



Appellant's Full Statement of Case

Appeal by written representations against the refusal of planning permission by Bury Metropolitan Borough Council, and appeal against the associated enforcement notice, for development at:

No. 22 Cockey Moor Road,
Bury, Greater Manchester,
BL8 2HB

Application Ref No.
69189

Enforcement Notice Ref
No. 23/0054

Prepared by:
Elmfield Planning on behalf of the Appellant

Date: June 2023

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Section 1: Introduction

- 1.1 In a decision notice dated 8th February 2023, Bury Metropolitan Borough Council (hereinafter referred to as “the Local Authority”) refused planning permission for application reference 69189, which sought permission to vary Condition 1 of planning permission reference 68038. The refused application proposed design revisions to the plans approved under reference 68038. Under application ref. 68038, planning permission was granted for the erection of a detached dwelling at the Appeal Site. Subsequent to refusal of ref. 69189, an Enforcement Notice (Ref No. 23/0054, dated 30th May) was issued by the Local Authority for reasons that the dwelling has not been built in accordance with the plans approved under application ref. 68038.
- 1.2 This Statement of Case is submitted on behalf of the Appellant and it presents the case for why the appeal against the refusal of application ref. 69189 should be allowed, and consequently that the Inspectorate determines that the enforcement notice be quashed. It is requested that the Inspectorate treats the planning refusal and the enforcement notice as linked appeals.
- 1.3 The grant of planning permission under ref. 68038 established that the principle of replacing a bungalow, that was originally present at the Appeal Site, with a two-storey detached dwelling is considered to be acceptable by the Local Authority. In the Delegated Report for the refused application, the Local Authority states as much “*The principle of residential use on the site established by its historic use and previous approval for a replacement dwellinghouse*” (p3, para. 7).
- 1.4 Based on that principle, the proceeding assessment for the appeal case is based on the design differences between the approved plans, and that of the plans that proposed design changes which were refused under ref. 69189, and the resulting *increase* in impact that may or may not have occurred.

Section 2: Preliminary Matters

Accuracy of plans

- 2.1 The Decision Notice states that Reason 4 for refusal is due to the proposed plans being inconsistent with the property as currently built. The plans submitted under ref. 69189 were intended to capture the final design changes that were made during the build stage of the proposal. Unbeknownst to the Appellant (who is also the future resident of the dwelling), the submitted plans contained inaccuracies and did not fully reflect all of the changes that permission was being sought for, and for what has now been largely built onsite.
- 2.2 Once the Local Authority brought this matter to the Appellant’s attention, the Appellant instructed a new architect to compare the submitted plans against what was to be/has been built. The new architect surveyed the Application Site and took as-built measurements. The architect then produced “as-built plans” which accurately reflect what will be/has been built. These plans are the final proposal and it is requested that the appeal is determined on these plans. The differences between the submitted (refused) plans and the as-built plans:
 - Ridge height of main-roof should have been labelled as 9.65m, instead of 9.10m
 - Window styles including 4No. windows on first floor (2No. front, 2No. rear) becoming Juliet
 - Lower-level roof at rear should have been shown as a flat roof, instead of lean-to

- Roof design on porch should have been shown as flat, instead of pitched to flat roof (Local Authority has not raised concern about this change)

2.3 In accordance with the Wheatcroft Principle, the substance of the application has not been altered and so changed that the grant of any planning permission would deprive those who should have been consulted on the changed development the opportunity of such consultation. It is requested that the appeals are determined in accordance with the as-built plans now submitted.

Outbuilding

2.4 The enforcement notice refers to an outbuilding located in the rear-garden at the appeal site. This building did not form part of the refused application reference 69189, which this appeal is appealing against. It therefore does not form part of the plans that are the subject of the appeal. Adding the outbuilding to the as-built plans, which are sought to be allowed under this appeal, would have changed the proposal substantially and gone against the Wheatcroft principle.

