

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 10/10/2023	Ref: 69793/FUL
Registration: 12/07/2023	LDFC: 03/08/2023	Expiry Date: 06/09/2023
Site Visit: 28/07/2023	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: COUS

Proposal: Change of use of recreation land to extend garden/residential curtilage and erection of detached garage with new vehicular access/driveway

Location: Land at side of 30 Chapeltown Road, Radcliffe, Manchester, M26 1YF

Description

The application relates to No 30 Chapeltown Road and comprises a 765 sq m piece of land which is located at the head of a small cul de sac between No 30 and No 28. The site can be described as being in two parts. The half of the site which is directly next to the side gable of No 30 is being used as part of their domestic garden although it is not within their original residential curtilage and has a mown grassed surface with trees and other planting. The other half of the site is heavily overgrown and vegetated with what appears to be self-seeded trees, bushes and shrubbery.

The site area is designated as Protected Recreation Provision in the Urban Area under UDP Policy RT1/1.

The site forms a boundary with land to the east which is not designated as Protected Recreation but is in the Green Belt and River Valley and allocated as Additional Provision for Recreation in the Countryside(Outwood Area) under Policy RT3/2.

A children's play area was originally proposed for the site when the houses were built in 1990's but this was never implemented and the site has since become overgrown. The site does not connect to the land beyond the rear boundary.

The application seeks the change of use of the site to domestic residential curtilage with the erection of a new detached single garage and vehicular access/driveway.

There are no proposed changes to the half of the site which is already being used as garden area and aerial photographs evidence that this part of the site was being used as the garden for this property since 2016. The application seeks to regularise this use.

The other half of the site would be cleared of vegetation and this is where it is proposed to site the garage.

The garage would be set back from the cul de sac by approx 8.2m with the driveway surface comprising grass grids. The brick built garage would be 7m long and 5m wide with an up and over garage door opening 4m wide. It would be 3.8m high with a tiled pitched roof.

One tree at the front of the site would be removed to facilitate the new driveway and two new trees would be planted next to the new driveway with a native hedge planted along the southern and eastern boundary of the site.

Relevant Planning History

02618/E - Change of use from RT1/1 to allow purchase & use of the land and/or explanation of liabilities of owning RT1/1 land - completed 30/9/21

Publicity

Letters sent to 19 properties on 12/7/23.

One objection received -

The proposed extended and dropped curb for driveway is very close to a busy turning corner and also parallel to an existing diagonal driveway making it unsafe for others to reverse there.

One support received -

Support the proposed plan to build the garage on the land. However can I ask why the planned garage would be built so far back from the cul de sac and front aspect of the house? In my opinion it would be more aesthetically pleasing built further forward towards the cul de sac and front aspect of the house.

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to conditions

Borough Engineer - Drainage Section - No response received.

United Utilities (Water and waste) - No response received.

Minerals and Waste Planning Unit (Urban Vision Partnership Ltd) - No objection. .

Environmental Health - Contaminated Land - No comments to make

Greater Manchester Ecology Unit - No objection subject to conditions

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
RT1	Existing Provision for Recreation in the Urban Area
RT1/1	Protection of Recreation Provision in the Urban Area
EN1/2	Townscape and Built Design
EN6/3	Features of Ecological Value
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict

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.

Principle

The land is designated as Protected Recreation Provision in the Urban Area in the Bury UDP under Policy RT1/1. This policy seeks to safeguard the provision of recreation land within the urban area and this includes land which has been allowed to fall out of use as these sites potentially have the same recreational value as existing sites.

However, UDP Policy RT1/1 does accept that some recreation sites may genuinely become redundant and the Council may permit them to change to an alternative use if there is no prospect of the site being required for recreational use, either now or in the future.

A children's play area was originally proposed for the land, however this was not implemented and the land subsequently become heavily overgrown. It does not connect to the reservoir area located to the north or the Outwood Sculpture Trail and there are no proposals to establish any new connections.

On balance, therefore, the principle of a change of use on this RT1/1 site to a private domestic garden is considered to be acceptable on the basis that there is no prospect of the site being required for recreational use either now or in the future.

