

DELEGATED REPORT

Report by Tom Beirne	Date of report: 05/04/2022	Ref: 68086/OUT
Registration: 14/02/2022	LDFC: 17/03/2022	Expiry Date: 11/04/2022
Site Visit: 23/03/2022	Site Notice: 02/03/2022	Press Date: 03/03/2022
Objections: 0	Con Area: N/A	Adv Type: ARW
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Outline planning consent for demolition of existing dwelling and outbuildings and construction of replacement dwelling (all matters reserved) (Resubmission)

Location: The Nurseries, Leigh Lane, Bury, BL8 1RL

Description

The application is a resubmission of a previously approved applications in 2007, 2010, 2015 and 2019. The site is located at the former Ainsworth Nurseries and consists of an existing dilapidated detached dwelling within a large plot of land which form part of the former nursery, which is boarded up and the remains of a garage to the west of the application site. To the west of the application site is a further detached bungalow, which is in a state of disrepair and attached outbuildings which is also subject to a separate outline planning application (68088).

To the north of the site are the playing fields to Elton High School and there are residential dwellings to the east and these are located some 130 metres away. The only access to the site is via Leigh Lane, which is a single track, unmade road which is also a PRoW (143 BUR). There are a number of TPO trees on this and the adjacent site.

The applicant seeks outline consent for the demolition of an existing bungalow and the erection of a replacement bungalow with all matters reserved for future approval.

Relevant Planning History

02288/E - Erection of 7 no. dwellings - Enquiry completed 10/05/2019
59167 - Outline Application - Demolition of existing dwelling and outbuildings and construction of new dwelling - Approved 12/10/2015
59169 - Outline Application - Demolition of existing bungalow and outbuildings and erection of new bungalow - Approved 12/10/2015
63624 - Outline application for demolition of existing dwelling and outbuildings and construction of replacement dwelling (all matters reserved) - Approved 14/02/2019
63625 - Outline application for demolition of existing bungalow and outbuildings and erection of new bungalow (all matters reserved) - Approved 14/02/2019
68088 - Renewal of outline planning consent for demolition of existing bungalow and outbuildings and erection of new bungalow (all matters reserved) - Undecided

Publicity

Immediate neighbours notified by letter dated 23/02/2022. Site and Press notices posted (PRoW). No objections received. No objections received.

Statutory/Non-Statutory Consultations

Traffic Section - No objection.
Drainage Section - No objection.
Environmental Health - No objection.

Public Rights of Way Officer - No objection.
Greater Manchester Ecology Unit - No objection.

Pre-start Conditions - Agreed.

Unitary Development Plan and Policies

H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/2	Townscape and Built Design
EN6/2	Sites of Nature Conservation Interest LNR's
EN6/3	Features of Ecological Value
EN6/4	Wildlife Links and Corridors
EN8	Woodland and Trees
EN9/1	Special Landscape Areas
OL1/2	New Buildings in the Green Belt
HT2/4	Car Parking and New Development
HT4	New Development
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD8	DC Policy Guidance Note 8 - New Buildings in the Green Belt
EN6	Conservation of the Natural Environment
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.

UDP Policies - Policy H1/2 Further Housing Development - The Council will have regard to the following factors when assessing proposals for housing development on sites not identified on the Proposals Map:

- a) the need to direct development towards the urban area;
- b) the availability of infrastructure;
- c) the need to avoid the release of peripheral open land, unless this can be shown to be consistent with urban regeneration;
- d) the suitability of the site in land use terms with regard to amenity, the nature of the local environment and surrounding land uses;
- e) other policies and proposals of the Plan.

Policy H2/1 states that all new residential development should make a positive contribution to the surrounding area and should have regard to the heights and roof types of adjacent buildings, the position and proximity of neighbouring dwellings and the density and character of the surrounding area.

Policy H2/2 of the Unitary Development Plan states that the new residential development should demonstrate acceptable standards of layout including, adequate parking available, suitable landscaping and open space.

Principle - The proposed development would involve the demolition and erection of a new dwelling in the green belt. The replacement of an existing dwelling is considered to be appropriate within the Green Belt, providing that the new dwelling would not be 'materially larger than the one it is replacing. The application has been submitted in outline with all matters reserved. The proposed dwelling has been sited 15 metres to the north of the footprint of the existing dwelling. Whilst the proposed siting is not on the original footprint of the dwelling, it is located in a more central position within the established residential curtilage and would be acceptable. Therefore, it is considered that the proposed development would comply with Policy OL1/2 of the adopted Unitary Development Plan.

It is stated that the floorspace of the proposed dwelling would not exceed 308 square metres, which relates to the combined area of the existing dwelling and the outbuildings. It is considered that the existing outbuildings are proportionate to the size of the proposed dwelling and additional information has been submitted, indicating that the floorspace for the proposed dwelling would include any garaging requirements. Therefore, it is considered that the floorspace for the proposed dwelling, including a garage of 308 square metres, is acceptable and would not be detrimental to the openness of the Green Belt. The proposed development is in accordance with Policy OL1/2 of the adopted Unitary Development Plan.

Impact upon residential amenity - The nearest residential property would be the bungalow, which is located some 24.5 metres away. The nearest existing residential property is some 130 metres away, which is well in excess of the aspect distances suggested in adopted guidance. As such, the proposed development would not have an adverse impact upon the amenity of the neighbouring residents and would comply with the

NPPF and UDP Policy in regard to H2/1.

Ecology - The latest bat survey dated 13th February 2022 states risk to bats is low but sets out a Method Statement for Reasonable Avoidance Measures. A suitable condition requiring the measures to be carried out under the supervision of a qualified ecologist would be attached to the decision notice and this would comply with the NPPF and UDP Policy EN6/3 Features of Ecological Value and EN8 Woodland and Trees.