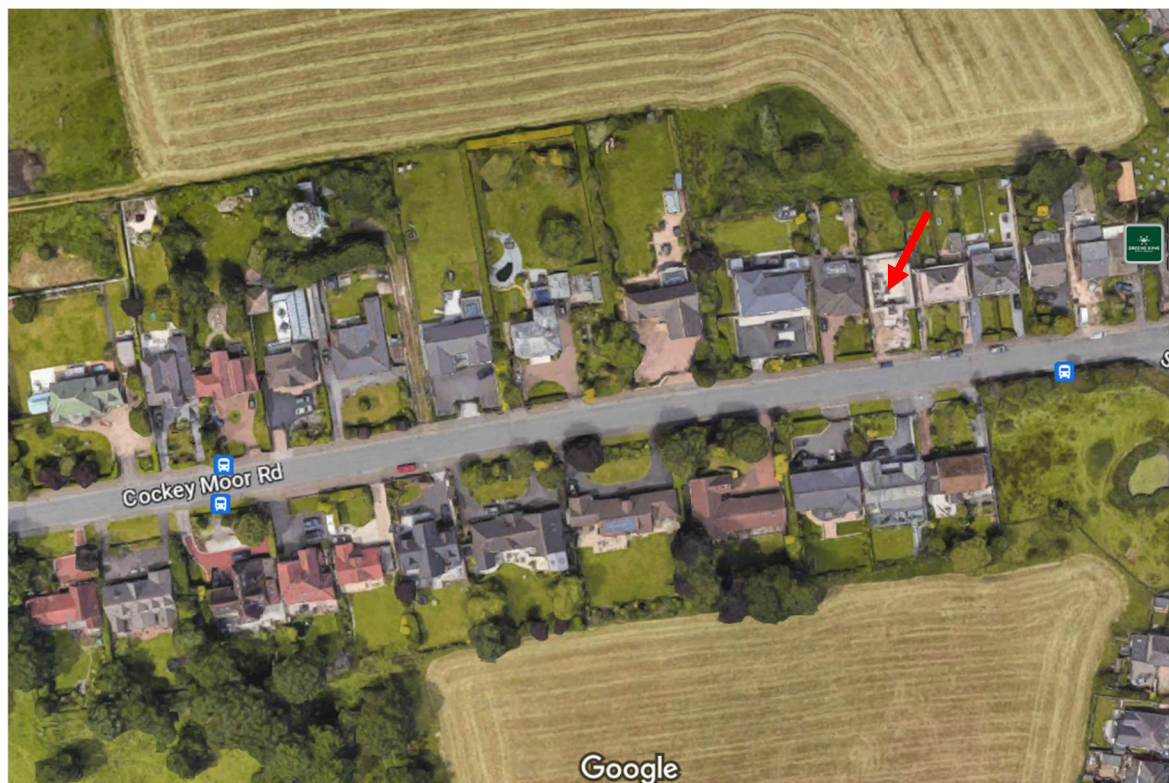
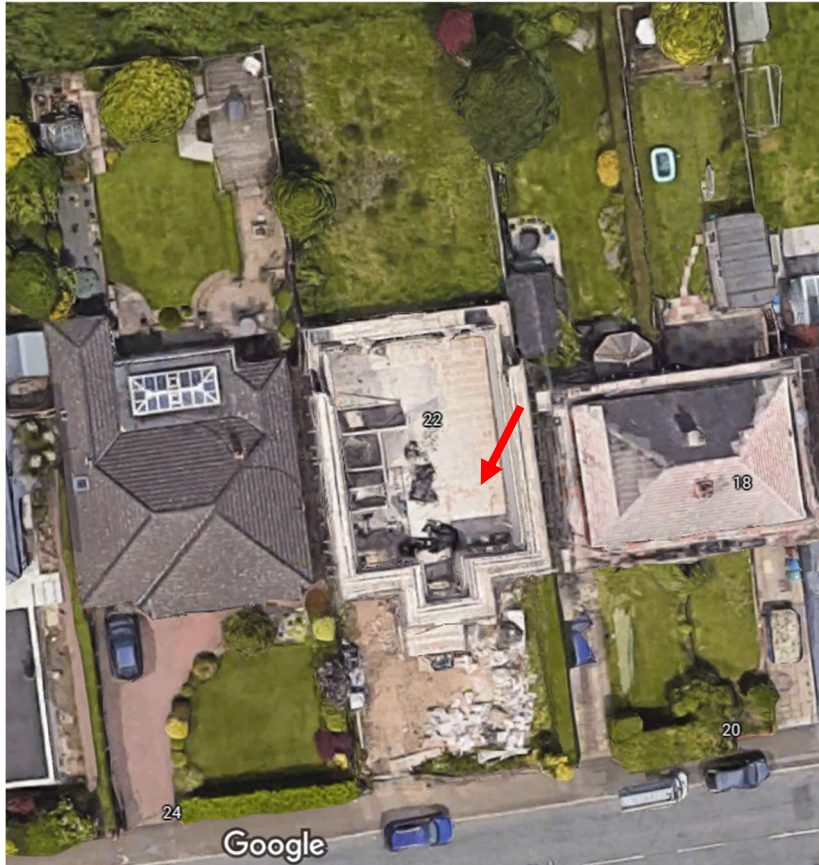
2.5 The outbuilding is not physically connected to the appeal dwelling and it is requested that the presence of the outbuilding is treated as a separate case. It is confirmed that an application seeking planning permission will be submitted to the Local Authority imminently, and highly likely that the appellant's agent can provide the application reference number to the Inspectorate, and the Local Authority, prior to the start date of this appeal. The principle matter for consideration is the acceptability of design changes to the dwelling itself.

