



Planning Department
Bury Council
3 Knowsley Place
Duke Street
Bury
BL9 0EJ

Our Ref: RG/G592/L002
Date: 26th February 2026

Dear Sir/Madam

**S73 APPLICATION – VARIATION OF CONDITION 12 OF PERMISSION REF: 70252
WINDACRE WORKS, MATHER ROAD, BURY, BL9 6RB**

We are instructed by *Chris Balfe* to submit the enclosed S73 application seeking the variation of Condition 12 of application 70252 to omit the reference to the time period for the undertaking of off site highways works, and but retain the linking of those works to the completion and occupation of the fourth approved dwelling.

Condition 12 currently reads as below, and the parts highlighted in ~~red-strikethrough~~ are the words our client seeks to delete for the reasons outlined in this letter:

Notwithstanding the details indicated on approved plan reference CB6-02/C, a programme of works with details of the following (to be agreed on site where appropriate) shall be submitted to and agreed in writing by the Local Planning Authority:

- *Existing conditions survey of the carriageway abutting the site in the event that subsequent remedial works are required following construction of the development;*
- *Formation of the proposed site access onto Mather Road/Public Right of Way*
- *No. 20, Bury;*
- *Construction of the new footway, build-outs, bollards and boundary walls adjacent to Mather Road/Public Right of Way No. 20, Bury, incorporating all necessary accommodation works required to tie into existing footways and carriageways;*
- *Provision of all drainage remedial works on Mather Road, including an ACO drain to an appropriate specification for use in the carriageway;*
- *Provision of visibility splays in accordance with the standards in Manual for Streets at the back edge of the footway and at the junctions of the proposed site accesses with Mather Road, with no obstructions above the height of 0.6m within them, including all necessary alterations to the boundary wall details submitted;*
- *Foundation details for all boundary walls;*
- *A scheme for improvement of the surface of Mather Road between the existing limits of adoption to the south of No. 101 Mather Road to the northerly site boundary.*



The approved works shall be implemented to the satisfaction of the Local Planning Authority before the occupation of the final (fourth) dwelling, ~~or, in the event that the approved development as a whole is not completed by 31st January 2026, by that date (whichever is the sooner of those dates.~~

Reason. To secure the satisfactory development of the site in terms of highway and fire safety, ensure good highway design, ensure the intervisibility of the users of the site and the adjacent highways and maintain the integrity of the adopted highway, all in the interests of highway safety pursuant to the following Policies of the Bury Unitary Development Plan Policy H2/1 - The Form of New Residential Development, H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design.

Application 70252 was approved in January 2024. It sought the variation of the same Condition 12 of Application 66958, which was approved in July 2021, which was in itself a S73 variation of previous application 64651.

Application 66958 sought the variation of Condition 2 by substituting revised drawings that included minor design adjustments such as steps to the front and new rear and side dormers.

Following the approval of 66958, applications were made and approved for the discharge of various conditions. Those included the part discharge of Condition 12 as confirmed by letter dated 22 March 2022 issued by the LPA. That letter confirmed that the full details that had been submitted pursuant to the condition were approved, but that the condition could only be part discharged until such point that the approved works are implemented (ie with reference to the final part of the condition).

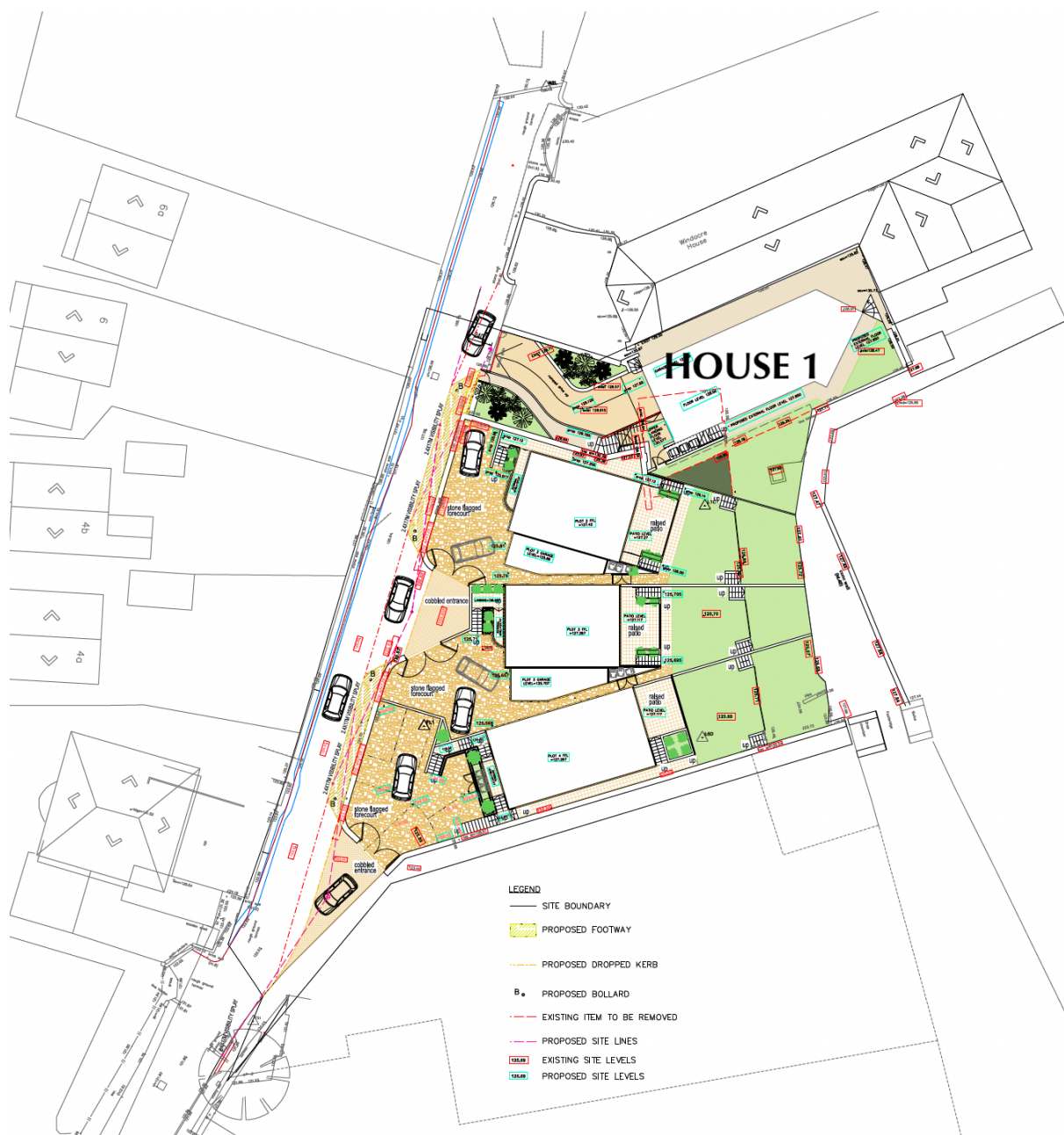
For the avoidance of doubt, the information that was submitted and approved pursuant to that version of Condition 12 was submitted in two separate discharge submissions to the LPA, as below:

