

DELEGATED REPORT

Report by Claire Booth	Date of report: 29/10/2024	Ref: 70862/FUL
Registration: 17/06/2024	LDFC: 12/07/2024	Expiry Date: 12/08/2024
Site Visit: 29/07/2024	Site Notice: N/A	Press Date: N/A
15:00:00		
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: Metal ramp to the front for disabled access, 1m high front boundary wall, and 5 no. air conditioning external units on the ground of front garden

Location: 85 Walmersley Road, Bury, BL9 5AN

Description

The application relates to a Mosque located on Walmersley Road, a main route through the Borough leading into and out of Bury town centre, located on the corner of Cateaton Street, which has no through vehicular access to Walmersley Road. The property backs on to Back Walmersley Road West, a single width, one-way, highway. There is a small forecourt area at the front which is not bounded by a dwarf wall and railings and is therefore completely open. There is an access to the rear of the property through a set of gates off Cateaton Street.

The surrounding area is characterised by residential dwellings, notably 2 storey red brick properties. Adjacent to the building to the north is Cateaton Street, and the building is attached to red brick terraced dwellings. Some of which are rendered.

The property has 5 air conditioning units placed primarily above the window header of the ground floor windows on its front elevation, therefore at an elevated height. The property also has a metal disabled access ramp which is already in situ and is therefore being applied for retrospectively.

Due to the harmful appearance of the air conditioning units in situ, an Enforcement Notice has been served by the Council seeking their removal from the frontage of the property. The applicants have failed to remove them within the 45 day timeframe given in breach of the Enforcement Notice and have instead submitted this planning application which seeks planning permission for three aspects:

1. Planning permission is also sought for the relocation of 5 air conditioning units to the ground floor of the front elevation and within the property frontage against the side boundary walls,
2. Retrospective permission is sought for the metal disabled access ramp installed to the front elevation; and,
3. Planning permission is sought for a 1m high front boundary wall along its boundary with the adopted highway on Walmersley Road.

Relevant Planning History

59957 - Two storey extension at side and rear; first floor extension at rear and external alterations including formation of additional entrance and 2 no. fire escapes - Approved with Conditions, 20/06/2016

25816 - New protected external escape staircase at side - Approved with Conditions, 12/10/1999

Publicity

6 neighbouring properties were consulted on this application. No representations have been received as a result of this publicity.

Statutory/Non-Statutory Consultations

Traffic Section - No objections.

Environmental Health - Pollution Control - No objections, subject to a planning condition restricting noise levels.

Pre-start Conditions - Not relevant

Development Plan and Policies

HT2/1	The Strategic Route Network
EN1/2	Townscape and Built Design
CF1	Proposals for New and Improved Community Facilities
HT5/1	Access For Those with Special Needs
EN7/2	Noise Pollution
JP-C1	Our Integrated Network
JP-C8	Transport Requirements of New Development
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.

The matters for consideration for these proposals relate to amenity in terms of visual amenity, noise, and access for people who need assistance in accessing the Mosque.

Visual Amenity

The proposal seeks to relocate the air conditioning units that are in situ on the building so that they are removed from first floor level to ground level, with three units being located below the cill height of ground floor windows at a height of no more than 1m above ground level. Two units are also being placed against the boundary walls projecting from the front of the property along each of its boundaries, defining the extent of the property from its neighbour at no. 83 Walmersley Road and its boundary with Cateaton Street.

Lowering the units to ground floor level would be a visual improvement to the current building and the street scene of this part of Whalley Road. However, the air conditioning units would still be visible in the street scene and seen as discordant additions to the principle elevation. To mitigate this harm, the applicant proposes to erect a boundary wall along the frontage of the property. The proposed boundary wall would be a visual improvement to the street frontage, Provided this wall is erected at the same time the air conditioning units are relocated, the visual harm from the air conditioning units would be satisfactorily mitigated. In the interest visual amenity, the bricks used in the construction of the boundary wall should match those of the existing walls projecting along the neighbours boundary and this will be secured by planning condition.

The proposed boundary wall would also help to ground the metal disabled ramp against the building and within the street scene.

Residential Amenity

The application site is attached to a row of residential dwellings and is close proximity to residential dwellings across the road, to the side and to the rear. The air conditioning units have been in place in the first quarter of 2023. Whilst Environmental Health have received no complaints regarding the noise from these air conditioning units, the Environmental Health Section has recommended a condition be imposed requiring a scheme be submitted to demonstrate the equipment associated with the development are designed such that noise emissions do not exceed NR (Noise Rating) curve 35 and where operating at night do not exceed NR25, in adjacent residential properties with the windows of those properties open in the normal manner for ventilation purposes. Subject to the recommended planning condition, the proposals are therefore acceptable from this perspective and in compliance with UDP Policy EN7/1.

Highway Safety

The proposed front boundary wall would directly abut the adopted highway, the pavement.

The Local Highway Authority have been consulted and note that it was this site where in construction of a proposed rear extension the adopted highway fell into the footings of the proposed extension. Notwithstanding this happening previously, they raise no objections to the proposed 1m high boundary wall to the front of the property being sought. The proposal is thus acceptable on highway safety grounds.

Enforcement Notice

During the course of the application, the agent has been advised that the Enforcement Notice is still in force. The LPA has encouraged the applicants to remove the air conditioning units that are above the ground floor windows. As of the 28 October 2024, the agent has confirmed that work has started on removing the offending air conditioning units.

Conclusion

The proposed re-siting of the air conditioning units, along with enclosing the frontage of the site with a 1m high brick boundary wall will result in a visual improvement to the application site and the street scene in which it is set. It will also help tie the disabled ramp into the site better than it currently is. Therefore subject to the bricks for the boundary wall matching the bricks of the existing boundary walls, and the noise from the air conditioning units and any other mechanical equipment the proposals are considered to accord with UDP Policy EN2/1. It is therefore recommended that the application is approved, subject to the recommended planning conditions.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. 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 the following drawings:

Location Plan - Streetwise; and,
Drawing no. 0079-MASTA-DR-A-0204 SHT 3 of 3 - Proposed Ground Floor Plan and Site Plan.

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 development in accordance with the policies contained within the Bury Unitary Development Plan, the Places for Everyone Plan and the National Planning Policy Framework.

- 3 The external finishing materials for the front boundary wall hereby approved shall match those of the existing boundary walls projecting from the frontage of the

building along the boundaries of the property.

Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.

- 4 The boundary wall hereby approved shall be erected and completed in full within one month of the air conditioning units hereby approved being installed.

Reason: In order to ensure a satisfactory relationship between the development, surrounding buildings and the street scene, in accordance with Policy EN2/1 - Townscape and Built Design of the Bury Unitary Development Plan and the National Planning Policy Framework.

- 5 The air conditioning units hereby approved, and any other mechanical equipment associated with the development shall be designed so that noise emissions do not exceed NR (Noise Rating) curve 35 (if operating at night use NR25) in adjacent residential properties with the windows of those properties open in the normal manner for ventilation purposes.

Reason: To prevent nuisance arising in order to safeguard the amenity of the occupiers of adjoining and surrounding residential properties.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	29.10.2024	DM -	29/10/2024