

NOTICE OF REFUSAL OF PLANNING PERMISSION

Town and Country Planning Act 1990 Town and Country Planning (Development Management Procedure) (England) Order 2015

To:

Mr Michael Ainsworth
MADP
11 Woodvale Crescent
Bingley
West Yorkshire
Keighley
BD16 4AJ

On Behalf Of:

Mr Konrad Wilk
31 March Drive
Bury
BL8 1XQ

PART 1 - Particulars of Application

Application Number: 69656

Date of Registration: 30/05/2023

Proposal:

Erection of 4 no. dwellings and community facilities/recreation area with associated parking and landscaping

Location:

Land at Kingston Close, Bury, BL8 2EJ

PART 2 - Particulars of Decision

The Bury Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been **REFUSED** for the carrying out of the development referred to in Part 1 hereof for the following reasons:-

- 1 The proposed development would result in the loss of recreation land which currently provides valuable open space provision in association with an established residential development and for the residents it serves and which would therefore be seriously detrimental to the residential and visual amenities of the local residents. The applicant has failed to demonstrate that alternative provision of equivalent community benefit would be provided, that the site is surplus to requirement or that recreation would be retained and enhanced through redevelopment of a small part of the site. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies RT1/1 - Protection of Recreation Provision in the Urban Area, EN1/2 - Townscape and Built Design, H2/2 - The Layout of New Residential Development and Paragraph 99 of the NPPF.
- 2 The proposed access, parking and turning facilities are sub-standard and are likely to lead to vehicles parking and carrying out manoeuvres on the adjacent estate roads and in close proximity to the Kingston Close/Finchley Close junction, to the detriment of the free flow of traffic and road safety. The proposed development would therefore be contrary to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.

- 3 The application and submitted plans contain inconsistent and insufficient, topographical survey based information to properly assess the following:
- Impact any intensified pedestrian access to/egress from the 'community facilities/ recreation area' would have on Kingston Close or whether the provision of measures to protect children from entering the carriageway are required, in the interests of pedestrian safety.
 - Physical impact of the development on the adjacent adopted highways;
 - Retention of adequate visibility splays in accordance with the standards in Manual for Streets at the junctions of Kingston Close with Newham Drive and Finchley Close with Kingston Close;
 - Retention of adequate levels of forward visibility on Kingston Close in accordance with the standards in Manual for Streets;
 - Provision of adequate visibility splays in accordance with the standards in Manual for Streets at the junction of the proposed accesses with Kingston Close;
 - Provision of porous/permeable driveway materials and/or measures to prevent the discharge of surface water onto the adjacent adopted highway;
 - Provision of in-curtilage bin storage facilities at each plot in accordance with Waste Management's 'Guide to Refuse Collection Requirements & Storage Methods for New Developments'.
- The proposed development would therefore be contrary to Bury Unitary Development Plan Policies H2/2 - The Layout of New Residential Development, HT2/4 - Car Parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.
- 4 The application and submitted plans contains insufficient information to enable them to be properly assessed with regards to the siting and impact of the proposed development and associated structures/hardstandings/foundations in relation to the main water pipe which crosses the site. The proposed development would therefore be contrary to Bury Unitary Development Plan policies H2/2 - The Layout of New Residential development, EN1/2 - Townscape and Built Design and the principles of the NPPF.
- 5 The design of the proposed dwellings, by virtue of the disproportionate depth of roof and pitched roof form would result in an unbalanced and discordant appearance within the streetscene form which would be detrimental to the visual amenity of the area. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: H2/1 - The Form of New residential Development and EN1/2 - Townscape and Built Design.
- 6 The application and submitted plans contain insufficient and conflicting information with regards to the proposals to provide recreational facilities as identified as 'Recreational Area' on the proposed site plan dwg 212 rev D to enable them to be properly assessed.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy

Framework.

The following policies of the Bury Unitary Development Plan, National and Regional Government were considered relevant:

NPPF	National Planning Policy Framework
RT1/1	RT1/1 - Protection of Recreation Provision in the Urban Area
H1/2	H1/2 - Further Housing Development
H2/1	H2/1 - The Form of New Residential Development
H2/2	H2/2 - The Layout of New Residential Development
EN1/2	EN1/2 - Townscape and Built Design
EN5/1	EN5/1 - New Development and Flood Risk
HT2/4	HT2/4 - Car Parking and New Development
HT6/2	HT6/2 - Pedestrian/Vehicular Conflict
SPD6	Supplementary Planning Document 6 - Alterations and Extensions to Residential Properties.
SPD11	Development Control Policy Guidance Note 11 - Parking Standards in Bury

This decision relates only to the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Applicant Plan Numbers:

Existing site plan/location plan dwg 111 rev C; Existing topographical survey dwg 112; Proposed site plan dwg 212 rev D; Proposed landscaping plan dwg 213 rev B; Proposed drainage plan dwg 214 rev B; Proposed plots 1&2 dwg 250; Proposed plots 3&4 dwg 251

NOTES TO APPLICANT

. United Utilities wish to make the following comments regarding the proposal detailed.

