

## **DELEGATED REPORT**

|                                  |                                   |                                |
|----------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Dean Clapworthy | <b>Date of report:</b> 17/10/2024 | <b>Ref:</b> 70551/FUL          |
| <b>Registration:</b> 26/02/2024  | <b>LDFC:</b> 21/03/2024           | <b>Expiry Date:</b> 22/04/2024 |
| <b>Site Visit:</b> 14/03/2024    | <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> MIDW        |

**Proposal:** Erection of 2no. dwellings

**Location:** Land adjacent to 6 Richard Burch Street, Bury, BL9 6DU

### **Description**

The proposal relates to an area of modified grassland measuring 19.3m x 10.5m (0.0203 hectares) and positioned immediately adjacent to the gable end of 6 Richard Burch Street and otherwise framed by the adopted streets with traditional terraced dwellings backing onto them, although a more contemporary semi-detached block oppose the site at the south. The site was previously occupied by by two terraced dwellings as recently as the early 1980's.

The proposal is for the erection of 2no. two storey dwellings, which would have the front and principal rear walls aligned with the adjoining terraced dwelling (6 Richard Burch Street) to which they would be attached. They would have a conjoined two storey outrigger at the rear and porches at the front. Second floor accommodation would occupy the roof space and be served by rear flat roofed box dormers and to roof lights at the front. External finishes would comprise red brick and slate tiles and front and rear amenity areas would be enclosed by brick walls. The rear boundary wall would be chamfered to enable minor visibility from vehicles between Back Richard Burch Street with Back Walmersley Road East.

The supporting Planning Statement suggests the front would be landscaped with grass and hedgerows and bat and bird boxes would be installed. No off-street parking would be provided.

### **Relevant Planning History**

N/A

### **Publicity**

Neighbour notification letters issued to 40 properties and 1 representation was received suggesting that Swift Bricks should be required to be installed by condition.

### **Statutory/Non-Statutory Consultations**

**Traffic Section:** Objection, as the proposal would reduce visibility at the junctions of Back Walmersley Road East with Richard Burch Street and Back Richard Burch Street with Back Walmersley Road East to sub-standard level; there is insufficient topographical survey based information to properly assess the physical impact of the proposed development or the refuse collection arrangements.

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

**Borough Engineer - Drainage Section:** No comments provided.

**Greater Manchester Ecology Unit:** No objection, subject to a condition requiring biodiversity enhancements in the form of bat bricks and/or tubes and house sparrow nest boxes (in addition to the proposed hedgerow planting and turfed area of garden).

**United Utilities (Water and waste):** United Utilities will not allow building over or in close proximity to a water main, public sewer or any other wastewater pipeline. Surface water should be drained in accordance with the drainage hierarchy.

**Waste Management:** No comments received.

## **Pre-start Conditions - N/A**

### **Development Plan and Policies**

|       |                                              |
|-------|----------------------------------------------|
| H1/2  | Further Housing Development                  |
| H2/1  | The Form of New Residential Development      |
| H2/2  | The Layout of New Residential Development    |
| EN1/2 | Townscape and Built Design                   |
| EN1/5 | Crime Prevention                             |
| EN1/7 | Throughroutes and Gateways                   |
| OL3/1 | Protection of Urban Open Space               |
| HT2/4 | Car Parking and New Development              |
| SPD11 | Parking Standards in Bury                    |
| SPD16 | Design and Layout of New Development in Bury |
| JP-H3 | Type, Size and Design of New Housing         |
| JP-H4 | Density of New Housing                       |
| JP-P1 | Sustainable Places                           |
| JP-S1 | Sustainable Development                      |
| JP-S2 | Carbon and Energy                            |
| JP-C2 | Digital Connectivity                         |
| JP-C5 | Streets For All                              |
| JP-C6 | Walking and Cycling                          |
| 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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PfE Policies 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 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 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 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.

Policy HT6/1: Pedestrian and Cyclist Movement seeks to ensure that pedestrians and cyclists are able to move safely and conveniently by ensuring that developments recognise the needs of pedestrians and cyclists.

Policy JP-H3: Type, Size and Design of New Housing seeks to provide an appropriate mix of dwelling types and sizes reflecting local plan policies and having regard to relevant local

evidence. Development across the plan area should seek to incorporate a range of dwelling types and sizes, including for self-build.

Policy JP-H4: Density of New Housing requires new housing development to be delivered at a density appropriate to the location, reflecting the relative accessibility of the site by walking, cycling and public transport and the need to achieve efficient use of land and high quality design.

Policy JP- S2: Carbon and Energy sets out the steps required to achieve net zero carbon emissions.

