

DELEGATED REPORT

Report by Helen Pressley	Date of report: 11/11/2024	Ref: 71039/FUL
Registration: 10/10/2024	LDFC: 07/11/2024	Expiry Date: 05/12/2024
Site Visit: 17/10/2024	Site Notice: 17/10/2024	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Demolition of existing garages and erection of 2 no. dwellings

Location: Land to rear of 69 Sandy Lane/Lowther Court, Prestwich, Manchester, M25 9PS

Description

The application site comprises land to the rear of the existing row of shops on Sandy Lane which form the Neighbourhood Shopping Centre. The land is made up of a tarmac hardstanding and accommodates a garage colony of 17 units, most of which are vacant with a run-down appearance. The shopping centre lies to the east and there are houses to the south, west and north.

It is proposed to demolish the existing garages and construct a pair of two storey semi-detached houses. There would be private garden areas at the rear and tandem parking on either side of the houses. The open tarmac area in front of the houses would be maintained to allow access to the rear of the shops and servicing. Each house would have three bedrooms.

The application appears to be a resubmission of a previously approved scheme, that was not implemented.

Relevant Planning History

54837 - Demolition of existing garages and construction of 6 flats with associated external works - refused 16/05/2012

01890/E - Pre app enquiry for proposed development of 2 no. two storey semi detached houses along with associated parking and gardens - Enquiry completed 26/09/2016

60997 - Demolition of existing garages and erection of 2 no. semi detached houses - Approve with Conditions 01/03/2017

65788 - Conversion of garages to 3no. single bedroom flats (73 Sandy Lane) - Approve with Conditions 7/10/2020

Publicity

Letters sent to 51 neighbouring properties on the 11th October 2024

Site Notice Posted 17th October 2024

1 objection received in relation to:

- When Lowther Court was converted into apartments, the land owner left the tarmac area unfinished, whereby legal action had to be sought as a result.
- In order to proceed, the land owner would have to excavate the existing carpark in order to install services that would cause a significant amount of damage on private land.
- There is a large drop at the rear of the garages and this plan would run the risk of falls leaving the development in a high-risk safety category, therefore residents' are highly

sceptical as to whether this work would be completed properly and any damage rectified.

Statutory/Non-Statutory Consultations

United Utilities (Water and waste) - request that the application provides a details drainage plan prior to determination of the application. SuDs condition requested if this can not be provided.

Greater Manchester Ecology Unit - Comments received in relation to bats, nesting birds, other protected species, invasive species, BNG and enhancements which are reported below.

Traffic Section - Recommendation for refusal the proposal would detrimentally affect previously approved car parking and servicing arrangements for the adjacent site.

Borough Engineer - Drainage Section - no response.

Environmental Health - Contaminated Land - No objections subject to conditions in relation to the submission of a Preliminary Risk Assessment, Generic Quantitative Risk Assessment and Detailed Quantitative Risk Assessment and submission of a Remediation and Verification reports.

Electric Vehicle Charging point condition also requested.

Waste Management - No response

Planning Policy Manager - no response

Prestwich Village Neighbourhood Forum - Objection. Information submitted poor and lacking detail. Proposal does not meet Nationally Described Space Standards. Elevations and floor plans do not align. Would not comply with Part M of the Building Regulations. Site is too small and constrained to be considered for the development of 2no. dwellings.

Pre-start Conditions - Not relevant

Development Plan and Policies

EN1/2	Townscape and Built Design
EN6/3	Features of Ecological Value
EN7/5	Waste Water Management
EN8/2	Woodland and Tree Planting
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
H2/3	Extensions and Alterations
HT2/4	Car Parking and New Development
JP-H1	Scale of New Housing Development
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing
JP-G8	A Net Enhancement of Biodiversity and Geodiversity
JP-P1	Sustainable Places
JP-C2	Digital Connectivity
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-S2	Carbon and Energy
JP-S4	Flood Risk and the Water Environment
JP-S1	Sustainable Development
JP-S5	Clean Air

SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
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.

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 sets the up-to-date housing requirement for Bury against which the deliverable supply of housing land must be assessed. PfE Policy JP-H1 sets the following stepped targets for Bury:

- 246 homes per year from 2022-2025;
- 452 homes per year from 2025-2030; then
- 520 homes per year from 2030-2039.

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 joint Places for Everyone Plan 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%) 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.

Therefore, 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.

In terms of housing delivery the Borough has underdelivered against the local housing need, and as a result the 'tilted balance' applies and planning permission should be granted unless the above points Para 11(d) i or ii apply.

