

DELEGATED REPORT

Report by Helen Pressley	Date of report: 07/05/2025	Ref: 71599/FUL
Registration: 13/03/2025	LDfC: 28/04/2025	Expiry Date: 08/05/2025
Site Visit: 02/04/2025	Site Notice: 02/04/2025	Press Date: 27/03/2025
Objections: 1	Con Area: N/A	Adv Type: ARW
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Erection of 1 no. dwelling with new public footpath

Location: Land off Leigh Lane, Bury, BL8 1RJ

Description

The application relates to a plot of land to the south of Leigh Lane, located to the east of Scholes House and the associated kennels. The plot is covered by a group TPO (TPO number 201 refers). The plot is located within the Green Belt and within Cyrus Ainsworth Nurseries and Parkers Lodges Site of Biological Importance. The plot can be accessed by public right of way 146BUR bridleway which is accessed from Owlerbarrow Lane, or from 143BUR bridleway also known as Leigh Lane.

Land to the south of the site is depicted by trees, and a reservoir. Similarly the land immediately to the east and west of the site is heavily treed. Land to all boundaries of the site are within the Green Belt. An open school playing field is also located to the north of the site.

Planning permission is sought for the construction of 1no. dwelling. Access is proposed from Leigh Lane.

Relevant Planning History

None

Publicity

Letters sent to 6 neighbouring properties on 20th March 2025.

Site notice posted 2nd April 2025

Press notice published in the Bury Times 27th March 2025.

1 objection received in relation to:

- No exceptional circumstances to remove this land from the Green Belt.
- Would not make a significant contribution to housing need.
- Not derelict land.
- Encroaches on an SBI which is not clearly detailed on plans.
- Trees are subject to a TPO.
- Site has not been previously developed.
- Access is via a narrow, single track used by walkers, horse riders, bike riders and children going to and from Elton High. Any additional traffic would pose a serious danger.

Statutory/Non-Statutory Consultations

Traffic Section and Public Rights of Way Officer - Recommendation for refusal due to insufficient information in relation to vehicular access rights, access parking and turning arrangements, physical impact on the Public Right of Way and mitigation in relation to fire risk.

Borough Engineer - Drainage Section - No response

Environmental Health - Contaminated Land - Due to the sensitivity of the proposed land use, as a minimum, a Desk Study and Preliminary Risk Assessment will be required.

Electric Vehicle Charging Points will also be required.

Greater Manchester Ecology Unit - The development will directly impact part of the Cyrus Ainsworth & Parkers Lodges SBI our initial position is therefore to object. Other ecological issues include nesting birds and invasive species.

Fire Protection Dept Bury Fire Station (Part B) - No response

United Utilities (Water and waste) - No objections raised.

Pre-start Conditions - Not relevant

Development Plan and Policies

EN1/2	Townscape and Built Design
EN6/2	Sites of Nature Conservation Interest LNR's
EN6/3	Features of Ecological Value
EN6/4	Wildlife Links and Corridors
EN8/1	Tree Preservation Orders
EN8/2	Woodland and Tree Planting
OL1/2	New Buildings in the Green Belt
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
HT2/4	Car Parking and New Development
RT3/4	Recreational Routes
RT3/3	Access to the Countryside
JP-H1	Scale of New Housing Development
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing
JP-C2	Digital Connectivity
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C8	Transport Requirements of New Development
JP-G1	Landscape Character
JP-G9	The Green Belt
JP-G8	A Net Enhancement of Biodiversity and Geodiversity
JP-G7	Trees and Woodland
JP-S2	Carbon and Energy
JP-S4	Flood Risk and the Water Environment
JP-P1	Sustainable Places
NPPF	National Planning Policy Framework
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
SPD8	DC Policy Guidance Note 8 - New Buildings in the Green Belt

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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PFE Policies 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.

Principle (Residential)

The National Planning Policy Framework (NPPF) is a material planning consideration in planning decisions, and emphasises the Government's objective of significantly boosting the supply of homes. The Framework states that local planning authorities should identify and update annually a supply of specific deliverable sites to provide a minimum of five years' worth of housing, with either a 5% buffer to ensure choice and competition in the market for land, or a 20% buffer where there has been significant under delivery of housing over the previous three years. As set out in NPPF paragraph 78, the supply of housing must be assessed against the housing requirement set out in adopted strategic policies where these are less than five years old.

