

Appeal against the refusal by Bury Metropolitan Borough Council for the erection of one detached house on land adjacent to 73 Higher Lane, Whitefield M45 7EZ

Appeal Statement

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Charles Ridley (Beech House Developments) against the decision of Bury Metropolitan Borough Council.
- The application Ref 69725, dated 5 June 2023, was refused by notice dated 3 August 2023.
- The proposed development is for the erection of one detached house to be accessed from Higher Lane (Amended house type to planning permission 68474)

Procedural Matter

The various application documents refer to the detached dwelling to the rear of the proposed dwelling as No. 67 Higher Lane, whereas there is agreement by the parties that it is actually No. 69 Higher Lane. It will be referred to as No. 69 in this appeal statement.

The site and proposal

The appeal site is in a residential area consisting of a range of properties from terraces to detached dwellings and where most are of two storeys with double pitched roofs. Brick is a common building material.

The appeal site itself is a vacant plot of land with dwellings to the rear and to the side.

The dwelling to the rear is a detached dormer bungalow with its access taken from Higher Lane. The access abuts the appeal site.

Existing trees and hedging separate the appeal site to its rear from No 69 Higher Lane

The Main Issue

The main issue is the effect of the proposed dwelling on the living conditions of the occupants of the house to the rear of the site (No 69 Higher Lane) by its prominence and dominance and its impact on their amenities in terms of privacy and outlook.

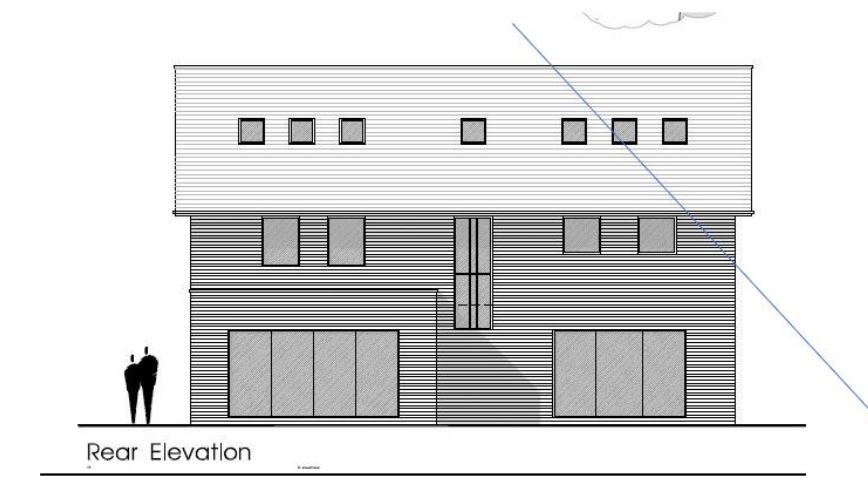
There is an extant planning approval for a detached dwelling on the appeal site, approved on 16 December 2022 under planning application ref: 68474. It occupies the same footprint, both in terms of its siting and extent, to the proposed appeal building. In fact, the only difference is that it includes a cat's slide roof to part of it, as distinct to the appeal proposal which is for a continuous double pitched roof with traditional gables. The ridge height is the same. The appeal proposal includes additional velux windows on the rear elevation.

