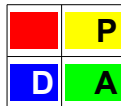


Section 73 of the Town and Country Planning Act 1990

**Application to vary a condition imposed upon Planning approval ref: 70252
dated 4 January 2024**

Proposal:

**Residential development at Windacre Works, Mather Road,
Bury, BL9 6RB**



March 2024

Prepared by Hartley Planning and Development Associates Ltd

Planning history and current proposal

Application No. 64651 for 4 dwellings at the above site was approved on 20 May 2020 subject to conditions.

Application no.66958 for a variation to condition no. 2 under S73 of the Town and Country Planning Act (the Act) relating to design changes was approved on 19 July 2021 subject to conditions. The planning approval created a new, separate approval which stands alone in its own right.

Application no. 70252 for a variation to a condition relating to the above approval and again under S73 of the Act was approved on 4 January 2024. It too created a new, separate approval which stands alone in its own right.

During this time a start had been made to the approved development and one of the four dwellings has been virtually completed.

Application is now made under S73 of the Act for a variation to condition no. 2 of planning approval 70252 and which relates to approved plans.

The application related solely to the design of the remaining 3 approved dwellings to be built. All other matters – the red edge of the approval and the siting and footprints of the approved dwellings - remain exactly the same.

The application is for the replacement of the flowing approved plans with those in the following table and in so far as they refer to plots 2, 3 and 4. : -

Plans approved under condition no. 2 of application 70252	Proposed replacement conditions IN SO FAR AS THEY REFER TO PLOTS 2,3 AND 4
101.P.PRP 01, 02, 05, 06, 07, 08, 09 and 10	CB-09-03-24-A CB-09-03-24-B CB-09-03-24-C CB-09-03-24-D CB-09-03-24-E

Copies of the approved plans are submitted with the application (NTS) as are a copies of the alternative plans.

The nature of S73 of the Act

While Planning Practice Guidance used to advise that S73 could be used for minor, material amendments, following the High Court decision of *Armstrong V SOS and Cornwall Council (2023)*, it now states that *‘there is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission’*.

In the case of the current application, there is no change to the operative part of the permission ie for 4 dwellings.

The Main Issue

The main issue is the effect of the proposed variation to the conditions upon the character and appearance of the area.

The former mill is slowly being transformed into a residential area and where properties take advantage of views overlooking the former mill lake. The character and appearance of the area is being transformed in this way and the recent development adds positively and distinctively to this transition.

The proposed variation makes no changes to the precise setting of the remaining three approved dwellings, nor to their mass, scale and height. They take advantage

of the views over the lake.

The use of natural stone and slate ensures that they will assimilate well into the general character and appearance of the area , including with the dwelling already completed .

Therefore , the proposed variation would accord with policies EN1/1 and EN1/2y of the Bury Local Plan (1997) and with chapter 12 of the National Planning Policy Framework of December 2023 (the Framework), all of which require development to be of high quality , in keeping with the character and appearance of the area.