

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 19/12/2023	Ref: 69590/FUL
Registration: 24/10/2023	LDFC: 15/11/2023	Expiry Date: 19/12/2023
Site Visit: 30/10/2023	Site Notice: N/A	Press Date: N/A
Objections: 65	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIRD

Proposal: Erection of building comprising of 3 no. commercial units (Class E) at ground floor with 2 no. flats at first floor (Class C3) with associated car parking and external works

Location: Land bounded by Bolton Road, Harper Fold Road & Canute Street, Radcliffe, Manchester, M26 3BX

Description

The application relates to an area of grassed land (0.03ha) between Canute Street/Higher Dean Street and Harper Fold Road, on the south side of Bolton Road. The immediate area has a mix of uses with residential terraced housing to the west and north, semi-detached bungalows to the south. Hollybank nursing home is situated to the east and Cams Lane Primary School to the south-east.

The grassed area directly to north of the site, forms a part of the same homogeneous area visually with the application site and contains an underground United Utilities tank, which is controlled by an above ground kiosk.

The proposal is for the erection of two storey building comprising of 3 no. commercial units (Class E) at ground floor with 2 no. flats at first floor (Class C3) with associated new access from Canute Street and new car park for the parking of 7 vehicles.

The building would be orientated with the principal elevation facing north towards Bolton Road and it would be positioned aligned with the nearest dwelling to the east at 92 Higher Dean Street.

The building would be 13m wide x 8.5m deep x 7.95m high and would be finished with rendered elevations, concrete tiles and uPVC windows. It would have glazed 'shopfronts' at ground floor to the principal elevation and roller shutters at the rear.

The application states that the proposal would employ 6 no. staff, but is silent on the matter of operating hours.

Relevant Planning History

68092: Outline application for 3 no. dwellings with associated car parking. Approved 11/10/2022.

58225: Outline application for 3 no. dwellings with associated car parking - Refused for the following three reasons 27/02/2015-

1. The proposed housing development would, by reason of its size, position and design, be a prominent and intrusive feature in the street scene and would therefore, be seriously detrimental to the visual amenities of the area.
2. Insufficient information with regard to a number of highway issues.
3. Lack of information with regard to coal workings and drainage and other underground

installations.

Publicity

Direct neighbour notification undertaken on 24/10/2023 and a site notice posted on 09/11/2023. As a result, 65 representations received raising objections that are summarised as follows:

Access and road safety

Detrimental impact on road and pedestrian safety due to already congested situation on the roads in the area, parking, position of junctions, bottleneck and existing uses, including a hot food takeaway, primary school and care home. Lorries often get stuck manoeuvring in the area. The proposal would worsen the existing situation, especially the commercial uses.

A pedestrian has previously been killed on Bolton Road close to the site.

The parking area would be insufficient and on a dangerous corner/junction.

There is insufficient space for refuse collection.

Construction works would cause disruption to local congested roads.

Design and layout

The proposal would be out of scale with the size of the site. Two storey buildings would be inappropriate.

The rear of the proposed building/yard will form an unattractive outlook from Higher Dean Street.

The proposal would result in the loss of a green space.

Neighbouring amenity

Anti-social behaviour associated with late night opening of commercial units (e.g. fast food outlets).

Increase in litter and noise from the commercial units.

Other matters

Commercial uses may distract school pupils.

There are other shops, including empty units nearby.

There is a coal seam under the site that has to be monitored for gas.

The previous application for two bungalows would have been in character with the area.

The proposal would impact on the infrastructure on the adjacent land

The development would block views and endanger children

Water, gas and electric supplies are already under strain and it is understood there are underground amenities at the site.

Statutory/Non-Statutory Consultations

Traffic Section: Recommend refusal on the basis of insufficient parking, inability of all vehicles to enter/leave the site in forward gear, insufficient information to enable a proper assessment of the development, all to the detriment to highway safety and the free flow of traffic.

Borough Engineer - Drainage Section: No comments received.

Environmental Health - Contaminated Land: No objection, subject to conditions relating to contaminated land risk assessment, site investigation, detailed risk assessment, remediation and verification and the provision of electric vehicle charging points.

