

DELEGATED REPORT

Report by Tom Beirne	Date of report: 08/02/2023	Ref: 69189/FUL
Registration: 19/12/2022	LDFC: 02/02/2023	Expiry Date: 13/02/2023
Site Visit: 01/02/2023	Site Notice: N/A	Press Date: N/A
Objections: 8	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Variation of condition no. 1 (approved plans) of planning permission 68038 for erection of detached dwelling: Increase the size and height of the second floor and External alterations

Location: 22 Cockey Moor Road, Bury, BL8 2HB

Description

The application relates to a residential plot on a residential row of houses on the north side of Cockey Moor Road. This application is a resubmission following a previous refusal and subsequent approval for detached two storey house (see Relevant Planning History). The previous property on the plot, a red brick and slate detached bungalow, has been demolished and a house is currently being constructed - not in accordance with any approval.

The residential properties along the road are mixed in size, style and finish with large garden areas front and back and form a well established ribbon development linking the west side of Bury with Ainsworth Village. The site is 'washed over' by the Green Belt and the West Pennine Moors and has open countryside to the north, beyond the rear garden boundary. To the west side is a bungalow with an extension at the rear of similar proportions to the existing property whilst to the east is a two storey house with a hipped roof. Across Cockey Moor Road, to the south, are two storey houses.

The latest application now proposes a three storey, 5-bed dwellinghouse that would be centrally positioned within the plot. The footprint measuring D13.6m x W10.5m, which is similar to that previously approved. The eaves, at 5.5m high, would also be similar to the previous scheme although the ridge height would increase to 9.1m, from 8.3m. This increase in the roof height is more significant at the rear where it forms a three storey element. It is noted that the actual height of the ridge as currently built is approximately 9360mm. This is approximately 260mm higher than the height indicated on the drawing

The house would have a relatively conventional design and appearance with a rendered front with a single storey porch centrally positioned. The sides and rear would be finished in a rough walling stone and the roof would be hipped and finished in slate tiles. The access point onto Cockey Moor Road would largely remain as existing with a new boundary wall across the front.

It is noted that, as currently constructed, openings appear on the sides of the second floor rear element. These do not appear on the proposed plans so it can be reasonably assumed that these openings can be infilled in order to accord with the plan.

As measured on site the height of the building is approximately 9360mm. This is approximately 260mm higher than the height indicated on the drawing. The depth of the building is as plan but it appears to have shifted approximately 350mm further back into site.

Relevant Planning History

01601/E - Demolition of existing bungalow, construction of replacement dwelling - Enquiry completed 23/01/2015

57756 - Demolition of existing bungalow and erection of 2 storey replacement dwelling with additional living accommodation in roofspace - Refused 07/10/2014

58590 - Demolition of existing bungalow and erection of 2 storey replacement dwelling (resubmission) - Approve with Conditions 03/06/2015

67322 - Erection of detached dwelling - Refused 10/01/2022

68038 - Erection of detached dwelling - Approve with Conditions 28/04/2022

14/0331 - Demolishing bungalow - 03/09/2014

16/0144 - Untidy land/buildings - 02/06/2016

17/0161 - Untidy Property - 12/06/2017

20/0389 - Breach of start by date of planning permission 58590 - 28/04/2022

Publicity

Immediate neighbours notified by letter dated 11/01/2023. 8 objections received from surrounding/ nearby residents neighbours and summarised below:

- The house is not built in accordance with the approved plans. Applicant has ignored the Local Planning Authority.
- The house is too big and has a detrimental impact on the streetscape and neighbours either side.
- House is overdominant.
- Increased overlooking.

Statutory/Non-Statutory Consultations

Traffic Section - No objection.

Drainage Section - No objection.

Environmental Health - No objection.

United Utilities - No objection.

Pre-start Conditions - N/A

Unitary Development Plan and Policies

OL7/2 West Pennine Moors

OL1/2 New Buildings in the Green Belt

OL1/3 Infilling in Existing Villages in the Green Belt

EN1/2 Townscape and Built Design

EN7 Pollution Control

H1/2 Further Housing Development

H2/1 The Form of New Residential Development

H2/2 The Layout of New Residential Development

HT2/4 Car Parking and New Development

SPD8 DC Policy Guidance Note 8 - New Buildings in the Green Belt

SPD11 Parking Standards in Bury

SPD16 Design and Layout of New Development in Bury

EN5/1 New Development and Flood Risk

EN7/5 Waste Water Management

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.

