

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 14/02/2024	Ref: 70303/FUL
Registration: 01/12/2023	LDfC: 04/01/2024	Expiry Date: 26/01/2024
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Erection of 1 no. dwelling with associated access, landscaping and boundary wall/fence

Location: Land at Burns Avenue (rear of 26-28 St Peters Road), Bury, BL9 9RB

Description

The proposal relates to an area of garden ground that has been annexed from the rear gardens of 26 and 28 St Peter's Road. The site, which is broadly square, fronts Burns Avenue and measures 15m deep x 16m wide. It is bounded by neighbouring residential gardens on all sides and is enclosed by 1.8m high timber fencing.

The site falls within the urban area and is unallocated in the Bury Unitary Development Plan.

The proposal is for a single dwelling with associated access, landscaping and boundary wall/fence, comprising the following:

- One and a half storey 3 bedroom dwelling with accommodation in the roof space and dormer windows. Measuring 9.1m wide x 8.1m deep x 5.5m high above ground level to ridge. To be finished with red brick, grey concrete tiles and white uPVC windows.
- New access and off-street parking for 2no. vehicles (porous tarmac) and front boundary wall with railings/pedestrian gate and 1.8m high brick and timber fencing to east and north boundary.
- Blockwork paving and grass lawn to garden areas.

The proposal has been amended to remove the previously proposed quoins, cills and lintels.

Relevant Planning History

68174 - Erection of 2 no. semi-detached dwellings - Withdrawn by Applicant 21/04/2023

69834 - Erection of 1 no. dwelling with boundary wall/fence, new vehicular access/parking and landscaping - Withdrawn - Invalid 16/11/2023

Publicity

Direct neighbour notification undertaken on 11/12/2023. One representation received objecting to the proposal on the grounds that the development would destroy the peaceful life of the entire neighbourhood through the creation of noise and overcrowding.

Statutory/Non-Statutory Consultations

Traffic Section: No objection, subject to conditions requiring the approval of a Construction Traffic Management Plan, and relating to on/off-site highway works, the boundary wall and bin storage.

Borough Engineer - Drainage Section: No comments received.

Environmental Health - Contaminated Land: No objection, subject to conditions relating to contaminated land and air quality.

Waste Management: No comments received.

United Utilities (Water and waste): No objection, subject to a condition relating to drainage

Greater Manchester Ecology Unit: No objection, subject to conditions relating to nesting birds and biodiversity net gain.

Pre-start Conditions - Applicant/Agent [Not relevant/has/has not] agreed with pre-start conditions

Unitary Development Plan and Policies

H1/2	Further Housing Development
H2/2	The Layout of New Residential Development
H2/1	The Form of New Residential Development
HT2/4	Car Parking and New Development
EN1/2	Townscape and Built Design
EN5/1	New Development and Flood Risk
HT6/2	Pedestrian/Vehicular Conflict
SPD11	Parking Standards in Bury
EN7/3	Water Pollution
EN7/4	Groundwater Protection
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, 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.

ASSESSMENT

Policy

Policy H1/2: Further Housing Development - requires the council to have regard for the suitability of proposals for housing development on sites not identified on the Proposals Map.

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. This is further supported by SPD 16 - Design and Layout of New Development in Bury.

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 H2/2: 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.

Policy HT2/4: Car Parking and New Development - requires all applications for development to make adequate provision for their car parking and servicing requirements. This is further supported by SPD 11 - Parking Standards in Bury.

Principle

The site is unallocated in the Bury Unitary Development Plan. Given that the site formerly formed garden area associated with 26 and 28 St. Peter's Road within the built up area, the principle of further residential development is acceptable.

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 area, surrounded by established residential uses and close to routes well served by public transport and to facilities, goods and services (on Manchester Road).

As such, the site is the most sequentially preferable for the release of land for housing. Furthermore, the site falls in a sustainable location with regard to services and public transport. Thus, the principle of the development is acceptable, subject to consideration of the subsequent matters.

