

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 05/05/2022	Ref: 67816/FUL
Registration: 19/11/2021	LDFC: 22/12/2021	Expiry Date: 14/01/2022
Site Visit: 17/12/2021	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: MIDW

Proposal: Creation of 8 no. dwellings, with associated hard and soft landscaping

Location: Land between Butterstile Close & Hilton Lane, Prestwich, Manchester, M25 9RS

Description

The proposal relates to an irregular shaped area of land pertaining to 0.2ha in area and is bounded by Hilton Lane, Butterstile Lane, Butterstile Close and a vehicle garage and a single dwelling. The site is level and previously contained a single dwelling which has been demolished. Hilton Lane and the vehicle garage are set at a higher level than the site, which is level with Butterstile Close on which relatively new dwellings oppose the site. The site appears to have been cleared of vegetation.

The proposal is for the erection of 8 x three bedroom dwellings, formation of access road and associated hard and soft landscaping. The dwellings would be split into two rows of 3no. terraces backing onto the eastern boundary and two detached dwellings set side by side backing onto the southern boundary. The palette of materials would include red brick (with stepped brick features), natural slate, zinc dormer cheeks and dark grey upvc windows/doors.

Relevant Planning History

59765: Erection of 5 no. dwellings. Approved 28/04/2016.

Publicity

Direct neighbour notification undertaken. No representations received.

Statutory/Non-Statutory Consultations

Highway Officer: No objection, subject to conditions requiring agreement of a Construction Traffic Management Plan, highway and footway works, implementation and maintenance of visibility splays, turning facilities and car parking.

Environmental Health - Contaminated Land: No objection, subject to conditions relating to contaminated land and provision of electric vehicle charging points.

Greater Manchester Ecology Unit: No objection, subject to conditions relating to nesting birds, the fox den, Rhododendron and biodiversity enhancement.

Drainage Section: No comments received.

Environment Agency: No objection, subject to conditions relating to contaminated lan, remediation and verification and piling.

United Utilities (Water and waste): No objection, subject to conditions relating to foul and surface water drainage.

Pre-start Conditions - The Agent has agreed with pre-start conditions

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN1/5	Crime Prevention
EN7	Pollution Control
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
EN5/1	New Development and Flood Risk
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
SPD11	Parking Standards in Bury
SPD16	Design and Layout of New Development in Bury
SPD3	DC Policy Guidance Note 3: Planning Out Crime
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) 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.

ASSESSMENT

Principle of development

The site largely relates to a site that was previously subject to planning permission 59765, but now includes the site of the former dwelling to the north (whereas the expired planning permission related to garden area only).

The National Planning Policy Framework (NPPF) should be treated as a material planning consideration and it emphasises the need for local planning authorities to boost the supply of housing to meet local housing targets in both the short and long term. The Framework maintains the emphasis on identifying a rolling five year supply of deliverable housing land.

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 five year supply calculations as many sites will take longer than five years to come forward and be fully developed (e.g. some large sites could take up to ten years to be completed). As such, latest monitoring indicates that the Council is unable to demonstrate a five year supply of deliverable housing land and this needs to be treated as a material factor when determining applications for residential developments.

The National Planning Policy Framework also sets out the Housing Delivery Test, 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%) of 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 show that Bury has a housing delivery test result of less than 75%, and therefore this needs to be treated as a material factor when determining applications for residential development.

Therefore, in relation to the proposed dwelling, paragraph 11d) 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, provides a clear 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, taken as a whole.

Therefore, in this case the 'titled balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

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.

The site is located within the urban area, surrounded by established residential areas and close to routes well served by public transport and to facilities, goods and services.

As such, the site is the most sequentially preferable for the release of land for housing. Furthermore, the site falls in a sustainable location with regard to services and public transport. Thus, the principle of the development is acceptable, subject to consideration of the subsequent matters.

Layout, design and visual amenity

UDP policies H2/1, H2/2 and EN1/2 pertain.

The proposal seeks approval for the same layout as approved under planning permission 59765 only with an additional terrace of 3no. dwellings in place of the former detached dwelling at the site on the same alignment as the terrace. Proposed plots 1 & 2 would be detached rather than semi-detached. The proposed access road would be via the former access to the dwelling with improvements to width and geometry.

