

DELEGATED REPORT

Report by Dave Marno	Date of report: 16/02/2022	Ref: 66697/FUL
Registration: 11/03/2021	LDFC: 20/04/2021	Expiry Date: 06/05/2021
Site Visit: 26/03/2021	Site Notice: 26/03/2021	Press Date: N/A
Objections: 1	Con Area:	Adv Type: PI
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: Construction of an earth embankment approximately 37m in length which will raise the ground level to 71.9mAOD. Erection of a concrete step 200mm in height raising the ground level to 71.77mAOD. Installation of two 8mm weathering plates at the upstream face of Hutchinsons goit culvert.

Location: Land at Hutchinson's Goit, Bury Road, Radcliffe

Description

Proposal

The proposed development would involve the construction of an earth bund adjacent to Bury Road and the installation of 2 plates at the face of Hutchinsons Goit.

The proposed earth bund is part of the on-going works to the River Irwell's embankments to deliver a flood defence mechanism for the area following the flooding that occurred in 2015.

At the face of Hutchinsons's Goit, metal plates would be installed to reduce the flow of water into Hutchinson's goit. The scheme includes the construction of an earth embankment approximately 37m in length which will raise the ground level from a level of 71.31m AOD min to 71.9m AOD; including a concrete step 200mm in height raising the ground level to 71.77m AOD. Installation of two 8mm weathering plates at the upstream face of Hutchinsons goit culvert.

Relevant Planning History

56744 - Hybrid full planning application for the erection of 153 no. dwellings together with associated works including the laying out of public open space, and the undertaking of engineering operations to remediate the site, raise the levels, construct an emergency access and development platform for future commercial development; Outline planning application for erection of a Class B1/B2 & B8 development of 7435 m2 at land at Bury Road/York Street, Radcliffe. Approved with conditions - 9 October 2015

60418 - Variation of conditions 20,27,28,29 & 35 of approved planning application 56744 relating to: 20 & 35- surface water drainage scheme, 27- samples of materials, 28- lifetime homes, 29- footpath and cycle route to vary the timing of submission for implementation at land at Bury Road/York Street, Radcliffe. Approved with conditions - 13 December 2018.

63361 - Reserved matters approval for the layout, appearance and landscaping (Matters of scale and access have already been approved) at land at Bury Road/York Street, Radcliffe. Approved with conditions - 15 March 2019.

65847 - Full planning permission for 201 no. dwellings, together with associated parking, landscaping, public open space, drainage, the laying out of roads and footways and other associated works including engineering operations to create flood defences and the development platform at land at York Street/Bury Road, Radcliffe. Received - 17 August 2020.

Linked schemes

63559 - A series of sheet piled walls and embankments, on land within Close Park and land to the south of Morris Street, which form part of a wider scheme to improve flood protection along the River Irwell. Approved with conditions - 28 March 2019.

64788 - Erection of retaining walls & sheet piled walls between 1m & 3m in height to form a flood defence between the Metrolink bridge and Warth Bridge at land to south of Warth Industrial Estate, Warth Road, Radcliffe. Approved with conditions - 17 December 2019.

64789 - A series of sheet piled walls, concrete walls and earth embankments across 5 sites at land to west of Metrolink line at Warth Road; land to west of Bury Road; land to east of Whitefield Road; land to west of Hardy's Gate Bridge and land to north of York Street, Bury. Approved with conditions - 17 December 2019.

64790 - Proposal A - A series of sheet piled walls and concrete walls across 4 site.
Proposal B - Erection of an embankment and retaining wall at land to west of Metrolink line at Warth Road at Land to west of Metrolink line at Warth Road; Land to west of Bury Road; Land to east of Whitefield Road; Land to west of Hardy's Gate Bridge and Land to north of York Street, Bury. Split decision - 22 January 2020.

65171 - Various flood defence proposals including sheet piled walls, concrete L-walls and earth embankments, finished in a manner consistent with the local aesthetic at Land to west of Metrolink line at Warth Road; Land to west of Bury Road; Land to east of Whitefield Road; Land to west of Hardy's Gate Bridge and Land to north of York Street, Bury. Approved with conditions - 28 July 2020.