Principle - Policy H1/2 Further Housing Development, states that the Council will have regard to various factors when determining a proposal for residential development including the availability of infrastructure, the suitability of the site, the nature of the local environment and the surrounding land uses. The principle of residential use on the site established by its historic use and previous approval for a replacement dwellinghouse.

Green Belt Guidance and Policy - Paragraph 149 states that local planning authority should regard the construction of new buildings as 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, 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 New Buildings in the Green Belt reflects the NPPF in stating that replacement dwellings are acceptable where they are not disproportionate in scale to, or materially larger than, the original dwelling. Where new development is deemed to be inappropriate in that it would have a detrimental impact on the openness of the Green Belt, the development would need to be justified under 'Very Special Circumstances (VSC)'.

Supplementary guidance in SPD8 New Buildings and Associated Development in the Green Belt supports Green Belt policies and indicates that where a replacement dwelling is proposed the new dwelling should reflect the original dwelling in terms of massing, siting and area of footprint, height and should not be materially larger than the one it replaces. A new dwelling that is disproportionately larger or differs materially in position or footprint to the existing house would only be permitted in 'Very Special Circumstances' and only after the applicant has demonstrated why, in these circumstances, permission should be granted.

Character and openness of the Green Belt - This proposal would constitute a replacement building of the same use and comprise the redevelopment of previously developed land. These exemptions, however are subject to the replacement building not having a greater impact on the openness of the Green Belt than the existing development.

There are a number of factors to be considered within the context of any individual assessment of 'openness' and prominent among these will be factors relevant to how built up the Green Belt is, how built up it would be if redevelopment occurs and factors relevant to the visual impact on the aspect of openness which the Green Belt presents.

The previously approved scheme for a replacement dwelling on this site was considered to be the maximum size and volume that could be accommodated on this site given the existing development along Cockey Moor Road, particularly neighbours on either side. This latest development takes the size and volume beyond that which would be considered to be reasonable within the Green Belt, particularly in view of its massing. The proposed dwelling is now considered to be significantly larger than the original bungalow and in terms of its relationship with the openness and character of the Green Belt, would be considered disproportionate and have a seriously detrimental impact on the character or openness of the Green Belt.

In the light of the NPPF and UDP Policy OL1/2 and associated guidance, the new dwelling would be considered to be overdominant and out of scale with its surroundings and therefore would be unacceptable and contrary to Green Belt policy and guidance.

Visual amenity - There is a mix of different house styles and sizes of dwellings along this part of Cockey Moor Road as it runs out of Bury towards Ainsworth Village. In terms of siting, the new house is centrally positioned within the plot and generally in line with the other properties along the road.

The main concerns centre on the roof design and the two storey front outrigger/porch. The overall height of the building in relation to properties on either side, twinned with the rather incongruous roof design with its steep pitch would appear rather incongruous and out of

character with the streetscape despite the fact that Cockey Moor Road is characterised by a mix of house styles.

The second element of concern is the two storey porch/outrigger on the front elevation. This structure would appear to be overdominant on the frontage and add to the proposed dwelling's rather incongruous appearance within the streetscape.

The proposal would have a seriously detrimental impact on visual amenity and the character of the streetscape. It would therefore be unacceptable and contrary to policies EN1/2 Townscape and Built Design, H2/1 The form of New Residential Development and adopted guidance in SPD16 Design and Layout of New Development in Bury.

Residential Amenity - The neighbouring house at No.20 has a ground floor door and hallway window with first floor stairwell and WC windows facing across the side boundary. The bungalow at No.24 has a ground floor secondary side kitchen window and a first floor obscure glazed bathroom window facing the site. In terms of residential amenity, the non-habitable/ secondary windows on the neighbours cannot be afforded significant weight in any assessment.

The proposed new dwelling has four small, non-principle windows directly facing the neighbours on either side. On the side/west elevation there are Ground floor obscure glazed windows to a WC and utility room and at first floor, two further en suites. On the other side/east elevation, there are small secondary two lounge room windows at ground floor and two en suites at first floor, all to be obscure glazed and restricted opening and secure by an suitable condition of approval. Given the nature of the windows and the obscure glazing, there would be no direct overlooking of neighbours on either side. The habitable room windows on the front and rear elevations would not result significant overlooking beyond what would reasonably be expected in a residential setting.

