

DELEGATED REPORT

Report by Jane Langan	Date of report: 13/05/2026	Ref: 73033/FUL
Registration: 30/03/2026	LDfC: 07/05/2026	Expiry Date: 25/05/2026
Site Visit: 22/04/2026	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Erection of a 1.98m boundary fence along the rear garden adjacent to the highway

Location: 66 Church Meadow, Bury, BL9 8JF

Description

The property is a two storey detached house located on a corner plot at the junction with Kentmere Close. The side elevation of the house runs along the footpath with Church Meadow separated by a grass strip. To the front is a small garden with parking. The rear garden is screened by a brick boundary wall that runs along the grassed strip to the junction with Kentmere Close where it is angled round to the rear and there is planting to the corner.

The application proposes to remove a 11.5m length of the brick wall along the side that borders the rear garden along Church Meadow. The existing wall is 1.5m high with 1.98m pillars and would be replaced with a 1.98m high concrete post and timber panel fence. It would extend out further than the existing wall by 1.13m to abut the footpath to Church Meadow. The elevation plans show gates to each end for access to the garden.

Relevant Planning History

None.

Publicity

Surrounding neighbours were notified by letter and two responses have been received from nearby neighbours. Their comments in summary are :-

- Completely in support. Concerned for the safety of the current eroding wall. Catastrophic consequences if it was to fall either into the garden where young children regularly play or into the public highway footpath.
- Beneficial for the privacy of the applicant
- Dog walkers allow their dogs to defecate on the grass which is a huge concern for the health and safety of the children who play on the grass
- Fence will improve the appearance

Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal as the proposal would restrict visibility at the junction with Kentmere Close and the submitted plans contain insufficient information to ensure that the proposed fence and its foundations would not have an adverse impact on the integrity of the adjacent footway/adopted highway.

Pre-start Conditions - Not relevant.

Development Plan and Policies

H2/3	Extensions and Alterations
SPD8	DC Policy Guidance Note 8 - New Buildings in the Green Belt
PFE	Places for Everyone

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.

SPD6 Section 8 relates to Gardens, Garden Structures and Fencing and states that proposals for new or replacement fences, walls or other means of enclosure will be considered in terms of their impact on the character of the locality, residential amenity and highway safety.

Visual amenity and design - The general character of the estate gardens to front and side boundaries is that of open plan gardens and low walls/fences/hedges with higher fencing set in with grassed areas or planting to the boundary. The application site follows this character. The proposed fencing would see the loss of a section of the brick wall and the set in from the boundary. The replacement fencing positioned along the public footpath would be highly prominent and out of character with the area. Whilst the materials are not uncommon for boundary treatment to rear residential gardens that proposed would result in an incongruous feature in the street due to its size and position and as such be detrimental to the visual amenity of the area contrary to UDP Policy H2/3 and SPD 6 - Alterations and Extensions to Residential Properties.

The application notes that the grass strip is subject to dog fouling and poses a health risk to children. Whilst this would be a concern it could be that the addition of shrubs and planting would prevent this and result in a boundary in keeping with the immediate area.

It is also stated that the wall shows signs of failure and presents a risk of collapse and potential injury. The upkeep of boundary treatment is the responsibility of the homeowner. A replacement scheme would not need to be a reposition abutting the footpath.

The application statement refers to permitted development rights to construct boundary treatments. It states that a 1m high fence that could be constructed as permitted development however where adjacent the highway they are restricted to 1m in height in order that fencing above this height can be controlled.

Highway Safety - The Highways Section responded to consultation and recommend refusal as the proposal would restrict visibility at the junction Kentmere Close with Church Meadow to sub-standard levels, and which would be in conflict with the arrangements approved when the residential development was first constructed and detrimental to highway safety.

They also note that the application and submitted plans contain insufficient information to ensure that the proposed fence and its foundations would not have an adverse impact on the integrity of the adjacent footway/adopted highway.

It is noted that there is planting to the corner junction with Kentmere Close however this is not a permanent feature that the erection of fencing would be.

Residential amenity - The fencing would be located in a position as such that it would not be detrimental to the amenity of any nearby residents.

As the development is contrary to UDP Policy H2/3 and SPD 6 - Alterations and Extensions to Residential Properties with regard to visual amenity and highway safety it is recommended the application is refused.

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

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Refuse

Conditions and Reasons:

- 1 The fencing, by reason of its height and position, would be a prominent and intrusive

feature in the street scene, out of character with the area and therefore seriously detrimental to the visual amenities of the area. The development therefore conflicts with the following policy of the Bury Unitary Development Plan: H2/3 - Alterations and Extensions and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.

- 2 The proposal would restrict visibility at the junction Kentmere Close with Church Meadow to sub-standard levels, which would be in conflict with the arrangements approved when the residential development was first constructed and detrimental to highway safety. The development therefore conflicts with the following policy of the Bury Unitary Development Plan: H2/3 - Alterations and Extensions and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.
- 3 The application and submitted plans contain insufficient information to ensure that the proposed fence and its foundations would not have an adverse impact on the integrity of the adjacent footway/adopted highway. The development therefore conflicts with the following policy of the Bury Unitary Development Plan: H2/3 - Alterations and Extensions and associated 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	13/05/26	HL	15.05.2026