Section 3: Appeal Site & Surroundings

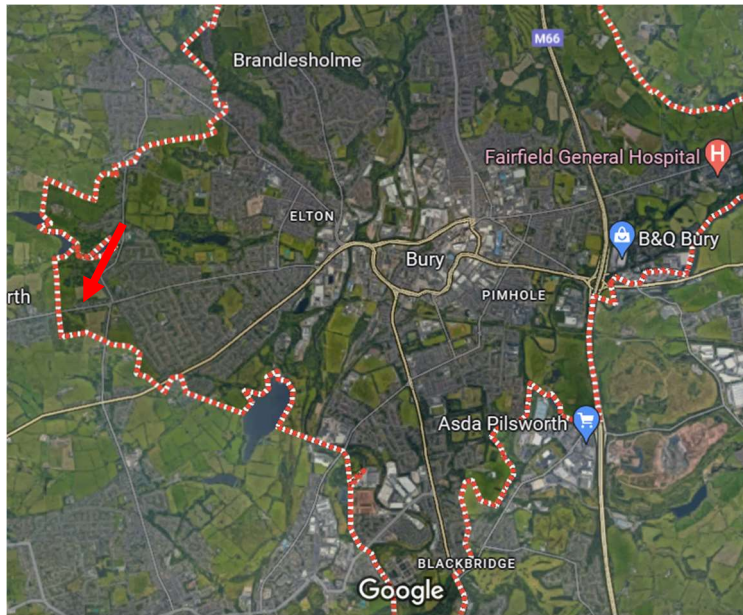
3.1 The Appeal Site accommodates a new-build dwelling that was granted planning permission and which features design changes that this appeal seeks planning permission for. Prior to construction of said dwelling, the site was occupied by a single-storey detached dwelling which was demolished under planning approval ref. 58590. The date that the original and now demolished dwelling was built precedes online planning application records but it is estimated that there has been a dwelling present on the site for decades.

3.2 The new-build dwelling at the Appeal Site is on a plot that forms one in a row of existing dwellings. There is garden space to the front and rear of the dwelling, with open green space beyond the boundary to the rear. The site is located in the suburbs of the town of Bury in Lancashire. The site is located inside the town's development envelope, to the west of the town centre.

3.3 The site is located on a section of Cocky Moor Road which is lined with dwellings on either side of the road. The dwellings are varied in their type and scale; and include bungalows, semi-detached dwellings and two-storey detached dwellings than are noticeably larger in scale than the other types of dwellings referred to. The appearance of the surrounding dwellings varies greatly with some of the dwellings having a traditional appearance dating from the period they were built, while the two-storey detached dwellings each have a bespoke design and appearance that could be described as modern new-build. Some of these dwellings have render finish, others are finished in traditional stone.



Neighbouring dwellings, showing variety in scale and appearance of the dwellings that make-up the street-scene. Top image – bungalow (No. 24, immediately west of Appeal Site) & two-storey new build (No. 26). Bottom – directly opposite Appeal Site, opposite side of the road. Image source: Google



Aerial photographs showing location of Appeal Site



Section 4: Description of the Proposal

- 4.1 Both of the approved and refused designs propose to replace a single-story detached dwelling with a two-storey detached dwelling. The following are snippets from file '68038_elevation plans approved under ref. 68038' (approved under ref. 68038 and now referred to as "Approved Plans") compared with snippets from file 'elevations and floor plans as built' (proposal refused under ref. 69189 and now referred to as "As-built Plans"). See appendices for copies of files in full.



Approved Plans (left) vs As-built Plans (right) – proposed front elevation



Approved Plans (top) vs As-built Plans (bottom) – proposed side elevation



Approved Plans (left) vs As-built Plans (right) – proposed rear elevation

4.2 The difference between the Approved Plans and As-built Plans:

- a) Ridge-height of main-roof increased by 1.29m, from 8.36m to 9.65m
- b) Design of main-roof changed from hipped to hipped at the front, turning gabled at the rear, and roof extended back to inline with rear out-rigger which will rise to the loft
- c) Lower-level roof at rear changed from lean-to to flat roof
- d) Changes to window designs including 4No. windows on first floor (2No. front, 2No. rear) becoming Juliet, and introduction of window for loft space on second-floor at the rear
- e) Roof design on porch changed from pitched to flat roof (Local Authority has not raised concern about this change)

Section 5: The Need for the Proposal

- 5.1 The preceding points under paragraph 4.2 list the design changes for which approval is sought. The overarching reason for the changes is to better utilize the proposed loft space by creating additional living/storage space. The Appellant and future occupant has a large family, hence the original and approved proposal to create 4No. bedrooms. Following the Approved Plans being granted planning permission, the Appellant realized that the loft space should be utilised as much needed living and storage space. The aim was to reduce redundant or under-utilized space in the dwelling and instead maximise useable space and thereby improve the functioning of the dwelling, and improve the living conditions for its occupants.
- 5.2 The need for the ridge-height increase and change to main roof design (changes a and b), stem from the aspiration to create living space in the loft. The height increase is to meet building regulations and the change to the roof design at the rear of the dwelling is to create a space that is more livable and functional for the occupants that will use it. This includes by allowing adequate natural light into the space, hence the proposed introduction of a window at the second-floor rear elevation.
- 5.3 Changing the lower-floor roof at rear, from lean-to to flat roof, allows for the installation of large sliding glazed-doors (changes c and d). The approved lean-to roof design would have prohibited the installation of these doors because it took—up space on the rear wall. on the These doors are preferable to the approved smaller windows because they will allow for much high levels of natural light to these rooms, as well as maximum natural ventilation when the doors are opened. Railings will be installed for safety to prevent access onto the flat roof.

