

DELEGATED REPORT

Report by Jane Langan	Date of report: 09/01/2023	Ref: 68575/FUL
Registration: 17/11/2022	LDFC: 19/12/2022	Expiry Date: 12/01/2023
Site Visit: 28/11/2022	Site Notice: 28/11/2022	Press Date: 24/11/2022
Objections: 1	Con Area: MARY	Adv Type: CA
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Replacement of steps to lower ground garden incorporating a mid-step landing and steps from front of property to rear garden

Location: Shrewsbury House, Lowther Road, Prestwich, Manchester, M25 9QG

Description

The site is a large detached house located on a corner plot along Lowther Road. It is within St Marys Conservation Area and is also a Non Designated Heritage Asset (NDHA). It has a vehicular access off Lowther Road which is gated. There is garden to both sides of the house and a patio to the rear of the house which is at a raised level. To the north east corner a raised seating area has been erected incorporating a childs play house. It is accessed from the patio at the rear of the house by steps down and there is a further set of steps leading down to garden level. The closest neighbouring property is 69 Shrewsbury Road located to the east side of the site.

The application relates to the raised steps and seating area and has been submitted following a complaint to, and investigation by, the Enforcement Team. The application form describes the proposal as 'replacement of steps to lower ground garden, incorporating a mid-step landing ' As can be seen from the site photos it also includes a seating area. The heritage statement does note this. The development is constructed of timber comprising of a set of steps that lead from the patio level at the rear of the house and down on to a seating area of inbuilt benches and there are planters along the shared boundary to the adjacent property. The raised seating is built above a childs play house and part supported on a timber post.

Relevant Planning History

55537 - Erection of 4 no. detached dwellings and extensions and refurbishment to Shrewsbury House - Withdrawn by Applicant 25/09/2012

55663 - Erection of 4 no. detached dwellings and extensions and refurbishment to Shrewsbury House (resubmission) - Withdrawn by Applicant 28/11/2012

55858 - Refurbishment and extension of Shrewsbury House and construction of 4 no. detached dwellings with access and associated works. - AC 28/02/2013

56691 - Variation of condition No 2 (Plans). of approved planning permission 55858 - Amendment to layout and extensions to the development at Shrewsbury House. - AC 25/03/2014

58704 - Variation of condition no. 2 (approved plans) of planning permission 55858 to amend the construction type and position of section of retaining wall - Withdrawn - Invalid 28/07/2015

63343 - Automatic entrance gates to the driveway - AC 14/12/2018

63861 - First and second floor extensions at rear; Excavation to form new basement room with new bi-folding door opening at side - AC 13/05/2019

65752 - Erection of a timber clad concrete and timber fence along Shrewsbury Road - Withdrawn by Applicant 29/09/2020

65797 - Variation of condition no. 2 (approved plans) of planning permission 63861 for additional basement space - AC 28/09/2020

66136 - Change of use from open land to residential garden and erection of railings along Shrewsbury Road. - AC 18/01/2021

Publicity

Surrounding neighbours were notified by letter on 18/11/22. A site notice was posted on 28/11/22 and a press notice placed in the Bury Times on 24/11/22. Two responses have been received from nearby neighbours. Their concerns in summary are :-

- Loss of privacy to a bedroom window right next to the seating area
- When the area is used at night it can get very noisy
- No issue with the other parts of the extension, just don't like how noisy the seating area can get. Enough space on the development to have a seating area in a different place
- Loss of privacy across the street to windows and garden
- Would be more accurately described as raised decking area with seating
- Structure does not seem to have been well considered from a safety perspective
- Were originally black steel stairs which were more appropriate to the setting
- Would be unlikely to object to the reinstatement of steps or much lower raised decking

Statutory/Non-Statutory Consultations

Conservation Officer - No objection. The building is considered to be a Non-Designated Heritage Asset (NDHA) and lies within the St Marys Conservation Area. The proposal is considered to be reversible and does not extend Shrewsbury House directly. It would not be visible within its setting which is tightly confined to its curtilage. As such the proposal would not impact on the significance of Shrewsbury House. By virtue of the boundary treatment of the site, the topography of adjacent land and the siting of proposal within the curtilage the proposal would not be visible from public areas within the street scene and therefore would be neutral in terms of impact. As such the character and appearance of the conservation area would be preserved.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

H2/3	Extensions and Alterations
EN2/1	Character of Conservation Areas
EN2/2	Conservation Area Control
SPD6	Supplementary Planning Document 6: Alterations & Extensions

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Visual amenity, design and impact on the Conservation Area - Located within the garden and screened by fencing the proposal would not be not visible from the views along Lowther Road or Shrewsbury Road. The timber structure is located adjacent the boundary with the fencing between the site and 69 Shrewsbury Road and the seating area at a lower level. Whilst incorporating a play house beneath the seating does not appear of good design it is only visible from the site garden. The materials are typical of that for domestic raised patios and decking.

In terms of the Conservation Area and NDHA then, as the Conservation Officer notes, it is a development reversible that does not impact on the main house and is not visible from the public views. As such, in terms of visual amenity the proposal is acceptable and would not have a detrimental impact on the visual amenity of the area and the character and appearance of the conservation area would be preserved.

Residential amenity - The proposal is located along the boundary with 69 Shrewsbury Road. This property is detached with a gap at the side and then its side elevation. The separating fencing runs adjacent the raised steps and seating area on the site. The plans for the approval for No.69 do note a bedroom window above the garage to the front elevation and roof lights to this room to the side roof slope. The height of the site seating area is such that there is a direct view over to the gap to the side of No.69. Screening may be possible to increase the privacy however it would still be a concern that the seating area

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would provide a large area of outside amenity space in close proximity to this neighbouring property. Whilst the site garden could be used for lengthy periods, the raised area encourages and intensifies the use as a recreational area. The fact that it is an open and raised area close to the neighbouring boundary results in an unneighbourly and unduly intrusive addition to the garden area and as such is seriously detrimental to the amenity of the adjacent neighbouring property, 69 Shrewsbury Road.

The properties opposite are approximately 24m away, located across the road, and as such the raised area would not have a significant impact in terms of their amenity.

The proposal complies with UDP Policy H2/3 and SPD6 - Alterations and Extensions to Residential Properties in terms of visual amenity and design but is contrary with regard to residential amenity.

Response to objection - The issues regarding visual amenity, privacy and use of the area are addressed in the above report in relation to the relevant neighbouring properties. The use in terms of safety is a matter for the applicant.

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 would be seriously detrimental to the residential amenities currently enjoyed by the occupiers of 69 Shrewsbury Road, by reason of the constructed raised steps with seating area and its proximity to the boundary of this neighbouring property. It would materially detract from their living conditions by reason of loss of privacy and unneighbourly noise and disturbance contrary to the Bury Unitary Development Plan H2/3 – Alterations and Extensions and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JL	09/01/23		