

DELEGATED REPORT

Report by Tom Beirne	Date of report: 25/09/2024	Ref: 71027/FUL
Registration: 05/08/2024	LDFC: 06/09/2024	Expiry Date: 30/09/2024
Site Visit: 27/08/2024	Site Notice: N/A	Press Date: 22/08/2024
Objections: 0	Con Area: N/A	Adv Type: ARW
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Construction of a new outfall headwall to the River Roch, incorporating access footpath, access steps and safety handrails

Location: Land south of Pimhole Business Park (adj River Roch), Alfred Street, Bury

Description

The site is located on land to the south of Pimhole Business Park in Bury, Greater Manchester, approximately 1km southeast of Bury town centre. The general land uses around the site comprise a mixture of residential, industrial and greenspace around the River Roch.

The proposed works would involve the construction of a new outfall structure on the River Roch. This is part of the wider works to construct a new combined sewer overflow (CSO) compound, CSO chamber, control kiosk and overflow pipe located off James Street approximately 250m north west of the new outfall location.

The upgrades to the CSO compound have been approved as part of an earlier planning permission (ref: 70109) described as 'Construction of a new CSO compound, constituting a permanent vehicular access from James Street and boundary fencing (relating to future new outfall to the River Roch)'.

The existing outfall is located on Barn Brook, to the east of the new outfall location, the proposed repositioning is due to the risk from the anticipated flows causing erosion to the opposite bank of Barn Brook. The new location on the River Roch is therefore deemed more suitable.

The proposed outfall will be located on the banks of the River Roch around 250m to the southeast of the CSO compound which was previously granted planning permission. The proposed site area subject to this planning application is approximately 117m² for the outfall area.

The new outfall to the River Roch would comprise a concrete headwall structure with a safety grill, galvanised steel fixed handrail and concrete steps down the side of the headwall to the edge of the river. The outfall area would be connected to the CSO compound via an overflow pipe, to be constructed under Permitted Development, which would run from James Street under the East Lancashire Railway (ELR) and the Roch Valley Greenway to reach the River Roch.

A temporary access point has been established on Alfred Street for the construction of the new overflow pipe and the new outfall. This utilises the existing East Lancashire Railway access.

The application follows government regulatory requirements to reduce sewage spill frequency from the existing Combined Sewer Overflows (CSO) into UK waterways through

the installation of new below ground detention tanks and associated infrastructure. The tanks would remove excess flow from the network during periods of heavy rainfall and store the storm water until the storm subsides. When capacity becomes available, the flow will then be returned to the existing combined sewer and continue as normal to Bury Wastewater Treatment Works for treatment.

Relevant Planning History

02778/E - Detention tank and screening structure - Enquiry completed 23/11/2022
70109 - Construction of a new CSO compound, constituting a permanent vehicular access from James Street and boundary fencing (relating to future new outfall to the River Roch) - Approved 14/12/2023

Publicity

Immediate neighbours notified by letter dated 14/08/2024. No objections received.

Statutory/Non-Statutory Consultations

Public Rights of Way Officer - No objection received.
Drainage Section - No objection received.
Property & Technical Services - No objection received.
Environment Agency - No objection received.
Greater Manchester Ecology Unit - No objection subject to conditions.
Traffic Section - No objection.
Environmental Health - No objection received.

Pre-start Conditions - N/A

Development Plan and Policies

NPPF	National Planning Policy Framework
PfE	Places for Everyone
EN1/11	Public Utility Infrastructure
EN1/1	Visual Amenity
EN5	Flood Protection and Defence
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN6/4	Wildlife Links and Corridors
EN7	Pollution Control
EN7/5	Waste Water Management
HT6/2	Pedestrian/Vehicular Conflict
RT3/4	Recreational Routes

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.

Need - United Utilities has a regulatory requirement to reduce spill frequency from the existing Nuttall Combined Sewer Overflow (CSO) off Nuttall Lane in Ramsbottom, Bury, to achieve compliance with Water Framework Directive (WFD) standards. This will contribute towards an improvement of water quality in the River Irwell to 'good' status by 31 December 2025. In 2020, the water sector regulators invited water companies to make proposals to help deliver a 'green economic recovery'.