Waste Management: No comments received.

Environmental Health - Pollution Control: No objection, subject to conditions to noise levels, soundproofing, treatment of fumes and odours.

The Coal Authority: No objection, subject to conditions relating to intrusive site investigations to establish the risks posed by past shallow coal mining, remediation/mitigation works and verification.

United Utilities (Water and waste): No objection, subject to conditions relating to surface water drainage and management and protection of the existing overflow pipe laid within the site boundary.

Planning Policy Manager: No objection.

Pre-start Conditions - Applicant/Agent [Not relevant/has/has not] agreed with pre-start conditions

Unitary Development Plan and Policies

EC4/1	Small Businesses
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
EN1/5	Crime Prevention
EN1/7	Throughroutes and Gateways
EN7	Pollution Control
OL3/1	Protection of Urban Open Space
HT2/4	Car Parking and New Development
SPD11	Parking Standards in Bury
SPD16	Design and Layout of New Development in Bury
NPPF	National Planning Policy Framework

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, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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

EC4/1 - Small Businesses - supports proposals for small businesses, subject to ensuring the scale of development is appropriate and the use is environmentally compatible with the surrounding area and the proposal does not conflict with other policies and proposals.

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 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 OL3/1 states that development will not be permitted where it would lead to the loss of urban open space which provides:

- valuable visual amenity;
- valuable wildlife habitats, corridors and links;
- important outlets for recreation; or
- a buffer between incompatible uses or a link between other open land areas.

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 - residential

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.

Further, the site does not currently perform any of the functions set out in the criteria listed at Policy OL3/1 and does not therefore conflict.

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.

Principle - commercial

Policy EC4/1 supports proposals for small businesses. Therefore, the principle of the ground floor commercial units is acceptable. Thereafter, the development should be assessed in relation to its appropriateness in terms of scale and environmental compatibility with the surrounding area and compliance with other policies.

Layout, design and visual amenity

Paragraph 41 of the National Design Guide states that ". Well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary. It enhances positive qualities and improves negative ones. Some features are physical, including; 'the existing built development, including layout, form, scale, appearance, details, and materials'.

Paragraph 126 of the NPPF considers that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 134 of the NPPF considers that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes. Conversely, significant weight should be given to:

(a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes; and/or

(b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

The footprint, position, general layout and scale of the proposed building is akin to that which was refused planning permission at 58225. The principal elevation would have glazed ground floor shopfronts with centrally set single first floor windows of square proportions framed within rendered walls.

The residential context is one of traditional red brick terraced dwellings with vertically proportioned windows within taller buildings.

The proposed building, set back from the frontage to Bolton Road to which its principal elevation would oppose, and set in only around 0.8m from the footway edge to Harper Fold Road and Canute Street, would appear remote and cramped in the street scene. Furthermore, the low overall height (for a two storey building), squat proportions, basic architectural detailing and anomalous elevational materials would result in a prominent and incongruous element within the streetscape.

The proposal would therefore be contrary to UDP Policies EC4/1, H2/1 and H2/2.

Residential Amenity

Neighbouring residents

Given the position of the building within the plot and the relationship to surrounding

residential buildings, there would be no unacceptable impacts upon neighbouring residential amenity.

Future occupants

The Technical housing standards - nationally described space standard deals with internal space within new dwellings, setting out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.

The standard has not been adopted as a local plan policy (given that Bury UDP dates from 1997), but it represents a useful guide as to what may constitute an acceptable standard of development.

The submission is silent on the intended occupancy level for each flat. However, based on the minimum likely occupancy level (1 person for the one bed and 2 people for the two bed), each flat falls significantly short of the overall floor area standard. Additionally, neither flat would provide built-in storage and the single bedroom to the one bed flat would not achieve the minimum dimension and floor space standard.

Furthermore, whilst the supporting statement claims that the enclosed rear yards would serve both the ground floor commercial units as a service access and the first floor flats as an outdoor amenity area, only the commercial units would have a direct access to this area from the rear of the building, via large roller shutter service accesses. This area would also comprise a refuse and recycling storage area. Hence, occupants of the flats would be expected to exit the flats via the single access at the principal elevation, walk to the rear and enter the rear yard areas and thereafter share this area with the servicing requirements for the ground floor commercial units. It is highly likely that there would be conflict between servicing and amenity use. This would constitute a poor standard of outdoor amenity space.

