

DELEGATED REPORT

Report by Sam Summers	Date of report: 06/09/2023	Ref: 69772/FUL
Registration: 15/06/2023	LDfC: 07/07/2023	Expiry Date: 10/08/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area:	Adv Type: N/A
Reason for Delay: N/A		EIA: Dec Level: DEL Stat Class: NREQ

Proposal: Application for prior approval of a proposed enlargement of a dwellinghouse by construction of additional storeys - Proposed addition of one storey to create a three storey house (maximum height 9.11 metres)

Location: 21 Philips Drive, Whitefield, Manchester, M45 7PY

Description

The application relates to a two storey end of terrace house with garden area at front, side and rear, an outbuilding at side and summerhouse at front. The property faces the flats at Linksvie Court.

The proposal is to add an additional floor on top of the terraced dwellinghouse. The proposed extension would mirror the existing footprint. The new window openings are aligned to match the existing window openings of the property.

The application has been submitted for prior approval under Part 1, Class AA.

Relevant Planning History

69368 - Application for prior approval of a proposed enlargement of a dwellinghouse by construction of additional storeys - Proposed additional storey to create a three storey house (maximum height 9.11 metres) - Prior Approval Required Refused - Prior Approval Required Refused - Ext 18/04/2023

Publicity

Neighbour notified by letter dated 16/06/2023 - No responses received

Statutory/Non-Statutory Consultations

None

Pre-start Conditions - None

Unitary Development Plan and Policies

H2/3 Extensions and Alterations
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.

The proposal would comply with the limitations laid out under Article 3 Schedule 2 Part 1 Class AA, AA.1 (a-k) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

However the LPA must make a determination as to:

- (i) impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light;
- (ii) the external appearance of the dwellinghouse, including the design and architectural features of—
 - (aa) the principal elevation of the dwellinghouse, and
 - (bb) any side elevation of the dwellinghouse that fronts a highway;
- (iii) air traffic and defence asset impacts of the development; and
- (iv) whether, as a result of the siting of the dwellinghouse, the development will impact on a protected view identified in the Directions Relating to Protected

Vistas dated 15th March 2012 issued by the Secretary of State;

Impact on amenity of adjoining premises -

SPD 6 and H2/3 seek to assess the impact of proposals on the residential amenity of neighbouring properties.

Properties at both front and rear are over 20m from the proposal and as such no significant overlooking would occur. In terms of the relationship to the attached property, No 29, there would be no direct views of the extension and as such it is considered there would not be significant impact on that properties residential amenity.

The nearest property to the North West is 7m away is at a higher level of ground and set back from No 21 as such there would be no significant overlooking on this property either.

As such, the proposed development would not have a significant adverse impact upon the amenity of the neighbouring properties.

External appearance of the dwellinghouse -

SPD 6 and UDP Policy H2/3 seek to achieve a high standard of design that compliments the original building, and does not have a detrimental impact on the character and appearance of neighbouring properties and the general street scene.

In *Cab Housing Ltd & Ors v Secretary of State for Levelling Up, Housing and Communities & Ors* [2022] EWHC 208 (Admin) Mr Justice Holgate found the following in regards to the interpretation of Class AA of Part 1:

In paragraph AA.2(3)(a)(ii) of Part 1, the 'external appearance' of the dwelling house is not limited to its principal elevation and any side elevation fronting a highway, or to the design and architectural features of those elevations;

Instead, the prior approval controls for Class AA of Part 1 include the 'external appearance' of the dwelling house; The control of the external appearance of the dwelling house is not limited to impact on the subject property itself, but also includes impact on neighbouring premises and the locality.

The extension would use brick which is the same material used in the original construction of the dwellinghouse and would match the nearby properties which are also built from brick. The principal elevation would have new window openings these are positioned so as to match the existing window openings at ground floor level.

The row of terraces this property is a part of are all two storey, and whilst the other row of terraces on Philips Drive (No.s 12-18) are three storey they currently sit at a similar overall height to No 21 due to the difference in floor levels of the buildings. As such any additional storey in this row would appear incongruous and out of character. The row of terraces on Philips drive all have a uniformity of ridge heights and an additional storey on this property would interrupt this and therefore would appear discordant in the street scene. Therefore the proposed development would conflict with paragraph AA.2 (3)(a) (ii) of Part 1 of The Order.

Air traffic and defence assets -

There are no impacts on air traffic and defence asset impacts of the development

Impact on a protected view -

There would be no impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State.

Single Storey Rear Extension -

A single storey rear extension was included in the plans submitted for this application, however this cannot be assessed under the prior approval regulations Part 1, Class AA, so has not been looked at as part of this application.

Recommendation: Prior Approval Required and Refused

Conditions and Reasons:

- 1 The proposed development fails to meet the requirements of condition AA.2 (3)(a) (ii) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the external appearance of the dwellinghouse including the design and architectural features of the property would result in a development which would be out of character with the adjacent properties and appear incongruous and discordant within the street scene and would therefore be seriously detrimental to the visual amenity of the area.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
SS	06/09/2023		