

Site Name : Unit 6c), Longden Road.
Site Location : Manchester, M12 5SR.

Appeal Statement in relation to an Appeal against the decision of Manchester City Council to refuse planning permission for 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.

On behalf of

Mr Stoyan Ishoviyanov.

March 2023.

Job Number C/0263/2

Report No: AP1

Appeal by Mr Stoyan Ishoviyarov.

Unit 6c) Longden Road.
Manchester, M12 5SR.

Planning Inspectorate Ref.
NYK

Local Planning Authority Ref.
135361/FO/2022

PLANNING APPEAL STATEMENT.

March 2023.

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Personal Details of Agent.

I am Neil Boughey, Director of Acorn Planning Ltd, Chartered Planning consultants.

I hold an Upper Second Class Honours degree in Urban Studies, a Diploma in Town Planning and a Bachelor of Laws degree.

I was elected a Member of the Royal Town Planning Institute in 1992. I am an Affiliate Member of the Institute of Historic Buildings and Conservation.

My background is in town and country planning, where I have over 20 years' experience in development control, and regional and local policy preparation. Posts held during this period include local authority policy and development control planning, including extensive experience in Local Development Plan Preparation, Structure Plan Preparation and contributions to Regional Policy Preparation. Latterly I worked as senior planner for a Lincoln based Planning and Environmental Consultancy, Hallettec Associates. I also lecture on Town Planning to Architecture Students at the University of Lincoln on a peripatetic basis.

On leaving Hallettec Associates in 2009 I set up my own consultancy, Acorn Planning Ltd, a broad based planning consultancy offering support in all aspects of planning and development.

1. Introduction.

1.1. Background.

1.1.1. Acorn Planning Ltd are instructed by Mr Stoyan Ishoviyanov ("the appellant"), the leaseholder of the appeal property, to represent them in their appeal against the decision of Manchester City Council ("the Council") to refuse planning permission for the subdivision 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.

1.1.2. This statement demonstrates that the Council were wrong to refuse planning permission and that, having proper regard to the development plan and all material considerations in accordance with s38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), planning permission should be granted pursuant to this appeal.

1.2. Description of the Appeal Site and its surrounds.

1.2.1. Unit 6c) Longden Road was created from the subdivision of the former United Co-operative Laundry building, located at the junction of Hemmons Road and Longden Road, around which a number of business units have been developed to the immediate north and east of the original laundry building. The main building has a frontage onto Longden Road, facing on to residential properties on the south side of Longden Road.

1.3. Description of the Appeal Proposal.

1.3.1. My client, the operator of Autostar Motors Limited, took over the lease of the appeal property in October 2021, which at the time was already operating as a vehicle repair garage, and had already been physically subdivided. I am advised by my clients that he purchased the lease in good faith having been misadvised by the previous leaseholder and operator that the previous user had the correct planning consent.

1.4. Planning History.

- 1.4.1. There is no available history relating to how the former Laundry became commercial industrial premises. There is no extant consent for former B1 (now E), B2 or B8 use for the former laundry building as a planning unit in itself. As such, the Council clearly have challenges in controlling a long standing existing employment use of some considerable size in proximity to residential properties.
- 1.4.2. Planning permission (Ref. No: F15904) – “Insertion of new roller shutter door in elevation to Longden Road and use of the premises for the refurbishing of pianos.” at “Unit 6, Former U.C.L.A. Laundry, Longden Road, Longsight”, in July 1981, is the only previous consent directly relating to the appeal site. I contend that this, as the last lawful use, establishes a lawful former B1 (now E) Use Class at the appeal property. Images off Google Street view show the premises in that use in July 2011:



Image 1 – View of appeal property as at July 2011.

1.4.3. Images from October 2012 to July 2019 show the premises vacant:



Image 2 – View of appeal property as at July 2015.

1.4.4. On 10th August 2022 an Enforcement Notice was served on the appellant , alleging:

1. The material change of use and sub-division of an existing unit to form 2 x vehicle repair places
2. The removal of a boundary wall to create a vehicle parking and work area to the front.

1.4.5. The Enforcement Notice was subsequently withdrawn in October 2022 and the principle of submitting a retrospective application agreed. The withdrawal was primarily due to acceptance by the Council that it was a neighbouring unauthorised vehicle repair business that was giving rise to the majority of on street repairs and parking that had given rise to complaints from the adjacent residential properties.

