

DELEGATED REPORT

Report by Tom Beirne	Date of report: 15/05/2024	Ref: 70647/FUL
Registration: 18/04/2024	LDFC: 10/05/2024	Expiry Date: 13/06/2024
Site Visit: 14/05/2024	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area:	Adv Type: N/A
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: HOUS

Proposal: Erection of decking on raised platform with steps, balustrade and fencing, gates, garden room pod and covered spa area

Location: 35 Bankside Avenue, Radcliffe, Manchester, M26 2QH

Description

This application, which is part retrospective, relates to a two storey detached house on a residential cul-de-sac of similar styled properties. The house has been extended at the rear and has a box dormer on the rear roof plane.

The application follows a previous refusal of planning permission and dismissed appeal for the retention of a larger raised decked area at the rear of the garden. Whilst the proposal also includes a garden outbuilding and seperate covered spa pool pod, these are considered to be acceptable.

The rear garden, prior to the original works commencing, stepped up towards the rear of the garden in the form of a terrace. It is noted that the ground on the neighbours side is also raised up towards the rear and the residents at No.33 have also formed a seating area but at a lower level than the application site (see photos).

Much of the former decking structure has been removed to reveal the original garden. It is now proposed to reform the decking area at a lower level than originally proposed and level with the raised patio at the rear of the neighbour at No.33 Bankside. The embankment behind the decking would be at a higher level but this would be retained as for planting, not sitting.

Steps down from the decked area to the garden run adjacent to the shared boundary fence with No.33 Bankside.

The flat roofed outbuilding in the rear garden has a footprint of approximately 25sqm with a roof height of 2.6m. The spa/pool pod would have a smaller footprint of approximately 16sqm. The spa unit has a canopy that can be raised when it is in use and this extends up to approx 2.6m in height.

Relevant Planning History

67690 - Raise roof ridge height with loft conversion, rear dormer and two pediment windows to front - Approve with Conditions 19/01/2022

68934 - Raise roof ridge height with loft conversion; Rear dormer with juliet balcony and two pediment windows to front - Approved with Conditions 22/12/2022

69467 - Erection of decking on raised platform with steps, balustrade and fencing, garden room pod and covered spa area - Refused 01/06/2023. Appeal dismissed.

22/0324 - Not being built in accordance with approved plans of planning permission 67690 - 19/10/2022

23/0039 - Erection of decking - 21/06/2023

Publicity

Immediate neighbours notified by letter dated 19/04/2024. No objections received.
Comments from Cllr Walsh and the immediate neighbour suggesting the proposal should remain in line with the current proposals.

Statutory/Non-Statutory Consultations

N/A

Pre-start Conditions - N/A

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), 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 - The outbuilding/garden room within the rear garden and the separate spa unit, with a maximum height of approximately 2.6m, would only be slightly over 'permitted development' under the current planning regulations and would be considered acceptable. Although cumulatively the spa pod and garden room/outbuilding would have a combined floor area of approximately 41sqm and, within the rear garden area, appear a rather 'cramped', there is sufficient outdoor amenity space remaining to avoid giving the appearance of overdevelopment. Although viewed from neighbouring garden, the rear garden is not viewable from the public arena. In this respect the outbuilding and spa pod are considered to be acceptable and comply with UDP Policy and guidance.

The revised decked area, set at a lower level than previously proposed, would be significantly less prominent, when viewed from the neighbours properties. The fencing along the shared boundary with No.33 has been amended to appear less dominant and now would be acceptable.

In terms of visual amenity the proposed decking is now considered acceptable and complies with UDP Policy H2/3 and associated guidance in SPD6 relating to alterations and extensions.

Residential amenity - In terms of residential amenity the garden room/outbuilding and spa pod, with a maximum height of 2.6m, would not raise any significant residential amenity issues given they are not uncommon structures within garden areas throughout the country. They are set off the shared side boundary with No.33 and where the outbuilding is adjacent to the boundary with No.37, there is a garage to the rear of this neighbour, situated along the side boundary. The outbuilding and spa pod are therefore acceptable and comply with UDP Policy H2/3 and guidance in SPD6.

The impact of the proposed new decking would be significantly less problematic than the previously approved structure. Set at the same level as the patio at the rear of the neighbouring property (No.33), the revised decked area would not increase overlooking beyond that which exceeds what would normally be expected in a suburban setting such as this and to such a degree as to warrant refusal of planning permission.

The proposed glazed balustrading across the front of the decked area, at the lower level, would not be so much of an issue partly screened by boundary fencing. The fencing as proposed is less intrusive than previously; erected and does mitigate overlooking from the decking to an acceptable degree.

At the lower level and with a condition restricting the decking level and balustrade to that proposed, the scheme is on balance acceptable and complies with UDP Policy H2/3 and guidance in SPD6 in relation to residential amenity.

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

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Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 This decision relates to drawings numbered PMC/01/02/DECK, PMC/02/02/DECK, PMC/03/02/DECK, PMC/04/02/DECK, PMC/05/02/DECK, PMC/06/02/DECK, PMC/07/02/DECK, PMC/08/02/DECK and PMC/09/02/DECK and 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 design pursuant to the policies of the Bury Unitary Development Plan listed.
- 2 The decking area and balustrade shall be restricted to the middle terrace and at the same ground level as the neighbour's raised patio adjacent and as indicated on the proposed plans and a shall not be installed on the upper terrace.
Reason. In the interests of residential amenity pursuant to UDP Policy H2/3 and guidance set out in SPD6 Alterations and Extensions.
- 3 Prior to any domestic use, the decking area shall be completed strictly in accordance with the approved plans.
Reason. In the interests of residential amenity pursuant to UDP Policy H2/3 and guidance set out in SPD6 Alterations and Extensions.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>