

DELEGATED REPORT

Report by Jane Langan	Date of report: 05/12/2022	Ref: 68673/FUL
Registration: 16/09/2022	LDFC: 02/12/2022	Expiry Date: 11/11/2022
Site Visit: 12/10/2022	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Raise the level of part of rear garden including installation of retaining wall structure (to enable the full rear garden to be one useable level)

Location: 51 Sheepfoot Lane, Prestwich, Manchester, M25 0DN

Description

The property is two storey semi detached house. It has been extended two storey at the side up to the boundary and single storey at the rear. The adjoining property to the east side is No.52 and to the opposite side is No.50. To the rear, the site has a lawned garden which drops down to a lower level towards the rear and there is a block retaining wall to the boundaries. The garden borders the rear gardens to 5,7& 9 Watkins Drive.

The application proposes to infill the rear/ lower garden area to create one level. The proposal includes the existing block wall to remain and a new retaining wall would be constructed 200mm within the site and then be infilled with hardcore. The garden section plan indicates the ground would be raised/infilled by up to 2.2m from the existing level. A 1m high guard rail is noted on the elevation section plan to the raised area. The site plan notes a 1.5m high timber fence to the new retaining wall along all the boundary.

Relevant Planning History

35701 - First floor side extension and front porch canopy - AC 16/11/99.

Publicity

Surrounding neighbours were notified by letter and one response has been received from a nearby neighbour. Their concerns in summary are :-

- Raising the level area would impinge on the privacy and use of surrounding gardens by overlooking them
- Further impinge should any outbuildings, sheds or slides be placed on the raised structure in the future.
- Conversion of this land to a private garden should in itself not have been done without consultations with adjoining owners/the local council. Believe that the proposal is detrimental to the freedom of the surrounding home owners including ourselves to carry on enjoying our leisure in our back gardens.
- Potentially cause flooding to adjoining garden areas. Suggest would alter the way the rainwater is absorbed/discharged and would concentrate the water in small areas and detrimentally affect the water table on the lower surrounding garden areas.
- Almost certainly increase nuisance noise levels if used for partying or play.

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 - Located to the rear the proposal would not have impact on the main street view. It would be visible only from neighbouring gardens. The application detail regarding materials notes the surfacing would be concrete slab although the site plan does note a lawn. In terms of the visual amenity of the area the proposal would be acceptable.

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

The proposal would raise the levels of the site to a height above 2m to the neighbouring properties to the rear. No.7 is directly to the rear and currently screened by tall hedges along the boundary. No.9 is also to the rear and located at a lower level with its rear garden also running along the east side of the site. It has timber panel fencing along the boundary with trellis above.

To the west side is an area of land overgrown that sits between the site and 5 Watkins Drive.

Whilst No.7 is currently screened with planting, the proposal would see a 2.1m wall with a 1.5m timber fence above. Should the planting be lost a 1.5m fence would not provide sufficient screening it would generally need to be at 1.7m in height.

No.9 has less screening and the increase in the height of the site garden with the 1.5m high fence would also result in overlooking.

There would be similar situation to the neighbouring property at 5 Watkins Drive.

Without appropriate screening there would be serious overlooking of the neighbouring gardens. The proposed increased levels and addition of the 1.5m fence would be extremely oppressive and dominant when viewed from the neighbouring gardens. Providing screening to a higher level at 1.7m would further add to this.

Whilst domestic gardens can differ in levels it is unusual for a proposal to come forward to raise the ground to this level when it could become useable in a more neighbourly manner.

In conclusion it is considered that the proposal to raise the garden levels would be unacceptable and an un neighbourly and unduly intrusive addition to the site garden area and as such is seriously detrimental to the amenity of the adjacent neighbouring properties contrary to UDP Policy H2/3 and SPD6 - Alterations and Extensions to Residential Properties.

Drainage - The section through plan notes that there would be a drain. The application does not give detail in terms of a full drainage plan that would explain how the drainage would work and to demonstrate that there would not be a impact from water on the gardens to the neighbouring properties.

Response to objection

The concerns regarding privacy, overlooking and drainage addressed in the above report. The application includes Certificate A to state the applicant is the owner of the land. Any issues regarding noise would be dealt with, where appropriate, via the relevant environmental legislation.

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 raising of the garden level and addition of boundary fencing would be seriously detrimental to the amenities of the adjacent properties that share a boundary with the site (in particular 5, 7 & 9 Watkins Drive) by reason of the height, size and position. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan: H2/3 – Alterations and Extensions and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.
- 2 The application and submitted plans contain insufficient information with regard to the drainage of the proposed development to enable them to be properly assessed.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JL	05/12/22		