Section 6: Response to Reasons for Refusal

Green Belt

“1. The proposed house in terms of its height, size and massing, would constitute a materially larger and disproportionate replacement which would have a seriously detrimental impact on the openness and character of the Green Belt. The proposed development therefore conflicts with the NPPF and the following policies of the Bury Unitary Development Plan: OL1/2 New Buildings in the Green Belt and associated guidance with Development Control Policy Guidance Note 8 - New Buildings and Associated Development in the Green Belt.”

- 6.1 In granting planning permission for the Approved Plans, it is inferred that the Local Authority determined that replacing the bungalow that was on the site with a two-storey detached dwelling “would not result in disproportionate additions over and above the size of the original dwelling” (Policy OL1/2) and that, presumably, given the build-up nature of the site’s context as part of a street-scene, that it was acceptable that the replacement dwelling approved is materially larger than the bungalow i.e. the proposal was in accordance with Policy OL1/2, or in accordance with the policy when taken as a whole.
- 6.2 Given the planning history, it would appear that the principal test is whether or not the difference between the Approved Plans and the As-built Plans results in greater impact on the openness of the Green Belt, and if it does then to what degree and is the increase in impact, on balance, acceptable or not.
- 6.3 The Delegated Report states the proposed design changes would make the size, volume and massing of the dwelling unacceptable due to impact on the character and openness of the Green Belt. The design changes that are most relevant to this matter are considered to be:
- a) Ridge-height of main-roof increased by 1.29m, from 8.36m to 9.65m
 - b) Design of main-roof changed from hipped to hipped at the front, turning gabled at the rear, and roof extended back to inline with rear out-rigger which will rise to the loft
- 6.4 In relation to changes to the scale of the development, it is highlighted that the footprint of the As-built Plans has not changed from that of the Approved Plans. The change to the design of the main-roof and the ridge height increase has, however, increased the internal volume of the roof space and consequently increased the overall massing of the dwelling.
- 6.5 Turning to the Local Authority’s test of “There are a number of factors to be considered within the context of any individual assessment of ‘openness’ and prominent among these will be factors relevant to how built up the Green Belt is, how built up it would be if redevelopment occurs and factors relevant to the visual impact on the aspect of openness which the Green Belt presents” (Delegated Report, p4), the Application Site forms part of a residential road so this particular part of the Green Belt is quite built-up. It is not, for example, an isolated dwelling located in the Green Belt. The proposed design changes would result in a very limited change to the degree that the locality is built-up. In terms of visual impact on openness, this is addressed as part of the proceeding section.
- 6.6 In relation to the SPD 8 ‘New Buildings and Associated Development in the Green Belt’, it is noted that this guidance was prepared in the context of national planning policy that has now been superseded. It is therefore unclear how much weight, if any, should be awarded to this guidance. If parts of the SPD are considered to be material then it is here highlighted that in relation to the ‘Materials and Colour’ section of the guidance that the dwelling is finished in

natural stone, which it is put forward is “sympathetic with the location, mimimising visual impact” (para. 5.13). When viewing the dwelling from the land at the rear in particular, the stone finish assimilates better with the background sky then perhaps some of the neighbouring dwellings do. Similarly, the design complies with “The use of dark colours for window and door frames, guttering and other such elements is often preferable to lighter colours” (para. 5.14).



Photo of appeal dwelling, showing material finishes

- 6.7 The National Planning Policy Framework (NPPF) is more up-to-date than the SPD and should perhaps carry more weight in the planning decision. The NPPF states “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence” (para. 137). The proposed design changes would not contribute to urban sprawl and it will be sought to show that the proposal would not, to any meaningful degree, reduce the openness of the Green Belt at this locality.
- 6.8 It is noted that the NPPF does not make any reference to preserving the “character” of the Green Belt, neither does the Unitary Development Plan. The SPD 8 does refer to character and the Local Authority includes impact on the character of the Green Belt in reason 1 for refusal. With respect to character, it is therefore inaccurate to determine that the proposal conflicts with the UDP and NPPF, since they make no reference to character in relation to the Green Belt.
- 6.9 While the Appellant does not agree that the design changes have resulted in impact on the character of the area, the principle that development proposals must preserve the character of the Green Belt is challenged. This principle is taken from the SPD which was produced inline with national policy that is now superseded. The NPPF should take precedence over the SPD on this matter. If an alternative view is taken, then the Local Authority has failed to state what the “character” of the Green Belt is exactly, and why the proposed design changes would result this character being purportedly impacted. The locality is characterized as a row of dwellings and, following the construction of the appeal dwelling, it is still characterized as a row of dwellings.

