



Appeal Decision

Inquiry Held between 22 November and 30 November 2022

Site visit made on 22 November 2022

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2023

Appeal Ref: APP/N4205/W/22/3301093

Land off Mytham Road, Prestolee Road, Boscow Road, Hall Lane and Newbury Road, Little Lever, Bolton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Iain Watson of Watson Construction (Holdings) Limited against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 09775/20, dated 6 November 2020, was refused by notice dated 16 December 2021.
 - The development proposed is the erection of dwellings on two sites: (i) land at former Creams Mill site including land off Mytham Road, with associated works including internal access, landscaping and infrastructure including a two-way bridge and provision of woodland walks; and (ii) land south of Hall Lane and west of Newbury Road with associated works including new access from Hall Lane, associated landscaping, internal access and infrastructure including paths along canal frontage and path linking Moses Gate Country Park; and repair to canal breach and restoration works including re-lining of the Manchester, Bolton and Bury Canal and restoration of canal towpath.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of dwellings on two sites: (i) land at former Creams Mill site including land off Mytham Road, with associated works including internal access, landscaping and infrastructure including a two-way bridge and provision of woodland walks; and (ii) land south of Hall Lane and west of Newbury Road with associated works including new access from Hall Lane, associated landscaping, internal access and infrastructure including paths along canal frontage and path linking Moses Gate Country Park; and repair to canal breach and restoration works including re-lining of the Manchester, Bolton and Bury Canal and restoration of canal towpath at land off Mytham Road, Prestolee Road, Boscow Road, Hall Lane and Newbury Road, Little Lever, Bolton in accordance with the terms of the application, Ref 09775/20, dated 6 November 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. An Environmental Statement was submitted with the application and further information was submitted in accordance with Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). This information was submitted on 4 November 2022 and

placed in the Core Document library. I am satisfied that the Environmental Statement as supplemented by the submitted further information is sufficient to meet the requirements of Schedule 4 of the EIA Regulations and I have taken this information into account in reaching my decision.

3. The description of the proposed development was amended by agreement between the main parties, and I have used the amended description in the heading.

Main Issues

4. The main issues in the appeal are:
 - i) whether or not the proposal would be inappropriate development in the Green Belt having regard to national policy and any relevant development plan policies;
 - ii) the effect of the proposal on the purposes and openness of the Green Belt;
 - iii) the effect of the proposal on the character and appearance of the area; and
 - iv) whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances needed to justify the proposal.

Reasons

Background and Planning Policy

5. The application proposes residential development on sites to the south and south-west of the town of Little Lever, and restoration of part of the Manchester Bolton and Bury Canal, which was breached in 1936 and has not been in water since then. The development would provide 61% affordable housing.
6. The sites are outside the settlement boundary for the town, as defined in the development plan and are within the Green Belt. These include the site of a former mill building (Creams Mill) which was demolished over 10 years ago but where evidence of the former buildings remains, and which is allocated for housing development in the Local Plan: Bolton's Allocations Plan (2014) (AP).
7. Land adjacent to Creams Mill, which falls outside the allocated area is proposed for housing development. Part of this would be on an engineered plateau on the valley side, construction of which would be necessary, at least in part, to provide access in order to repair the canal breach.
8. In addition to these areas, open land immediately adjacent to the urban area would be developed for housing on two sites, at Hall Lane and Mytham Road. The latter would be separated from the urban area by allotments. Some 77 market homes would be provided at Hall Lane and 24 apartments for private rental would be provided at Creams Mill. The remainder of the development, consisting of 154 affordable homes would be at Creams Mill and Mytham Road.

9. Two previous applications¹ for residential development on the allocated site and partly outside that site were approved by the Council but have since expired. Creams Mill is adjacent to the River Irwell and at the bottom of a steep-sided valley, significantly below the level of the urban area of Little Lever. Because of the topography and the level difference between the allocated site and the built-up area, significant engineering works are necessary to provide vehicular access to that site, including construction of a new bridge over the canal. Remediation of contamination is also necessary in order to develop that site.
10. A viability report and an addendum report have been submitted. These reports demonstrate that the costs of the proposed development at Creams Mill on its own or in combination with the Mytham Road site would not be financially viable. This assessment takes into account grant funding that would be available from Homes England and other sources. The assessment demonstrates that development of all parts of the site are necessary in order to make a profit and to fund the restoration of the canal. The Council raises no issue with this assessment.
11. The canal is at a much higher level than the river and incorporates significant retaining works on the valley side. The part of the canal within the site is about 700m in length and has not been in water since the breach. The adjacent part which extends to a terminus at Hall Lane is in water as is the other side which extends towards Bury. The proposals include the construction of an embankment and repair of the breached section of the canal, which is about 60m in length.
12. The development plan consists of Bolton's Core Strategy (2011) (CS) as well as the aforementioned AP. It is a matter of agreement that the Council can only demonstrate a housing land supply of 3.9 years and on this basis its policies for housing provision are deemed to be out of date². The housing requirement of the CS of 694 dwellings per annum (dpa) is set out in Policy SC1 of the CS. That requirement was based on Regional Planning Guidance which has since been revoked. This is a constrained figure and does not represent objectively assessed need as required by the National Planning Policy Framework (the Framework). The standard methodology for Bolton would require 793 dpa, or 99 dpa more than provided for by the CS. It is agreed between the parties that the housing provision in Policy SC1 of the CS is out of date for this reason.
13. Policy OA6 of the CS relates to Little Lever and Kearsley and requires that new housing is concentrated within the existing urban area. This is defined by the settlement boundaries in the development plan. However, in as much as those boundaries are based on an out of date housing requirement, they can also be considered out of date. Only limited weight can be given to Policy OA6 on this basis.
14. Furthermore, development plan policies relating to the Green Belt are not fully consistent with the Framework because they do not provide for consideration of very special circumstances as justifying inappropriate development in the Green Belt. These are Policy OA6(6) of the CS, which requires that Green Belt boundaries are maintained, and Policy CG7AP of the AP which resists inappropriate development in the Green Belt. For these reasons the policies that are most relevant to the proposals are out of date. National policy on

¹ Refs 83863/10 and 97139/16

² Paragraph 11(d) and footnote 8 of the National Planning Policy Framework

Green Belt, as set out in the Framework, applies and the 'tilted balance' in paragraph 11(d) of the Framework is not engaged.

Whether inappropriate development

15. The Green Belt to the south and west of Little Lever covers the valleys of the rivers Irwell and Croal. These valleys separate Little Lever from the towns of Farnworth and Kearsley.
16. The Framework states that new buildings should be regarded as inappropriate development in the Green Belt. Exceptions are set out and these include the redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt, where the development would contribute to meeting an identified affordable housing need. The proposed development of Creams Mill, in as far as it would provide affordable housing on previously developed land, considered in isolation, would fall within this category.
17. The Framework also states that engineering operations are not inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The canal restoration works would involve the removal of trees which would open up the site giving it greater visibility. In time, new tree planting could limit the visual impact of the canal works. Although engineering works would be necessary to repair the canal, because this would amount to repair of an existing structure, it is unlikely that this aspect of the proposal would be harmful to the openness of the Green Belt or to the purposes of including land within it.
18. While these considerations indicate that parts of the proposed development would not be inappropriate, the development as a whole must be considered. This would include new built form at all three development areas within the site and would be inappropriate development in the Green Belt. The Framework states that such development is, by definition, harmful to the Green Belt.

Effects on Green Belt

Purposes of the Green Belt

19. The Greater Manchester Green Belt Assessment (GBA) was undertaken in 2016. This identifies strategic areas, and smaller parcels within those areas, and assesses the degree to which those parcels perform against each of the purposes of the Green Belt as set out in the Framework.
20. The first of these purposes is to check the unrestricted sprawl of large built-up areas. In the GBA, the sites at Hall Lane and Mytham Road³ are both assessed as performing strongly against this purpose in terms of there being no evidence of existing urban sprawl. However, they are both assessed as having moderate performance in terms of the potential for urban sprawl to occur. The rivers Irwell and Croal provide natural features that would prevent totally unrestricted sprawl, as would the steep topography of the valley sides. The Hall Lane site is contained by the canal and the Mytham Road site is contained by woodland to its south, above the canal. The topography and natural features at those sites thus limit the potential for unrestricted sprawl.

