

**DELEGATED REPORT**

|                                  |                                   |                                |
|----------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Dean Clapworthy | <b>Date of report:</b> 16/05/2024 | <b>Ref:</b> 70477/FUL          |
| <b>Registration:</b> 22/03/2024  | <b>LDFC:</b> 16/04/2024           | <b>Expiry Date:</b> 17/05/2024 |
| <b>Site Visit:</b> 02/04/2024    | <b>Site Notice:</b> 02/04/2024    | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 11            | <b>Con Area:</b> N/A              | <b>Adv Type:</b> NONE          |
| <b>Reason for Delay:</b><br>N/A  |                                   | <b>EIA:</b> NA                 |
|                                  |                                   | <b>Dec Level:</b> DEL          |
|                                  |                                   | <b>Stat Class:</b> MIDW        |

**Proposal:** Erection of 2 no. dwellings

**Location:** Land at Harper Fold Road & Canute Street, Radcliffe, M26 3BX

**Description**

The application relates to an area of grassed land (0.03ha) between Canute Street/Higher Dean Street and Harper Fold Road, on the south side of Bolton Road. The immediate area has a mix of uses with residential terraced housing to the west and north, semi-detached bungalows to the south. Hollybank nursing home is situated to the east and Cams Lane Primary School to the south-east.

The grassed area directly to north of the site, forms a part of the same homogeneous area visually with the application site and contains an underground United Utilities tank, which is controlled by an above ground kiosk.

The proposal is for the erection of 2 two storey semi-detached dwellings. They would be orientated with the principal elevation facing towards Bolton Road and partially aligned with the gable elevation of the end dwelling at Higher Dean Street (set back to the south of the United Utilities kiosk and around 21m from Bolton Road). The dwellings would be three storey internally, with the third floor served by box dormers and there would be adjoined projecting porches at the principal elevation. Elevations and the roof would be finished in render and tile with black upvc windows/doors.

Each dwelling would be provided with a rear yard/garden enclosed by 1.8m high timber panel fencing, beyond which would be parking spaces for 3 vehicles. No details of the access are provided or how this area would be treated/surfaced (i.e. whether the access would be from Harper Fold Road or/and Canute Street).

**Relevant Planning History**

**69590:** Erection of building comprising of 3 no. commercial units (Class E) at ground floor with 2 no. flats at first floor (Class C3) with associated car parking and external works. Refused 19/12/2023.

**68092:** Outline application for 3 no. dwellings with associated car parking. Approved 11/10/2022.

**58225:** Outline application for 3 no. dwellings with associated car parking - Refused for the following three reasons 27/02/2015-

1. The proposed housing development would, by reason of its size, position and design, be a prominent and intrusive feature in the street scene and would therefore, be seriously detrimental to the visual amenities of the area.
2. Insufficient information with regard to a number of highway issues.
3. Lack of information with regard to coal workings and drainage and other underground installations.

**Publicity**

88 neighbour notification letters issued 26/03/2024

Site notice posted 02/04/2024

11 representations received objecting to the proposal which can be summarised as follows:

The proposal would add to existing traffic and parking chaos in the immediate streets and adjacent to a busy junction providing access to a school, care home and close to a busy chip shop, community centre and park, posing a danger to other road users, school children/pedestrians/residents

The position for the proposed car parking is proposed in a dangerous position next to public footways and inconveniently for access into the proposed dwellings

The height of the building is out of proportion with neighbouring bungalows and would cause overshadowing

There are mains gas and sewerage under the site that could be at risk from the proposed development.

Construction work would cause chaos and danger

The notice doesn't mention what type of dwellings are proposed.

**Statutory/Non-Statutory Consultations**

**Traffic Section:** Objection for 3 reasons:

The proposed car parking provision would be inadequate and the arrangements sub-standard and likely to lead to vehicles parking and manoeuvring onto the adopted highway; and, Vehicles could not enter and leave the site in a forward gear; to the detriment of the free flow of traffic and highway safety.