The necessary works in the vicinity of Nuttall CSO were included within this initiative and are part of United Utilities broader strategic portfolio of interventions across the Greater Manchester area to improve water quality in the Manchester Ship Canal and the rivers which feed into this strategic water body.

CSO's act as a pressure relief valve to prevent flooding during storm conditions, when sewer capacity is exceeded by the amount of rainfall entering the system, by allowing excess flows to spill into the watercourse. In order to reduce spill frequency from the Nuttall CSO into the River Irwell, it is therefore proposed to increase the storage capacity of storm water in the form of a new below ground detention tank and CSO chamber with associated pipework and equipment.

The proposal has the objective of enhancing the water quality and therefore ecological potential of the River Irwell.

Permitted Development - The some elements of the proposed development are deemed to fall under The Town and Country Planning (General Permitted Development) (England)

Order (GPDO) 2015. The wider sewer improvement works will be located between James Street and the new proposed outfall to the River Roch, on land currently occupied by the East Lancashire Railway (ELR) and the Roch Valley Greenway. The following installations are included:

- Overflow pipe (from CSO to Outfall) and manholes;
- Access footpath;
- Associated ducting and chambers.

3.2.4 These items are to be undertaken through Part 13 of the GPDO, Water and Sewerage, Class B, and are assessed against the conditions set out in the GPDO.

The temporary construction access for the outfall location is considered to be permitted development under Part 4, Class A – temporary buildings and structures, which states: “The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or land adjoining that land.”

The proposed temporary access will be formed off the existing ELR access on Alfred Street which is neither a trunk nor a classified road and will be used to access the upgrading of the sewer infrastructure. There are currently no dropped kerbs so these will be installed to formalise the access before construction. The kerbs will be reinstated following completion of works.

Ecology - Potential ecological issues include otter, kingfisher, other nesting birds, other wildlife, invasive species and biodiversity net gain.

Protected Species - The site was assessed for all likely protected species. No evidence of any such species was found within areas of land subject to this planning application but evidence of Kingfisher and otter recorded nearby.

There is a risk that the otter could move through the development site during construction. This risk is however low, given the scale of the riparian workings. It is recommended that reasonable avoidance measures are applied to the workings associated with the new CSO. (see below for recommended condition).

Nesting Birds and Kingfisher - There will be a loss of scrub associated with the CSO. A kingfisher burrow was located near to the working area. There is a risk that kingfisher will utilise this section of the bank in the future, with an updated survey recommended prior to development. Other birds may nest along the riverbank. It is recommended that conditions are applied to protect birds.

Other Wildlife - The consultant has noted that the vegetation along the river has the potential to provide cover for other wildlife not just birds. Eg hedgehog and amphibians. Whilst GMEU would agree, the working area is very small and therefore the risks are low. However, when combined with the risk to otter a European protected species, GMEU are satisfied that the cumulative risk is such that a condition along the following lines is reasonable.

Prior to any earthworks or vegetation clearance a reasonable avoidance measures method statement for mammals and amphibians, including but not necessarily restricted to otter and hedgehog, will be provided to and agreed in writing by the LPA

Invasive Species - Japanese knotweed and Himalayan balsam are present all along the banks of the River Roch. Eradication would be unreasonable given the extents of adjacent infestation and scale of the site. Biosecurity measures via a suitable condition should be applied to prevent spread off the site.

Protection of the River Roch - There are risks during construction of the CSO of adverse effects on the River Roch, from sediment release, bank collapse, pollution from machinery

and pollution from release of contaminated land in to the river.

Contributing to and Enhancing the Natural Environment & Biodiversity Net Gain (BNG)
Section 180 of the NPPF 2023 states that the planning policies and decisions should contribute to and enhance the natural and local environment. 10% BNG is mandatory under Schedule 7A of the Town & Country Planning Act 1990 (as inserted by schedule 14 of the Environment Act 2021). GMEU were previously satisfied given the scale of the outfall that restoration could be dealt with via condition. This is still the case but since the previous permission mandatory biodiversity net gain has come in to force. The location of the outfall has triggered the need for a river metric, that cannot be implemented on the site, partly owing to ownership issues and also as the CSO will consist of operational land that cannot be guaranteed for the 30 years required for on-site management.

