

DELEGATED REPORT

Report by Tom Beirne	Date of report: 24/10/2024	Ref: 71123/FUL
Registration: 30/08/2024	LDFC: 02/10/2024	Expiry Date: 25/10/2024
Site Visit: 15/10/2024	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Dropped kerb

Location: 301 Bolton Road, Bury, BL8 2NZ

Description

The application relates to a two storey detached dwellinghouse on the south side of Bolton Road, next to the Tesco filling station. There has been an existing vehicular access in situ since around 2018. At the rear of the property there is a access road with a dilapidated garage on the rear garden boundary. Bolton Road in front of the property has double yellow lines and a bus lane on the opposite side of the road. The junction of Bolton Road and Grange Road is diagonally across to the north-east. The access to the Tesco filling station is 20m away to the north-east on the same side of the road.

The kerbs along the frontage are low but the proposal is to create a formal crossing for the width of the opening. The existing opening in the wall would be retained.

Relevant Planning History

55363 - Replacement signage: 2 No. Externally illuminated fascia signs; 1 No. internally illuminated fascia sign; 1 No. Internally illuminated projecting sign; 1 No. internally illuminated gantry sign; 6 No. vinyl graphics - Approve with Conditions 09/08/2012

Publicity

Immediate neighbours notified by letter dated 10/09/2024. No objections received.

Statutory/Non-Statutory Consultations

Traffic Section - Recommends refusal on the following grounds:

The proposal would result in the creation of an additional and unnecessary access onto the busy A58 Bolton Road at a hazardous point on the highway network in close proximity to a petrol filling station egress, the junction with White Street and controlled pedestrian crossing facility, to a property that was constructed with, and could still be safely accessed from, the unadopted back street to the rear that serves the existing garage. This and the lack of adequate turning facilities at the front of the property within the curtilage of the site required to enable vehicles to enter and leave in a forward gear, is highly likely to lead to unacceptable conflicts on the adjacent classified road, which would therefore be detrimental to highway safety and maintaining the free flow of traffic on the Key Route Network.

Pre-start Conditions - N/A

Development Plan and Policies

H2/3	Extensions and Alterations
SPD6	Supplementary Planning Document 6: Alterations & Extensions
HT2	Highway Network

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.

Visual amenity - Given there are no changes to the existing boundary wall, there would be no impact on visual amenity. The only alteration is a minor change in level to the kerbing. The proposal is acceptable in terms of visual amenity and complies with UDP Policy H2/3 and guidance in SPD6 relating to extensions and alterations.

Residential amenity - Given the nature of the proposal, there are no residential amenity issues arising. As such the proposal is acceptable and complies with UDP Policy H2/3 and guidance in SPD6 relating to extensions and alterations.

Access and Parking - The existing access from Bolton Road onto the driveway has been in situ for approximately 6 years without a formal 'dropped kerb'. This application seeks to regularise the situation by dropping the kerbs to create a formal access onto Bolton Road.

Notwithstanding the fact that the access has been in situ but unauthorised, the traffic team has objected to the proposal on grounds that it would result in the creation of an additional and unnecessary access onto the busy A58 Bolton Road at a hazardous point on the highway network in close proximity to a petrol filling station egress, the junction with White Street and controlled pedestrian crossing facility. The original property can be safely accessed from the unadopted back street to the rear that serves the existing garage. This and the lack of adequate turning facilities at the front of the property within the curtilage of the site required to enable vehicles to enter and leave in a forward gear, is highly likely to lead to unacceptable conflicts on the adjacent classified road, which would therefore be detrimental to highway safety and maintaining the free flow of traffic on the Key Route Network. The proposal is therefore not acceptable and conflicts with UDP Policy H2/3 and HT2 and guidance in SPD6 relating to extensions and alterations and in particular, access and parking.

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 proposal would result in the creation of an additional and unnecessary access onto the busy A58 Bolton Road at a hazardous point on the highway network in close proximity to a petrol filling station egress, the junction with White Street and controlled pedestrian crossing facility, to a property that was constructed with, and could still be safely accessed from, the unadopted back street to the rear that serves the existing garage. This and the lack of adequate turning facilities at the front of the property within the curtilage of the site required to enable vehicles to enter and leave in a forward gear, is highly likely to lead to unacceptable conflicts on the adjacent classified road, which would therefore be detrimental to highway safety and maintaining the free flow of traffic on the Key Route Network. The proposal is therefore unacceptable and conflicts with UDP Policies H2/3, HT2 and SPD6 relating to alterations and extensions and Highway safety.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	24/10/2024	DM -	25/10/2024