

DELEGATED REPORT

Report by Jane Langan	Date of report: 12/11/2020	Ref: 65935/FUL
Registration: 06/10/2020	LDfC: 03/11/2020	Expiry Date: 01/12/2020
Site Visit: 26/10/2020	Site Notice: N/A	Press Date: N/A
Objections: 1	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Erection of 2m fence in front garden

Location: 14 Porchester Drive, Radcliffe, Manchester, M26 3UU

Description

The property is a modern detached house located at the head of a cul de sac. The front garden is paved for parking and to the end of the drive is a tree subject to TPO 115. The neighbouring property to the proposal side is No.16, also a detached house and which has a drive alongside that to the site and further parking at the front.

The application proposes to erect concrete post and timber panel fencing at 2m high running from the existing fence at the side of the property for 7.6m along. At this point it would reduce to a 1m high panel for a further 1.9m and then a 1m high tubular steel and post fence would extend the last 1m around the tree. The timber panels would be coated in a preservative and then finished in magnolia paint to match that to the house.

Relevant Planning History

21124/88 - Residential development - 58 dwellings - AC 28/07/88.

Publicity

Surrounding neighbours were notified by letter and one response has been received from 16 Porchester Drive their concerns in summary are:-

- Not going to object to the fence however we are objecting to the height of the fence
- It will take all the sunlight from my sons bedroom as he has ADHD and doesn't like change
- If we stand at the door we will be unable to see our children playing on the shared drive
- Will feel like a prisoner in my own home as it's always been open plan

Statutory/Non-Statutory Consultations

Traffic Section - No objection.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

H2/3	Extensions and Alterations
EN8/2	Woodland and Tree Planting
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) 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.

Visual amenity and design - The site is located to the top of a cul de sac with Nos.12 and 16 at either side and the adopted highway ends to the south of these properties. The proposed 2m fencing would be set back 3m from the end of the site drive with the remaining 3m at 1m high. This type of fencing is common to domestic properties separating gardens and drives. As the 2m section would not be adjacent the adopted highway, which is located further south, then the proposed fencing would be within permitted development heights. Whilst 2m is higher than is often seen at the front of a property permitted development is a material consideration and as such there are not considered to be grounds for refusal.

The tree to the front garden is subject to a preservation order and the proposal intends to enclose the tree with the steel tubular fencing. A standard tree protection measures condition is added.

Parking - The proposal would not affect the existing parking arrangements and the Traffic

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Section have raised no concerns.

Residential amenity - The fencing would be located to the side to No.16 which sits at an angle. The closest ground floor window is to a bedroom and erecting a 2m fence adjacent will have some impact on this window with regard to light and outlook. As it is the case that the fencing could be erected in his position at this height without planning permission then again this is a material consideration and there are no grounds for refusal. The applicant has confirmed there will be no encroachment with regard to the neighbouring No.16.

The proposal would not conflict with the purposes of UDP Policy H2/3 and SPD6 - Alterations and Extensions to Residential Properties.

Response to objection - As noted in the above report whilst the fencing will have some impact on No.16 there are not considered to be any grounds for refusal.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to the drawings received on 06/10/20 and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.
- 3 The tree subject to Tree Preservation Order 115, to be retained on site, shall be protected in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction". The development shall not commence unless and until the measures required by the British Standard are implemented and all measures required shall remain in situ until the development has been completed.
Reason. To avoid the loss of a tree which is of amenity value to the area pursuant to Policy H2/3 - Extensions and Alterations and EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JL	12/11/20	DM	24/11/20