

DELEGATED REPORT

Report by Tom Beirne	Date of report: 05/10/2022	Ref: 66674/FUL
Registration: 18/05/2022	LDfC: 14/06/2022	Expiry Date: 17/08/2022
Site Visit: 11/08/2022	Site Notice: N/A	Press Date: N/A
Objections: 37	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MADW

Proposal: Change of use and part demolition of former nursery building to form 3 no.dwellings; Demolition of existing garage units and construction of 12.no dwellings with associated external works (15 units in total)

Location: Former nursery building and land to rear of Earl Street, Prestwich, Manchester, M25 1GQ

Description

The application relates to the former children's nursery building on Earl Street and the land to the rear (0.45ha). The site is bounded to the south, west and east by residential properties and to the north by a treed embankment running along the Manchester to Bury Metrolink line. Historically the site was originally the site of a bowling green and clubhouse and following this the land became allotments. In more recent years the two storey red brick building, which is locally listed, was a printing works before becoming a children's day nursery until 2018. Apart from a short time in 2020/21 as a recording studio, it has been vacant. The only access to the rear of the site is via a single access driveway from Earl Street, between the existing building to be part demolished and converted and No.2 Earl Street.

The land to the rear is currently overgrown and there are a number of mature trees on the site, ten of which have Tree Protection Orders, secured in 2019. It is noted that a number of mature trees were felled on the site about 3/4 years ago, prior to establishing the TPOs and as a consequence the Forestry Commission put a restocking order on the site that required broad leaved trees to be replanted on the site. The restocking order requires the site to be planted up at a density of 1100sph.

The proposal involves the part demolition and conversion of the existing red brick building fronting Earl Street into three townhouses and the construction of 12 semi-detached storey houses on land to the rear. The houses would be three storey including accommodation within the roofspace. The access road would be widened by the part demolition of the brick building and entrance gates erected across the access road between the existing building and No.2 Earl Street. The proposed houses would front onto the access road running through the site with rear gardens extending out to the boundary of the site. The original proposal involved 16 units but this has been reduced down to 15.

Plan Clarification - This report is based on the red edged location plan DRG No.14,347/OS/B.

It is noted that the red edge site as indicated in plan titled Site Boundary Line - as existing 02/G and Site Photographs - as existing 03/G are incorrect and show a section of land owned by Metrolink included within the site. Metrolink/Transport for Greater Manchester have objected to the proposal as a consequence of this error and this is reflected in one of the reasons for refusal.

Relevant Planning History

34080 - Change of use from B1 Business to D1 Nursery - Approved 27/05/98
02341/E - Pre-application Enquiry - Residential development.

Publicity

Surrounding residents notified by letter dated 24/05/2022. 37 objections have been received from surrounding residents and are summarised below:

- There is a Forestry Commission Restocking Order in force on the site and as such the proposal is not workable.
- Loss of existing TPO protected trees
- Habitat loss (bats frequent this site on a daily basis for feeding)
- Removal of the green space amenity - the gates currently in place were put in by the developers, until then this ground was used for leisure by the local community on a daily basis.
- The proposal to gate-off the development and create a gated community is divisive and wont lead to a sense of community.
- Noise pollution from the proposed gate.
- Noise and air pollution from construction on a very small site.
- Damage and wear and tear to existing roads during construction
- Japanese knotweed infested site, photos from June 2022 prove the site is still infested. The developers should clear this and evidence the 5 year knotweed free period before any development is permitted. If not any potential purchasers will not be able to secure mortgages.
- Asbestos on the site.
- Increase in traffic and parking

Statutory/Non-Statutory Consultations

Traffic Section - recommends refusal - inappropriate access arrangements and bin storage collection.

Environmental Health - No objection.

Conservation Officer - No objection subject to Photographic survey of existing building.

Greater Manchester Ecology Unit - No objection subject to conditions.

United Utilities (Water and waste) -

Transport for Greater Manchester - Objection due to incorrect red edged site boundary.
Forestry Commission - Restocking notice in force.

Greater Manchester Police - No objection received.

Forestry Commission - Concerns as there is a Restocking Notice on the site.