There is insufficient topographical survey based information to enable a proper assessment of the proposal.

**Borough Engineer - Drainage Section:** No comments received.

**Environmental Health - Contaminated Land:** No objection, subject to conditions relating to contaminated land.

**Waste Management:** No comments received.

**Environmental Health - Pollution Control:** No comments received.

**The Coal Authority:** No objection, subject to conditions relating to intrusive site investigations to establish the risks posed by past shallow coal mining, remediation/mitigation works and verification.

**United Utilities (Water and waste):** Objection.

The proposed development proposal could impact existing critical sewer infrastructure within the red line boundary.

**Pre-start Conditions** - Not relevant.

**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                   |
| EN1/5 | Crime Prevention                             |
| EN1/7 | Throughroutes and Gateways                   |
| OL3/1 | Protection of Urban Open Space               |
| HT2/4 | Car Parking and New Development              |
| SPD11 | Parking Standards in Bury                    |
| SPD16 | Design and Layout of New Development in Bury |
| JP-H3 | Type, Size and Design of New Housing         |
| JP-H4 | Density of New Housing                       |
| JP-P1 | Sustainable Places                           |
| JP-S1 | Sustainable Development                      |
| JP-S2 | Carbon and Energy                            |
| JP-C2 | Digital Connectivity                         |
| JP-C5 | Streets For All                              |
| JP-C6 | Walking and Cycling                          |
| 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), 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 PfE 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**

### **Policy**

Policy H1/2: Further Housing Development - requires the council to have regard for the suitability of proposals for housing development on sites not identified on the Proposals Map.

Policy H2/1: The Form of New Residential Development - requires all new residential development to make a positive contribution to the form and quality of the surrounding area. This is further supported by SPD 16 - Design and Layout of New Development in Bury.

Policy H2/2: The Layout of New Residential Development - seeks to ensure that new residential development will be acceptable in terms of layout in order to provide a good quality residential environment.

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.

Policy HT2/4 - Car Parking and New Development requires all applications for development to make adequate provision for their car parking and servicing requirements. This is further supported by SPD 11 - Parking Standards in Bury.

Policy HT6/1: Pedestrian and Cyclist Movement seeks to ensure that pedestrians and cyclists are able to move safely and conveniently by ensuring that developments recognise the needs of pedestrians and cyclists.

Policy JP-H3: Type, Size and Design of New Housing seeks to provide an appropriate mix of dwelling types and sizes reflecting local plan policies and having regard to relevant local evidence. Development across the plan area should seek to incorporate a range of dwelling types and sizes, including for self-build.

Policy JP-H4: Density of New Housing requires new housing development to be delivered at a density appropriate to the location, reflecting the relative accessibility of the site by walking, cycling and public transport and the need to achieve efficient use of land and high quality design.

Policy JP- S2: Carbon and Energy sets out the steps required to achieve net zero carbon emissions.

Policy JP-S5: Clean Air requires developments to be located and designed to reduce reliance on forms of transport that generate air pollution.

Policy JP-P1: Sustainable Places requires all development to be distinctive and visually stimulating through the use of quality design.

Policy JP-C2: Digital Connectivity requires development to have full fibre to premises connections unless infeasible or unviable.

Policies JP-C5 and JP-C6 require streets to be well designed and managed to make a significant positive contribution to the quality of place and support high levels of walking, cycling and public transport.

**Principle (Residential)**

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 states that unless they have an adopted plan that is less than five years old that identified a five year supply of specific deliverable sites at the time of conclusion of the examination, then local planning authorities should identify and update annually a supply of specific developable sites to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing in certain circumstances set out in NPPF paragraph 226.

The joint Places for Everyone Plan was adopted with effect from 21 March 2024 and Policy JP-H1 sets a requirement for an average of 452 homes per year over the plan period, with stepped targets starting from a minimum housing target of 246 homes per year from 2022-2025 (increasing in future years of the plan).