65256 - Non-material amendment following grant of planning permission 64788: Localised modifications to the defence wall alignment. Specifically, this includes proposals to reposition the defence further away from the north corner of the existing brick building to minimise disturbance of the existing river walls, improve clearance and reduce risk to the existing building. In addition, the section downstream of Bealey's Weir connecting to the Warth Road Bridge is proposed to be repositioned to now align with the front of the existing river wall at land to south of Warth Industrial Estate, Warth Road, Bury. Approved - 31 March 2020.

65745 - Erection of a wall and earth bund which form part of a wider scheme to improve flood protection along the River Irwell at Bury Grammar School playing fields, Buckley Wells, Bury. Approved with conditions - 14 September 2020.

65746 - Raising the upstream parapet level along the full extent of Hardy's Gate Bridge by 0.25 metres to provide additional flood protection; Strengthening of the parapet by reinforcing dowel bars; Installation of twin stainless steel debris cables spanning the river immediately upstream of the bridge at Hardy's Gate Bridge, Dumers Lane, Radcliffe. Approved with conditions - 14 September 2020

65881 - Non material amendment following grant of planning permission 64788: Localised realignment of the defence wall to be approximately 2m further back from the river edge. Wall construction and finish to remain unchanged at land to south of Warth Industrial Estate, Warth Road, Bury. Approved - 18 September 2020

66231 - Variation of condition 2 (approved plans) for the realignment of the flood defence adjacent to Hardys Gate Bridge at Land to west of Metrolink line at Warth Road; Land to west of Bury Road; Land to east of Whitefield Road; Land to west of Hardy's Gate Bridge and Land to north of York Street, Bury. Approved with conditions - 21 January 2021

66459 - Construction of an earth bund within existing channel, approximately 20m in length with a maximum height of 2.5m. Installation of a 600mm culvert to maintain water flow.

100mm headwalls at each side will be included to allow for galvanised steel handrail at land to west of Bury Point, Bury Road, Radcliffe. Received - 22 January 2021.

66570 - Non-material amendment following grant of planning permission 65171: Minor re-alignment of the sheet piles forming the flood defence wall and relocation of the access ramp at land near Hardys Gate Bridge, Radcliffe. Approved - 12 March 2021

66602 - Non material amendment following approval of application 64788: Change of external cladding finish on wet-side of the piled defence wall to a plain-faced steel panel finish with industrial look steel rivet finishing to exposed corner. Cladding to be revised to extend full height. Finish to be left as weathered steel at land to south of Warth Industrial Estate, Warth Road, Bury. Approved - 15 March 2021.

66353 - Construction of a temporary (4yr) flood defence earth bund approximately 240m in length with a maximum height of 3.5m. Approved 14/6/21

Publicity

The neighbouring properties were notified by means of a letter on 22 March and site notices were posted on 26 March 2021.

One objection received

Resolution Hydro Ltd - It increases the flood risk to the hydropower station and associated land. It also removes access to the electrical substation - currently owned, operated and maintained by Electricity North West (DNO) - which is essential for the operation of the hydropower station.

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to conditions

Environmental Health - Contaminated Land - No objections, subject to the inclusion of conditions relating to contaminated land.

Conservation Officer - No comments

The Coal Authority - No objections.

GM Ecology Unit - No objections, subject to the inclusion of conditions relating to otters, nesting birds, invasive species, method statement and landscaping.

Canal & River Trust - No comments.

Environment Agency - No objections.

Pre-start Conditions - Applicant/Agent has agreed with the conditions

Unitary Development Plan and Policies

EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN5/1	New Development and Flood Risk
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/2	Noise Pollution
EN7/5	Waste Water Management
EN8	Woodland and Trees
OL5/2	Development in River Valleys
RT1/1	Protection of Recreation Provision in the Urban Area
HT2/4	Car Parking and New Development
HT4	New Development
HT6/2	Pedestrian/Vehicular Conflict
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.

