

DELEGATED REPORT**Report by** Amanda**Date of report:** 28/07/2022**Ref:**68456/FUL

Uhunmwagho

Registration: 13/05/2022**LDFC:** 30/06/2022**Expiry Date:** 08/07/2022**Site Visit:** 01/07/2022**Site Notice:** N/A**Press Date:** N/A**Objections:** 0**Con Area:** N/A**Adv Type:** NONE**Reason for Delay:****EIA:** NA

N/A

Dec Level: DEL**Stat Class:** HOUS**Proposal:** Proposed dropped kerb with associated landscaping for driveway.**Location:** 3 Durers Lane, Bury, BL9 9PE**Description**

Planning permission was previously refused at this site in May 2021. There are no differences between the current application and the one refused.

The application relates to a semi detached dwelling house located on Durers Lane. The premises currently has a low, red brick boundary wall depicting the front boundary with an area of soft landscaping. Pedestrian access is gained from Durers Lane.

Planning permission is sought for the creation of a 7 metre wide dropped kerb and imprinted concrete hardstanding to the front of the property.

Relevant Planning History

66567 - Proposed dropped kerb with associated landscaping for driveway. - Refused 17/05/2021.

Publicity

Neighbours notified on 08/06/2022 - One neighbour has emailed to support the application with the comments below.

- We have previously contributed our comments in relation to our support of this application for a dropped kerb for a driveway for the property adjoining ours. We stand by our previous comments.
- We believe that this appeal should be granted as in our opinion it is safe. We have a driveway and have not experienced any problems, incidents or accidents. In fact being at a junction, with traffic lights actually helps massively for making a safe entry and exit to the driveway.
- I feel it would be beneficial and much safer and easier for the family with small children to be able to get children into the car right outside their door rather than walk around to another street.
- It would also help with the congestion of parking on Britain Street.

Statutory/Non-Statutory Consultations

Traffic Section - Recommendation for refusal in relation to impact on highway safety and insufficient driveway length and that the plans contain insufficient information to ensure that the street lighting column in front of the site would not be adversely affected by the development or that surface water would not be discharged from the new hardstanding on to the adopted highway.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

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.

Paving over front gardens for parking can be harmful to the character of the street scene. The immediate street scene is depicted by rows of terraced and semi-detached dwellings the majority of which maintaining boundary walls and areas of soft landscaping to the front. The neighbour property at No.1 has already removed their boundary wall and planting to create additional parking to the front of their property. The directly facing property at No. 6 also has an entirely paved frontage. Whilst these are examples of entirely hard surfaced frontages within the street scene, they are not the prevailing form of landscaping within the immediate street scene and it is considered that the proposed imprinted concrete with no element of soft landscaping would further erode the character of the street scene.

It is therefore considered that the design of the proposed hardstanding is neither appropriate to, nor sympathetic with the existing streetscene, and would be detrimental to the visual amenity of the area. The proposed development therefore conflicts with UDP Policy H2/3 and SPD 6.

Residential Amenity

SPD 6 and H2/3 seek to reduce the impact of proposals on the residential amenity of neighbouring properties.

The parking area would be located entirely to the front of the host property and as such no residential amenity issues are foreseen.

Highways

Policy H2/3 and SPD 6 seek to maintain highway safety and ensure that visibility for pedestrians, cyclists and drivers of motor vehicles are considered in relation to house extensions and alterations.

The proposed driveway would be accessed directly from Dumers Lane, a busy classified road and is located within close proximity to the signalised junction with Manchester Road. No turning facilities would be provided within the site and as such the vehicles would not be able to enter and exit the proposed access in forward gear. Whilst other properties within the vicinity of the site have driveways these are limited, or have different relationships in relation to the highway network. In relation to the dropped kerb at No. 1 Dumers Lane no planning history can be found to see when or if this has been granted consent. It does also appear that since 2016 No.1 have removed a portion of their front wall in order to extend their parking area, without gaining consent to extend the drop kerb to correspond with this parking area. This has therefore created an illegal crossing over the kerb which can cause damage to the footway in addition to intensifying the use of this access - however this is an issue for the Highways Authority to enforce.

The introduction of a driveway in this location would further increase the number of vehicles entering and existing the road at this busy junction, to which the Highways Authority has raised an objection. This has the potential to conflict with the frequent traffic which passes the site and as a result would have a significant harm to highway safety. Whilst there would be some resultant benefits from the proposal these would largely be in relation to the property itself, and do not outweigh the harm to highway safety that has been identified.

It is therefore considered that the proposal would result in the creation of a sub-standard access onto a classified road from a property that cannot provide suitable accommodation for vehicles to enter and leave the site in a forward gear, which would lead to vehicles reversing at an angle across the footway and into oncoming traffic, leading to unacceptable conflicts with pedestrians and vehicles at a hazardous point on the highway network and would therefore be detrimental to highway safety and maintaining the free flow of traffic on the A6053 Dumers Lane contrary to UDP Policy H2/3 and SPD 6.

SPD 6 seeks to ensure that all proposals maintain sufficient space to accommodate adequate parking spaces. In relation to driveways a minimum length of 5 metres is required

to ensure vehicles will not overhang the footway. The plan submitted indicates a driveway depth of 4.5 metres can be created to the front of the property with a proposal for a 7 metre access to the front of the property. With the inclusion of this double dropped kerb access it would therefore appear that there is an intention for more than 1 vehicle to be parked within the site rather than the indicated one on the submitted site plan. The vehicle indicated on the plans also appears to have been drawn at about 3.5 metres long which is misleading when considering the average length of a car, and the standard length of a car parking space (4.8 metres).