- On 10th September 2021, the following was submitted via the formal conditions discharge process:
 - Drawing ref: PRP11_F 'Proposed Site Plan' (Hawthorn Design Partnership)
- On 20th November 2021 the following information (prepared by Booth King) was submitted via the formal conditions discharge process:
 - Inspection of Carriageway Statement (dated 14 September 2021) [Ref: BJJ/BJJ/14233]
 - Speed Survey data



- The following drawings :
- 0700 Rev P1 – Site Location
 - 0701 Rev P1 – Existing Site Surveyed
 - 0702 Rev P3 – Site Clearance
 - 0703 Rev P3 – General Arrangement
 - 0704 Rev P3 – Highway Drainage

Since the approval of details approved under the various conditions, the development has commenced and the first house (marked as “House 1” on the extract below from drawing PRP11_F as approved pursuant to Condition 12) has recently been completed and is currently on the market.





Reason for seeking Variation of Condition 12

It is not the purpose of this S73 application to change the details of any of the works already approved under the auspices of Condition 12 (ie the details listed above). The Applicant remains fully committed to undertake those.

The purpose is to request – for sound operational and logistical reasons - flexibility in the timeframe for completing the approved off-site highway improvement works. Specifically, the final part of Condition 12 currently states:

‘The approved works shall be implemented to the satisfaction of the Local Planning Authority before the occupation of the final (fourth) dwelling, or, in the event that the approved development as a whole is not completed by 31st January 2026, by that date (whichever is the sooner of those dates).’

This S73 seeks the alternative wording of that part of the condition to state:

‘The approved works shall be implemented to the satisfaction of the Local Planning Authority before the occupation of the final (fourth) dwelling.’

The rationale for requesting the above variation relates to the extent of movement of heavy construction-related traffic that needs to utilise the section of to-be-improved highway that is the subject of the condition. The condition currently requires those improvement works to have been implemented by now (ie by 31st January 2026). However, only one of the approved houses has been constructed to date. That said, if the highway improvement works were to be completed now, they would subsequently and inevitably be damaged as a result of ongoing heavy construction traffic associated with the building of the next three houses.

Such damage (which would be regrettable, but almost certainly unavoidable) would undermine the purpose of the condition, which is to deliver a safe and satisfactory highway in a good condition following the completion of the development.

It is also worth noting that the condition only requires those works to be carried out once. That being the case, if the improvement works were to be carried out at this stage and then subsequently damaged as a result of ongoing construction works, there is no requirement within the condition that the damage be rectified and the improvement works re-done. That scenario rather undermines the purpose of the condition.

Furthermore, because this development is being delivered by a ‘small builder’ (as opposed to a larger construction team), it is being rolled out on a house by house basis. That is perfectly reasonable and not usual. That being the case, as each house nears completion, it will be connected to the utilities on a house by house basis. Given that those utilities are within the road, and in the event that the improvement works to the road were completed at this stage, it



would be necessary for those to be re-completed on 4 separate occasions, which is clearly not a sustainable scenario.

The Applicant considers that it is far more logical for the timing of the highway improvement works to be delayed to avoid the above scenarios, and that it would be more sensible to complete the improvement works at a later stage in the construction process (ie when the fourth house has been completed) when the prospect of damage to the improved road will be negligible.

It is for that reason that the suggested revised wording would require the road improvement works to be completed prior to the occupation of the final house.

Ultimately, this S73 proposal does not seek to avoid or change any of the requirements or approved details of Condition 12, but simply to delay the improvement works to avoid an unfortunate (and probably inevitable) scenario whereby the works are completed at this early stage and then subsequently damaged, thereby undermining the objective of the condition to deliver a safe and good quality highway at the end of the development to serve not only the residents of the 4 new houses but also the wider users of this part of Mather Road.

We trust that we have satisfactorily explained the rationale behind the proposed S73 variation of Condition 12, and we look forward to receiving confirmation of receipt and validation of the application. Please do not hesitate to contact me if further information or clarifications are required.

Yours faithfully
for Roman Summer Associates Ltd

Richard Gee
Director