

DELEGATED REPORT

Report by Mo Warsame	Date of report: 19/01/2024	Ref: 70260/FUL
Registration: 29/11/2023	LDfC: 21/12/2023	Expiry Date: 24/01/2024
Site Visit: 19/01/2024	Site Notice: N/A	Press Date: N/A
09:00:00		
Objections: 2	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Erection of new boundary fence

Location: 37 Ashington Drive, Bury, BL8 2TS

Description

The application relates to a detached bungalow, which is constructed from brick with stone cladding and a tile roof. There is a conservatory at the rear and a large flat roofed garage is attached at the side. There are gardens to the front, side and rear and a long driveway that can accommodate several cars. The boundaries are surrounded by high fencing and hedges / trees. There are bungalows to the east and two storey dwellings to the north and south. Lowercroft Primary School is located to the west.

Planning permission is sought for a retrospective application for the erection of a new boundary fence. The boundary fence would replace the existing hedging and would be 1.8m high above the existing 0.54m high garden. The fence would be a timber structure with stained finish.

Relevant Planning History

02696/E - Ground floor extension to rear - Enquiry completed 02/03/2022

67443 - First floor addition to existing bungalow; Increase height in roof; Adding bay windows to the front elevation; Removal of conservatory; New entrance to both sides - Withdrawn by Applicant 28/10/2021

68390 - Single storey extension at rear; New porch at side. - Approve with Conditions 13/07/2022

23/0417 - Erection of fencing - 30/11/2023

Publicity

Neighbour letters sent. Two objections received.

Comments

Objection 1

The concerns of the objecting party relates to the size and design of the boundary fence and its relationship with the public highway due to its setting along with the potential impact it will have on the street scene and the adjacent neighbours whilst citing planning policies to supports their arguments.

Objection 2

The other objecting party is concerned about the height of the fence and in particular around Ashington Drive where the proposed fence would be visible from the public arena.

Statutory/Non-Statutory Consultations

N/A

Pre-start Conditions

N/A

Unitary Development Plan and Policies

EN1/1 Visual Amenity

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, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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

UDP Policy H2/3 and SPD 6 Alterations and Extensions to Residential Properties seek to achieve a high standard of design that compliments the original building and does not have a detrimental impact on the character and appearance of neighbouring properties and the general street scene.

The proposal is for a retrospective application for the retention of a boundary fence. The surrounding streetscape is characterised by low walling and/or soft landscape hedging.

Most of the boundary fence is readily visible from the public arena. Whilst it may provide a degree of privacy and security for the residential occupiers using the rear garden, its overall height, position and appearance is such that it appears jarring and at odds with the main boundary features found within the surrounding estate especially so in such a prominent location.

Whilst it is noted that the occupant wanted to remove the hedging, it is not convincing nor appropriate that such a fence in the appearance/design and location would be appropriate and thus it would not justify the detrimental impact it would have on the street view. Overall, the design, scale and the choice of materials used are unacceptable and completely not in keeping with the surrounding neighbourhood and street scene.

Overall, the proposal would be considered unacceptable and therefore would not comply with UDP Policy H2/3 and associated guidance in SPD6.

Residential amenity

SPD 6 and H2/3 seek to reduce the impact of proposals on the residential amenity of neighbouring properties.

The proposed development would have no adverse or detrimental impact on the residential amenity on the adjacent neighbouring properties and as such, the proposal would comply with UDP Policy H2/3 and associated guidance in SPD6. in that aspect.

Response to Objection

The concerning comments from the objecting parties have been thoroughly examined on the sections above. The proposed development would have no detrimental impact on the residential amenity enjoyed by neighbouring properties. However, there would be serious detrimental impact on the street scene and character of the area due to the design, scale and position of the development.

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 boundary fence would, by reason of its size, position and design, be a prominent and intrusive feature in the street scene and would therefore, be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan: UDP Policy H2/3 and associated guidance in SPD6.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
MW	19/01/2024		