

DELEGATED REPORT

Report by Helen Pressley	Date of report: 14/06/2024	Ref: 70576/FUL
Registration: 15/03/2024	LDfC: 11/04/2024	Expiry Date: 14/06/2024
Site Visit: 25/05/2024	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: N/A
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MAOT

Proposal: Variation of condition no.14 (tree protection plan) following approval of planning permission 70195; Remove an additional 10 no. trees and replace them with 24 no. native trees

Location: Millwood Primary Special School, School Street, Radcliffe, Manchester, M26 3BW

Description

The application site contains a school, which serves 171 pupils with special educational needs from the ages of 2 - 11. The school opened in 2012 and contains a central teaching hub, three teaching wings and a hydrotherapy pool. The building is single storey and is set back from the boundary with School Street. The school is constructed from cladding and a composite panel standing seam roof. To the north of the school building is a multi use games area (MUGA) and a play area. There are also individual play spaces associated with each classroom wing.

The school is accessed from School Street and there is a car park with 115 spaces, including 8 accessible spaces and minibus drop off areas.

There is vacant land to the east, which has planning consent for 91 dwellings and there is a builders yard to the north. There are residential properties and a industrial/storage yard to the south. The Manchester, Bolton and Bury Canal forms the boundary to the west with industrial buildings beyond.

This application relates to the variation of condition no.14 (tree protection plan) following approval of planning permission 70195 to allow the removal of an additional 10 no. trees. The removal of these additional 10 trees is proposed to facilitate the introduction of a haul road around the footprint of the proposed building and for the construction of a site compound, wheel wash etc.

Relevant Planning History

02122/E - Construction of 2 no. classroom extensions comprising 1 single classroom each with ancillary accommodation - Enquiry completed 17/04/2018

02883/E - Provision of a new classroom block and additional car parking - Enquiry completed 05/10/2023

63145 - Construction of 2 no. new classroom areas with ancillary accommodation - Approve with Conditions 04/10/2018

70195 - Erection of an extension to contain classrooms, multi- purpose hall and support areas; Landscaping works to include dedicated play areas, railings and external pagoda and additional car parking on the existing school site. - Approve with Conditions 20/12/2023

Publicity

Letters sent to 48 properties on 19th March 2024. No representations received.

Statutory/Non-Statutory Consultations

Greater Manchester Ecology Unit - Several trees were assessed as having low bat roosting potential. In line with best practice reasonable avoidance measures have been recommended. These should be conditioned.

Traffic Section and Public Rights of Way- Do not wish to restrict the granting of planning permission

Pre-start Conditions - Agent has agreed with pre-start conditions

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN1/4	Street Furniture
EN1/5	Crime Prevention
EN6/3	Features of Ecological Value
EN7/2	Noise Pollution
EN7/5	Waste Water Management
EN8/2	Woodland and Tree Planting
HT2/4	Car Parking and New Development
HT5/1	Access For Those with Special Needs
CF1/1	Location of New Community Facilities
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
NPPF	National Planning Policy Framework
JP-P1	Sustainable Places
JP-G8	A Net Enhancement of Biodiversity and Geodiversity
JP-G7	Trees and Woodland
JP-C8	Transport Requirements of New Development
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-P5	Education, Skills and Knowledge
JP-S4	Flood Risk and the Water Environment
JP-S5	Clean Air

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.

Ecology/Trees

Policy JP-G8 states that through local planning and associated activities a net enhancement of biodiversity resources will be sought. This is supported by Policy EN6/3 that seeks to retain, protect and enhance the natural environment and seeks to retain features of ecological or wildlife value. Paragraph 180 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment. Policy EN8/2 supports and encourages new woodland and tree planting within the borough. This is further supported by Policy JP-G7 that aims to significantly increase tree cover and requires 2no. replacement trees for each tree lost or other measures that would also result in a net enhancement in the character and quality of the treescape and biodiversity value in the local area.

