

DELEGATED REPORT

Report by Jane Langan	Date of report: 21/07/2023	Ref: 69565/FUL
Registration: 05/05/2023	LDfC: 10/06/2023	Expiry Date: 30/06/2023
Site Visit: 16/05/2023	Site Notice: 16/05/2023	Press Date: 18/05/2023
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, steps from front of property to rear garden and the erection of noise insulation boundary fencing

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.

Application 68575 for the raised steps and seating area and refused on 10/01/23 as it was considered that it would materially detract from the living conditions of the occupiers of 69 Shrewsbury Road by reason of loss of privacy and unneighbourly noise and disturbance. This application proposes to add a noise insulation boundary fence to address the reason for refusal.

The application form describes the proposal as ' Replacement of steps to lower ground garden incorporating a mid-step landing, steps from front of property to rear garden and the erection of noise insulation boundary fencing.' As can be seen from the site photos it also includes a seating area. The development as constructed comprises of a timber 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.

This application includes a proposed boundary fence inclusive of noise absorbent acoustic boarding. It would be to a total height of 4.7m on the boundary reducing to 3.4m at approximately 2.5m set back from the highway. It would comprise of a steel structure with acoustic layer. The side to the site garden would be covered in artificial plants and the side to the neighbouring property would be timber slats. It would be higher than the existing fencing in two sections. The first to the rear of the seating area which would see an additional 1.2m in height and a second section to the steps down which would be 0.5m higher.

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

68575 - Replacement of steps to lower ground garden incorporating a mid-step landing and steps from front of property to rear garden - Refused 10/01/2023.

Publicity

Surrounding neighbours were notified by letter on 10/05/23. A site notice was posted on 16/05/23 and a press notice placed in the Bury Times on 18/05/23. 3 representations have been received, one objection and two support

Objection

- Existing fence between 69 Shrewsbury Road and Shrewsbury House is clearly visible from Shrewsbury Road.
- A fence of this height and scale is more usually seen as a security fence around a large public event, not in a residential setting which sits within a conservation area.
- Concerns as to how the acoustic fence, if approved, would actually end up being constructed.
- Revised plans include no screening between the seating area and our property
- Plans are incorrect and misleading. The height of the lowest section of the fence between Shrewsbury House and 69 Shrewsbury Road is indicated on the plan as being 1800mm tall. The existing fence between the two properties is actually approximately 2400mm tall.

Support

- Great improvement on the last application.
- Happy with the changes that have been made. Worry was about added noise. Pleased to see that my concerns have been taken into considerations and changes to the plans have been made to combat them. Happy for the application to proceed and the building works to commence.

Statutory/Non-Statutory Consultations

Conservation Officer - No objection.

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 proposed steps and seating area would not be visible from the views along Lowther Road or Shrewsbury Road. The seating area 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. The proposed acoustic fence would see it higher than the existing fencing. This would however be two sections set back into the site by approximately 5.6m. The increased height would see an additional 1.2m and 0.5m. This would have limited view from the Lowther Road approach due to planting and trees screening. The main view would be the approach west along Shrewsbury Road. From the side the proposal would be timber slats which would see a typical material for domestic fencing. Given the set in from the boundary with the road it would not appear unduly intrusive.

In terms of the Conservation Area and NDHA then, the Conservation Officer notes that 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 harm the significance of Shrewsbury House. Although Shrewsbury House is sited within the St Mary's Conservation Area, the site is surrounded by 20th and 21st century residential development and as such the proposal would have a neutral impact on the character and appearance of the conservation area.

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 proposed steps and seating area with acoustic fence would be located along the boundary with 69 Shrewsbury Road. This property is detached with a gap at the side and then its side elevation. There is separating fencing that runs adjacent the raised steps and seating area on the site. The height of the site seating area is such that there is currently a direct view over to the gap to the side of No.69. The proposal includes additional fencing that would provide screening from the seating area. It would also be constructed inclusive of noise absorbent acoustic boarding. With the seating area screened and any potential noise reduced the proposal would not cause any serious impact on this adjacent neighbouring property. A condition for the implementation of the fencing is attached and was suggested by the agent.

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 the impact on the conservation area and relevant neighbouring properties are addressed in the above report. The agent has provided comparative plans to show the area and amount it is proposed to increase the fence height.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were

incorporated into the scheme and/or have been secured by planning condition. 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 drawings numbered EX-L001, PR-L002, PR-P001, PR-P002, PR-S001, PR-E003 Rev A, PR-E006 Rev A, PR-E007 Rev A, PR-E008 Rev A, Existing plans and elevations 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.
- 3 Details of the noise insulation boundary fencing hereby approved shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this decision. Upon approval of the noise details condition, all noise insulation fencing details shall be completed within 3 months of the approval of details and continued management and maintenance of the boundary shall be undertaken to the satisfaction of the Local Planning Authority. The boundary noise treatment shall be retained in perpetuity and any changes to the boundary treatment are required to be agreed in writing by the Local Planning authority.
Reason. To protect the amenity and privacy of adjoining occupiers and to accord with Policy H2/3 - Extensions and Alterations of the Bury Unitary Development Plan and 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	21/07/23	DM	26/07/23