



Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Our Ref: RG/RG/G267/L001
Date: 28 May 2023

Dear Sir / Madam

APPEAL STATEMENT ON BEHALF OF THE APPELLANT
LPA APPLICATION REF: 68799
THE GATEHOUSE, WOODHILL ROAD, BURY, BL8 1BN

We are instructed by Shabana Begum to submit this appeal against the refusal by Bury Council of application 68799, which promoted the following development :

‘Partial demolition and replacement of 1 no. dwelling’

We note that the application form described the proposal slightly differently, as below :

‘Partial demolition and replacement of existing dwelling as per instructions issued by Planning Authority’

We understand that the words “as per instructions ...” was a reference to the fact that, having previously accepted and determined a householder application for ostensibly the same development, the LPA advised the agent that it no longer accepted the proposal to be a house extension and as such requested that the second application (this appeal scheme) be presented as a full application (as opposed to a “free go” householder application).

The application was confirmed as valid by the LPA on 13th September 2022, with a target determination date of 8th November 2023.

We did not handle the planning application, but we are advised by the agent that, aside from receipt of the validation letter, no communications were received from the LPA and no requests for further information or clarification of details were put to the agent.

The application was refused on 5th December 2022 for 8 reasons, which we consider later in this letter.

A delegated officer report was prepared to supplement the refusal notice, which explains in more detail the grounds of refusal. This is provided in our appeal paperwork.



The application was supported by a set of detailed drawings [see full list at end of this letter]; a covering letter (which referred to itself as 'Planning Statement'); a Bat Survey report; a Preliminary Risk Assessment; and an extract from the EA's Flood Risk Map.

Background

The Appellant's family is of Indian sub-continent origin, who follow the Muslim religion and retains their traditional cultural values. They currently reside at the premises, and their aspiration is to create a larger dwelling where at least three generations of the family can live together, which is a feature typical of their traditional culture. That way they can provide mutual care and support through the generations whilst living in accommodation that respects the differing needs of men and women, and also provides quiet space with the correct orientation for regular prayers, another key feature of that culture. This form of accommodation is not readily available in new-build housing, and the existing dwelling and large site provides the only way that such accommodation could be available and affordable to the family.

We are not of course suggesting that the above justifies development that is harmful or unacceptable, but it is background context for the Inspector and it is fair to point out that Bury's SPD lends express support (at least in principle) to this type of housing, as below:

Ethnic Considerations

10.20 Where there are special needs for religious observance or family living circumstances i.e. succahs and extended families, consideration shall be given, on an individual basis, to the relaxation of this guidance where it can be clearly demonstrated that there will be no direct harm to the principles outlined in Chapter 2.

The application (this appeal) followed a previously refused householder application (ref: 67701), which promoted development that was overwhelmingly the same (albeit very slightly different in parts), namely a 2 storey extension at the front, side and rear, with a balcony at the front and side, plus an increase in the height of the roof. That application was refused on 17 January 2022, but notably (and somewhat confusingly) it was refused on far fewer grounds than the appeal scheme. That application was refused on just 3 grounds (not 8 grounds), namely :

1. *The proposed development would be seriously detrimental to the residential amenities currently enjoyed by the occupier(s) of 89 Woodhill Road, by reason of its size and position of the proposed extension along the boundary.*
2. *The application and submitted plans contain insufficient information in relation to the extent of proposed demolition. No demolition plans or statement have been provided to*



explain the methodology to maintain the existing fabric of the dwelling to allow for the application to be adequately assessed as a householder application.

3. *The application and submitted plans contain insufficient information regarding the impact of the proposed development on bats, which are a protected species under the 1981 Wildlife & Countryside Act (as amended) and The Conservation of Habitats and Species Regulations 2010.*

Here we would note that – again bearing in mind that that proposal was very similar to the second application (the appeal scheme) – it was not refused on the grounds of ground/coal-related matters. Furthermore, it seems to us that the second reason was not an objection *per se*, but simply pointing to lack of detail about the demolition details (which we suggest might have been dealt with by condition). The third reason was bat-related, and that has been since been addressed in the second submission. That said, setting aside those two ‘omission’ details, the previously refused application was only resisted one on ground – ie that it would be detrimental to the residential amenities currently enjoyed by the occupier(s) of 89 Woodhill Road.

