

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 07/01/2022	Ref: 67821/FUL
Registration: 18/11/2021	LDFC: 15/12/2021	Expiry Date: 13/01/2022
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Single storey extension at side/rear with balcony and glass balustrade

Location: 5 Inglewood Close, Bury, BL9 7LD

Description

Detached 2 storey dwelling located on an established residential estate. The property is set side-on to the estate road and shares a driveway with Nos 1 and 3. The property has been previously extended at the rear by a conservatory and there is a detached garage at the rear next to the boundary with No 3.

At the rear and directly facing is the rear elevation of No 7 which is in an elevated position. There is an intervening boundary fence and hedge on the application side which screens the ground floor and garden of No 7 from the existing first floor windows of No 5.

Permission was granted in July 2021 for a single storey extension at the rear and side with a balcony.

The scheme comprised an extension of an irregular shape extending towards the eastern boundary and the road by 1.5m, projecting rearwards by 6.3m with a width of 3.6m. This would have a flat roof with 2 rooflights and used as a gym. The remainder of the extension would provide living accommodation and extend across the remainder of the rear elevation at a lesser projection of 4m with a chamfered side. It would have a flat roof which is proposed as a 1st floor outdoor balcony accessed by a new door from the first floor landing.

Cutting across the middle of the balcony space, a glass balustrade would be erected so that only half of the roof depth - 2.1m - could be used as the outdoor area. A 0.9m high wall would be built up at the western side of the extension and across the roof to separate the roof of the gym from the proposed balcony area.

For information, the application originally proposed that the whole of the flat roof above the living accommodation to be utilised as a balcony area enclosed by a glass balustrade. This was amended to the proposal described above due to concerns raised by the LPA, otherwise the recommendation would have been to refuse the application due to overlooking, impacts on privacy and noise and disturbance to neighbouring properties.

This application is a resubmission and seeks to revert back to the original scheme which was submitted, and for the 1st floor balcony to cover the whole of the flat roof above the living accommodation extension. A glass balustrade is also proposed to the whole perimeter of the balcony, as opposed to the 0.9m high brick side walls which were approved to protect residential amenity.

As this is a resubmission the proposed scheme is assessed in full.

Relevant Planning History

66938 - Single storey extension at rear and side with balcony and glass balustrade - Approve with Conditions 23/07/2021

Publicity

Letters sent on 25/11/21 to 7 adjacent properties on Inglewood Close and Meadowbrook Close.

One letter of objection received from No 9 Inglewood Close with the following issues:

- The new application would seem to differ from the previous approved by extending the first floor external balcony area and removing the glass balustrade.
- As this was required under the previous approval to comply with a Planning policy document, I can see no reason why this policy should not still be adhered to and therefore the balustrade should remain.
- If this is not the case can the Planning officer please confirm why agreed Planning policy has not been complied with.

Statutory/Non-Statutory Consultations

N/a

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

H2/3	Extensions and Alterations
SPD6	Supplementary Planning Document 6: Alterations & Extensions
H1/1	Housing Land Allocations
EN1/2	Townscape and Built Design
EN7/2	Noise Pollution

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.

Residential amenity Overlooking and privacy

No 3 is the neighbouring property to the western side of the site. The footprint of this property extends past the rear elevation of No 5. There are no habitable room windows in the gable of No 3 which would be overlooked. In terms of overlooking to this garden, whilst the detached garage to No 5 would screen some of the garden, there would still be a degree of overlooking from the balcony, due to the proximity to the shared boundary and relatively low height of the glass balustrade at approx 0.9m and as such there would be an unacceptable impact and unneighbourly relationship to No 3.

The rear elevation of No 7 directly faces the rear of the site. This dwelling is set in an elevated position such that the first floor is visible from the first floor windows of No 5 but the ground floor and garden of No 7 screened by the boundary fence and hedge. There is currently a separation distance of approx 21m between the 1st floor rear elevations of these properties and No 5 has a garden depth of approximately 11m to the boundary with No 7.

The ground floor of the extension would be well screened by the intervening hedge and fence. In terms of scale, size and form the proposed ground floor would not significantly impact on the amenity of No 7.

