

DELEGATED REPORT

Report by Helen Leach	Date of report: 06/10/2022	Ref: 68541/FUL
Registration: 09/06/2022	LDFC: 26/07/2022	Expiry Date: 04/08/2022
Site Visit: 15/07/2022	Site Notice: 05/07/2022	Press Date: 07/07/2022
Objections: 0	Con Area: N/A	Adv Type: ARW
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: Construction of an earth embankment to connect an existing low flood defence wall to the north to high ground to the south - the structure will act to complete a flood defence structure to the private premises to the north

Location: Land to west of Bury Road/WarhRoad/Hardys Gate/York Street, Radcliffe, M26 2GL

Description

The application site is located to the south of a logistics building and to the north of a development site off York Street. The site was cleared of buildings a number of years ago and the site has an extant permission for residential development, which includes the provision of a raised development platform. The raised platform is currently under construction. The logistics building is in operation on a 24 hour basis and is accessed from Bury Road.

The River Irwell forms the boundary to the east of the site and there are commercial buildings beyond. There is a Public Right of Way to the west with Swan lodge beyond.

Proposal

The proposed development forms part of a flood defence scheme for Radcliffe and Redvales. Phase 1 of the scheme, which involved the erection of bunds and walls at Close Park and Morris Street was approved in March 2019 and works are substantially complete. Phase 2 was split into three applications (64788, 64789, 65171) and these applications have been approved in December 2019 and July 2020. This scheme forms part of phase 3.

The proposed development involves the construction of an earth bund to connect from the existing low flood defence wall near the logistics building to the high ground to the south.

The proposed bund would measure 60 metres in length and would be 2 metres in height. The proposed bund would be constructed from imported slightly cohesive granular material. Access would be taken from Bury Road along the existing access road to the logistics site.

Relevant Planning History

56744 - Hybrid full planning application for the erection of 153 no. dwellings together with associated works including the laying out of public open space, and the undertaking of engineering operations to remediate the site, raise the levels, construct an emergency access and development platform for future commercial development; Outline planning application for erection of a Class B1/B2 & B8 development of 7435 m2 at land at Bury Road/York Street, Radcliffe. Approved with conditions - 9 October 2015

60418 - Variation of conditions 20,27,28,29 & 35 of approved planning application 56744 relating to: 20 & 35- surface water drainage scheme, 27- samples of materials, 28- lifetime homes, 29- footpath and cycle route to vary the timing of submission for implementation at land at Bury Road/York Street, Radcliffe. Approved with conditions - 13 December 2018.

63361 - Reserved matters approval for the layout, appearance and landscaping (Matters of scale and access have already been approved) at land at Bury Road/York Street, Radcliffe. Approved with conditions - 15 March 2019.

65847 - Full planning permission for 201 no. dwellings, together with associated parking, landscaping, public open space, drainage, the laying out of roads and footways and other associated works including engineering operations to create flood defences and the development platform at land at York Street/Bury Road, Radcliffe. Received - 17 August 2020.

66353 - Construction of a temporary (4 year) flood defence earth bund approximately 240m in length with a maximum height of 3.5 metres at land to the north of York Street, Radcliffe. Approved with conditions - 14 June 2021.

68368 - Full planning permission for 211 dwellings, together with associated car parking, landscaping, public open space, drainage, the laying out of roads and footways and other associated works including engineering operations to create flood defences and the development platform at land at York Street/Bury Road, Radcliffe. Received - 24 May 2022.

Linked schemes

63559 - A series of sheet piled walls and embankments, on land within Close Park and land to the south of Morris Street, which form part of a wider scheme to improve flood protection along the River Irwell. Approved with conditions - 28 March 2019.

64788 - Erection of retaining walls & sheet piled walls between 1m & 3m in height to form a flood defence between the Metrolink bridge and Warth Bridge at land to south of Warth Industrial Estate, Warth Road, Radcliffe. Approved with conditions - 17 December 2019.

