

DELEGATED REPORT

Report by Amanda

Date of report: 26/05/2023

Ref:69445/FUL

Uhunmwagho

Registration: 13/03/2023

LDfC: 13/04/2023

Expiry Date: 08/05/2023

Site Visit: 18/04/2023

Site Notice: N/A

Press Date: N/A

Objections: 2

Con Area:

Adv Type: N/A

Reason for Delay:

EIA: NA

N/A

Dec Level: DEL

Stat Class: HOUS

Proposal: Erection of a timber ancillary granny annexe at rear

Location: 148 Ainsworth Road, Bury, BL8 2SH

Description

The application relates to a two storey semi-detached property situated on Ainsworth Road, Bury. There is a drive way to the front/side leading to a detached garage at the rear. The rear garden has fences to all sides. There is a patio area directly to the rear of the dwelling and the remainder of the garden is lawn with planting to all boundaries. There is a path to the side of the garage. The land slopes slightly up towards the rear of the site.

The proposal is to build a detached annex to the rear of the site which would be used by an elderly relative of the applicant's who requires care. The building would be L-shaped and would have a flat roof. It would measure 7.11m wide, 4.11m along the west side elevation and 7.11m along the east side elevation. The walls would have vertical Siberian Larch cladding and all fenestration would be anthracite grey powder coated aluminium. The roof would be flat finished with an EPDM rubber membrane.

There would be patio doors to the front elevation, a high level bedroom window to the west elevation and a high level bathroom window to the east side. There would be no windows on the rear elevation.

At the front west side of the annex there would be a small decked area, measuring no more than 300mm from ground level. A short ramp would also be installed as part of the decking, for easy access.

The agent has also advised that the ground would be dug down by 300mm to the rear of the site to level off the area where the annex would be built.

Relevant Planning History

N/A

Publicity

Neighbours notified on 23/03/2023 - Two objections received and one comment. A summary of the neighbour's objections are as follows;

- The annex would overlook their property, reducing privacy levels.
- The decking is very close to their boundary.
- The bedroom window directly overlooks their garden.
- Users of the annex and decking would be able to view in to their lounge and first floor bedroom windows.
- The top of the gardens are elevated so the building would seem even higher when you get close to their house.

DELEGATED REPORT

- The height of the building would look out of place and would be over bearing to their garden.
- The building would cause shading and loss of daylight from morning to noon.
- The plot is being over developed and the building is out of scale for the size of the garden.
- The gardens and views for these properties are a big selling point and the outlook will be ruined.
- It is out of character with the rest of the area.
- Due to the privacy issues it impacts the use of our garden, we do not want a neighbour in the bottom of our garden.
- We would have to have some assurances that this will not cause any subsidence issues. Our property along with 148 Ainsworth Road have already been under pinned and the area as a whole has subsidence issues. We need to know that this will not cause any further issues.
- The annex would be less than 2m to their boundary fence and it would protrude significantly over the top of the 7 foot fence. The garden at no.148 is higher than their garden at the rear of the site. This would result in loss of sunlight during the day and it would shade large parts of their garden, including greenhouse, which were not previously shaded.
- The nature of the surrounding properties, ie an estate where houses are adjacent and gardens are back to back, does not suit having a building of this scale as it will ruin the outlook from other adjoining and nearby properties and will have a detrimental impact of the value of our property. It will also greatly affect the privacy of several residents.

One neighbour left the following comments;

Whilst I have no objections to the said development I would like some reassurance with regards to the proximity of the build to my boundary fence and driveway. As the new building involves the excavation of soil to level the area and is only 60 cm from the boundary fence/ driveway we feel that this may cause some stability issues of our driveway and fence. We would like some reassurance that will not cause a problem an example being subsidence of the driveway/ fence post causing undue damage and cost to ourselves in the future other than expected wear and tear.

