

DELEGATED REPORT

Report by Claire Booth	Date of report: 03/06/2025	Ref: 71844/CONDIS
Registration: 08/04/2025	LDfC: 12/05/2025	Expiry Date: 03/06/2025
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area:	Adv Type: N/A
Reason for Delay:		EIA: NA
N/A		Dec Level:
		Stat Class: NREQ

Proposal: Application for discharge of conditions on planning permission 71273: Condition 3 (surface water drainage) and condition 6 (contaminated land verification)

Location: Pilsworth Quarry, Pilsworth Road, Bury, BL9 8QZ

Description

Following approval of application no. 71273 which granted conditional permission for the erection and operation of a Material Recycling Plant.

The proposal is an application to discharge of conditions pursuant to planning permission 71273. The conditions were nos. 3 (surface water drainage) and no. 6 (Contaminated Land).

Relevant Planning History

71273 - Erection and operation of Material Recycling Facility - Approve with Conditions 19/03/2025

Publicity

N/A

Statutory/Non-Statutory Consultations

Environmental Health - Contaminated Land - Recommends condition no. 6 is not discharged.

Borough Engineer - Drainage Section - No comments or observations received.

United Utilities (Water and waste) - Recommends that condition 3 is not discharged.

Pre-start Conditions -N/A

Development Plan and Policies

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.

Condition no. 3

Prior to first use of the building hereby approved, details of surface water drainage proposals shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the principles set out in the submitted Flood Risk 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 scheme shall take account of the size and location of the existing building and shall include calculations which confirm the adequacy of the attenuation pond. Any infiltration elements included in the design shall take account on the findings of the Phase II Ground Investigation Report by providing appropriate infiltration testing.

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Reason. To promote sustainable development. The current application contains insufficient information regarding the adequacy of the drainage design for the as built development, in accordance with Policy JP-S4: Flood Risk and the Water Environment and the National Planning Policy Framework.

Submitted Details

- Flood Risk Assessment Addendum and Appendix 3: Existing Surface Water Management System Plan, dated March 2025, carried out by Eginol, Reference: ECL9595.R05.001

Assessment/ Recommendation

United Utilities have reviewed the submitted information and recommends that condition 3 is not discharged. This is because there is no determining factor where foul or surface water drains from or to the drainage plan. Accordingly, the details submitted do not satisfactorily address the requirements of the condition and therefore the condition cannot be discharged.

Condition no. 6

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 187(f), 196 and 197 of the National Planning Policy Framework (December 2024).

Submitted Information

- Letter from Eginol/ Valencia dated 08 April 2025
- ECL.9595.D02.001: Capping Details and Areas of Potentially Contaminated Soils

Assessment and Recommendation

Information has been submitted for condition 6 (verification). However, no information has been submitted for the preceding contaminated land conditions 4 (ground gas assessment) and 5 (remediation strategy). Condition 6 cannot be considered until condition 4 and 5 have been satisfactorily addressed. As such it is recommended that the application to discharge this condition be refused.

NOTE

The Council Contaminated Land Officer(s) note that pre discharge discussions were undertaken with the applicant's consultant in March regarding potential approaches to the ground gas risk assessment and the cover system, the latter of which was agreed in principle and this information has been submitted for condition 6, but it should form part of the details required by condition 5. It is understood by Officers that the consultant is still working on the ground gas risk assessment. Once this has been submitted by the applicant and agreed, then consideration can be made of condition 5. The development should not be occupied/brought into use until the subsequent condition, 6, has been satisfied, discharge recommended, and a decision issued.

Recommendation: Refuse

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<u>Case Officer</u> CB	<u>Date</u> 03/06/2025	<u>Sign off Officer</u> DM 3/6/25	<u>Date</u>
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