Of particular note, it was not – unlike the appeal scheme - refused on design grounds. This is a very relevant point to highlight to the Inspector, because the appeal scheme (“scheme 2”) is largely identical to the previous scheme (“scheme 1”). For example the previous scheme proposed the following front elevation :



It will be seen below that the front elevation of the appeal scheme is, to all intents and purposes, identical:





That said, it is fair to query why the appeal scheme has been refused on design grounds when an identical scheme was not refused on the same grounds just 11 months earlier. There has been no change to any policies or to the local context. The LPA clearly considered the design of “scheme 1” to be appropriate. Had it not, it would have refused that application on design grounds. But it did not.

To assist the Inspector in comparing and contrasting that previous application to the appeal scheme (which we consider important in the interests of consistent decision making), we enclose with the appeal papers the delegated report for the previous application and also (at *Annexe A* of this letter) the drawings that supported that application. The Inspector will note that the scheme details are barely different, and yet each scheme seems to have been assessed differently.

The Appellant’s second application (ie the appeal scheme) took account of those 3 reasons for refusal of the previous application and the points that had been set out in the officer’s delegated report. The appeal application was submitted as a full application rather than a householder application, as the LPA seemed to be unconvinced that the application could reasonably be considered as an addition or alteration to the dwelling (albeit it had previously accepted a householder application).

To respond to the third reason for refusing the previous application (ie the previous scheme’s impact on the residential amenity of the occupiers of 89 Woodhill Road and 113 Canterbury Drive), modest changes were made to site the extension further away from that residential boundary to reduce the visual proximity of the proposal and to allow for the introduction of landscaping to soften views towards the appeal scheme.

In the remainder of this letter we focus on the specifics of the 8 reasons for refusal.

Response to Reasons for Refusal (RfR)

1 The proposed development would, by reason of its size, position and design, be a prominent and intrusive feature in the street scene and would therefore be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:

Policy EN1/2 - Townscape and Built Design

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development.

In response to this RfR, first we would again point out the previous application (which promoted an almost identical form of development) was not refused for this reason. Indeed, the delegated report that led to that previous refusal made it abundantly clear that the design and broad positioning at the rear of the site was acceptable in the following words:



*'The proposal would see a significant increase in the footprint of the property however it is located on a large plot and the building would be set well back from the main road. The large plot would be able to accommodate the extensions whilst **retaining sufficient outside amenity space**. The extended property would have hipped roofs and the increase in height would not be significantly above the existing level. Materials would be render to the walls and dark grey roof tiles. Whilst the design would be fairly basic it would be, whilst resulting in a large property, typically domestic in its appearance. As such **it is not considered that the proposed scale and design of the proposal would have a detrimental impact on the visual amenity of the area.**'*

We invite the Inspector to compare the two outcomes, bearing in mind the scheme in each case was close to identical. The previous application was assessed as :

'it is not considered that the proposed scale and design of the proposal would have a detrimental impact on the visual amenity of the area.'

Whereas the almost identical appeal scheme is suggested to be:

'seriously detrimental to the visual amenities of the area.'

It is difficult to square the two. Those statements cannot both be correct, and it is reasonable to question why two such wide-ranging conclusions were drawn for an ostensibly identical scheme.

Setting that aside, we disagree that the proposal will be '*seriously detrimental*' to visual amenity. The existing house is sizeable, and while the proposal involves a considerable amount of extension and remodelling, most of the extended element will be discretely located towards the rear of the site, largely hidden from wider public vantage points (see pink zone marked on the aerial image below).





Aside from the immediate neighbours (none of whom appear to have raised any objection), views towards and through the site are restricted. The only real 'open' view is that looking westwards from Woodhill Road (see image below). From here, most of the proposed extension will be largely indiscernible, hidden behind the existing (remodelled) house. We acknowledge that the garage will increase in height, but only moderately so, and it is to be located in ostensibly the same position as the existing garage, tucked neatly at the side of the site, against the backdrop of both the host house, the adjacent houses to the rear and mature boundary trees/vegetation.



We put it to the Inspector that none of this is remotely '*seriously detrimental*', and RfR 1 is very clear that it is relating to '*the street scene*'. Indeed, we consider that the lifting of the appearance of what is currently a somewhat drab, dated house of unprepossessing and quite bland character will arguably enhance the street scene. Or at very worst there will be nothing but a neutral / negligible visual impact when viewed from different parts of the street. Furthermore, the Appellant would be pleased to accept a condition that requires the submission of a detailed planting scheme along visible boundaries (and elsewhere) that could easily 'soften' such views, and that in itself will represent a visual betterment.



RfR 2:

The proposed development would be detrimental to the amenities of the occupiers of Nos 113 & 115 Canterbury Drive and No. 89 Woodhill Road by reason of its height, size and position. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:

Policy EN1/2 - Townscape and Built Design

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development.

