

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 24/08/2023	Ref: 69791/FUL
Registration: 05/07/2023	LDFC: 28/07/2023	Expiry Date: 30/08/2023
Site Visit: 07/07/2023	Site Notice: 07/07/2023	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: HOUS

Proposal: Erection of domestic outbuilding with associated works

Location: Ainsworth Hall Farm, Ainsworth Hall Road, Ainsworth, Bolton, BL2 5QT

Description

The site relates to Ainsworth Hall Farm, a dwellinghouse which is set in large grounds and comprises a residential dwelling in the northern area and a complex of former agricultural buildings to the southern part of the site. A former workers cottage had also been located to the east of the site and is currently being developed as a new single dwelling. This building is the subject of a separate planning permission (ref 69792).

The site is located in a rural area, in an Area of Special Landscape and the Green Belt and is relatively remote of other development in the area, the nearest property being Rothwell Fold farm circa 150m away to the south.

The application seeks a domestic outbuilding to provide ancillary garaging and a garden room for the Ainsworth Hall dwelling. The building is already in situ, sited approx 12m south of the side elevation of Ainsworth Hall, and works started many years ago but ceased following Enforcement Action. The building has been the subject of a number of planning applications and Lawful development Certificates for its retention (see planning history below) all of which have been refused, with one planning application dismissed at appeal in 2012 by the Planning Inspector and an LDC dismissed at appeal in 2013.

This proposal seeks to reduce the footprint and height of the building comparative to the applications which have been applied for previously. This application proposes a single storey building with a footprint of 12m x 6.89m and a height of 2.9m, which would result in the removal of the end bay on the eastern side of the building. This would reduce the overall footprint of the building and result in the alignment of the building with the front elevation of Ainsworth Hall.

The roof would be flat and built to a height of 2.9m. Openings would comprise a garage door, pedestrian door and window on the south elevation and windows and door opening on the north elevation facing the side garden and elevation of Ainsworth hall. On the rear (west elevation) would be a bi-fold patio door.

The building would be constructed of stone and ashlar surrounds to windows and doors.

Relevant Planning History

54069 - Retrospective application for alterations and extensions to existing dwelling - Approve with Conditions 15/08/2011

54931 - Two storey outbuilding (retrospective) - 25/09/2012. Dismissed on appeal 25/9/2012.

54971 - Change of use of land from agricultural use to domestic garden (Retrospective) - 28/12/2012

54972 - Erection of an orangery at rear - 25/09/2012

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55826 - Certificate of Lawfulness for proposed single storey outbuilding. - Refused 30/01/2013
56077 - Certificate of lawfulness for proposed single storey outbuilding. - 11/12/2013.
Appeal dismissed 11/12/13.
57504 - Single storey outbuilding at side of dwelling; Demolition of redundant agricultural building - Refused 25/07/2014
68880 - Demolition of existing agricultural building; Erection of 1 no. dwelling (part constructed); Erection of single storey outbuilding ancillary to Ainsworth Hall Farmhouse; Associated works - Withdrawn by Applicant 15/03/2023
69792 - Erection of a 1 no. dwelling with associated works - current application.

12/0011 - Unauthorised uses/developments - 15/03/2012
20/0105 - Building works - 14/05/2020
21/0098 - Building works - 12/09/2022

Publicity

Site notice posted 7/7/23.
No responses received.

Statutory/Non-Statutory Consultations

Conservation Officer - No objection

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

OL1	Green Belt
OL1/2	New Buildings in the Green Belt
EN9/1	Special Landscape Areas
H2/3	Extensions and Alterations
EN1/2	Townscape and Built Design
EN6/3	Features of Ecological Value
SPD8	DC Policy Guidance Note 8 - New Buildings in the Green Belt
SPD6	Supplementary Planning Document 6: Alterations & Extensions
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) 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.

Policies - The site lies within Green Belt land and Area of Special Landscape.

OL1/2 states that extensions and alterations of dwellinghouses should not result in disproportionate additions over and above the size of the original dwelling.