- 6.10 The NPPF advises that “Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances” (para. 147). The Local Authority determined that the Approved Plans would not be harmful to the Green Belt and it will be sought to show that the nature and scale of the As-built changes would not tip the balance into harm.
- 6.11 In assessing impact on the openness of the Green Belt, as a result of the difference between the Approved Plans and As-build Plans, the principal locality from where the dwelling is visible, other than in the street-scene, is the public right of way that passes through the field to the rear of the dwelling. Please see images below which are photographs towards the dwelling, along with an OS map showing the PoW with the location at which the photographs were taken, and the Appeal Site, denoted on the map.



*OS map, denoting Appeal Site (arrow) and location where photos were taken from (cross).
Map source: Ordnance Survey*



Photographs of the rear of the dwelling, taken from PoW

6.12 In relation to the photographs, the following observations are made:

- I. While the ridge height of the main-roof is higher than the neighbouring dwellings located either-side, as it was in the Approved Plans, the height is only marginally higher than the ridge height of No. 26 (next-door-but-one) and is approximately the same height as No. 28 (next door to No. 26, far right);



- II. What appears to be a water tower with telecommunications apparatus sited upon it, which is positioned on land of higher elevation to the west of the Appeal Site (far right in the photo), remains the dominant visual feature of this part of the Green Belt. Also, the water tower more greatly intrudes into the openness of the field than the appeal dwelling does. The appeal dwelling is very much subservient in scale relative to the water tower, and more inconspicuous with respect to material finishes;



- III. There are multiple trees present in this view that are higher-level than the appeal dwelling;
 - IV. The changes to the massing of the dwelling, as a result of the changes to the design of the main-roof, are not obvious in views towards the dwelling from the rear;
 - V. The Local Authority's statement that *"the new house is centrally positioned within the plot and generally in line with the other properties along the road"* (Delegated Report, p4) is evidenced in the photographs, to the merit of the dwelling
- 6.13 The assessment has shown the Local Authority's assertion that the differences between the Approved Plans and As-built plans has resulted in impact on the openness of the Green Belt is unfounded. The dwelling assimilates into the established row of dwellings and is set well-back from the open field at the rear of the dwelling. The water tower remains the dominant landscape feature with respect to the openness of the Green Belt.

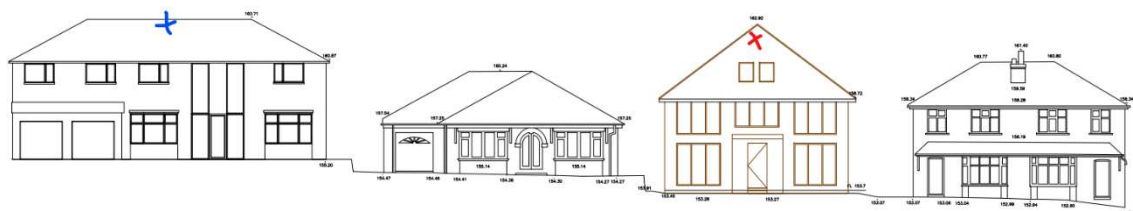
Visual Amenity

"2 The proposed house in terms of its height, size and massing, would appear overdominant within the plot and incongruous between properties on either side. The proposed development therefore have a seriously detrimental impact on visual amenity and conflicts with the following policies of the Bury Unitary Development Plan: EN1/2 Townscape and Built Design, H2/1 The Form of New Residential Development and associate guidance in SPD16 - Design and Layout of New Development in Bury"

- 6.14 The Delegated Report states "The overall height of the building in relation to properties on either side, twinned with the rather incongruous roof design with its steep pitch would appear rather incongruous and out of character with the streetscape despite the fact that Cockey Moor Road is characterised by a mix of house styles".
- 6.15 While impact on the openness of the Green Belt principally relates to visual changes in views towards the dwelling from the public right of way that runs through the field at the rear of the dwelling, impact on visual amenity concerns visual changes to the streetscape which is at the front of the dwelling.

Height & Roof design

- 6.16 In terms of the height of the appeal dwelling, the extract below is taken from the street-scene plans and it shows that the ridge level of the main-roof (highest part of the dwelling) is approximately the same height as No.26 (next-door-but-one). The pitched gradient of the road means that the dwellings on this section of Cocky Moor Road are generally at different heights. The roof-lines are not continuous and there is not a particular rhythm that could be maintained.



Appeal dwelling (red) in relation to No. 26

- 6.17 In terms of size and massing, its important to be aware that dwelling in the As-built Plans is not any wider than that of the Approved Plans. The length or depth of the dwelling from the front to the rear has also not increased in size. The footprint remains the same as approved. Accordingly, matters of massing and size would appear to only concern the increase in ridge height of the main-roof (discussed above), and changes to the roof design.
- 6.18 The Local Authority took the view that the changes to the design of the main roof make it appear incongruous, and make the dwelling appear out of character with the streetscape. Impact on the streetscape is dependent on the existing character and form of the buildings that comprise it. The image below shows that the dwellings in the streetscape feature a variety of roof designs. This includes hipped roofs, steep pitched roofs, gable-fronted roofs, gable ends and dormers. The material finishes of the roofs are mostly different from one to the other.