Following discussion with the agent revised drawings were submitted on 18/05/2023. The neighbours were notified of the revised plans and summary of the comments are listed below;

- They are relieved that there would be no encroachment but they advise they cannot understand the need to mention encroachment of the boundaries as they thought this would not be allowed.
- They expected that the ground would have to be dug out to the rear of the building due to the land being higher at that point.
- They questioned the resulting level of the land to the front of the building once it would be in place. They advise they think it would be lower than the level of the rest of the lawn.
- Would the building be level with the rest of the garden?, or would there be a ramp, or step up?
- They don't understand how the overall height would be lower and asked for an explanation.
- They asked for confirmation that the overall height of the building would be 2.5m as opposed to 2.8m on the initial drawing.
- They are not happy with the explanation regards the bedroom window height. They asked what would happen if a person could view out of the window and asked what would happen if someone were tall enough to view out from that window.
- Concerns regards the proximity of the building to boundary fences. They hope the laying of drains and erection of the building would not cause the fence to collapse, and that any damage would be remedied with appropriate replacements.

- They are concerned about maintenance of the fences given the building would be so close.
- They are concerned about subsidence in the immediate area, including their own property. They advise both their property and no.148 have been under pinned, but this does not extend to the garden area.
- They want some confirmation that any digging out and erection of the building would not cause any damage to their and they suggested the council should be able to guarantee this before an approval is given.

Statutory/Non-Statutory Consultations

None.

Pre-start Conditions -Not relevant.

Unitary Development Plan and Policies

H2/3 Extensions and Alterations

SPD6 Supplementary Planning Document 6: Alterations & Extensions

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.

The annex would have a modern, flat roof design and would be finished with materials that you would expect to see on a residential outbuilding.

As part of the ground would be dug out by 300mm to the rear of the site the annex would only be visible by around 200mm above the fence level at the rear (north) and around 400mm at the front (south).

The building would be to the rear of the main dwelling. As such it would not be visible in the public realm along Ainsworth Road to the front and it would only be visible from the adjacent neighbouring properties/gardens.

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 -

- The existing ground level would be reduced by 300mm to the rear of the site and the annex would be built at the lower level. As the building would measure a maximum of 2.5m in height and there is a 2m high boundary fence the annex would only extend around 200mm above the fence level at the rear and around 400mm at the highest point at the front. As such it is considered that the building would not cause any significant detrimental overshadowing of neighbouring gardens.
- All windows in the annex would have views over the applicant's own garden and fences only, and would not directly overlook neighbouring gardens. There would be one high level window to the west side elevation which would be around 3.3m away from the shared boundary with no.150 Ainsworth Road. As this window would be installed at a height of 1.7m from the internal floor level this would be acceptable in terms of SPD 6. It is also noted there is a high boundary fence in between the site and no.150 next door.
- There would be one high level bathroom window in the east side elevation, but given that the building would be built 300mm lower than the current ground level any views from this window would be towards the boundary fence only and not over neighbouring land at no.146 Ainsworth Road.
- The site plan received on 18/05/2023 shows that all of the building, including the foundations would be wholly within the site and there would be no encroachment on to land adjacent or to the rear of the site.
- There would be no windows in the rear elevation adjacent to the boundary with no.1 Ainsdale Avenue to the rear, and that property also has no habitable room windows on the side elevation.
- The decking to the south west side of the annex would be erected at no more than 300mm from ground level, which would be considered to be permitted development.
- One objection is that users of the decking, (and the annex), would have clear views in to

their lounge and rear bedroom windows. The decking and annex would be around 10m from the rear of the main dwelling and there are tall fences to all boundaries. As such any views from the decking/annex would be over the applicant's garden only and not directly towards ground floor windows at adjacent properties.

- With regards to being able to see in to bedroom windows from the annex and decking would be considered to be a sufficient distance from the rear of the dwellings not to have any significant detrimental impact on residential amenity. It should also be noted that the applicant could erect decking, up to 300mm from ground level or a patio area for seating at the rear of the garden as permitted development.
- The agent has advised that the foundations would be a screw pile foundation system. As such there would be no concerns regards foundations encroaching on to neighbouring land.
- It should be noted that as the annex would be a maximum height of 2.5m and the decking would be no more than 300mm the applicant could build the structure under permitted development rules, without the need for prior planning permission. As such there would be no reason to refuse the proposal.

