

DELEGATED REPORT

Report by Helen Leach	Date of report: 18/09/2020	Ref: 65881/NON
Registration: 26/08/2020	LDFC: 23/09/2020	Expiry Date: 23/09/2020
Site Visit: 03/09/2020	Site Notice: N/A	Press Date: N/A
Objections:	Con Area: N/A	Adv Type: N/A
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: 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.

Location: Land to south of Warth Industrial Estate, Warth Road, Bury

Description

The application site relates to the northern bank of the River Irwell, which slopes down to the river. The site forms the southern boundary with the Warth industrial estate and extends from the metrolink bridge to Warth bridge on Bury/Radcliffe Road. There are two weirs located in the river. The first is called Hutchinson's Weir and is located near the Metrolink bridge and the second is larger and known as Bealey's Weir, which is located near Warth Bridge. There is vegetation along the embankment and there is a blue fence at the top of it.

There are industrial units to the north, which form part of the Warth Industrial Estate and dwellings beyond. Warth Bridge is located to the west with residential properties beyond. There is open land to the south of the river, which includes a public right of way with a garden centre beyond. Immediately to the south of Bealey's Weir is a hydropower station and the Public Right of Way passes to the south of this building. The Metrolink bridge is located to the east with open land beyond.

Planning consent was granted in December 2019 for the erection of a series of concrete and sheet piled walls to create a flood defence along the northern bank of the River Irwell. The proposed flood defence would tie into the Metrolink bridge and continue east adjacent to the Warth Business Park and tie into Warth bridge. The height of the wall would vary between 1 metre and 3 metres.

The proposed development involves the realignment of the defence wall 2 metres back from the river edge. The type of wall and the finish will be as previously approved and would be between 1 metre and 3 metres in height.

Relevant Planning History

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.

Works have commenced on phase 1.

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

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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 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.

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. Received - 20 July 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. Received - 20 July 2020

Publicity

None required.

Statutory/Non-Statutory Consultations

GM Ecology Unit - No response.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN2	Conservation and Listed Buildings
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
EN7/2	Noise Pollution
EN7/5	Waste Water Management
EN8/2	Woodland and Tree Planting
OL5/2	Development in River Valleys
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.

Design and layout - The overall flood defence would be a mixture of fencing, bunds and walls, which would act as a barrier and prevent floodwater from causing damage to the residential properties.

The proposed development would vary between 1 metre and 3 metres in height along the northern river bank. The height of the proposed defences is the minimum required to maintain an effective defence. The proposed development would relocate the proposed wall some 2 metres closer to the Warth Road industrial estate. The proposed wall and finishes would be the same as previously approved. As such, the proposed development would not change the character of the development or impact upon the wider locality. Therefore, the proposed development would be in accordance with Policies EN1/2 and EN1/3 of the Bury Unitary Development Plan.

Impact upon residential amenity - There are no residential properties within the immediate vicinity and the nearest dwelling would be located on the opposite side of Warth Bridge. The occupiers of these dwellings would be over 35 metres away with significant intervening features and levels and as such, the proposed development would not impact

significantly upon the amenity of these residents.

There are industrial buildings adjacent to the proposed development. However, there are no windows at ground floor level and as such, there would be no adverse impact upon the occupiers of these buildings.

Therefore, the proposed development would not have a significant adverse impact upon the amenity of the occupiers of the adjacent buildings or residential properties.

Ecology - The proposed development would result in the flood defence being located further up the river bank and as such, would have less of an impact upon the protected species. GM Ecology Unit had no objections to the previous alignment. Therefore, the proposed development would not cause harm to the protected species and would be in accordance with Policies EN6 and EN6/3 of the Bury Unitary Development Plan.

Highways issues - The access arrangements would be the same as previously approved. Therefore, the proposed development would not be detrimental to highway safety.

Recommendation: Approve

Conditions and Reasons:

- 1 The proposed amendments would not impact adversely upon the appearance of the development or the amenity of the nearby properties. As such, the proposed development would not be unduly prominent in the locality. The proposed amendments would not have a detrimental impact upon ecology or highway safety and would still be in accordance with the overall principles in terms of the approved application 64788 and the Policies against which this was approved. As such, the application is a non-material amendment.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HL - 18/09/2020		DM	18/09/2020