

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 29/11/2023	Ref: 69063/FUL
Registration: 09/11/2022	LDfC: 23/12/2022	Expiry Date: 04/01/2023
Site Visit:	Site Notice: N/A	Press Date: 08/12/2022
Objections: 3	Con Area: N/A	Adv Type: ARW
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Erection of dwelling in rear garden with shared access including all associated works; Garage extension and porch to existing house

Location: 12 Owlerbarrow Road, Bury, BL8 1RD

Description

The proposal relates to no. 12 Owlerbarrow Road, which comprises a contemporary detached dwelling with a large linear rear garden flanked by mature trees of various species and which slopes gently downhill from north to south. The site is bounded by similar residential development to the west, north and east (there is an intervening public right of way to the east) and farmland at the south (which falls within the designated Greater Manchester Green Belt). The site is unallocated in the Bury Unitary Development Plan. The existing dwelling at the site is splitlevel and comprises single and two storey elements.

The proposal is for the erection of a dwelling in the rear garden with an altered and extended shared access and a garage extension and porch to the north elevation and west elevations of the single storey projection of the existing house.

The area of existing garden that would form the curtilage to the proposed new dwelling would be 73m long, 16m wide at the northern end (closest to the rear of the existing dwelling), tapering to around 9m wide at the southern boundary. The proposed new dwelling would comprise single and two storey elements (with first floor bedroom accommodation in the roofspace served by two dormers to the front elevation). It would be orientated with the principal elevation facing north toward the rear of the existing dwelling, with an intervening distance of around 30m and would be set around 3.75m lower than the host dwelling. There would be a parking and manoeuvring area to the north of the dwelling that would accommodate 3 dwellings. It would be finished with brick elevations featuring stone quoins, heads and cills and plinth and a slate tile roof. The proposed dwelling has been amended since the original submission to remove the first floor (as was expressed externally).

Trees flanking the east and west boundaries would be felled to facilitate the development.

The proposed extension to the existing dwelling, as amended, would comprise a 7.5m x 7.8m x 5m high to ridge garage, projecting 6m off the north elevation of the single storey element, which would be finished in brick and tiles to match the host dwelling. It would provide garaging for two vehicles.

A small porch is proposed to be erected over the front door on the east facing elevation.

Relevant Planning History

44610: First floor extension, double garage extension on north elevation. Deemed withdrawn 17/06/2005

45180: First floor extension above existing single storey extension and attached double garage on north elevation; conservatory at rear (raised due to levels) (Resubmission). Withdrawn by applicant 05/10/2005

45678: Single storey extension to west elevation and two storey extension to east elevation, conservatory to south elevation (raised due to levels). Approve with conditions 02/02/2006

62733: Erection of detached double garage with new hardstanding; New porch and modifications to front elevation. Approve with conditions 19/06/2018

68056: Erection of new dwelling in rear garden with shared access including all associated works; Garage extension and porch to existing house. Withdrawn by applicant 19/04/2022

Publicity

Direct neighbour notification was undertaken on 22/11/2022 and three representations have been received, objecting to the proposal as follows (in relation to the original design):

- Unacceptable impact on neighbouring residential amenity due to the erection of the proposed extension to the garage, which would be set at a higher level than adjacent dwellings. Obstruction of view and unneighbourly.
- The proposed new dwelling, due to the positioning of windows would overlook neighbouring dwellings and block light.
- Unacceptable noise and atmospheric pollution and congestion from the additional vehicles accessing/exiting the site.
- The proposed new dwelling would be of an excessive scale relative to the site.
- Surface water from the development would exacerbate existing surface flooding that occurs at the site (garden), neighbouring driveways, the public right of way and other neighbouring land.
- The proposed new dwelling is about 7m lower than the sewer and surrounding houses have pumped sewage disposal systems and there is no combined
- The site has poor vehicular access.

Statutory/Non-Statutory Consultations

Public Rights of Way Officer: No comments received.

Highway Officer: Objection, as the proposal would result in an intensification of use of a site with inadequate access arrangements, lead to vehicles parking and carrying out hazardous manoeuvres on the adjacent site access, shared access and adopted highway, and lacks sufficiently detailed information to ascertain the impact of surface water from the development on the adjacent PRow and that secure access can be achieved from the adopted highway.

Borough Engineer - Drainage Section: No comments received.

The Coal Authority: No objection. The site does not fall within the defined Development High Risk Area.

Environmental Health - Contaminated Land: No objection, subject to conditions requiring the submission of a Contaminated Land Implementation of Remediation Strategy and Site Verification Report and installation of an electric vehicle charging point.