The joint Places for Everyone Plan was adopted with effect from 21 March 2024 and sets the up-to-date housing requirement for Bury against which the deliverable supply of housing

land must be assessed. PfE Policy JP-H1 sets the following stepped targets for Bury:

- 246 homes per year from 2022-2025;
- 452 homes per year from 2025-2030; then
- 520 homes per year from 2030-2039.

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 deliverable land supply calculations as many sites will take longer than five years to come forward and be fully developed. The joint Places for Everyone Plan allocates significant strategic sites for housing within Bury and will accelerate housing delivery within the Borough to meet housing needs.

Following the adoption of Places for Everyone, the Council is able to demonstrate a deliverable 5 year supply of housing land with a 20% buffer (as currently required in Bury due to past under delivery) when assessed against the adopted PfE housing requirement.

The National Planning Policy Framework also sets out the Housing Delivery Test (HDT), 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%) 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 (the 2023 measurement published on 12 December 2024) show that Bury has a HDT result of less than 75%, and therefore, this needs to be treated as a material factor when determining applications for residential development.

Therefore, paragraph 11(d) 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, provide a strong 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

In this instance, the site is located within the Green Belt. As such the tilted balance, as set out within paragraph 11(d)i would not apply.

Principle (Green Belt)

The application site falls within the Green Belt as designated by PfE policy JP-G9.

In this regard, paragraph 153 of the NPPF is clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 154 of the NPPF is clear that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt unless it meets one of the eight listed exceptions.

Policy OL1/2 states that the construction of new buildings in the Green Belt is inappropriate development, unless it is for one of more of the following purposes: agriculture and forestry essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it; limited extension, alteration or replacement of existing dwellings, provided that this would not result in a disproportionate additions over and above the size of the original dwelling, or, in the case of replacement existing dwellings, the new dwelling is not materially larger than the one it replaces; limited infilling in existing villages.

The applicant has submitted a Green Belt Impact Statement which suggests the site is previously developed land. Annex 2 of the NPPF (Glossary p77) defines previously developed land as land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it. As a site which is or was not occupied by permanent and fixed surface infrastructure, the site does not meet the NPPF's definition of previously developed land.

Therefore, the proposal does not meet any of the exceptions listed within paragraph 154.

Paragraph 155 of the NPPF states that the development of homes in the Green Belt should also not be regarded as inappropriate where all the following apply:

- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- b. There is a demonstrable unmet need for the type of development proposed;
- c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
- d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below.

In respect of paragraph 155, the proposal would encroach upon the countryside in an area which is already constrained and makes up the last parcel of green belt within the area. Related to this, the site is adjacent to PfE allocation JPA9. Part 11 of this policy requires development to strengthen the boundaries of the Green Belt to the south-east of the site. As such the development of the site would be contrary to this policy by weakening the Green Belt Boundary and would undermine the remaining Green Belt.

The proposed development does not therefore accord with any of the exceptions set out in paragraph 154 of the NPPF. As a result, the proposal should be regarded as inappropriate development in the Green Belt, in which case the applicant is required to demonstrate very special circumstances, the benefits of which would need to clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal.

Very Special Circumstances (VSC)

The submitted Green Belt Impact Statement does not refer to 'very special circumstances' however does make reference to some 'key justifications' such as improving access by introducing a footpath, retaining and enhancing the landscape character through the development of raised house which will allow landscape to flow underneath, and improvements to 'derelict land'. Additionally, the submitted Design, Access, Sustainability and Innovation Statement 2025 refers to the following 'very special circumstances':

- Exceptional from an architecture, sustainability and ecology perspective.
- Claims that the quality of the Green Belt is compromised by the previous nursery use and that the site is brownfield
- Minimal impact on the openness of the Green Belt due to woodland.
- Approval of the scheme would see the preservation and enhancement of the landscape.

As previously established, the site is not brownfield or previously developed land and it is not considered that the above, including the development of a dwelling of high-quality

design, is a factor great enough to outweigh the substantial harm to the Green Belt, particularly as a Site of Biological Interest, that this proposal would result in. The development of this site would undermine the remaining Green Belt

Layout and Design

PfE Policy JP-H4 - Requires new housing development to be delivered at a density appropriate to the location, reflecting the relative accessibility of the site by walking, cycling and public transport and the need to achieve efficient use of land and high quality design. Policy JP-H4 sets out minimum densities that should be considered. Therefore in accordance with Policy JP-H4 regard should be had to a minimum net residential density of 35 dwellings per hectare at this site. The application form states that the site is 35000 square metres or 3.5 hectares, which based on a total of 1 dwellings would result in a density of 0.28 dwellings per hectare. The development would therefore fail to make efficient use of land.