64789 - A series of sheet piled walls, concrete walls and earth embankments across 5 sites at land to west of Metrolink line at Warth Road; land to west of Bury Road; land to east of Whitefield Road; land to west of Hardy's Gate Bridge and land to north of York Street, Bury. Approved with conditions - 17 December 2019.

64790 - Proposal A - A series of sheet piled walls and concrete walls across 4 site.
Proposal B - Erection of an embankment and retaining wall at land to west of Metrolink line at Warth Road at Land to west of Metrolink line at Warth Road; Land to west of Bury Road; Land to east of Whitefield Road; Land to west of Hardy's Gate Bridge and Land to north of York Street, Bury. Split decision - 22 January 2020.

65171 - Various flood defence proposals including sheet piled walls, concrete L-walls and earth embankments, finished in a manner consistent with the local aesthetic at Land to west of Metrolink line at Warth Road; Land to west of Bury Road; Land to east of Whitefield Road; Land to west of Hardy's Gate Bridge and Land to north of York Street, Bury. Approved with conditions - 28 July 2020.

65256 - Non-material amendment following grant of planning permission 64788: Localised modifications to the defence wall alignment. Specifically, this includes proposals to reposition the defence further away from the north corner of the existing brick building to minimise disturbance of the existing river walls, improve clearance and reduce risk to the existing building. In addition, the section downstream of Bealey's Weir connecting to the Warth Road Bridge is proposed to be repositioned to now align with the front of the existing river wall at land to south of Warth Industrial Estate, Warth Road, Bury. Approved - 31 March 2020.

65745 - Erection of a wall and earth bund which form part of a wider scheme to improve flood protection along the River Irwell at Bury Grammar School playing fields, Buckley Wells, Bury. Approved with conditions - 14 September 2020.

65746 - Raising the upstream parapet level along the full extent of Hardy's Gate Bridge by 0.25 metres to provide additional flood protection; Strengthening of the parapet by reinforcing dowel bars; Installation of twin stainless steel debris cables spanning the river immediately upstream of the bridge at Hardy's Gate Bridge, Dumers Lane, Radcliffe. Approved with conditions - 14 September 2020

65881 - Non material amendment following grant of planning permission 64788: Localised realignment of the defence wall to be approximately 2m further back from the river edge. Wall construction and finish to remain unchanged at land to south of Warth Industrial Estate, Warth Road, Bury. Approved - 18 September 2020

66231 - Variation of condition 2 (approved plans) for the realignment of the flood defence adjacent to Hardys Gate Bridge at Land to west of Metrolink line at Warth Road; Land to west of Bury Road; Land to east of Whitefield Road; Land to west of Hardy's Gate Bridge and Land to north of York Street, Bury. Approved with conditions - 21 January 2021

66459 - Construction of an earth bund within existing channel, approximately 20m in length with a maximum height of 2.5m. Installation of a 600mm culvert to maintain water flow. 100mm headwalls at each side will be included to allow for galvanised steel handrail at land to west of Bury Point, Bury Road, Radcliffe. Received - 22 January 2021.

66570 - Non-material amendment following grant of planning permission 65171: Minor re-alignment of the sheet piles forming the flood defence wall and relocation of the access ramp at land near Hardys Gate Bridge, Radcliffe. Approved - 12 March 2021

66602 - Non material amendment following approval of application 64788: Change of external cladding finish on wet-side of the piled defence wall to a plain-faced steel panel finish with industrial look steel rivet finishing to exposed corner. Cladding to be revised to extend full height. Finish to be left as weathered steel at land to south of Warth Industrial Estate, Warth Road, Bury. Approved - 15 March 2021.

Publicity

The neighbouring properties were notified by means of a letter on 30 June 2022 and a press notice was published in the Bury Times on 7 July 2022. Site notices were posted on There has been no response.

The neighbouring properties were notified about a change to the access arrangements by means of a letter on 31 August 2022.

3 letters have been received, which have raised the following issues:

- Work has already started on this application.
- Material is being moved to the field opposite and there are invasive species present, which are not being treated
- There are endless road works near my property.
- The works on York Street have been in full swing since the start of lockdown and have progressed to being a 2 metre high pile of dirt.
- There is dirt and slime on the road, residents cars and the grids back up each time it rains.

