

DELEGATED REPORT

Report by Tom Beirne	Date of report: 30/05/2023	Ref: 69467/FUL
Registration: 17/04/2023	LDfC: 11/05/2023	Expiry Date: 12/06/2023
Site Visit: 02/05/2023	Site Notice: N/A	Press Date: N/A
Objections: 3	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Erection of decking on raised platform with steps, balustrade and fencing, garden room pod and covered spa area

Location: 35 Bankside Avenue, Radcliffe, Manchester, M26 2QH

Description

This application relates to a two storey detached house on a residential cul-de-sac of similar styled properties. The house has been extended at the rear and has a box dormer on the rear roof plane.

The proposal is retrospective and includes the erection of a raised decked platform at the rear of the garden with associated steps, balustrade and fencing. The proposal also includes a garden outbuilding and separate covered spa pool pod.

It appears that the rear garden, prior to the proposed works commencing, stepped up towards the rear of the garden in the form of a terrace. It is noted that the ground on the neighbours side is also raised up towards the rear and the residents at No.33 have also formed a seating area but at a lower level than the application site (see photos).

It appears that the decking has been formed at the higher garden terrace level and projects forward over the lower terraced area to create a platform for outdoor seating with an area measuring approximately W10m by D3.8m. Steps down from the decked area to the garden run adjacent to the shared boundary with No.33 and a screen fence has been erected on either side of the decking and along the side of the steps. Measured from the decked area, the fence extends up by about 2m but from the neighbours side, this measures significantly higher due to the difference in levels. This is most evident in the area of the steps down from the decking where it is approximately 5m high. Across the front of the decked area is a reflective glazed balustrade.

The flat roofed outbuilding in the rear garden has a footprint of approximately 25sqm with a roof height of 2.6m. The spa/pool pod would have a smaller footprint of approximately 16sqm. The spa unit has a canopy that can be raised when it is in use and this extends up to approx 2.6m in height.

Relevant Planning History

67690 - Raise roof ridge height with loft conversion, rear dormer and two pediment windows to front - Approved 19/01/2022

68934 - Raise roof ridge height with loft conversion; Rear dormer with juliet balcony and two pediment windows to front - Approved 22/12/2022

22/0324 - Not being built in accordance with approved plans of planning permission 67690 - 19/10/2022

23/0039 - Erection of decking - application received.

Publicity

Immediate neighbours were notified by letter dated 17/04/2023. Two objections received from residents at Nos.31 and 33 Bankside Avenue and one from Cllr Walsh (Radcliffe East) Concerns are summarised below:

- The height of the fence exceeds the 2m allowed and results in a loss of light to neighbouring garden areas.
- The decking is well above the permitted level, is overpowering and creates serious overlooking and privacy issues. Persons on the decking can view into the neighbouring properties (garden and house). This is made worse by the 'mirrored effect' of the balustrade which reflects the applicant's house.
- The platform is too high and not in keeping with the area.
- Activities on the decked area would create noise which in turn detrimentally impact on the amenity of neighbours.
- Other structures within the garden go beyond permitted development and cover over 50% of the garden area.
- Use of the sap causes water to flood into neighbouring garden.
- Electrical units attached to fence.
- Other work has commenced on the property in contravention of the previously approved application.

Statutory/Non-Statutory Consultations

None relevant.

Pre-start Conditions - N/A

Unitary Development Plan and Policies

H2/3 Extensions and Alterations

SPD6 Supplementary Planning Document 6: Alterations & Extensions

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which

could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Visual Amenity - The outbuilding/garden room within the rear garden and the separate spa unit, with a maximum height of approximately 2.6m, would only be slightly over 'permitted development' under the current planning regulations and would be considered acceptable. Although cumulatively the spa pod and garden room/outbuilding would have a combined floor area of approximately 41sqm and, within the rear garden area, appear a rather 'cramped', there is sufficient outdoor amenity space remaining to avoid giving the appearance of overdevelopment. Although viewed from neighbouring garden, the rear garden is not particularly viewable from the public arena. In this respect the outbuilding and spa pod are considered to be acceptable and comply with UDP Policy and guidance.

The decked area with the associated screen fencing is visually very dominant, particularly when viewed from the neighbours properties (No.33 Bankside Avenue and to a lesser extent No.31). It is less dominant from No.37 due to the presence of a pitched roof single garage along the shared boundary with the site which limits views and overlooking from this side.

A visually prominent feature is the extended fencing that runs along the boundary with No.33 to the rear of the garden, adjacent to the steps. This has clearly been erected to reduce overlooking, but at a height of approximately 5m (at its highest point from the garden of No.33) this appears excessive and incongruous within the garden area. Whilst the height of the fencing at the rear of the garden, adjacent to the neighbours own terraced seating area may be acceptable with a sloping or staggered design, that part of the fencing that extends out adjacent to the steps is excessive and overdominant.

In terms of visual amenity the decking and associated fencing is unacceptable and contrary to UDP Policy H2/3 and associated guidance in SPD6 relating to alterations and extensions.

Residential amenity - In terms of residential amenity the garden room/outbuilding and spa pod, with a maximum height of 2.6m, would not raise any significant residential amenity issues given they are not uncommon structures within garden areas throughout the country. They are set off the shared side boundary with No.33 and where the outbuilding is adjacent to the boundary with No.37, there is a garage to the rear of this neighbour, situated along the side boundary. The outbuilding and spa pod are therefore acceptable and comply with UDP Policy H2/3 and guidance in SPD6.

The impact of the raised decking is significant in that it allows increased opportunities for overlooking of neighbouring properties to an extent that exceeds what would normally be expected in a suburban setting such as this.

It is noted that the new decked area is significantly higher than the adjacent outdoor seating area at the rear of the garden of No.33 Bankside Avenue and allows more direct overlooking than there would be if it were set lower down in a similar fashion to the neighbour at No.33.

The reflective nature of the glazed balustrading across the front of the decked area has been raised as an issue that exacerbates the impact of the structure. This reflective element would be particularly more of an issue during the hours of darkness when lights from the applicants house would be viewed against the balustrade. This effect would not be so evident if the decking were at a lower level but set high up, it would have an additional detrimental impact.

Another element that impacts on residential amenity is the screen fencing. As indicated above, the height of that section of screen fencing where it extends above the existing fence, adjacent to the steps is considered excessive and visually overbearing when viewed from the garden of No.33 Bankside Avenue.

In terms of residential amenity, the decking and associated screen fencing and balustrade sitting at the height it is, would be seriously detrimental to the residential amenity of immediate neighbours and conflicts with UDP Policy H2/3 and associated guidance.

Other Issues - Issues with regard to water leakage from the spa and the electrical units attached to the boundary fence are not material planning issues.

Enforcement - As the application is retrospective, it is recommended that enforcement action is taken to remove the decked area, fencing and steps.

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 retention of the decked area in its current form and height would result in an unacceptable reduction in the level of privacy currently enjoyed by the neighbours, particularly No.33 Bankside Avenue. The development would therefore have a seriously detrimental impact on the residential amenity of neighbours and conflicts with Unitary Development Plan Policy H2/3 Alterations and Extensions and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties.
- 2 The decking and screen fencing along the boundary with No.31 Bankside Avenue would be seriously detrimental to the visual amenities of the immediate neighbours by reason of their height, size and position. The proposed development therefore conflicts with the following policy of the Bury Unitary Development Plan: H2/3 Alterations and Extensions and associated Supplementary Planning Document 6: Alterations and Extensions to Residential Properties

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<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	30/05/2023	DM	01/06/23