The applicant has not provided a density statement in support of the application to detail why a lesser density would be acceptable at the site. The applicant has therefore failed to demonstrate why the proposal would be acceptable contrary to Policy JP-H4.

UDP Policies H2/1 and H2/2 provide the assessment criteria for detailed matters relating to height, appearance, density and character, aspects and finishing materials for new residential developments. Policy EN1/2 seeks to ensure that development proposals would not have a detrimental effect on the visual amenity and character of a particular area. PfE Policy JP-P1 seeks to create a city region that consists of a series of beautiful, healthy and varied places. High quality design is fundamental to achieving this. PfE Policy JP-H3 seeks to provide an appropriate mix of dwelling types and sizes reflecting local plan policies and having regard to relevant local evidence. Development across the plan area should seek to incorporate a range of dwelling types and sizes, including for self-build.

In addition to being located within the Green Belt the site is also located within a Landscape Character area as identified by PfE Policy JP-G1: Landscape Character. The site is considered to be defined as Urban Fringe Farmland. This policy states that Development within a Landscape Character Type, should reflect and respond to the special qualities and sensitivities of the key landscape characteristics of its location, including having regard to:

- Topography, geology and drainage;
- Land use and field patterns;
- Semi-natural habitats and woodland cover;
- Archaeology and cultural heritage;
- Settlement, road pattern and rights of way; and
- Views and perceptual qualities.

The applicant has submitted an extensive Design and Access Statement, that sets out their approach to the design of the proposed dwellings within the context of the site. The applicant considers that there have been significant industrial and commercial activity that have directly impacted on the lands "green" value and that the proposal would lead to a new house within a previously man made landscape. The applicant also considers that the site is self-contained, and development of the property would not set a precedent in terms of new housing in the area as the site is clearly defined with strong boundaries.

The Council consider that it is incorrect to describe the site as industrial or commercial. The site was formerly as part of a nursery and this use ceased some time ago. The definition of previously developed land in the Glossary of the NPPF clearly states that it does not include land that was last occupied by agricultural buildings. The Town and Country Planning Act 1990, Section 336 definition of agriculture includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock. The former nursery site buildings are considered to be agricultural and therefore the site does not comprise previously developed land. Additionally, the remains of the former greenhouse, stores and boiler house are largely blended into the landscape. There is very little evidence left on site in relation to this

former use with the retained former nursery buildings, which are outside of the site boundary, falling into a state of disrepair. There are two dwellings associated with the former nursery use to the west of the site which are currently subject to reserved matters applications. A kennel business is also located to the east of the site, in close proximity to the dwelling house associated to this business use. This use however is limited to the curtilage of the associated dwelling.

The Council would therefore not consider the site to be self contained. Whilst parcels of the former nursery site have been purchased by different land owners there is very little in terms of boundary treatment to suggest where this site ends, and the adjacent parcel of land begins and as such there are currently no strong boundaries other than the public right of way that runs along the front of the site. The proposal however would seek to introduce these boundaries through the introduction of post and rail fencing which would create artificial boundaries where the land was previously open. The proposal would therefore lead to a subdivision of the larger former nursery site for the creation of a dwelling, and associated amenity space that would impact on the permanence of the openness of the Green Belt contrary to policy and failing to consider the established land use pattern along the southern side of Leigh Lane.

The Design and Access Statement also details the design development, confirming that the design is site specific and incapable of being lifted and used elsewhere successfully. The applicant states that the dwelling has been designed so that it is constructed on supporting columns to emulate the form of the existing trees, with external elements elevated above the woodland floor to reduce the dwelling's impact. Green walls have also been included to encourage integration within the site.

The dwelling does appear to be bespoke, responding in part to the ecological and topographical constraints of the site. Whilst the applicant has sought to demonstrate the design and sustainability benefits of the proposal it is considered this would not outweigh the in principle harm of siting a dwelling within this site. The site if left undeveloped for residential use would be retained as a wooded, Green Belt site maintaining the Green Belt boundary along Leigh Lane and the applicant has failed to demonstrate the proposed design of the dwelling would represent a design of exceptional quality, that would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

The NPPF makes it clear that creating high quality buildings and places is fundamental. This is further supported by the National Design Guide. The National Design Guide, published by the Ministry of Housing, Communities and Local Government in 2019 states that well designed new development is influenced by "an appreciation and understanding of vernacular.....including existing built form, landscape and local architectural precedents." It is considered that the proposal fails to meet these requirements and does not reflect the context of the rural locality, leading to a proposal that would not enhance the existing character. It is therefore considered that the design of the proposed dwelling would not be acceptable.