UNITED UTILITIES PROPERTY, ASSETS AND INFRASTRUCTURE

Where United Utilities' assets cross the proposed red line boundary, developers must contact our Developer Services team prior to commencing any works on site, including trial holes, groundworks or demolition. Please see 'Contacts' section below.

Water pipelines

United Utilities will not allow building over or in close proximity to a water main.

A 12 inch water main crosses the site. It must not be built over, or our access to the pipeline compromised in any way. We require an access strip as detailed in our 'Standard Conditions for Works Adjacent to Pipelines', which can be found on our website:

<https://www.unitedutilities.com/builders-developers/your-development/planning/building-over-or-working-near-our-assets/working-near-our-pipes/>. The applicant must comply with this document to ensure pipelines are adequately protected both during and after the construction period.

Following our review of the proposed site layout, the scheme is not acceptable to United Utilities and therefore we must OBJECT at this time. The applicant should contact Sara Livesey in Water Developer Services (DeveloperServicesWater@uuplc.co.uk) at their earliest convenience and evidence be submitted as part of the planning application that the water main has been accurately located by way of appropriate survey. As the dwellings are (as indicated on the proposed plans) to be located directly on the edge of the easement, should the pipe not be positioned as shown, it may result in encroachment which is

unacceptable. The proposal also shows drainage services within the easement which has not been agreed.

The acceptability of any proposal is dependent upon the applicant knowing the exact location (line and depth) of the asset in question, confirmed through their site specific investigations. The precise location of United Utilities assets is critical as this could be material to the detail of the final site design; including any proposed crossings of the asset with either above or below ground features (including utility services). Any solution involving the diversion of this asset must be agreed with Water Developer Services in writing.

According to our records there is an easement crossing the proposed development site which is in addition to our statutory rights for inspection, maintenance and repair. The easement dated 23/08/1956 UU Ref: P355 has restrictive covenants that must be adhered to. It is the applicant's responsibility to obtain a copy of the easement document, available from United Utilities Legal Services or Land Registry. The applicant must comply with the provisions stated within the document.

Should the Council deem it appropriate to grant planning permission irrespective of our objection, we request the following condition is attached to any planning consent along with an informative copy of this letter in full:

CONDITION:

No construction shall commence (including any earthworks) until details of the means of ensuring the water main that is laid within the site boundary is protected from damage as a result of the development have been submitted to and approved by the Local Planning Authority in writing. The details shall include a survey that identifies the exact location of the water main, the potential impacts on the water main from construction activities (including any construction compound) and identify mitigation measures, including a timetable for implementation, to protect and prevent any damage to the water main both during construction and post completion of the development.

Any mitigation measures shall be implemented in full prior to commencement of development in accordance with the approved details and timetable and shall be retained thereafter for the lifetime of the development.

In the event that a diversion of the water main is necessary, written evidence shall be submitted to demonstrate that diversion works for the water main(s) have been agreed with the relevant statutory undertaker and that the approved works have been undertaken prior to the commencement of development.

Reason: In the interest of public health and to ensure protection of the public water supply.

We also request the removal of General Permitted Development Rights to prevent any further extensions or buildings to the rear of all plots to protect the safety of the existing water main and the occupants.

Wastewater pipelines

United Utilities will not allow a new building to be erected over or in close proximity to a public sewer or any other wastewater pipeline. This will only be reviewed in exceptional circumstances.

Nb. Proposals to extend domestic properties either above, or in close proximity to a public sewer will be reviewed on a case by case basis by either by a building control professional or following a direct application to United Utilities (see our website for further details).

Important information regarding water and wastewater pipelines and apparatus
It is the applicant's responsibility to investigate and demonstrate the exact

relationship between United Utilities' assets and the proposed development.

A number of providers offer a paid for mapping service, including United Utilities (see 'Contacts' section below). The position of the underground apparatus shown on water and wastewater asset maps is approximate only and is given in accordance with the best information currently available. Therefore, we strongly recommend the applicant, or any future developer, does not rely solely on the asset maps to inform decisions relating to the detail of their site and instead investigates the precise location of any underground pipelines and apparatus. Where additional information is requested to enable an assessment of the proximity of proposed development features to United Utilities assets, the proven location of pipelines should be confirmed by site survey; an extract of asset maps will not suffice. The applicant should seek advice from our Developer Services team on this matter. See 'Contacts' Section below. United Utilities Water will not accept liability for any loss or damage caused by the actual position of our assets and infrastructure being different from those shown on asset maps.

Developer's should investigate the existence and the precise location of water and wastewater pipelines as soon as possible as this could significantly impact the preferred site layout and/or diversion of the asset(s) may be required. Unless there is specific provision within the title of the property or an associated easement, any necessary disconnection or diversion of assets to accommodate development, will be at the applicant/developer's expense. In some circumstances, usually related to the size and nature of the assets impacted by proposals, developers may discover the cost of diversion is prohibitive in the context of their development scheme.

