

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 10/08/2022	Ref: 68366/FUL
Registration: 18/05/2022	LDfC: 17/06/2022	Expiry Date: 13/07/2022
Site Visit: 02/06/2022	Site Notice: N/A	Press Date: N/A
Objections: 4	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Erection of 1 no. Detached dwelling

Location: Land adjacent to 17 Settle Close, Bury, BL8 2TP

Description

The proposal relates to a steeply sloping/terraced site that is bounded by industrial units at Lowercroft Business Park, a pedestrian public stairway linking Settle Close with Clitheroe Drive and the rear gardens of dwellings at Clitheroe Drive. The cul-de-sac turning head and footway of Settle Close forms the northern boundary.

The site equates to approximately 200 square metres at around 27m long x 7.8m wide. The site was until recently subject to relatively dense tree cover.

The proposal is for the erection of a two storey dwelling with a large box dormer to the rear roof slope and with bedrooms in the roof space. It would be set into the slope, such that the basement level would be below ground level at the rear. The dwelling would have a two storey forward projection at the front. It would be finished in render (champagne colour) grey hanging tiles to the dormer and grey brick to front wall with grey concrete roof tiles. The submission indicates parking for two vehicles, one in the garage and another on the driveway.

Relevant Planning History

None relevant

Publicity

The proposal has been advertised by direct neighbour notification. Six representations have been received raising objections as follows:

- The area is already congested with vehicles and the proposal would exacerbate this and result in more difficulties in being able to access properties plus being able to use the cul-de-sac as a turning circle.
- The narrowness of this land would entail vehicles going along the pavement/footpath to enter this property.
- Building materials and plant would be likely to be stored on the turning circle/footpath making it extremely difficult to turn vehicles and potentially dangerous for pedestrians wanting access to the public footpath next to this plot of land.
- The land that is there provides space for wildlife and insects. The builders already removed very established trees that were on this piece of land, which affects wildlife and air quality.
- It would cause distribution with drainage problems.
- Construction could potentially undermine neighbouring gardens.
- The dwelling would be too big for the plot that is there as well and the privacy would also be a concern.

- Construction activities would cause noise and disruption to neighbours.

Two representations supporting the proposal has been received stating that anything is better than a neglected plot for many years. The property will enhance the area. At present it is an ideal habitat for rodents and other vermin, and the property may shed some much needed light to the end of this cul de sac due to no street lights at this end.

Statutory/Non-Statutory Consultations

Traffic Section: Recommend refusal due to substandard access and parking arrangements and lack of sufficient details to enable the physical impact of the proposed development, retaining structures and surface water drainage arrangements on the adjacent adopted highway.

Environmental Health - Pollution Control: No comment.

United Utilities (Water and waste): Objection. Following a review of the proposed site layout, the proposal is not acceptable to United Utilities as proposed features appear to be located above/in close proximity to a main sewer. Until such time as the applicant has resolved all concerns regarding the proximity of proposed development to United Utilities asset(s), United Utilities OBJECT to the proposal.

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
EN6/3	Features of Ecological Value
EN7/2	Noise Pollution
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
NPPF	National Planning Policy Framework
SPD11	Parking Standards in Bury
SPD16	Design and Layout of New Development in Bury

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.

ASSESSMENT

Policy

Policy H1/2: Further Housing Development requires the council to have regard for the suitability of proposals for housing development on sites not identified on the Proposals Map.

Policy H2/1: The Form of New Residential Development requires all new residential development to make a positive contribution to the form and quality of the surrounding area. This is further supported by SPD 16 - Design and Layout of New Development in Bury.

Policy H2/2: The Layout of New Residential Development seeks to ensure that new residential development will be acceptable in terms of layout in order to provide a good quality residential environment.

Policy EN1/2: Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area.

Policy EN6/3: Features of Ecological Value requires an assessment of the effect of land use changes on existing features of ecological or wildlife value.

Policy EN7/2: Noise Pollution, states that in seeking to limit noise pollution by not permitted development that would lead to unacceptable noise nuisance to nearby occupiers or development close to a permanent source of noise.

Policy HT2/4 - Car Parking and New Development requires all applications for development to make adequate provision for their car parking and servicing requirements. This is further supported by SPD 11 - Parking Standards in Bury.

Policy HT6/1: Pedestrian and Cyclist Movement seeks to ensure that pedestrians and cyclists are able to move safely and conveniently by ensuring that developments recognise

the needs of pedestrians and cyclists.

