be supported due to the lack of visibility, which would have a detrimental impact upon pedestrian and highway safety. Therefore, the proposed development would be in conflict with Policies EN1/2 and H2/2 of the Bury Unitary Development Plan.

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

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

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development would be seriously detrimental to the residential amenities currently enjoyed by the occupier(s) of the adjoining dwelling house, by reason of its size and position. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:
Policy EN1/2 - Townscape and Built Design
Policy H2/1 - The Form of New Residential Development
- 2 The size of the site is inadequate to accommodate the development proposed whilst satisfying reasonable requirements for space about the dwelling. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:
Policy EN1/2 - Townscape and Built Design
Policy H2/1 - The Form of New Residential Development
- 3 The size of the site is inadequate to accommodate the number of bins required for each dwelling. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:
Policy EN1/2 - Townscape and Built Design
Policy H2/1 - The Form of New Residential Development
Policy H2/2 - The Layout of New Residential Development
- 4 The application and submitted plans contain insufficient information in relation to the proposed boundary treatments to enable the impact upon the surrounding area to be properly assessed. Therefore, the proposed development would conflict with the following Policies of the Bury Unitary Development Plan:
- 5 The proposed access arrangements are sub-standard in terms of visibility, which would be detrimental to highway safety and maintaining the free flow of traffic on Bentley Lane. Therefore, the proposed development would conflict with the following Policies of the Bury Unitary Development Plan:
Policy EN1/2 - Townscape and Built Design
Policy H2/2 - The Layout of New Residential Development
- 6 The proposal would result in the loss of existing on-highway parking facilities, which will lead to parking being displaced elsewhere on more restricted sections of Bentley Lane and outside existing residential properties, to the detriment of highway safety and residential amenity. Therefore, the proposed development would conflict with the following Policies of the Bury Unitary Development Plan:
Policy EN1/2 - Townscape and Built Design
Policy H2/2 - The Layout of New Residential Development
- 7 The application and submitted plans contain insufficient or dimensioned information to ensure that surface water would not be discharged onto the adjacent adopted highway from the hardstandings proposed or that adequate room would be made available within the curtilage of the site in order to maintain parked vehicles clear of the proposed footway on the southerly side of Bentley Lane. Therefore, the proposed development would conflict with the following Policies of the Bury Unitary Development Plan:
Policy EN1/2 - Townscape and Built Design
Policy H2/2 - The Layout of New Residential Development

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HL - 15/06/2023		DM 15/06/23	

