

NOTICE OF PLANNING PERMISSION

Town and Country Planning Act 1990 Town and Country Planning (Development Management Procedure) (England) Order 2015

To:

Mr Gary Dearden
PPY design Ltd
2 Helmsore Road
Holcombe Village
Bury
BL8 4PA

On Behalf Of:

Mr P Miah
Mala Cuisine Limited
18-20 Holcombe Village
Bury
BL8 4LZ

PART 1 - Particulars of Application

Application Number: 70787

Date of Registration: 09/08/2024

Proposal:

Change of use from light industrial to restaurant (Use Class E) to include a mezzanine floor, 2 no. extractor fans; replacement and refurbishment of windows and doors; reduce height of part retaining wall and erection of bin store with associated car parking

Location:

The Engine Shed, Rowlands Road,
Summerseat, Bury, BL9 5QY

PART 2 - Particulars of Decision

Bury Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been **GRANTED** for the carrying out of the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions:-

- 1 This decision relates to drawings numbered PM10-00, PM10-01A, PM10-02A, PM10-03, PM10-04A, PM10-05, PM20-06B, PM10-07B, PM10-08, PM10-09A, PM10-10B 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 and Places for Everyone Joint Development Plan listed.

- 2 No development hereby permitted (except demolition and site clearance) within any

approved phase shall take place until the works relating to land contamination detailed below are fully completed:
In accordance with the findings of site characterisation and risk assessment as previously approved, documents from the following shall be submitted to the Local Planning Authority for approval:

- I. Remedial Options Appraisal.
- II. Remediation Strategy.
- III. Verification Plan.

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).

- 3 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).

- 4 No further development shall commence unless and until a scheme for treating, diluting and dispersing fumes and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme submitted shall include a written statement from a suitably qualified person who is a member of the Heating and Ventilation Contractors Association (HVCA) or an equivalent professional body, stating that the fume treatment to be installed complies with or exceeds the 'Minimum Requirements For Odour Control' provided by the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems :DEFRA 2005 (or if applicable such superseding guidance as shall prevail at the time of commencement of the development).

The scheme to be submitted shall also include the relevant manufacturer and installer instructions for any associated equipment with details of maintenance requirements.

The scheme as approved shall be implemented, available for use and maintained in accordance with the approved scheme whilst it shall serve the development.

Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink.

- 5 Following the provisions of Condition 4 of this planning permission, the installation

shall be so designed such that the maximum noise emitted does not exceed NR25 (Noise Rating) in the bedrooms of the nearest residential property, with the windows of that residential property being open in the normal manner for ventilation purposes.

The scheme as approved shall be fully implemented and all equipment installed shall be used and maintained in accordance with the manufacturers and installers instructions.

Reason. To protect the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink.

- 6 The conversion of the building is likely to cause harm common pipistrelle bats as identified in the Dusk Survey Results, Tyrer Ecological Consultants Ref: PR-0247-24 , and shall not in any circumstances commence unless the local planning authority has been provided with either:

1. a license issued by Natural England pursuant to Regulation 55, of the Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development go ahead: or
2. a statement in writing form the relevant licensing body or LPA to the effect that it does not consider that the specified development will require a license

Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies JP-G8 - A Net Enhancement of Biodiversity and Geodiversity and EN6/3 - Features of Ecological Value of the Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 7 No works to trees or shrubs shall occur or demolition commence 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 order to ensure that no harm is caused to a Protected Species pursuant to policies JP-G8 - A Net Enhancement of Biodiversity and Geodiversity and EN6/3 - Features of Ecological Value of the Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 8 No further development, or vegetation clearance shall commence unless and until measures to control himalayan balsam during and post construction is submitted to and approved in writing by the Local Planning Authority. The approved management plan shall include a timetable for implementation.

Reason. The scheme does not provide full details of the actual extent of Himalayan Balsam in the interest of Development Plan Policy JP-G1 - Landscape Character and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 9 All trees to be retained on site shall be protected in accordance with the approved Arboricultural Method Statement TRE/TOES/RevA and 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 trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design, JP-G7 - Trees and Woodland and EN8/2 – Woodland and Tree Planting of the Development Plan.

- 10 The post development habitat plan contained within the Biodiversity Net Gain

Assessment dated August 2024 hereby approved shall be implemented not later than 12 months from the date the building is first occupied. 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.

Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies EN1/2 - Townscape and Built Design and EN8/2 - Woodland and Tree Planting of the Bury Unitary Development Plan and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

- 11 A bat and nesting bird mitigation scheme that includes bat and bird boxes shall be submitted to, and approved by the Local Planning Authority prior to the commencement of further development. The contents of the plan should include the details of the bat mitigation licence requirements from Natural England. The approved scheme shall thereafter be implemented not later than 12 months from the date the building is first occupied.

Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies JP-G8 - A Net Enhancement of Biodiversity and Geodiversity and EN6/3 - Features of Ecological Value of the Development Plan and Section 11 of the National Planning Policy Framework.

- 12 The development hereby approved shall not be commenced unless and until the visibility improvements indicated on the approved plan reference PM10-02 Revision A have been implemented and subsequently maintained free of obstruction above the height of 0.1m above upper ground level in perpetuity.

Reason. To ensure the intervisibility of the users of the site and the adjacent highways in the interests of road safety pursuant to Development Plan Policies EN1/2 - Townscape and Built Design, JP-C5 - Streets for All and JP-C6 - Walking and Cycling.

- 13 The servicing and turning facilities indicated on approved plan reference PM10-02 Revision A shall be provided before the use hereby approved is commenced and subsequently maintained free of obstruction at all times.

Reason. To ensure adequate turning movements of vehicles within the site on the highway in the interests of highway safety pursuant to Development Plan Policies EN1/2 - Townscape and Built Design, JP-C5 - Streets for All and JP-C6 - Walking and Cycling.

- 14 The car parking indicated on approved plan reference PM10-02 Revision A shall be surfaced, demarcated in a form suitable for use in a gravel surfaced car park and made available for use prior to the development hereby approved being occupied and thereafter maintained at all times

Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.

- 15 No further development shall commence unless and until surface water drainage

proposals have been submitted to and approved in writing by the Local Planning Authority. The scheme should be in accordance with the submitted Surface Water Sustainable Drainage Assessment and must be based on the hierarchy of drainage options in the National Planning Practice Guidance and be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015). This must include assessment of potential SuDS options for surface water drainage with appropriate calculations and test results to support the chosen solution. Details of proposed maintenance arrangements should also be provided. The approved scheme only shall be implemented prior to first occupation and thereafter maintained.

Reason. The current application contains insufficient information regarding the proposed drainage scheme to fully assess the impact. To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution pursuant to Development Plan Policies JP-S4 - Flood Risk and the Water Environment, EN7/3 - Water Pollution and EN7/5 - Waste Water Management and chapter 14 - Meeting the challenge of climate change, flooding and coastal change of the NPPF.

- 16 A plan indicating the full extent of the proposed setts, including details/samples of the setts and the materials for the hardstanding areas, together with details of their manufacturer, type/colour and size, shall be submitted to and approved in writing by the Local Planning Authority before further development is commenced. All existing setts shall be retained in their original position.

Reason. In the interests of visual amenity and to ensure a satisfactory development pursuant to Policies EN1/2 - Townscape and Built Design, EN2/1 Character of Conservation Areas EN2/2 - Conservation Area Control and EN2/3- Listed Buildings of Bury Unitary Development Plan..

- 17 The premises shall be used for Class E(b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises, only and for no other purposes, including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or as subsequently amended.

Reason. To preserve the Character of the Conservation Area and the historic and architectural interest of the Listed Building pursuant to policies of the Unitary Development Plan listed below:

EN2/1 - Character of Conservation Areas

EN2/2 - Conservation Area Control

EN2/3 - Listed Buildings

- 18 Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, as subsequently amended, no development shall be carried out within the terms of Class A of Part 7 of Schedule 2 of the Order, without the submission and approval of a relevant planning application.

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

EN2/1 - Character of Conservation Areas

EN2/2 - Conservation Area Control

EN2/3 - Listed Buildings

Management Procedure) (England) (Amendment) Order 2015

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

The following policies of the Bury Unitary Development Plan, National and Regional Government were considered relevant:

EC2/2	EC2/2 - Employment Land and Premises Outside the Employment Generating Areas
EN1/2	EN1/2 - Townscape and Built Design
EN2/1	EN2/1 - Character of Conservation Areas
EN2/2	EN2/2 - Conservation Area Control
EN2/3	EN2/3 - Listed Buildings
EN6/3	EN6/3 - Features of Ecological Value
H3/1	H3/1 - Assessing Non-Conforming Uses
EN7/2	EN7/2 - Noise Pollution
OL1/4	OL1/4 - Conversion and Re-use of Buildings in the Green Belt
OL5/2	OL5/2 - Development in River Valleys
RT4/1	RT4/1 - Tourism Development
RT4/6	RT4/6 - East Lancashire Railway
S2/6	S2/6 - Food and Drink
HT2/4	HT2/4 - Car Parking and New Development
SPD 9	Development Control Policy Guidance Note 9 - Conversion and Re-use of Buildings in the Green Belt
SPD11	Development Control Policy Guidance Note 11 - Parking Standards in Bury
NPPF	National Planning Policy Framework
JP-P1	Sustainable Places
JP-P2	Heritage
JP-G8	A Net Enhancement of Biodiversity and Geodiversity
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-G9	The Green Belt

This decision relates only to the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Applicant Plan Numbers:

PM10-00, PM10-01A, PM10-02A, PM10-03, PM10-04A, PM10-05, PM20-06B, PM10-07B, PM10-08, PM10-09A, PM10-10B.

NOTES TO APPLICANT

1. In accordance with S93G of the Town and Country Planning Act 1990 (As amended by Section 111 Levelling Up & Regeneration Act 2023) there is a legal requirement for you to inform the Council of the date when you intend to commence the development on site via submission of a Commencement Notice. This notice is mandatory for all developments and came into effect on 31 March 2024. You can find more information and download a copy of the Commencement Notice under the Before Starting Work section on our website at <https://www.bury.gov.uk/planning-building-control/planning-permission/planning-application-process>
2. ***The local planning authority considers that approval of a BIODIVERSITY GAIN PLAN WILL NOT BE REQUIRED BEFORE DEVELOPMENT COMMENCES***

Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority,
- and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Bury Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not ‘major development’ (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- iv) the application for planning permission was made before 2 April 2024;
- v) planning permission is granted which has effect before 2 April 2024; or
- vi) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

- iii) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- iv) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.6 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.7 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.8 Self and Custom Build Development, meaning development which:

- iv) consists of no more than 9 dwellings;
- v) is carried out on a site which has an area no larger than 0.5 hectares; and
- vi) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are

additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

3. The applicant is reminded that under the Protection of Badgers Act 1992 it is an offence to intentionally or recklessly interfere with a badger sett. If a badger sett is found on or near the development's site work should cease immediately and a suitably experienced ecologist employed to advise on how best to proceed.
4. The applicant is reminded that, under the Wild Mammal (Protection) Act 1996 it is an offence to inflict unnecessary suffering to wild mammals. Planning consent does not provide a defence against prosecution under this act.
5. The applicant's attention is drawn to the need to consult the Department of Operations regarding any works required to widen the existing access into the development. The cost of the works will be the responsibility of the developer.
6. The applicant's attention is drawn to the need to intercept surface water draining from the proposed development prior to its entering the highway to meet the requirements of Section 163 of the Highway Act 1980.
7. A system shall be employed to ensure that the adopted highways are kept free of deposited material from the ground works operations to the satisfaction of the Local Planning Authority.

8. In order to discharge conditions, the actions required by Conditions [CL02 & CL03] shall be completed in full accordance with the following guidance: Land Contamination Risk Management (Environment Agency, 2023).

The applicant is advised that they have a duty to adhere to the regulations of Part 2A of the Environmental Protection Act 1990, the National Planning Policy Framework 2023 and the Building Control Regulations with regards to contaminated land. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

Purchasers, where applicable, are advised that they should satisfy themselves that land contamination issues, if present, have been satisfactorily discharged given that the Council expects full compliance with any contaminated land requirements prior to the occupation of the site. Upon occupation such matters could then be the responsibility of the owner to remedy.

9. **COPA INFORMATIVE 01 - THE CONTROL OF POLLUTION REGULATIONS 1974, SECTION 60. CONTROL OF NOISE ON CONSTRUCTION SITES**

Works carried out in connection with the planning permission shall comply with the above regulations which require the following:

1. All works and ancillary operations which are audible at the boundary of the nearest house or noise receptor, or at such other place as may be agreed with the Council, shall be carried out only between the hours of 0800 and 1800 on Mondays to Fridays and between the hours of 0900 and 1400 on Saturdays and at no time on Sundays and Bank Holidays.
2. The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.
3. All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturer's instructions.
4. Any emergency deviation from the above (1 – 3) shall be notified to Bury Council without delay.

Any contravention of these requirements will trigger the serving of a Notice under Section 60 of The Control of Pollution Regulations 1974.

Signed:



On behalf of the Council

Date of Decision: 04/10/2024