

DELEGATED REPORT

Report by Helen Pressley	Date of report: 14/05/2025	Ref: 71668/CONDIS
Registration: 26/02/2025	LDFC: 27/03/2025	Expiry Date: 23/04/2025
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 to discharge conditions 8 (biodiversity net gain plan) and 9 (habitat management) on planning permission 70805

Location: Land off Fletcher Fold Road, Bury, BL9 9RX

Description

The application site relates to 0.90ha of land which formally comprised Millwood School and its grounds. The main school building was demolished in 2018 and a phased scope of clearance, remediation and enabling works followed to facilitate the future redevelopment of the site followed in 2021. Around the perimeter of the site and within the grounds is well established tree planting and vegetation.

The site is within a residential setting and is accessed directly from Fletcher Fold Road, a residential street. Running along the northern perimeter of the site is an unmade and unadopted access which is a Public Right of Way (Footpath 70BUR) and a Public Right of Way (Footpath 71BUR) also leads directly from Fletcher Fold Road into and through the site, exiting at Meadway to the south.

To the east of the site is The Manor House, The Guest and The Nook, Grade II Listed Buildings.

Planning permission has been granted, subject to conditions, for the for the erection of 43 dwellings for the people over 55 years of age with associated car parking and landscaping. The dwellings comprise of 4 x 2no. bedroom bungalows and a three storey apartment building providing a total of 39 apartments (33no. one bedroom apartments and 6 no. two bedroom apartments) with a communal room at ground floor.

Communal landscaped gardens are proposed to the rear of the apartment blocks with parking located centrally within the built development, access from Fletcher Fold Road. Self contained gardens are proposed for the bungalows, with parking provided to the front or the side of each of these units.

This application relates to discharge of conditions 8 and 9 of application 70805, both of which relate to Biodiversity Net Gain (BNG).

Relevant Planning History

02946/E - The proposed development is for the erection of 43 dwellings for the people over 55 years of age with associated car parking and landscaping. The dwelling comprise 4 x two bedroom bungalows and a three storey apartment building providing a total of 39 apartments (27 one bedroom apartments and 12 two bedroom apartments) with a communal room at ground floor. - Enquiry completed 19/02/2024

45330 - Single storey extension - Approve with Conditions 16/11/2005

49271 - Erection of 2 metre high paladin fence to school boundary - Approve with Conditions 16/04/2008

62832 - Prior notification of proposed demolition of single storey former primary and special school - Prior Approval Required and Granted 14/06/2018

66306 - Demolition and site enabling works - Approve with Conditions 22/02/2021

Publicity

NA

Statutory/Non-Statutory Consultations

Greater Manchester Ecology Unit would not object from an ecological perspective if the conditions were discharged to enable progress towards the statutory condition and 106.

Pre-start Conditions - Not applicable

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 8 - Biodiversity Gain Plan

Note this document will need to be resubmitted in order to discharge the statutory biodiversity gain condition. Therefore, any discharge is subject to amendments should the on-site landscaping require amendments between any discharge of this condition and the statutory condition. For this site however GMEU would regard the risk of change due to for instance highways amendments to site lines unlikely.

GMEU have the following recommended amendments to the gain plan

- Section 4.1 should be no not yes. The agreed baseline value was not the same as the baseline value at application stage. The baseline had been previously agreed at site clearance in 2021.
- Section 4.2 - the date of the agreed baseline is 23rd March 2021 as per letter from TEP of that date
- Section 4.5 should be no not yes. There was no LNRS at the time of the application.
- Section 6.1 should also include the date of the tep survey in 2021. (13th January 2021)
- Section 9.1 whilst not critical GMEU would have put not applicable against very high and high given none were present on the site.

Note: GMUE have also recommended amendments to the statutory metric. This will result in amendments to other sections of the biodiversity gain plan.

Condition 9 - HMMP

GMEU note that the HMMP will be subject to a section 106. It will also be subject to the statutory Biodiversity gain condition, therefore this condition is not strictly required as the document will be agreed via the section 106 and statutory condition. The document also goes beyond the requirements of an HMMP as it covers species issues, that do not form part of the biodiversity net gain process. *GMEU have the following comments on the woodland management.*

- The woodland baseline is poor which GMEU accept but would note that criteria F is automatically 3 for a woodland of this size increasing the baseline value by 1 but still poor;
- GMEU would recommend that they are more ambitious with criteria A. Given the trees are mature, creation of a young age class should be relatively easy increasing the score by one.
- GMEU would recommend they accept no change for criteria M as whilst any existing damage can be removed, the increased public pressure is likely to counter this
- They could be more ambitious with criteria G.

GMEU accept however that enhancement from poor to moderate is achievable and amendments can be left to the statutory condition discharge and section 106 agreement.

GMEU have concerns regarding the achievement of good condition for the other neutral grassland creation and enhancement. For such small areas subject to public pressure,

GMEU would suggest moderate would be more easily achieved and should the applicant be willing to go for good condition, then they drop one of the condition criteria targets as only 5 are required and currently they are targeting all six. GMEU would suggest dropping either creation of bare ground or variable sward height. (see below re. implication for BNG)

With regards urban trees, GMEU would suggest they are more ambitious and target moderate condition by making 70% of the trees native.

With regards monitoring, there is no mention of the role of the GMEU/Bury Council. If a section 106 is being agreed then the monitoring costs for the GMEU can be factored in.

On balance however condition 9 can be discharged as whilst amendments are required, these can be provided at discharge of the statutory biodiversity gain condition stage.

Statutory Metric

The HMMP and Biodiversity gain plan are based on the statutory metric submitted at application stage and agreed in principle at the time. Having now looked at the metric in more detail, GMEU have spotted a number of minor issues that change the overall baseline and post development values (but do not prevent 10% being achievable). GMEU recommend the following amendments.

- None of the site is strategically important, currently the trees and woodland have been recorded as of high importance. GMEU disagree, they are not covered by any UDP policies and we do not regard the GM BAP's as material in this context. All habitats should be given a strategic significance of low (the site is also not covered by the draft LNRS);
- The habitat baseline two blocks of sparsely vegetated habitat in moderate condition. The agreed baseline of 2021 however had these areas as bare ground. They should be recorded as urban -bare ground in poor condition. (Google earth clearly shows the site as having no vegetation in 2021, supported by the agreed habitat survey which records as bare ground);
- As noted above, GMEU recommend 70% of the urban trees are native, enabling a target of moderate;
- As noted above GMEU recommend all grassland habitats have a target condition of moderate.

The above measure significantly reduce the baseline which is acceptable as the agreed baseline in 2021 was calculated using metric v2. GMEU had mistakenly accepted this had been correctly converted, not noticing that the applicant had over valued the bare ground habitat.

In conclusion, both conditions require amendments. They are however technical amendments primarily and therefore given the statutory condition has still to be discharged which these conditions duplicate and section 106 requires signing that duplicates the HMMP, GMEU would not object from an ecological perspective if the conditions were discharged to enable progress towards the statutory condition and 106.

GMEU's comments have been issued to the applicant's agent who has forwarded them onto their ecologist and an application to discharge the Statutory BNG condition will be submitted taking on board the above comments.

Recommendation: Approve

Conditions and Reasons:

- 1 The conditions of application 70805 listed below are approved:

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Condition 8 - Biodiveristy Gain Plan

Condition 9 - Habitat Management and Monitory Plan

*****NOTE** The Statutory Biodiversty Net Gain Condition has NOT been discharged. In order to discharge this condition the applicant will need to apply to discharge this condition in accordance with the details issued via email to Pozzoni on the 9th April 2025.**

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP 14/05/2025			