The proposed development would, by reason of its size, position and design introduce a discordant, intrusive and permanent development which would have a detrimental and long term harmful impact on the character and openness of the locality, Green Belt and Landscape Character Area. The applicant has failed to demonstrate very special circumstances that would outweigh the harm caused to the openness of the Green Belt. The proposed development would therefore be contrary to Development Plan Policies set out above.

PfE Policy JP-H3 also states that all new dwelling must:

1. Comply with the nationally described space standards (NDSS); and
2. Be built to the 'accessible and adaptable' standard in Part M4(2) of the Building

Regulations unless specific site conditions make this impracticable.

The submitted space standards table states that the proposal would be for a 5 bed, 5 person property. The space standards table however also confirms that 1no. bedroom would meet the double occupancy requirements and that the proposed single occupancy rooms (x4) would also exceed the double occupancy requirements. Individual room areas for each of the 5no. bedrooms have not been included on this table. Unfortunately the proposed floor plans do not scale, and do not include floor areas. As such the Case Officer is unable to make an accurate assessment of the scheme in terms of compliance with NDSS.

M4(2) compliance can be secured by condition.

Trees

The site is protected by a group Tree Preservation Order (TPO). UDP Policies EN8/1 and EN8/2 seek to support the retention of trees, woods, copses and hedgerows to encourage natural regeneration and new and replacement tree planting. PfE Policy JP-G7 seeks to significantly increase tree cover, protect and enhance woodland, and connect people to the trees and woodland around them.

An Arboricultural Constraints Appraisal has been submitted with the application that identifies 39 individual trees, 5 groups and 1 woodland within the site. A Tree Survey, and Tree Impact Plan have also been submitted with the application. The Tree Impact Plan states all categories of trees will be retained and protected and defines an area of tree protection. The Tree Survey drawing indicates some category U trees to be removed. It is unclear what would happen to any trees located within W1 which may be located within the footprint/area of development. The Arboricultural Constraints Appraisal does not identify any mitigation, or works that may be need to facilitate the development and no information has been submitted to support the mitigation indicated on the Tree Impact Plan to suggest that the measures proposed would be sufficient to protect the existing trees on site. As such it is considered that the applicant has failed to demonstrate that the proposal would not have a detrimental impact on the protected trees on site contrary to the policies set out above.

Amenity

UDP 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. There are no adopted aspect standards for new build residential properties however, Supplementary Planning Document 6 provides guidance on aspect standards between residential properties and as such, would be a reasonable guide in this case.

For clarity the following aspect standards would be applicable:

- 20 metres between directly facing habitable room windows;
- 13 metres between an existing habitable room window and a proposed two storey blank wall
- 6.5 metres between an existing habitable room window and a proposed single storey blank wall
- 7 metres between a proposed first floor habitable room windows or balconies and a directly facing boundary with a neighbouring property.

The proposed dwelling would be elevated however the proposed elevations do not scale accurately. The General Site Area plan however does appear to scale correctly and therefore some assessment can be made in terms of aspect standards.

There are a number of terraces facing towards the east boundary, with the nearest terrace located within 2.7metres of this boundary. The terrace area sited outside of the lounge

would also be within 5.7 metres of this boundary. Assuming that these terraces would be located at a first floor level, but without plans that scale, these terraces would not comply with the 7 metres required and would rely on views over land that is outside of the applicants ownership. As such these proposed elevated amenity areas would not be acceptable. Recent appeal APP/T4210/D/24/3337341 confirmed the LPAs aspect standards and that there should not be an over reliance on views over land outside of the applicant's control.

In addition to the proposed terraces, there are a number of habitable room windows facing towards the east boundary. These windows however do appear to be located over 7 metres from the directly facing boundary however due to the plans submitted it is unclear what the height of these windows is to accurately assess their potential impact.