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

Greater Manchester Fire & Rescue Service: No objection, subject to the access road being a minimum width of 4.5m and capable of carrying 12.5 tonnes and the provision of a turning circle suitable for a fire appliance if the road is longer than 20m. There should also

be a suitable fire hydrant within 165m of the proposed dwelling. If these requirements cannot be met, then a domestic sprinkler should be provided.

Greater Manchester Ecology Unit: No objection, subject to conditions relating to nesting birds and the provision of bat and bird boxes.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

H1/2	Further Housing Development
H2	Housing Environment and Design
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/6	Garden and Backland Development
EN1	Built Environment
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN4/2	Energy Efficiency
EN5/1	New Development and Flood Risk
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/5	Waste Water Management
EN8	Woodland and Trees
EN8/2	Woodland and Tree Planting
HT2	Highway Network
HT2/4	Car Parking and New Development
HT4	New Development
HT6	Pedestrians and Cyclists
HT6/1	Pedestrian and Cyclist Movement
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
SPD16	Design and Layout of New Development in Bury
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.

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.

ASSESSMENT

Principle - new dwelling

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 and there is residential development to the north, east and west of the site.

As such, the principle of the proposed development would not conflict with the surrounding land uses and would be in a sustainable location with regard to services and public transport. The proposed development would be located on a greenfield site. Taking into consideration the requirement to significantly boost the supply of housing within the NPPF and the location of the site within the urban area, it is considered that the release of the site would be both a modest use of land for residential and acceptable in general terms. It is not therefore considered that the proposal would conflict with this policy. Thereafter, the acceptability of the proposal has to be assessed against the following policies.

Layout, design and visual amenity

New dwelling

The NPPF makes it clear that creating high quality buildings and places is fundamental with Paragraph 126 stating "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

This is further supported by the National Design Guide. The National Design Guide, published by the Ministry of Housing, Communities and Local Government in 2019 states that well designed new development is influenced by "an appreciation and understanding of vernacular.....including existing built form, landscape and local architectural precedents." In terms of layout, the Design Guide states that a well designed place is unlikely to be achieved by focusing just on appearance, materials and detailing of buildings and that layout, including the grain pattern of development, blocks and lots needs to be considered and relate to one another to create spaces, open spaces and buildings.

Policies H2/1, H2/2, H2/6 and EN1/2 consider the relationship of new residential development in relation to their immediate context and expects that they make a positive contribution to the form and quality of the surrounding area. Policy H2/6 states that the Council will not support proposals that will result in the loss of private gardens and backland

for infill development unless it can be shown that such proposals would not adversely affect the character and amenity of the area, when considering the relative density, impact on neighbouring properties and access arrangements.

Section 12 of the NPPF states that decisions should ensure that developments will function well and add to the overall quality of an area, visually attractive as a good architecture, layout and appropriate landscaping, sympathetic to local character, including the surrounding built environment and landscape setting and maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places.

The site would be accessed by extending the existing driveway serving the basement garaging at the host dwelling into the rear garden adjacent to the eastern boundary with the public right of way. Thereafter, the proposed dwelling would be positioned to the south and behind the existing dwelling at the site and as such would not have a street presence, as it would be largely obscured by the host dwelling that would be positioned at a higher level. Given the spacing between the dwellings fronting Owlerbarrow Road, visibility of the dwelling would be reduced to glimpses between frontage dwellings from main vantage points.

It is noted that the nearest dwelling to the east, on the opposing side of the public right of way was erected with the benefit of planning permission approved in 1989 (ref. 23151). However, it's principal elevation has a presence in the street scene. Whilst it is set back at the rear of the dwelling, West Barnfield, it is clearly visible from Owlerbarrow Road north of the intervening dwellings. Those dwellings arranged around Brookthorpe Meadows to the west (beyond the rear garden of 14 Owlerbarrow Road) form a distinctive street (scene) in their own right. Hence, the layout, circumstances and material considerations and the policies against which they were assessed are/were significantly different to the present case.

It is considered that such an arrangement would conflict with the predominant layout and character of the area, which is characterised by dwellings set out in linear form with a presence to the street to which it relates. Whilst there are examples that are atypical to this predominant layout, they still tend to have a street presence and are not obscured by frontage dwellings. The proposed dwelling would very much have the appearance of being positioned in the rear garden of the host dwelling in a contrived layout that would jar with the predominant suburban form in the wider area.

Routing a shared access by extending the existing adjacent to the eastern boundary and siting the dwelling such that they have no relationship to any street would jar and disrupt the established pattern and density of the built form in the area contrary to the above UDP policies and Section 12 of the NPPF.