Pre-start Conditions - N/A

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN2/3	Listed Buildings
EN6/3	Features of Ecological Value
EN8	Woodland and Trees
EN7	Pollution Control
EN8/1	Tree Preservation Orders
EN8/2	Woodland and Tree Planting
EN9	Landscape
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/4	Conversions
HT4	New Development
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
SPD1	Open Space, Sport and Recreation Provision

SPD11	Parking Standards in Bury
SPD15	Residential Conversions
SPD16	Design and Layout of New Development in Bury
SPD3	DC Policy Guidance Note 3: Planning Out Crime
SPD5	DC Policy Guidance Note 5: Affordable Housing

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.

Policy - The National Planning Policy Framework is generally supportive of new residential development within existing urban areas. Although there are trees on the land, with a children's nursery, playground and lock-up garages on the site, it would considered

previously developed 'brownfield' land within the urban area.

H1/2 - Further Housing Development. The Council will have regard to the following factors when assessing proposals for housing development on sites not identified on the Proposals Map:

- a) the need to direct development towards the urban area;
- b) the availability of infrastructure;
- c) the need to avoid the release of peripheral open land, unless this can be shown to be consistent with urban regeneration;
- d) the suitability of the site in land use terms with regard to amenity, the nature of the local environment and surrounding land uses;
- e) other policies and proposals of the Plan.

H2/1 - The Form of New Residential Development. All new residential development will be expected to make a positive contribution to the form and quality of the surrounding area. Factors to be considered when assessing proposals will include:

- a) the height and roof type of adjacent buildings;
- b) the impact of developments on residential amenity;
- c) the density and character of the surrounding area;
- d) the position and proximity of neighbouring properties;
- e) the materials to be used in proposed developments, especially their colour and texture.

H2/2 - The Layout of New Residential Development. New residential development will be required to demonstrate acceptable standards of layout. Factors to be considered when assessing proposals will include:

- a) car parking provision;
- b) access for both vehicles and pedestrians, and provision for public transport;
- c) the possible need for traffic calming measures;
- d) density;
- e) space about and between dwellings;
- f) landscaping and screening;
- g) protection/provision of trees and hedgerows;
- h) open space/children's play areas;
- i) design for safety and security;
- j) access/facilities for the disabled;
- k) the existence of any public rights of way.

H2/6 - Garden and Backland Development. The Council will not permit proposals which will result in the loss of private gardens and backland for infill development unless such proposals can be shown not to adversely affect the character and amenity of the area.

When assessing proposals, special regard will be given to:

- a) the concentration of such development in the surrounding area;
- b) the relative density of the proposal to that of the surrounding area;
- c) the impact on neighbouring properties and the local environment;
- d) access arrangements.

H4/1 - Affordable Housing. The Council will encourage the provision of affordable housing through negotiation, partnership agreements and the identification of land suitable for such purposes. There will be a particular emphasis given towards encouraging the development of affordable housing as an integral part of large housing developments.

EN1/2 - Townscape and Built Design. The Council will give favourable consideration to proposals which do not have an unacceptable adverse effect on the particular character and townscape of the Borough's towns, villages and other settlements. Factors to be considered when assessing proposals will include:

- a) the external appearance and design of the proposal in relation to its height, scale, density and layout;
- b) the relationship of the proposal to the surrounding area;

- c) the choice and use of materials;
- d) access and other design features for the mobility impaired;
- e) the design and appearance of access, parking and service provision;
- f) landscaping, including the use of natural landscape features, and open space provision;
- g) the use of lighting.

EN1/3 - Landscaping Provision. Development proposals will be required to make provision for incidental open space and landscaping to the Council's satisfaction.

EN8/1 - Tree Preservation Orders. The Council will make Tree Preservation Orders where they are needed to protect trees and woodlands.

EN8/2 - Woodland and Tree Planting. The Council will support and encourage new woodland and tree planting in the Borough. In considering development proposals, the Council will encourage the planting of hedges, trees and woodlands using locally native species.