Principle (River Valley) - Policy OL5/2 states that within the river valleys, new buildings or the change of use of existing buildings or the change of use of land will not be permitted. The only exceptions considered acceptable will be those where the development would not lead to the division of the open parts of the valleys into sections and it falls within the terms below:

- where the area is designated as Green Belt the established Green Belt policies will apply:

or

- where the area does not form part of the Green Belt, at least one of the following circumstances is met:
 - that the development represents limited infilling to an established valley settlement

- or industrial area;
- that it is an extension to, or renewal of an existing industry, where the economic and employment factors are of overriding importance;
- that the development is required in association with an outdoor recreation or appropriate tourist facility;
- that the development is limited and will form part of, and be essential to, the maintenance of the provision and improvement of public services and utilities;
- any other development that would be appropriate in a Green Belt.

The application site is located in the River Valley and the policy is clear that if the proposed development would be appropriate in the Green Belt, it would comply with the Policy regarding the river valley. The proposed development would involve the erection of an earth embankment to act as a flood defence. As such, the proposed development would be an engineering operation and would be appropriate development within the Green Belt as defined in paragraph 146 of the NPPF.

Principle (Recreation) - The application site is located adjacent to land which has 8 sports pitches on it and would be protected recreation land.

Paragraph 97 of the NPPF states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

Policy RT1/1 states that development will not be allowed where it would result in the loss of:

- existing and proposed outdoor public or private recreation facilities, including playing fields, sports grounds, parks and gardens, childrens play areas, allotments and golf courses;
- recreation space within settlements located in the Green Belt;
- indoor facilities for which there is a recreational need;
- any other unidentified recreation provision such as playing fields, sports grounds, parks and gardens, children's play areas, allotments and golf courses, including sites created during the period of the plan.

Exceptions to this policy may be permitted where:

- sports and recreation facilities can best be retained and enhanced through the redevelopment of a small part of the site;
- alternative provision of equivalent community benefit is made available; or
- it can be demonstrated that there is an excess of sports pitch provision and public open space in the area, taking account of the recreation and amenity value of such provision.

The proposed development of a wall and earth embankment would be located on the perimeter of the site. The proposed wall would be located along the southern boundary and the land would slope immediately adjacent to the proposed wall. The sloping land would be 24 metres away from the pitches and would not impact upon the pitch and the associated run off areas. The proposed earth embankment would be set behind the existing fence and as such, would not impact upon the use of the pitch and the run off areas any more than the existing fence. As such, the proposed development would not result in the loss of any sports pitches or associated run off areas. Therefore, the proposed development would be in accordance with Policy RT1/1 of the Bury Unitary Development Plan and the NPPF.

Design and layout - The proposed flood defence would contain a bund, which would be 0.6 metres in height. The appearance of the bund would be earth and would act as a relatively low innocuous embankment up against the existing wall. The proposed flood defence would be in place to ensure the residents of the surrounding streets are protected

from flood risk. As such, the proposed development would not be a prominent feature in the locality and would be in accordance with Policies EN1/2 and EN1/3 of the Bury Unitary Development Plan.

Impact upon amenity - The nearest properties would be on Radcliffe Road and would be over 90 metres away. The proposals affects the southerly embankment and works have already taken place on the northerly side. Given the scale and nature of these works, the the proposed development would not have a significant adverse impact upon the amenity of the occupiers of the nearby building.

Noise - Access to the site for the proposed development would be taken from Radcliffe Road. It is acknowledged that there would be some adverse impact upon the amenity of the neighbouring properties through noise and disturbance during implementation only. However, the potential for noise and disturbance would be mitigated by the restriction of the hours of delivery from 09.00 to 15.00 and hours of work between 08.00 and 18.00 on Monday to Friday. As such, it is considered that the wider benefits of the flood defence scheme would outweigh the temporary disturbance to the amenity of the neighbouring properties during construction.