Image showing variety of roof designs forming the streetscape. Image source: Google



View Point 1. Appeal dwelling (red) in relation to No. 28 (blue). Vegetation in foreground and similar roof pitch gradient at No. 12 (bungalow) visible

- 6.19 View Point 1 show that when travelling West on Cocky Moor Road that the appeal dwelling assimilates well with the rooflines of the streetscape. Trees and boundary treatments of the neighbouring dwellings serve to soften or partially screen dwelling. The appeal dwelling appears subservient to No. 28 which remains the visually dominant dwelling in this view.
- 6.20 View Point 1 also shows that the front pitch of the appeal dwelling's main roof is comparable to the pitch of the apex style roof on the bungalow that is located a few plots lower down the hill (No. 12).



View Point 2. Appeal dwelling in relation to No. 26 (far left)

- 6.21 View Point 2 shows that No.26 remains the dominant feature in the streetscape, or that at least No.26 and the appeal dwelling are comparable in their presence. This is because No. 26 occupies a larger plot than the appeal dwelling and it is noticeably wider in its design, occupying more space in the street scene. The street lighting columns are also visible in this shot which are much higher than the appeal dwelling and provide beneficial site context



View Point 3. Appeal dwelling , direct view from opposite side of the road

- 6.22 View Point 3 shows that the design of main roof at the front, actually compliments the existing triangular shaped roofs of the neighbouring dwellings. The triangular-section on the bungalow roof comes to a sharp-point at the peak, the same as the roof on the appeal dwelling. Again, the presence of the telegraph pole in the street-scene provides beneficial site context that contributes to the built-up and suburban nature of the locality.

Front porch

- 6.23 The Delegated Report states *“The second element of concern is the two storey porch/outrigger on the front elevation. This structure would appear to be overdominant on the frontage and add to the proposed dwelling's rather incongruous appearance within the streetscape.”* It is assumed that this comment is as a result of the plans being misinterpreted. A single storey porch, not two storey, featured on the Approved Plans and this has been built. The as-built porch has a lower level and flat roof design, compared to the pitched-roof design on the Approved Plans.
- 6.24 The porch is unobtrusive and the photographs show that, when the temporary site fencing is removed, that it would not dominate the streetscape. Its scale and appearance are subservient to the rest of the appeal dwelling, and to the neighbouring dwellings.

Policy

- 6.25 Turning to policy for the impact of the appeal dwelling, as a whole, on visual amenity, the reason for refusal cites conflict with the following policies of the Bury Unitary Development Plan: EN1/2 Townscape and Built Design, H2/1 The Form of New Residential Development; and with associate guidance in SPD16 – ‘Design and Layout of New Development in Bury’. While the

Delegated Report does not specify which parts of these policies and guidance the dwelling conflicts with, the pertinent parts are appraised here.