Paragraph 130 (f) of the NPPF states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Sub-paragraph 49 states that planning policies may also make use of the nationally prescribed space standard, where the need for an internal space standard can be justified.

In this case, it is considered that the proposed development would provide a poor level and standard of accommodation and would not therefore provide future occupiers with adequate and reasonable standards of accommodation.

The proposed development would therefore be contrary to policies H1/2; H2/1 and H2/2.

Access, parking and highway safety

The Traffic Section have objected to the proposal on grounds that the proposed car parking provision is inadequate and is likely to lead to vehicles parking and carrying out manoeuvres on the highway to the detriment of the free flow of traffic and road safety. A further concern is that there is insufficient information to enable a full and robust assessment of the likely impacts in relation to vehicle and pedestrian conflict, the adequacy of visibility splays and refuse collection facilities. The proposal would therefore be contrary to Bury UDP policies H2/2, H2/4 and HT6/2.

Other matters

Ground conditions - The Coal Authority and the Environmental Protection Officer do not object to the proposal, subject to intrusive investigation and contaminated land conditions.

Drainage - United Utilities have not objected, subject to conditions relating to the treatment of surface water and the protection of assets within the site.

Noise - The Environmental Health (Pollution Section) has advised that, subject to

conditions, there should be no unacceptable impacts upon residential amenity in relation to noise and fumes/odours.

Objections

The planning issues raised by the objectors have been addressed in the above report.

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 proposed development 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 would, by reason of its position, scale and design, be an incongruous and pronounced feature in the street scene and would therefore, be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with policies EC4/1 Small Businesses, H2/1 The Form of New Residential Development, H2/2 The Layout of New Residential Development and EN1/2 Townscape and Built Design of the Bury Unitary Development Plan and Development Control Policy Guidance Note 16 - Design and Layout of New Development in Bury.
- 2 The proposed flats and associated external amenity and refuse storage area would provide a substandard and therefore unacceptable quality of residential accommodation for the future occupiers and as such would have a detrimental impact on residential amenity. The proposed development would therefore be contrary to Bury Unitary Development Plan policies H1/2 - Further Housing Development, H2/1 - The Form of New Residential Development and H2/2 - The Layout of New Residential Development and the principles of the National Planning Policy Framework.
- 3 The proposed car parking provision is inadequate and car parking/servicing

arrangements are sub-standard and are likely to lead to vehicles parking and carrying out manoeuvres on the highway in close proximity to the junctions of Canute Street and Harper Fold Road with A665 Bolton Road to the detriment of the free flow of traffic and road safety, contrary to Bury Unitary Development Plan policies EC4/1 - Small Businesses, H2/2 - The Layout of New Residential Development, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.

- 4 The proposal does not provide suitable accommodation for all vehicles to enter and leave the site in a forward gear, and therefore is detrimental to road safety and maintaining the free flow of traffic, contrary to Bury Unitary Development Plan policies EC4/1 - Small Businesses, H2/2 - The Layout of New Residential Development, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.
- 5 The application and submitted plans contain insufficient, topographical survey-based information in order to properly assess the following:
- the physical impact of the development on the adjacent adopted footways that abut three sides of the site;
 - ensure that the proposed parking spaces located adjacent and parallel to the back of abutting footways do not lead to vehicles coming into conflict with passing pedestrians or straddling the adopted highway;
 - ensure that adequate visibility splays can be provided at the junction of the site access with Canute Street;
 - ensure that adequate visibility at the back edge of the footway can be provided clear of the proposed parked vehicle positions;
 - ensure that adequate refuse collection facilities for both the commercial and residential uses proposed can be provided within the curtilage of the site clear of and without detrimental impact on the adjacent adopted highways.

Without this information the proposal is unacceptable and contrary to Bury Unitary Development Plan policies EC4/1 - Small Businesses, H2/2 - The Layout of New Residential Development, H2/4 - Car Parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DSC	19/12/2023	DM	19/12/23