³ Hall Lane parcel BT41, Mytham Road parcel BT45

21. Because the Creams Mill site includes previously developed land and given the topographical issues in developing land immediately adjacent to the former mill, it is unlikely that its development would lead to unrestricted sprawl.
22. For these reasons, and because the proposed areas of development would be restricted and contained by existing features, the extent to which the proposals would harm the first purpose of the Green Belt would be limited.
23. The second purpose is to prevent neighbouring towns merging into one another. In the GBA most of the land between Little Lever and Farnworth is identified as a distinct parcel (BT42). This includes the Moses Gate Country Park and Nob End Site of Special Scientific Interest which separate the urban areas. In comparison to this parcel, the sites at Hall Lane and at Mytham Road have limited roles in meeting this purpose. For these reasons, any harm to the second purpose of the Green Belt would be limited.
24. The third purpose is to assist in safeguarding the countryside from encroachment. The proposals would clearly result in encroachment of the urban area into the countryside at Hall Lane and at Mytham Road. The parts of the development adjacent to Creams Mill would be associated with the allocated site but, to the extent that they would be outside the allocated area would represent encroachment. The development as a whole would be significantly harmful in terms of conflicting with this purpose of the Green Belt.
25. With regard to the fourth purpose, it is agreed that Little Lever is not a historic town whose setting and special character merits preservation. There would be no harm to this purpose.
26. The fifth purpose is to assist urban regeneration by encouraging recycling of derelict and other urban land. The Council's policy as set out in its 20 Point Plan and the development plan is to encourage the redevelopment of brownfield land within urban areas. The Member of Parliament has referred in general terms to such land being available in Bolton. However, no specific evidence to demonstrate that redevelopment of urban land would be prejudiced by the proposal was put to the Inquiry. On this basis I find that any harm to this purpose has not been demonstrated and would therefore be limited.

Openness

27. Any development on the allocated site at Creams Mill would affect the openness of the river valley but such development is provided for in the development plan and has previously been found to be acceptable. Such development would not be inconsistent with the historic industrial use of that site. The appellant has pointed out that the proposed development on the allocated site would have a lesser volume than the previously approved development. Because each development must be considered on its individual merits, and given that the previous permission has expired, this carries little weight in my decision.
28. That said, however, the proposals as a whole would extend across a much wider area than the former mill site, including the open areas off Mytham Road and Hall Lane. In spatial terms, for this reason the proposals would significantly affect the openness of the Green Belt and to a significantly greater extent than development of the allocated site alone.

29. In addition, the development would have a significant visual impact on the Green Belt in terms of the new buildings and the associated engineering works to form the access road and the development plateau below the canal. The felling of trees on the slope below the canal and adjacent to Mytham Road would enable visibility of the development.
30. The visibility of the development across the wider landscape would be limited by the topography and remaining tree cover, although new planting would help to screen the development from view to some extent over time. However, the development would be clearly visible from adjacent housing areas at Hall Lane and Mytham Road, and from the canal towpath.
31. For these reasons, the development considered as a whole would reduce the openness of the Green Belt spatially and visually. This would amount to significant harm.

Conclusions on Green Belt

32. For the reasons given, the development would be inappropriate development which would clearly be harmful to the third purpose of the Green Belt in terms of encroachment. It would also affect some of the other purposes of the Green Belt to different extents but for the reasons given any harm to those other purposes would be limited. The development would also harm the openness of the Green Belt. Considered in total, I give substantial weight to the harms from inappropriate development and to the purposes of the Green Belt. I give further substantial weight to the harm by way of loss of openness.
33. The proposal would not accord with Policy OA6(6) of the CS or with Policy CG7AP of the AP, but little weight can be given to those policy conflicts because the policies are out-of-date.

Character and Appearance

34. The site lies within the 'Incised Urban Fringe Valleys' landscape character type of the Greater Manchester Landscape Character and Sensitivity Assessment (2018). The river valleys in this location are quite steep-sided and substantially wooded. The canal and the remains of Creams Mill provide a reminder of the historic industrial past of the location. These characteristics are typical of the landscape character areas that have been defined at the national, regional and local level in this area.
35. While the close proximity of the urban area affects the landscape character, the river valleys, because of their lower level and the woodland cover, are generally distinctly separate and secluded from the urban area. For these reasons they provide some tranquility, although houses back onto the canal in places.
36. The canal towpath forms part of a wider network of paths which connect to Moses Gate Country Park and include part of Rotary Way, a long-distance route. It has recently been resurfaced in places and is well-used for recreational purposes.
37. For these reasons the river valley landscape is clearly distinct from, and contrasts with, the nearby built up areas. This provides an open space that is of recreational value to the local population. This being the case, no evidence was put to the Inquiry that the landscape is of more than local value. The

development plan does not identify the landscape as being of a higher than ordinary value. The parties agree that the landscape is not a valued landscape which would merit protection in accordance with paragraph 174 of the Framework, and I concur with this view.

38. The parties also agree that, because of the topography and tree cover, views of the development would be localised and its visibility across the wider landscape would be limited. Turning firstly to the proposed development at Mytham Road, this would be visible from adjacent dwellings across the intervening allotments and from Mytham Road, where a number of trees would be removed to create the access to that site. However, the woodland to the south of that site would effectively screen it from view from the towpath, notwithstanding that there may be some visibility through the trees during winter months.
39. The development at Hall Lane would also be seen from adjacent dwellings and roads, notably from Hall Lane and Newbury Road. This development would be on rising land adjacent to the canal and would be visible from, and in close proximity to the canal and the towpath. Although this would be visually intrusive in comparison to the current open character of this site, the proposed development would provide an active frontage to the canal in terms of a footpath and dwellings facing onto the canal.
40. There have previously existed permissive paths across this site, but those routes are no longer available. An application to register the site as a town or village green was refused in March 2022. The proposal would be of benefit in providing pedestrian access from both Hall Lane and Newbury Road to the canal.
41. The proposed development at Creams Mill would be on plateaux at lower levels than the canal and towpath. Parts of that development would be on previously developed land and part would be on a new engineered plateau below the canal. The latter works would require significant removal of trees. Because these parts of the development would be significantly lower than the towpath, it is unlikely that they would appear dominant or unduly intrusive from that path.
42. The tree removal would be likely to enable views of the development notwithstanding that some trees would be retained where possible and that new planting could in time afford some screening. Details of new planting can be secured by planning condition, but the appellant has stated that the number of new trees to be planted across the site as a whole would more than compensate for those to be lost. Many of the trees identified for removal are identified in the Arboricultural Assessment as being in poor condition.
43. The embankment required to restore the canal would be an engineered structure constructed of earth reinforced by geosynthetic material. This would be visually consistent with the adjacent existing engineering works associated with the canal. The embankment could be planted, and the appellant submitted information⁴ to demonstrate the feasibility of planting trees on this structure. Whether this is feasible or not, new tree planting could be provided adjacent to the embankment which, when mature would provide visual screening. For these reasons the proposed canal works would not be unduly

⁴ ID07: Technical Note on Soil Stabilization

intrusive visually. The restoration of the canal would be of benefit to the landscape in terms of restoring a historic landscape feature.

44. Drawing these points together, I find that overall, the development would be harmful to the character and appearance of the area in terms of its visual intrusion into open countryside and its erosion of the generally secluded character of the canal and river. The development would not accord with Policy CG3(7) of the CS which states that the Council and its partners will maintain and respect the landscape character of the surrounding countryside and its distinctiveness. This policy remains up to date.

Heritage Assets

45. The development would affect the settings of two designated heritage assets. These are a canal post adjacent to the canal within the Hall Lane site and a canal milestone which is near Prestolee Locks. Both are listed at Grade II. The development at Hall Lane would affect the setting of the canal post in that the currently open land adjacent to it would be developed, but the significance of the asset in terms of its historic relationship with the canal would not be affected. The proposals would increase the prominence of the asset in the public realm in providing a footpath along the northern side of the canal. For these reasons there would be no harm to the significance of the canal post.
46. The canal milestone is adjacent to a dewatered section of the canal. There would be no harm to the significance of that asset and indeed, restoration of the canal would enhance its setting and significance by bringing the adjacent part of the canal back into water. The development would accord with Policy CG3(4) of the CS which requires conservation and enhancement of the significance of heritage assets.
47. The canal dates from the late 18th century and is associated with the historic industrial development of the area. The parties agree that it is a non-designated heritage asset. The repair of the canal breach would result in a narrowed section of the canal at this point and the works would enable appreciation of the history of the canal in terms of the location of the breach. A significant length of the canal of some 700m would be restored and repaired which would clearly be of benefit to its significance. This, together with the enhancement of the setting of the canal milestone would amount to very significant benefits.

