

Planning Policy Comments

Application No: 70903

Location: Former Pyramid Park, Market Street, Bury BL9 0BG

Proposal: Land remediation works, construction of vehicular access road and footway from Market Street with associated infrastructure and structural works

Background

The application site comprises the former Pyramid Park which is situated in a highly sustainable location within Bury town centre. The park was originally created following its reclamation in the 1970s from its previous use as a Railway Goods Yard and sidings but has been disused for a considerable period.

The application follows the award of £1.73 million from the Government's Brownfield Land Release Fund to remediate the former park site, provide a new access road and prepare it for redevelopment.

Whilst the application itself only relates to enabling works on the site, the awarded funding is contingent on the site subsequently coming forward for residential development and the implementation of this application would effectively unlock the site for this use. As such, it is considered that this should carry weight in the determination of this planning application.

Site allocation

The application site is specifically allocated as an Opportunity Site suitable for either business or office (EC1/2/6) or for the expansion of Bury College (CF2/1/2) in the Unitary Development Plan (UDP). Residential use is not one of the uses specified for the site.

However, since the UDP was adopted in 1997, the site has not been developed for any of the uses specified and paragraph 126 of the National Planning Policy Framework (NPPF) states that:

'Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

- (a) It should, as part of plan updates reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped): and
- (b) In the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.'

Although this application is for enabling works only, these are to facilitate the subsequent redevelopment of the site for housing and, whilst housing is inconsistent with the site's UDP allocation, the fact that the site has never come forward for any of its allocated uses and that the UDP is yet to be fully replaced means that criterion (b) of paragraph 126 should apply.

Furthermore, the Bury Town Centre Masterplan was adopted as a material planning consideration in 2022. The Masterplan includes the application site within Character Zone H – Southern Gateway, noting that this zone would accommodate high quality residential development including family housing, apartments, housing for older people and affordable housing.

In light of the above, despite the site's allocation in the UDP, enabling works to support a residential scheme are acceptable in principle.

Housing

The National Planning Policy Framework (NPPF) should be treated as a material planning consideration and it states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.

The enabling works proposed through this application will facilitate the delivery of a significant number of new homes in line with Government objectives.

Town centre living

Since its adoption in March 2024, the Places for Everyone Joint Development Plan (PfE) is a key part of Bury's statutory development plan. Meeting our housing needs and creating neighbourhoods of choice by focusing new homes in town centres; within 800m of public transport hubs; and prioritising sustainable modes of transport are key strategic objectives for the plan.

PfE also recognises that investment in the town centres of the northern districts (including Bury) will be vital to support the plan's spatial strategy to boost northern competitiveness. A key element of PfE's spatial strategy is to focus growth on main town centres and Policy JP-Strat12 (Main Town Centres) states that opportunities to further increase the population catchments of these centres will be taken, including significantly increasing the resident population of the main town centres by providing a mix of type and size of dwellings supported by the necessary infrastructure and amenities.

The site is in a highly sustainable town centre location with excellent access to the public transport interchange and town centre shops and services. Enabling works to facilitate the regeneration of the site and its future development for housing is, therefore, consistent with the PfE's strategic objectives and its spatial strategy to boost northern competitiveness and to increase the resident population within main town centres.

Biodiversity

A significant part of the application site is designated as the Townside Grade B Site of Biological Importance (SBI) based on its swamp and marshland habitat. Grade B SBIs are considered to be of district-wide importance. The enabling works that are subject to this application would result in the loss of a significant part of this SBI although it is proposed that the area of the SBI to the east of the Market Street bridge will be retained and enhanced.

Evidence submitted by the applicant suggests that the area does not represent a high-quality example of swamp and marsh habitats for which the SBI is designated. However, the Greater Manchester Ecology Unit maintain that the site warrants Grade B SBI status.

UDP Policy EN6/2 (Sites of Nature Conservation Interest) applies to sites of Grade B SBIs. The Policy states that planning permission will not be granted for development which would damage either directly or indirectly, the nature conservation interests of sites of particular ecological significance (Local Nature Reserves or Grade B and C Sites of Biological Importance) unless conditions can be imposed that would acceptably mitigate those impacts on the SBI.

