

DELEGATED REPORT

Report by Jane Langan	Date of report: 16/12/2021	Ref: 67655/FUL
Registration: 11/10/2021	LDfC: 18/11/2021	Expiry Date: 06/12/2021
Site Visit: 16/08/2021	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: HOUS

Proposal: Erection of decking to raised garden at side

Location: 1 Ladythorn Avenue, Prestwich, Manchester, M25 9RW

Description

The property is a semi detached house located on a corner plot. It sits at a raised level from the footpath with a retaining wall at the front/side and a garden sloping up with steps leading to the entrance. To the south side of the garden is an area of raised decking which is fenced along the side.

The application relates to the decking and fencing which comprises of composite boards. A previous application (66559) was submitted for the decking/fencing as it stands however this was withdrawn as the proposal could not be supported in terms of visual amenity. Following this the applicant engaged in pre application advice.

The decking/fencing sits within the landscaped area above the brick retaining wall. It is proposed to set the top 1.1m of the fencing back into the decked garden area by 0.5m.

Relevant Planning History

66559 - Erection of decking to raised garden at side - Withdrawn 15/04/2021.

Publicity

Surrounding neighbours were notified by letter and no responses have been received.

Statutory/Non-Statutory Consultations

None.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

H2/3 Extensions and Alterations

SPD6 Supplementary Planning Document 6: Alterations & Extensions

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.

Visual amenity and design - SPD6 requires boundary treatments to respect the character of the street scene. The raised deck to the side is screened by the fencing and which sits at a high level from the public footpath. There is a gap between the fencing and the retaining wall where shrubs have been planted. The fencing constructed is prominent and solid in its appearance. The proposal to set the top 1.1m section of the fence back by 0.5m would provide a visual break reducing the intrusive solid appearance the current fencing has in the street scene. The proposal is considered acceptable and would not have a detrimental impact on the visual amenity of the area. In this instance as the scheme under consideration provides for a new proposal which needs to be implemented. Failure to do so will mean that the current works are unauthorised and would be subject to enforcement proceedings.

Parking - There is no off street parking to the site.

Residential amenity - The raised decking is to the footpath side and would not overlook any private amenity space to any neighbouring properties.

The proposal complies with UDP Policy H2/3 and SPD6 - Alterations and Extensions to Residential Properties.

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 pre-application discussions 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 drawings numbered ZT21-196-00, ZT21-196-01, ZT21-196-02 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.

<u>Case Officer</u> JL 16/12/21	<u>Date</u>	<u>Sign off Officer</u> DM 16/12/21	<u>Date</u>
------------------------------------	-------------	--	-------------