Layout and Design

The site falls within a residential context that is mixed in character and appearance. The site most readily pertains to the dwellings to the south on the east side of Burns Avenue, which are of a simple and robust semi-detached form with horizontally proportioned windows and with only minor architectural adornments (e.g. canopy/porches) and finished in red brick and tile. Semi-detached dwellings on St.Peter's Road are of a larger scale and face north and those bounding the site have been bastardised at the rear with single storey and dormer extensions.

The juxtaposition of the site between larger scale 1930's semi-detached dwellings to the north and the later, smaller scale and simpler form of the dwellings to the south.

The proposed site is akin or larger than plots to the south of the site and can comfortably

accommodate a dwelling and relatively generous garden area. The proposed dwelling would generally be aligned with the frontage of the adjacent dwelling to the south of the site and the spacing to the neighbouring dwelling would reflect existing plot layouts. The juxtaposition of the plot to neighbouring gardens to the east is a constraining factor, necessitating a one and half storey iteration. However, as noted, the site is at the transition between residential forms. The proposed dwelling could be simple in form and character, as are the existing dwellings to the south and would be in materials exhibited in the area. Whilst dormers are not a predominant feature on the principle elevation of dwellings in the area, they would be a minor and proportionally acceptable feature upon the host dwelling.

Given the above and the amendments to the proposal, the proposed dwelling would not have any unacceptable impacts on the street scene and would therefore be compliant with the above relevant policies.

Residential Amenity

The proposed dwelling would be 3m above ground level to eaves and thereafter 5.5m to ridge. Given the set back from the eastern boundary of 3m, the proposed dwelling would not have unacceptably overbearing impacts upon the enjoyment of the rear garden at 30 St. Peter's Road. The first floor bedrooms would be served by dormer windows to the principal elevation facing Burns Avenue. The rear dormer serve a non-habitable room and would be obscure glazed.

The proposed dwelling would exceed the minimum gross internal floor area requirements and associated minimum bedroom dimensions of the 'Technical housing standards – nationally described space standard'.

The rear garden would be of a size to enable the storage of waste and recycling facilities and the to provide a reasonable level of outdoor private amenity space.

Given the above, the proposal would not have unacceptable impacts on neighbouring or occupiers amenity

Access and highway safety

The Highway Officer does not object to the proposal, subject to the above noted conditions.

Other matters

Ecology

Section 180 of the NPPF 2023 states that the planning policies and decisions should contribute to and enhance the natural and local environment. GM Ecology Unit have recommended that an enhancement could be delivered by landscaping.

Conditions - It is considered to be necessary and reasonable to remove permitted development rights for rear extensions given the limited (but adequate) extent of rear garden.

The site would have two off-street parking spaces, so it would be reasonable to require the installation of an electric vehicle charging point.

Conclusion

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. The proposal would deliver much needed residential development in a sustainable location and without detriment to the character and appearance of the area, highway safety or amenity and with the attachment of conditions would deliver ecological enhancements. As such, the proposal would comply with the above policies of the Local Plan and the NPPF. Therefore, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act, the proposal merits approval.

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 drawings
Location Plan (Dwg No. 21088 - LP)
Proposed Elevations and Floor Plans (Dwg No. 21088-203-Rev.C)
Proposed Landscaping Plan (Dwg No. 21088-204-F)
Proposed Street Scene (Dwg No. 21088-106-D)
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 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.
- 4 Following the provisions of Condition 3 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.

- 5 No development comprising the erection of any external walls shall take place until details of the materials to be used in the construction of the external surfaces of the development, including the roof, have been submitted to and approved in writing by the Local Planning Authority. The Development shall be carried out in accordance with the approved details. The materials to be used throughout the development shall be consistent in terms of colour, size and texture with the approved details.
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.