Affordable Housing - The National Planning Policy Framework requires major developments of 10 or more houses (or a site of over 0.5ha), to provide at least 10% of the units as 'affordable' via a S106 legal agreement. The application does not currently include any agreement for the provision of affordable housing and as such is contrary to the NPPF, UDP Policy H4/1 and SPD5 relating to affordable housing and therefore not acceptable.

Recreation Provision - For developments of between 10 and 49 units there is a requirement to provide for public open space via a one-off payment to the Council via a S106 legal agreement. The application does not currently include any agreement for recreation provision and as such is contrary to the NPPF, UDP Policy RT2/2 and SPD1 relating to Recreation Provision in New Housing Development and therefore not acceptable.

Housing supply - In terms of housing supply, the Borough is unable to identify a five year supply of housing land to meet local needs determined through the Government's standard methodology. Past under delivery of housing has resulted in Bury having a 'low' housing delivery test result. As a result, the presumption in favour of sustainable development set out in paragraph 11 of the NPPF is applicable to Bury. As such, additional housing land is needed. The site is in a sustainable location for housing within the urban area with no specific allocated use or policy designation, and is considered suitable for housing development

Principle - The site is unallocated within the Unitary Development Plan, within the urban area and not within the Green Belt. As such the NPPF suggests that there is a presumption in favour of development. The principle of residential development on this site is therefore considered to be acceptable and would comply with the NPPF and UDP Policy H1/2 Further Housing Development.

Ecology, Trees/ Restocking Notice - Paragraph 174 of the NPPF relates to conserving and enhancing the natural environment and UDP Policies EN1/3, EN8, EN8/2, relating to landscape and trees are considered to be particularly relevant to this application.

Whilst this site is within the urban area, it has historically been characterised by trees and shrubs and has been a valuable natural environment within the built up area. It is recognised that the principle of development on the site is acceptable but any development needs to be appropriate to the site and reflect its character.

About 3/4 years ago a number of trees were felled illegally on the site and as a consequence the Forestry Commission issued a Restocking order on the site, requiring the owner of the land to replant the site with broad leafed trees to a specified density of 1100sph.

The Town and Country Planning Act 1990 is independent from the Forestry Act 1967 (FAA). The Town and Country Planning Act has no such provision which neuters or overrides Notices served under the FA. The compliance date of RN11/19-20 has passed, and therefore, the site will continue to be routinely reinspected by the Forestry Commission throughout the life cycle of the 10-year maintenance period. Should the Forestry Commission identify non-compliance with RN11/19-20, the Forestry Commission may then initiate a criminal investigation. Failure to comply with an Enforcement Notice may constitute an offence under section 24(4) of the FA, involving a summary conviction and an unlimited fine. Such a prosecution may then also allow for the Proceeds of Crime Act to be applied in relation to any financial gain made on the land in question as a result of the illegal activity.

The ecological appraisal submitted with the application states that there is no significant evidence of roosting bats on the site. No there is any evidence of badgers. No withstanding this it would be reasonable to attach a condition to any approval requiring further surveys to be undertaken and appropriate mitigation measures taken.

There is Japanese Knotweed on the site and a suitable condition for its treatment and eradication would be appropriate.

A bio-diversity assessment was submitted with the application and states that there is scope to achieve a net gain in biodiversity as a result of the proposed development. As enhancement through private gardens is limited, the assessment recommends that areas within the public realm are targeted for ecological enhancement to ensure a 10% gain in biodiversity is achieved post-development.

The problem with this argument is that there is very little public open space within the site with potential for new landscaping to be installed in these areas that represents a high ecological value, particularly in view of the layout, the amount of hardstanding and the restocking notice in force on the site. A significantly more ecologically sensitive scheme, with a greater degree of open space to allow for much better landscaping with tree planting is required. It is recognised that some tree restocking may need to be off-site in order to secure the redevelopment of the site, however this would need to come about through detailed discussions with the Forestry Commission and the Local Planning Authority prior to any resubmission.

In terms of ecology and bio-diversity, it is considered that the proposal would have a seriously detrimental impact on existing trees and the site's potential for increasing bio-diversity and tree restocking as required by the Forestry Commission. As such the proposal is unacceptable and contrary to the NPPF and UDP Policies EN1/2 Townscape and Built Design, EN1/3 Landscape Provision, EN8 Woodland and Trees, EN8/1 Tree Preservation Orders, EN8/2 Woodland and Tree Planting and EN9 Landscape.

