

DELEGATED REPORT

Report by Claire Booth	Date of report: 08/03/2023	Ref: 69104/FUL
Registration: 20/12/2022	LDfC: 17/01/2023	Expiry Date: 14/02/2023
Site Visit: 19/01/2023	Site Notice: N/A	Press Date: N/A
10:30:00		
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIDW

Proposal: Erection of 1no. replacement attached dwelling

Location: 11 Malvern Close, Prestwich, Manchester, M25 1PH

Description

The application site is a cleared site but formerly the eastern half of a bay fronted semi-detached property located on the north side of Malvern Road, a cul-de-sac, off Heys Road.

The adjoining neighbour, which formally formed the western half of the former semi-detached property, is no.9 Malvern Road, and is extended with a conservatory to the rear. To the east of the application site, exists no.13 Malvern Road sits with a deeper rear elevation to the site. The rear of the application site borders the curtilage of 166 Heys Road.

The demolished site is within a low risk coal area.

Permission is sought to re-erect the dwelling on the same footprint as the previous dwelling with the same front and rear build lines and the same eaves and ridge height as the previous dwelling and the attached property that forms the other half of the semi-detached pair. Permission is also sought for a part two storey, part single storey rear addition and the addition of a gable roof on the main roof of the property.

The proposed first floor rear extension would have a width of approximately 3.4m and a projection from the rear elevation of the adjoining property of approximately 3.4m. The single storey addition would project from the rear of the adjoining property the same distance as the two storey element and would be approximately 2.5m wide. The eaves and ridge height of the proposals would be the same height as the attached property.

The plans have been amended during the course of the application changing the fenestration details proposed on the front elevation so that they reflect the width and type of the former property and the other semi-detached properties on Malvern Road.

Relevant Planning History

68052 - Single storey rear extension; external alterations including new first window to side elevation and brick detail to side door - Approve with Conditions, 13/04/2022.

Publicity

Neighbours adjoining the site have been consulted by letter.

One representation has been raised by an adjoining neighbour raising concerns about the impact the demolished property is having on their home. In terms of the proposal itself they have no objections.

The LPA sympathise with the neighbour at how their property has been left exposed to the elements and any damage which may have occurred as a result. However, this is not a matter for the LPA to sort, but is a civil matter. The LPA therefore suggests the neighbour concerned seeks independent legal advice on the matters raised.

Statutory/Non-Statutory Consultations

Traffic Section - No objections

Environmental Health - Contaminated Land - No objections subject to conditions being imposed, securing site investigation, a risk assessment, a remediation strategy and which secures any necessary remediation and a site verification report.

Borough Engineer - Drainage Section - No comments or observations received

United Utilities (Water and waste) - No objections

Waste Management - No comments or observations received.

Pre-start Conditions - Applicant/Agent has agreed with pre-start conditions

Unitary Development Plan and Policies

H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
HT2/4	Car Parking and New Development

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

Principle of Development - Until late last year a dwelling existed on the application site. Given the demolition took place recently and the sites location in this residential area, the proposal to build a new dwelling on the same plot as the dwelling which was demolished there are no reasons to resist a proposal for a new dwelling on this site. Accordingly, the proposal is acceptable in principle.

Design and Visual Amenity - UDP Policy H2/1 - 'The Form of New Residential Development' states that all new residential development will be expected to make a positive contribution to the form and quality of the surrounding area and relevant to this application are the criteria to assess, amongst other things, the relationship to adjacent properties, the density and character of the surrounding area, and the materials that would be used in the proposed development, especially their colour and texture.

The amended proposed dwelling, by virtue of the amended fenestration details, in the main would reflect the form, bulk and massing of the former dwelling and those dwellings on Malvern Close. It is acknowledged that the proposed gable roof would cause a visual conflict with all the other properties on Malvern Close. However, in the assessment of proposals it is important to consider what works can be undertaken as Permitted Development which this property would have once completed and occupied.

Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development Order 2015 (as amended) allows hip-to-gable extensions. This applicant could therefore undertake this work without obtaining planning permission. As this is the case it would be unreasonable of the Local Planning Authority to refuse the application on this basis.

Materials would be brick work and roof tiles to match the former property, and neighbouring dwellings. A condition requiring material samples to be approved by the LPA prior to any above ground works taking place is therefore recommended.

Subject to the recommended planning condition, the proposal is considered acceptable and would be mostly in keeping with the neighbouring properties and would not have a demonstrable detrimental impact on the visual amenity of the area given hip-to-gable extensions can generally be erected as Permitted Development in areas such as this.

Parking and Highway Safety - The proposal would not increase the number of bedrooms therefore SPD 11 Parking Standards need not be considered. Parking to the front driveway

would not be affected by the proposed development.

Paragraph 112 of the NPPF advises applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible, and convenient locations. A condition is therefore recommended to secure an external vehicle charging point on the property.

Residential Amenity - UDP Policy H2/1 also requires proposals to have an acceptable impact on the amenity of neighbouring residents. Semi-detached dwellings border each side of the site.