Design

48. Although the Council's committee report and its statement of case indicated concern regarding the design of the development, in the Statement of Common Ground the parties agree that there would be no harm in terms of the detailed design.
49. The proposals were subject to review by a design review panel before submission of the application and the comments made by the panel were, where practicable, taken into account in the design. A consistent architectural approach would be taken across the three development areas. This would provide visual coherence in association with the canal restoration and a sense of place.
50. Apartment blocks are proposed on the three development areas at Creams Mill. These would each be of three storeys in height, with the block on the former

mill site being the largest, in acknowledgement of the scale of the previous industrial building. The scale of the other two blocks would be limited and not dominant within their setting which would be at a lower level than the canal. Architecturally, the apartment blocks are designed to break up their massing through use of pitched and gabled roofs and vertically proportioned fenestration.

51. Three storey dwellings would be positioned on the Hall Lane development to guide the eye down towards the canal. The detailed design of all parts of the scheme has been evolved in consultation with the Council's Design and Conservation Officer. Although I note that there has been some disagreement between the parties on detailed matters, considered overall the points of difference have been resolved. It is clear that the design of the different parts of the development has been given careful consideration in an iterative process between the appellant and the Council.
52. I find that the dwellings would be of suitably high design quality and appropriate to the landscape setting. The development would respect the built form of the adjacent parts of Little Lever, as required by Policy OA6(10) of the CS. The proposals would provide good accessibility by sustainable means, notably to the canal towpath and the new woodland walks to be created. The development would accord with the requirements of Policy CG3 of the CS to provide good urban design, to conserve and enhance local distinctiveness and to ensure compatibility with the surrounding area.
53. The Framework states that the creation of high quality buildings and places is fundamental to the planning process and that good design is a key aspect of sustainable development. Because high quality design is a fundamental requirement of national policy, this would not represent a benefit to be weighed in the overall planning balance. However, the quality of the design would help to mitigate any harmful visual effects on the landscape to some extent.

Conclusions on Character and Appearance

54. For the above reasons, the development considered as a whole would be harmful to the character and appearance of the area because of its visual intrusion into the open landscape and its effect on the character of the river valley. This harm would be limited and moderated to some extent by positive design aspects, by screening offered by existing and new tree planting and by the limited views of the proposals resulting from the topography. Taking all of these factors into consideration I give moderate to significant weight to this harm.

Other Considerations

Market Housing

55. The parties agree that the development plan is out of date and there is no prospect of a new development plan being in place for a number of years. This is because any new plan would follow the adoption of the Places for Everyone joint development plan for Greater Manchester, anticipated to be in 2024.
56. Not only is the CS out of date, but the level of housing provision has also consistently failed to deliver its housing requirement of 694 dpa. Delivery of housing in the town centre, renewal areas and at Horwich Loco Works as planned in the CS has been substantially below the planned levels of provision

in those areas. The total housing provision has consistently fallen significantly short of the housing requirement since the CS was adopted in 2011. This has resulted in a cumulative shortfall in housing provision of more than 2,500 homes.

57. This is on the basis of the out-of-date housing need figure in the CS. Use of the standard methodology required by national policy would give a higher annual requirement than the figure in the CS. The Council would need to deliver 1,000 dpa to meet the minimum requirements of the Framework, without taking into account the cumulative shortfall in provision.
58. It is, for these reasons clear that there is a desperate need for new housing in Bolton. The parties agree on this point. There is no realistic prospect of the shortfall being addressed in the near future, given its scale and the number of dwellings that would need to be provided annually.
59. The development would provide 77 houses for sale and 24 apartments for private rental, giving a total of 101 market homes. These would make a significant contribution to housing supply. Having regard to the severity of the shortfall and the historic under-provision, I give very significant weight to this aspect of the development.

Affordable Housing

60. Policy SC1 of the CS requires provision of affordable housing at 35% of total provision, or 15% in the case of development on previously developed land. The proposal would be well in excess of these policy requirements, delivering some 61%, or 154 affordable homes, including houses and apartments. As with market housing, there has been very significant under-delivery of affordable homes. There has been a shortfall in delivery of almost 2,000 affordable homes over the plan period and in October 2022 there were 15,848 people on the Housing Register.
61. These figures show an acute level of need for affordable homes. The development would make a very significant contribution towards addressing that need. I give very significant weight to this consideration.

Canal Restoration

62. There is commitment on the part of the Council and the Canal and River Trust (CRT), as well as other bodies including the Manchester Bolton and Bury Canal Society, to restoration of the canal. The proposed breach repair would enable a 700m length of the canal to be brought back into water. This would connect the watered sections on either side and would result in an overall length of canal between Hall Lane and Water Street at Radcliffe of about 5km.
63. The Council's 20 Point plan states a commitment to working with all agencies, partners, and neighbouring authorities on a collective vision for the upgrade of the Manchester Bolton and Bury canal. This is a stated priority for delivery in 2021-22. This position is supported by development plan policy in the neighbouring authority of Bury Metropolitan Borough Council.
64. Support for restoration of the canal is also given in Policy IPC1 of the CS which requires contributions towards infrastructure including contributions towards the wider plans to restore the canal. Policy OA6(8) of the CS requires

- protection of significant open recreational areas including the line of the canal from adverse development.
65. The CRT has stated that a connection agreement would be necessary and that works would be required to the sections of the canal on either side of the section to be restored. The CRT says that detailed survey work would be necessary, and that works to the canal are likely to include dredging, new canal bed lining, removal of existing dams, repairs to canal infrastructure, tree removal and vegetation clearance. The CRT does not currently have funding to undertake these works, or to maintain the restored section of the canal.
66. A feasibility study was commissioned by the CRT in 2021 to look at restoration of the canal between Bolton and Bury. The study was intended to provide evidence to attract external funding for the sections of the canal other than that at Creams Mill. It is clear that the CRT is committed to restoration of the canal and the proposed works would provide a significant element of the overall works required. The resulting length of the canal that would be in water would significantly increase its potential for leisure use. In this context it seems to me more likely that external funding for any necessary works to other parts of the canal could be attracted. The adjoining sections of the canal are in water and no evidence was presented to the Inquiry of any serious structural deficiency or leakage in those parts of the canal.
67. The repair of the breached section would require construction of an embankment. The proposed method of construction has been used elsewhere to support new highway works and is a proven method. The appellant provided a feasibility report and a preliminary design assessment for the canal works. These were reviewed by the Council's geotechnical consultant who made recommendations as to further details that need to be secured by planning condition. The parties' consultants are in agreement on these matters.
68. It is thus agreed that detailed matters relating to the construction of the embankment and canal repair can be agreed through a planning condition. The assessments that have been done to date demonstrate the engineering feasibility of the project and its costs have been taken into account in the viability assessment.
69. There is currently no connection agreement between the appellant and the CRT, but it has not been shown that such agreement would be unlikely. Indeed, it seems to me that there is a reasonable likelihood of agreement between those parties. For the avoidance of any doubt on this point, practical measures could be used at the junctions of the restored and existing sections such as flood gates or planks to provide separation until such time that agreement can be reached.
70. At present there are two watered parts of the canal between Hall Lane and Water Street which are each of limited length and for this reason of limited attractiveness to recreational users. The proposal would provide a continuous length of about 5km of canal which would be more usable than the existing short sections. This would reinstate a significant part of the canal network as a whole. Further parts of the network which require restoration include a link at Prestolee Locks to the part of the canal leading to Salford and removal of an

obstruction at Water Street, Radcliffe. The Vision Statement⁵ for restoring the canal recognises that a staged approach is necessary.

71. The section 106 agreement would ensure that the canal restoration works are delivered concurrently with the first phase of residential development at Mytham Road, and before 75% of the dwellings on that phase are occupied. The agreement would also secure management of the canal within the site through a management company.
72. I have already found that the development would enhance the setting and significance of the listed canal milestone at Prestolee Locks and the significance of the canal as a non-designated heritage asset. These benefits can be given very significant weight.
73. The canal forms a significant element of green infrastructure. In bringing it back into water, its biodiversity would be likely to benefit in terms of aquatic life. The species that feed on this, such as birds and bats would benefit.
74. Recreational opportunities would also be significantly improved. The improved canal would have greater potential for activities such as canoeing, paddleboarding and boating. The towpath in the area of the breach is currently not convenient or accessible to many users because of its route and level changes. This would be improved by straightening and bringing it up to level with the adjacent sections of path.
75. The improved facilities for recreation would be beneficial to the health and well-being of the local population through enabling increased walking and cycling as well as water-based activities. This would accord with Strategic Objective 1 of the CS which includes maximisation of access to recreation facilities and to increase opportunities for walking and cycling.
76. These benefits would also be likely to result in attraction of more visitors to the area, thereby boosting expenditure in the local economy.
77. The section of the canal to be restored would be to a width of 3m, which would be significantly less than that of the original canal but of similar width to the section under the Mytham Road bridge. This reduced width is necessary to reduce the load on the breach area and the amount of material needed for the embankment. This width would be suitable to accommodate narrow boats which have a standard width of 2.1m.
78. The canal restoration would result in multi-faceted benefits which individually can be given significant, or very significant weight. It is unlikely in my view that full connection and navigation would not be achieved, but even if this were the case, the project would still be of very significant benefit, notably in terms of heritage restoration. For these reasons I give overall substantial weight to the benefits arising from restoration of the canal.

