

DELEGATED REPORT

Report by Tom Beirne	Date of report: 06/05/2026	Ref: 72906/FUL
Registration: 12/03/2026	LDFC: 07/04/2026	Expiry Date: 07/05/2026
Site Visit: 05/05/2026	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIDW

Proposal: Variation of condition 12 of planning permission 70252 (Variation of condition no.12 of planning permission 66958: The approved works shall be implemented to the satisfaction of the Local Planning Authority before the occupation of the final (fourth) dwelling, or, in the event that the approved development as a whole is not completed by 31st January 2026, by that date (whichever is the sooner of those dates):

Remove the requirement for the approved off-site highway improvement works to be completed by 31 January 2026 and replace with a revised date 31st January 2028, whilst retaining the requirement that those works are implemented to the satisfaction of the Local Planning Authority prior to the occupation of the final (fourth) dwelling

Location: Windacre Works, Mather Road, Bury, BL9 6RB

Description

The application relates to the site of the former industrial works site which was granted approval for four detached dwellings fronting Mather Road, currently being constructed.

Immediately to the north is Windacre House, a children's nursery. On the south side is overgrown land which has outline approval for 24no. apartments. To the east of the site is a lodge and to the west, across Mather Road, are the rear gardens of detached residential properties on Cornfield Close.

This variation of condition application relates to condition 12, a highways condition requiring certain highway works to be completed prior to first occupation. The applicant request a change to the wording to allow some flexibility with regard occupation.

The proposed wording is suggested as follows :-

"The approved works shall be implemented to the satisfaction of the Local Planning Authority before the occupation of the final (fourth) dwelling, or, in the event that the approved development as a whole is not completed by 31st January 2028, by that date (whichever is the sooner of those dates)"

Relevant Planning History

61196 - Outline application for residential development of 3 storey apartment scheme comprising of 24 no. units (all matters reserved) - Approve with Conditions 28/03/2018

63056 - Outline application for demolition of existing mill and erection of 4 no. dwellings with details of access, landscaping, layout and scale (appearance reserved matters) - Approve with Conditions 12/10/2018

63406 - Variation of condition no. 11 of planning permission 63056: Demolition of the building shall be carried out under the supervision of a qualified bat consultant/ecologist and in consultation with Natural England. If bats are found, a Method Statement shall be prepared and submitted to the Local Planning Authority, giving details of the mitigation measures to be taken to avoid any possible harm to bats. Reason. Demolition of the building is required by Building Regulations S.78 Dangerous Structure Notice and in order to protect bats pursuant to the NPPF and UDP Policy EN6/3 Features of Ecological Value.
- Approve with Conditions 17/12/2018

64651 - Residential development - No.4 dwellings with formation of access and highway works. - Approve with Conditions 20/05/2020

66958 - Variation of condition 2 following approval of planning permission 64651- increase in internal floor levels, steps to front and new rear and side dormers - Approve with Conditions 19/07/2021

70252 - Variation of condition no. 12 of planning permission 66958 (final part of condition):- existing wording "the approved works shall be implemented to the satisfaction of the Local Planning Authority before the development is first occupied."

Proposed wording :-"The approved works shall be implemented to the satisfaction of the Local Planning Authority before the occupation of the final (fourth) dwelling, or, in the event that the approved development as a whole is not completed by 31st January 2026, by that date (whichever is the sooner of those dates)" - Approve with Conditions 04/01/2024

Publicity

Immediate neighbours notified by letter dated 13/03/2026. No objections received.

Statutory/Non-Statutory Consultations

Traffic Section - Amends to condition recommended to include a specific date..

Pre-start Conditions - N/A

Development Plan and Policies

OL5/2	Development in River Valleys
NPPF	National Planning Policy Framework
EN7	Pollution Control
EN7/3	Water Pollution
EC2/2	Employment Land and Premises
H1/2	Further Housing Development
H2/1	The Form of New Residential Development
H2/2	The Layout of New Residential Development
EN7/3	Water Pollution
HT2/4	Car Parking and New Development
EN1/2	Townscape and Built Design
EN7/1	Atmospheric Pollution
EN5/1	New Development and Flood Risk
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict
RT3/4	Recreational Routes

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.

Condition 12 - The condition was attached to the original approval required the highway works to be completed prior to January 2026 or before first occupation of the fourth/final house. As the applicant/developer is constructing the development slowly - due to various delays, he requires an extension of time a further two years, to January 2028.

Given that there have been no serious problems with the development and relationship with the highway, this extension of time with regard to the extension is considered appropriate and acceptable. The traffic team and footpaths officer have no objection.

The amendment to the condition would be acceptable and complies with UDP Policies listed.

Discharged Conditions - Those conditions that have already been discharged are omitted from the conditions listed.