We disagree that there will be material harm to such amenities. The LPA has adopted interface distances whose intention is to ensure that satisfactory distances are provided between different types of walls (eg flank walls, walls with habitable windows, etc). All of those interface distances have been achieved, and that being the case we do not accept that material harm will arise, as below:

SPD interface rule :	Is this achieved by the appeal scheme?
Extensions maintain a minimum distance of 13m between a principal window to a ground floor habitable room (e.g. living rooms and bedrooms) in one property and a two storey blank wall of a neighbouring property	
Extensions maintain a minimum distance of 6.5m between a principal window to a habitable room in one property and a single storey blank wall of a neighbouring property	
Extensions maintain adequate privacy standards by minimising overlooking into adjacent neighbouring properties from new windows, balconies and areas of raised decking. As such there should be a minimum distance of 7m between first floor habitable room windows of any extension and a directly facing boundary with a neighbouring property	See commentary on this point later in this letter, and please note that the existing house (including its first floor windows) is <u>already</u> closer than 7.0 metres to the northern boundary, and that this interface is toward open, undeveloped field (Green Belt) and not towards any neighbouring property



Extensions sited adjacent or close to a boundary should have a blank side facing the neighbour, obscure glazing, high level, or be screened by a fence or wall that extends above eye level (1.7 metres above floor level) when viewed from within the extension	
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The delegated report explains that :

‘Generally a 13 metre separation would comply with the aspect standards in SPD6. These distances are set out in order to maintain adequate separation between existing properties and extensions and avoid overbearing relationships. In this instance however, due to the scale of the proposed development, as it would run the full length of the boundary to the rear of No.113 it is considered that the development would have an unacceptable impact on the outlook from the rear garden of this property and as such would be detrimental to residential amenity.’

While it maybe seen as a moot point, if this site was to be redeveloped for housing (which we understand that has been floated by the LPA), those houses would obviously be designed to accord with the interface distances. One such house (which could quite feasibly be a large house) could readily occupy a similar position as the proposed extension, and provided that house achieved the correct interface distance, it would be acceptable (at least in principle). The outcome for neighbours (none of whom we understand raised any objection to the application) would be essentially the same as that resulting from the appeal scheme, namely a 2 storey ‘structure’ **within the correct interface distance**. It does not seem reasonable to adopt interface distances, only to resist schemes that have been designed to accord with those.

Regarding the amenities of the residents of Canterbury Drive, the delegated report states :

‘On the south western elevation, there are two high level windows at ground floor level, which relate to the gymnasium and jacuzzi and one high level window at first floor level, which relates to the office/games room. There would be 1.4 metres from the floor level to the underside of the window, which would be below the 1.7 metres required to ensure the privacy of the adjacent properties is protected. As such, the proposed development would lead to overlooking into the private amenity space of Nos, 113 and 115 Canterbury Drive, which would be detrimental to residential amenity.’

This matter is understood and was a simple error / oversight by the scheme architect. To resolve it we enclose with the appeal papers “corrected” drawings (listed at the end of this letter) which increases the cill heights of those windows by 30 cm to 1.7 metres, meaning that overlooking will not occur.



We accept that it is the Inspector's discretion as to whether or not to accept these "corrected" drawings, but we respectfully request him / her to do so for the reasons below :

1. The new drawings introduces only minute changes in respect of a slight adjusting in cill heights (correcting an elementary error).
2. The Appellant was not made aware of this issue at any stage in the 2.5 month determination period. Had they been made aware, it could and would have been fixed very quickly. This appeal is therefore the first and only opportunity presented to the Appellant to deal with the matter.
3. The correction to those cill heads is an attempt to respond positively to the matter (given that it was not raised at application stage), and the changes affect or prejudice nothing and nobody.

RfR 3

The design of the proposed dwelling is neither appropriate to, nor sympathetic with the surrounding area and would be detrimental to the visual amenity of the area. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:

Policy EN1/2 - Townscape and Built Design

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development.

We disagree, and we again note that the previous application (which promoted essentially the same) was not refused for this reason. The existing house is very much a 'one off' house. It does not reflect the prevailing character of the area, aside from the fact that it is a house of 2 storeys with a pitched roof. Its design, size, positioning / layout within the site and its materiality are all 'one offs'. That will remain the case if this appeal is allowed. It will remain a large home (albeit larger) that will continue to 'stand alone'. It will be no more or less 'sympathetic' than it is today, and we suggest that its overall appearance will in fact be improved.

