

DELEGATED REPORT

Report by Helen Pressley	Date of report: 06/12/2023	Ref: 70104/FUL
Registration: 30/10/2023	LDFC: 23/11/2023	Expiry Date: 25/12/2023
Site Visit: 16/11/2023	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Construction of replacement dwelling with new footway crossing

Location: 9 Chatsworth Avenue, Prestwich, Manchester, M25 1LZ

Description

The application relates to a cleared site that was previously occupied by a semi-detached dwelling.

Planning permission was previously granted for two storey side and rear extensions, new front bay extension and a new access. The dwelling however collapsed during construction of the extensions. Planning permission is now sought for the construction of a replacement semi-detached dwelling on the same footprint as the previously approved, extended property.

Relevant Planning History

69225 - Two storey extensions at side / rear and new front bay extensions; creation of new vehicular access measuring 4.5m wide and reinstatement of the existing footway crossing.
- Approve with Conditions 16/03/2023

Enforcement

23/0306 - Not built in accordance with approved planning permission 69225 - 31/10/2023

Publicity

Neighbour letters sent 1/11/2023. No representations received.

Statutory/Non-Statutory Consultations

Traffic Section - no objections subject to conditions in relation to the implementation of the submitted CTMP and implementation of the parking and access arrangements.

Environmental Health - Contaminated Land - no objections raised subject to conditions in relation to the submission of a contaminated land preliminary risk assessment, site investigation, details risk assessment and remediation strategy. Condition also requested in relation to the inclusion of an EV charging point.

Drainage Section - No response

Waste Management - No response

United Utilities (Water and waste) - request for SuDs condition

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

Unitary Development Plan and Policies

EN1/1 Visual Amenity

EN1/2	Townscape and Built Design
EN5/1	New Development and Flood Risk
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN7/5	Waste Water Management
EN8/2	Woodland and Tree Planting
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
HT6/2	Pedestrian/Vehicular Conflict
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) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations, including relevant policies in the emerging Places for Everyone Joint Development Plan.

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.

Principle (Residential)

The National Planning Policy Framework is 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. There is a particular emphasis to identify 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 with 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. In addition to this, past under delivery of housing has resulted in Bury having a 'low' housing delivery test result. This needs to be treated as a material factor when determining applications for residential developments.

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, within a residential estate and was previously occupied by a semi-detached dwelling. As such, the proposed development would not conflict with the surrounding land uses. The proposed site would be in a sustainable location with regard to services and public transport. Therefore, the proposed development would be in accordance with Policy H1/2 of the Bury Unitary Development Plan.

Design and Layout

Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area. H2/1 - The Layout of New Residential Development and H2/2 - The Layout of New Residential Development, provides the assessment criteria for detailed matters relating to height, appearance, density and character, aspects and finish materials.

The proposed dwelling would replicate the previously approved extension application,

creating a dual bayed semi-detached property that ties into the ridge and eaves height of the neighbouring property. The proposed windows are considered to be suitably aligned, and the proposal would retain the hipped roofs as previously approved.

Certificate B has been signed.

The proposal would include a new parking area, and 750mm high boundary wall to the front of the property to prevent the use of the existing footway crossing which will be reinstated to adjacent footway levels. An area of private residential amenity space is retained to the rear of the site. The use of materials to match the attached property is considered to be acceptable.

It is considered that given the scheme replicates the previously approved householder application in terms of scale, design and layout the proposal is acceptable and would not have a detrimental impact on the character of the area comply with UDP Policies EN1/2, H2/1 and H2/2.

Residential 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.

The proposed front elevation would be separated from the front elevation of the directly facing property (No. 14 Chatsworth Avenue) by the same distance as the previously approved scheme, and would be separated by a highway. The proposed window and door arrangement and use would also be the same as the previously approved scheme.

Planning permission has been recently granted at No.11 Chatsworth Avenue, which would be attached to the west of the proposed dwelling. This includes a single storey rear extension projecting 3 metres from the original rear elevation that was partially constructed when the Case Officer attended site. With this in mind the proposed two storey rear elevation, projecting 2 metres adjacent to the shared boundary would be considered acceptable in terms of SPD 6.

There are no windows or doors facing towards No. 11 Chatsworth Avenue.