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 the application process 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:

- 2 This decision relates to the drawings 101.P.PRP 01, 02, 05, 06, 07, 08, 09 and 10 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.
- 6 Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site, and;
The approved contamination testing shall then be carried out and validity evidence (soil descriptions, laboratory certificates, photographs etc) 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.
- 7 All instances of contamination encountered during the development works which do not form part of an approved Remediation Strategy shall be reported to the Local Planning Authority (LPA) immediately and the following shall be carried out where appropriate:
 - Any further investigation, risk assessment, remedial and / or protective works shall be carried out to agreed timescales and be approved by the LPA in writing;
 - A Site Verification Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the development being brought into use.Reason. To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to National Planning Policy Framework Section 15 - Conserving and enhancing the natural environment.
- 8 The landscaping scheme, approved under planning reference 66958, shall be implemented not later than 12 months from the date the buildings are first occupied or within the first available tree planting season, and any trees or shrubs removed, dying or becoming severely damaged or becoming severely diseased within five years of planting shall be replaced by trees or shrubs of a similar size or 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 H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design and and chapter 15 - Conserving and enhancing the natural environment of the NPPF.
- 9 The surface water drainage scheme, approved under planning reference 66958, which shall ensure that there is no infiltration of surface water drainage into the ground where contamination is suspected and based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions, shall be completed in accordance with the approved details. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any

subsequent replacement national standards. In the event of surface water draining to the public surface water sewer, the pass forward flow rate to the public sewer must be restricted to 20 l/s.

Reason: Information not submitted at application stage to ensure a satisfactory means of drainage, promote sustainable development and to manage the risk of flooding and pollution pursuant to Policy EN5/1 - New Development and Flood Risk and Policy EN7/5 - Waste Water Management of the Bury Unitary Development Plan and Section 10 of the National Planning Policy Framework.

- 12 Notwithstanding the details indicated on approved plan reference CB6-02/C, a programme of works with details of the following (to be agreed on site where appropriate) shall be submitted to and agreed in writing by the Local Planning Authority:

- Existing conditions survey of the carriageway abutting the site in the event that subsequent remedial works are required following construction of the development;
- Formation of the proposed site access onto Mather Road/Public Right of Way No. 20, Bury;
- Construction of the new footway, build-outs, bollards and boundary walls adjacent to Mather Road/Public Right of Way No. 20, Bury, incorporating all necessary accommodation works required to tie into existing footways and carriageways;
- Provision of all drainage remedial works on Mather Road, including an ACO drain to an appropriate specification for use in the carriageway;
- Provision of visibility splays in accordance with the standards in Manual for Streets at the back edge of the footway and at the junctions of the proposed site accesses with Mather Road, with no obstructions above the height of 0.6m within them, including all necessary alterations to the boundary wall details submitted;
- Foundation details for all boundary walls;
- A scheme for improvement of the surface of Mather Road between the existing limits of adoption to the south of No. 101 Mather Road to the northerly site boundary.

The approved works shall be implemented to the satisfaction of the Local Planning Authority before the occupation of the final (fourth) dwelling, or, in the event that the approved development as a whole is not completed by 31st January 2028, by that date (whichever is the sooner of those dates).

Reason. To secure the satisfactory development of the site in terms of highway and fire safety, ensure good highway design, ensure the intervisibility of the users of the site and the adjacent highways and maintain the integrity of the adopted highway, all in the interests of highway safety pursuant to the following Policies of the Bury Unitary Development Plan Policy H2/1 - The Form of New Residential Development, H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design.

- 13 The 'Construction Traffic Management Plan' (CTMP), as approved under planning reference 6695, shall confirm/provide the following:

- Access route for demolition/construction traffic from the highway network;
- Hours of operation and number of vehicle movements;
- Arrangements for the turning and manoeuvring of vehicles within the curtilage of the site;
- Parking on site or on land within the applicant's control of operatives' and demolition/construction vehicles together with storage on site of demolition/construction materials.
- Measures to ensure that all mud and other loose materials are not carried on the wheels and chassis of any vehicles leaving the site.
- Measures to minimise dust nuisance caused by the operations.

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/construction period. 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. 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, in the interests of highway safety pursuant to the following Policies of the Bury Unitary Development Plan Policies, H2/1 - The Form of New Residential Development, H2/2 - The Layout of New Residential Development, EN1/2 - Townscape and Built Design.

- 14 The car parking and turning facilities for each dwelling indicated on approved plan reference CB6-02 Revision B shall be implemented in a permeable material and provided before the dwelling to which they relate are first occupied and the areas used for the manoeuvring of vehicles shall subsequently be maintained free of obstruction at all times.

Reason. To mitigate the discharge of water onto the adjacent adopted highway, minimise the standing and turning movements of vehicles on the highway and ensure adequate off street car parking provision in the interests of road safety.

<u>Case Officer</u> TB 6/5/26	<u>Date</u>	<u>Sign off Officer</u> DM 06.05.2026	<u>Date</u>
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