

**DELEGATED REPORT**

**Report by** Amanda

**Date of report:** 03/10/2022

**Ref:**68590/FUL

Uhunmwagho

**Registration:** 23/06/2022

**LDfC:** 12/08/2022

**Expiry Date:** 18/08/2022

**Site Visit:** 19/08/2022

**Site Notice:** N/A

**Press Date:** N/A

**Objections:** 0

**Con Area:** N/A

**Adv Type:** NONE

**Reason for Delay:**

**EIA:** NA

N/A

**Dec Level:** DEL

**Stat Class:** HOUS

**Proposal:** First floor rear extension

**Location:** 37 Rhiwlas Drive, Bury, BL9 9DE

**Description**

The application relate to a two storey semi-detached house which has a single storey extension to the rear. There is a small front garden with a short brick wall along the front boundary and parking on site for one vehicle. At the rear there is a very small yard area with around 3m from the rear elevation of the existing extension to the rear boundary.

The proposal is to build a first floor extension to extend an existing bedroom. It would project 2.8m from the existing rear elevation and would measure 3.85m wide. It would have a flat roof.

**Relevant Planning History**

48871 - First floor side and rear extension - Refused 07/12/2007.

**Publicity**

Neighbours notified on 22/07/2022 - No comments or objections received.

**Statutory/Non-Statutory Consultations**

None.

**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.

Given that the extension would be built on the rear elevation of the dwelling it would not be openly visible in the main streetscape along Rhiwlas Drive. The finished materials would match the existing dwelling.

The extension would have a flat roof. In many cases it may not be appropriate to build a first floor extension with a flat roof but given that the extension would not be visible in the main streetscape and it would only be partially visible from 160 Parkhills Road to the rear given that the neighbouring property has a slightly higher land level and planting along the rear boundary. Therefore, it would not cause any significant detrimental harm in terms of visual amenity. With that in mind the design of the proposal is considered acceptable in this location.

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 -**

- As the extension would be to the rear of the existing dwelling there would be no detrimental impact on residential amenity to properties to the front of the site.
- 39 Rhiwlas Drive, to the east has a single storey rear extension. As the first floor extension would not project beyond the rear elevation of this property it would not have any significant detrimental effect on residential amenity at this property.
- SPD 6 states that in terms of first floor habitable room windows there should be at least 7m to a shared boundary in order to retain privacy levels between properties/land. In this instance the rear yards area is so small that there is only around 3m from the rear of the existing single storey rear extension. This would remain the same for the proposed first floor extension. After some discussion with a senior planning officer it was decided that in this instance if the applicant agreed to obscurely glaze the window to the rear elevation, which would only be 3m from the rear boundary, this would be acceptable. The agent has provided a revised plan showing that the rear window would be obscurely glazed and a condition would be added to the decision to ensure this is retained at all times.
- Similarly, the proposed side window to the west side elevation would be around 3.6m away from the shared boundary with 35 Rhiwlas Drive (attached). Although this distance is well under the recommended 7m, as per SPD 6, it has been taken in to consideration that there is a conservatory to the rear elevation of no.35, directly adjacent to the shared boundary. As such this would reduce any possible overlooking in to the rear garden of that property because any useable garden space to the rear of no.35 is much further away from the shared boundary. With this in mind it is considered that the position of the window would not have any significant detrimental effect on residential amenity at no.35 and the proposed clear glazed window to the side elevation of the proposed extension would be acceptable in this instance. It is also noted that the neighbour has not objected to the proposal.

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.

**Parking -**

The proposal would not increase the number of bedrooms therefore SPD 11 Parking Standards need not be considered. The parking arrangements would remain as existing where there is parking to the drive at the front of the site.

**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 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.

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- 2 This decision relates to drawings numbered 2022\_04\_05-01, 2022\_04\_05-02, 2022\_04\_05-03 and 2022\_04\_05-05 received on 23/06/2022, revised drawing numbered 2022\_04\_05-06 Rev A received on 22/09/2022 and revised drawings numbered 2022-04-05-04 Rev A and 2022-04-05-07 Rev A received on 29/09/2022 as modified by the emails from Phil Corns Architectural services Ltd dated 22/09/2022 and 29/09/2022. 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.
- 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.
- 4 Before the first occupation of the extension hereby permitted the rear first floor window shall be fitted with obscured glazing and shall be permanently retained in that condition thereafter.  
Reason. To protect the privacy of adjoining occupiers and to accord with Policy H2/3 - Extensions and Alterations of the Bury Unitary Development Plan and Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties.

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|---------------------|-------------|-------------------------|-------------|
| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
| AU - 03/10/2022     |             |                         |             |