

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 14/12/2022	Ref: 68067/FUL
Registration: 30/08/2022	LDfC: 21/09/2022	Expiry Date: 25/10/2022
Site Visit: 17/06/2022	Site Notice: 01/09/2022	Press Date: 01/09/2022
Objections: 2	Con Area: N/A	Adv Type: ARW
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Erection of 1 no.dwelling

Location: Owlerbarrow House, Owlerbarrow Road, Bury, BL8 1RD

Description

The application relates to an area of existing garden associated with Owlerbarrow House. The site is bounded by residential properties with Bridleway 146BUR located along the west boundary. The boundary of the site is currently made up of hedgerows to the west and south, and fencing and planting to the east.

Planning permission is sought for the construction of a single dwelling, accessed from Bridleway 146BURY. The proposal would comprise of a single storey dwelling with 2 no. bedrooms and 2 no. associated car parking spaces.

Relevant Planning History

58580 - Single storey extension at rear; first floor Juliette balcony at rear - Approve with Conditions 22/05/2015

59786 - Ground and first floor extensions to front and rear and replacement of flat roof to pitched roof - Approve with Conditions 18/03/2016

Publicity

Neighbour letters sent to the adjoining neighbours on the 27/05/2022.

Site Notice 01/06/2022

Press Notice 02/06/2022

Objection received from No. 14 Lowcroft Road in relation to:

- States that the new building relates to an address on Owlerbarrow Road but will be accessed via Owlerbarrow Lane.
- Owlerbarrow Lane is a private road.
- There has been no contact by the applicants to obtain access to the site or to use the lane for future building.
- Owlerbarrow Lane is a public right of way and signed as a bridlepath. It is not wide enough to accommodate increased traffic, especially large wagons that could represent a risk to horse riders and other users.

Following an amendment to the notice served further neighbour letters sent 06/09/2022.

Site Notice - 01/09/2022

Press Notice -01/09/2022

Further objection received from No. 14 Lowercroft Road and 16 Hulbert Street in relation to:

- The only access to the proposed site is via a private road that is not owned by the applicant.
- No vehicular rights have been granted for the existing, or proposed property and as

such any access would be unlawful and constitute trespass.

- It is a public right of way and bridleway but it is not wide enough to accommodate increasing amounts of traffic. Any such traffic would be a hazard as the entry driveway to the "new" house would be directly on to the lane, which is already busy with horse riders and pedestrians.
- We own the private road and to date no agreement exists between the applicant and ourselves.
- Do not see how you can entertain an application where the applicant cannot access the proposed building plot.

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to conditions in relation to the submission of a Construction Traffic Management Plan and implementation of the access, parking and bin store arrangements prior to occupation of the dwelling.

Environmental Health - No objections raised subject to conditions in relation to the submission of a contaminated land preliminary risk assessment, detailed risk assessment, remediation strategy and implementation of the remediation strategy.

Public Rights of Way Officer - Questions raised in relation to vehicular access, and the introduction of additional traffic onto a bridleway used by school children to access Elton High School which may create conflict.

United Utilities (Water and waste) - No objection subject to a SUDS conditions

Greater Manchester Ecology Unit - Ecological issues include nesting birds and mitigation for loss of trees and hedge. Conditions proposed in relation to nesting birds and contributing to and enhancing the natural environment.

Pre-start Conditions - Applicant/Agent has agreed with pre-start conditions

Unitary Development Plan and Policies

EN1	Built Environment
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN5/1	New Development and Flood Risk
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
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
H2/6	Garden and Backland Development
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 surrounded by residential properties. 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.

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.

Policy H2/6 - Garden and Backland Development is also relevant to this site and states that the Council will not permit the loss of private gardens for infill development unless such proposals can be shown not to adversely affect the character and amenity of the area.

