

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 16/12/2025	Ref: 72516/FUL
Registration: 04/11/2025	LDfC: 04/12/2025	Expiry Date: 30/12/2025
Site Visit:	Site Notice: N/A	Press Date: 20/11/2025
Objections: 14	Con Area: N/A	Adv Type: DEPA
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MADW

Proposal: Variation of condition no. 12 on planning permission 68815 - Outline application for 12 no. dwellings including means of access (all other matters reserved for appearance, layout, scale and landscaping) - to substitute the approved access

Location: Land adjacent to 62 Springside Road, Bury, BL9 5JQ

Description

The application relates to a site located at the end of Springside Road. To the north and east is established residential development. Along the southern boundary of the site is a hedgerow and a road which leads to Bank Top Farm that carries a Bridleway (155 BUR), beyond which, to the south is open land designated as Green Belt, Landscape Character Area and River Valley. To the west is open land that is also designated as Green Belt, Landscape Character Area and River Valley.

The site comprises a piece of land which is 0.56 ha in area. The site is not in the Green Belt, but designated as Other Protected Open Land (OPOL) under UDP Policy OL2/1. The site is split into two relatively similar size parcels of land by a road and Public Right of Way (160BUR) which runs directly through the site from Springside Road in a north westerly direction and connects to Springside Farm. It is understood that a culverted watercourse crosses the site in a west/easterly direction but this is not a United Utilities asset.

Outline planning permission (reference 68815) was granted in 2023 for the development of the site for 12 dwellings including details of the means of access. All other matters were to be dealt with at the reserved matters stage.

Approved scheme

Access to the site would be taken from Springside Road and highway works would include widening the road to 6.75m and provision of pedestrian footways. Springside Road has an adopted status and currently provides a turning area next to the site access. As this turning facility is on adopted highway and would be affected due to the highway works at the site entrance, it was proposed to provide a turning area within the site. This required the new site access and turning head to be of an adoptable status which was to be secured by a S106 Agreement.

Public Right of Way No.160BUR would continue through the site along the existing access with an alternative pedestrian route along the south and western boundary of the site provided.

Proposed scheme

This application seeks to make changes to the approved adopted access and turning facility and therefore proposes to vary the condition - condition 12 which was for the approved highway layout plans.

The application proposes to reduce the approved access road width gradually to 5.5m with

2m wide footways fronting the proposed dwellings reducing to 600mm around the proposed new turning head area within the site.

The Technical Note which has been submitted to support the application also states that the proposals would be sufficient to discharge condition 15 and bullet point 2 of condition 16 which states -

Condition 15 - Notwithstanding the details shown indicatively on approved plan references EAD_126_P_103 Revision So & EAD_126_P_104, no development shall commence on the adopted highway that affects the existing arrangements/turning facilities at the cul-de-sac end of Springside Road unless and until the replacement, adoptable turning facilities within the cartilage of the site have been implemented to the satisfaction of the Local Planning Authority and made available for public use.

Condition 16 (bullet point 2) - Notwithstanding the details shown indicatively on approved plan references EAD_126_P_103 Revision So & EAD_126_P_104 and in the supporting technical information, full details of the following highway aspects shall be submitted on a topographical based survey of the site and adopted highways at first reserved matters application stage:

- New footpath to run behind the proposed development, incorporating proposed future status and/or maintenance and surfacing materials;

However, the applicant has only applied to vary condition 12 as stated on their application form and the application will be determined as such.

Relevant Planning History

72544 - Application to discharge condition 3 (contaminated land), condition 5 (EV charge point), condition 8 (BEMP) and condition 17 (sprinkler system) on planning permission 68815 - current application.

68815 - Outline application for 12 no. dwellings including means of access (all other matters reserved for appearance, layout, scale and landscaping) - Approved 3/8/23

Publicity

Letters sent to 101 properties on 13/11/25.

Site notice posted 17/11/25.