Flood risk - A flood risk assessment has been submitted as part of the application. The FRA responds to the wider flood defence scheme as well as the respective phases. The FRA indicates that the full scheme would provide significant benefits to 873 residential properties within the Radcliffe area. There are some short terms risks during the delivery of phase 2 and methods for mitigation have been identified during this period. The Environment Agency has no objections to the scheme. Therefore, the proposed development would not increase flood risk and would offer significant benefits to over 800 properties in Radcliffe. The proposed development would be in accordance with Policy EN5/1 of the Bury Unitary Development Plan and the NPPF.

Ecology - GMEU have been consulted on the proposals. Whilst the ecological assessment does not fully cover the application site, they are satisfied that potential ecological issues, relating to otter, nesting birds, invasive species and proximity to a watercourse can be dealt with via condition and or informative.

The only protected species now likely to present in the area is otter passing the site along the River Irwell. It is very unlikely that the otters will be directly impacted upon but the eastern end of the proposed embankment ties in to the already approved flood defence along the river and GM Ecology Unit recommend a informative relating to otters is added.

GM Ecology Unit has no objections, subject to the inclusion of conditions relating to invasive species, measures to protect the River Irwell during construction and nesting birds. Therefore, the proposed development would not harm a protected species and would be in accordance with Policies EN6 and EN6/3 of the Bury Unitary Development Plan.

Highways issues - The access to the site would be from Radcliffe Road with a compound located at Warth Road. Parking would be made available for vehicles at the site. The Traffic Section has no objections, subject to the inclusion of conditions relating to the need for a dilapidation survey and implementing the provisions of the 'Traffic Management Plan – Radcliffe & Redvales FRMS Phase 2' dated 31/01/22.

The proposed works would be located some 13 metres from the Public Right of Way and as such, would not directly affect it.

Therefore, the proposed development would not be detrimental to highway safety and would be in accordance with Policies EN1/2 and HT6/2 of the Bury Unitary Development Plan.

Response to objection

This proposal is part of the wider flood scheme that will act to prevent extreme event overtopping onto Bury Road and prevent downstream flooding via Hutchinson's Goit. The works proposed on the entrance to the Hutchinson's Goit culvert under Bury Road will not block the culvert and are designed to only limit flows during extreme events to no more than that which occurs under the 'no scheme' scenario. These flows are very small in comparison to the main river flows and have little impact on the overall flood levels in this area. As with the hydroplant control building, the frequency and routing of flood water in this area remains largely unchanged by the proposals. As such, there is not considered to be any significantly detrimental increase in the risk of erosion or to public safety as a result of the proposals. Previous work has been done to demonstrate that it is only in extreme events that the scheme leads to higher water levels – at this point however the hydropower building would already be significantly flooded. The building and land use is not classed as a sensitive end user.

With regards access to the electricity substation, current access requirements for normal maintenance work is believed to be for foot access only from the nearby road which will not be significantly affected by the proposals. Direct vehicle access, if required, is currently already partially limited by rough, sloping ground and placed boulders. The new embankment is low and whilst presenting a steeper access slope, would not prevent future vehicle access. However, the Environment Agency have taken this comment on board and have made some minor adjustments to the crest alignment to reduce the slopes in this area by setting the crest back further from the road. They note that the base of the electricity substation base is at a very similar level to the embankment crest level.

Statement in accordance with Article 35(2) Town and Country Planning (Development 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.

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 and reports referenced/numbered
 - Site location plan ENV0000389C-BMM-DZ-4WR-DR-T-0213623-S2-P01
 - ENV0000389C-BMM-DZ-4WR-DR-S-0213437-A-C02
 - General arrangement plan ENV0000389C-BMM-DZ-4WR-DR-S-0213437-S3-P03
 - Preliminary Ecological Appraisal Report
ENV0000389C-BMM-DZ-4ZZ-RP-EN-0301061
 - Cultural Heritage Desk Based Assessment
ENV0000389C-BMM-DZ-4ZZ-RP-HE-03020020
 - Flood Risk Assessment ENV0000389C-BMM-DZ-4ZZ-RP-Z-0215016