The proposed dwelling would be of a simple and unobtrusive design and of a scale that would not dominate the adjacent properties. The properties within the immediate vicinity of the site are not of a single design and hipped roofs are visible within the wider context of the street scene. As such, this design feature is considered to be acceptable. The proposed use of render for the external elevations is considered to be acceptable.

The proposed 0.6 metre boundary wall to the front of the site, access and parking would result in the loss of the existing boundary hedgerow however it would replicate the boundary treatment of the adjacent property at Clovelly and the front boundary treatments of the properties located on Owlerbarrow Road. Similarly the use of timber and post fencing to depict the side boundaries would replicate the styles of boundary treatments for gardens

within the wider residential setting.

The proposed development would allow for retention of garden space for the original property and for the future occupiers of the proposed dwelling.

It is therefore considered that the proposal would be acceptable and would therefore comply with UDP Policies H2/2, H2/1, H2/6 and EN1/2.

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 proposed dwelling would be located to the north of the property known as Clovelly. This dwelling has a garage at ground floor immediately adjacent to the boundary with the site. The proposed dwelling would not project excessively beyond the front elevation of this garage, which is a non-habitable room in any event, and would not project beyond the rear elevation of the dwelling. As such, it is considered that the proposal would not be unduly overbearing.

The habitable room windows within the proposed south elevation, would face towards the side elevation of the garage of Clovelly and would be partially screened by the proposed 1.2 metre fencing. Non-habitable room windows are proposed within the side elevations, and the habitable room windows located within the north elevation would be separated from the side boundary with Owlerbarrow house by an area of garden, a bin store and a 1.2 metre fence. As such, it is considered that the proposal would not lead to undue loss of privacy for the neighbouring properties.

Access and Parking

Some concerns were initially raised by the Public Rights of Way Officer in relation to the use of the bridleway for vehicular access. In this instance, the bridleway is already used by vehicles to access residential properties and it is considered that the addition of a single property would not generate vehicular movements to this site that would warrant refusal of the scheme.

Private rights of access are a non-material planning consideration, that would be for the applicant to resolve outside of the planning application process.

The application has been assessed by the Traffic Section who have requested that a Construction Traffic Management Plan is submitted prior to the commencement of development, that includes the submission of a photographic dilapidation survey, to mitigate the impact of construction traffic generated by the proposed development.

The Traffic Section have also assessed the proposed access to the site and parking arrangements and consider that this is acceptable subject to conditions that maintain visibility.

The site is located just outside of an area of high accessibility as set out within SPD 6. Two bed properties within low access areas would be required to provide a maximum of 2.5 parking spaces. As these standards are a maximum, the 2 parking spaces that are proposed within the curtilage of the site are considered to comply with parking standards set out within SPD 11.

Ecology

Greater Manchester Ecology Unit were consulted as part of the application process and provided comments. Ecological issues include nesting birds and mitigation for loss of trees and hedge.

GMEU considered that it is very unlikely that there will be any protected species issues associated with this development. The structures and trees on site are very low risk for bats, there are no ponds nearby known to hold great crested newts, no watercourses on the site and the site too small to be of importance in terms of foraging for mobile species such as bats or badger. As such, GMEU are satisfied that no further information or measures are required.

The development will require the removal of trees and a section of hedge 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. Conditions are therefore recommended that limit works to trees and shrubs outside of nesting season.

Section 174 of the NPPF 2021 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 what appear to be ornamental trees; a section of non-native hedge and; the associated habitat for nesting birds and other wildlife.

No mitigation appears to be proposed as part of the application process. GMEU recommend that mitigation in the form of native trees and bird boxes. Alternatively a native hedge between the two properties can be provided, or off site mitigation within the garden of Owlerbarrow Road can also be explored. These details can be dealt with via condition that requires the submission of a biodiversity mitigation plan.

Drainage

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. A condition will be attached to the proposal to ensure that a suitable scheme is submitted, and approved by the LPA. This scheme must be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015).

Any scheme submitted, and approved by the LPA would have to accord with the above and as such it is considered that the proposal would 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 NPPF.