The site is considered to be in a sustainable location for housing within the urban area and sitting outside the Green Belt. The national requirement to significantly boost the supply of housing under the NPPF is a material consideration that would favour the residential development of this site in principle.

Layout and Design

PfE Policy JP-H4 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-H4 sets out minimum densities that should be considered.

The minimum density for the site would be 50 dwellings per hectare. The submitted JP-H4 statement, states that the site is 0.104 hectares. This does not correspond with the plans and documentation submitted. The submitted Preliminary Assessment of Biodiversity Net Gain states that the site is 0.0802 hectares. The proposed site plan measures at approximately 0.08384 hectares. The proposed site plan, includes the access required which would therefore appear to give a more accurate site area. The proposal would therefore lead to a density of approximately 24 dwellings per hectare. The proposal would therefore fail to meet the minimum density for the site. The submitted JP-H4 Statement, and submitted planning statement provide no evidence to justify a lower density at the site, in accordance with the details set out within this policy and as such it is considered that the proposal fails to comply with PfE Policy JP-H4.

UDP Policies H2/1 and H2/2 provide the assessment criteria for detailed matters relating to height, appearance, density and character, aspects and finishing materials for new residential developments. PfE Policy JP-H3 - 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. UDP Policy EN1/2 seeks to ensure that development proposals would not have a detrimental effect on the visual amenity and character of a particular area. PfE Policy JP-P1 Sustainable Places aims to promote a series of beautiful, healthy and varied places.

No windows are shown on the proposed first floor plans. Windows shown on the proposed elevations, fail to tie in with the proposed floor plans. For instance, the window shown for bedroom 3 on the proposed rear elevation would actually be partially dissected by the wall between bedroom 3, and the bathroom when the floor plans and elevations are compared. The application and submitted plans therefore do not accurately show the proposed external window arrangement. The application and submitted plans contain insufficient information to enable them to be properly assessed in terms of visual amenity and residential amenity.

The proposed siting of the houses within what is a backland area, behind a local shopping centre is unusual. However given that the site is a brownfield site within the urban area, the layout works in terms of circulation. In a wider context, policy suggests that new development should reflect local characteristics and the existing urban grain, including the layout and pattern of streets, spaces and buildings. Whilst the siting of the pair of semi-detached houses within a former garage colony, behind a Local Shopping Centre is rather unusual, it is not unheard of. The land in question is disused and a pair of semi-detached properties is considered to be an acceptable use in principle, particularly in view of the current housing shortage.

The area to the front of the proposed dwellings, is currently utilised as garages and parking for the flats at Lowther Court. A previous permission allowed the demolition of these garages, in connection with the conversion of integral garages at Lowther Court to provide parking for these flats. Whilst the conversions of the integral garages has been undertaken the removal of the garages has not. It is however unclear how the proposal would interact with the parking and turning area associated with the existing flat uses, as this has not been indicated on the proposed site plan.

PfE Policy JP-H3: states that all new dwelling must:

1. Comply with the nationally described space standards; and
2. Be built to the 'accessible and adaptable' standard in Part M4(2) of the Building Regulations unless specific site conditions make this impracticable.

The submitted National Described Space Standards (NDSS) table states that the proposed dwellings are 3 bed, 4 person, 2 storey dwellings. NDSS requires a minimum Gross Internal Area (GIA) of 84 square metres is required for a dwelling of this size. The submitted space standards table states that the GIA of the dwellings is 78.5 square metres. The floor plans measure a GIA of approximately 64.4 square metres. The proposal would therefore fail to meet minimum space standards for GIA.

Bedroom 2 is the largest bedroom in each property. This bedroom measures approximately 9 square metres in area and 2.5 metres in width failing to comply with space standards for a principal double occupancy room. Bedroom 1 in each property measures 4 square metres in area and 1.95 metres in width failing to comply with space standards for a single occupancy room. Bedroom 3 in each property measures 6 square metres in area and 2 metres in width failing to comply with space standards for a single occupancy room. The proposal would therefore fail to comply with NDSS for room sizes.

The overall built in storage for each property (cupboard on first floor) is 0.7 square metres. This is below the 2.5 square metres required by NDSS.

The proposal would therefore fail to comply with the requirements of PfE Policy JP-H3 in relation to compliance with NDSS. Compliance with Part M4(2) of Building Regulations can be secured via condition.

Amenity

UDP 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, with regard to amenity, the nature of the local environment and the surrounding land uses. There are no adopted aspect standards for new build residential properties however, Supplementary Planning Document 6 provides guidance on aspect standards between residential properties and as such, would be a reasonable guide in this case.