Principle

The National Planning Policy Framework should be treated as a significant material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. The Framework maintains the emphasis on identifying a rolling five year supply of deliverable housing land.

Bury's Strategic Housing Land Availability Assessment sets out the latest housing supply position, which is made up of sites that have an extant planning permission and sites that have potential to obtain planning permission in the future. This shows that there are a number of sites within the Borough with the potential to deliver a significant amount of housing. However, not all of these sites will contribute to the five year supply calculations as many sites will take longer than five years to come forward and be fully developed (e.g. some large sites could take up to ten years to be completed). As such, latest monitoring indicates that the Council is unable to demonstrate a five year supply of deliverable housing land and this needs to be treated as a material factor when determining applications for residential developments.

The National Planning Policy Framework also sets out the Housing Delivery Test, which is an assessment of net additional dwellings provided over the previous three years against the homes required. Where the test indicates that the delivery of housing was substantially below (less than 75%) of the housing requirement over the previous years, this needs to be taken into account in the decision-taking process. The latest results published by the Government show that Bury has a housing delivery test result of less than 75%, and therefore this needs to be treated as a material factor when determining applications for residential development.

Therefore, in relation to the proposed dwelling, paragraph 11d) of the National Planning Policy Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

- i. The application of policies in the Framework that protect areas, or assets of particular importance, provides a clear reason for refusing the development proposed; or
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.

Therefore, in this case the 'titled balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

Policy H1/2 states that the Council will have regard to various factors when assessing a proposal for residential development, including whether the proposal is within the urban area, the availability of infrastructure and the suitability of the site, with regard to amenity, the nature of the local environment and the surrounding land uses.

The site is located within the urban area, surrounded by established residential areas and close to routes well served by public transport and to facilities, goods and services.

As such, the site is the most sequentially preferable for the release of land for housing. Furthermore, the site falls in a sustainable location with regard to services and public transport. Thus, the principle of the development is acceptable, subject to consideration of the subsequent matters.

Layout and Design

Policies H2/1, H2/2 and EN1/2 consider the relationship of new residential development in relation to their immediate context and expects that they make a positive contribution to the form and quality of the surrounding area. The NPPF states that decisions should ensure

that developments will function well and add to the overall quality of an area, visually attractive as a good architecture, layout and appropriate landscaping, sympathetic to local character, including the surrounding built environment and landscape setting and maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places.

Objections refer to the scale of the building within the limited plot.

The sloping site, which until recently contained mature trees that served to largely obscure the gable end of the adjacent industrial building, thus softening the character and appearance of the head of the cul-de-sac, would be re-engineered such that the basement would be level with the street and the rear garden would be terraced. There are inaccuracies between plans in relation to the proposed positioning of the dwelling relative to the eastern boundary to the stairway and the footway adjacent to the site frontage. Site plans conflict, but the majority of plans indicate that the sides of the dwelling would be very close to the side and front boundaries.

Thus, there would be minimal space between the side elevations of the dwelling and the boundaries of the site and the dwelling would be around 1.8m from the opposing gable elevation of the adjacent industrial unit. The front of the dwelling (at basement level) would immediately abut the adopted footway.

It is considered that the form of the proposed development, in terms of its position within the narrow site, hard up against side boundaries (formed by a rising stair and tall utilitarian elevation of an industrial building), abutting the adopted footway, would represent a contrived and cramped form of development that would jar with the established density and character of the street where dwellings are set with generous spacing between and around them. The development would therefore be contrary to the above UDP policies and Section 12 of the NPPF.

Residential Amenity

Objections refer to potential impact on privacy and the impact of construction activities on residential amenity.

The proposed dwelling would be positioned at over 21m from neighbouring dwellings such that adequate interface distances would be maintained to the dwelling to the front and rear would be maintained.

The proposed dwelling would exceed the minimum gross internal floor area requirements and associated minimum bedroom dimensions of the 'Technical housing standards – nationally described space standard'.

The principal elevation would be flanked at the immediate west by the taller gable end of the industrial building that projects forward and then returns east (across the front aspect from the proposed dwelling). It's substantial bulk, height and blank form would be oppressive to the occupants amenity and immediate principal outlook from the dwelling, contrary to policy H2/1 and the NPPF.

Given the location of the proposed dwelling immediately adjacent to Lowercroft Business Park, it would be appropriate that the proposal is supported by a noise survey information. However, such information has not been provided and the applicant considers that this is not necessary despite being advised of this at the pre-application stage.

Given the above, the proposal would have unacceptable impacts on occupiers amenity.

