



Appeal Decision

Site visit made on 30 June 2026

by **E Heron MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th July 2026

Appeal Ref: 6007933

Land to the rear of Westminster Avenue, Radcliffe, Bury M26 3WD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr Ian McDonald, Failsworth Property, against the decision of Bury Council.
- The application Ref 71464 was approved on 22 October 2025, and planning permission was granted subject to conditions.
- The development permitted is Erection of 14 garages – 2 identical blocks of 7 units each.
- The condition in dispute is No 9 which states that:

Notwithstanding the details indicated on the approved plans, no further development shall commence unless and until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

 1. Scheme of carriageway resurfacing works on the proposed site access between the junction with Westminster Avenue and the proposed gate position, and all associated remedial/accommodation works;
 2. Measures to prevent the discharge of surface water from the site and site access onto the adjacent adopted highway.

The highway works subsequently approved shall be implemented to an agreed programme before the development hereby approved is brought into use.
- The reason given for the condition is:

To ensure good highway design and the intervisibility of the users of the site and the adjacent highway in the interests of road safety and to maintain the integrity of the adopted highway

Development Plan Policies EN1/2 – Townscape and Built Design, JP-C5 – Streets for All, JP-C6 – Walking and Cycling, JP-C8 – Transport Requirements of New Development and JP-P1 – Sustainable Places.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The laying of hard-surfacing means that the development has been partially carried out. Therefore, this appeal is being considered under section 73a of the Town and Country Planning Act 1990 (as amended).

Background and Main Issue

3. Planning permission was granted on 22 October 2025 for the erection of 14 garages within the appeal site comprising two blocks of 7 units arranged either side of a courtyard. This was subject to a number of conditions, including condition 9, which requires a scheme of carriageway resurfacing works and measures to prevent the discharge of surface water from the site and site access onto the adjacent adopted highway. The appellant now seeks to remove this condition.

4. The main issue is therefore whether the condition is reasonable or necessary in the interests of highway safety and highway design.

Reasons

5. Policy JP-C5 of Places for Everyone¹ requires well designed and managed streets adopting a Streets for All approach. This includes maximising the ability of pedestrians to navigate easily and safely, amongst other things. Policy JP-C8 requires new development to be designed to enable and encourage walking and requires appropriate connectivity to the existing highway network and surrounding built environment, alongside other criteria.
6. Policy EN1/2 of the Bury Unitary Development Plan (1997) affords favourable consideration to proposals that do not have an adverse effect on the design and appearance of access, parking and service provision. Policy JP-P1 and JP-C6 of Places for Everyone, require places to be functional and convenient, safe, attractive and easy to move around, amongst other things.
7. The appeal site was formerly used as a garage colony. The planning permission is to reinstate garage blocks within the site, making use of the existing access. The site access crosses over the public footway and adjoins the carriageway of Westminster Avenue at a splayed access point. The access is tarmac and demarcated with kerb stones. There is a dropped kerb at the pavement crossover, allowing for near-level access for pedestrians over the access surface.
8. Although the appellant asserts that the access is unchanged and in a reasonable condition, I observed during my site visit that the surface is in a poor state of repair at the access point, and in the vicinity of the crossover. This has resulted in a pitted and uneven surface. As such, the ability of pedestrians to navigate easily and safely has been diminished and connectivity has been eroded. This is particularly the case for the visually impaired or less-abled bodied. Moreover, its deleterious condition contrasts harmfully with the smoother surface and higher visual quality of the adjacent footpath and amenity grassland.
9. It is unclear if the number of garages that were present on the site when it was in active use, was 17 or 20, however the site has not been in active use for a number of years. The appellant advises that the use ceased in 2019, but also that it was overgrown at that time. The Council state that it was a green vegetated area, as long ago as 2005.
10. Regardless of the length of time it has not been in active use, or the number of garages that were present, vehicular comings and goings will increase from the present number. This would be at least during construction of the garage blocks, and during the period when they become occupied. It is also reasonable to consider that the garages would have regular use, given that interested parties at the application stage, stated that there was a local demand. These comings and goings over an already dilapidated surface are highly likely to cause further wear.
11. The site itself has recently been hard surfaced. There is nothing before me to indicate that surface water from the site will not flow into or pool within the access or highway, including the pavement crossover point. Such occurrences would impede connectivity for pedestrians and reduce the quality of the walking route.

¹ Places for Everyone, Joint Development Plan for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan, 2022-2039, adopted 21 March 2024.

They would also be likely to compromise the effectiveness of the highway to reduce safety issues, such as vehicles skidding or spraying water.

12. The appellant contends that the application did not seek to re-surface the site access. Paragraph 56 of the National Planning Policy Framework (the Framework), is clear that consideration should be given to whether otherwise unacceptable development could be made acceptable through the use of planning conditions. The access forms part of the planning application site boundary, and its use is required in order to access the public highway.
13. To delete the disputed condition would mean that the surface of the site access could remain in a poor condition without incentive to repair it. Its condition may decline further when the site is actively used. There is also nothing before me to indicate that surface water will not discharge onto the public highway. The condition is therefore necessary, reasonable and relevant to the development, and accords with Policies JP-P1, JP-C5, JP-C6 and JP-C8 of Places for Everyone, and Policy EN1/5 of the Bury Unitary Development Plan.

Conclusion

14. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

E Heron

INSPECTOR