Proposed rear elevations when seen from No 69 Higher Lane

Extant approval



Appeal proposal



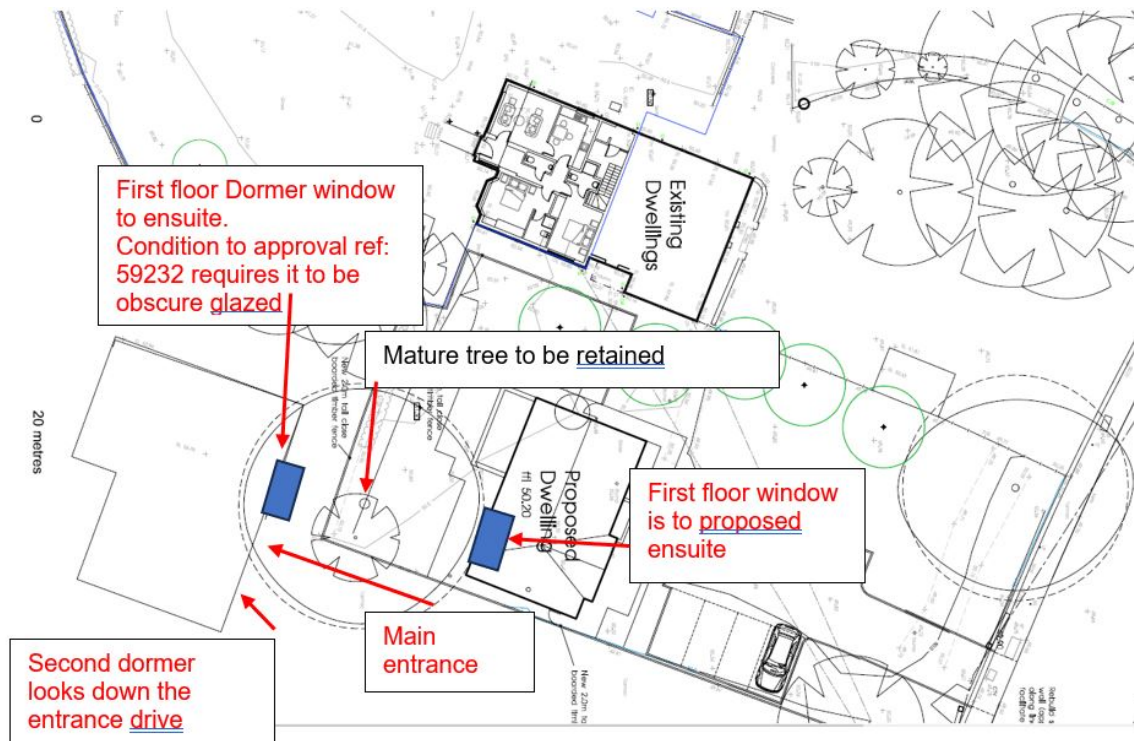
In its Decision Notice, the local planning authority (LPA) considers that ‘*the amended house type would, by reason of the proposed change in size and design, be a more prominent and overly dominant feature within the site and particularly in relation to the neighbouring property at the rear. The proposal would therefore, be seriously detrimental to the visual and residential amenity*’.

However, it is not clear from the Decision Notice or from the accompanying officer report, which amenities of the occupiers of No 69 Higher Lane might be adversely affected in terms of their visual and residential amenities.

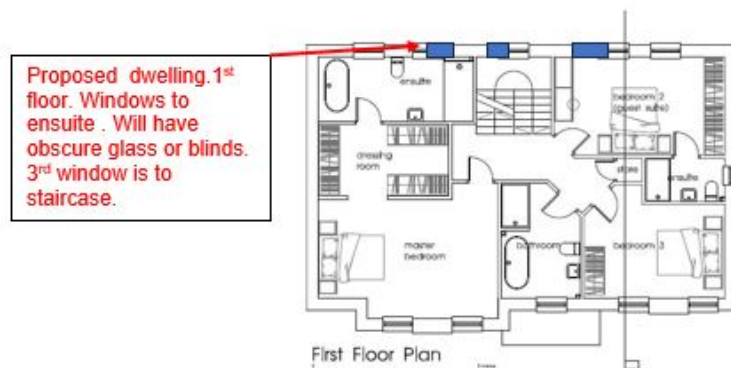
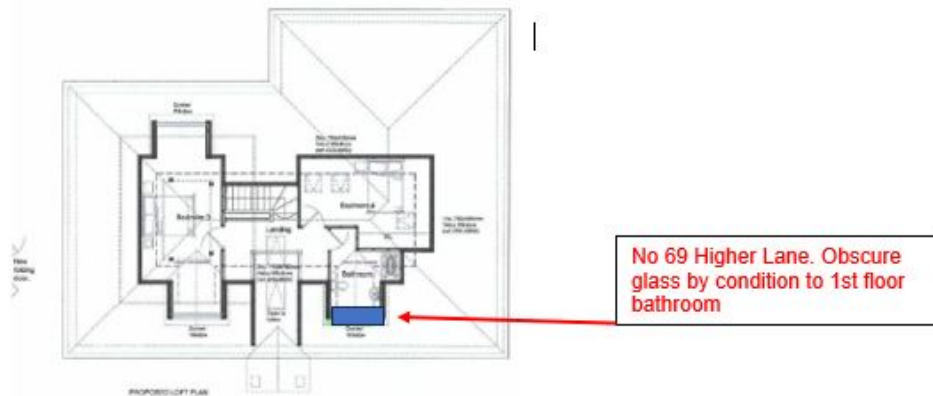
These could be either in terms of their outlook or their privacy.

