

DELEGATED REPORT

Report by Claire Booth	Date of report: 11/07/2024	Ref: 70765/FUL
Registration: 16/05/2024	LDFC: 20/06/2024	Expiry Date: 11/07/2024
Site Visit: 13/06/2024	Site Notice: 13/06/2024	Press Date: 30/05/2024
Objections: 0	Con Area: BROO	Adv Type: CA
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: HOUS

Proposal: Alteration to lower cill height of one existing window to form larger opening to accommodate patio doors

Location: 9 Castle Street, Bury, BL9 5NG

Description

The application relates to a mid-terrace traditional two-bedroom stone property located within Rowlands and Brooksbottom Conservation Area, adjacent to the grounds of Brooksbottom Cricket and Social Club in Summerseat. It is accessed off Moss Lane, the lane to the social club that is a designated Public Right of Way (PROW) (no 98 Ramsbottom).

The principal elevation of the dwelling faces southwards over Brooksbottom Cricket Club. To the rear/ north of the property is Castle Street where there are garden areas for each of the terraced properties on the opposite side of Castle Street to the terrace. A number of these are covered with hardstandings and outbuildings. Further north of the application site and detached garden areas is the access lane up to Summerseat Methodist Primary School, which is located to the north-west of the application site and the rear of the grave yard, located off Rowlands Road.

In accordance with S55(2(a)) of the Town and Country Planning Act 1990 which defines development, planning permission is sought to materially alter the external appearance of the dwellinghouse by seeking permission to lower the cill height of the existing ground floor window on the principal (south facing) elevation of the dwelling to form a larger opening to accommodate a set of patio doors.

Relevant Planning History

70465 - Enlargement of a first-floor window on the rear (north facing) elevation of the property and erection of detached carport with integral store - Approved with Conditions, 27/03/2024

The above-mentioned application initially sought to include the proposals being considered under this application. The LPA requested it be removed from the proposal during that application due to the harm it would cause to the character and appearance of the front elevation, and the character and appearance of the conservation area.

Publicity

Site Notice: 13 June 2024

Press Notice: 30/05/2024

Neighbours Notified: 23/05/2024

No representations were received as a result of the above-mentioned publicity.

Statutory/Non-Statutory Consultations

Conservation Officer - Raises objections - see main body of the report.

Pre-start Conditions - Not applicable.

Development Plan and Policies

OL1/2	New Buildings in the Green Belt
EN1/2	Townscape and Built Design
EN2/2	Conservation Area Control
H2/3	Extensions and Alterations
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD8	DC Policy Guidance Note 8 - New Buildings in the Green Belt
SPD11	Parking Standards in Bury
JP-G9	The Green Belt
JP-P2	Heritage
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, i.e. 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.

Green Belt

Within the PfE Plan the site is allocated as being within the Green Belt. Paragraph 145(c) of the NPPF notes that extensions to dwellings can be appropriate provided they do not result in disproportionate additions over and above the size of the original building. Policy JP-P2 of the PfE Plan states development proposals affecting designated and non-designated heritage assets and/or their settings will be considered having regard to national planning policy. UDP Policy OL1/2 - New Buildings in the Green Belt in its requirements follow a similar vein to the NPPF and PfE Joint Development Plan.

The proposed alteration/ enlargement of the ground floor window on the south facing principal elevation of the property would have no impact on the openness and permanence of the Green Belt and therefore is deemed to be acceptable in the Green Belt.

Sites position in a Conservation Area

The application site is within Rowlands and Brooksbottoms Conservation Area, a designated heritage asset.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in the exercise of their planning functions to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area [My underlining].

Paragraph 205 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 208 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

PfE Policy JP-P2: Heritage states *"development proposals affecting designated and non-designated heritage assets and/or their settings will be considered having regard to national planning policy"*.

UDP Policy EN2/2 - Conservation Area Control accords with the requirements of the Act stating development within a Conservation Area will only be acceptable if it *preserves or enhances the special character or appearance of the area*.

Brooksbottom/ Rowlands Conservation Area Appraisal identifies the terrace on Castle Street, to which the application site forms part, as making a *positive contribution to the character and appearance of the conservation area*.

The building is part of an historic terrace of properties where the architectural grain of local materials and simple plan forms means the terrace is a strong contributor to the character and appearance of that part of the conservation area. The Principal elevation of the terrace as a whole faces southwards over the adjoining cricket pitch and is where the alteration proposed would occur.

The principal elevation of the application site, and the wider terrace has a high visibility in this part of the conservation area, being clearly visible from both the Cricket Club/ Social Club and the Public Right of Way that runs south to north from the railway crossing up to Rowlands Road via Moss Lane, and vice versus.