For clarity the following aspect standards would be applicable:

- 20 metres between directly facing habitable room windows;
- 13 metres between an existing habitable room window and a proposed two storey blank wall
- 6.5 metres between an existing habitable room window and a proposed single storey blank wall
- 7 metres between a proposed first floor habitable room window and a directly facing boundary with a neighbouring property.

Whilst the proposed plans are conflicting, as set out above assessments can be made in relation to distances of potential windows.

The proposed site plan indicates that there would be a minimum of approximately 16 metres between the first floor habitable rear windows and the directly facing rear boundary of the site. This would exceed the 7 metres required by SPD 6.

The dwellings along Lynmouth Grove to the west and south west of the proposed site are located at a lower level. No sections have been provided to illustrate the difference in levels however the Case Officer site visit confirmed the difference in levels appears to be approximately 1 storey in height. As such an additional 3 metres will be required to be added to the aspect standards when assessing the relationship of the proposal, with these dwellings.

No first floor side habitable room windows are shown within the gables of the proposed dwelling facing towards Lynmouth Grove. A side kitchen door is shown. As this is a non-habitable room use, on a secondary elevation aspects have not been applied. The

proposed side gable would be located approximately 24 metres from the rear elevation of No. 8 and No. 6 Lynmouth Grove exceeding the 16 metres required by SPD 6.

The properties to the east and south east of the site, facing Sandy Lane and Butterstile Lane are two storey at the front but three storey at the rear due to the change in levels with the basements and ground floors of these properties being at a similar level to the site. These properties appear to be largely commercial properties within the neighbourhood shopping centre at ground floor and lower ground floor/basement, with any residential properties located at first floor. These residential properties would be located approximately 32 from the directly facing rear first floor habitable room windows exceeding the 20 metres required by SPD 6. As above, A side kitchen door is shown facing towards the rear of the properties on Sandy Lane. As this is a non-habitable room use, on a secondary elevation aspects have not been applied.

The windows to the front would face towards a car park area rather than private amenity space or windows.

The proposal is therefore considered to comply with the intentions of SPD 6.

Highways and Access

UDP Policy EN1/2 requires the consideration of the design and appearance of access, parking and service provision. This is further supported by Policy H2/2 that requires proposals to demonstrate adequate car parking provision, access for both vehicles and pedestrians, and provision for public transport and the existence of any public rights of way. PfE 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.

As set out above, it is not clear from the site plan submitted how the proposal would work in relation to the existing access and parking arrangements at the site. The proposed site plan does not acknowledge these existing needs.

It is therefore considered that the proposal would detrimentally affect previously approved car parking and servicing arrangements for the adjacent site, which would result in a loss of off-highway car parking facilities and the ability of refuse collection and service vehicles associated with the proposed development and existing flats and commercial units to be able to enter and leave the site in a forward gear, which is highly likely to lead to vehicles parking and carrying out manoeuvres on the highway to the detriment of the free flow of traffic and road safety.

Parking

In terms of parking standards, UDP Policy HT2/4 requires all applications for development to make adequate provision for their car parking and servicing requirements. Supplementary Planning Document 11 provides parking standards for developments.

The site is located just outside of a high access area as set out within SPD 11, and is adjacent to a row of local shops and services. As such it is considered that a maximum of 2no. spaces per dwelling would be required at this site. The proposal indicates 2 no. spaces per dwelling complying with this standard.

Ecology and Biodiversity Net Gain

PfE Policy JP-G8 states that through local planning and associated activities a net enhancement of biodiversity resources will be sought. This is supported by UDP Policy EN6/3 that seeks to retain, protect and enhance the natural environment and seeks to retain features of ecological or wildlife value. Paragraph 180 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment. UDP Policy EN8/2 supports and encourages new woodland and tree planting within the borough. This is further supported by PfE Policy JP-G7 that aims to significantly

increase tree cover and requires 2no. replacement trees for each tree lost or other measures that would also result in a net enhancement in the character and quality of the treescape and biodiversity value in the local area.

The application is accompanied by an Ecology Survey and Assessment (ERAP, 2024) and Preliminary Assessment of Biodiversity Net Gain (ERAP, 2024).

Bats

The buildings on site were assessed as having negligible bat roosting potential, and as such no further survey effort is required. Based on the evidence provided no further surveys are required.