14 objections received which raise the issues below -

- Traffic congestion on Springside Road is already at a dangerous level.
- School arrival and departure times the road is chaotic.
- Increased water drainage onto Springside Road.
- Trees have already been removed
- Local wildlife will be adversely affected.
- Applications for building on this land have been turned down previously. This plan has no more merit than these and all the problems have become worse not better.
- This area is over populated, new homes no new schools or doctors.
- This area has very little green spaces left.
- Reduction in access road width - Highway safety issue
- Emergency access was borderline at outline stage (sprinklers were required), so reducing the width now increases risks to residents, refuse vehicles, emergency services and pedestrians.
- Impact on the Public Rights of Way (PROW) - Full details of surfacing, route protection, status and maintenance have not been provided.
- Boundary, privacy & unauthorised works - The developer has already carried out unauthorised boundary works before conditions have been discharged.
- Increase in overlooking, reduce privacy and pose risks to neighbouring fences and gardens.
- Drainage - No SuDS or drainage strategy has been submitted.

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- Ecology & knotweed - Ecology conditions have not been met.
- Ecology & site clearance - The GMEU report in outline stage application confirms the site had already been cleared of trees and vegetation before the ecological survey was carried out. This means the survey does not reflect the site's true ecological value or its original habitat.
- Construction Traffic - There is still no Construction Traffic Management Plan. Springside Road is narrow and heavily parked, so construction traffic presents serious access and safety risks.
- The changes now proposed go far beyond a minor variation and would materially alter the basis on which the original approval was granted. They also raise a number of serious planning, legal and procedural issues
- A Section 73 application cannot be used to retrospectively regularise work carried out without approval.
- The contaminated land remediation document states that a Site Verification Report is required after remediation. However, no verification has been provided. Until sampling and testing is complete, this condition cannot be fully discharged.
- None of the previous concerns from residents were addressed and it seems this was going to be granted no matter what.
- Why does the road now need to be narrowed? This is reducing residential parking and is dangerous.
- Traffic pollution alongside a primary school.
- Risk of accidents on a residential street, adjacent to a school will be increased due to additional traffic.
- The proposed reduction of the access road from 6.75m to 5.5m with narrowed footways constitutes a material alteration to the approved means of access and is ultra vires under s.73 Town and Country Planning Act 1990
- Approval would be irrational and susceptible to judicial review for Wednesbury unreasonableness. The application should therefore be refused
- Loss of green spaces - The Bury Local Plan states "One of the strategic objectives within the Places for Everyone Plan is to improve the quality of our natural environment and access to green spaces through: Enhancing special landscapes, green infrastructure. Paragraph 104 of the NPPF is clear that existing open space should not be built on unless criteria are met, which this application does not appear to meet.
- Loss of Green Belt
- Perhaps Bury Council should consider putting double-yellow lines along the north side of the road
- Have the Government's current rules on affordable housing been met?
- This plan seems to be no better than the last one, which was turned down.
- Its expected all other conditions within the Outline Planning Permission dated 3rd August 23 will be covered in subsequent approvals.

Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal as the proposal would not meet adopted standards to the detriment of highway safety and conflict with the s106 Agreement. .

Public Rights of Way Officer - No objection

Pre-start Conditions - Not relevant

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
EN6/3	Features of Ecological Value
EN7/2	Noise Pollution
EN7/5	Waste Water Management

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OL2	Other Protected Open Land
OL2/1	Development on Other Protected Open Land
RT3/4	Recreational Routes
HT2/4	Car Parking and New Development
SPD1	Open Space, Sport and Recreation Provision
SPD6	Supplementary Planning Document 6: Alterations & Extensions
SPD11	Parking Standards in Bury
H4/1	Affordable Housing
RT2/2	Recreation Provision in New Housing Development
SPD5	DC Policy Guidance Note 5: Affordable Housing
JP-S2	Carbon and Energy
JP-S4	Flood Risk and the Water Environment
JP-S5	Clean Air
JP-H3	Type, Size and Design of New Housing
JP-H4	Density of New Housing
JP-G8	A Net Enhancement of Biodiversity and Geodiversity
JP-P1	Sustainable Places
JP-C2	Digital Connectivity
JP-C5	Streets For All
JP-C6	Walking and Cycling
JP-C8	Transport Requirements of New Development
JP-G1	Landscape Character

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.