The proposed opening up/ alteration of the ground floor window on the south facing principal elevation of the dwelling and the installation of full length patio style doors would represent an incongruous and discordant intervention to the historic frontage, that would detract from the character and form of the original dwelling and the terrace to which it forms part. Due to the above, the proposed insertion of doors in an enlarged opening that would neither preserve or enhance the character or appearance and would clearly detract from the character and appearance of this part of the conservation area, contrary to policies EN2/1 – Character of Conservation Areas, EN2/2 – Conservation Area Control and EN2/2 – Townscape and Built Design of the UDP.

In accordance with the requirements of the NPPF, the proposed development/ alteration would represent less than substantial harm to the character and appearance of the conservation area. Whilst this may be the case, in accordance with paragraph 208 of the NPPF, *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'*.

Public benefits may follow from many developments and could be anything that delivers economic, social or environmental benefits, as described in paragraphs 7 and 8 of the NPPF. They should be of a nature or scale to benefit the public at large and not just a private benefit. In this case, the proposal would result in a private benefit to the occupant(s) of the property, with any public benefit being the sole person carrying out the alteration. This very limited benefit would not outweigh the harm to the character and appearance of the conservation area and visual amenity, and therefore the proposal clearly fails to accord with the requirements of S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and UDP policies EN2/1 – Character of Conservation Areas, and EN2/2 – Conservation Area Control of the UDP and the National Planning Policy Framework. It is therefore recommended that the application be resisted.

In addition, allowing the proposed alteration to a principal elevation of a cottage in a conservation area would set a dangerous precedent to the acceptance of other similarly harmful proposals in the conservation area, contrary to Policies EN2/1 and EN2/2 of the Bury Unitary Development Plan, the National Planning Policy Framework and Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

As a final note; the LPA is aware that the applicant may reference the ground floor patio doors in the rear of no. 1-3 Castle Street, at the eastern end of the terrace, in any subsequent appeal. To clarify, the works at that property were undertaken without planning permission and are immune from Enforcement action being taken by the LPA. Whilst this is the case, the applicants proposal would cause further harm to and dilute the character and appearance of the conservation area, and therefore this does not justify the works proposed.

Visual Amenity

Paragraph 135c) of the NPPF states planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment

and landscape setting.

As already stated, the rear of the terrace is clearly visible from the PROW that runs through the grounds of Brooksbottom Cricket Club. Whilst the appearance of the terrace has been undermined by the inclusion of additions and alterations permitted by the Planning (General Permitted Development) Order 2015 (as amended) the proposed alteration by the installation of patio doors would appear as an incongruous and discordant alteration that would detract from the present cottage appearance of the south facing elevation of the host property and the terrace to which it forms part of, contrary to Policy EN1/2 - Townscape and Built Design of the UDP.

In addition, allowing the proposed alteration to a principal elevation of a cottage in a conservation area would set a dangerous precedent to the acceptance of other similarly harmful proposals in the conservation area, to the detriment of the character and appearance of the locality and visual amenity.

Conclusion

The proposed opening up of the ground floor window on the south facing, principal elevation of the dwelling and the installation of full length patio style doors would represent an incongruous and discordant alteration on the host dwelling that would detract from the original dwelling and the terrace to which it forms part. Thereby failing to either preserve or enhance the character and appearance of the Conservation Area, as required by S72 of the Planning (Listed Building and Conservation Areas) Act.

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

Where appropriate the council will seek to engage with applicants to resolve concerns over development proposals either before the application is submitted as promoted by paragraph 39, or during the consideration of the application as promoted by paragraph 38 of the NPPF. However, in some circumstances it will not be possible to resolve these concerns and so a refusal of the application is necessary due to the environmental / social / economic harm that will be caused by the development as identified in the reasons for refusal. In these circumstances an application is refused to enable the overall speed and quality of the council's decisions to be maintained.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed opening up of the ground floor window on the south elevation and the installation of full length patio style doors would represent an incongruous and discordant alteration on the building that would detract from the original dwelling and the terrace to which it forms part, thereby failing to either preserve or enhance the character and appearance of the Conservation Area. The proposed alteration therefore fails to accord with the requirements of S72 of the Planning (Listed Building and Conservation Areas) Act. The proposal would provide no public benefits to override the harm identified and therefore the proposals fail to accord with policies EN2/1 Character of Conservation Areas, EN2/2 Conservation Area Control and EN1/2 - Townscape and Built Design of the Bury Unitary Development Plan and the National Planning Policy Framework.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	11/07/2024		