SPD 8 states that garages are normally considered to be an urban element and that the use of existing buildings for use as garages or outbuildings should be considered ahead of any new building. Where garages and other buildings are required, the design should be subservient to and closely related to existing buildings. Careful consideration should be given to the impact of a new building when viewed from the immediate and wider countryside. Materials should be sympathetic with the location and minimise visual impact.

EN9/1 - Special Landscape Areas states that any development will be strictly controlled and required to be sympathetic to its surroundings in terms of visual impact. High standards of design, siting and landscaping will be expected. Unduly unobtrusive development will not be permitted in such areas.

Paragraphs 147 and 148 state that inappropriate development in the Green Belt is by definition, harmful and should not be approved except in Very Special Circumstances (VSC). Planning Authorities should ensure that substantial weight is given to any harm in the Green Belt. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 149 considers the construction of new buildings as inappropriate development in the Green Belt. Exceptions to this include:

- c) the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building;
- g) limited infilling or partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: not have a greater impact on the openness of the green belt than the existing development:

Policy EN9/1 - Special Landscape Areas strictly control development which is required to be sympathetic to surroundings in terms of visual impact. High standards of design siting and landscaping are expected.

Assessment - Green Belt and landscape impacts.

The proposed outbuilding would be located next to the side garden of the existing dwelling, 12m away from the side gable. To the south are former agricultural buildings 14m away. To the east is other land in the ownership of the applicant which extends to the PRoW some 70m away and to the western side is the applicant's rear garden, beyond which the land is open.

The previous applications were refused for reasons due to size, height and position of the building which was considered to result in a prominent, intrusive and inappropriate development in the area which would be detrimental to the character and openness of the Green Belt and Special Landscape Area, without sufficient justification of Very Special Circumstances.

At the time of the previous applications it was also deemed that the outbuilding could not be considered as an extension to the existing dwelling by virtue of its separation.

The planning landscape has changed since the previous applications were considered and in planning policy terms there has been case law which has judged that a detached building could be considered as an 'extension' to the original dwelling (Warwick DC vs. SoS Levelling Up, Housing and Communities 2022 EWHC 2145). There, the Council challenged a decision by the Planning Inspectorate to allow an appeal based on the erection of the outbuilding representing an extension to the original dwelling rather than a freestanding new building which was 20m away. It was concluded in this case that *'[149(c)] is not to be interpreted as being confined to physically attached structures but that an extension for the purposes of that provision can include structures which are physically detached from the building of which they are an extension'*.

In terms of this application, the proposed development would be detached and would be 10m away and given the interpretation above, it too could be concluded as an 'extension' to the existing dwelling.

In terms of point g) of para 149, it could also be concluded that the development would involve previously developed land, subject to not having a greater impact on the openness of the Green Belt than the existing development.

The existing dwelling, Ainsworth Hall farm has already been extended and the addition of the outbuilding would result in a volume increase on site beyond that which is advised in SPD8 which is circa up to a third. Each case however is assessed on its own merits and set of circumstances.

However, new build development not only needs to consider scale and size, but impacts on the character and openness of Green Belt are also determined by the character, layout, form and design of new development.

Indeed, according to case law in the Court of Appeal judgement *Turner v Secretary of State* 2016 at para 14, "The concept of openness of the green belt is not narrowly limited to volumetric approach..... (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspects which the Green Belt presents."

Furthermore, recent case law established that visual impacts should be taken into considerations alongside spatial impacts when assessing openness. It may sometimes be the case that volumetric calculations are the most, or only, relevant considerations whereas it may in other cases be more relevant to consider visual prominence or a combination of

both.