Paragraph 186(a) of the NPPF states that, when determining planning applications, if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Paragraph 225 of the NPPF states that, for the purposes of decision-making, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). UDP Policy EN6/2 is not fully consistent with the NPPF given that it does not allow for an option to compensate for any significant harm to biodiversity. Consequently, it is considered that this limits the weight that can be attached to UDP Policy EN6/2.

Criterion (a) of PfE Policy JP-G8 (A Net Enhancement of Biodiversity and Geodiversity) does, however, fully reflect the approach set out in the NPPF and states that development will be expected to follow the mitigation hierarchy of:

- i) Avoiding significant harm to biodiversity, then
- ii) Adequately mitigating any harm to biodiversity, then
- iii) Adequately compensating for any remaining harm to biodiversity, avoid fragmenting or severing connectivity between habitats, achieve a measurable net gain, and make appropriate provisions for the long-term management of habitats connected to the development.

Policy JP-G8 is wholly reflective of national planning policy and should, therefore, be the primary policy against which biodiversity matters associated with this application are considered.

In addition, Biodiversity Net Gain (BNG) became mandatory in February 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Developers must deliver a BNG of 10% which makes sure development has a measurably positive impact ('net gain') on biodiversity, compared to what was there before development.

The presence of the Grade B SBI is reflected in the calculation of the existing biodiversity value of the site. The application is supported by a Biodiversity Net Gain statutory metric and a BNG Assessment Report which considers the ecological value of the site which takes into account the value of the SBI. The Assessment Report outlines how the 10% BNG can be achieved and the post-development habitats that will be retained and enhanced.

The proposal is to retain and enhance what will be the remaining part of the SBI (to the east of Market Street bridge). This includes enhancements on the embankment to the north of the SBI which, in line with BNG will be managed as such for a 30-year period.

However, the submitted BNG Assessment Report specifies that enhancing the remaining area of the SBI to the east of the Market Street bridge is not sufficient to attain 10% gain on site. As such, the shortfall will need to be made up through off-site compensation measures and the application will need to be subject to a statutory biodiversity condition that will ensure that the off-site compensation is appropriately delivered.

In terms of the mitigation hierarchy set out in the NPPF and PfE Policy JP-G8, it is not considered to be possible to avoid adversely affecting the SBI by locating on an alternative site with less harmful impacts. The site is in a highly sustainable town centre location and the funding that has been secured for the enabling works is specific to the site. The application does include proposals to mitigate against the loss of part of the SBI through on-site enhancement works to the remaining part of the SBI to the east of the Market Street bridge and, whilst this is not sufficient to achieve 10% BNG, the shortfall will be addressed through off-site compensation measures.

As such, subject to the imposition of the statutory biodiversity condition, it is considered that the proposal accords with the mitigation hierarchy set out under PfE Policy JP-G8 and the NPPF.

Conclusions

Whilst this application relates only to enabling works, the funding secured to deliver these works are contingent on this facilitating housing development on the site and this has been considered as part of the planning balance.

As highlighted above, the delivery of new housing in sustainable, town centre locations is fully consistent with Government aspirations to significantly boost the delivery of new homes and the Strategic Objectives and Spatial Strategy of PfE.

The enabling works would result in the loss of a significant part of the Townside Grade B SBI that lies to the west of the Market Street bridge. However, the requirement for BNG has led to the proposal including the upgrade of the remaining area of the SBI to the east of the

Market Street bridge and will require off-site improvements. This will mean that the proposal accords with the mitigation hierarchy set out in PfE Policy JP-G8 and the NPPF and the requirement for BNG will ensure that the loss of the SBI will be fully compensated for with an overall 10% uplift in biodiversity value.

On balance, it is considered that the loss of part of the Grade B SBI on this site is outweighed by the on-site mitigation and off-site compensation together with the regeneration benefits that this proposal will bring in terms of enabling the subsequent delivery of much needed new housing in a highly sustainable, town centre location.

Officer: DW/FS/SB

Date: 06/12/2024