

DELEGATED REPORT

Report by Amanda

Date of report: 13/07/2022

Ref:67754/FUL

Uhunmwagho

Registration: 30/11/2021

LDfC: 22/12/2021

Expiry Date: 25/01/2022

Site Visit: 09/12/2021

Site Notice: N/A

Press Date: N/A

Objections: 1

Con Area: N/A

Adv Type: NONE

Reason for Delay:

EIA: NA

N/A

Dec Level: DEL

Stat Class: HOUS

Proposal: Fencing to the side

Location: 8 Mayfair Grove, Whitefield, Manchester, M45 6BQ

Description

Planning permission has been previously granted at this property for extensions to the dwelling. The current application is regards the erection of a new fence along the site boundary to the north of the site. The footpath which runs along the north side of the site is designated as an adopted highway and on the opposite side of the footpath is a small garage complex.

The applicant has previously removed the original fence along the north side of the garden and erected a new fence along the site boundary which runs directly alongside the footpath to the north. The original fence was set back form the boundary with the highway by around 1.3m to the rear of the site. The new fence has been erected directly adjacent to the path.

According to the plans the fence measures 1.8m high when measured from the ground level on site but as the footpath to the side is lower the maximum height of the fence measure 2.34m.

Relevant Planning History

65309 - Two storey rear and side extension; Single storey rear extension - Approve with Conditions 01/05/2020

67200 - Two storey rear and side extension; single storey rear extension; increase in height of roof; juliet balcony to the rear - Approve with Conditions 05/01/2022

Publicity

Neighbours notified on 01/12/2021 - One objection received. See below.

I object to the fence which has been erected a long way from it's original position, which makes the footpath difficult for people to pass, particularly wheelchair and pram users. People coming from opposite directions now have to wait at the end of the path until they can proceed. The area before the fence was erected was a pleasant green area pleasing to the eye, with flowers and shrubs. We, the local residents consider the fence does not improve the area but degrades it. The border this fence creates has been significantly changed from it's original position without consultation with people who it affects. The land registry shows the new position of the fence is not on the land belonging to 8 Mayfair Grove. The fence is also much higher than the 1.8m applied for. The land registry reference number is SD 8005 section L.

Statutory/Non-Statutory Consultations

Public Rights of Way Officer - No representations received.

Traffic Section - The Highways officer has objected to the proposal advising the following;

- The proposed vehicular access alterations at the front of the property shown indicatively on the submitted plans are substandard, would not enable a vehicle to be maintained clear of the adopted highway and would be located too close to the existing concrete street lighting column on Mayfair Grove, which would be detrimental to highway safety and maintaining the integrity of the adopted highway.
- The application and submitted plans do not provide sufficient, topographical survey based information in order for the physical impact of the proposed fence on the existing adopted highway to be properly assessed.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

SPD6 Supplementary Planning Document 6: Alterations & Extensions

H2/3 Extensions and Alterations

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 main considerations of this application are the impact of the proposal on visual and residential amenity.

Visual Amenity -

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.

The fence that has been erected is of a timber style which is considered to be a common feature in terms of a residential site. It would be similar in position, style and height to a neighbour's fence on the opposite side of the Metrolink tracks to the north east which also runs directly along the boundary with the footpath.

The site is at the top end of a small cul-de-sac and as such the fence is only visible to users of the footpath access to Buckingham Avenue. The fence is along the side of the site and would not project forward of the dwelling on site. As such its impact on the existing streetscape would be minimal and not considered significantly detrimental enough to warrant refusal.

Given the above the proposal conforms to Bury UDP Policy H2/3 - Extensions and Alterations and the guidance in Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties in terms of visual amenity.

Residential Amenity -

The north side boundary of the site is angled meaning that the rear of the site is wider compared to the front. The original timber fence was set back from the edge of the footpath by around 1.3m at the rear of the site and at the front of the site there were concrete panels erected directly along the boundary with the adjacent path. Google Street view images show that there were lots of overgrown bushes and weeds along the outside of the original boundary fence which overhung the footpath to the side. There were also many overgrown bushes and weeds on the opposite side of the footpath also overhanging the path.

By positioning the fence directly adjacent to the footpath the overgrown bushes/weeds have been removed resulting in the adjacent footpath being more open for users as the overgrown planting to the south side of the path has now been removed.