TPO trees should not be adversely affected but conditions relating to trees and tree protection measures would also be attached to any approval.

Landscaping - The impact of the proposed development, in terms of the design and landscaping, upon the Special Landscape Area is unlikely to be significant but would be assessed as part of the reserved matters application. The siting and scale of the proposed dwelling would not conflict with Policy EN9/1 of the adopted Unitary Development Plan.

Highway Issues - The proposed dwelling would be accessed via the existing access onto Leigh Lane. The proposed development would not intensify the use of Leigh Lane and therefore, the Traffic Section has no objections to the proposal. The existing gardens are large enough to accommodate the necessary parking as required by SPD11. Therefore, the proposed development would not be detrimental to highway safety and would be in accordance with Policies H2/1, H2/2 and HT2/4 of the adopted Unitary Development Plan and SPD11.

Permission should be granted having regard to the policies and proposals listed and the reason(s) for granting permissions can be summarised as follows:-
The proposed development is acceptable in principle and would not be detrimental to the openness of the Green Belt. The proposed development would not have an adverse impact upon highway safety. There are no other material considerations that outweigh this finding.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 Applications for approval of reserved matters must be made not later than:
 - the expiration of three years beginning with the date of the grant of outline planning permission; and
 - that the development to which the permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason. Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004
- 2 Before the development is commenced, the applicant shall submit detailed plans and particulars to the Local Planning Authority, and obtain their approval under the Town and Country Planning Acts, of the following reserved matters; the layout, scale, appearance, access thereto and the landscaping of the site.

Reason. To ensure the satisfactory development of the site and because this application is in outline only.
- 3 This decision relates to drawings numbered 22/1208/201A 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 policies of the Bury Unitary Development Plan listed below.
- 4 Prior to commencement of development, the existing buildings on the site shall be demolished and materials removed from the site.

Reason. In order to maintain the openness of the Green Belt and in the interests of proper planning practice pursuant to the NPPF and UDP Policies OL1/2 New Buildings in the Green Belt.

- 5 Full details of the following highway aspects shall be submitted at first reserved matters application stage:
- Access arrangements at the junction with Leigh Lane/Public Right of Way (Bridleway) No. 143, Bury;
 - Provision of turning facilities within the curtilage of the site in order to enable vehicles to enter and leave in a forward gear;
 - Provision of parking facilities within the curtilage of the site in accordance with the maximum standards in SPD 11 - Parking Standards in Bury.

The highway works subsequently approved shall be implemented to an agreed programme and to the written satisfaction of the Local Planning Authority before phase of the development subsequently agreed is first occupied.

Reason. To ensure good highway design, adequate off street car parking provision and to minimise the standing and turning movements of vehicles on the highway, in the interests of road safety.

- 6 No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and agreed in writing with the Local Planning Authority and shall confirm/provide the following:
- Access route for demolition/construction traffic from the highway network;
 - Hours of operation and number of vehicle movements;
 - A scheme of appropriate warning/construction traffic speed signage in the vicinity of the site and its access;
 - Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site;
 - Parking on site of operatives' and demolition/construction vehicles together with storage on site of demolition/construction materials;

Measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the demolition/construction periods and the measures shall be retained and facilities used for the intended purpose for the duration of the both periods. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of demolition/construction materials.

Reason. To mitigate the impact of the demolition/construction traffic generated by the proposed development on the adjacent residential streets, ensure adequate off street car parking provision and materials storage arrangements for the duration of the demolition/construction periods and ensure that the adjacent highways are kept free of deposited material from the ground works operations, in the interests of highway safety.

- 7 No development shall commence unless and until:-
- A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
 - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
 - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason. The scheme does not provide full details of the actual contamination and

subsequent remediation, which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 11 - Conserving and enhancing the natural environment.

- 8 Following the provisions of Condition 6 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to Planning Policy Statement 23 - Planning and Pollution Control.
- 9 Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validity evidence (soil descriptions, laboratory certificates, photographs etc) submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to Planning Policy Statement 23 - Planning and Pollution Control.
- 10 All instances of contamination encountered during the development works which do not form part of an approved Remediation Strategy shall be reported to the Local Planning Authority (LPA) immediately and the following shall be carried out where appropriate:
- Any further investigation, risk assessment, remedial and / or protective works shall be carried out to agreed timescales and be approved by the LPA in writing;
 - A Site Verification Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the development being brought into use.
- Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to UDP Policy EN7 Pollution Control.
- 11 The landscaping scheme to be submitted as a "reserved matters" shall include a survey of all existing trees on the site, indicating species, height, branch spread and condition and should indicate the trees which it is proposed to retain.
Reason. To secure the satisfactory development of the site and to avoid the loss of trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.
- 12 No trees subject to a Tree Preservation Order, unless indicated otherwise on the approved plans, shall be felled, lopped or topped before, during or after the construction period without the previous written consent of the Local Planning Authority.
Reason. To avoid the loss of trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

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- 13 All trees to be retained on site shall be protected in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction". The development shall not commence unless and until the measures required by the British Standard are implemented and all measures required shall remain in situ until the development has been completed.

Reason. To avoid the loss of trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

- 14 The development shall be carried out in accordance with the Method Statement for Reasonable Avoidance Measures contained in the Bat Survey Report, Dave Anderson dated 13th February 2022.

Reason. In order to protect bats that could be utilising the building pursuant to UDP Policy EN6/3 Features of Ecological Value.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	05/04/2022		