Furthermore, although the scale of the proposed dwelling has been reduced and the design amended (essentially by removing the previous first floor of the superseded design), the resultant dwelling is considered to be mawkish, incorporating design elements, such as circular windows, mock columns framing the doors, quoins and a large projecting gabled roof to the front elevation, that are not a feature of the established residential character of the area. Hence, the appearance of the proposed dwelling would not be in sympathy with the existing built form and it is not considered that the layout, form and design of the proposed dwelling demonstrates an appreciation and understanding of the vernacular of the area.

An objection has been received claiming that the dwelling would be of an excessive scale. This was in relation to the original proposal for a two storey dwelling, which has since been reduced. It is not considered that the proposal would be of an unacceptable scale given the area of the application site, the relationship to the boundaries and the size of the proposed dwelling.

Given this above assessment, it is considered that the proposal would be harmful to the pre-dominant layout, character and appearance of the area, contrary to the NPPF and above policies.

Existing dwelling

UDP Policy H2/3 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. SPD 6 advises that there will be a general presumption against large extensions at the front of properties and generally small extensions or porches would be acceptable. Specifically, it advises that extensions should reflect the design and proportion of the original dwelling, respecting original architectural features and match existing finishes, should not project excessively from the original front wall and should not interfere with proper parking and access arrangements.

The existing single storey element projects north off the two storey part, akin to the neighbouring dwelling to the west and terminates on the same building line. Whilst this uniformity relates to only two neighbouring dwellings, this forms a robust and defensible building line on the south side of this arm of Owlerbarrow Road.

The proposed extension, as amended, would step up from the existing ridge level (of the single storey element to which it would be attached) and be set back at the front and rear such that its rear elevation would immediately abut the vegetated boundary with the neighbouring dwelling to the west. The extension would have an asymmetric roof profile, with a shallower pitch on the west side of the ridge and this would be expressed at the blank north elevation that would address Owlerbarrow Road and would step up from the existing gable elevation.

Due to the above circumstances, it is considered that the proposed extension would form an incongruous and inharmonious addition to the existing dwelling that would fail to assimilate appropriately with the host dwelling or in the street scene. The extension would therefore be conflict with the above UDP policy and SPD6.

Residential amenity

UDP Policy H2/1, H2/2 and H2/3 partly concerns impacts of development on residential amenity and the space about and between dwellings. SPD 6, offers relevant guidance for spacing between dwellings.

Objections refer to the impact of the proposal on neighbouring amenity, as set out above.

New dwelling

The objections directed at the proposed new dwelling were in response to the former iteration for a full two storey, raising concerns that the proposal would impact on daylight and privacy from first floor windows.

The proposed dwelling would be set in from the east and west boundaries by at least 2.7m, with a maximum height to ridge of around 6m, would be orientated so that the principal elevation incorporating the dormers serving the first floor bedrooms would be facing north north-east, directly towards the rear elevation of the host dwelling, maintaining 10.8m to the opposing rear garden and over 26m the the related rear elevation. The gable windows facing east and west would serve non-habitable rooms.

At the position proposed within the plot and the orientation, height and positioning and function of windows serving the first floor element, it is not considered that the proposed new dwelling would have unacceptable impacts on neighbouring amenity.

The objection concerning noise is not specific, but does refer to additional traffic. However,

the site falls within a residential area where it would be reasonable to expect a level of construction works and on-going movements to take place and activities associated with the occupation of the proposed dwelling.

Existing dwelling

This proposal would only potentially impact upon amenity to the nearest neighbouring dwelling to the west, which has windows in the east facing elevation of the single storey element facing the site. However, this aspect presently opposes the single storey element of the host dwelling, and is therefore reliant on an outlook over third party land and towards a rising intervening substantial hedge. It is also noted that the area of intervening front garden at the neighbouring property would equate to around 9m (between the hedgerow boundary and the west facing elevation) and that the host dwelling is positioned at a slightly lower level than this neighbouring dwelling..

Given these circumstances, it is not considered that the proposed extension would unacceptably impact on neighbouring amenity.

Maintenance of a view is not a material planning consideration.

Access and highway safety

The objections consider that the site access is poor.

The existing drive, which is accessed from unadopted highway, would be selectively widened and extended beyond the existing dwelling to serve the proposed new dwelling at the rear.

Proposed parking provision would be acceptable in quantitative terms..