- Traffic Management Plan – Radcliffe & Redvales FRMS Phase 2' dated 31/01/22
- BAA.2050 Radcliffe and Redvales FRMS Phase 2 Highways dilapidation survey Bury Road for EA works at Hutchinson's Goit Date: 02/02/2022 Version: 1.0
- Radcliffe and Redvales FRMS Phase 3 - Swan Lodge Preliminary Ecological Appraisal Report 28 October 2020

and the development shall not be carried out except in accordance with the drawings and reports 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 development shall be carried out in accordance with the scope of the dilapidation survey of the footways and carriageways leading to and abutting the proposed site as set out in the report BAA.2050 Radcliffe and Redvales FRMS Phase 2 Highways dilapidation survey Bury Road for EA works at Hutchinson's Goit Date: 02/02/2022 Version: 1.0. Following completion of the development a validation survey shall be undertaken and any required remedial works shall be implemented to an approved scope, specification and programme as approved by the Local Planning Authority.
Reason - To ensure good highway design and to maintain the integrity of the adopted highway/highway structure and surrounding road network pursuant to UDP Policy HT6/2 - Pedestrian/Vehicular Conflict
- 4 The site access arrangements, measures and facilities detailed in the approved 'Traffic Management Plan – Radcliffe & Redvales FRMS Phase 2' dated 31/01/22 along with measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the sites and measures to minimise dust nuisance caused by the operations, shall be adhered to throughout the construction period.
Reason - To mitigate the impact of the construction traffic generated by the proposed development on the adjacent residential streets, ensure adequate off street car parking provision and materials storage arrangements for the duration of the construction period and that the adopted highways are kept free of deposited material from the ground works operations, in the interests of highway safety pursuant to UDP Policy HT6/2 - Pedestrian/Vehicular Conflict.
- 5 The development shall be carried out in accordance with the report BAA.2050 Radcliffe and Redvales FRMS Phase 2 Invasive Species Management Plan Hutchinson's Goit – Bury Road concerning the eradication and/or control of Japanese Knotweed (*Fallonia Japonica*, *Rouse Decraene*, *Polygonum Cuspidatum*) and Himalayan Balsam (*Impatiens Glandulifera*).
Reason. The scheme does not provide full details of the actual extent of Japanese Knotweed and Himalayan Balsam in the interest of UDP Policy EN9 - Landscape and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 6 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.
Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies EN6 - Conservation of the Natural Environment and EN6/3 - Features of Ecological Value of the Bury Unitary Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 7 The development shall be carried out in accordance with the measures as set out

within BAA.2050 Radcliffe and Redvales FRMS Phase 2 Dust, Debris & Spill Mitigation for EA works at Hutchinson's Goit Date: 03/02/2022 Version: 1.0 in order to ensure that Hutchinson's Goit and the River Irwell remain protected from construction debris and spillage. On completion of the works, the non-natural mitigation measures shall be removed from site.

Reason: To protect the Hutchinson's Goit and the River Irwell and prevent debris and construction material from encroaching into this area pursuant to UDP Policies EN9 - Landscape, EN6/3 - Features of Ecological Value and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 8 The development shall be carried out in accordance with all the mitigation measures as outlined within Radcliffe and Redvales FRMS Phase 3 - Swan Lodge Preliminary Ecological Appraisal Report 28 October 2020; which shall include preliminary checks for fauna within the areas affected by the development. Such checks should be undertaken so as not to cause harm to protected River Fauna known to be associated with the immediate locality of the site.

Reason: to Ensure that appropriate and informed checks are undertaken in line with good ecological practice and to prevent harm to protected and important species pursuant to NPPF Chapter 15 - Conserving and Enhancing the Natural Environment.

- 9 The landscaping scheme as shown on ENV0000389C-BMM-DZ-4WR-DR-S-0213437-A-C02 Hutchinsons Goit GA Layout shall be implemented within the first available planting season which shall be confined on implementation of the scheme. 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..

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
DM	16/2/22	JT	16/2/22