The submitted tree removal/retention plan indicates the location of the proposed haul road that is required to facilitate the construction of the classroom whilst allowing the school to remain open. This would require the loss of 10no. additional trees, in addition to the 19 trees already approved as part of the original permission (70195). Condition 14 of this permission required 12no. replacement trees. 24no. replacement trees are now proposed.

Greater Manchester Ecology Unit have been consulted in relation to the removal of the additional trees. Several trees were assessed as having low bat roosting potential. In line with best practice reasonable avoidance measures have been recommended and a condition will be attached to ensure that this mitigation is in place.

The issue of nesting birds was already covered for the original application, and suitable conditions are in place.

The landscape proposals indicate the planting of 24no native tree species planted as heavy standards (12-14cms girth, 350-425cms height). These replacement trees are shown on

the landscaping proposals submitted as part of the condition discharge application for condition 13 of 70195. Retained trees will be protected during the construction phase in accordance with the recommendations in BS 5837:2012.

Following the completion of the development and the removal of the haul road, the existing grassed areas will be reinstated to provide an amenity space for the school which will be accessed via gated fencing surrounding the outdoor play spaces. The western boundary will be planted with a narrow linear corridor of native scrub species planted as whips and transplants. Additional standard tree planting will be planted within this corridor.

GMEU have already accepted the landscaping proposals as part of the condition discharge and have confirmed no further information or measures are required.

The overall principle of development has not been altered and the proposed variation to condition 14 would allow adequate construction access to the site.

12.no replacement trees were conditioned was part of the original proposal, to replace the 19no. trees that were lost. This proposal seeks an additional 12no. replacement trees to compensate for the loss of 10 additional trees. Whilst the proposal would not equate to a 2 for 1 replacement of trees as part of the condition discharge application for application 70195 GMEU confirmed that from an ecological perspective they were satisfied that the proposed tree and scrub planting and species measures are adequate to mitigate for the losses due to the development. The proposal would therefore comply with the requirements for tree planting as set out within the policies set out above in that it would lead to an enhancement in the character and quality of the treescape and is therefore considered to be acceptable.

The application deals with the variation of a single condition in relation to tree removal. It is considered that varying this condition is acceptable and should be approved. A number of the conditions on the original permission (70195) have been discharged and as such conditions have also been amended in relation to this submitted, and agreed to information.

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 pre-application discussions 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 20th December 2026.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings numbered 2128.32.1201 Rev P3, 2493_01 Rev A, 2493_02 Rev A, 2493_03 Rev A, MSE-BGH-XX-XX-DR-A-2004 Rev P1 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 Development Plan listed.

- 3 Only the approved materials/bricks referenced in the condition discharge application for condition 3 of 70195 shall be used for the construction of the development.
Reason. No material samples have been submitted and are required in the interests of visual amenity and to ensure a satisfactory development pursuant to Development Plan Policy JP-P1 - Sustainable Places.
- 4 Following the provisions of Condition 4 of planning permission 70195, where remediation is required, the approved Remediation Strategy must be carried out to the satisfaction of the Local Planning Authority within agreed timescales; and A Site Verification Report detailing the actions taken and conclusions at each stage of the remediation works, including substantiating evidence, shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 5 No development (excluding demolition, site clearance and enabling works) shall commence unless and until any remediation works and/or mitigation measures to address the shallow mine workings, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.
The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
Reason. The scheme does not provide full details of the actual contamination and subsequent remediation, which is required to secure the satisfactory development of the site in terms of human health, controlled waters, ground gas and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 6 Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by the recorded mine entry.
Reason. To secure the satisfactory development of the site in terms of human health, controlled waters and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 7 The development shall be implemented in accordance with the Construction Traffic Management Plan (CTMP) approved under the condition discharge application for condition 8 of 70195.

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

Reason. Information not submitted at application stage. 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 Development Plan Policies

EN1/2 - Townscape and Built Design, JP- C5 - Streets and All and JP-C6 Walking and Cycling.