Ecology

79. Although the Council's landscape witness and interested parties have referred to tree removal as resulting in loss of wildlife corridors, the Council's reason for refusal does not allege any harm to biodiversity. The Greater Manchester Ecology Unit acknowledged that while there would be some habitat loss from

⁵ Mr Moss Proof, Annex H

felling of trees, there would also be compensation from reinstatement of the canal, creation of new habitats, active woodland management and removal of invasive species. Other consultees including Natural England had no objection on biodiversity grounds. The proposal overall would provide a net gain in biodiversity.

80. There would be some negative effects on biodiversity during construction and from removal of trees. However, the planned removal of invasive species such as Giant hogweed and Japanese Knotweed would be of benefit. In the longer term, habitat loss through tree removal would be mitigated through new planting. The woodland would also be managed, and this would be secured by the planning obligation.
81. The restoration of the canal would be of benefit as the two sections in water are designated as Sites of Biological Importance and would be connected together. Overall, there would be a net gain in biodiversity which has been calculated by the appellant at over 24% using the DEFRA Metric 3.0. This is in excess of the minimum 10% that will be required by the Environment Act 2021. I give significant weight to this benefit.

Other Benefits

82. There would be significant economic benefits from the construction works, including from temporary employment, and from the expenditure of the future occupiers of the new dwellings. The appellant estimates that the construction expenditure would support about 290 workers per year, including in construction and in the supply of goods and services. The appellant further estimates that the occupancy of the new homes would generate spending of £4.3 million per year. Additional financial benefit would accrue to the Council in the form of New Homes Bonus and Council tax. I give significant weight to these benefits.
83. A further benefit of the proposals would be improved public access for recreation purposes. This would be achieved through provision of pedestrian routes through the Hall Lane site, access to the canal from Mytham Road and new woodland walks including access to the river frontage. This is a significant benefit to which I give significant weight.
84. The development at Creams Mill would facilitate access to the river. The Environment Agency has indicated its wish to construct a salmon ladder at the weir adjacent to Creams Mill. The means of access that would be provided by the development would facilitate this. Because this would provide an opportunity rather than a direct benefit, I give limited weight to this consideration.

Whether there are Very Special Circumstances

85. I have given substantial weights to the identified harms to the Green Belt in terms of harm to the purposes and openness of the Green Belt. I have given further moderate to significant weight to the harm to the character and appearance of the area.
86. On the other hand, I have given very significant weights to the benefits in terms of market and affordable housing provision, substantial weight to the canal restoration and further significant weights to the other benefits in terms of the economy, biodiversity, and improved public access.

87. A Written Ministerial Statement of December 2015 indicates that unmet need is unlikely to clearly outweigh harm to Green Belt and any other harm so as to establish very special circumstances. However, this provision was not incorporated within the Framework when it was subsequently updated. In common with the Colney Heath appeal decisions⁶ I give little weight to this as a material consideration. In any case, unmet need forms one of a number of the benefits arising from the proposal.
88. The weights that I have given to the benefits clearly outweigh the identified harms to the Green Belt and other harm so as to amount to the very special circumstances needed to justify the development. This is an important material consideration which outweighs any conflict with development plan policies.

Other Matters

89. The area was previously subject to coal mining; the Coal Authority's records indicate that there are 10 mine entries within the site and also likely unrecorded coal mine workings at shallow depth. The appellant has carried out risk assessments for Hall Lane and the area of the canal breach and has carried out site investigations for Creams Mill. These reports conclude that further intrusive site investigations are required. The Coal Authority expects that these investigations and any necessary remediation works, and mitigation measures would be adequate to ensure the safety and stability of the development. A condition can be imposed requiring these measures.
90. A Transport Assessment was submitted with the application. This considers the operation of the new junction at Hall Lane, the extension of Mytham Road and the capacity of off-site junctions. Although it was not possible to carry out representative new traffic surveys because of COVID-19 restrictions, pre-COVID traffic data was used, which was adjusted to future assessment year levels. Automatic traffic count data has also been obtained to supplement that data and to facilitate comparison between the figures.
91. The proposed new junction at Hall Lane would not result in unacceptable delay to road users. Mytham Road narrows before reaching the site and is subject to a 20 mph speed limit. The road would be brought up to adoptable standards and the entrance would be defined by a narrowed carriageway with priority given to oncoming vehicles. There are 2m wide footways on Mytham Road which would be extended into the site. The assessment demonstrates that there would be no harm to highway operation or safety. It is common ground between the main parties that the development would provide safe and suitable access for all highway users.
92. I have considered the needs of adjacent residents on Mytham Road who have disabilities, including their transport needs, having due regard to the Public Sector Equality Duty. Given the findings of the Transport Assessment and that the highway authority has no objection, and subject to the imposition of suitable conditions requiring detailed submissions, I concur with the views of the Council and the highway authority on this matter.
93. The Council's committee report states that the distances between the proposed dwellings at Hall Lane and Mytham Road and existing dwellings would meet the

⁶ APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926

standards set out in the relevant Supplementary Planning Document. On this basis the development would not adversely affect the living conditions of adjacent occupiers. This did not form a reason for refusal.

94. The Clinical Commissioning Group was consulted on the application but did not identify any deficiency in local medical services. A deficit in secondary school places was identified by the Education Authority. However, the viability assessment demonstrates that any contribution towards education services would render the development unviable. The Council takes no issue with this point.
95. Flood Risk Assessments were submitted with the application which demonstrate no adverse impact on flooding. Neither the Environment Agency nor the Lead Local Flood Authority objected to the application.
96. An Air Quality Assessment was also submitted which shows that the development would have no adverse impact in this respect. I have taken into account all other matters raised by interested parties but find nothing to alter my conclusions on the main issues.

Planning Obligation

97. The submitted Section 106 Agreement secures a number of measures to ensure that the canal restoration is completed at an early stage in the overall development and that the affordable housing is provided. The obligation requires development to take place in accordance with a phasing strategy. It also secures the ongoing management of open space areas, including the canal, public open space and the woodland, management of the site in accordance with the approved surface water drainage scheme and a contribution towards the making of a Traffic Regulation Order. The obligation also secures employment for local people in accordance with an employment and skills plan.
98. These obligations are necessary to ensure that the benefits of the development from the canal restoration and affordable housing are delivered. Management of open space areas is necessary to safeguard and enhance biodiversity and to provide for public recreation. The employment and skills plan is necessary to ensure benefits to the local economy. It is also necessary to manage the site to ensure the surface water drainage scheme functions adequately. The Traffic Regulation Order is necessary to impose waiting restrictions at the site access and 20 mph speed restrictions on internal roads, in the interest of highway safety.
99. These obligations meet the tests set out in the Community Infrastructure Levy Regulations 2010 and the Framework. They are necessary, directly related to the development and fairly and reasonably related in scale and kind to it. Accordingly, I give weight to the obligations contained in the Section 106 Agreement.

Conditions

100. The parties agreed a list of conditions, and these were discussed at the Inquiry and detailed amendments made. I have imposed those conditions with some minor changes as set out below to ensure that they meet the tests set out in the Framework.