No.7 Chatsworth Avenue to the east has been heavily extended and there are no windows in the side elevation adjacent to the shared boundary, and 2 doors facing towards the side extension that appear to relate to a non-habitable rooms (reference application 66023). The nearest ground floor rear window of No. 7 would also appear to related to a non-habitable room (kitchen as per 66023).

The rear elevation of the proposed dwelling would project approximately 1.5 metres past the rear elevation of No.7. Due to the location and the use of the ground floor doors and windows it is not considered that the projection would have a detrimental impact on the ground floor habitable room windows of No. 7 and an appropriate amount of amenity space would be retained for this property.

The window and door within the proposed side elevation of the dwelling relate to non-habitable rooms and as such aspect standards have not been applied.

As with the previously approved scheme there would be at least 7 metres from the proposed first floor rear bedroom windows and the rear boundary, which would satisfy the requirements of SPD 6.

Highways and Access

UDP Policy EN1/2 - Townscape and Built Design requires the consideration of the design and appearance of access, parking and service provision. This is further supported by UDP Policy H2/2 - The Layout of New Residential Development 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, and UDP Policy HT6/2 - Pedestrian/Vehicular Conflict that requires developments to reduce pedestrian/vehicular conflict.

The revised car parking and access arrangements are the same as the previously approved scheme. A condition has been proposed to ensure that these are implemented.

A construction traffic management plan has been submitted with the scheme and agreed by the Traffic Section in order to ensure adequate off street materials storage arrangements for the duration of the construction period, in the interests of highway safety.

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 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 numbered 9CA/10/A and 9CA/11/A 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 Details of the materials to be used in the external elevations, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority before construction is commenced. Only the approved materials/bricks shall be used for the construction of the development.
Reason. No material samples 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.
- 4 No development other than demolition 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.

- 5 Following the provisions of Condition 4 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.

- 6 No development other than demolition shall commence unless and until surface water drainage proposals have been submitted to and approved in writing by the Local Planning Authority. The scheme should be in accordance with the submitted Surface Water Sustainable Drainage Assessment and must be based on the hierarchy of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). This must include assessment of potential SuDS options for surface water drainage with appropriate calculations and test results to support the chosen solution. Details of proposed maintenance arrangements should also be provided. The approved scheme only shall be implemented prior to first occupation and thereafter maintained.

Reason. The current application contains insufficient information regarding the proposed drainage scheme to fully assess the impact. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.

- 7 The measures and facilities indicated in the submitted 'Construction Traffic Management Plan - Ref. 9CA/CTMP/1' including the storage of construction materials within the curtilage of the site shall be implemented. The measures and facilities detailed shall be retained for the intended purpose and the area identified shall not be used for any other purposes other than the storage of construction materials for the duration of the construction period.

Reason. To maintain the integrity of the adopted highway and ensure adequate off street materials storage arrangements for the duration of the construction period, in the interests of highway safety pursuant to Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

- 8 The revised access and car parking arrangements indicated on approved plan reference 9CA/11 Revision A, incorporating the reinstatement of the redundant footway to adjacent footway levels along with replacement boundary walls with foundations that do not encroach under the adopted highway to prevent vehicle encroachment of the footway and protect the adjacent street lighting column, new double footway crossing to limits to be agreed with the Highway Authority, all highway remedial works required to reinstate the adopted highway to its condition prior to commencement of the development, demarcation of the limits of the adopted

highway and new driveway in a porous/permeable material and/or measures to prevent the discharge of surface water onto the adopted highway, shall be implemented prior to the development and widened driveway hereby approved being first occupied/brought into use and thereafter maintained available for use at all times.

Reason. To secure the satisfactory development of the site in terms of highway safety, to allow adequate space to maintain a vehicle clear of the highway and maintain the integrity of the adopted highway pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

- 9 Prior to occupation the applicant shall provide one electric vehicle (EV) charging point (minimum 7kW*) per unit (dwelling with dedicated parking). Photographic evidence of the installation of the agreed electric vehicle charge points shall be submitted.

*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 61851-1:2019 to be used. Further information regarding minimum standards can be found at <https://www.gov.uk/transport/low-emission-and-electric-vehicles>.

Reason. In accordance with the NPPF, 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.

<u>Case Officer</u> HP 6/12/2023	<u>Date</u>	<u>Sign off Officer</u> DM 08/12/23	<u>Date</u>
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