



Appeal Decision

Site visit made on 7 November 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2023

Appeal Ref: APP/B4215/W/23/3318645

Unit 6, 6 Longden Road, Manchester M12 5SR

- 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 Stoyan Ishoviyarov of Autostar Motors Ltd against the decision of Manchester City Council.
 - The application Ref 135361/FO/2022, dated 1 November 2022, was refused by notice dated 9 March 2023.
 - The development is the sub-division of an existing commercial unit to form vehicular repair garage (Class B2) and retention of light industrial unit (Class E), together with the provision of a vehicle parking area/forecourt to the front and low frontage dividing wall to separate the two forecourts created.
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Decision

1. The appeal is allowed and planning permission is granted for the sub-division of an existing commercial unit to form vehicular repair garage (Class B2) and retention of light industrial unit (Class E), together with the provision of a vehicle parking area/ forecourt to the front and low frontage dividing wall to separate the two forecourts created at Unit 6, 6 Longden Road, Manchester, M12 5SR in accordance with the terms of the application, Ref 135361/FO/2022, dated 20 December 2022, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Stoyan Ishoviyarov of Autostar Motors Ltd against the decision of Manchester City Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development given above is taken from the Council's Decision Notice and the appeal form as this provides a more accurate description.
4. The use of one of the units that form the appeal site, as a vehicular repair garage, had commenced at the time of my visit. I have, therefore, dealt with the appeal on the basis that planning permission for that element of the development is being sought retrospectively.

Main Issues

5. The main issues are the effect of the development on:
 - pedestrian and highway safety with particular regard to the adequacy of parking provision; and

- the living conditions of the occupiers of nearby residential properties on Longden Road with particular regard to the effects of noise, traffic generation and car parking.

Reasons

Pedestrian and highway safety

6. The appeal premises is a unit that fronts onto Longden Road which has been subdivided and now comprises a single bay vehicular repair workshop and a light industrial unit. It forms part of a large building located on the corner of Hemmons Road and Longden Road now in use for various business purposes. Residential properties are situated opposite the appeal site Longden Road. Accordingly, the appeal site is in a mixed use area.
7. Whilst a plan showing the parking layout has not been provided within the appeal documents, it is apparent from the evidence before me that three vehicles could be parked on the appeal site frontage, perpendicular to the highway. Two of these spaces could be accommodated in front of the unit containing the vehicular repair garage.
8. Adopted parking standards have not been provided against which the parking provision can be assessed. It is, however, reasonable to assume that the provision of two parking spaces for vehicles waiting to be serviced or repaired is sufficient given the small scale of the business and the information concerning its operation as set out appeal documents. Furthermore, it is noteworthy that the Highway Authority consider that the provision of two parking spaces for the vehicular repair garage unit and one space for the other unit to be sufficient.
9. I acknowledge that any vehicle within the parking space directly in front of the workshop bay would have to be temporarily moved onto the highway to enable vehicles to be moved in and out of the building. Nonetheless, given the small number of vehicles that are worked on each day, such occurrences would be infrequent as well as limited in duration. Consequently, I find that two parking spaces for the vehicular repair garage is sufficient. A planning condition could be imposed to secure the provision of such spaces.
10. On my site visit, which I acknowledge is a snapshot in time, I noted that the nearby roads were busy but, nevertheless, there was on-street parking capacity in the vicinity of the appeal site. I also noted that there were no parking restrictions. It is reasonable to assume that on-street parking demands in the locality will increase at peak times during the evening through to early morning, when more people are at home. However, the appellant indicates the business would not operate during such hours. Accordingly, as the hours of operation can be controlled by planning condition, I find that there would be some capacity to accommodate any additional parking associated with the car repair garage on the highway.
11. I note that representations have raised concerns about issues of congestion in the area, supported by photographs. However, such evidence does not demonstrate that this issue is directly associated, even in part, with the operation of the vehicle repair garage that is before me. Furthermore, I have been presented with very little evidence as to how the operation of the vehicular repair garage would lead to associated vehicles having no choice but

to park in places that would be unsafe for other road uses including pedestrians. Therefore, even if the development results in some parking on nearby streets there is no substantive evidence to suggest that if the hours of operation are restricted and parking spaces provided, material harm to pedestrian or highway safety would arise.

12. Accordingly, I conclude that subject to conditions, pedestrian and highway safety would not be adversely affected by the development, with particular regard to the adequacy of parking provision. Therefore, there is no conflict with Policy DM1 of Core Strategy Development Plan Document (CS), which, amongst other things, seek to ensure that development has regard to car parking.
13. Policy DC26 of The Unitary Development Plan (UDP) has also been referenced in the reason for refusal, however, as this policy relates to noise it is not relevant to this main issue.

Living conditions

14. The appellant has provided an Acoustic Planning Report (the Report) which seeks to establish the existing environmental sound levels at the nearest noise sensitive receptors to the site. It also undertakes an assessment of typical operational activity associated with the vehicular repair workshop. It concludes that the typical operational activities would have a significant adverse impact and exceed the maximum sound level at the nearest noise sensitive receptor. However, when the roller shutter door is closed the Report states that the impact would be low at the nearest noise sensitive receptor and would not exceed the maximum sound level.
15. I acknowledge that the Council's Environmental Health Officer has raised no objection to the methodology of the Report, including the position where the sound levels were measured, or its findings. In the absence of any substantive evidence to the contrary, I find no reason to dispute the findings of the Report.
16. The operational hours of the business, which could be controlled through a planning condition, would result in the comings and goings associated with the vehicular repair garage taking place during daytime hours. As such, they are at a time of day when people are active, and not when residents reasonably expect a greater level of peace and quiet. Furthermore, the appellant has suggested a condition that would prevent vehicles from being delivered to the premises outside the authorised hours of working. This would address disturbance arising from such activity, including from recovery vehicles deliveries, outside of the standard working hours.
17. The Council has raised concerns that the roller shutter doors remaining closed, as recommended in the Report, is impractical at the busiest times when there is a need to move vehicles in and out of the premises. Representations also suggest that work has taken place outside of the building and when the roller shutter door is open. Nonetheless, enforceable restrictions preventing the operational activity identified within the Report taking place outside building and only at times when the door is closed could be secured using planning conditions.
18. Concern has also been expressed that there is the potential for odour nuisance arising from processes undertaken within the premises. However, there is