All of the fence would be erected behind the front elevation of the dwelling (including its extension once built). The revised site plan received on 10/06/22 shows that there would be shrubs planted along the side boundary to the front of the house which would ensure that visibility would be retained for users of the footpath as well as the applicant moving their vehicle on/off the drive way on site. As there would only be shrubs planted to the front of the site it would also retain good visibility for users of the small garage complex to the side of the site.

The applicant has provided a site plan and signed certificate A advising that they have ownership of all of the land concerned and that all of the development, including foundations would be within the site boundary. This would be considered acceptable in terms of determining the planning application. Any disputes regards land ownership would

be considered a civil matter and the applicant would need to discuss this with the relevant party(parties).

Taking the above in to account the proposal conforms to UDP Policy H2/3 - Extensions and Alterations and the requirements of Supplementary Planning Document 6 – Alterations and Extensions to Residential Properties in terms of residential amenity.

Highways Comments -

The Highways officer has advised that in their opinion the plans submitted do not provide sufficient enough information in order properly assess and determine the impact of the fence on the existing adopted highway to the side of the site. However, the revised plans submitted are considered acceptable in terms of what is required to determine the planning application. As such this would not be a reason to refuse the current application.

The Highways officer has also referred to the alterations to the existing driveway arrangements at the front of the site. The current proposal is for the fence which has been erected to the side of the site. It does not include any new car parking which may be created to the front of the site.

The previously approved planning application at this property (ref 67200) did indicate parking to the front of the extended property which would conform to the requirements as set out in SPD 6. However, it could be possible for the applicant extend the existing drive way area under Permitted Development rules. As on site parking is not part of the current application this would not be a relevant reason for refusal.

Given that the Highways officer has highlighted the closeness of the streetlighting column at the front of the site an informative would be added to the decision ensuring the applicant is aware of this.

Response to neighbour objection -

The new fence has been erected closer to the footpath than the fence which was previously on site. However, prior to the fence being erected there were multiple overgrown bushes, weeds which overhung the footpath, similar to what still exists on the opposite side. Although the neighbour feels that the fence makes it more difficult for people to pass on the path the fact that the overgrown planting has been removed from one side of the path has actually cleared some of the obstruction along the path which in turn would make it easier for people to use.

The neighbour has also stated that the area was a pleasant, green area which had flowers and shrubs. In fact, although there may be some bushes along the footpath they are extremely over grown and the area is riddled with weeds and nettles. As stated in the above paragraph, by erecting the fence the applicant's side of the footpath has been cleared.

The fence has been erected without prior permission but the applicant has addressed this concern with the submission of the planning application.

In terms of the fence height the proposal did originally state that the fence measures 1.8m high. According to the plans the fence does measure 1.8m as measured from the ground level on site. The ground level of the footpath to the side is lower to that on site and so the fence is a maximum of 2.34m on the outer side. This is slightly taller than the usual 2m which is often found to the boundaries of residential properties but given its position adjacent to a footpath it would be considered acceptable in this instance. It is also taken in to account that it is a similar height and position of a fence along the footpath at a neighbouring property to the rear, on the opposite side of the Metrolink tracks.

The applicant has provided a site plan showing the site boundary and stated on the application form (certificate A) that they own all of the land which is being developed. Any

disputes regarding land ownership would be considered a civil matter which would need to be discussed between the relevant parties.

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 This decision relates to the revised elevation drawing received on 21/03/2022 and revised site plan received on 10/06/2022 as modified by the emails from Mr Simon King dated 21/03/2022 and 10/06/2022. The development shall not be carried out except in accordance with the details hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury UDP Policy H2/3 - Extensions and Alterations and the guidance in Supplementary Planning Document 6 – Alterations and Extensions to Residential Properties.
- 2 Within two month of the decision date of the development hereby approved the fence posts projecting above the top of the fence panels shall be reduced in height, as shown on the revised elevation drawing received on 21/03/2022 and thereafter retained.
Reason - For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury UDP Policy H2/3 - Extensions and Alterations and the guidance in Supplementary Planning Document 6 – Alterations and Extensions to Residential Properties in terms of visual amenity.
- 3 The external finishing materials for the proposal hereby approved shall match those of the existing building.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to 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>
AU - 13/07/2022			