We have already commented on the topic of the '*visual amenity of the area*' (which is repeated in this RfR) and have concluded that the proposed works, while admittedly quite sizeable, will be discretely located, and most of those will not be readily visible when viewed from most parts of the public realm. We do not accept therefore that there will be visual harm. A large house will remain, but will simply be moderately larger and of improved overall appearance.

The delegated report comments on certain design matters. It is critical that the remodelling work would result in:

'a straight run of building and the only architectural detail would be the headers and cills. There would be no relief or visual interest in the elevations. The proposed windows and the



large expanses of glazing/doors at ground floor level have a horizontal emphasis, which adds to the stretched feel and bulk of the proposed dwelling. The proposed development would include a large balcony to the front elevation. There are no other balconies in the immediate vicinity and there are concerns that this would be a prominent feature in the locality.'

Architectural appreciation is obviously subjective and the Inspector will form his/her own opinion. We disagree that the proposal lacks relief and interest, and indeed consider that it will lift what is currently a tired building. The frontage will include a large central fenestration feature, a balcony and a series of windows. Certain windows do have horizontal emphasis, but so too will the main building, and that factor does not constitute poor design. The design of the remodelled house is intentionally simple and unfussy, and the Appellant makes no apology for that. It is designed to offer the appearance of a large contemporary 'one off' house, remodelling and extending the existing 'one off' house.

Furthermore, as we have already noted, the previous planning application (for ostensibly the same development) was not refused on this ground. Indeed, the delegated report that led to that refusal made it abundantly clear that the design is acceptable, as below :

*'The extended property would have hipped roofs and the increase in height would not be significantly above the existing level. Materials would be render to the walls and dark grey roof tiles. Whilst the design would be fairly basic it would be, whilst resulting in a large property, typically domestic in its appearance. As such **it is not considered that the proposed scale and design of the proposal would have a detrimental impact on the visual amenity of the area.***

We again query why the design of the proposal was considered to be acceptable 11 months ago, and yet the same design is now considered to be unacceptable. This cannot be correct.

On the topic of the balcony (which is commented on as a design issue in the delegated report), the fact that there may be no other balconies in the area surely does not in itself warrant refusal or constitute poor design. The balcony will of course be visible, but it will not cause visual harm and it will assist in providing a degree of relief. Again, this is currently a 'one off' house that shares little obvious character with other homes nearby, and it will remain a 'one off' house following its reworking.

Added to which, the same balcony was included on the previous application scheme, but that application was not refused with any reference to the balcony. That said, we are uncertain why the same balcony has now become an issue to the LPA.



RfR 4

The proposed dwelling would result in an unacceptable reduction in the level of privacy currently enjoyed by the occupiers of the adjacent properties by reason of the sub-standard distances between habitable windows on the proposed dwelling and the boundary to the site. The proposed development therefore conflicts with the following policies of the Unitary Development Plan:

Policy EN1/2 - Townscape and Built Design

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development.

In response to this RfR, we again emphasise that all interface standards are met. Furthermore, the previous scheme (largely identical) was not refused on these grounds.

We believe we have addressed this concern via the 'corrected' drawings (listed at the end of this letter) which slightly increase cill heights as explained under RfR 2 above.

RfR 5

The size of the site is inadequate to accommodate the development proposed whilst satisfying reasonable requirements for space about the dwelling. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:

Policy EN1/2 - Townscape and Built Design

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development.

Again, we disagree. There will be plenty of open space available to the householders. Indeed, the space available to the home is very considerably more than most homes are provided with. None of the policies cited in this RfR refer to garden provision, and Bury does not have any policy that sets out garden sizes.

The rear garden of the proposal taken in isolation is roughly double the size of the gardens of adjacent 3 bedroom homes, and as such is commensurate with those (having regard to the number of bedrooms). But - in addition to that - the property is served by a very spacious frontage, resulting in garden area (when totalled) 3 to 4 times the size of gardens serving adjacent properties. The extended house will therefore be served by very spacious garden space, plus a sizeable balcony to create yet more external amenity space.

The delegated report takes issue with garden space at the front, but we question why. Many people enjoy spending time in their front gardens, and in this case it is very private, behind a



quite tall boundary wall and thick / mature vegetation. We accept that that vegetation could be removed (albeit that is far from the Appellant's intention), but even if that was to occur, the front garden would still be private and perfectly usable.

Furthermore, the previous planning application (for ostensibly the same development) was not refused on this ground. Indeed, the delegated report that led to that refusal makes it abundantly clear that the extent of garden space is acceptable, as below :

'The proposal would see a significant increase in the footprint of the property however it is located on a large plot and the building would be set well back from the main road. The large plot would be able to accommodate the extensions whilst retaining sufficient outside amenity space.'