nothing before me that suggests that paint spraying or other odour generating operations could practicably take place within such a small unit. Moreover, such an activity could be prohibited through a planning condition.

19. As set out above, I am satisfied that the proposed on-site parking spaces addresses any additional parking requirements generated by the proposal. If a small amount of additional parking is required there is sufficient available on the highway to avoid any unacceptable effect on the living conditions of nearby residents.
20. I acknowledge the concerns of the Council and interested parties and the difficulties that residents have experienced. Nonetheless, there is no robust evidence before me that the vehicular repair garage, either on its own or in combination with the other nearby businesses, could not be made acceptable through the use of planning conditions. I therefore find that this is a suitable site for a small-scale vehicle repair garage.
21. Consequently, I find, subject to conditions, that the development would not unacceptably affect the living conditions of the occupiers of nearby residential properties on Longden Road with particular regard to the effects of noise, traffic generation and car parking. As such there would be no conflict with UDP Policy DC26 and CS Policy DM1, which, amongst other things, seek to protect local amenity.

Conditions

22. The Council and the appellant have suggested several conditions, which I have considered against the National Planning Policy Framework and Planning Practice Guidance. As a result, I have made some amendments to the wording for purposes of clarity.
23. The development has already commenced, therefore a condition specifying the time limit for commencement is not necessary. However, as the development is not completed it is necessary to include a condition specifying that the development is carried out in accordance with the approved plans.
24. To protect the living conditions of nearby occupiers and in the interests of highway safety, it is necessary to impose conditions to secure the parking spaces within the site and to require compliance with the Waste Management Strategy. As permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure such matters, I have included a strict timetable for compliance within these conditions. This is to ensure that the development can be enforced against if the requirements of such conditions are not met.
25. To protect the living conditions of nearby occupiers and in the interests of highway safety, it is also necessary to impose a condition which restrict the hours of opening. For the same reasons a condition which restrict the hours within which loading, unloading, servicing, waste collections or deliveries can take place is also necessary. I have amended the wording to make it clear that it applies to the delivery of vehicles for repair including those arriving by recovery vehicle.
26. Having regard to the Report, and the concerns of local residents and the Council, I have also imposed conditions relating to noise mitigation. I have made some amendments and additions for clarity. This includes the prevention

of paint spraying and repairs taking place outside of the building. One such condition involves the removal of permitted development rights, which should only be used in exceptional circumstances. In this instance protection of the living conditions of nearby residents comprises an exceptional circumstance which supports the removal of certain permitted development rights.

Conclusion

27. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Elaine Moulton

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following plans: P1 Location Plan A3; P2 Existing and Proposed Site Plan A2; P3 Existing and Proposed Ground Floor A1; P4 Existing and Proposed Front Elevations A1; P5 Existing and Proposed Side 1 Elevations A1; P6 Existing and Proposed Rear Elevations A1; and P7 Existing and Proposed Side 2 Elevations A1.
- 2) Unless within 1 month of the date of this permission three parking spaces are surfaced, demarcated, and made available for use within the site, the use of the site as a vehicular repair garage (Class B2) shall cease until such time as the parking spaces are provided.

Those spaces shall thereafter be kept available at all times for the parking of motor vehicles associated with the development hereby permitted.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Unless within 1 month of the date of this permission the bin storage arrangements, as shown on the plan titled P3 Existing and Proposed Ground Floor A1 and the Waste Management Strategy (WMS), stamped as received by the Council on 12 December 2022, are implemented the use of the site as a vehicular repair garage (Class B2) shall cease until such time as the bin storage has been provided and the WMS fully implemented.

Thereafter the bin storage arrangements shall be retained, and the Waste Management Strategy adhered to.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) The premises shall not be open for business outside of the hours of 0930 to 1800 Monday to Friday, 0930 to 1300 on Saturdays, or at any time on Sundays or Bank Holidays.
- 5) No loading, unloading, servicing, collections (including waste) or deliveries shall take place outside of the hours of 0730 to 2000 Monday to Saturday, or at any time on Sundays or Bank Holidays. For the avoidance of doubt, the restrictions set out in this condition apply to the delivery of vehicles for repair including those arriving by recovery vehicle.
- 6) The premises shall at all times operate in strict accordance with the provisions of the Lighthouse Acoustics Planning Report dated 31 October 2022 (ref. 1013/APR1 revision 1), stamped as received by the Council on 3 November 2022. This includes the requirement that all roller shutter doors remaining closed when the typical operational activities using the equipment set out below are undertaken within the workshop.
 - Battery Torque Gun
 - Angle Grinder
 - Hammer
 - 2 Post LiftNo repairs shall take place outside of the building at anytime.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications) the premises shall only be used for works associated with motor vehicle repair, including servicing, MOT testing and tyre fitting, and not used for body work painting and/or re-spraying or any other purpose within Class B2 of Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).