The units required are however very low in the order of 0.1 BU. Off-site compensation can be acquired and that UU are in discussion with an off-site provider. Without suitable habitat banks in Greater Manchester or Lancashire providing river units yet, it would be reasonable for the LPA to accept that UU would divert compensation out of the region.

The proposal, in terms of ecology, is acceptable and complies with the NPPF, UDP policy EN6/3 and Places for Everyone policies JP-G3, G7 and G8 of PfE.

Traffic - During construction, the proposed facility would be accessed by a temporary access for construction of the outfall will utilise an existing East Lancashire Railway access gate off Alfred Street and an entrance onto the Roch Valley Greenway. The temporary access is only required during the construction of the overflow sewer pipe and the new outfall structure at the River Roch.

The proposal is acceptable in terms of traffic and highway safety and subject to a traffic management scheme and the reinstatement of land along the embankment. The proposal complies with the NPPF, UDP policies HT4, HT6/2 and Places for Everyone.

Public Rights of Way - An existing Public Right of Way, the Roch Valley Greenway (RVG), runs through the proposed working area for the wider development. This is made up of footpaths 65BUR and 179BUR. The footpaths are accessed via three points:

- School Street from the north
- Alfred Street from the west
- Redmere Drive from the south

The footpath will require closing just south of the ELR for those accessing the RVG from School Street. The access from Alfred Street would be closed at the entrance and the RVG would be closed due east of Durham Drive for those accessing from the south. Signage would be installed to notify the public of the closures and suitable alternative routes.

Visual amenity - Given the relatively modest scale of development, there are no significant visual amenity issues arising from the proposed development. The proposal is acceptable in terms of visual amenity and complies with UDP Policy EN1/1 Visual Amenity.

Residential amenity - There is no proposed external lighting to be included within the proposed development and noise is not a significant issue given the nature of development. The proposal is acceptable in terms of residential amenity and complies with UDP Policy EN7/2 Noise Pollution.

Flood Risk - The proposed outfall development would improve flood management and help manage and reduce pollution.

The proposal is acceptable in terms of flood risk and pollution control and complies with the BNPPF, UDP policies EN5/1, EN7/3 and EN7/4 and PfE Policy JP-S4 Flood Risk and the Water Environment.

Construction phasing - The construction for the full project was started in October 2023, with works anticipated to last approximately until November 2024. The works specific to the outfall are scheduled to begin in September 2024 subject to planning approval. The Roch Valley Greenway will be closed at the start of the project and re-opened once all works are complete.

Construction would take place between 08:00 - 18:00 Monday to Friday, Saturdays 09:00 to 12:00. No works are anticipated to take place on Sundays or Bank Holidays. Should a need for this arise for any reason, this would be subject to agreement with Bury Council.

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 drawings numbered 80062003-02-GHD-092LR-97-DR-01-00040 P01, 80062003-02-EMG-092LR-99-DR-04-00002, 99-DR-04-00002 97-DR-01-00037 P02, P0297-DR-01-00035 P03, 97-DR-01-00038 P04 and 99-DR-01-00029 C05. 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 landscape reinstatement scheme (Ref. 80062003-02-EMG-092LR-99-DR-04-00002) hereby approved shall be implemented to the written satisfaction of the Local Planning Authority not later than 12 months from the date the outfall structure is completed. Any trees or shrubs removed, dying or becoming severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted to the written satisfaction of the Local Planning Authority.
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policy EN8/2 – Woodland and Tree Planting of the Bury Unitary Development Plan.
- 5 No works to trees or shrubs shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.
Reason. In the interests of ecology pursuant to ther NPPF and UDP Policy EN6 Conservation iof the Natural Environment.
- 6 Prior to commencement, the findings of the pre-commencement survey with regard

to kingfishers will be provided to and agreed in writing by the LPA. Any agreed working measures will be delivered in full.

Reason. In the interests of ecology pursuant to the NPPF and UDP Policy EN6 Conservation of the Natural Environment.