The amendments proposed to the front elevation reflect the former front elevation and the neighbouring property. The proposed part two storey, part single storey element at the rear would not project more than 3m from the rear of either of the adjacent neighbouring properties, with No.13 being set deeper at the rear than the application site, and No.9 that has a conservatory extension. The two storey part of the extension would not cause significant overbearing or oppressive conditions to either neighbouring occupiers.

The windows proposed to the side elevation are in the same position which formally existed, albeit an additional first floor window is proposed. The LPA notes that this window was previously approved. The additional window at first floor level would serve a bathroom and is noted on the submitted drawings that it would be obscure glazed. A condition is recommended to secure this and for it to be retained as such in perpetuity to protect the amenity of the neighbouring residents..

Subject to the recommended planning condition, it is considered that the proposal would have no serious impact on the amenity of any adjacent neighbouring properties. The proposal thus complies with UDP Policy H2/1.

Ground Conditions

The site is currently vacant following the demolition of a single semi-detached house. Current land uses in the surrounding area include residential. Previous uses at the site and in the surrounding area have included open land and residential.

The site does not lie within 250 metres of any known landfill sites and is not in close proximity to any major surface watercourses. The site lies above Glaciofluvial Sand and Gravel Deposits over the Middle Coal Measures Secondary A Aquifer. There is anecdotal evidence of subsidence in the wider area including visual evidence of leaning trees and uneven roads. It is understood that there have been previous claims for subsidence from historical mining in the area.

The proposed development comprises the construction of a replacement semidetached dwelling with a front and rear garden. It is understood that the previous property was demolished to slab level following the discovery of subsidence issues during works to extend the property. Based on the information submitted it is unclear whether the new property will be constructed directly on top of the existing slab, or if the subsidence encountered will require the excavation of new foundations and the soils at the site will be exposed. Additionally, given the age of the previous property, asbestos may have been present within the building. It is unclear whether an asbestos survey was carried out and any asbestos containing materials removed prior to demolition. If this did not happen, the demolition could have led to the site becoming contaminated with asbestos.

Although the site has not had any known contaminating land use, as the site has been previously developed and demolition has taken place, there is the potential for deposits of made ground to exist at the site. Due to the sensitivity of the proposed land use, as a minimum, a Desk Study and Preliminary Risk Assessment will be required. In line with the National Planning Policy Framework, the site is proposed for a sensitive end use it is recommend that conditions are placed on any grant of permission to ensure that the site is

safe and is made safe for future occupiers of the proposed development.

Climate Change

UDP Policy EN7/1 concerns itself with ensuring development proposals accord with the Council's long term air quality standards. Paragraph 152 of the NPPF states the planning system should support the transition to a low carbon future with paragraph 112 stating applications for developments should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

To assist with the country moving to a low carbon future and to accord with the requirements of the NPPF, the dwelling should be fitted with an external socket to enable electric vehicle charging to take place at the property for the use of future occupiers. This will be secured by planning condition.

Drainage

The foul and surface water drainage for the former property would be re-utilised. No drainage issues are therefore foreseen. In addition, satisfactory drainage will be secured at Building Regulations stage.

Summary

Subject to the recommended planning conditions being secured, the proposed new dwelling is considered to be acceptable and it is thus recommended conditional planning permission be granted.

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 permission relates to the following plans:

Drawing no. ZT22-196-00: Location Plan;
Drawing no. ZT22-196-03: Proposed Site Plan;
Drawing no. ZT22-196-03ZT22-196-04 Rev. A: Proposed Plans and Elevations;
Drawing no. ZT22-196-05 Rev. J: Existing and Proposed Parking Plans; and,
Drawing no. ZT22-196-10 Rev. A: Existing and Proposed Street Scene and Proposed Landscaping.

Except as provided for by other conditions to this permission, the development shall be carried out in complete accordance with the approved drawings.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the Bury Unitary Development and the National Planning Policy Framework.

3 No development shall commence unless and until:-

- A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
- Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
- Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason. The scheme does not provide full details of the actual contamination and subsequent remediation, which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

4 Following the provisions of Condition 3 of this planning permission, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and a Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

5 Notwithstanding any description of materials in the application and the requirements of conditionno. 2 of this permission, no above ground works shall take place until samples or full details of all materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The development shall thereafter be implemented in accordance with the duly approved materials.

Reason: To ensure use of appropriate materials which are sympathetic to the character of surrounding buildings and the street scene in the interests of visual amenity in accordance with the requirements of UDP Policy EN1/1: Visual Amenity and the National Planning Policy Framework.

6 The ground floor W/C and first floor bathroom windows shown on the east facing side elevation of the dwellinghouse shall be obscurely glazed to a minimum of level 4 on the Pilkington Scale (where 1 is the lowest and 5 the greatest level of obscurity) before the dwelling/extension hereby approved is first occupied, and shall be retained as such thereafter.

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Reason: To safeguard the privacy of occupiers of neighbouring dwellings and ensure satisfactory levels of amenity for adjoining residents in accordance with the requirements of Policy H2/1 of the Bury Unitary Development Plan and National Planning Policy Framework.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB - 08/03/2023		HL	08/03/23