

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 01/07/2024	Ref: 70826/NON
Registration: 05/06/2024	LDFC:	Expiry Date: 03/07/2024
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area:	Adv Type: NONE
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MAOT

Proposal: Non-material amendment following grant of planning permission 69233: Levels on the site have been slightly amended.

Location: Site of former Riverside School, School Street, Radcliffe, Manchester, M26 3BW

Description

Extant planning permission 69233 is for full planning permission for a residential development comprising 90 no. two storey dwellings with associated parking and landscaping.

The proposal is for a non-material amendment to 69233 to amend the levels on the site.

The submission is supported by the approved layout and proposed layout, but does not include a written breakdown of the differences (given that there are 90 plots). From a sample of plots, it would appear that the level changes proposed range between 0 to +0.6m (there may be greater differences) and this would be result from higher ground levels (with commensurate raising of ridge levels). For example, Plots 58 & 59 would have a finished floor level difference of +0.6m.

Relevant Planning History

69233: Residential development to erect 90 dwellings with associated parking and landscaping. Approved with conditions 24/11/2023.

Publicity

N/A

Statutory/Non-Statutory Consultations

N/A

Pre-start Conditions - Applicant/Agent [Not relevant/has/has not] agreed with pre-start conditions

Development Plan and Policies

H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/2	Townscape and Built Design
JP-P1	Sustainable Places

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within the

adopted Bury Unitary Development Plan (UDP), together with other relevant material planning considerations.

The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP and PpE Policies will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

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

The elimination of discrimination, harassment and victimisation;

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

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

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

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

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, 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

There is no statutory definition of what constitutes a non-material amendment. The assessment of whether an amendment is non-material is dependent on the context of the overall scheme.

It is likely that the proposed amendment to the levels across the site, such that some of the plots would range between +0.1m and +0.6m higher than those that have been approved (and would also be juxtaposed to plots that would not be subject to any amendment to levels) would be a perceptible and significant, particularly where those plots are at the periphery of the site and would be visible in a wider context.

Without supporting analysis and a presentation of the extent of the changes, it is considered that the proposal could not be contrued as constituting a non-material amendment and the application is therefore recommended for refusal.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposal represents a material amendment as it includes changes in levels of up to +0.6m at individual plots. As such, the proposal cannot be considered to be a non-material amendment, as it may impact on matters of material consideration for the determination of the application, namely Bury UDP Policy EN1/2 and Places for Everyone Joint Development Plan Document Policy JP-P1.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DSC	01/07/2024	DM -	03/07/2024