

DELEGATED REPORT

Report by Helen Pressley	Date of report: 22/04/2024	Ref: 70476/FUL
Registration: 29/02/2024	LDfC: 26/03/2024	Expiry Date: 25/04/2024
Site Visit: 15/04/2024	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Front porch, single storey side extension, decking and boundary fence.

Location: 39 Bye Road, Shuttleworth, Ramsbottom, Bury, BL0 0HH

Description

The application relates to a semi-detached, two storey dwelling located on Bye Road. The property backs onto an area of Council owned land, that is now used as recreation space known locally as 'Top Mill Park'.

Planning Permission is sought for the construction of a single storey side extension that projects approximately 3940mm. A front porch that projects approximately 1970mm is also proposed. To the rear and side of the proposed side extension it is proposed to construct an area of decking with fencing proposed along the rear boundary, depicted by a 1100m high timber fence.

The plans also show a 1.6 metre fence to the front of the decking however this is labelled as permitted development and as such has not been considered within the application.

The application is partially retrospective, and seeks to address the issues in relation to a previous refusal of the site, namely by reducing the proposed decking area and providing additional information in relation to heritage and parking.

Relevant Planning History

02897/E - Single storey side extension; Front porch extension; Boundary fence; Decking in garden; Glass balustrade to decking area - Enquiry completed 14/12/2023

66585 - Single storey side extension; Front porch extension; Boundary fence; Decking in garden; Glass balustrade to decking area - Approve with Conditions 06/09/2021

69614 - Single storey side extension; Front porch extension; Roof dormer extension; Boundary fence; Decking in garden and change of use of recreation area to domestic curtilage - Refused 25/07/2023

Enforcement

22/0348 - Not being built in accordance with approved plans of planning permission 66585 - 28/04/2023

23/0420 - Not built in accordance with approved plans of planning permission 66585 - 05/02/2024

Publicity

Letters sent to 6 neighbouring properties 05/03/2024. No representations received.

Statutory/Non-Statutory Consultations

None

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

JP-G1	Landscape Character
JP-G9	The Green Belt
OL1/2	New Buildings in the Green Belt
H2/3	Extensions and Alterations
EN1/2	Townscape and Built Design
SPD8	DC Policy Guidance Note 8 - New Buildings in the Green Belt
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), 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 (Green Belt)

Paragraphs 147 and 148 state that inappropriate development in the Green Belt is by definition, harmful and should not be approved except in Very Special Circumstances (VSC). Planning Authorities should ensure that substantial weight is given to any harm in the Green Belt. VSC 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 149 of the NPPF regards the construction of new buildings in the Green Belt as inappropriate development. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Paragraph 150 of the NPPF also confirms that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;
- b) engineering operations;
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
- f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

Policy OL1/2 - New Buildings in the Green Belt states that the construction of new buildings in the Green Belt is inappropriate unless it is for agriculture and forestry; essential facilities for outdoor sport and recreation; limited extension, alteration or replacement of existing dwellings provided that this would not result in disproportionate additions over and above the size of the original dwelling; and limited infilling in existing villages as set out under Policy OL1/3.

This is further supported by Supplementary Planning Document 8 - New Buildings and Associated Development in the Green Belt which state that extensions of existing dwellings should not result in disproportionate additions over and above the size of the original dwelling. To assist in what can be considered to be disproportionate SPD 8 considers additions of up to a third (33%). However, that is not to say something larger, or smaller than 33%, would not be supported as each case is considered on its own merits.

The planning statement confirms that the volume of the original dwelling is approximately 355 cubic metres. The proposed extensions, and the volume of the existing dormer would equate to an additional volume of approximately 71 cubic metres. Overall the additions would equate to an additional volume of approximately 20% which is below the third set out within SPD 8.

Layout and Design

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.

As well as these listed policy considerations, and the Green Belt policy considerations set out above the site is also located within a Landscape Character Area - Pennine Foothills (West/South Pennines) as identified under PfE Policy JP-G1 that requires developments to reflect and respond to the special qualities and sensitivities of the key landscape characteristics of its location.

The historic use of the site is unclear. The property first appears on the 1893 map, with a reservoir and mill to the rear. The reference to a reservoir to the rear disappears on the 1930s mapping, however the mill is still shown on the C.1984 mapping. Residential use was granted in 1989 for the subdivision of the building and the planning permission for this references the former mill, and the Council owned land to the rear of the site. The first planning application for conversion (21750) was refused due to impact on green belt and over development of the site and clarifies that the previous use of the building is unclear, but any former residential use had lapsed.

The individual dwellings within the vicinity of the site are characterised by stone built, two storey cottage style properties many of which are terraced. The dwellings are simple, and traditional in form. Amenity space associated with the properties is limited given that there is a close knit urban grain with the area of open space to the rear of the site producing an area of significant character. The landscaping plan for the reserved matters application 23096 references building up and making good an existing rear stone boundary wall and denotes the area of residential amenity space for a 2 bedroom property that aligns with the amount of amenity space available for neighbouring residential properties, and one parking space to the side of the property. Following this approval the loft space appears to have also been utilised as a further bedroom intensifying the use of the site to create a 3 bedroom property.