101. A condition listing the approved plans provides certainty. Approval of full details of the new bridge construction is necessary to ensure its safety. It is also necessary to ensure adequate measures are in place to protect the trees that are to be retained during the construction process.
102. It is necessary to safeguard canal and towpath users from pollution including dust nuisance during construction. As referred to above, a condition is necessary to carry out intrusive site investigations to establish risks from past coal mining activity and to carry out any necessary mitigation measures, to ensure safety and stability.
103. A Construction Management Plan is necessary to safeguard local residents from the environmental effects of construction activities. A number of measures are necessary to protect biodiversity. A Construction Environmental Management Plan would ensure protection to habitats and species during construction. Removal of invasive plant species would promote biodiversity within the site. A Landscape and Ecological Management Plan would safeguard and enhance biodiversity over the longer term. Control of external lighting is necessary to protect wildlife, as is restriction on clearance of vegetation between March and July in order to safeguard nesting birds.
104. It is necessary to ensure adequate protection of the canal structure as a non-designated heritage assets as well as the listed mile stone and canal post during construction. Approval of details of the proposed ground levels and finished floor levels of the dwellings is necessary to ensure the development is visually acceptable. A scheme of interpretive display panels regarding the heritage of the canal and the former Creams Mill would be secured by condition in order to aid public understanding of the heritage assets and the history of the site.
105. The dwellings would incorporate sustainable design measures including air source heat pumps and photovoltaic panels. I have imposed a condition requiring a scheme of such measures to ensure that they are tailored to the design of each dwelling.
106. It is necessary to require a scheme of archaeological investigation because the site is of potential archaeological interest. Conditions requiring the safeguarding of a riparian buffer zone along the river and requiring specific protection of otters are both necessary in the interest of biodiversity. Details of the proposed pumping station require approval in order to ensure that its appearance is acceptable.
107. Preliminary Risk Assessments regarding contamination were submitted with the application. It is necessary to carry out further detailed assessments in order to determine any necessary remediation measures and to ensure the safety of the development. A condition requiring a soil testing methodology for any material brought to the site is also necessary for this reason. A detailed landscaping scheme is required in order to ensure the appearance of the development is acceptable.
108. The repair of the canal breach requires submission of comprehensive details including the engineering design, slope stability analysis, drainage measures and details of a connection agreement with the Canal and River Trust. These measures reflect the detailed requirements discussed between the appellant's

- and the Council's consultants and are necessary to ensure structural integrity, adequate drainage and achievement of full restoration of this part of the canal.
109. A number of conditions are imposed to ensure that the highway works are constructed to the required standard in the interest of highway safety. These include the accesses to the three development areas, and the improvements to Mytham Road beyond the existing adopted part of that road. It is necessary to restrict vehicular access to the towpath adjacent to the bridge because the towpath is not designed to accommodate vehicles and any such use would prejudice the safety of pedestrians.
110. Conditions are necessary to require full details of areas to be used by vehicles within the development, and their provision together with car and bicycle parking facilities, in the interest of highway safety and to encourage sustainable travel. The Council suggested two conditions in respect of parking provision but only one would be necessary. The provision of a Travel Plan to the residents of the development to encourage use of sustainable modes of transport is necessary to provide for sustainable travel.
111. Conditions are also imposed that require submission and approval of detailed surface water drainage schemes. These conditions are necessary to ensure adequate drainage and to avoid any localised flooding.
112. A Crime Impact Statement was submitted with the application, which set out various crime prevention measures that would be incorporated into the development. It is necessary to ensure that those measures are included in the interest of crime prevention. A condition requiring details of external facing materials is necessary to ensure the appearance of the development is acceptable. A condition requiring approval of boundary treatments is also necessary for this reason.
113. Should any piling works be necessary, approval of a method statement would be required in order to ensure the stability of works including the canal works and drainage measures, and to control noise and vibration.
114. A Noise Assessment was submitted with the application and a condition is necessary to ensure that the measures set out in that report are implemented, to ensure acceptable living conditions for future residents.
115. A condition was suggested which would remove permitted development rights for extensions, outbuildings, gates, fences and walls on the plots at Hall Lane that would face onto the canal. The garden areas of plots 45-48 and 51-58 fall within the buffer zone adjacent to the canal, which should be left clear. Plots 30-34 would either abut that zone or would be in close proximity to it and it is important to ensure that there is no conflict with the design of the buffer zone in terms of its appearance. For these reasons, restriction of permitted development rights on those plots is justified. It was also suggested that those rights be restricted for plots 68-77 however the front elevations of those dwellings would face the canal and although restriction on means of enclosure would be appropriate, restrictions on extensions would not.
116. The removal of permitted development rights in respect of the development at Mytham Road was also suggested. There is justification for removal of those rights in respect of extensions, outbuildings and means of enclosure for plots 40-66 as the root protection areas of adjacent trees extend into the proposed

rear garden areas. It was suggested that permitted development rights for other plots be removed on the grounds that the garden sizes would be too small to satisfactorily accommodate extensions without unacceptably reducing the garden areas. No specific evidence on minimum garden size requirements, or how those requirements would be affected, has been put forward. I find that removal of the rights in these cases has not been justified.

117. Because the dwellings on sites 2, 3 and 4 at Creams Mill and their gardens would not be likely to affect the root protection areas of existing trees or the riparian buffer zone and given also that the dwellings on sites 3 and 4 would be apartments, I see no justification for restricting permitted development rights on those parts of the development.

Conclusion

118. For the reasons given, I conclude that the appeal should be allowed.

Nick Palmer

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ian Ponter, of Counsel instructed by Nicola Raby, Senior Lawyer, Bolton Council

He called:

Carl Taylor BA (Hons) Dip LA CMLI

Director, TPM Landscape

Shaun Taylor BA (Hons) MCD MRTPI

Director, SATPLAN LTD

Conditions and Planning Obligations session

Jodie Turton

Principal Development Officer

FOR THE APPELLANT:

G Cannock, of Kings Counsel and Freddie Humphries of Counsel instructed by
Martin Hallam of Gunner Cooke Solicitors

They called:

Paul Beswick BA (Hons) Dip LA

Director of Landscape Architecture
and Environmental Impact
Assessment, Enzygo Limited

Patrick Moss BSc Dip TP MRTPI

Director, Moss Naylor Young Ltd

Mark Harrison BA BArch MA

Director, TADW Ltd

Gillian Worden BA (Hons) MPlan MRTPI

Director, P4 Planning Limited

Bill Davidson BA (Hons) DipTP DipUD MRTPI

Director, P4 Planning Limited

Conditions and Planning Obligations session

Stuart Fraser CEng MICE

Regional Director, Elluc Projects

Martin Hallam

Solicitor, Gunner Cooke

INTERESTED PARTIES:

Steven McKinney

Secretary, Little Lever Green Belt
Action Group

Chris Nash

Manchester Bolton & Bury Canal
Society

DOCUMENTS SUBMITTED AT THE INQUIRY

- ID01 Opening Submission of the Appellant
- ID02 Opening Submissions on behalf of the Local Planning Authority
- ID03 Table comparing the parties' assessments of landscape sensitivity, change and effects of the development
- ID04 Pre- 1936 photograph of Prestolee Locks
- ID05 Note on Canal and River Trust's willingness and ability to re- connect the canal
- ID06 Note on Timeline for Permissive Footpaths
- ID07 Technical Note on the Soil Stabilization Works with Plants by Enzygo
- ID08 Carl Taylor's Response to Enzygo Note submitted on 29 November 2022
- ID09 List of Conditions 29.11.22
- ID10 Community Infrastructure Levy Compliance Statement
- ID11 Development Phasing Strategy
- ID12 Closing Submissions on behalf of the Local Planning Authority
- ID13 Closing Submission of the Appellant
- ID14 Section 106 Agreement

Schedule of Conditions

Commencement

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Bridge Works

- 2 Prior to the commencement of development of Creams Mill sites 2, 3 or 4, full details of the bridge works at Mytham Road comprising the design and construction of the bridge and including a design certificate and design check certificate from separate and independent chartered engineers shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to the development being first brought into use and retained thereafter.

Tree Protection Measures

- 3 No demolition, development or stripping of soil (other than the erection of a site compound, hoardings and fencing) shall be started at each of the development sites (including the access road, canal and canal breach area) until a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) have been submitted to and approved in writing by the local planning authority. The AMS shall detail how the following elements of the site will be constructed without causing harm or damage to the trees (except for pruning works) found on and adjacent to the site:
 - i) details of specific methods for paths, steps and structures within the root protection zones of retained trees for the Woodland Walks as identified in the approved plans;
 - ii) full details of service and utility routes including drainage and water services. Routes should be designed to be situated outside of root protection zones; where this is not possible, they should be installed using trenchless techniques in accordance with BS5837:2012; and
 - iii) full details of the location and implementation of Construction Exclusion Zones and temporary ground protection measures.

Works on site shall be undertaken under the supervision of a suitably qualified Arboriculturist.

The protective fencing as shown on the approved TPP shall remain in the agreed location (in accordance with BS 5837:2012) until the development at that development parcel is completed and there shall be no work, including the storage of materials, or placing of site cabins, within the fenced area(s).

The development shall be carried out in full accordance with the approved details.