Highway issues

Background

Springside Road is an adopted highway up to the point that it reaches the end house No 91, whereby it then changes to an unadopted single lane access to serve Bank Top Farm. The access though the site and beyond is also unadopted and carries the PRoW (160BUR)

Currently, the adopted highway provides turning facilities at the end of Springside Road for vehicles to turn around. This turning area would be needed to form the new access, and as such the ability for vehicles to turn round within the limits of the adopted highway would be affected. The other factor which was taken into account was that the access road and PRoW serves properties and farmsteads to the west of the site. (hence the indicative layout of houses proposed to be positioned either side of the access lane).

As such, the previously approved scheme proposed to provide a turning head within the development site. To ensure this would be deliverable, available and maintained for public access at all times, the internal road and turning head would need to be adopted and therefore designed to an adoptable standard. The scheme also proposed to widen the access route to 6.75m as this access route would need to serve both the new residential development and Springside farm and associated agricultural vehicles. The status of the PRoW would not be affected and would remain open and accessible.

A new pedestrian route was also proposed to be created along the south and western boundary of the site.

The indicative site layout which was provided demonstrated that in principle the above could be achieved.

The previous scheme was therefore considered acceptable. The mechanism to ensure that the internal road would be delivered to an adoptable standard was secured through a S106 legal agreement to which the applicant agreed which required drawings identifying the highway works to be submitted and approved by the LPA prior to a Reserved Matters application in addition to securing the certainty of the applicant to enter into the Highways Agreement.

Given the development would re-provide an adopted highway for vehicles to turn round and with the improvement works to the site entrance, the Highway Section raised no objection in principle, subject to conditions and the completion of the S106 Agreement and the application was approved.

Proposed amendment

This application proposes to reduce the width of the access road through the site. The previously approved 6.75m wide roadway on the bend into the site would be retained but

would narrow to 5.5m within the site. It is also proposed to provide 2m wide footways either side of the road for pedestrians although this would reduce to 600mm round the turning head within the site.

The applicant states that the proposed amendments would be in accordance with Manual for Streets (MfS) standards.

The proposed extension to Springside Road would not be acceptable as it would not retain the current width of the adopted highway or provide adequate, adoptable arrangements at the turning head. The proposal to provide the minimum width of 5.5m would not be acceptable as this extension of the adopted highway would not just serve the residential properties proposed, it would also have to serve as the access to the large farm and any other parcels of land that may have rights of access over the currently private access road.

The proposal would not meet the Highway Authority's adoption standards especially in the vicinity of the turning head where there would be no footway around the westerly side of it and the scheme would go against the requirement to maintain the existing carriageway width on Springside Road.

It is also premature to apply to discharge the condition with reference to what the proposed housing layout will look like, how it relates to this narrower access road and how each plot would be accessed (especially near the turning head, which would be subject to a reserved matters application).

The applicant also states that the 2m wide footways would be a betterment to the existing situation where there is currently no path. However, the previously approved scheme also provided 2m wide footways so the proposal would be no different in bettering what has already been approved.

The proposal would also conflict with the s106 legal obligation which the applicant would not be able to fulfill.

As such, the variation of condition application would not be supported by the Highway Authority and is recommended for refusal.

Response to objectors

The site already benefits from an outline approval for 12 dwellings and as such the principle for a residential development has been accepted.

The application relates to highway issues and specifically condition 12 and not issues relating to the principle of the use of land, ecology, landscaping, contaminated, drainage or traffic impacts.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposals indicated on the submitted plans to extend the adopted highway limits of Springside Road to serve the proposed development, maintain access to the properties and agricultural uses to the west and provide a replacement, adoptable turning facility do not meet the adoption standards of the Highway Authority. As such, the proposed access arrangements would not satisfactorily serve the proposed development and would not be acceptable for adoption by the Council, which would be detrimental to highway safety, would not maintain the free flow of traffic on the adopted highway and would not maintain the integrity of the adopted highway, in conflict with both the requirements of Condition No. 12 of planning permission 68815 and the S106 Agreement entered into. The proposed development would therefore be contrary to policies H2/2 - The Layout of New

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Residential Development, JP-C5 - Streets for All, JP-C6 - Walking and Cycling and JP-C8 - Transport Requirements of New Development.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	16/12/25	DM	18/12/25