Construction activity occurs in the urban environment and development cannot be refused on the basis that construction will take place. There are appropriate controls over unacceptable noise and nuisance via environmental controls administered by other sections

of the Council.

Access and highway safety

Objections largely raise concerns about the impact of the development on highway safety and the function of the turning facility adjacent to the proposed site entrance.

The dwelling would be positioned at the head of the cul-de-sac and vehicular access would entail a turning manoeuvre across the corner of the footway immediately to the front of the site onto a drive that would be around 5.8m long (from the bin store to the front of the garage). Additionally, visibility between vehicles and pedestrians entering Settle Close would be restricted.

The Highway Officer has advised that the proposal would result in the creation of a sub-standard access and parking arrangements onto/adjacent to Settle Close and would not enable vehicles to be maintained clear of the adopted highway, which would therefore be detrimental to highway safety. The Highway Officer also advises that the application and submitted plans contain insufficient detailed, topographical survey based information to enable the physical impact of the proposed development, retaining structures and surface water drainage arrangements on the adjacent adopted highway and adopted stepped pedestrian route to the east of the site to be properly assessed.

Other matters

Drainage - United Utilities have objected to the proposal as the development would be located above/in close proximity to a main sewer. They have advised that until such time as the applicant has resolved all concerns regarding the proximity of proposed development to United Utilities asset(s), they cannot remove their objection.

Ecology/biodiversity - The site until recently contained significant mature tree cover, which have been cleared. The application has failed to demonstrate that adequate and appropriate mitigation for ecological enhancement would be provided on site.

Ground conditions - Neighbours have raised concerns about land stability given the nature of the development on a sloping site. Such matters fall within the remit of the Building Regulations.

Conclusion

The Council cannot demonstrate a five-year supply of deliverable housing land and as such, in accordance with Paragraph 11 of the NPPF, there is a presumption in favour of sustainable development unless the adverse impacts of approving the development would significant and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

Whilst the presumption in favour of sustainable development would apply, it is concluded that the benefits of the provision of an additional dwelling would be outweighed by the adverse impacts identified in the above assessment. This approach is reflected in Part 12 of the NPPF and specifically in the 'context', 'identity' and 'homes and buildings' sections of the National Design Guide.

Given such circumstances and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Framework, planning permission should be 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 proposed development, by virtue of the position of the site between the adopted stairway and gable elevation of the neighbouring industrial building and the position of the proposed dwelling immediately abutting the west, north east boundaries, would constitute an incongruous and inharmonious form and layout of development that would be unsympathetic to the established arrangement of dwelling and spaces in the surrounding locality. The proposed development therefore conflicts with policies EN1, EN1/2, H2/1 and H2/2 of the Bury Unitary Development Plan and Section 12 of the National Planning Policy Framework.
- 2 The proposal would result in the creation of sub-standard access and parking arrangements onto/adjacent to Settle Close and would not enable vehicles to be maintained clear of the adopted highway, which would therefore be detrimental to highway safety, contrary to policies EN1/2, HT2/4 and HT6/1 of the Bury Unitary Development Plan.
- 3 The relationship of the proposed development with the industrial building to the west of the site would have a dominating and overbearing impact on the immediate outlook from habitable room windows at the principal elevation of the proposed dwelling, which would be detrimental to the amenities of the occupiers, contrary to Bury Unitary Development Plan policies H1/2 and H2/1.
- 4 The application and submitted plans contain insufficient detailed, topographical survey based information to enable the physical impact of the proposed development, retaining structures and surface water drainage arrangements on the adjacent adopted highway and adopted stepped pedestrian route to the east of the site to be properly assessed.
- 5 The application contains insufficient information to enable a proper and robust assessment of the potential noise impacts emanating from the commercial/industrial uses at the immediately adjacent Lowercroft Business Park on the amenity of occupiers of the proposed dwelling. The proposed development therefore conflicts with Bury Unitary Development Plan policies H1/2 and EN7/2.
- 6 The application contains insufficient information to enable a proper and robust assessment of the impacts of the proposed development on sewerage infrastructure. The proposed development therefore conflicts with Bury Unitary Development Plan policies H1/2 and EN1/2 and the principles of the National Planning Policy Framework.
- 7 The application contains insufficient information to enable a proper and robust assessment of the impacts of the development on ecology and biodiversity. The proposed development therefore conflicts with Bury Unitary Development Plan Policy EN6/3 and Section 15 of the National Planning Policy Framework.

<u>Case Officer</u> DSC	<u>Date</u> 10/08/2022	<u>Sign off Officer</u>	<u>Date</u>
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