Canal Protection Method Statement

- 4 No development, demolition, site clearance or earth moving shall take place or material or machinery brought onto the site until a detailed method statement including measures to protect the canal corridor and its users from any adverse impact of construction work and risk of pollution by contaminated water run-off, accidental spillages, dust and debris during and post construction has been submitted to and approved in writing by the local planning authority. All approved measures shall be implemented in full and maintained for the duration of the construction period in accordance with the approved details.

Coal

- 5 No development (other than site hoarding, signboards, compound, vegetation strip, site clearance and stripping) shall commence at each development site including the canal and canal breach area, until the following actions have been carried out and the relevant information has been submitted to and approved in writing by the local planning authority:
 - i) a scheme of intrusive site investigations to establish the risks posed to the development by past coal mining activity; and
 - ii) details of any necessary remediation works and/or mitigation measures to address any land instability arising from coal mining legacy.

The intrusive site investigations and approved remedial works and/or mitigation measures shall be carried out in full accordance with the approved details and with relevant authoritative UK guidance.

Prior to first occupation of the residential units at each of the affected development sites and prior to the watering of the canal a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the local planning authority for approval in writing. This document shall confirm the completion of the remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Construction Management Plan

- 6 Prior to the commencement of development, including demolition, ground works or vegetation clearance a Construction Management Plan (CMP) shall be submitted to and approved in writing by the local planning authority. The CMP shall include the following details:
 - i) hours of construction work and deliveries;
 - ii) details of precautions to guard against the deposit of mud and substances on the public highway, to include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances prior to entering the highway;
 - iii) dust suppression measures;
 - iv) noise emission suppression measures;

- v) construction routes in and around the site;
- vi) compound locations together with details of the storage facilities for any plant and materials including off-site consolidation if appropriate, the siting of any site huts and other temporary structures, including site hoardings and details of proposed security arrangements for the site;
- vii) parking of vehicles associated with construction, deliveries, site personnel, operatives and visitors; and
- viii) sheeting over of construction vehicles.

Development of each phase or plot shall be carried out in accordance with the approved CMP.

Construction Environmental Management Plan - Biodiversity

- 7 No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
- i) risk assessment of potentially damaging construction activities;
 - ii) identification of biodiversity protection zones;
 - iii) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction. This information may be provided as a set of method statements;
 - iv) the location and timing of sensitive works to avoid harm to biodiversity features;
 - v) the times during construction when specialist ecologists need to be present on site to oversee works;
 - vi) responsible persons and lines of communication; and
 - vii) use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Invasive Species Clearance

- 8 No development shall take place at each of the individual development parcels (including canal, canal breach area, and access route from Mytham Road) (other than site hoarding, signboards, compound, vegetation strip, site clearance and stripping and crushing of existing hard standings of the areas unaffected by invasive species) unless a detailed method statement for removal or the long-term management/control of Japanese knotweed, Giant hogweed, Himalayan Balsam and Rhododendron identified within the development sites and the canal site has been submitted to and approved in writing by the local planning authority.

The method statement shall include measures to prevent the spread of Japanese knotweed, Giant hogweed, Himalayan Balsam and Rhododendron during any operations e.g mowing, strimming and bank regrading or soil

movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds/root/stem of any invasive plant covered under the Wildlife and Countryside Act 1981 as amended. The scheme shall include a timetable for implementation. Should there be a delay of more than one year between the approval of the scheme and its implementation or the commencement of development then a new site survey and, if necessary, further remedial measures shall be submitted for the further approval of the local planning authority. Development shall proceed in accordance with the approved method statement.

Canal Heritage

- 9 Prior to the commencement of works to the canal and/or towpath a scheme to protect canal related heritage assets during construction works (e.g Grade II listed canal milestone and post, together with undesignated assets such as setted areas within the towpath and original canal assets such as coping stones) shall be submitted to and approved in writing by the local planning authority. The approved works shall be implemented in full and retained throughout the construction phase of the development.

Levels

- 10 Other than works to replace the bridge over the canal at Mytham Road and before the development is commenced on each of the development sites hereby approved, details of the existing and proposed ground levels within the site and on adjoining land including spot heights, cross sections, plateaux, haul road and finished floor levels of all buildings and structures shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full and retained thereafter.

Sustainable Design and Construction

- 11 Prior to the commencement of development, a scheme of sustainability measures shall be submitted to and approved in writing by the local planning authority. The scheme shall include the provision of roof mounted photovoltaic panels, air source heat pump cylinders and rainwater harvesting facilities for all dwellings other than apartments and air source heat pump cylinders for apartments as a minimum. The approved measures shall be installed and in full working use prior to occupation of any dwelling and shall be retained thereafter.

Archaeology

- 12 No development (other than site hoarding, signboards, compound, vegetation strip, site clearance and stripping) shall take place until the implementation of a programme of archaeological works has been secured. The works shall be undertaken in accordance with a Written Scheme of Investigation (WSI) which shall be submitted to and approved in writing by the local planning authority. The WSI shall cover the following:
 - i) a phased programme and methodology of investigation and recording to include an archaeological evaluation through trial trenching; targeted area excavation and an archaeological watching brief;

- ii) a programme for post-investigation assessment to include analysis of site investigation records and finds and production of a report on the significance of the archaeological and historical interest represented;
- iii) deposition of the final report with the Greater Manchester Historic Environment Record; and
- iv) provision for archive deposition of the report and records of the site investigation.

Riparian Buffer Zone

- 13 No development shall take place at Site 3 (Creams Mill) until a scheme for the protection and/or enhancement of a minimum 8m riparian buffer zone alongside the River Irwell watercourse and Water Framework Directive waterbody (ref. GB112069060840) has been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved scheme. The scheme shall include:

- i) plans showing the extent and layout of the riparian works along the River Irwell wildlife corridor;
- ii) details of any bank re-grading or hard revetment modification/removal along the River Irwell;
- iii) detailed cross-sections along the River Irwell from the toe of embankment every 50m;
- iv) details of a soft landscaping scheme including a planting schedule predominantly based on native species;
- v) details of the design and construction of the new woodland walks;
- vi) details demonstrating how the buffer zone will be protected during development; and
- vii) details of any proposed footpaths, including surfacing, alignment and boundary treatment/edging.

The riparian buffer zone shall be free from built development including lighting, domestic gardens and formal landscaping.

Otters

- 14 Prior to the commencement of development at Site 3 (Creams Mill), including any ground or vegetation disturbance, and any use of artificial light, the following information shall be submitted to and approved in writing by the local planning authority, comprising either:
- i) a licence issued by Natural England pursuant to Regulation 55 of the Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development to go ahead; or
 - ii) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

The works shall be carried out in full accordance with the approved details.

Pumping Station

- 15 Prior to commencement of any above ground construction works at Sites 2, 3 and 4 (Creams Mill) full details of the pumping station including layout, elevations and materials shall be submitted to and approved in writing by the local planning authority. The development shall be completed in full accordance with the approved details prior to the first occupation of the dwellings at Sites 2, 3 and 4 and retained as approved thereafter.

Contaminated Land

- 16 The development hereby approved shall be carried out in full accordance with the following Preliminary Risk Assessments: Hall Lane, Little Lever, dated May 2021 (ref. CL-602-LKC 20 1620-02) by LK Consult, and Creams Mill, Mytham Road, Little Lever, dated May 2021 (ref. CL-602-LKC 20 1371-02) by LK Consult.

No development (other than site hoarding, signboards, compound, vegetation strip, site clearance and stripping and works to replace the bridge over the canal at Mytham Road) shall take place unless and until a methodology has been submitted to and approved in writing by the local planning authority. This shall include:

- i) an assessment to determine all previous uses of the site(s), potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, potentially unacceptable risks arising from contamination on site, the nature and extent of any contamination affecting the site and the potential for off-site migration;
- ii) provision of a comprehensive site investigation based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site; and
- iii) the results of the site investigation and the detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

If contamination is found on any of the development sites, no construction of the units within the affected development site shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted has been submitted to and approved in writing by the local planning authority.

Upon completion of any approved remediation scheme(s), and prior to occupation of any dwellings on the affected site, a verification report demonstrating that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency actions shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

Hard and Soft Landscaping

- 17 No above ground construction works shall take place at each development site including the canal and canal breach/retaining works area until a detailed hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority for that site. This scheme shall accord with the principles of the approved landscaping plans and include (but not be limited to):
- i) a detailed plan of the hard and soft landscaping measures proposed;
 - ii) details of the species, size and number of trees and/or plants to be planted;
 - iii) a specification for soils to provide a suitable growth medium for trees;
 - iv) ecological mitigation measures;
 - v) details of the restored canal towpath (canal works only); and
 - vi) a phasing plan for delivery.