In view of the above, it is unclear why the appeal scheme (which provides the same amount and positioning of garden space) was refused on this ground.

RfR 6

The application and submitted plans contain insufficient information to enable the impact of the rooflights and a second floor upon the amenity of the neighbouring properties to be properly assessed. Therefore, the proposed development would conflict with Policies of the Bury Unitary Development Plan:

Policy EN1/2 - Townscape and Built Design

Policy H2/1 - The Form of New Residential Development

Policy H2/2 - The Layout of New Residential Development.

This is an extremely simple matter to deal with and - had the LPA raised it at any stage in the 2.5 month determination period - the Applicant would have done so. However, this was not raised as an issue or query, and as such the refusal notice was the first occasion where this concern was revealed.

The fact of the matter is that there will not be a second floor. The rooflights are indicated on the first floor plan, and those have been provided to provide a degree of lighting to the internal corridors as well as the roof space. To assist the Inspector, an additional Sectional drawing is enclosed with the appeal papers (see list of drawings at the end of this letter). That does not introduce any changes, but is provided to show how the rooflights are intended to function.

RfR 7

The application and submitted plans contain insufficient information to enable the impact of the proposed balcony to be properly assessed. Therefore, the proposed development would conflict with the following Policies of the Bury Unitary Development Plan:



Policy EN1/2 - Townscape and Built Design

Policy H2/2 - The Layout of New Residential Development.

We are uncertain what further information the LPA would wish to see in order to enable an assessment of the balcony. While the balcony was inadvertently omitted from one drawing (a very simple mistake), it is clearly shown on all others (in plan and elevation). The balcony sits at the front of the house, and it overlooks nothing and nobody, and certainly no neighbours will be affected. Beyond that, we do not believe that there is any further information the Appellant could sensibly provide to enable 'assessment' of the balcony.

In terms of the 'missing balcony' on one drawing, again this was a small mistake in drafting that drawing. The LPA validated the application in spite of that, and at no stage raised this as an issue. Had it done so, it would have been addressed.

To resolve this simple matter, we enclose with the appeal papers a corrected version of the drawing which now shows the balcony. We accept that it is the Inspector's discretion as to whether or not to accept this new drawing, but we respectfully request him / her to do so for the reasons below :

1. The new drawing does not introduce any changes to the scheme. It simply provides clarification and corrects a very minor error.
2. As noted above, the Appellant was not aware of this issue at any stage in the 2.5 month determination period. Had they been made aware, it would have been fixed very quickly. This appeal is therefore the first and only opportunity presented to the Appellant to deal with the matter.
3. Crucially, the provision of that plan affects or prejudices nothing and nobody, as the balcony is clearly shown on all other drawings and the application was obviously assessed on the basis that a balcony formed part of the proposal.

RfR 8

The application and submitted plans contain insufficient information to enable the impact of the proposed development upon coal mining to be properly assessed. Therefore, the proposed development would conflict with Policy EN7 – Pollution Control of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

In response to this RfR, we would highlight that:

1. At no stage during the former (very similar) application that preceded this one was the topic of coal raised. Whilst that application was refused, it was not refused on ground/coal-related grounds.



2. The appeal application was supported by a *Preliminary Risk Assessment* based on Groundsure's detailed evidence base, an Enviro+Geo Insight report and historical mapping. The report highlighted that the site is in a coal mining notification area, but it had found that there are no records of underground or surface coal mining activity. The historic mapping inferred that the site is underlain by coal measures, but the report noted that there are no coal workings within 500m of the site, albeit there are 3 former mineral workings (sand and sandstone) within 500m of the site. The report recommended that, prior to the commencement of development coal mining records are interrogated, and an associated condition was anticipated.
3. We note that the Coal Authority was mildly critical of that report and suggested it did not go far enough, but at the same time confirmed that *'The Coal Authority would be very pleased to receive for further consultation and comment any additional information submitted by the applicant.'*
4. The Applicant was not requested (certainly directly) by the LPA to respond to the Coal Authority's letter or to provide any further information. The first time that the Applicant became aware that there was an issue was upon receipt of the refusal notice.
5. That said, the first opportunity available to the Appellant to address this matter is now, as part of this appeal process.
6. Enclosed with the appeal papers are two coal-related reports prepared by the LK Group on behalf of the Appellant.
7. The first of those is a *'Coal Mining Risk Assessment'*, which identified potential shallow coal mining risks and accordingly recommended that intrusive investigation work should be carried out to confirm the risk associated with coal mining.
8. To take that forward, the second LK report is entitled *'Shallow Mining Site Investigation Works'*. Those SI works involved 2 open hole rotary boreholes to 40.00 mbgl and 1 open hole rotary borehole to 30.00mbgl. The Open Hole Rotary Drilling was carried out in 3 locations to determine the presence / absence of shallow workings across site. One was located outside of the Development High Risk Area, while the other two were positioned within the Development High Risk Area. The overall conclusion of the report is that an extent of stabilisation work is recommended, the details of which to be designed by an appropriately experienced and qualified contractor using the information provided.
9. Flowing from that, also enclosed with the appeal papers is a quotation from Forkers Ltd to cover the recommended stabilisation works. While the cost of that is not insubstantial (£40,412), it is affordable to the Appellant and it is self evident that the recommended works can be delivered.



