

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 13/06/2022	Ref: 67864/FUL
Registration: 02/12/2021	LDfC: 28/01/2022	Expiry Date: 03/03/2022
Site Visit: 21/12/2021	Site Notice: 17/03/2022	Press Date: 13/01/2022
Objections: 0	Con Area: N/A	Adv Type: MD
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MADW

Proposal: Removal of condition no. 2 (to remove the requirement for the submission of a reserved matters application prior to commencement of works); and variation to condition 5 (coal), condition 6 (drainage), condition 7 (highways), condition 8 (construction traffic management plan) of p/p 66064 (Reserved Matters for means of access to the site (Bury Council) and outline planning application for the demolition of the existing structures on the site, and redevelopment of the site for a future residential development of up to 132 no. dwellings and associated public open space, with all matters reserved except for access (Bolton Council))

Location: Former Tarmac Building Materials Ltd, Stopes Road, Radcliffe, Bolton, BL3 1NR

Description

The development site comprises the former tarmac business operation which is located in the jurisdiction of Bolton Council but is accessed directly off the unclassified part of Stopes Road which is within the Bury Borough. The development site is approximately 6.23 hectares and comprises buildings and structures reflective of its former use as a concrete block manufacturer and aggregate recycling and storage operation. At the entrance to the site is a single storey building that previously accommodated the administrative functions.

To the east of the access road into the site and directly adjacent to the site access is a restaurant and 2 dwellings on Stopes Road and opposite is a depot and distribution yard. These properties are in the Bury boundary. To the south of the access and the southern leg of Stopes Road is a builders yard, dwelling and public house. These are within the Bolton Boundary.

An application was submitted in tandem with Bolton Planning Authority for the redevelopment of the site for a residential development of circa 140 dwellings together with public open space. The application sought a full permission from Bury for the access to the development site whilst Bolton dealt with an outline application for the residential development.

Both LPA's granted planning permission.

The decision issued by Bury in April 2021 included Condition 2, for the submission of a reserved matters application (for layout, scale, appearance and landscaping) prior to the commencement of development, and also included pre-commencement conditions for the submission of information relating to coal, drainage and highways.

The applicant is keen to progress enabling and remediation works on site in preparation for the 'hand-over' of the site to a future housebuilder. However, the wording of the conditions which were included in the decision notice issued by Bury would not allow for the start of any development until an application was made for

reserved matters and information submitted to discharge/part discharge conditions relating to dust control measures, coal, drainage and highways.

This application is therefore seeking to remove condition 2 as all other reserved matters relate to the redevelopment of the site itself which is within the Bolton jurisdiction. The application also seeks to vary conditions 5,6,7 and 8 to allow the applicant to commence demolition, site investigations, groundworks and remediation prior to the submission of further details relating to coal, drainage and highways.

An application for reserved matters for the approval of all other details would be made to Bolton in due course.

Relevant Planning History

66064 - Reserved Matters for means of access to the site (Bury Council) and outline planning application for the demolition of the existing structures on the site, and redevelopment of the site for a future residential development of up to 132 no. dwellings and associated public open space, with all matters reserved except for access (Bolton Council) - 21/4/21

Publicity

Site notice posted 21/12/ 21

Re-advertised by site notice 17/3/22

No responses received as a result of the publicity

Statutory/Non-Statutory Consultations

Traffic Section - No objection

Planning & Building Regs consultation Fire Protection Dept Bury Fire Station (Part B) - no response received

United Utilities (Water and waste) - No objection providing no works other than access and basic site works commence prior to the submission of a detailed drainage plan.

Coal Authority - No objection

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN1/2	Townscape and Built Design
EN5/1	New Development and Flood Risk
EN6/3	Features of Ecological Value
HT2/1	The Strategic Route Network
HT2/3	Improvements to Other Roads
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
HT4	New Development
OL1	Green Belt

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

Section 73 of the Town & Country Planning Act permits the removal, change or removal of a planning condition that has been imposed on an extant planning permission. Court decisions have clarified that the changes must be within the scope of the original planning permission and cannot be changed where a development goes beyond the scope of the original scheme that would fundamentally change the nature of the development.

The site was granted planning permission in April 2021 for the reserved matters for access within the Bury Borough and an outline application to Bolton for a residential development with other matters, apart from access, reserved.

The applicant's objectives to undertake enabling works to get the site ready for a future developer is currently stymied by the condition requiring the submission of a reserved matters application (condition 2) and pre-commencement conditions to provide information, prior to any development of the site (conditions 5,6,7 and 8).

The proposed amended trigger points of the conditions would therefore allow for a greater

flexibility of implementation and to enable the carrying out of site remedial works.

The relevant consultees - the Coal Authority, United Utilities and the Highway Authority have been consulted on the proposed amendments to the wording of the conditions which would allow works comprising demolition, remediation and enabling works only.