The objections refer to a residential development, which involves the provision of a raised platform on York Street (60418) and these works are entirely separate to this proposal. As such, the objections are not material to this proposal.

The issues relating to invasive species not being treated and dirt on roads has been passed to the enforcement team to look into.

Statutory/Non-Statutory Consultations

Traffic Section - No objections, subject to the inclusion of condition relating to a traffic

management plan.

Drainage Section - No response.

Environmental Health - Contaminated Land - No response.

Environmental Health - Pollution Control - No response.

Environment Agency - No response.

United Utilities - No response.

The Coal Authority - No objections, subject to the inclusion of informative relating to coal mining.

GM Ecology Unit - No objections, subject to the inclusion of conditions relating to landscaping and an informative relating to nesting birds.

Canal & River Trust - No comments to make

Transport for GM - No response.

Public Rights of Way Officer - No response.

Cadent Gas Ltd - No response.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

EC1/1	Land for Business (B1) (B2) (B8)
EC2/1	Employment Generating Areas
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN1/11	Public Utility Infrastructure
EN3	Archaeology
EN5	Flood Protection and Defence
EN5/1	New Development and Flood Risk
EN6	Conservation of the Natural Environment
EN6/3	Features of Ecological Value
EN7	Pollution Control
EN7/1	Atmospheric Pollution
EN7/2	Noise Pollution
EN7/5	Waste Water Management
EN8/2	Woodland and Tree Planting
OL5/2	Development in River Valleys
RT1/1	Protection of Recreation Provision in the Urban Area
RT3/4	Recreational Routes
HT2/4	Car Parking and New Development
SPD6	Supplementary Planning Document 6: Alterations & Extensions
NPPF	National Planning Policy Framework

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) and 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 Policy 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.

Principle - River valley - Policy OL5/2 states that within the river valleys, new buildings or the change of use of existing buildings or the change of use of land will not be permitted. The only exceptions considered acceptable will be those where the development would not lead to the division of the open parts of the valleys into sections and it falls within the terms below:

- where the area is designated as Green Belt the established Green Belt policies will apply:
- or
- where the area does not form part of the Green Belt, at least one of the following circumstances is met:
 - that the development represents limited infilling to an established valley settlement or industrial area;
 - that it is an extension to, or renewal of an existing industry, where the economic and employment factors are of overriding importance;
 - that the development is required in association with an outdoor recreation or appropriate tourist facility;
 - that the development is limited and will form part of, and be essential to, the maintenance of the provision and improvement of public services and utilities;
 - any other development that would be appropriate in a Green Belt.

The application site is located in the River Valley and the policy is clear that if the proposed development would be appropriate in the Green Belt, it would comply with the Policy regarding the river valley. The proposed development would involve the erection of a earth embankment to act as a flood defence. As such, the proposed development would be an engineering operation and would be appropriate development within the Green Belt as defined in paragraph 146 of the NPPF.

Design and layout - The proposed flood defence would contain a bund, which would be a maximum of 2 metres in height. The bund would be constructed from imported slightly cohesive granular material and following completion would be seeded with a meadow mixture for wetlands, which would match the surrounding area. The proposed flood defence would be in place to ensure the residents of York Street are protected from flood risk until the residential platform for the approved residential development has been completed. As such, the proposed development would not be a prominent feature in the locality and would be in accordance with Policies EN1/2 and EN1/3 of the Bury Unitary Development Plan.

Impact upon amenity - The nearest properties would be on York Street and would be over 200 metres away. As such, the proposed development would not have a significant adverse impact upon the amenity of the occupiers of the nearby building.