The windows/terraces facing towards the western boundary of the site would also appear to not comply with aspect standards however the curtilage indicated on the general site area drawing does not correspond with the site location plan in relation to these boundaries and no other plans show these boundaries in relation to the building to allow accurate measuring. These windows and terraces however would have onward views of land within the blue edge which is under the applicant's control.

The windows/terraces facing towards the north boundary would be located approximately 25 metres from the boundary with the public right of way that runs along the front of the site comply with aspect standards.

Access and Parking

Policy EN1/2 requires the consideration of the design and appearance of access, parking and service provision. This is further supported by Policy H2/2 that requires proposals to demonstrate adequate car parking provision, access for both vehicles and pedestrians, and provision for public transport and the existence of any public rights of way. Policies JP-C5 and JP-C6 require streets to be well designed and managed to make a significant positive contribution to the quality of place and support high levels of walking, cycling and public transport.

The plot is accessed 143BUR bridleway also known as Leigh Lane. As such UDP Policy RT3/3 - Access to the Countryside is also applicable as it requires the Council to seek to improve and extend the existing network of Public Rights of Way. This policy also supports the aspirations of the PfE policies listed above. The site can also be accessed via 146BUR bridleway from Owlerbarrow Road.

Whilst private rights of access would be a non-material planning consideration, the proposal would intensify the use of the public rights of way through the introduction of more traffic. The proposed site plan is limited in detail and highways consider that the applicant has provided insufficient information in relation to:

- Confirmation that vehicular access to the site can be achieved on land within the applicant's control;
- Access, parking and turning arrangements/facilities for the dwellings;
- Physical impact of the development and the access arrangements proposed on the adjacent Public Rights of Way; and
- Mitigation measures required to overcome the site's emergency access deficiencies from a fire safety perspective in view of the site's remote location from the adopted highway network, constraints along the routes to the site for fire appliances and excessive cul-de-sac lengths effectively involved.

As the application can not be supported in principle, additional information and more detailed plans have not been requested.

The application also seeks to introduce a new public right of way across the site. The applicant has not sought the advice of the Public Rights of Way Officer in relation to the

suitability of this proposal. No information has been provided in relation to permission, rights or maintenance of this PROW.

In terms of parking standards UDP Policy HT2/4 requires all applications for development to make adequate provision for their car parking and servicing requirements .
Supplementary Planning Document 11 provides parking standards for developments.

A 5no. bedroom dwelling would be required to provide a maximum of 3no. spaces. The proposal seeks to introduce 2no. spaces. This would comply with parking standards.

Ecology and Biodiversity Net Gain

Policy JP-G8 states that through local planning and associated activities a net enhancement of biodiversity resources will be sought. This is supported by Policy EN6/3 that seeks to retain, protect and enhance the natural environment and seeks to retain features of ecological or wildlife value. Paragraph 180 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment. Policy EN8/2 supports and encourages new woodland and tree planting within the borough

Cyrus Ainsworth's Nurseries and Parkers Lodges Site of Biological Importance

The site is part of the Cyrus Ainsworth's Nurseries & Parkers Lodges which is a Grade B Site of Biological Importance. As such, UDP Policy EN6/2 applies. This states that planning permission will not be granted for development which would damage either directly or indirectly, the nature conservation interests of sites of particular ecological significance (Local Nature Reserves or Grade B and C Sites of Biological Importance) unless conditions can be imposed that would acceptably mitigate those impacts.

Whilst acknowledging the efforts to restrict negative impacts on the SBI, the development will still directly impact a small part of the SBI, with a lack of clarity on how the remainder of the SBI within the red edge will be managed and what the extent of the domestic curtilage would be. Is the potential for negative indirect effects. GMEU therefore object to the proposal and consider that would be contrary to UDP policy EN6/2. GMEU acknowledge however that the site is in poor condition owing to the extent of the invasive species on the site and that part of the red edge is not within the SBI, which could be utilised as garden and would be a better location from an ecological perspective for the proposed dwelling.

The ecological survey submitted has been carried out at a sub-optimal time of year, particularly for a woodland SBI. Given the sensitivity of the site, GMEU would recommend a review of the Preliminary Ecological Assessment (PEA) and vegetation survey during the April - June period and in particular the footprint of the proposed for woodland indicator species. GMEU would recommend that all SBI land outside the footprint of the dwelling was covenanted (or other legal agreement) to be retained as woodland (to prevent any future owners turning in to a garden) and brought in to good ecological condition should the LPA be minded to approve the application.

