

DELEGATED REPORT

Report by Tom Beirne	Date of report: 14/01/2025	Ref: 71328/FUL
Registration: 25/11/2024	LDfC: 17/12/2024	Expiry Date: 20/01/2025
Site Visit: 10/12/2024	Site Notice: N/A	Press Date: N/A
Objections: 3	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Single story rear extension

Location: Wilson Mews, 75 Wilson Street, Pimhole, Bury, BL9 7EU

Description

The application relates to a three storey semi-detached townhouse on a residential road. Similar styled properties on either side with windows and patio doors facing onto the rear yard areas. The property has a paved yard at the rear bounded by timber 'hit and miss' fencing approx 2m high. To the rear is the gable end of No.12 Primrose Court which has a window at ground floor and a bathroom/WC window at first floor.

The single storey extension would extend across the width of the rear elevation and project out 6m on the north side of the property. The roof would be hipped to a max height of 3.4m with an eaves height of 2.3m. The remainder of the rear yard area (approx 37sqm) would be retained and accessed from the side passageway between the site and No.73 Wilson Street.

The application is accompanied by a letter from a Specialist Neurological Physiotherapist, setting out the justification for the additional space requirements in the form of the extension. This letter states that the applicant, who has a young family, has a debilitating condition (Guillian Barre Syndrome) that has resulted in paresis in all four limbs and trunk. In addition the applicant suffered a stroke in 2019. He is now confined to a wheelchair and relies on carers. He is unable to use the stairs and the living room now doubles as his bedroom. It is the opinion of the physiotherapist that the extension is required to assist the applicant in his daily life.

A letter from Bury Council Disability Service has also been submitted in support of the application. This letter confirms that the applicant has impaired mobility and is confined to living in the ground floor living room. A through floor lift and stair lift was considered but this was deemed not practical to meet his long-term needs and the layout of the house is not suitable for a through floor lift.

Relevant Planning History

N/A

Publicity

Immediate neighbours notified by letter dated 26/11/2024. Three objections received from neighbours on either side to the rear are summarised as follows:

- The size of the extension is concerning, particularly its height. Given that my garden is already north-facing, I am worried that the extension will block all sunlight, especially in the afternoon we already get very little sun.
- Extension windows would be closer to windows in gable on the property at rear.
- The Velux windows would overlook neighbours. Concerned about privacy.
- Concerned that the extension may encroach into the shared space between neighbours.

- Disruption from building works. Neighbours work 12-hour night shifts.
- Increased number of commercial vehicles visiting the property during the construction process and potentially blocking driveway.
- Concerns about the mess and inconvenience caused by the construction - noise, dust, and debris.

Statutory/Non-Statutory Consultations

N/A

Pre-start Conditions - N/A

Development Plan and Policies

H2/3 Extensions and Alterations

SPD6 Supplementary Planning Document 6: Alterations & Extensions

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.

Need - It is clear from the two letters submitted in support of the application that the applicant's current living conditions are poor and require significant improvement in the form of additional space.

Although the properties along Wilson Mews incorporate some 'Lifetimes Homes' standards, the residential development, including the application site, did not fully comply and this includes adaptations for wheelchair access. As such it is considered that, given the condition of the applicant, the existing property is not properly suited to wheelchair access.

Section 10.11 of SPD document 6 relating to extensions and alterations states that where there is appropriate justification and confirmation by an appropriately qualified person, that the alterations are needed, the Council will allow exceptions to the general criteria relating to extensions where they are for a disabled person.

Permitted Development - A rear extension projecting up to 3m from the rear elevation would be permitted under current planning legislation.

With a curtilage measuring 78sqm, an outbuilding with a floor area of 39sqm could be built under permitted development with an eaves height of up to 2.5m.

Measured externally, the area of the proposed extension is approx 26sqm.

Visual amenity - The proposed extension is relatively large, extending out 6m from the rear elevation of the townhouse. However it is single storey with a shallow pitched and hipped roof and does not appear particularly prominent within the streetscape, given it is to the rear of the premises and situated behind the existing timber boundary fence.

The extension would be finished in brick and tiles to match the existing property.

In terms of visual amenity the proposed extension is considered to be acceptable and complies with UDP Policy H2/3 Extensions and Alterations and related guidance with SPD6.

Residential amenity - The extension should be assessed against the impact on neighbours on either side, both in terms of the internal living space, external garden areas and privacy.

In terms of the impact on habitable rooms, although the extension projects out 6m from the rear extension and would contravene the '45 degree rule', it is single storey with an eaves height of 2.3m. In terms of the '25 degree rule' the line drawn from the sill of the neighbours habitable room windows on either side would just about clear the extension in relation to No.73 and only just clip the roof with regard to No.77.

Situated on the north side of the house, the rear elevations of the applicant's house and neighbours and a significant part of the rear yard does not get direct sunlight for much of the day and as such the presence of the single storey extension would not significantly worsen the situation, particularly given the existing timber boundary fence around the rear yard.

With regard to privacy and overlooking, the velux windows in the roof would not have a significant impact on privacy given the height and angles involved. The new window on the side elevation would be required to be obscure glazed to a height of 1.7m to reduce direct views to neighbours yard - although this would be across a shared passageway. The windows on the rear elevation of the extension would be closer to the ground floor side window in the gable of 12 Primrose Court. However the side window cannot be afforded significant weight and there would be a about 6m of yard and a 2m high timber fence in between. As such the impact on the privacy of the neighbour to the rear would be negligible.

Given a certain degree of flexibility allowed for extensions that are justified for disabled applicants, the proposed extension is on balance just about acceptable in relation to residential amenity and complies with UDP Policy and guidance relating to extensions and alterations for disabled persons.

Public comment - The comments from the objectors, where they are related to planning, have been taken into account and have been addressed in the above report. Issues relating to hours of working, noise, disturbance, obstructions and mess from construction would be dealt with under seperate legislation. However it is considered reasonable, given the nature of the site, to attach a condition requiring all building materials to be stored within the site only to allow access for neighbours.

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

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. 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 Sheet 1 and 2/revB 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 and Places for Everyone Joint Development Plan listed.
- 3 The external finishing materials for the proposal hereby approved shall match those of the existing building.
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 Before the first occupation of the extension hereby permitted the window on the side/east elevation shall be obscured glazed (max obscurity level 3) to a height of 1.7m and shall be permanently retained in that condition thereafter.

Reason. To protect the privacy of adjoining occupiers and to accord with Policy H2/3
- Extensions and Alterations of the Bury Unitary Development Plan and
Supplementary Planning Document 6 - Alterations and Extensions to Residential
Properties.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	14/01/2024	HL -	15/01/2025