SPD6 states that there should be a distance of 7m from a 1st floor rear extension to a directly facing rear boundary. There would be a distance of approximately 7.2m from the 1st floor balcony area to the rear boundary of the site. If the same guidance in SPD 6 were to be applied in this case, the proposed development would just be within the threshold of accepted separation distances.

However, SPD6 also states that proposals should not reduce privacy through direct overlooking from windows, balconies or areas of raised decking. A balcony of this size and proximity to boundaries with only a low-level balustrade would not provide any screening at all, comparative to an extension where it would be extremely unlikely that a resident would spend lengthy periods of time at a window opening. It is therefore considered that the proposed balcony would be unneighbourly to No7 by virtue of opportunities for overlooking and for long periods of time.

No 9 is in an off set position to the site and views would be more oblique and indirect. There would be a distance of approx 8.5m to the rear boundary and more than 18m to the rear elevation of the dwelling and as such impacts on privacy and amenity are considered not to be significant given the oblique relationship.

Noise and disturbance

The approved scheme was for a relatively small area of 13.6 sqm and for this application it was considered the number of people which could occupy the space would be limited. It was also to be enclosed by 0.9m high brick walls to 2 sides which would prevent some noise being deflected from the balcony. At a narrower depth and therefore set further away from neighbouring boundaries, the approved development was just, on balance, considered acceptable.

In comparison, the proposed scheme would increase this area to 25sqm extending closer to the boundaries to No7 and No 3 without the benefit of the solid bricked walls which would contain some of the noise.

By its very nature, the balcony would facilitate a larger area of outdoor space and even normal conversation from a limited number of people would be clearly audible to neighbours which would materially detract from the living conditions of the occupiers of Nos 3 and 7 in particular.

It is therefore considered that the close proximity of such a sizeable outdoor space would be unneighbourly and unduly intrusive in terms of noise and disturbance. Whilst it is the case that some noise could come from garden spaces, neighbours would not expect additional and sizeable outside amenity areas to be provide at a first floor in such close proximity to their properties and gardens, where overlooking and noise/disturbances would arise.

The applicant was advised on the submission of the original application that the whole of the area first proposed as a balcony would not be supported and hence advised to reduce the size and incorporate solid walls either side. This proposed scheme has reverted back to the original submission which was contrary to the LPA's advice.

It is therefore considered the proposed development would cause a significant and detrimental harm to the occupiers of the neighbouring properties and the surrounding area in terms of overlooking, privacy, noise and disturbance and as such would be contrary to policies EN1/2, H2/3, EN7/2 and SPD6.

Visual amenity - The dwelling is located next to the boundary with Inglewood Road which is set on a gradient such that the first floor of the rear elevation and the side elevation of the property is visible from public views. The rear garden is screened from views by the boundary wall which runs parallel to the site and the road.

Most of the ground floor element of the proposed extension would be screened by the boundary wall and as such would not be visible from the streetscene.

The balcony and balustrade which is proposed would however be seen from the road and public views.

The balcony would be formed on the roof of the extension and in essence would appear to be no different that a roof to an extension. The addition of the balustrade at 0.9m high and set away from the side boundary to the road is considered not to be an overly intrusive structure when viewed from the streetscene.

As such it is considered the proposed development would comply with EN1/2, H2/3 and SPD6.

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 balcony would result in an unacceptable reduction in the level of privacy currently enjoyed by the occupiers Nos 3 and 7 Inglewood Close by reason of the sub-standard distances between the balcony and garden areas of these properties and the existing habitable room windows on No 7 Inglewood Close. The proposed development therefore conflicts with Unitary Development Plan Policy H2/3 Alterations and Extensions, EN1/2 - Townscape and Built Design and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.
- 2 The proposed balcony would be seriously detrimental to the residential amenities currently enjoyed by the occupiers of the adjacent properties by reason of its size and proximity to adjacent properties in terms of noise and disturbances associated with the use of the proposed development. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: H2/3 – Alterations and Extensions, EN1/2 - Townscape and Built design, EN7/2 - Noise Pollution and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT 7/1/22		DM	07/01/22