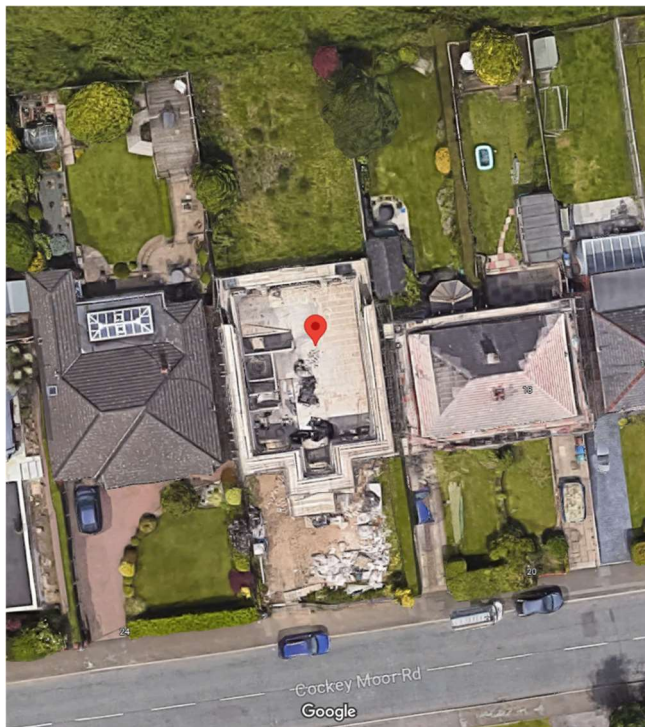
- 6.26 In relation to Policy EN1/2, the essence of the policy is that proposals should not *“have an unacceptable adverse effect on the particular character and townscape of the Borough's towns, villages and other settlements”*. As already highlighted, the streetscape that the appeal dwelling is part of does not have a particularly strong character that could be readily defined. The Delegated Report correctly identifies that *“Cockey Moor Road is characterised by a mix of house styles”*. If the prevailing character of the road is that of diversity, including bespoke designs, then the appeal dwelling compliments this does not have an “unacceptable adverse affect” on it.
- 6.27 Turning to EN1/2 criteria, preceding paragraphs of this case have sought to show that the height and scale of the dwelling would not result in an unacceptable adverse effect on the streetscape. The Local Authority has not raised concerns about material finishes, access, parking, landscaping and the use of light – which form the assessment criteria. The final paragraph of the Justification to the policy is particularly relevant with respect to the objective that “originality” should not be stifled. The character of the surrounding dwellings is one of individuality and the appeal dwelling positively contributes to and maintains this theme. The dwelling complies with Policy EN1/2.
- 6.28 In relation to Policy H2/1, the essence of this policy is that *“new residential development will be expected to make a positive contribution to the form and quality of the surrounding area”*. It's reminded that the principle of replacing the bungalow that was formerly at the appeal site with a two-storey detached dwelling has already been deemed acceptable and therefore, presumably, that the Approved Plans make a positive contribution to the form and quality of the area. Therefore with respect on visual amenity, the most relevant assessment criteria from H2/1 must be “height and roof type of adjacent buildings”. Preceding paragraphs of this case have sought to show that the appeal dwelling's main-roof assimilates well enough with other dwellings on the row, to the degree that it does not appear out of place.
- 6.29 In relation to the SPD 16 ‘Design and Layout of New Development in Bury’. This guidance was prepared in the context of national and regional planning policy that has now been superseded. It is therefore unclear how much weight, if any, should be awarded to this guidance. Since the planning decision does not specify which parts of the guidance that the appeal dwelling allegedly does not comply with, it will not be speculated here. Instead, should the Inspector wish to award weight to this guidance, the matters relating to visual amenity have already been addressed in this section.
- 6.30 Based on the requirement under Section 35 (1)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, for the Local Authority to specify all relevant policies in the Development Plan they had regard to in coming to their decision, it therefore means that there is common-ground that the appeal dwelling is complaint with all other polices in the Development Plan.
- 6.31 In a similar regard, the reason for refusal relating to visual amenity does not cite conflict with the NPPF. Since the NPPF is an up-to-date material consideration, compliance with it should be awarded more weight than the alleged conflict with SPD 16.
- 6.32 It is evident that the appeal dwelling *does* comply with the NPPF. In particular, the need for additional living/storage space in the loft which necessitated the main difference between the Approved Plans and the As-built Plans, that being the increase in ridge height and change in roof design, adheres to the framework with respect to ensuring developments *“will function*

well and add to the overall quality of the area, not just for the short term but over the lifetime of the development” (para. 130, (a)). The occupants have considered their longer-term living needs which can met by altering the approved design and be achieved as part of a single build, as oppose to making additional alterations at a later date and causing further disturbance to neighbours.

Residential Amenity

“3 The proposed development would, by reason of its height, size and massing, be overdominant and have a seriously detrimental impact on the residential amenity of those residents on either side of the site. The proposal would conflicts with the following policies of the Bury Unitary Development Plan: H2/1 The Form of New Residential Development and associate guidance in SPDs 6 and 16 - Extensions and Alterations and Design and Layout of New Development in Bury”

- 6.33 The Delegated Report states: *“This latest scheme increases the size and massing of the rear outrigger which now has an overdominant impact, particularly when viewed from the neighbouring properties. With this overdominant element at the rear, the new dwelling would have a seriously detrimental impact on the residential amenity of the neighbours on either side”.*
- 6.34 The relevant matter is whether the design differences between the Approved Plans and the As-built Plans, in this case changes to the design of the roof and outrigger at the rear, has increased the dominance of the appeal dwelling as experienced by the occupiers in the neighbouring dwellings located either side (No. 20 & No. 24), when they are using their rear gardens in particular, and if it does then to what degree and is the increase in impact, on balance, acceptable or not.
- 6.35 In discussing the impact of the appeal dwelling on the windows of these neighbouring dwellings, the Delegated Report appears to concur with the Appellant that the design changes are still acceptable with respect to overlooking and natural daylight *into* these dwellings. Since the location, footprint and depth that the appeal dwelling extends towards the rear has not changed from that in the Approved Plans, that would be an accurate assessment.



Aerial image showing As-built footprint. Image source: Google

- 6.36 It is accepted that the changes to the rear of the appeal dwelling would increase its dominance when viewed from the rear gardens of the immediate neighbouring dwellings. It is considered, however, that there are mitigating factors which limit the increase to within acceptable levels. This includes the presence of boundary fencing installed either-side which is above head-height, as well as the presence of outbuildings and trees inside the neighbouring gardens. These are existing features in the context of the appeal dwelling that collectively serve to soften the visual effect of the dwelling.



