

## **DELEGATED REPORT**

|                                 |                                   |                                |
|---------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Claire Booth   | <b>Date of report:</b> 14/08/2025 | <b>Ref:</b> 72112/CONDIS       |
| <b>Registration:</b> 26/06/2025 | <b>LDFC:</b> 08/08/2025           | <b>Expiry Date:</b> 21/08/2025 |
| <b>Site Visit:</b>              | <b>Site Notice:</b> N/A           | <b>Press Date:</b> N/A         |
| <b>Objections:</b>              | <b>Con Area:</b>                  | <b>Adv Type:</b> N/A           |
| <b>Reason for Delay:</b>        |                                   | <b>EIA:</b> NA                 |
| N/A                             |                                   | <b>Dec Level:</b>              |
|                                 |                                   | <b>Stat Class:</b> NREQ        |

**Proposal:** Application to discharge condition 6 (ecological mitigation and enhancements measures) on planning permission 71330

**Location:** 12A Whittaker Lane, Prestwich, Manchester, M25 1FX

### **Description**

Application to discharge condition 6 (ecological mitigation and enhancements measures) pursuant to planning permission 71330 which granted permission on the 30/05/2025 for the change of use of a building within the Whitaker Lane Local Centre from a Restaurant (Use Class E) to a 13 bed (single occupancy) House of Multiple Occupation (HMO) (Sui-Generis), excavations to part of rear yard area and installation of steps, insertion of a window and door on rear elevation at Basement level change of rear ground floor doorway to a window, and enlargement of a first-floor window on the side elevation.

Condition 6 was as follows:

*No development shall commence on site unless and until a scheme of ecological mitigation and enhancements measures have been submitted to and approved in writing by the Local Planning Authority. The measures shall be retained and maintained within the development at all times thereafter.*

*Reason. To adequately protect the biodiversity value of the site and to secure an enhancement to biodiversity, in accordance with Policy JP-G8: A Net Enhancement of Biodiversity and Geodiversity of the Greater Manchester Places for Everyone Plan and the National Planning Policy Framework.*

To satisfy the requirements of the condition this application is supported by an Ecological Mitigation Plan, carried out by Penny Anderson Associates, dated June 2025.

### **Relevant Planning History**

49893 - SINGLE STOREY KITCHEN EXTENSION TO REAR - Withdrawn by Applicant, 05/06/2008

66348 - Change of use of the first floor only to form a 4 bedroom/4 person house in multiple occupation (HMO) (Class C4) - Approved with Conditions, 11/03/2021

71330 - Change of use from restaurant (Use Class E) to 13 bed (single occupancy) House of Multiple Occupation (HMO) (Sui-Generis), excavations to part of rear yard area and installation of steps, insertion of a window and door on rear elevation at Basement level change of rear ground floor doorway to a window, and enlargement of a first-floor window on the side elevation - Approved with Conditions, 30/05/2025

### **Publicity**

Not applicable.

## **Statutory/Non-Statutory Consultations**

**Greater Manchester Ecology Unit** - Given the ecological baseline value of the site, I am satisfied that the mitigation plan provided is more than adequate. I therefore have no objection to the prior to part of condition 6 being discharged.

**Pre-start Conditions** - Not applicable.

## **Development Plan and Policies**

JP-G8      A Net Enhancement of Biodiversity and Geodiversity  
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), 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.

The Council's Ecologist is satisfied that the mitigation proposal of erecting two bat boxes and 2 bird boxes, as stated within the Biodiversity Mitigation Plan, carried out by Penny Anderson Associates, dated June 2025 is satisfactory given the low biodiversity value of the application site.

For this reason, provided the wildlife boxes are put in place, prior to occupation of the approved HMO, the condition can be discharged.

**Recommendation:** Approve

**Conditions and Reasons:**

- 1 Condition 6 is hereby discharged providing that the development is implemented in accordance with the details and mitigation and maintenance measures identified in the approved Biodiversity Mitigation Plan, carried out by Penny Anderson Associates, dated June 2025, the requirements of the condition will be complied with.

The condition requires the measures to be retained and maintained within the development at all times thereafter.

| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
|---------------------|-------------|-------------------------|-------------|
| CB                  | 14/08/2025  | DM -                    | 15/08/2025  |