It is noted that there are two additional window openings on the side elevations of the rear outrigger that do not appear on the drawings. Whilst these would overlook neighbours gardens on either side, these openings could be infilled to reduce direct overlooking.

The previously approved scheme indicated a two storey rear outrigger extending out centrally from the rear elevation and set down below the ridge of the main roof, giving it clearly subordinate appearance and reducing the building's visual impact when viewed from the properties on either side. This latest scheme increases the size and massing of the rear outrigger which now has an overdominant impact, particularly when viewed from the neighbouring properties. With this overdominant element at the rear, the new dwelling would have a seriously detrimental impact on the residential amenity of the neighbours on either side. The proposal would be unacceptable and contrary to UDP Policies H2/1, H2/2 and guidance in SPD6 Extensions and Alterations in relation to residential amenity.

Access and Parking - The existing access point from Cockey Moor Road would largely remain unchanged. Initial concerns regarding pedestrian visibility out of the site have been overcome by the introduction of an improved visibility splay at the entrance. The proposed driveway and parking area to the front is considered sufficient for three cars to park. A condition would be attached to require all areas of hardsurfacing to be made permeable. The proposal is acceptable to the Traffic team and complies with UDP Policies H2/3 extensions and Alterations and HT2/4 Car Parking and New Development and associated guidance in SPD6 and SPD11 in terms of access and parking.

Drainage - The new house would be connected to the main drainage system and an appropriate condition and informatives would be attached to any approval notice.

Permitted development - It is deemed appropriate to remove 'permitted development' rights for the house to control any further amendments or extensions in the interests of visual and residential amenity.

Accuracy of plans - There appears to be inaccuracies on the submitted plans, in particular the siting of the house in relation to neighbours on either side and the actual height of the house. These inaccuracies are reflected in the reason for refusal.

Representations - Most of the planning issues raised by the objectors have been addressed in the above report. The issue about increased CO2 levels and higher energy consumption raised by the neighbour would not be considered significant enough to warrant refusing the application on this ground. The loss of particular views of Holcombe Hill from properties across Cockey Moor Road is not a valid planning consideration to refuse the application, particularly as the new house would only be two storeys high.

On balance, it is considered that the revised proposal would have a seriously detrimentally impact on the visual amenity and character of the area, the openness of the Green Belt and the residential amenity of the neighbours.

With regard to finishing materials, the applicant wants to retain the proposed finishes as per the plan apart from the boundary wall which would be retained and repaired in red brick as existing. The site visit should allow committee to consider the impact of the scheme on the streetscape.

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 house in terms of its height, size and massing, would constitute a materially larger and disproportionate replacement which would have a seriously detrimental impact on the openness and character of the Green Belt. The proposed development therefore conflicts with the NPPF and the following policies of the Bury Unitary Development Plan: OL1/2 New Buildings in the Green Belt and associated guidance with Development Control Policy Guidance Note 8 - New Buildings and Associated Development in the Green Belt.
- 2 The proposed house in terms of its height, size and massing, would appear overdominant within the plot and incongruous between properties on either side. The proposed development therefore have a seriously detrimental impact on visual amenity and conflicts with the following policies of the Bury Unitary Development Plan: EN1/2 Townscape and Built Design, H2/1 The Form of New Residential Development and associated guidance in SPD16 - Design and Layout of New Development in Bury.
- 3 The proposed development would, by reason of its height, size and massing, be overdominant and have a seriously detrimental impact on the residential amenity of those residents on either side of the site. The proposal would conflicts with the following policies of the Bury Unitary Development Plan: H2/1 The Form of New Residential Development and associated guidance in SPDs 6 and 16 - Extensions and Alterations and Design and Layout of New Development in Bury.

DELEGATED REPORT

- 4 The proposed plans are inconsistent with the property as currently built in terms of siting and height. As such the proposals are unacceptable and contrary to the NPPF and the following UDP Policies EN1/2 Townscape and Built Design, H2/1 The Form of New Residential Development, H2/2 The Layout of New Residential Development and associated guidance.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
8/2/23 TB		8/2/23 DM	