Heritage - A heritage statement has been submitted with the planning application. The existing brick building fronting Earl Street is an attractive and prominent structure within the streetscape with some local historic relevance. Dated 1897, the building was built on greenfield land and was used initially as a political club. Later it was converted for use as a printworks in the early 1930s and, in the 21st century, was converted to day nursery and recording studio.

The former printworks is significant for:

- Date stone dated 1897 and its record of the association of the building with Alderman Benjamin Carver, a cotton merchant of local significance;
- Re-fenestration with large windows in the early 1930s, on the conversion for use as a printworks and retention of a projecting chimney on the front, with stepped detailing and projecting brick ridges;
- Internally, a largely open floor plan and one fireplace on the first floor in what may have been an office;

- Locally significant historical association with the Prestwich and Whitefield Guide.

The building is considered to be of medium significance overall and is considered to constitute a non-designated asset in planning terms. It is listed on the draft Bury Local List and this analysis supports that identification. The added garage at the rear is not considered to have any historic interest.

Although the proposal in proposing part demolition of the building, would result in minor harm to the non-designated heritage asset, the benefits of the scheme in terms of enabling the building to be repaired and brought back into use, would outweigh the harm. The proposals would largely retain the appearance of the building within in the streetscape. The conversion of the building, which includes the reconstruction of the feature chimney on the new side elevation, would be considered to be acceptable and would allow the vacant building to be brought back into use. The demolition of that part of the building, adjacent to the access road, would be required to allow for improved access to the land to the rear.

Government guidance states that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Although the proposals will result in minor harm overall to the non-designated heritage asset, they could result in significant public benefits:

- Repairs to the exterior of the building to make it weatherproof;
- A new use for and occupation of the building.

The proposals will largely retain the appearance of the historic building in the streetscape. Considered overall, and taking account of the mitigation and benefits outlined above, the proposals are considered to be beneficial to the significance of the non-designated heritage asset which will 'be conserved and their enhancement encouraged, ensuring that they continue to make a positive contribution to the character and identity of the city's neighbourhoods. With the presumption in favour of sustainable development set out in the NPPF, the proposals relating to the conversion of the existing building would be compliant with national and local planning policies.

Visual amenity, siting and design - The conversion of the existing building, in bringing it into new use would increase the vitality and improve the streetscape. Although it is not ideal to demolish part of the building, the demolition is required to improve access to the backland plot. Given that the majority of the building would be retained, with an appropriate rebuilt gable end, this would be acceptable.

The majority of the new build development would be on the land to the rear of the building and houses fronting Earl Street, the impact on the streetscape would be limited. However the it is considered that the proposal constitutes overdevelopment of the site by reason of the amount of hardstanding (roads, parking areas) in relation to open space and the relationship of the building to the existing trees. It is also noted that the Forestry Commission Restocking Notice requires there to be extensive replanting of broad leaf trees across the site and this development would clearly conflict with the objectives of this notice. Given the restocking notice and the presence of protected trees on the site, the layout would need to be significantly more sensitive in reflecting the character of the site and providing greater open space and biodiversity through appropriate tree planting.

The proposed gates at the entrance to the development, although an improvement over the existing boarded up gates, are not acceptable and would give the appearance of a segregated community which would be incongruous and out of keeping with the character of the area. The gates would be contrary to the principles of promoting high quality layout and design of a new residential development by reason of the seriously detrimental impact upon the character of the development within the surrounding built environment and locality by the promotion of social exclusion. The proposal would be contrary to the adopted Unitary Development Plan Policies EN1/2 Townscape and Built Design, EN1/5 Crime Prevention, Development Control Guidance Note No.3 'Planning Out Crime in New Development' and

Planning Policy Guidance 3 - Housing.

Residential amenity - The opening and closing of the proposed entrance gates could generate noise, however a condition could be attached to any approval, requiring measures to be taken to reduce this to an acceptable level. Given the siting of the development in relation to the surrounding residents, there are no serious residential amenity issues arising.