Noise - Access to the site for the proposed development would be taken from Bury Road via the existing access to the logistics building. It is acknowledged that there would be some adverse impact upon the amenity of the neighbouring properties through noise and disturbance during implementation only. However, the potential for noise and disturbance would be mitigated by the restriction of the hours of delivery from 09.00 to 15.00 and hours of work between 08.00 and 18.00 on Monday to Friday and the dwellings would be over 200 metres away. As such, it is considered that the wider benefits of the flood defence scheme would outweigh the temporary disturbance to the amenity of the neighbouring properties during construction.

Flood risk - A flood risk assessment has been submitted as part of the application. The FRA responds to the wider flood defence scheme as well as the respective phases. The FRA indicates that the full scheme would provide significant benefits to 873 residential properties within the Radcliffe area. Therefore, the proposed development would not increase flood risk and would offer significant benefits to over 800 properties in Radcliffe. The proposed development would be in accordance with Policy EN5/1 of the Bury Unitary Development Plan and the NPPF.

Ecology - A phase 1 habitat survey and associated preliminary ecological appraisal report (PEAR) was undertaken in July 2020 and a further walkover survey was conducted on April 2022.

Otter - It is accepted that there are otters present in the River Irwell in the vicinity of this site. However, given that earthworks have now occurred, the level of risk will have been reduced. GM Ecology Unit has no objections, subject to the inclusion of conditions relating to reasonable avoidance measures.

Nesting Birds - GM Ecology Unit has no objections, subject to the inclusion of an informative relating to nesting birds.

Invasive Species - Giant hogweed, Himalayan balsam and Japanese knotweed were present within the working area. GM Ecology Unit has no objections, subject to the inclusion of conditions relating to invasive species.

Protection of River Irwell - There are risks during construction of negative impacts to the River Irwell from debris, sediment and pollutants. GM Ecology Unit has no objections, subject to the inclusion of conditions relating to previously approved protection measures.

Therefore, the proposed development would not harm a protected species and would be in accordance with Policies EN6 and EN6/3 of the Bury Unitary Development Plan.

Highways issues - The access to the site would be from York Street and a construction management plan has been provided that would ensure no mud passes onto the road. The Traffic Section has no objections, subject to the inclusion of a condition relating to the construction management plan. Therefore, the proposed development would not be

detrimental to highway safety and would be in accordance with Policies EN1/2 and HT6/2 of the Bury Unitary Development Plan.

Other considerations - The proposed development would close the gaps between the consented residential platform and the flood defences already constructed to enable the residential properties on York Street to be protected from flood water.

There are two current applications with the LPA for residential development on this site and the proposed residential platform would act as a flood defence and protect the existing dwellings. However, this application has not yet been determined and construction has yet to be completed.

The proposed development would not inhibit any residential development on the site as the bund could be subsumed within the residential platform/construction works.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. 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 three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings numbered ENV0000389C-BMM-DZ-4BP-DR-T-0805017 P01, ENV0000389C-BMM-DZ-4BP-DR-T-0213657 P03 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 Bury Unitary Development Plan listed.
- 3 Following the provisions of Condition 3 of permission 66353, 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 The development hereby approved shall be carried out in accordance with the scheme for the eradication of Japanese Knotweed and Himalayan Balsam approved under condition 6 of permission 66353.
Reason. To ensure the removal of Japanese Knotweed and Himalayan Balsam in the interest of UDP Policy EN9 - Landscape and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.

- 6 The development hereby approved shall be carried out in accordance with the method statement to protect the River Irwell approved as part of condition 7 of permission 66353. All measures will be implemented and maintained for the duration of the construction period in accordance with the approved details.

Reason. To ensure no debris, sediment or pollutants enter the River Irwell pursuant to Policy EN6 - Conservation of the Natural Environment of the Bury Unitary Development Plan.

- 7 The site access arrangements, measures and facilities detailed in the approved 'Traffic Management Plan - Radcliffe & Redvales FRMS Phase 2' dated 09.09.2022, along with measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the sites and measures to minimise dust nuisance caused by the operations, shall be adhered to throughout the construction period.

Reason. 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 Bury Unitary Development Plan Policies EN1/2 - Townscape and Built Design and HT6/2 - Pedestrian/Vehicular Conflict.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HL - 06/10/2022			