It is considered the stone wall along the boundary of the park to the rear makes up part of the character of the locality. Stone walls for the former reservoir use are also still visible within the wider context of the park and reflect the former industrial and social history of the locality.

The appeal decision at 96 Watling Street, Affetside (Bury MBC reference 61641, Planning Inspectorate Reference APP/T4210/W/17/3187674) should also be taken into consideration when determining this application. Whilst the schemes are naturally different, this appeal decision reinforces section 16 of the NPPF which requires the LPA to have regard to the heritage value of properties, irrespective of whether they have been included, or not included on a local list. This appeal decision states that "there is disagreement between the parties with regard to the historic, communal and aesthetic value of the appeal dwelling and

whether it should be considered to form a non-designated heritage asset. Whilst the building is not on a 'local list' of non-designated heritage assets, this does not mean that it has no heritage value."

In consideration of the above therefore the proposal site, and the park area/former reservoir are considered to be a non-designated heritage asset. As such, it is necessary to assess the proposal in terms of paragraph 197 of the NPPF which states that "in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

It is noted that the applicant is surprised that the application site is considered to have heritage value, however the reasoning for this assessment has been set out above. The applicant has outlined the former use of the adjacent site as a mill but considers that there was no reservoir in this location. The LPA however notes that the 1893 and 1910 maps both reference an "old reservoir" to the rear of the site. The applicant notes that the use of the site, prior to residential conversion appears to be a workshop and there is no evidence to suggest that it was part of the mill complex.

The proposed front and side additions would replicate the shape and style of the original, traditional property but would include vertical composite black cladding making it clear that they are later additions. The proposed window alignment is considered to be acceptable and would not impact on the simple form of the original openings within the property. The reduced size in the decking would see the alignment of the decking replicate the historic wall between the site and the former mill/reservoir allowing this historic feature and boundary to still be read. The proposed fencing to the rear of the site, along the boundary with the current park would be low level in height and partially screened by planting. Given the residential nature of the site no objections are raised to this boundary treatment provided that it is constructed in line with the original boundary of the site.

The proposed fencing to the front of the site is considered to be PD by the applicant and as such has not made up part of this assessment.

Given the above, and the amendments made to the scheme following the previous refusal, it is considered that the proposal would comply with the Policy considerations set out above.

Residential Amenity

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

There are no dwellings directly to the rear of the site. The gardens of No. 41, 43 and No. 45 would be screened from the enlarged amenity area by the proposed 1.8 metre fencing.

The dwelling at No. 41 has a conservatory that faces the proposed side extension. As this is a later addition, aspect standards have been taken from the original rear wall. The proposed side extension would be located approximately 10 metres from this rear wall exceeding the 6.5 metres required by SPD 6 and therefore complying with aspect standards.

The new windows within the side extension facing towards No. 41 are obscure glazed and relate to a non-habitable room.

Due to the nature of rooflights no overlooking foreseen.

Proposed porch window/door faces towards shared access.

Parking

UDP Policy EN1/2 - Townscape and Built Design requires the consideration of the design and appearance of access, parking and service provision. SPD 6 states that all proposals should ensure that there is sufficient space to accommodate adequate parking spaces in relation to the number of bedrooms that a proposed extension would create. These parking spaces should be provided safely within the curtilage of the site. Supplementary Planning Document 11 – Parking Standards gives advice on the number of parking spaces required for residential developments. Applicants will need to provide justification for the loss of any existing parking.

The site previously had a single parking space adjacent to the gable of the house. A parking space was approved under application 66585 to the side of an area of decking and the side extension. The applicant has put forward a case to not re-provide car parking at the site.

The applicant states that the amenity space to the side of the property is small, and awkwardly shaped and access to the previously approved parking space would be obstructed by the neighbour's parked cars and low stone wall. The applicant also considers that a visibly intrusive retaining wall would be required to support a hardstanding area to take the weight of a car.

The applicant also notes that they could at any time stop using the approved car parking space even if implemented, and the use of the area for parking can not be enforced.

It is accepted that parking for other dwellings within the vicinity of the site is largely on street, and there are currently no restrictions on Bye Road to prevent this. It is also accepted that the constrained nature of the site in relation to neighbouring properties causes access issues. Given that the proposal would result in the loss of 1no. parking space and no additional bedrooms are being created at the site through this proposal it is considered that the offsetting of the provision of this 1no. space, on street would not be detrimental. As such the proposal is considered to be acceptable.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 This decision relates to drawings numbered 1A, 2A, 3/ Proposed plan, 4A, 5A, 6A, 7A and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan and Places for Everyone Joint Development Plan listed.
- 2 Within 12 months of the date of the decision the decking shall be reduced to comply with drawings 3/Proposed Plan, 4A, 6A and 7A and fencing realigned as shown on drawings 3/Proposed Plan, 4A, 6A and 7A.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan and Places for Everyone Joint Development Plan listed.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP	22/4/2024	DM -	23/04/2024