Access and Parking - The proposed access arrangements are unacceptable and the traffic team have raised an objection on two counts. Firstly, the proposal would result in the intensification of use of the sub-standard offset junction of Stanley Street with Earl Street without any off-site mitigation measures proposed and where visibility to the right on egress is sub-standard, which would be detrimental to highway safety and maintaining the free flow of traffic on the adjacent adopted highways.

Secondly, the proposals also do not enable a refuse collection vehicle to properly enter and leave the site in forward gear, which is likely to lead to vehicles standing and carrying out manoeuvres on the highway to the detriment of the free flow of traffic and road safety.

The proposal is therefore unacceptable and contrary to the NPPF and UDP Policies.

Drainage - There is no objection from United Utilities with regard to drainage and in the event of any approval, appropriate conditions would be attached. Subject to drainage conditions, the proposal would be acceptable and would comply with the NPPF and UDP Policies regarding drainage.

Contradicting plans - Two of the plans submitted have an incorrect red boundary line which encompasses land within the ownership of Metrolink. As such Metrolink/TfGM have objected to the proposal. This issue is reflected in one of the reasons for refusal.

Objections - Those material objections raised by those making representations have been addressed in the above report and, where relevant, are reflected in the reasons for refusal.

Recommendation: Refuse

Conditions and Reasons:

- 1 The layout and built form of the proposed scheme would be seriously detrimental to visual amenity, ecological biodiversity and landscape value and would be contrary to the NPPF and UDP Policies EN1/2 Townscape and Built Design, EN1/3 Landscape Provision, EN8 Woodland and Trees, EN8/1 Tree Preservation Orders, EN8/2 Woodland and Tree Planting and EN9 Landscape and associated guidance in SPD 16 - Design and Layout of New Development in Bury.
- 2 The proposal would lead to the loss of protected trees, under TPO reference 347 and would prevent the full implementation of the Forestry Commission restocking notice RN11/19-20. The proposal would therefore have a seriously detrimental impact on existing trees within the site and the future provision of new trees, as required by the restocking notice. The proposal is therefore unacceptable and contrary to the NPPF and UDP policies EN1/2 Townscape and Built Design, EN1/3 Landscape Provision, EN8 Woodland and Trees, EN8/1 Tree Preservation Orders, EN8/2 Woodland and Tree Planting and EN9 Landscape.
- 3 The proposal would result in the intensification of use of the sub-standard offset junction of Stanley Street with Earl Street without any off-site mitigation measures proposed and where visibility to the right on egress is sub-standard, which would be detrimental to highway safety and maintaining the free flow of traffic on the adjacent

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adopted highways. The proposal is therefore unacceptable and contrary to the NPPF and UDP Policy H2/2 The Layout of New Residential Development.

- 4 The proposals do not enable a refuse collection vehicle to properly enter and leave the site in forward gear, which is likely to lead to vehicles standing and carrying out manoeuvres on the highway to the detriment of the free flow of traffic and road safety. The proposal is therefore unacceptable and contrary to UDP Policy H2/2 The Layout of New Residential Development.
- 5 The proposed entrance gates are considered to be contrary to the principles of promoting high quality layout and design of a new residential development by reason of the seriously detrimental impact upon the character of the development within the surrounding built environment and locality by the promotion of social exclusion. This is contrary to the adopted Unitary Development Plan Policies EN1/2 Townscape and Built Design, EN1/5 Crime Prevention, Development Control Guidance Note No.3 'Planning Out Crime in New Development' and Planning Policy Guidance 3 - Housing.
- 6 The application/submitted plans contain contradictory information with regard to the red edge site boundary to enable them to be properly assessed. As such the proposal is unacceptable and contrary to the NPPF and UDP Policies listed.
- 7 The application contains insufficient information with regard to the required recreation provision and affordable housing element. As such the proposal is unacceptable and contrary to the NPPF and UDP Policies RT2/2 Recreation Provision in New Housing Development and H4/1 Affordable Housing and associated guidance in guidance documents SPD 1 Open Space, Sport and Recreation Provision in New Housing Development Recreation and SPD 5 Affordable Housing.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	05/10/2022		