Siting and visual impact

The garage would be sited in the southern half the site, set back from the cul de sac by approx 8.2m. Whilst it would be visible from the entrance to the cul de sac and infill part of an area where there is currently no built form, there would still be a gap of approx 10.8m between the side elevation of the garage and the neighbours boundary and fenceline to the south (No. 28) and a distance of more than 16m to the dwellinghouse of No 28 itself. As such there would be enough of a generous gap and visual relief maintained when viewed from the cul de sac entrance.

Setting the building back into the site would also reduce the prominence of the build within the cul de sac setting.

The garage would be single storey and the design has been amended to incorporate a pitched roof instead of a gable type which would be less bulky and have less of a visual impact. The garage would be brick built to match the existing dwellinghouse and domestic in size and scale and as such considered to be an ancillary and subservient addition to the existing house.

The driveway would be constructed of grass grids which would appear less urbanising than a tarmac or block paved surface and which is considered to be an appropriate solution in this particular residential setting where the site is currently 'greened and vegetated over'. One tree would be removed at the front of the site but this is already weakened with ivy and would be replaced by two native trees proposed to be planted at the front/side of the new driveway which would also aid in screening part of the garage from view.

The new hedge planting along the southern boundary would also help soften the site and the applicant intends to plant a wide range of shrubs and herbaceous perennials.

It is therefore considered that the proposed change of use of land and erection of a single garage would not have a significant or harmful impact on the character or the visual amenity of the area.

The proposed development would therefore comply with UDP Policies EN1/2, H2/3 and EN6/3.

Impact on residential amenity

Other than the applicant, there is one residential property on the cul de sac, No 28. The proposed garage would be sited to the north of this property, approx 16m away and as No 28 would be set at an oblique angle to the site and not have a direct view of the garage it is considered there would not be a harmful impact on their outlook.

The siting of the proposed development would not impede or obstruct the access drive to No 28. As the garage would be for a single car it is considered traffic movement would not be significant to cause access issues to the neighbour.

As such, it is considered the proposed development would be acceptable and comply with policies EN1/2 and H2/3.

Highways issues

The plans have been amended to set the garage further back into the site, not only to lessen visual impacts on the streetscene but also provide a sufficient driveway length for a vehicle to park without obstructing or encroaching onto the adopted highway.

The cul de sac only serves two properties and the driveway and new access would be set far enough away from the two existing driveways not to impeded access or turning for these properties.

As such, it is therefore considered the proposed development would be acceptable and comply with policies H2/4 and HT6/2.

Ecology

Summary

Ecological issues include mitigation for loss of trees and scrub and nesting birds.

Protected Species

GMEU are satisfied that the nature of the development (change of use of to garden), nature of the site (successional vegetation) and scale of the development is such that the likelihood of protected species being present is very low. There is also no record of any protected species other than bats from this locality. There is however a pond located just under 100m to the east. Whilst previous surveys have found no evidence of great crested

newts and the pond separated from the next nearest field bond by approximately 450m and a major A road, the nearest pond does have records for great crested newts. GMEU therefore recommend an informative along the following lines is applied to any permission.

Whilst there is only a low risk of great crested newts being present, the applicant is reminded that under the 2019 Regulations it is an offence to disturb, harm or kill great crested newts. If a great crested newt is found during the development all work should cease immediately and a suitably licensed amphibian ecologist employed to assess how best to safeguard the newt(s). Natural England should also be informed.

Nesting Birds

The development will result in the loss of trees and shrubs, potential bird nesting habitat. All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended. GMEU recommend a condition along the following lines be applied to any permission.

No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the LPA.

Contributing to and Enhancing the Natural Environment

Section 174 of the NPPF 2021 states that the planning policies and decisions should contribute to and enhance the natural and local environment. The development will involve the loss of a small area of low and moderate habitats to domestic garden a low ecological value habitat as well as a section of hedge. Boundary hedge planting is proposed. The main wildlife issue is loss of bird nesting habitat. If biodiversity net gain metrics were applied there would be a loss of biodiversity of around 0.1 biodiversity units. It is however possible that developments such as this would be exempt based on size and planning application type, with developments smaller than 0.25ha and change of use applications both discussed as exemptions at consultation stage.