The works shall be carried out in accordance with the phasing plan.

For the avoidance of doubt, the details shown on the approved landscaping plans shall be completed in their entirety by the end of the first planting season following the occupation of the last dwelling on each individual development site. Any trees, shrubs or vegetation within any individual plot that die or are removed within 10 years of planting shall be replaced in the next available planting season with others of similar size and species. Any trees or shrubs within the open space landscaped areas that die or are removed within 15 years from completion of the last dwelling within each development site shall be replaced in the next available planting season with others of a similar size and species.

Canal and Canal Breach

- 18 Prior to commencement of any works to repair the canal breach and restore the canal channel, other than investigative works, the full detailed design including comprehensive ground investigation of the proposed works shall be submitted to and approved in writing by the local planning authority. The detailed design submission shall also include the following:
- i) full constructional details/plans of the repair to the canal breach and other parts of the canal (to include bed, lining, walls and edging finish), to include full drawings, sections and details of materials;
 - ii) details of the proposed excavations to ensure there is no adverse effect on any existing structures within and immediately adjacent to the site;
 - iii) full details of tree removals required for accessing the canal breach for repair, to include an updated tree survey and tree removal plan;
 - iv) details of slope stability analysis including soil testing on any proposed new slope or modified existing slope to ensure the slopes remain stable during and after construction;

- v) details to prove that the proposed drainage and water management strategy will not have an effect on the groundwater levels that would have the potential to adversely affect any existing asset or earthworks slope within the site;
- vi) requirement to ensure that any increased loading within the site during and after construction does not have an adverse effect on land stability or the stability of the proposed breach treatment;
- vii) a Materials Management Plan;
- viii) a Risk Assessment that addresses the integrity of the proposed breach treatment, including all possible failure modes;
- ix) assessment of the risk posed by vibration on both the Canal and River Trust's assets and any other structure or earthwork that has the potential to be adversely affected by vibration; and
- x) full details of the connection agreement with the Canal and River Trust and/or measures to isolate any restored section of the canal (such as stop plank grooves and planks on the site, flood gates, or sluice gates).

The detailed designs shall be reviewed by an independent and suitably qualified specialist structural designer/engineer. A verification report signing off the design of the proposed works shall be submitted to the local planning authority for approval prior to the commencement of any works to construct the canal breach retaining works or works to the canal channel. The works shall be carried out in full accordance with the approved details and the timescales detailed in the Phasing Strategy and retained thereafter.

Mytham Road Highway Works

- 19 Prior to the commencement of any above ground construction works at Site 1 (Mytham Road), full details of the highway works at Mytham Road comprising bringing the unadopted section of Mytham Road (site access to 35 Mytham Road) up to the Council's standards for adoption shall be submitted to and approved in writing by the local planning authority. The works shall be completed in full accordance with the approved details prior to the first occupation of any dwelling at Mytham Road or Creams Mill and retained thereafter.

Surface Water Drainage – Hall Lane

- 20 Prior to the construction of the dwellings at Hall Lane, details of the surface water drainage scheme to drain water into the adjoining canal shall be submitted to and approved in writing by the local planning authority. The drainage strategy shall include details of attenuation to ensure no unattenuated surface water run-off enters the canal, including from footpaths.

The details shall include arrangements for the adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The development shall be carried out in accordance with the approved details.

Surface Water Drainage – Creams Mill and Mytham Road

- 21 Prior to the construction of the units at Sites 1 – 4 at Mytham Road and Creams Mill, a surface water drainage scheme shall be submitted to and approved in writing by the local planning authority.

Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, and the results of the assessment shall be submitted to and approved in writing by the local planning authority.

Where a sustainable drainage system is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and
- iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage scheme shall be implemented in accordance with the approved details.

Crime Prevention Measures

- 22 Prior to the commencement of any above ground construction works at each of the individual development sites, a scheme showing how development at the relevant site will incorporate methods of designing out crime, taking into consideration the recommendations of the submitted Crime Impact Statement, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved details prior to the first occupation of dwellings on that development site and retained thereafter.

Materials

- 23 Notwithstanding any description of materials in the application, no above ground construction works shall take place at each of the development sites until samples or full details of materials to be used externally (including doors and windows) on the building(s) and bridge have been submitted to and approved in writing by the local planning authority. Such details shall include the type, colour and texture of the materials. The development shall be carried out in accordance with the approved details.

Soil Testing Methodology

- 24 No soil or soil forming materials shall be brought to the site until a testing methodology including testing schedules, sampling frequencies, allowable contaminant concentrations (as determined by appropriate risk assessment)

and source material information has been submitted to and approved in writing by the local planning authority. The approved testing methodology shall be implemented in full during the importation of soil or soil forming material.

Prior to the first occupation of dwellings at each of the development sites a verification report including soil descriptions, laboratory certificates and photographs shall be submitted to and approved in writing by the local planning authority.

Piling

- 25 No piling including impact piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for impact on ground water, damage to canal infrastructure, noise and vibrations and the programme for the works) has been submitted to and approved in writing by the local planning authority. All piling shall be undertaken in accordance with the terms of the approved piling method statement.

Heritage Scheme

- 26 Prior to the re-opening of the realigned towpath a scheme of interpretive display panels to be placed in strategic locations which detail the heritage of the former Creams Paper Mill and the canal, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be completed within 3 months of the re-opening of the canal towpath and retained as approved thereafter.

Measures to Prevent Vehicle Access to Canal Towpath

- 27 Prior to the first use/occupation of any dwelling at Mytham Road and Creams Mill, full details of measures to prevent vehicles from accessing the canal and towpath adjacent to the bridge shall be submitted to and approved in writing by the local planning authority. The works shall be completed in full accordance with the approved details prior to the first occupation of the dwellings at Creams Mill and retained thereafter.

Vehicle Access – Creams Mill

- 28 Prior to the development at Creams Mill Sites 2, 3 and 4 hereby approved being first occupied or brought into use, the means of vehicular access to Creams Mill Sites 2, 3 and 4 from Mytham Road shall be constructed in accordance with drawings refs. SCP/200482/F01 rev D and SCP/200482/F02 Rev D.

Vehicle Access – Hall Lane

- 29 Prior to the development at Hall Lane hereby approved being first occupied or brought into use, the means of vehicular access to the site from Hall Lane shall be constructed in accordance with drawing ref. SCP/200482/F04 Rev C.

Vehicle Access – Mytham Road

- 30 Prior to the development at Mytham Road (Site 1) hereby approved being first occupied or brought into use, the means of vehicular access from

Mytham Road shall be constructed in accordance with drawing ref. SCP/200482/F01 Rev D.

Vehicle Areas

- 31 Prior to the development hereby approved being first occupied or brought into use, a scheme detailing how parts of the site to be used by vehicles are to be laid out, constructed, surfaced, drained and lit shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full and thereafter made available for the use of vehicles at all times the development is in use.

Parking Provision

- 32 Prior to the occupation of any dwelling at each of the development sites, the parking spaces (with minimum dimensions of 2.4m by 4.8m) at that development site as shown on the approved plans shall be provided, laid out and made available for the parking of cars at all times. The parking spaces for the apartments shall be marked out and numbered prior to the first occupation of the apartment building they relate to.

Boundary Treatment

- 33 Prior to the first occupation of dwellings on each of the development sites, details (including a brick or masonry/materials specification and colour scheme) of the treatment to all boundaries to the site shall be submitted to and approved in writing by the local planning authority. All boundary treatments (within the site and site boundaries) shall include provision for small mammal/amphibian holes. The approved boundary details shall be implemented in full prior to occupation of each dwelling and shall thereafter be retained in accordance with the approved plans.

Landscape and Ecological Management Plan

- 34 Prior to completion of the development at Hall Lane and at Creams Mill (including the canal and canal breach area) hereby approved, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The content of the LEMP(s) shall include the following:

- i) description and evaluation of features to be managed;
- ii) ecological trends and constraints on site that might influence management;
- iii) aims and objectives of management to include proposals for biodiversity enhancement;
- iv) appropriate management options for achieving aims and objectives;
- v) prescriptions for management actions;
- vi) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- vii) details of the body or organisation responsible for implementation of the plan;

- viii) ongoing monitoring and remedial measures; and
- ix) habitat enhancement measures.

The LEMP(s) shall include all details of the legal and funding mechanisms by which the long term implementation of the plan will be secured by the developer with the management body or bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan shall be implemented in accordance with the approved details and retained thereafter.