The Coal Authority, United Utilities and the Highway Authority have raised no objections to the amendment to the conditions.

For the avoidance of doubt, the proposed conditions would still require the submission of detailed information to be submitted prior to the redevelopment of the site itself.

The conditions are now proposed as follows:

Condition 5

No development (excluding demolition, remediation and enabling works) shall commence unless and until the following has been carried out:

1. a scheme for the undertaking of intrusive site investigations, designed by a competent person and adequate to properly assess the ground conditions on the site and establish the risks posed to the development by past coal mining activity (shallow mining / mine entries) has been submitted to and approved by the Local Planning Authority.
2. the submission of a report of findings arising from the intrusive site investigations and any remedial and / or measures necessary, including the submission of the proposed layout plan which identifies the location of any on-site mine entries (if found present) including appropriate zones of influence for all mine entries, and the definition of a suitable 'no-build' zone;
3. The implementation of any remedial works required to an approved timetable.

Condition 6

No development, other than demolition, site investigations, groundworks and remediation shall take place unless and until details of a drainage scheme has been submitted to and approved by the Local Planning Authority. The scheme 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.

Condition 7

No development other than demolition, site investigations, groundworks and remediation, shall take place unless and until full details of the following highway aspects shall be submitted on a topographical survey of the site and adjacent adopted highways to the Local Planning Authority:

- Identification of all areas of existing adopted highway within the Bury Borough boundary affected by the proposed access to the development site;
- Formation of the proposed site access onto Stopes Road in a revised position relative to the westerly/northerly kerbline to be formed on the bend in Stopes Road following the undertaking of a full swept path analysis of the bend;
- Provision of a level/1 in 40 plateau at the junction onto the existing adopted highway;
- Scheme of works to a scope to be agreed to reinstate the areas of redundant access/block paved hardstanding to adjacent footway levels, incorporating all reconstruction/accommodation works on both approaches to the site access and the proposed secondary emergency access to the residential site onto Stopes Road;
- Scheme of measures/bollards to prevent vehicular access onto/use of the footway areas to be created;
- Alteration of/improvements to the existing pedestrian refuge at the junction of A6053

Stopes Road/Stopes Road junction;

- Scheme of works to a scope and specification to be agreed to provide the proposed remote secondary emergency access in an agreed position at the easterly end of the unclassified section of Stopes Road incorporating fixed and removable bollards and all associated highway remedial works, as shown indicatively on plan reference VN201653-D104;
- Proposals for the introduction of waiting restrictions to scope to be agreed at and in the vicinity of the junction of the proposed site access to be formed with Stopes Road, following a review of on-street parking at, and on the approaches to, the bend;
- Demarcation of the limits of the existing/future adopted highway and all associated highway and highway drainage remedial works required as a result of the construction of the proposed development, boundary treatment removal and statutory undertakers connections;
- White lining scheme for the proposed junction onto Stopes Road, the proposed estate roads and on the bend, to a scope to be agreed, incorporating all necessary alterations to existing road marking/lining required as a result of the proposed development.

The highway works subsequently approved shall be implemented to an agreed specification and programme with the Local Planning Authority.

Condition 8

No development other than demolition, site investigations, groundworks and remediation, shall commence unless and until a 'Construction Traffic Management Plan' (CTMP) has been submitted to and agreed in writing with the Local Planning Authority and shall confirm/provide the following:

- Dilapidation survey of the footways and carriageways leading to and abutting the site in the event that subsequent remedial works are required following the demolition works and construction of the development;
- Access route for vehicles from the highway network;
- Access point(s) to the site including any temporary works required to facilitate vehicular access;
- Hours of operation and number of vehicle movements;
- Proposed site hoarding/gate positions clear of appropriate visibility splays onto Stopes Road;
- A scheme of appropriate warning/speed limit signage in the vicinity of the demolition/construction site access;
- Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site;
- Parking on site of demolition, operatives' and construction vehicles together with storage on site of demolition and construction materials;
- Measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the demolition and construction periods and the measures shall be retained and facilities used for the intended purpose for the duration of both periods. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of construction materials.

Conclusion

It is therefore considered that the amendments would be consistent with the approved scheme, policy and the scope of the original planning permission.

It is therefore considered that the proposed amendments to vary the conditions and remove condition 2 would be acceptable and would not adversely impact on the amenity or safety of the site or the surrounding area and would comply with the principles of the NPPF and UDP Policies.