Policy JP-S5: Clean Air requires developments to be located and designed to reduce reliance on forms of transport that generate air pollution.

Policy JP-P1: Sustainable Places requires all development to be distinctive and visually stimulating through the use of quality design.

Policy JP-C2: Digital Connectivity requires development to have full fibre to premises connections unless infeasible or unviable.

Policies JP-C5 and JP-C6 require streets to be well designed and managed to make a significant positive contribution to the quality of place and support high levels of walking, cycling and public transport.

### **Principle (Residential)**

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 states that unless they have an adopted plan that is less than five years old that identified a five year supply of specific deliverable sites at the time of conclusion of the examination, then local planning authorities should identify and update annually a supply of specific developable sites to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing in certain circumstances set out in NPPF paragraph 226.

The joint Places for Everyone Plan was adopted with effect from 21 March 2024 and sets the up-to-date housing requirement for Bury against which the deliverable supply of housing land must be assessed. PfE Policy JP-H1 sets the following stepped targets for Bury:

- 246 homes per year from 2022-2025;
- 452 homes per year from 2025-2030; then
- 520 homes per year from 2030-2039.

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 deliverable land 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). In addition to the housing land supply in the SHLAA, the joint Places for Everyone Plan allocates significant strategic sites for housing within Bury and will accelerate housing delivery within the Borough to meet housing needs.

Following the adoption of Places for Everyone, the Council is now able to demonstrate a deliverable 5 year supply of housing land when assessed against the adopted PfE housing requirement.

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%) 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, 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.

In terms of housing delivery, the Borough has underdelivered against the local housing need, and as a result the 'tilted balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

The site is considered to be in a sustainable location for housing within the urban area. The national requirement to significantly boost the supply of housing under the NPPF is a material consideration that favours residential development at this site and the principle is therefore acceptable.

### **Layout and Design**

Policy JP-H4 requires new housing development to be delivered at a density appropriate to the location, reflecting the relative accessibility of the site by walking, cycling and public transport and the need to achieve efficient use of land and high quality design. Policy JP-H4 sets out minimum densities that should be considered, stating that lower densities may be acceptable where it can be clearly justified.

The minimum density for the site is identified as 70 dwellings per hectare. The application, pertaining to a site of an area of 195 sq.m, would deliver residential development at a density of approximately 51 dwellings per hectare.

However, the proposal would deliver two terraced dwellings on a site that had been occupied by the same until some point in the 1980's. Additionally, the proposed density would replicate that exhibited generally in this predominantly traditional terraced area. Strict compliance with the minimum density requirement could only be achieved therefore by situating 3 residential units on the site (which would most likely need to be in the form of apartments), which would create additional pressure on local streets in relation to vehicle movements and parking.

Policies H2/1 and H2/2 provide the assessment criteria for detailed matters relating to height, appearance, density and character, aspects and finishing materials for new residential developments. Policy JP-H3, seeks to provide an appropriate mix of dwelling types and sizes reflecting local plan policies and having regard to relevant local evidence. Development across the plan area should seek to incorporate a range of dwelling types and sizes, including for self-build. Policy EN1/2 seeks to ensure that development proposals would not have a detrimental effect on the visual amenity and character of a particular area. Policy JP-P1 Sustainable Places aims to promote a series of beautiful, healthy and varied places.

The footprint, position, general layout, scale, alignment, proportions and materials(including the fenestration detailing) of the proposed dwellings would assimilate with the terraced block to which it would be attached and the wider street scene (whilst fenestration to the principal elevation would be at a greater frequency than the adjoining dwellings, the

proportions and framing of them would reflect the character and appearance of the wider street scene). Other properties in the vicinity have two storey outriggers to the rear.

Whilst the rear flat roof box dormers and front porches do not represent a typical feature in the locality, surrounding properties do have the permitted development right to erect such structures without the need for planning permission. Regardless, the scale and position of these features would not be harmful in the street scene. The size and enclosure of the front and rear gardens would correspond with the general pattern already established.

Policy JP-H3: states that all new dwelling must comply with the nationally described space standards; and be built to the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations unless specific site conditions make this impracticable.

The proposed dwellings would meet the minimum space standards and a condition can be used to secure compliance with Part M4(2).

The proposal would therefore comply with the policy considerations set out above.

## **Residential Amenity**

### Neighbouring residents

There are no adopted aspect standards for new build residential properties however, SPD 6 provides guidance on aspect standards between residential properties in relation to householder extensions and as such, would be a reasonable guide in this case.