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 deliverable land 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). In addition to the housing land supply in the SHLAA, the Places for Everyone Joint Development Plan Document (PfE) allocates significant strategic sites for housing within Bury and will accelerate housing delivery within the Borough to meet housing needs.

Following the adoption of Places for Everyone, the Council is now able to demonstrate a deliverable 5 year supply of housing land when assessed against the adopted PfE housing requirement

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.

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.

Due to the housing delivery test result, the 'tilted 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, have regard to amenity, the nature of the local environment and the surrounding land uses.

The site is located in a sustainable location for housing within the urban area and close to public transport links and Radcliffe town centre. The principle of residential development is therefore acceptable.

**Layout, design and visual amenity**

Minimum net density standards would not necessarily be appropriate given the limited size of the site and the constrained bounding development. However, at this location, the applicable minimum net residential density is 35 dwellings per hectare. The total area of the site is 0.0440 hectares, and the development would therefore equate to a density of around 45 dwellings per hectare.

Paragraph 41 of the National Design Guide states that ". Well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary. It enhances positive qualities and improves negative ones. Some features are physical, including; 'the existing built development, including layout, form, scale, appearance, details, and materials'.

Paragraph 131 of the NPPF considers that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 139 considers that development that is not well designed should be refused.

The footprint, position, general layout and scale of the proposed building is akin to those which were refused planning permission at 58225 and 69590, albeit around 4m closer to Bolton Street. The principal elevation would have large projecting conjoined porches, front and rear flat roofed box dormers and horizontally proportioned front windows set within rendered walls. However, the framing residential context is one of simple traditional red brick terraced dwellings with vertically proportioned windows within taller/narrower proportioned buildings.

The proposed building, set-back from the frontage to Bolton Road to which its principal elevation would oppose, and set in only around 1m from the footway edge to Harper Fold Road and Canute Street, would appear remote and cramped in the street scene. Furthermore, the significant conjoined porches and box dormers, inappropriately proportioned fenestration, basic architectural detailing and anomalous elevational materials would result in a prominent and incongruous feature that would be harmful to visual amenity and the street scene.

The proposal would therefore be contrary to UDP Policies H2/1, H2/2 and E1/2 and PFE policies JP-H4 and JP-P1.

**Residential Amenity**

**Neighbouring residents**

There are no adopted aspect standards for new build residential properties however, SPD 6 provides guidance on aspect standards between residential properties in relation to householder extensions and as such, would be a reasonable guide in this case.

Given the position of the building within the plot and the relationship to surrounding residential buildings, there would be no unacceptable impacts upon neighbouring residential amenity.

Future occupants

The agent has failed to respond to a request for confirmation of compliance with the nationally described space standards. However, it does appear that the proposed dwellings would exceed the overall floor space standard of 99 sq.m. and the minimum bedroom dimensions and floor areas. However, it has not been confirmed that the proposed development would be constructed to the the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations.

The dwellings would have a private amenity space for the storage of refuse bins/clothes drying etc.

**Access, parking and highway safety**

The Traffic Section have objected to the proposal on grounds that the proposed car parking provision would be inadequate and likely to lead to vehicles parking and carrying out manoeuvres on the highway to the detriment of the free flow of traffic and pedestrian and road safety.

A further concern is that there is insufficient topographical based information to enable a full and robust assessment of the likely impacts of the proposal in relation to access arrangements, physical impacts on un/adopted highways, potential pedestrian and vehicle conflict and that there would be adequate vehicular visibility.

The proposal would therefore be contrary to Bury UDP policies H2/2, H2/4 and HT6/2 and PfE policies JP-C5 & C6.

**Other matters**

*Ground conditions* - The Coal Authority and the Environmental Protection Officer do not object to the proposal, subject to intrusive investigation and contaminated land conditions.

*Drainage* - United Utilities have objected, stating that the proposed development proposal could impact existing critical sewer infrastructure within the red line boundary.

*Carbon and Energy and Digital Connectivity* - The requirements of PfE policies JP-S2 and JP-C2 have been highlighted with the agent for the application, but have not been addressed in the submission.