- 8 The turning facilities indicated on the approved plans for application 70195 shall be provided before the development hereby approved is brought into use and the areas used for the manoeuvring of vehicles shall subsequently be maintained free of obstruction at all times.
Reason. To minimise the standing and turning movements of vehicles on the highway in the interests of road safety pursuant to Policy CF1/1 - Location of New Community Facilities and Policy EN1/2 - Townscape and Built Design of the Bury Unitary Development Plan.
- 9 The car parking indicated on the approved plans for application 70195 shall be surfaced, demarcated and made available for use to the satisfaction of the Local Planning Authority before the development hereby approved is brought into use and thereafter maintained at all times.
Reason. To ensure adequate off street car parking provision in the interests of road safety pursuant to Policy HT2/4 - Car Parking and New Development of the Bury Unitary Development Plan.
- 10 The surface water drainage scheme approved as part of the condition discharge application for condition 11 of 70195 only shall be implemented prior to first occupation and thereafter maintained.
Reason. The current application contains insufficient information regarding the proposed drainage scheme to fully assess the impact. To promote sustainable development and reduce flood risk pursuant to Unitary Development Plan Policies JP-S4 - Flood Risk and the Water Environment , 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.
- 11 The CEMP approved under the condition discharge application for condition 12 of 70195 shall be in place prior to works commencing and for the duration of the works.
Reason. In order to ensure that no harm is caused to the Manchester, Bolton and Bury canal pursuant to Development Plan Policies JP-G8 - A Net Enhancement of Biodiversity and Geodiversity and EN6/3 - Features of Ecological Value and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 12 The landscaping scheme hereby approved shall be implemented not later than 12 months from the date the building is first occupied. 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.
Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies EN8/2 – Woodland and Tree Planting and Policy JP-G7: Trees and Woodland of the Development Plan.
- 13 All trees to be retained on site as shown on the tree removal/retention plan and tree protection drawing 2493_01 Rev A shall be protected in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction". The development shall not commence unless and until the measures required by the British Standard are implemented and all measures required shall remain in situ until the development has been completed.
Reason. To avoid the loss of trees which are of amenity value to the area pursuant to Policy EN1/2 - Townscape and Built Design, EN8/2 – Woodland and Tree Planting and JP-G7 Trees and Woodlands of the Development Plan.
- 14 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 JP-G8: A Net Enhancement of Biodiversity and Geodiversity and EN6/3 - Features of Ecological Value of the Development Plan and National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 15 The biodiversity mitigation and enhancement plan approved under the condition discharge application for condition 16 of 70195 shall be implemented in accordance with the approved details.

Reason. To secure the satisfactory development of the site and in the interests of visual amenity pursuant to Policies H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and EN8/2 - Woodland and Tree Planting of the Bury Unitary Development Plan and chapter 15 - Conserving and enhancing the natural environment of the NPPF.

- 16 Prior to occupation, electric vehicle charging points for 20% of the proposed parking spaces shall be provided and available for use. The electric vehicle charge points shall be 7KW as a minimum

Reason. In accordance with the NPPF, to encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable. To safeguard residential amenity, public health and quality of life pursuant to Policy JP-S5: Clean Air of the Development Plan.

- 17 A precautionary inspection for bats shall be undertaken for trees T1, T2 and T6 by a bat-licenced ecologist (tree climbing qualified) immediately prior to tree felling. On the low chance that evidence of bats is identified, works to the tree in question shall be postponed until after appropriate surveys have been undertaken and all necessary licensing and mitigation is in place.

Reason. In order to ensure that no harm is caused to a Protected Species pursuant to policies JP-G8: A Net Enhancement of Biodiversity and Geodiversity and EN6/3 – Features of Ecological Value of the Development Plan and Section 11 of the National Planning Policy Framework.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP	14/06/2024	DM	14/06/2024