Privacy

There is already an extant approval for a detached dwelling on the appeal site with the same separation distance from No 69 Higher Lane. The two dwellings would be off-set, and where their elevations overlap, facing first floor windows are for bathrooms and en-suits rather than to habitable rooms. In fact, the facing dormer window to No 69 Higher Lane has, by planning condition, obscure glazing.



Proposed dwelling and No 69 Higher lane dwelling (first floor) as facing each other
(Distance NTS)



It is the case that the appeal proposal includes 3 more velux windows in the roof space than the extant approval (to serve bedroom no 5), but these would be no closer to No 69 Higher Lane than the 3 velux roof windows already approved for the extant plans.

Should the veluxes be considered to present an issue of privacy, we would accept a condition that the cill heights for all the roof lights should be a minimum of 1.7 metres from the floor so as to restrict downward or parallel views from them.

Furthermore, there is a large mature beech tree which is to be retained which blocks the view of the proposed dwelling when seen from No 69 Higher Lane. The submitted arboricultural assessment notes that it (Tree T16) is some 20 metres tall in a healthy condition and with a likely long lifespan ahead of it.

A landscaping condition would enhance any such intervening screening.

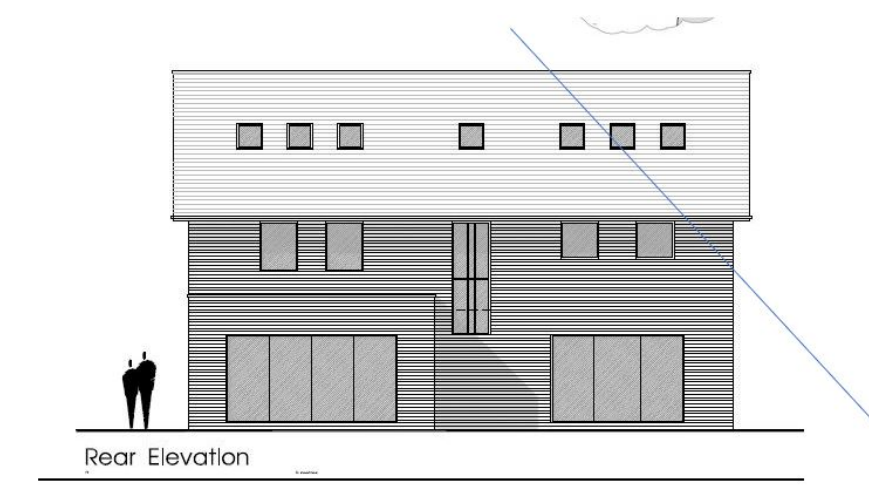
For the above reasons, including the same intervening distances, the arrangement of non-habitable rooms which face each other (plus, if necessary, a condition to control views from the additional roof lights) there would be no additional or adverse impact upon the residential amenities of the occupiers of No 69 Higher Lane in terms of privacy.

Outlook

The proposed development includes a 2-metre-high close boarded fence both to the rear on the boundary with No.69 Higher Lane and also bordering the latter's access drive.

In addition, while the proposed dwelling would extend in front of No 69, it would only do so in front of its first-floor dormer window which has, by condition, to have obscure glazing. It would not extend in front of its other first floor windows which, with its main entrance, have unimpeded views directly down its driveway: -

Appeal proposal



For the above reasons, the proposed development would not significantly, if at all, affect the residential amenity of the occupiers of No 69 Higher Lane in terms of privacy or outlook.

Therefore, the proposed development would accord with policy EN1/2 of the Bury Unitary Development Plan 1997 (UDP) which seeks to protect, preserve and enhance the character and appearance of Bury's built environment. It would also comply with UDP policy H2/1 which expects new development to make a positive contribution to the quality of the surrounding area by, amongst other things, taking account of the impact upon residential amenity. It would accord with the Council's Supplementary Planning Document SDP16 (2008) which requires good design and with chapter 12 of the National Planning Policy Framework 2023 (the Framework) which requires the same and where development must have a high standard of amenity for existing and future users.