- 6 No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP) has been submitted to and agreed in writing with the Local Planning Authority and shall confirm/provide the following:

- Dilapidation survey of the footways and carriageways leading to and abutting the site in the event that subsequent remedial works are required following construction of, and statutory undertakers connection to, the development;
- Access route for vehicles from the Key Route Network;
- Access point(s) to the site, including all temporary works and measures required to protect highway users and facilitate vehicular access;
- Hours of operation and number of vehicle movements;
- If proposed, site hoarding/gate positions clear of appropriate visibility splays onto the adopted highway;
- A scheme of appropriate warning/speed limit signage in the vicinity of the construction site access(es);
- Measures to control/manage construction vehicle manoeuvres on and within the adjacent residential estate;
- Parking on site 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 as a result of the ground work 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.

The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of construction materials. All highway remedial works identified as a result of the dilapidation survey shall be implemented to the written satisfaction of the Local Planning Authority prior to the development hereby approved being occupied.

Reason. To mitigate the impact of the construction traffic generated by the proposed development on the adjacent highways, 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, pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

- 7 The access and car parking arrangements indicated on approved plan reference 21088-204 Revision F, incorporating the provision of a new footway crossing, demarcation of the limits of the adopted highway, minimum hardstanding length of 6.0m, harstanding in a porous/permeable material and/or measures to prevent the

discharge of surface water onto the adopted highway, shall be made available for use to the satisfaction of the Local Planning Authority prior to the dwelling hereby approved being occupied and thereafter maintained at all times.

Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design, ensure the intervisibility of the users of the site and the adjacent highways and maintain the integrity of the adopted highway, all 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..

- 8 The proposed boundary wall indicated on approved plan reference 21088-204 Revision F shall incorporate foundations that do not encroach under the adjacent adopted highway and the visibility splays at the back edge of the footway shown, which shall be maintained free of obstruction above the height of 0.6m.

Reason. To ensure adequate off-street car parking, allow adequate space to maintain a vehicle clear of the highway in the interests of road safety, ensure the intervisibility of the users of the site and the adjacent highways and maintain the integrity of the adopted highway, all 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.

- 9 Bin storage arrangements shall be provided within the curtilage of the dwelling in accordance with Waste Management's 'Guide to Refuse Collection Requirements & Storage Methods for New Developments'.

Reason. To ensure that adequate bin storage arrangements are provided within the curtilage of the dwelling, pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

- 10 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.

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.

- 11 Full details of a biodiversity mitigation and enhancement plan, which shall include at least one native tree, bird and bat boxes, shall be submitted to and approved by the Local Planning Authority prior to the erection of any external walls of the development. The approved bird and bat boxes shall be erected prior to the first occupation of the dwelling and the approved landscaping scheme shall be implemented not later than 12 months from the date the dwelling is first occupied or within the first available tree planting season and any trees 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. To secure the satisfactory development of the site 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.

- 12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order with or without modification), no development within Class A to E of Part 1 of Schedule 2 shall be carried out, unless permission is granted by the Local Planning Authority.

Reason. The excluded types of development would not be appropriate due to the restricted size of the external amenity area and proximity to existing neighbouring

dwelling, pursuant to policy H2/1 of the Bury Unitary Development Plan.

- 13 The first floor east facing dormer window shall be provided with and permanently glazed in obscure glazing to a minimum of level 3 on the Pilkington scale.
Reason. To protect the amenity of occupiers of nearby property, pursuant to Bury UDP Policy H2/2.

- 14 The development hereby approved shall be carried out in accordance with a surface water drainage scheme which shall 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 provision of potential SuDS options for surface water drainage, which shall be drained on a separate system to foul sewage. The drainage scheme shall be implemented prior to first occupation of any dwelling 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 National Planning Policy Framework.

<u>Case Officer</u> DSC	<u>Date</u> 14/02/2024	<u>Sign off Officer</u>	<u>Date</u>
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