It is therefore considered that the hardstanding would be sub-standard in length and the potential remains for vehicles not to be able to be maintained clear of the adopted highway, which will lead to the reduction in available width the footway on Dumers Lane and would therefore be detrimental to pedestrian safety contrary to UDP Policy H2/3 and SPD 6.

The application and submitted plans also contain insufficient information to ensure that adequate arrangements are proposed to ensure that the existing street lighting column would not be adversely affected by the proposed development. The proposal also seeks to create the hardstanding to the front of the dwelling with imprinted concrete. No details have been provided in relation to the drainage of this concrete area to ensure that surface water would not be discharged from the new hardstanding onto the adjacent adopted highway. An informative has been added in relation to this aspect.

Applicant's response to the previous refusal

The applicant has responded to the previous reasons for refusal. A summary of their responses are listed below.

1. With regards to the proposal's detrimental impact on visual amenity and that it would not be appropriate nor sympathetic with the existing streetscene they have replied that it is their understanding that they do not require planning permission to change the landscape. They are requesting to drop the kerb in order to use the front of the site for parking, like neighbouring properties. They question why it would be detrimental to the visual amenity in the area when so many other neighbouring properties have existing driveways.

2. Other properties in the area have similar driveways to what they propose. Numbers 1, 4, 6 and 7 Dumers Lane use a driveway safely. They advise that by utilising the traffic lights vehicles can be reversed on to the driveways when no traffic is turning on to Dumers Lane.

3. With regards to the drive way being sub-standard in length and that they would not be able to park a vehicle clear of the adopted highway, they advise that the neighbours at no1 Dumers Lane manage to park 2 small vehicles on an area the same size as they are proposing so there would be ample space for them to park a vehicle at an angle, without overhanging the pavement.

4. In respect of the proposal not improving the economic, social or environmental conditions of the area, nor complying with the development plan and that it would therefore not comprise sustainable development paragraph 38 of the NPPF was taken in to consideration. The applicant has replied that they are simply to ask to park their vehicle off the road which would improve the area and more importantly the safety of their children.

5. There was previously, and still is a concern about the impact of a new driveway and dropped kerb on the existing streetlighting column directly to the front of the site and that surface water from the new hardstanding wouldn't be discharged on to the adopted highway. The applicant has responded by saying that if it would be possible to leave the streetlighting column in situ then they would but they would also be willing to pay for its removal, which is stated as an option online. They have also stated that they would ensure that the drive way is constructed from permeable or porous materials and would consider possible drainage around the driveway.

In response to the above the impact of the proposal on visual amenity has been addressed in the report above.

The proposed plans submitted with the current application are no different to what has been previously refused in 2021. The applicant has not taken the reasons for refusal in to consideration when submitting this subsequent application. There are still no details on the plans or application form advising whether the proposed materials would be porous or not and there is no indication of any on site drainage being installed to combat the additional surface water being discharged on the adopted highway in front.

The proposed plans still show a drive length from the front of the dwelling to the highway in front of just 4.5m and there would be no room to manoeuvre a vehicle within the site to ensure it could move on and off the site in forward gear. The applicant has stated that they would be able to park a larger size vehicle at an angle across the front of the site. Given the close proximity of the site to the busy junction with Manchester Road and traffic lights it would be considered seriously detrimental in terms of highway safety for a car to be reversed on and off a driveway so close to a busy junction and parking at an angle on the site could take more manoeuvring to get the vehicle on and off the driveway. Being able to move a vehicle on and off the site in a forward gear would be a lot safer for the applicant and their family as well as passing pedestrians and motorists.

The applicant has referred to neighbouring driveways, in particular no.1 next door. However, as discussed in the report above there is no planning history for no.1 Dumers Lane and the kerb in front has not been extended. Thus meaning that the crossing is not legal and therefore cannot be used as precedent for the proposal at no.3 Dumers Lane. In addition every site is assessed on its own merits and historical development at other sites cannot necessarily be taken in to consideration.

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 design of the proposed hardstanding is neither appropriate to, nor sympathetic with the existing streetscene, and would be detrimental to the visual amenity of the area. The proposed development therefore conflicts with the following policy of the Bury Unitary Development Plan:
H2/3 – Alterations and Extensions and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties
- 2 The proposal would result in the creation of a sub-standard access onto a classified road from a property that cannot provide suitable accommodation for vehicles to enter and leave the site in a forward gear, which would lead to vehicles reversing at an angle across the footway and into oncoming traffic, leading to unacceptable conflicts with pedestrians and vehicles at a hazardous point on the highway network

and would therefore be detrimental to highway safety and maintaining the free flow of traffic on the A6053 Dumers Lane. The proposed development therefore conflicts with the following policy of the Bury Unitary Development Plan:
H2/3 – Alterations and Extensions and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties

- 3 The hardstanding would be sub-standard in length and the potential remains for vehicles not to be able to be maintained clear of the adopted highway, which will lead to the reduction in available width the footway on Dumers Lane and would therefore be detrimental to pedestrian safety. The proposed development therefore conflicts with the following policy of the Bury Unitary Development Plan:
H2/3 - Alterations and Extensions 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>