External Lighting

- 35 Prior to the development hereby approved being first occupied, details of the external lighting to be provided on site shall be submitted to and approved in writing by the local planning authority. The lighting shall be designed to minimise the impact on nocturnal wildlife such as bats. The lighting should be designed in line with the Institute of Lighting Professionals guidance 2018 (or equivalent updated guidance). The lighting shall be retained as approved thereafter and no other lighting shall be erected on site other than that approved.

Noise Assessment

- 36 The development hereby approved shall be carried out in full accordance with the recommendations of the Noise Assessment ref. AC109390-IR2 dated February 2021 by Ensaf Consultants. Upon completion of the approved remediation schemes, and prior to occupation of the affected dwelling(s) at each development site, a completion report demonstrating that the scheme has been appropriately implemented and the site is suitable for its intended end use shall be submitted to and approved in writing by the local planning authority.

Travel Plan

- 37 Prior to the occupation of the first dwelling at each of the development sites a Travel Plan, including the appointment of a Travel Plan Coordinator and the process for issuing a Travel Pack to all new households, shall be submitted to and approved in writing by the local planning authority. All residents shall be provided with a Travel Pack on their first occupation of their dwelling. The implementation and ongoing monitoring and review of the Travel Plan (and Travel Pack) shall be carried out in accordance with the submitted details and timetables for implementation and retained thereafter.

Vegetation Clearance

- 38 No vegetation clearance or demolition of buildings shall take place between 1 March and 31 July inclusive, unless carried out under the supervision of a suitably qualified ecologist.

Removal of Permitted Development Rights – Hall Lane

- 39 Notwithstanding the provisions of Schedule 2 Part 1 Classes A, D and E and Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or modifying that Order) no extensions, porches, garages, outbuildings, fences, gates or walls (other than those expressly authorised by this permission) shall be constructed on plots 30-34, 45-48, 51-58 at Hall Lane and no fences, gates or walls (other than those expressly authorised by this permission) shall be constructed within the 8m buffer zone adjacent to the canal.

Removal of Permitted Development Rights – Mytham Road

- 40 Notwithstanding the provisions of Schedule 2 Part 1 Classes A, D and E and Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or modifying that Order) no extensions, garages, outbuildings, fences, gates or walls shall be constructed at plots 40-66 at Mytham Road (Site 1).

Cycle Parking

- 41 Prior to the occupation of each apartment block, the cycle parking facilities shall be constructed in accordance with the approved plans refs. 12 P10 (Proposed Site Plan – Sites 2 and 3), 13 P10 (Proposed Site Plan – Site 4) and 37 P2 (proposed Bin and Cycle Store serving plots 167-178) and shall be retained as approved thereafter.

Approved Plans

- 42 The development shall be constructed in accordance with the following approved plans:

Design

01 P5 Location Plan

Creams Mill

- | | | |
|----|-----|---|
| 02 | P2 | Existing Site Plan |
| 03 | P2 | Existing Site Sections (1) |
| 04 | P2 | Existing Site Sections (2) |
| 05 | P2 | Existing Site Sections (3) |
| 10 | P17 | General Arrangement Site Plan |
| 11 | P9 | Proposed Site Plan – Site 1 |
| 12 | P10 | Proposed Site Plan – Sites 2 & 3 |
| 13 | P10 | Proposed Site Plan – Site 4 |
| 20 | P3 | Proposed Floor Plans and Elevations Plots 1+2, 7+8, 17+18 |
| 21 | P3 | Proposed Floor Plans and Elevations Plots 3-6, 9+10, 23-26 |
| 22 | P5 | Proposed Floor Plans and Elevations Plots 11-16, 19+20, 34+35, 39+40 |
| 23 | P4 | Proposed Floor Plans and Elevations Plots 21+22, 27+28 |
| 24 | P3 | Proposed Floor Plans and Elevations Plots 29-33, 36-38, 47-49, 52-54, 65+66 |

25	P3	Proposed Floor Plans and Elevations Plots 41-46
26	P3	Proposed Floor Plans and Elevations Plots 50+51, 59+60
27	P3	Proposed Floor Plans and Elevations Plots 55-58, 61-64
28	P3	Proposed Floor Plans and Elevations Plots 67-76, 111-116
29	P3	Proposed Floor Plans and Elevations Plots 77-80, 107+108
30	P3	Proposed Floor Plans and Elevations Plots 81-86, 103-106
31	P3	Proposed Floor Plans and Elevations Plots 87+88, 101+102
32	P3	Proposed Floor Plans and Elevations Plots 109+110, 117+118
33	P3	Proposed Floor Plans and Elevations Plots 119-122
34	P8	Proposed Floor Plans and Elevations Plots 89-100, 168-178
35	P5	Proposed Floor Plans Plots 123-166
36	P5	Proposed Elevations Plots 123-166
37	P2	Proposed Bin and Cycle Store serving plots 167-178
38	P1	Site Constraints Plan

Hall Lane

10	P3	Existing Site Plan – with topographical survey
11	P3	Existing Site Plan – with site constraints
12	P9	Proposed Site Plan
13	P4	Proposed Site Plan – design analysis
14	P2	Existing Site Sections
15	P5	Proposed Site Sections
20	P3	Proposed Plans and Elevations - Plots 1-4
21	P3	Proposed Plans and Elevations - Plots 5-9
22	P3	Proposed Plans and Elevations - Plots 10-14
23	P3	Proposed Plans and Elevations - Plots 15-19
24	P3	Proposed Plans and Elevations - Plots 20-24
25	P4	Proposed Plans and Elevations - Plots 25-28
26	P4	Proposed Plans and Elevations - Plots 29-33
27	P3	Proposed Plans and Elevations - Plots 34-40
28	P4	Proposed Plans and Elevations - Plots 41-44
29	P3	Proposed Plans and Elevations - Plots 45-48
30	P3	Proposed Plans and Elevations - Plots 49-53
31	P3	Proposed Plans and Elevations - Plots 54-58
32	P4	Proposed Plans and Elevations - Plots 59-62
33	P4	Proposed Plans and Elevations - Plots 63-67
36	P1	Proposed Plans and Elevations - Plots 68-71, 74-75
37	P1	Proposed Plans and Elevations - Plots 72, 73, 76, 77

Canal Bridge

20040-EPW-00-F-DR-S-0101-GA-S4 A04 Proposed Bridge Culvert
Manchester, Bolton and Bury Canal

Drainage

Creams Mill Site 1

ELL/20061/WH/L/100	C	S104 Drainage Layout
ELL/20061/WH/L/120	A	Private Drainage Layout, Sheet 1 of 2
ELL/20061/WH/L/121	B	Private Drainage Layout, Sheet 2 of 2

ELL/20061/WH/L/140	A	External Works Layout, Sheet 1 of 2
ELL/20061/WH/L/141	B	External Works Layout, Sheet 2 of 2

Creams Mill Sites 2, 3 and 4

ELL/20040/WH/L/100	E	S104 Layout
ELL/20040/WH/L/120	A	Plot Drainage, Sheet 1 of 2
ELL/20040/WH/L/121	A	Plot Drainage, Sheet 2 of 2
ELL/20040/WH/L/140	B	External Works Layout, Sheet 1 of 3
ELL/20040/WH/L/141	A	External Works Layout, Sheet 2 of 3
ELL/20040/WH/L/142	A	External Works Layout, Sheet 3 of 3

Hall Lane

ELL/20053/WH/L/100	G	S104 Layout
ELL/20053/WH/L/120	A	Plot Drainage, Sheet 1 of 2
ELL/20053/WH/L/121	A	Plot Drainage, Sheet 2 of 2
ELL/20053/WH/L/140	B	External Works Layout, Sheet 1 of 2
ELL/20053/WH/L/141	B	External Works Layout, Sheet 2 of 2

Landscape (all drawings start with MAN.1828.001)

Creams Mill

ENZ.01.XX.DR.L.00.001	PL05	Creams Mill - General Arrangement [GA]
ENZ.00.XX.DR.L.00.002	PL05	Creams Mill Strategic Masterplan
ENZ.01.XX.SH.L.45.402	PL05	Creams Mill - Soft Landscape Schedule

Hall Lane

ENZ.00.XX.DR.L.00.001	PL05	Hall Lane - Strategic Landscape Masterplan
ENZ.02.XX.DR.L.00.001	PL05	Hall Lane - General Arrangement [GA]
ENZ.02.XX.SC.L.45.403	PL04	Hall Lane - Soft Landscape Schedule

Woodland Walk/Canal Breach

ENZ.03.XX.DR.L.00.001	PL04	Woodland Walk & Breach - General Arrangement [GA]
ENZ.01.XX.SH.L.45.401	PL04	Woodland Walk soft landscape schedule

Richborough Estates