The proposed dwellings would have a uniformity and distinctly contemporary appearance, which would contrast visually with the existing opposing dwellings, which are of a passively routine suburban character. However, the site is relatively self-contained and the proposed layout would create a visual separation from the existing suburban housing. Coupled with the quality of the form, external finish and appearance of the dwellings, this would enable assimilation into the surrounding suburban context.

Access and highways

The Highway Officer does not object to the proposal to utilise and improve the former access to the dwelling and the proposed access arrangement, which includes a turning head and 10 in-curtilage parking spaces and 6 street spaces with a separate enclosed area for waste and recycle bin storage.

Residential and occupiers amenity

The surrounding neighbours are a sufficient distance away as not to be seriously affected by the new buildings. The front elevation of nearest opposing dwellings on Butterstile Close would be approximately 16m from the blank side gable of the detached dwelling. The neighbouring single storey dwelling, The Lodge, on the corner of Butterstile and Hilton Lane, does not have any primary windows in the elevations opposing the site boundaries.

The proposed dwellings would be compliant with the Technical housing standards – nationally described space standard in terms of minimum gross internal floor areas and storage and minimum bedroom floor space and dimensions.

Given these circumstances, the proposal would not have any unacceptable impacts on neighbouring or occupiers amenity.

Other matters

Refuse/recycling - Refuse and recycling storage would be provided in a separate enclosed storage area adjacent to the access into the site. A condition should be attached requiring agreement of the enclosure.

Ground conditions - Conditions recommended by the Environmental Health Officer and Environment Agency concerning contaminated land, remediation and verification and the installation of electric vehicle charging points would be attached.

Ecology - GMEU advise that the fox earth should be neutralised and that the site should incorporate ecological enhancements.

Drainage - The conditions concerning foul and surface water should be attached.

Conclusion

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. The proposal would deliver much needed residential development in a highly sustainable location and without detriment to the character and appearance of the area, highway safety or amenity. As such, the proposal would comply with the above policies of the Local Plan and the NPPF. Therefore, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act, the proposal merits approval.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. 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 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings Site Location Plan (Dwg No. P-001 B), Block Plan (Dwg No. P-002 B), Proposed Site Plan (Dwg No. P-004 F), Floor Plans Plot 3-5 & 6-8 (Dwg No. P-101 B), Plans Plot 1 & 2 (Dwg No. P-102 B), Roof Plan (Dwg No. P-103 B), Elevations Plans Plot 3-5 & 6-8 (Dwg No. P-201 B), Elevations Plot 1 - 2 (Dwg No. P-202 B), Proposed Site Elevations (Dwg No. P-203 B), Site Sections (Dwg No. P-301 B) 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 listed.
- 3 No development shall commence unless and until:-
 - A contaminated land Preliminary Risk Assessment report to assess the actual/potential contamination and/or ground gas/landfill gas risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority;
 - Where actual/potential contamination and/or ground gas/landfill gas risks have been identified, detailed site investigation and suitable risk assessment shall be submitted to, and approved in writing by the Local Planning Authority;
 - Where remediation/protection measures is/are required, a detailed Remediation Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.Reason. The scheme does not provide full details of the actual contamination and subsequent remediation, which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 4 Following the provisions of Condition 3 of this planning permission, where

remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and
A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.

Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 5 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall thereafter be implemented as approved.

Reason. To protect the underlying Principal and Secondary A aquifer. To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site, pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 6 Piling using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason. To ensure that the proposed Piling does not harm groundwater resources, pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 7 No development comprising the erection of any external walls shall take place until details of the materials to be used for the external surfaces, boundary treatments, including the refuse/recycling compound, and areas of hardstanding have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and the materials to be used throughout the development shall be consistent in terms of colour, size and texture with the approved details.

Reason. No material details have been submitted and are required in the interests of visual amenity and to ensure a satisfactory development pursuant to UDP Policy EN1/1 Visual Amenity.

- 8 Prior to the first occupation of any dwelling hereby approved, that dwelling shall be provided with an electric vehicle (EV) charging point (minimum 7kW*), which shall be retained for that purpose thereafter.

*Mode 3, 7kW (32A) single phase, or 22kW (32A) three phase, and for 50kW Mode 4 rapid charging may be required. British Standard BS EN 61851-1:2011 to be used (note this version is due to be replaced by BS EN 61851-1:2019 on 5 July 2022).