- 7 No development, site clearance, earth moving shall take place or material or machinery brought on site until a method statement to protect the River Roch from accidental spillages, dust and debris has been supplied to and agreed by the LPA. All measure will be implemented and maintained for the duration of the construction period in accordance with the approved details.

Reason. In the interests of ecology pursuant to the NPPF and UDP Policy EN6 Conservation of the Natural Environment.
- 8 The development hereby permitted within any approved phase shall not be occupied/brought into use until the works relating to land contamination detailed below are fully completed:

Where remediation is required, it shall be carried out in full accordance with the approved Remediation Strategy.

A Verification Report must be submitted to the Local Planning Authority for approval upon completion of remediation works. The Verification Report must include information validating all remediation works carried out; details of imported materials (source/quantity/suitability); details of exported materials; and details of any unexpected contamination.

Reason. To prevent unacceptable risk to Human Health and Controlled Waters and to prevent pollution of the environment in accordance with the aims and Paragraphs 180(f), 189 and 190 of the National Planning Policy Framework (December 2023).
- 9 Any soil or soil forming materials to be brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use.

Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to the Local Planning Authority for approval prior to any soil or soil forming materials being brought onto site.

The approved contamination testing shall then be carried out and validatory evidence (soil descriptions, laboratory certificates, photographs etc.) submitted to Local Planning Authority for approval prior to the development being brought into use.

Reason. To prevent unacceptable risk to Human Health and Controlled Waters and to prevent pollution of the environment in accordance with the aims and Paragraphs 180(f), 189 and 190 of the National Planning Policy Framework (December 2023).
- 10 The measures and facilities detailed in the approved 'Construction Traffic Management Plan' and any subsequent traffic management measures and highway works required as a result of the construction works served by this operational access, shall implemented to the satisfaction of the Local Planning Authority and be adhered to throughout the scheme, with the measures retained and facilities used for the intended purpose for the duration of the works.

Reason. To mitigate the impact of the construction traffic generated by the proposed development on the adjacent highways, ensure adequate construction traffic access and materials storage arrangements for the duration of the demolition and construction periods and that the adopted highways are kept free of deposited material from the ground works operations.
- 11 The access arrangements/highway works indicated on the approved plans and subsequent scheme of highway works required to reinstate the adjacent adopted highway to its condition prior to commencement of the development and/or form a

permanent vehicular access onto Alfred Street (to be agreed in due course with the Highway Authority), shall be implemented to a specification, scope and programme to be agreed with and to the satisfaction of the Local Planning Authority.

Reason. To secure the satisfactory development of the site in terms of highway safety, ensure good highway design and maintain the integrity of the adopted highway, all in the interests of highway safety.

- 12 The Biodiversity Gain Plan shall be prepared and submitted to the Local Planning Authority and must include:

1. information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
2. the pre-development biodiversity value of the onsite habitat;
3. the post-development biodiversity value of the onsite habitat;
4. any registered offsite biodiversity gain allocated to the development and the biodiversity and the biodiversity value of that gain in relation to the development;
5. any biodiversity credits purchased for the development; and
6. any such other matters as the Secretary of State may by regulations specify.

Reason. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 and Places for Everyone Joint Development Plan Policy JP-G8 A Net Enhancement of Biodiversity and Geodiversity.

- 13 The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the approved Biodiversity Gain Plan and including:

1. a non-technical summary;
2. the roles and responsibilities of the people or organisation(s) delivering the HMMP;
3. the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
4. the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
5. the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority.

has been submitted to, and approved in writing by, the local planning authority.

Reason. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 and Places for Everyone Joint Development Plan Policy JP-G8 A Net Enhancement of Biodiversity and Geodiversity.

- 14 The development hereby approved shall not be occupied unless and until:
1. the habitat creation and enhancement works set out in the approved HMMP have been completed; and
 2. a completion report, evidencing the completed habitat enhancements, has been submitted to, and approved in writing by the Local Planning Authority

The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.

Reason. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 and Places for Everyone Joint Development Plan Policy JP-G8 A Net Enhancement of Biodiversity and Geodiversity.

- 15 Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

Reason. To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 and Places for Everyone Joint Development Plan Policy JP-G8 A Net Enhancement of Biodiversity and Geodiversity.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	25/09/2024	DM -	26/09/2024