

**DELEGATED REPORT**

|                                  |                                   |                                |
|----------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Dean Clapworthy | <b>Date of report:</b> 22/04/2022 | <b>Ref:</b> 68011/FUL          |
| <b>Registration:</b> 07/02/2022  | <b>LDFC:</b> 02/03/2022           | <b>Expiry Date:</b> 04/04/2022 |
| <b>Site Visit:</b> 03/03/2022    | <b>Site Notice:</b> N/A           | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 0             | <b>Con Area:</b> N/A              | <b>Adv Type:</b> NONE          |
| <b>Reason for Delay:</b><br>N/A  |                                   | <b>EIA:</b> NA                 |
|                                  |                                   | <b>Dec Level:</b> DEL          |
|                                  |                                   | <b>Stat Class:</b> MIOT        |

**Proposal:** Replace existing post & chainlink fence with picket fencing on grass verge between pavement to Brandlesholme Road and cricket field

**Location:** Greenmount Cricket Club, Brandlesholme Road, Tottington, Bury, BL8 4DX

**Description**

The proposal relates to the boundary of Greenmount Cricket Club and Brandlesholme Road and is to replace the concrete post and chain fence with a 1.2m composite picket fence. The existing fence is positioned set back from the immediate interface between the grass verge of the cricket field and the footway of the adopted road. The replacement fence would be generally on the same alignment, but would be positioned on the road side of trees (where the existing fence might link to actual trees).

The position of the fence falls at the boundary between the Green Belt and the urban area.

**Relevant Planning History**

66895 - Two storey extension at side; single storey extension at rear and external alterations including re-surfacing the existing car park - Approve with Conditions 12/07/2021

62346 - Erection of 6000mm high flag pole on village green - Approve with Conditions 02/03/2018

54854 - Extension to existing external viewing deck - Approve with Conditions 20/03/2012

**Publicity**

One letter of comment has been received raising issues concerning the present lack of safety fencing along the boundary of the cricket field with Brandlesholme Road and the potential danger caused by cricket balls leaving the field if play.

**Statutory/Non-Statutory Consultations**

Traffic Section: No objection, subject to a condition requiring reinstatement of the highway verge.

**Unitary Development Plan and Policies**

|       |                                    |
|-------|------------------------------------|
| EN1/1 | Visual Amenity                     |
| EN1/2 | Townscape and Built Design         |
| 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) 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.

## **ASSESSMENT**

The proposed fence would be approximately 350mm higher than the existing. It is noted that a picket fence of 1m in height could be erected without the need for planning permission (in any form or materials).

The proposed fence would be of an attractive form and the materials would give the effect of it being white painted timber, commonly seen bounding cricket pitches.

The Highway officer is satisfied that the proposed fence would not impinge upon highway safety.

## **DELEGATED REPORT**

The representation relates to a pre-existing situation, which is not therefore material to the consideration of the proposal.

Given the above and the fall back position, the proposal would not be harmful to visual amenity, the openness of the Green Belt or highway safety.

### **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 drawings Location Plan dated 25/01/2022, drawing no. 02, 8, and 9A 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 The boundary treatment alterations indicated on the approved plans and all associated foundations required for the fencing shall be sited clear/shall not encroach under the adjacent adopted highway. Any necessary highway remedial works required to reinstate the adjacent verge to its former condition prior to commencement of the development shall be implemented to the satisfaction of the Local Planning Authority. Reason. To secure the satisfactory development of the site in terms of highway safety and maintain the integrity of the adopted highway, pursuant to Bury Unitary Development Plan Policy EN1/2.
- 4 No materials shall be used on the external elevations or roof of the proposed development other than those referred to on the approved plans / supporting documentation.  
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policy EN1/1 Visual Amenity.

|                            |                           |                         |             |
|----------------------------|---------------------------|-------------------------|-------------|
| <u>Case Officer</u><br>DSC | <u>Date</u><br>22/04/2022 | <u>Sign off Officer</u> | <u>Date</u> |
|----------------------------|---------------------------|-------------------------|-------------|