*3D image showing existing trees and outbuildings in neighbouring gardens.
Image source: Google*

Policy

- 6.37 The reason for refusal cites conflict with the following policies of the Bury Unitary Development Plan: H2/1 The Form of New Residential Development and associated guidance in SPDs 6 and 16 – ‘Extensions and Alterations and Design’ and ‘Layout of New Development in Bury’. While the Delegated Report does not specify which parts of these policies and guidance the dwelling conflicts with, the pertinent parts are appraised here.
- 6.38 Policy H2/1 advises that the impact of developments on residential amenity is one of the factors that will be considered. The Justification for the policy elaborates *“it is essential that reasonable standards of privacy and residential amenity are maintained for neighbouring residents. In this way it is hoped that it will be possible to balance the continued demand for housing with the need to improve the quality of life for the Borough's residents”*.
- 6.39 It has been discussed that the appeal dwelling does not give rise to matters of overlooking, loss of light or overshadowing. By enlarge, it does therefore not give rise to impact on residential amenity. Increase in impact is limited to the building's dominance when viewed from rear gardens. Despite the acknowledged increase in impact, the residual effect after factoring the mitigation brought by features present such as large trees, for example, leads to the

conclusion that the dwelling passes the policy test of maintaining “reasonable” standards of amenity for neighbouring residents.

- 6.40 This standard is what should be reasonably expected in the context of a row of dwellings in a suburban area. The Local Authority themselves has applied this principle when assessing other aspects of residential amenity *“The habitable room windows on the front and rear elevations would not result significant overlooking beyond what would reasonably be expected in a residential setting”* (Delegated Report, p5 para.4). The built-up nature of the site’s context should be factored when considering the dominance of a building.
- 6.41 As the policy states, maintaining reasonable standards of amenity must be weighed against the high demand for housing, which in this case translates into the need for future occupants of the appeal dwelling to have enough living/storage space for their large family, and a house that functions well.
- 6.42 Linked to this “balance” consideration of H2/1, with respect to residential amenity, is the National Design Guide – referred to in the NPPF and thereby a material consideration – which states *“Well-designed homes and communal areas within buildings provide a good standard and quality of internal space. This includes room sizes, floor-to-ceiling heights, internal and external storage, sunlight, daylight and ventilation. The quality of internal space needs careful consideration in higherdensity developments, particularly for family accommodation, where access, privacy, daylight and external amenity space are also important”*. (para. 126).
- 6.43 The appeal dwelling complies with the National Design Guide with respect to the design changes creating well-designed loft space featuring livable floor-to-ceiling heights, providing internal storage as well as good levels of sunlight through the loft window. The quality of this space has been given careful consideration and, being on a separate floor, it will provide “privacy” for certain family members that require it.
- 6.44 In relation to the SPDs 6 and 16, it has already been discussed that this guidance was prepared in the context of national and regional planning policy that has now been superseded. It is therefore unclear how much weight, if any, should be awarded to the guidance. Since the planning decision does not specify which parts of the guidance that the appeal dwelling allegedly does not comply with, it will not be speculated here. Instead, should the Inspector wish to factor this guidance into the planning decision, matters relating to residential amenity have been addressed in this section.

Section 7: Summary

- 7.1 The design differences between the Approved Plans and the As-built Plans are mainly in the form of an increase in the ridge height of the main-roof and change in roof design which changes the appearance of the dwelling at the rear, in particular. The changes are to facilitate better utilization of loft space and to allow increased levels of natural light and ventilation. Such aspiration is supported by the National Design Guide which encourages good standards of internal space, particularly for family accommodation.
- 7.2 It has been shown that given the location of the appeal site inside the development envelope, and forming part of a row of dwellings, that the design changes would not materially increase impact on the openness of the Green Belt, with particular consideration to views from the public right of way that runs through the field at the rear of the dwelling. The dwelling complies with Policy OL1/2 and with the NPPF's guidance on development in the Green Belt
- 7.3 The setting of the site is characterized by other dwellings that are mostly bespoke in the scale and design. As such, the appeal dwelling does not appear out of place and instead assimilates comfortably into the streetscape. The dwelling does not impact visual amenity and complies with policies H2/1 and EN1/2 of the Development Plan. The design changes are supported by paragraph 30 of the NPPF which advises that new developments should function well, not just in the short-term but over their life time. The additional space in the loft will ensure this is achieved.
- 7.4 With respect to the dwelling being experienced by neighbouring occupiers from their rear gardens, it has been sought to show that the dwelling passes the policy test of maintaining "reasonable" standards of residential amenity. This is after factoring the mitigation from existing features in the site's context, and with respect to the policy's objective that maintaining reasonable standards of amenity is balanced with the need for new living accommodation.
- 7.5 It is hoped that, on balance, the Inspector will determine that the appeal dwelling complies with the Development Plan, when take as a whole. And that there are other material considerations, including from the NPPF and National Design Guide, which weight in favour of the appeals being allowed.

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