Response to Neighbours

Issues in relation to private rights of access, and construction vehicles have been dealt with 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 Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental

conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. 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 Location Plan received on 22nd August 2022 and drawings numbered P01, P02, P03, P04, P05, P06 and P07 received on 9th June 2022. The development shall not be carried out except in accordance with the details 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 Details/Samples of the (materials/bricks) to be used in the external elevations, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. Only the approved materials/bricks shall be used for the construction of the development.
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 No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and approved by the Local Planning Authority and shall confirm/provide the following:
 - Photographic dilapidation survey of Owlerbarrow Road/Public Right of Way (Bridleway) No. 146, Bury, that serves/abuts the site in the event that subsequent remedial works are required following construction of the development and as a result of any statutory undertakers connections to the new dwelling;
 - Access route for construction traffic from the adopted highway;
 - Site hoardings (if proposed) clear of the adopted highway;
 - Hours of operation, confirmation of delivery and construction vehicle sizes that can be accommodated on the residential access roads/Public Right of Way serving the site and number of vehicle movements;
 - A scheme of appropriate warning/construction traffic signage in the vicinity of the site and its access;
 - Parking on site (or on land under the applicant's control) of operatives' and construction vehicles together with storage on site of construction materials, including any requisite phasing of the development to accommodate this;
 - Measures to ensure that all mud and other loose materials are not spread onto the adjacent adopted highways/Public Right of Way as a result of the groundworks operations or carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

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.

Reason. Information not submitted at application stage. 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, 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.

- 5 The proposed access, parking and bin storage arrangements indicated on the approved plans, incorporating the provision of a hardstanding in a permeable/porous material or incorporating other measures to prevent the discharge of surface water onto the adjacent Public Right of Way to the dimensions shown in order to accommodate two vehicles within the curtilage of the site, 0.6m high splayed boundary wall and splayed fenceline to provide adequate levels of visibility at the junction with Public Right of Way No. 146, Bury, and all associated highway remedial works required as a result of the construction of the proposed development and statutory undertakers/drainage connections to the new dwelling, shall be implemented prior to the dwelling hereby approved being first occupied and thereafter maintained at all times.

Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

- 6 No development shall commence unless and until:-
- A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
 - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
 - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason. The scheme does not provide full details of the actual contamination and subsequent remediation, 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.

- 7 Following the provisions of Condition 6 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 8 No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.

Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 - Conservation of the Natural Environment and EN6/3 - Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 9 Prior to site clearance a biodiversity mitigation plan for loss of trees, hedge and associated bird nesting and other wildlife habitats shall be submitted to, and approved by the Local Planning Authority. The contents of the plan should include native tree and shrub planting and the provision of bird boxes. The approved scheme shall thereafter be implemented not later than 12 months from the date the building is first occupied or within the first available tree planting season,; and any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees or shrubs of a similar size or species to those originally required to be planted.

Reason. Information not submitted at application stage. To mitigate the impact of the loss of habitat for nesting birds and other wildlife and in the interests of visual amenity pursuant to Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and EN8/2 - Woodland and Tree Planting of the Bury Unitary Development Plan and Chapter 15 - Conserving and enhancing the natural environment of the NPPF.

- 10 No development shall commence unless and until surface water drainage proposals have been submitted to and approved in writing by the Local Planning Authority. The scheme should be in accordance with the submitted Surface Water Sustainable Drainage Assessment and must 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 assessment of potential SuDS options for surface water drainage with appropriate calculations and test results to support the chosen solution. Details of proposed maintenance arrangements should also be provided. The approved scheme only shall be implemented prior to first occupation and thereafter maintained.

Reason. The current application contains insufficient information regarding the proposed drainage scheme to fully assess the impact. 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 NPPF.

- 11 Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, no development shall be carried out within the terms of Classes A to G of Part 1 of Schedule 2 of the Order, without the submission and approval of a relevant planning application.

Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	14/12/22		