Given net gain is also not as yet mandatory (though a material consideration), GMEU would be minded to recommend as mitigation a native hedge along the entire rear boundary (75% hawthorn), two native trees and bird boxes on retained trees. GMEU would therefore be satisfied that adequate mitigation would be achieved and the details could be conditioned.

Greater Manchester Minerals and Waste - As referred in the Planning Statement the site is within a Minerals Safeguarding Area (MSA) for sand and gravel. Additionally, this is also designated as an MSA for Coal and Brick Clay. Policy 8 of the Greater Manchester Joint Minerals Plan sets out the requirements for proposals involving non-mineral development within the Mineral Safeguarding Areas that do not allow for the prior extraction of minerals. These will only be permitted where:

1. The need for the development outweighs the need to extract the mineral; or
2. It can be clearly demonstrated that it is not environmentally acceptable or economically viable to extract the mineral prior to non-mineral development taking place; or;
3. It can be clearly demonstrated that the mineral is either not present or of no economic value or too deep to extract in relation to the proposed development; or;
4. The development is limited or temporary and would not prevent minerals extraction taking place in the future.

Although the applicant hasn't referred to this policy as a consideration within the development proposal, given the scale and location of the plot, it is accepted that prior extraction is not viable in accordance with the policy above.

Response to representations

- The garage would be set back into the site to reduce the visual prominence when

viewed from the cul de sac entrance and to provide a sufficient driveway to park a car off the highway.

- The cul de sac only serves two properties and it is considered that the additional driveway would not obstruct or impede access for other occupiers to a significant degree or cause highway safety issues.

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.
- 2 This decision relates to drawings - Location plan ZT23-196-00 rev A (received 23/8/23); Existing site plan ZT23-196-01 rev A (received 23/8/23) ; Proposed site plan ZT23-196-02 rev B (received 11/9/23); Revised proposed plans and elevations ZT23-196-03 (received 31/8/23) ; Revised proposed landscaping plan ZT23-196-04 rev C (received 21/9/23) 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 the policies of the Bury Unitary Development Plan listed.
- 3 No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 - Conservation of the Natural Environment and EN6/3 - Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 4 The proposed hedges shown on the approved landscaping plan ZT-23-196-04 rec C shall be of a native type (75% hawthorn) and the development shall also provide two native trees as shown on approved landscaping plan ZT-23-196-04 rec C and bird boxes on retained trees.
The approved landscaping and bird boxes shall be implemented not later than 12 months from the date the building is first brought into use or completed or within the first available tree planting season. Any hedges, trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by hedges, trees or shrubs of a similar size or species to those originally required to be planted.
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to EN1/2 - Townscape and Built Design and EN8/2 - Woodland and Tree Planting of the Bury Unitary Development Plan and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

- 5 The access and driveway arrangements indicated on approved plan reference ZT23-196-04 Revision C, incorporating the provision of a service strip crossing to a specification and in a position to be agreed with the Highway Authority, hardstanding in a permeable/porous material and/or measures to prevent the discharge of surface water onto the adopted highway, demarcation of the limits of the adopted highway and any associated remedial works required to reinstate the carriageway and grassed service strip to its former condition prior to commencement of the development, shall be implemented before the new access and parking facilities hereby approved are brought into use.
Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway, all in the interests of highway safety pursuant to Bury Unitary Development Plan Policies HT2/4 - Car Parking and New Development, HT6/2 - Pedestrian/Vehicular Conflict and H2/3 - Extensions and Alterations.
- 6 The development hereby approved shall not be commenced unless and until facilities for the storage of construction materials have been provided within the curtilage of the site. The facilities shall be retained for the intended purpose and the area identified shall not be used for any other purposes other than the storage of construction materials for the duration of the construction period.
Reason. To maintain the integrity of the adopted highway and ensure adequate off highway materials storage arrangements are provided for the duration of the construction period, in the interests of highway safety pursuant to Bury Unitary Development Plan Policies HT6/2 - Pedestrian/Vehicular Conflict and EN1/2 - Townscape and Built Design.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	10/10/23		