However, it is noted that the site is located in a traditional terraced area where the relationship between opposing dwellings frequently fall below the aspect standards expressed in SPD6.

As noted, the site was previously occupied by two dwellings that will have had a very similar relationship to surrounding dwellings (being aligned with the adjoining dwelling too). The rear windows on the first floor overhang and the gable windows at ground, first and second floor of the gable would either serve non-habitable rooms or be secondary to a principal window

Given the position of the building within the plot and the relationship to surrounding residential buildings, there would be no impacts upon neighbouring residential amenity that would warrant refusal and be successfully defended on appeal.

## **Access, parking and highway safety**

The Highway Authority has objected to the proposal on grounds set out above.

However, whilst the former dwellings were cleared from the site some decades ago, these had a similar relationship to surrounding streets in relation to the position of walls (including boundary walls). Additionally, end terraced dwellings on all the surrounding streets have a similar relationship to the adopted highway, where gable and boundary walls immediately abut the highway.

In the present case, whilst the proposed development would impinge visibility, this is the status quo at many other junctions in the locality (as is typical in traditional terraced areas). The proposal has been amended to provide minor visibility at the junction of Back Richard Burch Street with Back Walmersley Road East, which therefore exceeds typical visibility at other similar junctions.

It is acknowledged that the proposal would impinge on visibility, however, this would accord with the established and long-standing situation throughout this area of Bury and it is not considered that an objection on these grounds could be sustained at appeal.

The concerns raised by the Highway Authority about physical impacts could be dealt with by condition. The rear yard areas could adequately accommodate bin storage. Cycle storage could also take place there.

Whilst there would be conflict with elements of Bury UDP policies H2/2, H2/4 and HT6/2 and PfE policies JP-C5 & C6, an objection could not be successfully sustained.

### **Other matters**

*Ground conditions* - The Environmental Protection Officer does not object to the proposal, subject to contaminated land conditions.

*Drainage* - United Utilities have not objected.

*Carbon and Energy and Digital Connectivity* - The requirements of PfE policies JP-S2 and JP-C2, where relevant, can be secured by condition. It would not be appropriate to require electric vehicle charging points given that there would not be off-street parking provided.

*Biodiversity Net Gain* - The development would be exempt from BNG requirements, as the application was submitted prior to the trigger date.

### **Response to Representations**

Swift bricks have not been recommended by the Greater Manchester Ecology Unit.

### **Conclusion**

Paragraph 11 of the NPPF is triggered and there is a presumption in favour of sustainable development, unless the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

The proposed development would deliver much needed housing of a good design in a sustainable location. The above assessment thereafter demonstrates that the development would not have unacceptable impacts that would justify refusal of the application, as the benefits of the proposed development would be outweighed by the adverse impacts identified.

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 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, Block Plan, Proposed Floor Plans, Elevations and Boundary Walls (Dwg no. RAD/2873/24/1/Rev.D)  
Proposed site plan, streetscene and drainage plan (Dwg no. RAD/2873/24/2)  
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 comprising the erection of any external walls shall take place until samples 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.
- 4 The minor visibility splay indicated on the approved drawings shall be implemented in full before occupation of the first dwelling and subsequently maintained free of obstruction above the height of 0.6m.  
Reason. To ensure the intervisibility of the users of the site and the adjacent highways in the interests of road safety, pursuant to Bury Unitary Development Plan Policies EN1/2 and Places for Everyone Joint Development Plan Document policies JP- P1 and JP-C6.
- 5 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.
- 6 Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;  
The approved contamination testing shall then be carried out and validity evidence (soil descriptions, laboratory certificates, photographs etc) 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.

- 7 Where during any works on site, unforeseen contamination is suspected or found, or contamination is caused, works on the site shall cease and the Local Planning Authority shall be notified immediately. The developer shall then produce a risk assessment and submit remediation proposals, if required, for approval to the Local Planning Authority. On approval of the remediation strategy, the development shall then be carried out in accordance with the approved details and process including any required timescales.  
Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 8 A landscaping scheme shall be submitted to, and approved by the Local Planning Authority prior to the commencement of and above ground external walls. The contents of the plan should include native hedgerow and shrub planting and the provision of bat bricks/tubes and house sparrow nest boxes within the new development. The approved scheme shall thereafter be implemented not later than 12 months from the date the building(s) is first occupied or within the first available tree planting season,; and any trees or shrubs 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 Places for Everyone Joint Development Plan Document Policy JP-JP and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

|                     |             |                         |             |
|---------------------|-------------|-------------------------|-------------|
| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
| DSC                 | 17/10/2024  | DM - 17/10/2024         |             |