Normally an would be expected to be connected to the main dwelling. The agent has advised that in this instance the annex needs to be separate from the main dwelling so that their client's mother can retain some degree of independence and privacy, whilst being close enough to receive care. They also advise that attaching the annex to the main property would be far more complicated and cost prohibitive, and it also removes the independence that the annex is designed for.

In addition to this if the annex were to be connected to the main dwelling it would have more of a detrimental impact on the adjacent neighbours than if built at the rear of the site as it would be much closer to their properties.

The agent states that they have amended the bedroom window and agreed to build the annex at a lower level in order to work with the council and neighbours and they confirm that the sole use of this annex is for the clients mother's accommodation and care, and will not be used for any other purpose.

Taking th above in to account, and that the building could be built as permitted development 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 annex would add one further bedroom at this property, albeit not in the main dwelling. However, the annex is for an elderly relative who needs. The site as existing has an area at the front for parking a vehicle and this would remain following the side extension which would be set back from the front of the property. The area is high access in terms of public transport and there is on street parking available to the front. In this instance then the parking arrangements are considered sufficient.

Response to neighbour objections/comments -

Most of the neighbours' concerns have been addressed in the report above.

- An email was sent to the neighbour who made a comment on the initial plans regards possible issues during the building works. They have been advised that Building Control would be responsible for inspecting the building works during and at the end of the build. They were given th Council's Building Control number, but also advised that the applicant may choose to use an independent inspector.
- The addition of the detached annex would not result in over development of the site as there would be ample amenity space remaining to the front and rear of the dwelling.

DELEGATED REPORT

- One objections was regards views being ruined from the neighbour's property. In terms of Planning there is no right to a view. This isn't something that would affect the decision.
- Regards the building appearing out of character in the area, it would be constructed from different materials compared to houses in the area, but the proposed design and finished materials would not be uncommon in terms of outbuildings to residential properties. As stated earlier in the report the applicant would be within their rights to build an outbuilding under permitted development rules, where the Development Management team would not have any control over finished materials.
- The impact on property value is not a Planning consideration and therefore would not have any bearing on the decision.
- Subsidence concerns would be investigated as part of the Building Control application.
- One neighbour stated that due to privacy concerns they do not want their neighbour at the bottom of the garden. Where there are no permitted development restrictions on a site a person would be able to erect decking and/or a detached outbuilding without prior planning approval, (as long as there dimensions fall within the permitted development limits).
- A question was asked regards who would be living in the annex. The applicant has stated that it will be her elderly mother. However, the annex could be used for anyone, as long as it remains ancillary to the main dwelling. A condition would be added to the decision regards the use of the annex.

Conclusion -

The proposal is considered acceptable in terms of visual and residential amenity and conforms to the Bury Unitary Development Plan Policy Nos EN1/2 - Townscape and Built Design, H2/3 – Extensions and Alterations and the Development Control Policy Guidance Note 6 – Alterations and Extensions to Residential Properties.

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 revised drawings received on 18/05/2023 as modified by the email from Home Garden Rooms dated 18/05/2023. 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 be vertical Siberian Larch cladding to all walls, anthracite grey powder coated aluminium to all fenestration and EPDM rubber membrane to the flat roof, as stated on the proposed drawings and in the design and access statement.
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 bedroom window on the west elevation shall be installed at a height of no less than 1.7m from the internal floor level 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.
- 5 The development hereby approved shall not be occupied at any time other than for the purposes ancillary to the residential use of the dwelling known as 148 Ainsworth Road, Bury.
Reason. To ensure the proposed use remains ancillary to the principle use on the site.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
AU - 26/05/2023			