However, the Highway Authority recommends that the proposal would lead to an intensification of use of a site with inadequate access arrangements, lead to vehicles parking and carrying out hazardous manoeuvres on the adjacent site access, shared access and adopted highway, and lacks sufficiently detailed information to ascertain the impact of surface water from the development on the adjacent PRoW and that secure access can be achieved from the adopted highway.

For these reasons, the proposed development would be detrimental to highway safety and would therefore fail to accord with Policies EN1/2, H1/2, H2/1, H2/2 and H2/6 of the Bury Unitary Development Plan.

Ecology/biodiversity

Having considered the submitted information, the Greater Manchester Ecology Unit do not object to the proposal and recommend the attachment of conditions.

The proposal would result in the removal of a number of trees along the east and west boundaries, which are mainly evergreen species.

Other matters

Drainage

Objections refer to existing and potential flooding. The site falls in Flood Zone 1 (the lowest probability) and United Utilities have not objected to the proposal.

Given the above the objections could not be supported and subject to the conditions recommended by United Utilities, the development would not conflict with UDP Policy EN5/1 or Section 14 of the NPPF.

Greater Manchester Fire Service (GMFRS)

The proposal would not adhere to the access thresholds recommended by GMFRS and the

new dwelling would need a sprinkler system installed.

Ground conditions

The Environmental Health Officer has advised that the development would be acceptable subject to conditions requiring a contaminated land investigation and the provision of electric vehicle charging points.

Conclusion

The Council cannot demonstrate a five-year supply of deliverable housing land and as such, in accordance with Paragraph 11 of the NPPF, there is a presumption in favour of sustainable development unless the adverse impacts of approving the development would significant and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

Whilst the presumption in favour of sustainable development would apply, it is concluded that the benefits of provision of a single additional dwelling would be outweighed by the adverse impacts identified in the above assessment. This approach is reflected in Part 12 of the NPPF and specifically in the 'context', 'identity' and 'homes and buildings' sections of the National Design Guide.

Given such circumstances and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Framework, planning permission should be refused.

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 development, by virtue of the position of the dwelling to the rear of no. 12 Owlbarrow Road with no street frontage and accessed by a shared drive routed between neighbouring linear related dwellings, would constitute an incongruous and inharmonious form and layout of development that would be unsympathetic to the established arrangement of streets, buildings and spaces. The proposed development therefore conflicts with policies EN1, EN1/2 and H2/1, H2/2 and H2/6 of the Bury Unitary Development Plan and Section 12 of the National Planning Policy Framework.
- 2 The design of the proposed dwelling, due to its form and detailed design features would fail to assimilate with the existing suburban grain and would represent a mawkish and unsympathetic feature that would be detrimental to the visual amenity of the area. The proposed development therefore conflicts with policies EN1, EN1/2 and H2/1, H2/2 and H2/6 of the Bury Unitary Development Plan and Section 12 of the National Planning Policy Framework.

- 3 The proposed extension, due to its forward projection, height and form would disrupt the established pattern of development and would be out of character with the surrounding street scene, and would therefore be detrimental to the visual amenities of the area. The proposed development would therefore conflict with Policy H2/3 of the Bury Unitary Development Plan and associated Supplementary Planning Document 6.
- 4 The proposal would result in an intensification of use of a site with inadequate access arrangements, which is likely to lead to conflicts between vehicles entering and leaving the site access where visibility is restricted and traffic at the junction of the unadopted shared access with Owlbarrow Road, which would be detrimental to highway safety and maintaining the free flow of traffic on the adjacent highway, contrary to policies H2/1, EN1/2 and HT6/1 of the Bury Unitary Development Plan.
- 5 The proposed access and passing place arrangements and turning facilities at the proposed garage extension and new dwelling would be sub-standard and are inadequately detailed, and are likely to lead to vehicles parking and carrying out manoeuvres on the adjacent site access, shared access and adopted highway at Owlbarrow Road and would not provide suitable accommodation for vehicles to enter and leave the site in a forward gear. The proposal would therefore be detrimental to the free flow of traffic and road safety, contrary to policies H2/1, EN1/2 and HT6/1 of the Bury Unitary Development Plan.
- 6 The application and submitted plans contain insufficient detailed information to enable the physical impact of the proposed development and its surface water drainage arrangements on the adjacent Public Right of Way No. 144, Bury to be properly assessed. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EN1/2 and H2/2.
- 7 The application and submitted plans contain insufficient information to ensure that the development could be accessed appropriately from the existing limits of the adopted highway. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies EN1/2 and H2/2 The Layout of New Residential Development.

<u>Case Officer</u> DSC	<u>Date</u> 29/11/2023	<u>Sign off Officer</u>	<u>Date</u>
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