

Bury Council
Town Hall,
Knowsley Street,
Bury,
Lancashire,
BL9 0SW.

Mott MacDonald
Spring Bank House
33 Stamford Street
Altrincham WA14 1ES
United Kingdom

T +44 (0)161 926 4000
mottmac.com

**Application for a Lawful Development Certificate for the proposed removal
of the Hinds Weir (PP Reference: PP-12735319) – Supporting Statement**

18 January 2023

Dear Sir / Madam,

Mott MacDonald has prepared this Statement on behalf of the Environment Agency to support the application for a Lawful Development Certificate to confirm the proposed removal of the Hinds Weir on the River Irwell constitutes permitted development under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

The application for a Lawful Development Certificate comprises this Statement and a Location Plan (Document Reference: ENV0000389C-MMD-DZ-ZZ-DR-T-0805021-P01).

1 Site and Proposed Development

The Hinds Weir spans 50m across the width of the River Irwell and lies 30m east of the Manchester, Bolton, and Bury Canal Towpath, 70m east of the Wellington Street, 380m south of Cherry Tree Lane, and 520m south-west of Baron Street in Bury. The Hinds Weir cannot be viewed fully from the road or public footpath. Please refer to Figure 1 Satellite View of the Hinds Weir and the Location Plan

(Document Reference: ENV0000389C-MMD-DZ-ZZ-DR-T-0805021-P01) for more information in respect to the location of the Hinds Weir.



Figure 1 Satellite View of the Hinds Weir

Source: <https://www.scribblemaps.com/create#/lat=53.5859295&lng=-2.32205804&z=16&t=hybrid>

The Hinds Weir has been constructed into the river channel of the River Irwell. The east riverbank of the River Irwell closest to the Hinds Weir is in Flood Zone 3 whereas the west riverbank of the River Irwell closest to the Hinds Weir is in Flood Zone 1.

Based upon information from [Search the List: Map Search | Historic England](#) there are no Listed structures within 250-metres of the centre of the Hinds Weir.

Bury Council (the Council) adopted the Bury Unitary Development Plan (the UDP) in 1997. The UDP remains the applicable development plan for the proposed removal of the Hinds Weir. The UDP helps to inform future development with a series of policies and forms the basis for decision-making for development within the Council's administrative area. Based on the Council's [Online maps - Bury Council](#), the Hinds Weir lies within an allocation for:

- EN6/4 Wildlife Link and Corridor.
- OL5/2 River Valley.

The Environment Agency propose to remove the Hinds Weir from the river channel of the River Irwell. The proposed removal of the Hinds Weir will help to enhance the watercourse of the River Irwell for the following reasons:

- Fish Species – to help benefit the fish species in the River Irwell in terms of how the fish species spawn and the movement and migration of the fish species in the River Irwell.
- Flow Velocities and Variation – to help increase the localised flow velocities in the River Irwell and provide more variation in the flow of the River Irwell upstream of the Hinds Weir to enhance both the in-channel and bankside habitat.
- Gravel and Sediment – to help enable fine sediment to be moved or transported downstream in the River Irwell in a more natural course.
- Invertebrate Species – to help enhance the movement of invertebrate species in the River Irwell.
- Geomorphological Processes – to help re-establish a series of more natural geomorphological processes to benefit the habitat and ecological environment in the River Irwell.
- River Connection – to help enhance the connectivity in the River Irwell.

EN6/4 of the UDP stipulates the Council will aspire to consolidate and, where appropriate, reinforce wildlife movement and connections. The proposed removal of the Hinds Weir will help to enhance the watercourse of the River Irwell, enhance the movement of invertebrate species in the River Irwell, and benefit how fish species spawn and the movement of the fish species in the River Irwell. Therefore, the proposed removal of the Hinds Weir complies with **EN6/4** of the UDP.

2 Permitted Development

2.1 General Permitted Development Order

The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) enable specific forms of development or changes of use to be undertaken without the requirement for a planning application. Where permitted development rights are deemed applicable, planning permission is deemed to be given.

The 'Part' and 'Class' of the GPDO applicable to the proposed removal of Hinds Weir has been explored below as well as the conditions which would need to be satisfied for the proposed removal of Hinds Weir to constitute permitted development.

2.2 Part 13 Water and Sewerage of the GPDO (Class D) – Development by the Environment Agency

Part 13 (Class D) of the GPDO permits certain development by the Environment Agency for the purposes of their functions. Part 13 (Class D) provides the following:

Class D – Development by the Environment Agency

Permitted Development:

D. Development by the Environment Agency for the purposes of its functions, consisting of –

- a. Development not above ground level required in connection with conserving, redistributing or augmenting water resources.*

- b. *Development in, on or under any watercourse or land drainage works and required in connection with the improvement, maintenance or repair of that watercourse or those works.*
- c. *The provision of a building, plant, machinery or apparatus in, on, over or under land for the purpose of survey or investigation.*
- d. *The maintenance, improvement or repair of works for measuring the flow in any watercourse or channel.*
- e. *Any works authorised by or required in connection with an order made under section 73 of the Water Resources Act 1991 (power to make ordinary and emergency drought orders).*
- f. *Any other development in, on, over or under their operational land, other than the provision of a building but including the extension or alteration of a building.*

Development Not Permitted:

D.1 Development is not permitted by Class D if –

- a. *In the case of any Class D (a) development, it would include the construction of a reservoir.*
- b. *In the case of any Class D (f) development, it would consist of or include the extension or alteration of a building so that –*
 - i. *Its design or external appearance would be materially affected.*
 - ii. *The height of the original building would be exceeded, or the cubic content of the original building would be exceeded by more than 25%. Or*
 - iii. *The floor space of the original building would be exceeded by more than 1,000 square metres. Or*
- c. *In the case of any Class D (f) development, it would consist of the installation or erection of any plant or machinery exceeding 15 metres in height or the height of anything it replaces, whichever is the greater.*

Condition

D.2 Development is permitted by Class D (c) subject to the condition that, on completion of the survey or investigation, or at the expiration of 6 months from the commencement of the development concerned, whichever is the sooner, all such operations cease and all such buildings, plant, machinery and apparatus are removed and the land restored as soon as reasonably practicable to its former condition (or to any other condition which may be agreed with the Local Planning Authority).

2.3 Application of Part 13 Water and Sewerage of the GPDO (Class D) – Development by the Environment Agency

A series of reasons for the proposed removal of the Hinds Weir on the River Irwell have been explored in Section 1 of this Statement. The principal reason for the proposed removal of the Hinds Weir remains the combined improvement of the watercourse in terms of species movement, the natural transportation of fine sediment, and flow variation. The combined result of the proposed removal of the Hinds Weir will help towards the enhancement of both the in-channel and bankside environment and will help to enhance the connectivity in the River Irwell. The reasons for the proposed removal of the Hinds Weir on the River Irwell conform with clause (b) of Part 13 (Class D) of the GPDO – development in, on or under any watercourse or land drainage works and required in connection with the improvement, maintenance or repair of that watercourse or those works.

Section 55 of the Town and Country Planning Act 1990 defines the term 'development' and confirms 'development' could mean the exercise of operations in, on, over, or under a parcel of land. Furthermore, Section 55 of the Town and Country Planning Act 1990 certifies the demolition or removal of a structure would be encompassed under the definition of the term 'development'. Therefore, the proposed removal of the Hinds Weir on the River Irwell would conform to the definition of the term 'development' from Section 55 of the Town and Country Planning Act 1990 and will be permissible under the provisions of Part 13 (Class D) of the GPDO where the development will be for the enhancement of the watercourse.

Part 13 (Class D) of the GPDO enables the Environment Agency to complete specific forms of development or operations required in respect of their role and responsibilities and the Environment Agency will undertake the proposed removal of the Hinds Weir from the River Irwell. The proposed removal of the Hinds Weir will be restricted to within the river channel of the River Irwell and will conform to both D.1 of Part 13 (Class D) of the GPDO and D.2 of Part 13 (Class D) of the GPDO which define the limitations of Part 13 (Class D) of the GPDO. For example, Part 13 (Class D) of the GPDO cannot be applied where the development would feature the construction of a reservoir or where the size of a building or the installation or erection of any plant or machinery would exceed the parameters established under D.1. Furthermore, D.2 of Part 13 (Class D) of the GPDO places a time restriction of 6-months on the use of a plant or apparatus for the purpose of surveillance. D.1 and D.2 of Part 13 (Class D) of the GPDO are not applicable to the proposed removal of the Hinds Weir from the River Irwell.

Therefore, the proposed removal of the Hinds Weir will constitute permitted development under the provisions of Part 13 (Class D) of the GPDO because the proposed removal of the Hinds Weir will be for the enhancement of the watercourse and the Environment Agency will undertake the work.

3 Conclusion

Mott MacDonald has prepared this Statement on behalf of the Environment Agency to demonstrate the proposed removal of the Hinds Weir on the River Irwell will constitute permitted development under the provisions of the GPDO.

The Hinds Weir spans 50m across the width of the River Irwell and lies 30m east of the Manchester, Bolton, and Bury Canal Towpath, 70m east of the Wellington Street, 380m south of Cherry Tree Lane, and 520m south-west of Baron Street in Bury. The proposed removal of the Hinds Weir will help toward the enhancement of the watercourse of the River Irwell and the Environment Agency has provided a series of reasons to help support the proposed removal of the Hinds Weir.

It is considered that the proposed removal of the Hinds Weir constitutes permitted development under Part 13 (Class D) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Part 13 (Class D) of the GPDO permits certain development by the Environment Agency for the purposes of its functions, including development in, on or under any watercourse required in connection with the improvement, maintenance or repair of that watercourse. The proposed removal of the Hinds Weir will help towards the enhancement of the watercourse of the River Irwell required under clause (b) of Part 13 (Class D) of the GPDO and the proposed removal of the Hinds Weir will be undertaken by the Environment Agency. The proposed removal of the Hinds Weir will be restricted to the river channel of the River Irwell and will conform to the conditions set out in both D.1 and D.2 of Part 13 (Class D) of the GPDO.

This Statement supports the application for a Lawful Development Certificate to confirm the works can be undertaken utilising permitted development rights. The required fee for the Lawful Development Certificate, along with sufficient information in the form of this Statement and the Location Plan have been submitted to demonstrate the proposed removal of the Hinds Weir on the River Irwell constitutes permitted development under Part 13 (Class D) of the GPDO.

Chris Ridout
Graduate Town Planner
+441619264107
christopher.ridout@mottmac.com