As part of their submission, the applicant has submitted a case for the retention of the building but with proposals to remove part of the eastern side and erect a flat roof to a building which is now proposed to be 2.9m high -

- Reduction in footprint and height to previous proposals
- The siting of the building between the farmhouse and a complex of two storey farm buildings and therefore viewed within the context of built development in the site.
- Views of the proposed building within the context of the surrounding built form and proximity and relationship to the existing dwelling would be limited.
- That the scale of the development would be an ancillary use and a subservient addition to the main house in terms of its character and use (single garage and garden room).
- It is sited within the garden/curtilage of the house and does not undermine any of the purposes of the Green Belt.

The applicant acknowledges that there would be some loss of openness in spatial terms but considers that due to its position within the site and given the size of building now proposed, that the proposal would not have a significantly harmful visual impact on openness.

There would be views of the building from the surrounding open land to the west but these would only be of the narrower elevation and would be from quite a distance away. From this direction, the building would also be viewed within the context of the adjacent dwelling and farm buildings and not as an isolated building.

Within the site, the proposed building would be next to the side garden of the dwelling and being set 12m from the dwelling itself, it is considered to be closely related to the existing residential use. Mostly, the build would only be visible from within the Ainsworth Hall site itself and thereby public and wider views would be very limited.

Originally, the proposal sought a building 15.6m long, 6.9m wide and 6.5m to the ridge. The applicant has taken steps to 'better' what has previously been refused by the proposal to remove an end 'bay' to reduce the length to 12m and lower the height to 2.9m with a flat roof.

The applicant has also proposed to remove a container to the east of the outbuilding by way of a 'volumetric compensation', which would aid in reducing the spatial impacts on the Green Belt.

The building has been the subject of previous planning applications and which have been refused. That said, these decisions date back 10 years or more, and the planning landscape has changed, not only in national planning policy but in case law judgements, which has established that a detached building could be classed as an 'extension' and therefore could be considered under para 149 c) of the NPPF, providing the extension would not result in a disproportionate addition. The applicant also proposes a smaller built footprint and a quite significantly lower height comparative to previous applications which would also reduce impacts on the openness, especially from the view from the west.

The proposed building would add volume and built form, and therefore spatially and visibly would effect the openness of the Green Belt. However, as assessed above it is considered that the proposed development would not be harmful to impact on openness to a significant degree.

It could therefore, on balance been concluded that the proposed development would be acceptable on this particular case and for the reasons put forward above.

The proposed development would therefore be acceptable and comply with the principles of the NPPF and policies OL1/2 and SPD8.

Design and appearance - The proposed building would be single storey and built of a

random coursed stone which would match that of the existing dwellinghouses. Stone quoins, stone course band and headers and cills would add some architectural detail to the build, and the window openings would be proportionate and of a heritage and 'slimline' design, similar to those found in traditional cottage buildings.

It is therefore considered that the design and appearance of the proposed building would be acceptable and comply with EN1/2, H2/3 and SPD6.

Heritage

The dwellinghouse, Ainsworth Hall Farm and the redundant farm buildings to the south of the site are considered Non-Designated heritage asset's on the Council's Draft local List.

Paragraph 203 of the National Planning Policy Framework (NPPF) states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The proposed building would be sited between the NDHA's and as a single storey domestic and ancillary build, and given its setting within the site, the proposed building is considered not to challenge or have an impact on the NDHA's.

The Conservation Officer has raised no objection to the proposed development.

As such, it is considered the proposed development would be acceptable and comply with the principles of the NPPF.

Residential amenity - There are no properties nearby which would be affected by the proposed building.

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 This decision relates to drawings numbered - Site location plan 1012 ; Existing site plan/topographical survey 1005 rev A; Proposed site plan 1011 rev C; Proposed garden room plans 1004 rev A 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.
- 2 The external finishing materials for the proposal hereby approved shall comprise those already in situ in the building hereby approved and for the avoidance of doubt shall be stone elevations.
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.

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- 3 The premises shall be used for purposes under Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, for purposes incidental to the enjoyment of the dwellinghouse only and for no other purpose.

Reason. To ensure that future inappropriate alterations or extensions do not occur pursuant to policies of the Unitary Development Plan listed.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	24/8/23	DM	25/08/23