10. Having regard to all of the above, we contend that the coal-related concern has been thoroughly interrogated and that the development (if the appeal is allowed) can proceed (with an appropriate condition attached).

We respectfully request the Inspector to accept the two LK Group reports as part of the appeal process. We accept that it is the Inspector's discretion as to whether or not to accept this new information, but we respectfully request him / her to do so for the reasons below :

1. The reports do not introduce any changes to the scheme. They simply provide additional ground information as a positive response to addressing RfR 8.
2. Given that coal concerns had not been raised as part of the previous application and that application had not been refused on such grounds, the Appellant can hardly be criticised for not being aware of the concern.
3. The Appellant did of course submit a proportionate Risk Assessment, and was (not unreasonably) anticipating that a condition would be attached to govern the matter.
4. The Appellant was not made aware of this issue at any stage of the application process by the LPA. Had they been made aware, the matter could and would have been addressed (as it now has). This appeal is therefore the first and only opportunity presented to the Appellant to deal with the matter.
5. We anticipate that the appeal process will take circa 5 or 6 months to run its course. That said, both the LPA and the Coal Authority have more than ample time to consider the contents of the reports and to provide comment to the Inspector, and we hope that consideration will result in the removal of RfR 8.
6. We would add that, whilst outwith the confines of this appeal, a new "free go" planning application is to be submitted imminently, and that application will be supported by both LK reports. The very strong likelihood is that that new planning application will be determined well in advance of this appeal, and - as part of that process - the Coal Authority will be consulted and will have provided comments on the two reports. Those comments can readily be filtered into this appeal process.
7. Crucially, the provision of the LK reports affects or prejudices nothing and nobody.

Having regard to all of the above, we dispute all 8 reasons for refusal and see no conflict with policy.



Other Scheme Adjustments

We explained above that an alternative set of “corrected” drawings has been prepared, which introduces very minor adjustment to the scheme details. The reason for these adjustments is in response to certain comments in the delegated report, and having regard to the fact that none of those issues were raised during the course of the application. If they had, they would have been addressed, but this is the first opportunity the Appellant has had to deal with those issues. The suggested changes are summarised below:

1. As explained earlier in this letter (under RfR 2 and RfR 4) we enclosed revised drawings which increases the cill heights of certain windows to 1.7 metres, meaning that overlooking will not occur.
2. To respond to the criticism that the rear part of the extension is not 7.0 metres from the rear site boundary (overlooking an open field / Green Belt), the extension has been slightly reduced in width by 0.3 metres, such that it is now within 6.7 metres distance (ie 300 mm further away than the existing house). We suggest that this change is very minor and it affects / prejudices no party, and ought therefore be considered as part of the appeal scheme (subject to the Inspector’s judgement). Having said that, we do not in fact consider this to be a necessary change because the distance to that boundary is perfectly appropriate, given that the existing house is in the same position and that the outlook to the north does not face residential properties, but rather an undeveloped agricultural field (Green Belt), so the extra 0.3 metres (the length of a school ruler) is *de minimis* and ought not to be problematic.

Furthermore, we do not consider that this change is governed by policy. The delegated report cites SPD6, the relevant extract from which is reproduced below:

Extensions maintain adequate privacy standards by minimising overlooking into adjacent neighbouring properties from new windows, balconies and areas of raised decking. As such there should be a minimum distance of 7m between first floor habitable room windows of any extension and a directly facing boundary with a neighbouring property; and

It seems to us that that guidance is clearly intended to prevent overlooking between dwellings. In this case (as we note above), the windows / interface being referred to by the LPA in its delegated report look out over an undeveloped agricultural field (Green Belt). As such, the fact that certain windows are 6.7 metres from that boundary (30 cm less than the policy requirement) will clearly create no overlooking concerns.