The LPA has not sought these amendments or reviews requested by GMEU given that the principle of development of the site has not been accepted. As such the proposal would be contrary to UDP Policy EN6/2.

Bats

Three trees were identified as requiring further bat assessment owing to the risk of indirect effects from the proposed development. Current guidance states it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision (UK Government Guidance within the ODPM Government Circular 06/2005).

As such it is considered that inadequate information has been submitted to ensure that the proposal would not have a detrimental impact on protected species, namely bats contrary to

UDP Policy EN6/3.

Other Protected Species

GMEU agree with the consultant's assessments relating to other protected species and would note that the ponds within 250m have been surveyed in the past for great crested newts with none ever found. No further survey information is required.

Nesting Birds

Trees and shrubs will be lost which are potential bird nesting habitat. All British birds nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife & Countryside Act 1981, as amended. GMEU have therefore requested condition to restrict any works to trees and shrubs to outside of nesting season.

Mammals and Amphibians

Priority species such as common toad and hedgehog are likely to be present and as noted by the consultant, species such as badger whilst apparently absent could cross the construction site. GMEU therefore agree with the consultant that reasonable avoidance measure are required. Section 7.24 & 7.32 of the preliminary ecological appraisal can be conditioned as part of any permission.

Invasive Species

Japanese knotweed, himalyan balsam and rhododendron are present across the site. All are included within schedule 9 part 2 of the Wildlife & Countryside Act 1981, as amended. These species are also present beyond the site boundary and therefore total eradication is unlikely ie reinfestation is likely to occur particularly for Himalayan balsam. There will however be a high risk of tracking of Himalayan balsam and Japanese knotweed off-site. GMEU confirm that a method statement condition would be required.

Proximity to Elton Brook

The construction part of the development is located well away from the Elton Brook. It is unclear however whether or not any surface water drainage from the site will be directed towards the Brook. GMEU would therefore recommend that should surface water discharge to the brook be proposed (or septic tank) that adequate measures to ensure no increase in flow, increase in sediment and increase in pollutants occurs.

Contributing to and Enhancing the Natural Environment & Biodiversity Net Gain (BNG)

Section 187 of the NPPF 2024 states that the planning policies and decisions should contribute to and enhance the natural and local environment. 10% BNG is mandatory under Schedule 7A of the Town & Country Planning Act 1990 (as inserted by schedule 14 of the Environment Act 2021).

Whilst the majority of the trees are retained, there will be loss of priority habitat woodland ground flora and potential indirect losses to the ground layer, dependent on how the remainder of the land in the developer's ownership is managed. Currently no detailed management proposals have been provided. GMEU consider that should the LPA be minded to approve the application, the woodland SBI outside of the footprint of the building should be put in to positive management and maintained in perpetuity via a legal agreement.

Wildlife issues are restricted to loss of bird nesting habitat and potential bat roosting features. Mitigation will be feasible through bird and bat box provision.

The development is exempt from biodiversity net gain under the self-build rule.

Wildlife Links and Corridors

The site is part of the borough's wildlife links and corridors. As such, Policy EN6/4 is applicable.

UDP Policy EN6/4 seeks to consolidate and, where appropriate, strengthen wildlife links and corridors, and will not permit development which would adversely affect identified areas. In particular, the Council will seek to ensure that new development within or adjacent to identified links or corridors contributes to their effectiveness through the design, landscaping and siting of development proposals and mitigation works, where appropriate.

Whilst bringing part of the corridor and SBI into domestic use has the potential to adversely affect the wildlife corridor, it is acknowledged that efforts have been made to restrict negative impacts upon the wildlife and vegetation through the design, however this does not negate the conflict of the proposal with UDP policy EN6/2 and PfE policy JP-G9.

Carbon And Energy

JP-S2 - Carbon & Energy sets out the steps required to achieve net zero carbon emissions.

A sustainability principles drawing has been submitted that includes annotations in relation to the proposed dwelling that include the following provisions:

- Enhanced levels of insulation to building fabric and high airtightness
- Existing tree cover and projecting eaves reduced solar gain
- Air Source Heat Pumps
- Underfloor heating
- Photovoltaic Arrays
- Warm air extraction through glazed links
- Extracted warm, stale air to be subject to heat recovery
- Ev chargepoints

Digital Connectivity

JP-C2 - Digital Connectivity - this policy requires development to have full fibre to premises connections unless infeasible or unviable, with multiple-ducting.

