

DELEGATED REPORT

Report by Helen Pressley	Date of report: 11/03/2024	Ref: 70391/FUL
Registration: 07/02/2024	LDFC: 06/03/2024	Expiry Date: 03/04/2024
Site Visit: 26/02/2024	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: MIOT

Proposal: Erection of 2.1m high wall/fence at rear

Location: Land at rear of 42 Cockey Moor Road, Bury, BL8 2HB

Description

The application relates to an area of land located to the rear of the garden area associated with a detached dwelling located on Cockey Moor Road.

Planning permission is sought for the construction of a 2.1 m high wall around the area of land to the rear of the garden. The wall would be constructed from red brick to a height of 900mm with fencing on top, and 2.1 metre high brick piers. Buff sandstone coping detailing is also proposed. No change of use to residential garden is proposed.

Relevant Planning History

44548 - Single storey extension at rear with roof terrace above; dormer windows to front and rear; detached garage - Withdrawn by Applicant 28/06/2005

45389 - Single storey extension at rear with roof terrace above; dormer windows to front and rear - Approve with Conditions 01/12/2005

Publicity

Neighbour letters sent 13/02/2024. No representations received.

Statutory/Non-Statutory Consultations

None

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

OL1	Green Belt
OL1/2	New Buildings in the Green Belt
SPD8	DC Policy Guidance Note 8 - New Buildings in the Green Belt
H2/3	Extensions and Alterations
SPD6	Supplementary Planning Document 6: Alterations & Extensions
OL7/2	West Pennine Moors
EN9/1	Special Landscape Areas
EN1/2	Townscape and Built Design
EN1/1	Visual Amenity
PFE	Places for Everyone
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.

Places for Everyone

The Places for Everyone Joint Development Plan Document (PfE) is a joint plan covering nine of the ten Greater Manchester districts, including Bury, and is intended to provide the overarching framework to strategically manage growth across the boroughs.

PfE was submitted to the Government for examination in February 2022 and this marked the start of the independent examination into the plan, the final stage in the plan making process.

The Inspectors have now concluded their examination of the plan and have issued their

findings and recommendations in their Inspectors' Report which was received on 14 February 2024. In that report the Inspectors conclude that all legal requirements have been met and that with the recommended main modifications set out in the Appendix of their report, the Places for Everyone Joint Development Plan Document satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

The next step is for all nine PfE Councils to consider the Inspectors' recommendations and adoption of the Plan. Currently it is anticipated that these Council meetings will be held between 28 February and 20 March 2024, with Bury Council due to consider this on 20 March.

If it is agreed by all nine Council's, Places for Everyone will become a key part of Bury's statutory development plan.

Given the advanced stage in the preparation of PfE, it is already considered reasonable that the Plan (as proposed to be modified) should be given significant weight in the decision-making process in line with paragraph 48 of the National Planning Policy Framework and full weight will be given to the policies once the Plan is adopted.

Principle (Green Belt)

Paragraphs 152 and 153 state that inappropriate development in the Green Belt is by definition, harmful and should not be approved except in Very Special Circumstances (VSC). Planning Authorities should ensure that substantial weight is given to any harm in the Green Belt. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 154 of the NPPF states that the construction of new buildings would be inappropriate in the Green Belt. Exceptions to this are:

- (a) buildings for agriculture and forestry;
- (b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- (e) limited infilling in villages;
- (f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

UDP Policy OL1/2 states that the construction of new buildings in the Green Belt is inappropriate development, unless it is for one of more of the following purposes: agriculture and forestry essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it; limited extension, alteration or replacement of existing dwellings, provided that this would not result in a disproportionate additions over and above the size of the original dwelling, or, in the case of replacement existing dwellings, the new dwelling is not materially larger than the one it

replaces; limited infilling in existing villages.

The proposal would include the extension of the existing wall to the rear of the property. The area enclosed would be used for growing vegetables which is considered to be an acceptable use within this rural location, and would not involve the extension of the existing residential garden use. The dwelling is located at the end of a row of properties that front Cockey Moor Road. The rear boundaries of the gardens of the neighbouring properties and the rear boundary of the water tower, would be in line with the northern elevation of the proposed wall. The properties and gardens within the street are well established.

The proposed wall does not appear overly excessive in massing terms and would be viewed in relation to the established ribbon of development along Cockey Moor Road. Given the points raised, and given the nature of the scheme and context of the site it is considered that the proposal would not conflict with the surrounding land uses, nor would it create harm to the openness of the Green Belt. It is therefore considered that the proposal complies with UDP Policy UDP Policy OL1/2 and paragraph 154 of the NPPF.

Layout and Design

UDP Policy EN1/1 Visual Amenity confirms that development will not be permitted where proposals would have a detrimental effect on the visual amenity both within, or viewed from, areas of environmental interest such as the Green Belt, Special Landscape Areas or the river valleys. 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. The site is also located within a Special Landscape Area as identified under UDP Policy EN9/1 which requires high standards of design, siting and landscaping and confirms that unduly obtrusive development will not be permitted in such areas.

The site is located to the rear of a ribbon of residential property that front Cockey Moor Road. The rear boundaries of the adjacent dwellings are all in line with the proposed northern boundary wall. Open fields are located to the north and west of the site. Any extension of existing boundary walls would be viewed in relation to the existing land use and settlement pattern.

The site can be viewed at a distance from Cockey Moor Road and from footpath 29cc to the west of the site. The proposed boundary would be 100mm taller than would be allowed under permitted development rights. Wall boundaries of this style are not usually a feature in Green Belt locations however the proposed wall would replicate the style and scale of the existing wall at the site and would not be located in an overly prominent position compared to the rest of the site boundary. A boundary wall to denote the boundary of an area of private land is not uncommon within residential settings and as such, given the context of the site the proposal is considered to be acceptable.

It is considered that the proposal would not have a detrimental impact on the character of the location complying with the policy considerations set out above.

Residential Amenity

UDP Policy EN1/2 takes into consideration a proposal's relationship to the surrounding area.

The residential property adjacent to the site, No. 40, appear to have extended their garden without planning permission. No. 40 - 28 have slowly encroached on the land to the rear of the row of dwelling to be in line with the boundary of Starling Water tower. Given this existing layout of neighbouring properties it is considered that the proposed extension to the existing wall would not have a detrimental impact on the residential amenity of the neighbouring property.

Open fields are located to the north and west of the site.

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 drawing numbered PL-001 P2 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 The external finishing materials for the proposal hereby approved shall match those of the existing wall.
Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.
- 4 Notwithstanding the details indicated on the approved plans the land enclosed by the proposed wall shall not be utilised as residential garden without the submission and approval of a relevant planning application.
Reason. To ensure that future inappropriate alterations or extensions that may impact on the openness of the Green Belt do not occur pursuant to policies of the Unitary Development Plan listed.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP 11/03/2024		DM 12/03/24	