Furthermore, we would add that the line of the extension reflects the line of the existing rear wall of the house (and its rear windows) which are already 6.7 metres from the boundary.



But, nevertheless, the further 'set back' shown on the 'amended' drawings has been made in an attempt to positively respond to the concern. The new drawings are listed at the end of this letter.

3. To respond to the comment in the delegated report about the positioning of the bin store, this has now been relocated, in a less visible location (see enclosed revised drawing). Likewise, a planting belt has been indicated along the eastern edge of the site, where new trees and planting will soften that view towards the site. The application was not refused on this specific ground, but it is alluded to in the delegated report. Given that the matter was not raised during the application, this is the first opportunity available to the client to address it.

Having said that, it is of course perfectly common to locate bin stores towards the front of properties, and in this case it would be close to unperceivable from anywhere in the public domain and as such not at all harmful. Nevertheless, we have addressed the matter on the 'amended' drawings (listed below) and would request the Inspector to exercise his/her discretion in accepting it. Such a minute change to the location of a bin store clearly affects and prejudices no party.

Having regard to all of the above, we do not agree that there is any conflict with relevant policies of the development, SPD 6 or the NPPF as a material consideration, and we accordingly (and respectfully) invite the Inspector to allow this appeal.

Appeal / Application Papers

The **appeal** paperwork comprises :

- Appeal form
- This letter as the Appellant's Appeal Statement
- The delegated report for previously refused planning application (ref 67701– not the appeal scheme), which promoted ostensibly the same development as the appeal scheme, and yet was refused for different reasons, and furthermore certain of the assessment points (eg design quality and provision of garden space) are dealt with markedly differently between the two almost identical schemes
- The drawings that supported that previous planning application (ref 67701– not the appeal scheme) – at *Annexe A* of this letter
- The following reports by LK Group that we have explained in this letter, and which we have respectfully requested the Inspector to accept:
 - Coal Mining Risk Assessment
 - Shallow Mining Site Investigation Works



- The **“corrected”** drawings explained in this letter, which we have respectfully requested the Inspector to accept:
 - 002C – ‘Proposed Site Plan’ [amended to show the balcony that was inadvertently omitted from the site plan]
 - 06 B Prop Elevations Sheet 2 [amended to show the cill height of windows to the side elevation corrected to 1700 mm]
 - 15B ‘Existing & Proposed Side 2’ [windows to side elevation - cill height corrected to 1700 mm]
 - 16 ‘Proposed Sections’ [this is an additional drawing that introduces no changes, provided to show the roof lights/windows are included in order to provide light to the ground floor corridor and the first floor landing/corridor via insulated light tunnels through the roof void]
- The **“amended”** drawings explained in this letter, and which we have respectfully requested the Inspector to accept. These drawings show the same ‘corrections’ as the drawings above, but additionally the following small adjustments as a positive response to the RfRs and comments made in the Delegated Report :
 - 002D ‘Proposed Site Plan’ – in addition to the inclusion of the balcony (inadvertently omitted from this drawing), this drawing has also been amended to introduce a 300 mm ‘set back’ to the extension (further away from the northern site boundary), has relocated the bin store (in response to comments in the delegated report) and introduced a landscaping strip along the eastern boundary.
 - 06 C ‘Proposed Elevations Sheet 2’ – in addition to the corrected window cill heights to 1700mm, this drawing is also amended to reflect the 300mm set back and adding a window to the games room
 - 08B ‘Proposed Ground Floor Plan’ - amended to show the 300mm set back and the window added to the games room (to be consistent with the above drawings)
 - 09B ‘Proposed First Floor Plan’ - amended to show the 300mm set back (to be consistent with the above drawings)
 - 12B – amended to show the 300mm set back (to be consistent with the above drawings)
 - 15C ‘Existing & Proposed Side 2’ - amended to show the corrected window cill heights to 1700mm and the 300 mm set back (to be consistent with the above drawings)

Which drawings is the Appellant requesting the Inspector to approve (if the appeal is allowed)?

The Appellant understands that it is the Inspector’s discretion whether or not to accept any ‘corrected’ or ‘amended’ information. We have explained why we consider it is reasonable to present this information to the Inspector at this stage and why it ought to be considered /



accepted, mainly because :

1. The corrections / amendments are very minor.
2. The corrections / amendments could and would have been addressed had the LPA raised any of the issues during the course of the application. But it did not, and as such the Applicant was provided with no opportunity to address the matters as part of the 2.5 month application process, and it is only now – at appeal stage – that the matters can be addressed.
3. None of the corrections / assumptions affect or prejudice any party.