Other Matters

The Listed building

No.71 Higher Lane (Broxups) which is adjacent to the appeal proposal on the latter's western boundary, is a grade II listed building (LB). The LPA states that It

is 17th century in origin with a symmetrical 19C frontage with later additions and alterations. It abuts No.73, the property attached at the rear, and which the LPA considers is not of special interest beyond being attached to the listed building.

The LPA notes that as there is already an extant approval for the development site, and as the proposed changes to the house are on the east side, away from the LB, the proposed development would accord with UDP Policy EN2/3 and chapter 16 of the Framework, which require development to sustain and enhance historic assets including their settings. I see no reason to disagree.

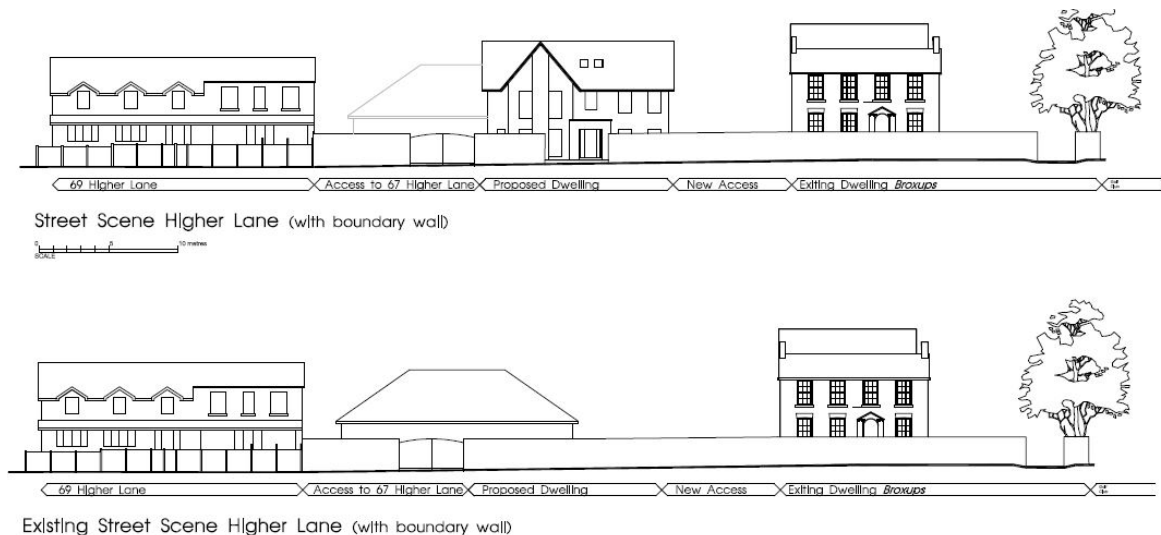
The street scene

The LPA Decision Notice states that ‘ *the amended house type would, by reason of the proposed change in size and design, be a more prominent and overly dominant feature within the site and particularly in relation to the neighbouring property at the rear. The proposal would therefore, be seriously detrimental to the visual and residential amenity.*

The Main Issue considers this in relation to No 69 Higher Lane.

So far as the impact of the proposed development on the street scene more generally is concerned, its height, design and external materials would not be out of keeping with surrounding development which is characterised in its appearance by a variety of building forms but where two storey, brick buildings with double pitched roofs predominate.

The submitted street scenes submitted with the planning application show how the proposed development would integrate well into the street scene.



In fact, the addition of the proposed dwelling would improve the street scene when seen from Higher Lane by filling an unsatisfactory gap in design terms.

Proposed conditions

Should the appeal be allowed, the LPA will no doubt wish to impose the same conditions as were attached to the extant approval (Ref 68474), other than those which might have been discharged. We would accept any such pre commencement conditions.

In addition, if it is considered necessary, we would accept a condition that the cill heights of the proposed roof lights shall be set at no lower than 1.7 metres above the floor level of the associated rooms. Reason: to protect the privacy of the occupants of No 69 Higher Lane.

Conclusion

For the above reasons we ask therefore that the appeal is allowed.

Steven Hartley BA(Hons), Dist.TP (Manc), DMS, MRTPI, MRICS

HP and DA Ltd

October 2023