The applicant has confirmed within in a cover letter that the proposal would conform with this policy requirement.

Response to representations

It is considered that the material planning considerations have been addressed within the main body of the report.

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 application fails to ensure that minimum densities as set out within Places For Everyone Joint Development Plan Policy JP-H4 - Density have been met which would require a minimum residential density of 35 dwellings per hectare at the site. The site is 3.5 hectares, which based on a total of 1 dwellings would result in a density of 0.28 dwellings per hectare. The proposal would therefore not ensure

efficient use of lane. The applicant has failed to demonstrate why a lower density at the site would be acceptable contrary to Development Plan Policy JP-H4 - Density.

- 2 The proposed development would, by reason of its size, position and design introduce a discordant, intrusive and permanent development which would have a detrimental and long term harmful impact on the character and openness of the locality and Landscape Character Area leading to weakening of the Green Belt Boundary. The applicant has failed to demonstrate Very Special Circumstances that would outweigh the in principle harm caused to the openness of the Green Belt. The proposed development would therefore be contrary to Development Plan Policies:
JP-G9: The Green Belt
JP-G1: Landscape Character
JPA9: Walshaw
OL1/2: New Buildings in the Green Belt
National Planning Policy Framework
- 3 The submitted Location Plan, Floor plans and Elevation drawings do not accurately scale electronically. The application and submitted plans contain insufficient information to enable them to be properly assessed in terms of visual amenity, residential amenity or Nationally Designated Space Standards. The proposal would therefore conflict with the following Policies of the Development Plan:
EN1/2 - Townscape and Built Design
H2/1 - The Form of New Residential Development
H2/2 - The Layout of New Residential Development
JP-H3 - Type, Size and Design of New Housing
- 4 The proposed development by virtue of its size and siting would result in threat to the continued well being of existing trees which are subject of Tree Preservation Order 201. The application has failed to demonstrate the potential impact of the proposal on trees protected by means of Tree Preservation Order number 201 or mitigation that may be required to facilitate development. The damage to or loss of these trees is considered to be unacceptable because of the impact on the general amenity and character of the area in which the application site is located. The development is therefore contrary to the following policies of the Development Plan:
EN8/1 - Tree Preservation Orders
EN8/2 - Woodland and Tree Planting
JP-G7: Trees and Woodland
- 5 The proposed development would directly impact part of Cyrus Ainsworth's Nurseries and Parkes Lodges Grade B Site of Biological Importance. The applicant has failed to demonstrate how the area of SBI within the red edge will be managed and what the extent of the domestic curtilage would be which has the potential for negative indirect effects on the SBI. The proposed development would therefore be contrary to Bury Unitary Development Plan Policy EN6/2 - Sites of Nature Conservation Interest (LNR's and Grade B and C SBI's) and Chapter 15 - Conserving and enhancing the natural environment of the National Planning Policy Framework.
- 6 The applicant has failed to demonstrate that the proposed development would not have a detrimental impact on bats within trees contrary to Development Plan Policies EN6/3 - Features of Ecological Value and JP-G8: A Net Enhancement of Biodiversity and Geodiversity.
- 7 The location of the proposed terraces facing towards the eastern boundary would result in unacceptable overlooking of land outside of the applicant's ownership by reason of the sub-standard distances between elevated amenity areas and the directly facing boundary and the lack of screening under the control of the applicant.

The proposed development therefore conflicts with Development Plan Policies H1/2 - Further Housing Development, H2/1 - The Form of New Residential Development and Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.

- 8 The application and submitted plans contain insufficient information in order to assess the following highway aspects of the proposed development:
- Confirmation that vehicular access to the site can be achieved on land within the applicant's control;
 - Access, parking and turning arrangements/facilities for the dwellings;
 - Physical impact of the development and the access arrangements proposed on the adjacent Public Rights of Way;
 - Mitigation measures required to overcome the site's emergency access deficiencies from a fire safety perspective in view of the site's remote location from the adopted highway network, constraints along the routes to the site for fire appliances and excessive cul-de-sac lengths effectively involved.

The proposed development therefore conflicts with Development Plan Policies:

JP-C5: Streets for All

JP-C6: Walking and Cycling

JP-C8: Transport Requirements of New Development

RT3/3 - Access to the Countryside

RT3/4 - Recreational Routes

HT2/4 - Car Parking and New Development

Supplementary Planning Document 11: Parking Standards in Bury

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP 7/5/2025			