Nesting birds

A condition can be secured to ensure the building works and vegetation removal take place outside the main bird nesting period (March - August inclusive) unless it can otherwise be demonstrated that no active bird nests are present.

Other protected species

No other protected species or evidence of protected species were recorded on the site, although habitat is present that could be suitable for species such as badger, hedgehog, and reptiles.

GMEU have requested a condition that requires a pre-commencement survey for badger, to be carried out no more than 3 months prior to the commencement of works on the site.

A number of Reasonable Avoidance Measures for species such as badger, hedgehog and reptiles have been identified in Section 5.2.10 of the ecology report and these should be followed during any approved works.

An informative has also been requested by GMEU so that the applicant is aware of the legal protection that certain species receive and that the granting of planning permission does not negate the need to abide by the laws that are in place to protect biodiversity. If at any time any protected species are found or are suspected of being present on the site and adversely affected by the development, work should cease immediately, and an ecologist/LPA should be contacted.

Invasive species

Virginia Creeper was identified on site which is included within Schedule 9 Part 2 of the Wildlife & Countryside Act 1981, as amended. It is an offence to introduce or cause to grow wild any plant listed under this schedule.

GMEU have stated that the applicant should be reminded that care should be taken to ensure that this species is not spread off the site.

Biodiversity Net Gain

The Preliminary Assessment of Biodiversity Net Gain indicates that a loss of biodiversity units will be incurred on site as a result of the development, with 0.06 habitat units required to be mitigated for to achieve a 10% net gain. The report indicates that a 10% net gain is achievable on site, should at least 0.016 ha of mixed scrub be created outside of the vegetated gardens. GMEU have requested further clarification be provided as to whether this will be implemented, or if off site compensation or an offset conservation payment will be required. Given the above issues, and the fact that this can be clarified through the statutory BNG condition this additional information has not been requested at this time.

Enhancements

Wherever possible, measures to enhance the site for biodiversity should be secured as part of this planning application, and could include integration of bat or bird boxes into the proposed buildings, as outlined in Section 5.3 of the Ecology Survey and Assessment. This

could be secured via condition.

Carbon and Energy

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

The proposal is accompanied by a carbon and energy statement plan (drawing no. 12) that confirms that the proposal would be designed to meet Part L of the building regulations at a minimum, and includes the installation of 1no. EV chargepoint per dwelling. The proposal would therefore satisfy the requirements of Policy JP-S2.

Digital Connectivity

PfE Policy JP-C2 - Digital Connectivity - this policy requires development to have full fibre to premises connections unless infeasible or unviable, with multiple-ducting. The policy supports the provision of free, secure, high-speed public wi-fi connections, particularly in the most frequented areas.

The applicant has confirmed that full fibre is available within the vicinity of the site.

Response to representations

It is considered that the material planning considerations have been addressed in the main body of the report.

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 not meet the minimum net residential density of 50 dwellings per hectare required for this location. No justification has been submitted within the submitted plans and associated documents to accept a lower density at the proposed site. The proposed development would therefore fails to deliver a density led approach to development of the site, to ensure efficient use of land and high quality design conflicting with Policy JP-H4 - Density of new Housing of the Places for Everyone Joint Development Plan.
- 2 The application and submitted plans do not accurately show the proposed external window arrangement due to conflicting floor plans and elevations. The application and submitted plans contain insufficient information to enable them to be properly assessed in terms of visual amenity and residential amenity. The proposal would therefore conflict with the following Development Plan Policies:
H2/1 - The Form of New Residential Development
H2/2 - The Layout of New Residential Development
JP-H3 - Type, Size and Design of New Housing
EN1/2 - Townscape and Built Design
JP-P1 - Sustainable Places

- 3 The proposed development would not comply with Nationally Described Space Standards conflicting with Policy JP-H3 - Type, Size and Design of New Housing of the Places for Everyone Joint Development Plan.
- 4 The proposal would detrimentally affect previously approved car parking and servicing arrangements for the adjacent site, which would result in a loss of off-highway car parking facilities and the ability of refuse collection and service vehicles associated with the proposed development and existing flats and commercial units to be able to enter and leave the site in a forward gear, which is highly likely to lead to vehicles parking and carrying out manoeuvres on the highway to the detriment of the free flow of traffic and road safety. The proposal would therefore be contrary to Development Plan Policies:
EN1/2 - Townscape and Built Design
JP-C5 - Streets for All
JP-C6 - Walking and Cycling

<u>Case Officer</u> HP 11/11/2024	<u>Date</u>	<u>Sign off Officer</u> DM - 19/11/2024	<u>Date</u>
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