The Inspector is therefore left with three broad choices (if he/she is minded to allow the appeal), namely :

OPTION 1 – refuse to accept any corrections / changes and none of the new information (relating to coal)

OPTION 2 – accept the “corrected” drawings and the coal-related information

OPTION 3 – accept the “amended” drawings and the coal-related information

The Appellant’s preference, on balance, is OPTION 2, but – if the Inspector favours OPTION 3 – the Appellant will obviously accept that.

The **planning application** paperwork comprised :

- Application form
- Covering letter (Sedgwick Associates)
- Bat Survey: Preliminary Roost Assessment (Verity Webster)
- Preliminary Risk Assessment (Sedgwick Associates)
- The following drawings (Harry Jackson Surveyors Ltd) :
 - Location Plan
 - 11 A – Existing and Proposed Front Elevations (Balcony)
 - 12 A – Existing and Proposed Rear Elevations
 - 15 A – Existing and Proposed Side Elevations 2
 - 04 - Existing First Floor Plan
 - 14 A – Existing and Proposed Side Elevation 1
 - 004 - Existing and Proposed Street Scene
 - 01 – Existing Elevations (Sheet 2)
 - 02 – Existing Elevations
 - 03 – Existing Ground Floor Plan
 - 04 – Existing Ground Floor Plan



- 06 A – Proposed Elevations (Sheet 2 of 3)
- 07 A – Proposed Elevations (Sheet 3 of 3)
- 001 A – Site Plan
- 002 B – Proposed Site Plan
- 08 A – Proposed Ground Floor Plan
- 09 A – Proposed First Floor Plan

The above / enclosed is the Appellant's case as it stands at the point of lodging the appeal.

If you require any further information from the Appellant, please do not hesitate to contact Richard Gee at the above offices.

Yours faithfully
for Roman Summer Associates Ltd

Richard Gee
Director



ANNEXE A – PREVIOUS REFUSAL AND DRAWINGS TO ENABLE THE INSPECTOR TO OBSERVE THAT THERE WAS VERY LITTLE DIFFERENCE BETWEEN THAT PREVIOUS SCHEME AND THE APPEAL SCHEME, AND THAT (WITH SIGHT OF THE DELEGATED REPORT FOR THE PREVIOUS SCHEME) THERE APPEAR TO BE INCONSISTENT ANALYSIS AND CONCLUSIONS DRAWN FOR EACH SCHEME, INCLUDING DIFFERENT REASONS FOR REFUSAL

NOTICE OF REFUSAL OF PLANNING PERMISSION

**Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England)
Order 2015**

To:
Mr Jackson
harryjacksonsurveyorsltd
unit4a farnworth park ind est
wellington street
farnworth
BL4 7BY

On Behalf Of:
M/s Begum
The Gatehouse
Woodhill Road
Bury
BL8 1BN

PART 1 - Particulars of Application

Application Number: 67701

Date of Registration: 25/10/2021

Proposal:
Two storey extension at front, side and rear
with balcony at front/side: Increase in height
of roof

Location:
The Gatehouse, Woodhill Road, Bury, BL8
1BN

PART 2 - Particulars of Decision

The Bury Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been **REFUSED** for the carrying out of the development referred to in Part 1 hereof for the following reasons:-

- 1 The proposed development would be seriously detrimental to the residential amenities currently enjoyed by the occupier(s) of 89 Woodhill Road, by reason of its size and position of the proposed extension along the boundary. The proposed development therefore conflicts with the following policy 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 in relation to the extent of proposed demolition. No demolition plans or statement have been provided to explain the methodology to maintain the existing fabric of the dwelling to allow for the application to be adequately assessed as a householder application.
- 3 The application and submitted plans contain insufficient information regarding the impact of the proposed development on bats, which are a protected species under the 1981 Wildlife & Countryside Act (as amended) and The Conservation of Habitats and Species Regulations 2010.
The proposal is therefore contrary to Policy EN6 – Conservation of the Natural Environment of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

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.

The following policies of the Bury Unitary Development Plan, National and Regional Government were considered relevant:

H2/3 H2/3 - Extensions and Alterations
EN6 EN6 - Conservation of the Natural Environment
SPD6 Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties.
NPPF National Planning Policy Framework

This decision relates only to the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Applicant Plan Numbers:

01,001,02,002,03,04,05,06,07,08,09,10,11,12,13,14,15

NOTES TO APPLICANT

Not Applicable

Signed:

2 of 2

.....
On behalf of the Council

Date of Decision: 17/01/2022