Reason. To encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable, to safeguard residential amenity, public health and quality of life pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 9 No development comprising the erection of any external walls shall take place until details of a landscaping and ecological enhancement scheme has been submitted to, and approved in writing by the Local Planning Authority. The contents of the

scheme should include native tree and shrub planting and the provision of bat bricks/tubes within the new development. The approved scheme shall thereafter be implemented not later than 12 months from the date of the first occupation of any dwelling or within the first available tree planting season following completion of the development; and any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees or shrubs of a similar size or species to those originally required to be planted.

Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies H2/2 and EN1/2 of the Bury Unitary Development Plan and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

- 10 No development shall commence unless and until a 'Construction Traffic Management Plan' (CTMP), has been submitted to and agreed in writing with the Local Planning Authority and shall confirm/provide the following:
- Photographic dilapidation survey of the footways and carriageways abutting the site in the event that subsequent remedial works are required following construction of the development and as a result of any statutory undertakers connections to the site/new dwellings;
 - Access point(s) for construction traffic from the adopted highway;
 - Proposed site hoardings (if proposed) clear of the visibility splays indicated on approved site plan reference 5821 P-004 Revision F;
 - Hours of operation and number of vehicle movements;
 - A scheme of appropriate warning/construction traffic speed signage in the vicinity of the site and its access;
 - Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site, including any requisite phasing of the development to accommodate this;
 - Parking on site (or on land under the applicant's control) of operatives' and construction vehicles together with storage on site of construction materials, including any requisite phasing of the development to accommodate this;
 - Measures to ensure that all mud and other loose materials are not spread onto the adjacent adopted highways as a result of the groundworks operations or carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the construction period and the measures shall be retained and facilities used for the intended purpose for the duration of the construction period.

The areas identified shall not be used for any other purposes other than the parking of vehicles and storage of demolition/construction materials. All highway remedial works identified as a result of the dilapidation survey shall be implemented to the written satisfaction of the Local Planning Authority prior to the development hereby approved being occupied.

Reason. - To maintain the integrity of the adopted highway, mitigate the impact of the construction traffic generated by the proposed development on the adjacent adopted highways, ensure adequate off street car parking provision and materials storage arrangements for the duration of the construction period and ensure that the adopted highways are kept free of deposited material from the ground works operations, in the interests of highway safety, pursuant to Policy H2/2 of the Bury Unitary Development Plan.

- 11 The development hereby approved shall not be first occupied unless and until the vehicular and pedestrian access alterations and bin storage arrangements indicated on approved drawing no. P-004 Revision F, incorporating the widening of the site access, reinstatement of the redundant footway crossing, demarcation of the limits

of the adopted highway as a result of the highway works and access/hardstanding in a porous/permeable material and/or measures to prevent the discharge of surface water onto the adopted highway, have been implemented to an agreed scope and specification and to the written satisfaction of the Local Planning Authority.

Reason. - To ensure good highway design and maintain the integrity of the adopted highway in the interests of highway safety, pursuant to Policy H2/2 of the Bury Unitary Development Plan.

- 12 The visibility splays indicated on approved drawing no. P-004 Revision F shall be implemented to the written satisfaction of the Local Planning Authority before the access is brought into use/occupation of the first dwellinghouse and subsequently maintained free of obstruction above the height of 0.6m.

Reason. To ensure the intervisibility of the users of the site and the adjacent highways in the interests of road safety, pursuant to Policy H2/2 of the Bury Unitary Development Plan.

- 13 The turning facilities indicated on approved drawing no. P-004 Revision F shall be provided before the development hereby approved is first occupied and shall subsequently be maintained free of obstruction at all times.

Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety, pursuant to Policy H2/2 of the Bury Unitary Development Plan.

- 14 The car parking indicated on approved drawing no. P-004 Revision F shall be made available for use to the written satisfaction of the Local Planning Authority prior to the dwelling hereby approved being first occupied and thereafter maintained available for use at all times.

Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 of the Bury Unitary Development Plan.

- 15 No development shall commence until a sustainable surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- (iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. Furthermore, foul and surface water shall be drained on separate systems.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason. - To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution, pursuant to Policy EN5/1 of the Bury Unitary Development Plan and Section 14 of the National Planning Policy Framework.

- 16 Prior to commencement of earthworks the fox will be excluded from its den and the findings supplied to and agreed in writing by the Local Planning Authority.

Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 and EN6/3 of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

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- 17 No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the LPA.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 - Conservation of the Natural Environment and EN6/3 - Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DSC	05/05/2022		