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 from the date of the grant of planning permission reference 66064 (date of decision 21/4/21).
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings -
Site location plan HAR001LP01/Rev B; Topographical survey sheets 1-4, reference 55335_01_01 to 55335_01_04; Constraints plan HAR001CP01 Rev D; Parameters plan HAR001PP01 Rev G; Proposed site access VN201653-D108 Rev A; Proposed emergency vehicle access arrangement VN201653-D104; Emergency Vehicle Strategy Plan VN201653-D107 Rev A
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 listed.
- 3 The development hereby approved shall be carried out in accordance with the approved scheme and documents received 3/12/21 for dust control measures and methods to monitor emissions of dust arising from the development.
Reason. The information is required to reduce the impacts of dust disturbance from the site on the local environment, pursuant to chapter 11 of the NPPF - Conserving and enhancing the natural environment.
- 4 No development (excluding demolition, remediation and enabling works) shall commence unless and until the following has been carried out:
 1. a scheme for the undertaking of intrusive site investigations, designed by a competent person and adequate to properly assess the ground conditions on the site and establish the risks posed to the development by past coal mining activity (shallow mining / mine entries) has been submitted to and approved by the Local Planning Authority.
 2. the submission of a report of findings arising from the intrusive site investigations and any remedial and / or measures necessary, including the submission of the proposed layout plan which identifies the location of any on-site mine entries (if found present) including appropriate zones of influence for all mine entries, and the definition of a suitable 'no-build' zone;
 3. The implementation of any remedial works required to an approved timetable.Reason. The undertaking of intrusive site investigations is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework
- 5 No development, other than demolition, site investigations, groundworks and

remediation shall take place unless and until details of a drainage scheme has been submitted to and approved by the Local Planning Authority. The scheme 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. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies EN5/1- New Development and Flood Risk , 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.

- 6 No development other than demolition, site investigations, groundworks and remediation, shall take place unless and until full details of the following highway aspects have been submitted on a topographical survey of the site and adjacent adopted highways to the Local Planning Authority:

- Identification of all areas of existing adopted highway within the Bury Borough boundary affected by the proposed access to the development site;
- Formation of the proposed site access onto Stopes Road in a revised position relative to the westerly/northerly kerbline to be formed on the bend in Stopes Road following the undertaking of a full swept path analysis of the bend;
- Provision of a level/1 in 40 plateau at the junction onto the existing adopted highway;
- Scheme of works to a scope to be agreed to reinstate the areas of redundant access/block paved hardstanding to adjacent footway levels, incorporating all reconstruction/accommodation works on both approaches to the site access and the proposed secondary emergency access to the residential site onto Stopes Road;
- Scheme of measures/bollards to prevent vehicular access onto/use of the footway areas to be created;
- Alteration of/improvements to the existing pedestrian refuge at the junction of A6053 Stopes Road/Stopes Road junction;
- Scheme of works to a scope and specification to be agreed to provide the proposed remote secondary emergency access in an agreed position at the easterly end of the unclassified section of Stopes Road incorporating fixed and removable bollards and all associated highway remedial works, as shown indicatively on plan reference VN201653-D104;
- Proposals for the introduction of waiting restrictions to scope to be agreed at and in the vicinity of the junction of the proposed site access to be formed with Stopes Road, following a review of on-street parking at, and on the approaches to, the bend;
- Demarcation of the limits of the existing/future adopted highway and all associated highway and highway drainage remedial works required as a result of the construction of the proposed development, boundary treatment removal and statutory undertakers connections;
- White lining scheme for the proposed junction onto Stopes Road, the proposed estate roads and on the bend, to a scope to be agreed, incorporating all necessary alterations to existing road marking/lining required as a result of the proposed development.

The highway works subsequently approved shall be implemented to an agreed specification and programme and to the written 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 pursuant to Bury Unitary Development

Plan Policies EN1/2 - Townscape and Built Design, H1/2 - Further Housing Development, H2/2 - The Layout of New Residential Development, HT4 - New Development and HT6/2 - Pedestrian/Vehicular Conflict.

- 7 No development other than demolition, site investigations, groundworks and remediation, shall commence unless and until a 'Construction Traffic Management Plan' (CTMP) has been submitted to and agreed in writing with the Local Planning Authority and shall confirm/provide the following:
- Dilapidation survey of the footways and carriageways leading to and abutting the site in the event that subsequent remedial works are required following the demolition works and construction of the development;
 - Access route for vehicles from the highway network;
 - Access point(s) to the site including any temporary works required to facilitate vehicular access;
 - Hours of operation and number of vehicle movements;
 - Proposed site hoarding/gate positions clear of appropriate visibility splays onto Stopes Road;
 - A scheme of appropriate warning/speed limit signage in the vicinity of the demolition/construction site access;
 - Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site;
 - Parking on site of demolition, operatives' and construction vehicles together with storage on site of demolition and construction materials;
 - Measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site and measures to minimise dust nuisance caused by the operations.

The approved plan shall be adhered to throughout the demolition and construction periods and the measures shall be retained and facilities used for the intended purpose for the duration of both periods. The areas identified shall not be used for any other purposes other than the turning/parking of vehicles and storage of construction materials.

Reason. To mitigate the impact of the construction traffic generated by the proposed development on the adjacent residential streets, and 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 Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	13/6/22		