Any agreement to divert our underground assets will be subject to a diversion application, made directly to United Utilities. This is a separate matter to the determination of a planning application. We will not guarantee, or infer acceptance of, a proposed diversion through the planning process (where diversion is indicated on submitted plans). In the event that an application to divert or abandon underground assets is submitted to United Utilities and subsequently rejected (either before or after the determination of a planning application), applicants should be aware that they may need to amend their proposed layout to accommodate United Utilities' assets.

Where United Utilities' assets exist, the level of cover to United Utilities pipelines and apparatus must not be compromised either during or after construction and there should be no additional load bearing capacity on pipelines without prior agreement from United Utilities. This would include sustainable drainage features, earth movement and the transport and position of construction equipment and vehicles.

Any construction activities in the vicinity of United Utilities' assets, including any assets or infrastructure that may be located outside the applicant's red line boundary, must comply with national building and construction standards and where applicable, our 'Standard Conditions for Works Adjacent to Pipelines', a copy of which is available on our website. The applicant, and/or any subsequent developer should note that our 'Standard Conditions' guidance applies to any design and construction activities in close proximity to water pipelines and apparatus that are no longer in service, as well as pipelines and apparatus that are currently operational.

It is the applicant's responsibility to ensure that United Utilities' required access is provided within any proposed layout and that our infrastructure is appropriately protected. The developer would be liable for the cost of any damage to United Utilities' assets resulting from their activity.

DRAINAGE

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) advise that surface water from new developments should be

investigated and delivered in the following order of priority:

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.

The applicant should consider their drainage plans in accordance with the drainage hierarchy outlined above.

Please note, United Utilities is not responsible for advising on rates of discharge to the local watercourse system. This is a matter for discussion with the Lead Local Flood Authority and / or the Environment Agency (if the watercourse is classified as main river).

In the event that the applicant, or any subsequent developer, approaches United Utilities regarding a connection for surface water to the public sewer, it is likely that we will request evidence that the drainage hierarchy has been fully investigated and why more sustainable options are not achievable. This will be managed through either our 'S106 Sewer Connections' or 'S104 Adoptions' processes.

If the applicant intends to offer wastewater assets forward for adoption by United Utilities, their proposed detailed design will be subject to a technical appraisal by our Developer Services team and must meet the requirements outlined in 'Sewerage Sector Guidance Appendix C – Design and Construction Guidance v2-2' dated 29 June 2022 or any subsequent iteration. This is important as drainage design can be a key determining factor of site levels and layout.

The applicant should not presume that the principles outlined within a drainage strategy will meet the detailed requirements for a successful adoption application. We strongly recommend that no construction commences until the detailed drainage design, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

WATER AND WASTEWATER SERVICES

If the applicant intends to receive water and/or wastewater services from United Utilities they should visit our website or contact the Developer Services team for advice at the earliest opportunity. This includes seeking confirmation of the required metering arrangements for the proposed development. See 'Contacts' Section below.

If the proposed development site benefits from existing water and wastewater connections, the applicant should not assume that the connection(s) will be suitable for the new proposal or that any existing metering arrangements will suffice. In addition, if reinforcement of the water network is required to meet potential demand, this could be a significant project and the design and construction period should be accounted for.

In some circumstances we may require a compulsory meter is fitted. For detailed guidance on whether the development will require a compulsory meter please visit <https://www.unitedutilities.com/my-account/your-bill/our-household-charges-20212022/> and go to section 7.7 for compulsory metering.

To promote sustainable development United Utilities offers a reduction in infrastructure charges for applicant's delivering water efficient homes and draining surface water sustainably (criteria applies). For further information, we strongly recommend the applicant visits our website when considering any water or wastewater design

<https://www.unitedutilities.com/builders-developers/your-development/planning/building-sustainable-homes/>

Business customers can find additional information on our sustainable drainage incentive scheme at

<https://www.unitedutilities.com/Business-services/retailers/incentive-schemes/>

To avoid any unnecessary costs and delays being incurred by the applicant or any subsequent developer, we strongly recommend the applicant seeks advice regarding water and wastewater services, and metering arrangements, at the earliest opportunity. Please see 'Contacts' Section below.

CONTACTS

Website

For detailed guidance on water and wastewater services, including application forms and the opportunity to talk to the Developer Services team using the 'Live Chat' function, please visit: <http://www.unitedutilities.com/builders-developers.aspx>

Email

For advice on water and wastewater services or to discuss proposals near to pipelines, email the Developer Services team as follows:

Water mains and water supply, including metering -

DeveloperServicesWater@uuplc.co.uk

Public sewers and drainage - SewerAdoptions@uuplc.co.uk Telephone - 0345 072 6067

Property Searches (for asset maps):

A number of providers offer a paid for mapping service including United Utilities. For more information, or to purchase a sewer and water plan from United Utilities, please visit <https://www.unitedutilities.com/property-searches/>

Water and sewer records can be viewed for free at our Warrington Head Office by calling 0370 751 0101. Appointments must be made in advance. Public sewer records can be viewed at local authority offices. Arrangements should be made directly with the local authority.

The Environmental health Contaminated land Section have advised a Preliminary Risk Assessment/Desk Top Study would be required for a proposed development for 4 no dwellings.

Signed:



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On behalf of the Council

Date of Decision: 21/07/2023