

**DELEGATED REPORT**

|                                 |                                   |                                |
|---------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Helen Pressley | <b>Date of report:</b> 22/12/2022 | <b>Ref:</b> 68883/FUL          |
| <b>Registration:</b> 31/10/2022 | <b>LDFC:</b> 24/11/2022           | <b>Expiry Date:</b> 26/12/2022 |
| <b>Site Visit:</b> 01/12/2022   | <b>Site Notice:</b> N/A           | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 0            | <b>Con Area:</b> N/A              | <b>Adv Type:</b> N/A           |
| <b>Reason for Delay:</b><br>N/A |                                   | <b>EIA:</b> NA                 |
|                                 |                                   | <b>Dec Level:</b> DEL          |
|                                 |                                   | <b>Stat Class:</b> MIOT        |

**Proposal:** Removal of existing greenhouse structure; Erection of store/workshop structure ('cabin') of similar dimensions/scope

**Location:** Holly Mount Orchard, Chapel Gardens, Hollymount Lane, Tottington, Bury, BL8 4PS

**Description**

The application relates to an orchard, that is accessed from Hollymount Lane. The site is currently occupied by an area of hardstanding with a shed, and greenhouse, a compost toilet, a pavillion with decking and an apiary shed.

Planning permission is sought for the removal of the existing greenhouse and for the construction of a new store/workshop. The proposed store would be 3130mm wide, 9300mm long, 2200mm to the eaves and 2650mm to the ridge. The proposed store would be constructed from timber.

**Relevant Planning History**

02728/E - Removal of existing greenhouse structure; replace with wooden store/workspace structure (cabin) - Completed

**Publicity**

Neighbour letters sent - 3/11/2022. No representations received.

**Statutory/Non-Statutory Consultations**

**Planning Policy Manager** - No response

**United Utilities (Water and waste)** - No objections subject to SuDs condition

**Pre-start Conditions** - Applicant has agreed to pre-commencement conditions

**Unitary Development Plan and Policies**

|       |                                                             |
|-------|-------------------------------------------------------------|
| EN1/2 | Townscape and Built Design                                  |
| EN1/1 | Visual Amenity                                              |
| OL1   | Green Belt                                                  |
| OL1/2 | New Buildings in the Green Belt                             |
| EN5/1 | New Development and Flood Risk                              |
| EN7/3 | Water Pollution                                             |
| EN7/5 | Waste Water Management                                      |
| SPD8  | DC Policy Guidance Note 8 - New Buildings in the Green Belt |
| 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)**

Paragraphs 147 and 1448 state that inappropriate development in the Green Belt is by definition, harmful and should not be approved except in Very Special Circumstances (VSC). Planning Authorities should ensure that substantial weight is given to any harm in the Green Belt. VSC 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.

Paragraph 149 of the NPPF states that the construction of new buildings would be inappropriate in the Green Belt. Exceptions to this are:

(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 housing need within the area of the local planning authority.

Policy OL1/2 states that the construction of new buildings in the Green Belt is inappropriate development, unless it is for one of more of the following purposes: agriculture and forestry essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it; limited extension, alteration or replacement of existing dwellings, provided that this would not result in a disproportionate additions over and above the size of the original dwelling, or, in the case of replacement existing dwellings, the new dwelling is not materially larger than the one it replaces; limited infilling in existing villages.

The proposed development would involve the replacement of the greenhouse with a permanent building, which would provide shelter and storage. The land is currently used as a community orchard and is maintained by volunteers. The proposal could therefore be considered to be the provision of a facility in association with outdoor recreation.

In addition to this the proposed building would be in the same use which would be acceptable provided that the building is not materially larger than the one it replaces. When considering new dwellings, or extensions SPD 8 considers that the LPA may allow the original volume to be increased by up to a third. However, each proposal will be considered on its own merits and even an increase up to a third (or 33%) may not be appropriate in certain situations. It is considered this rule can also be applied to replacement buildings when considering if they are materially larger for the purposes of the NPPF.

The applicant has provided a Green Belt statement in relation to the proposal that outlines the changes in volume of the existing and new building:

Volume of existing greenhouse: 63.62 cubic metres

Replacement structure TOTAL volume (this application): 72.17cubic metres

The proposed replacement storage building would therefore be approximately 13% larger , which is less than a third. It is therefore considered that the replacement building complies with guidance set out within SPD 8, and would not result in a building than the one it replaces. As such, the proposed development would be acceptable in principle and would be in accordance with Policy OL1/2 of the Bury Unitary Development Plan and the NPPF.

## **Design and Layout**

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 proposed development would provide a building, which would replace the existing greenhouse. Timber is considered to be a suitable material given the use of the site, and the proposed use of the building. The proposed building would be located in the corner of the existing orchard, utilising an existing concrete base limiting the amount of additional hard landscaping which would be required and would be well screened by trees.

It is therefore considered that the proposed development would not be a prominent feature in the streetscene and would be in accordance with Policies OL1/2 and EN1/2 of the Bury Unitary Development Plan.

### **Residential Amenity**

Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals taken into consideration their relationship to the surrounding area.

There are a number of residential properties located to the north of the site however the nearest property is located some 25 metres from the proposal. The application site is also lower than the residential properties and there is a bank of mature trees between. As such, the proposed development would not have an adverse impact upon the amenity of the neighbouring properties. Therefore, the proposed development would be in accordance with Policy EN1/2 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 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 the drawings received on Location Plan received 31st October 2022, Existing Floor Plans and Elevations and Proposed Floor Plans and Elevations received 2nd November 2022, Existing Site Plan and Proposed Site Plan received 8th November 2022 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 drainage for the development hereby approved 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). The drainage scheme shall be implemented prior to first occupation 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 NPPF.

- 4 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.

| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
|---------------------|-------------|-------------------------|-------------|
| HP - 22/12/2022     |             |                         |             |