**Response to Representations**

The planning issues raised by the objectors have largely been addressed in the above report. Of those not addressed:

*The height of the building is out of proportion with neighbouring bungalows and would cause overshadowing*

The proposed dwellings would be around 17m north of the blank side elevation of the nearest bungalow. Therefore, not loss of amenity would accrue.

*Construction work would cause chaos and danger.*

The proposed development constitutes minor development and a construction traffic management plan could be applied if the development had been found to be acceptable.

**Conclusion**

The Council cannot demonstrate a five-year supply of deliverable housing land and as such, in accordance with Paragraph 11 of the NPPF, there is a presumption in favour of sustainable development unless the adverse impacts of approving the development would significant and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

Whilst the presumption in favour of sustainable development would apply, it is concluded that the benefits of the proposed development would be outweighed by the adverse impacts

identified in the above assessment.

Given such circumstances and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the Framework, planning permission should be refused.

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

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

**Recommendation:** Refuse

**Conditions and Reasons:**

- 1 The proposed development would, by reason of its position, scale and design, form an incongruous and pronounced feature that would conflict with the established layout, relationship of buildings and appearance within the street scene and would therefore, be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with policies H2/1, H2/2 and EN1/2 of the Bury Unitary Development Plan and Section 12 of the National Planning Policy Framework.
- 2 The proposed car parking provision is inadequate and car parking/servicing arrangements are sub-standard and are likely to lead to vehicles parking and carrying out manoeuvres on the highway in close proximity to the junctions of Canute Street and Harper Fold Road with the A665 Bolton Road and Canute Street with Higher Dean Street to the detriment of the free flow of traffic and road safety, contrary to Bury Unitary Development Plan policies H2/2, HT2/4 and HT6/2, Development Control Policy Guidance Note 16 - Design and Layout of New Development in Bury and Places for Everyone Joint Development Plan Document policies JP-C5 and JP-C6.
- 3 The proposal does not provide suitable accommodation for all vehicles to enter and leave the site in a forward gear, and would therefore be detrimental to road safety and the maintenance of the free flow of traffic, contrary to Bury Unitary Development Plan policies H2/2, HT2/4 and HT6/2 and Development Control Policy Guidance Note 16 - Design and Layout of New Development in Bury and Places for Everyone Joint Development Plan Document policies JP-C5 and JP-C6.
- 4 The application and submitted plans contain insufficient, topographical survey-based information in order to properly assess the following:
  - proposed access arrangements from Canute Street;
  - physical impact of the development on the adjacent adopted and unadopted highways that abut three sides of the site;
  - ensure that the proposed parking spaces located adjacent and parallel to the back of the abutting footways do not lead to vehicles coming into conflict with passing pedestrians or straddling the unadopted and adopted highways;
  - ensure that adequate visibility splays and visibility at the back edge of the footway can be provided at the junction of the site access with Canute Street;
  - ensure that adequate refuse collection facilities for the two dwellings can be

provided within the curtilage of the site clear of and without detrimental impact on the adjacent adopted and unadopted highways.

Without this informaton the proposal is unacceptable and contrary to Bury Unitary Development Plan policies H2/2, HT2/4 and HT6/2 and Development Control Policy Guidance Note 16 - Design and Layout of New Development in Bury and Places for Everyone Joint Development Plan Document policies JP-C5 and JP-C6.

- 5 The application and submitted plans and supporting statements contain insufficient information to enable the local planning authority to assess whether the proposal would:
- be built to the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations;
  - maximize reductions in carbon emissions;
  - comprise high quality digital infrastructure;
- as required by policies JP-H3, JP-S2 and JP-C2 of the Places for Everyone Joint Development Plan Document.
- 6 The application and submitted plans and supporting statements contain insufficient information to demonstrate that the proposal would not impact unacceptably existing critical sewer infrastructure contrary to 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                 | 16/05/2024  |                         |             |