1.4.6. The application the subject of this appeal was subsequently submitted and validated on 10th January 2023. It should be noted that the appellant is, for the sake of expediency, seeking to retrospectively consent works in breach of planning control (the subdivision of the unit and the change of use to vehicle repairs) that he “inherited”, while he progresses resolution of contractual issues etc.

2. Reasons for Refusal.

2.1. A notice of refusal was issued on 9th March 2023. (Attached as Appendix 1).

2.2. The following reason was included as the ground for refusal (GfR) in the issued decision notice:

“1) The continued use of the site for motor vehicle repairs would be unduly detrimental to the amenities that occupiers of adjacent residential properties might reasonably expect to enjoy, by virtue of increased comings and goings associated with customer activity, deliveries and vehicle movement, together with the noise and disturbance associated with the undertaking of repair work and the insufficient arrangements for the parking of vehicles within the curtilage of the site and the resulting exacerbation of existing on-street parking, highway difficulties and traffic congestion in the area, to the detriment of pedestrian and highway safety. As such the proposal would be contrary to saved policy DC26, of the Unitary Development Plan for the City of Manchester and policy DM1 of the Manchester Core Strategy.”

2.3. In accordance with Article 35 (1) (b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (“the Order”) “where planning permission is refused, the notice must state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision.”

2.4. Accordingly, it must be deduced that the Council concluded that the application was in accordance with all other relevant policies. It is understood by the appellant that the Council alleges no other conflict with the NPPF or relevant policies of the Development Plan and the Appellant retains the right to respond if the Council now seeks to allege such conflict pursuant to the appeal.

2.5. In analysing the reason for refusal of the application the following main concern would therefore appear to arise on the Council's part:

i) alleged offence against local policy in terms of unacceptable adverse impact on the amenities of adjacent residential properties as a result of the appeal site being used as a vehicle repair garage.

2.6. As this statement will go on to discuss, I will submit that:

- The alleged adverse impacts on neighbouring amenity are overstated and as the submitted Acoustic Planning Report confirms, could be avoided through the imposition of appropriate conditions.
- The Council failed to demonstrate how it has considered the public benefits of the appeal proposal in terms of creating accessible local employment facility provision and jobs in the planning balance.
- The Council failed to take into account the recommendations of the submitted Acoustic Planning Report.
- The Council's decision to refuse planning permission is inconsistent with the decision to allow an appeal (ref APP/B4215/A/10/2119586) in respect of refusal of planning permission for the use of premises as a vehicle repair, service and MOT garage (Use Class B2) at Unit 5 Longden Road, and their own decision to grant planning permission (ref 107140/FO/2014/N2) for the change of use from B1 light industrial unit to B2 vehicle repair, service & MOT centre at Unit 9A Longden Road Industrial Estate.
- The Council failed to consider the "fallback" position that the appeal site has an unconstrained lawful E class use and could accommodate an equally or more intense user without the need for planning permission.

3. Policy Framework and Material Considerations.

3.1. Background.

- 3.1.1. For the purposes of this appeal, the relevant development plan is the National Planning Policy Framework (NPPF, "The Framework") July 2021 and the Manchester Core Strategy 2012–2027 (July 2012) as well as saved policies in the Unitary Development Plan for the City of Manchester (July 1995).
- 3.1.2. Both local development plans cited in the GfR predate even the first iteration of the Framework (of March 2012).
- 3.1.3. All the following policy themes in my opinion represent material considerations that should be considered in the planning balance in deciding the appeal application.

3.2. Building a strong, competitive economy.

- 3.2.1. NPPF Para 81 provides that:

"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development."

- 3.2.2. Micro businesses like my clients rely on the availability of small units such as the appeal proposal, available at affordable rents. Local (including the May 2010 Manchester Economy and Employment Space Study that underpins the Core Strategy) and National Policy does seem to me to focus on strategic provision of employment land and premises while overlooking the accommodation needs of very small users like the appellant.

- 3.2.3. Policy SP1 "Spatial Principles" in the adopted Manchester Core Strategy 2012–2027 (July 2012) provides:

"Spatial Principles"

The key spatial principles which will guide the strategic development of Manchester to 2027 are:

- *The Regional Centre will be the focus for economic and commercial development, retail, leisure and cultural activity, alongside high quality city living.*
- *The growth of Manchester Airport will act as a catalyst for the regional economy, and will also provide the impetus for a second hub of economic activity in this part of the City.*
- *Beyond these areas, the emphasis is on the creation of neighbourhoods of choice, providing high quality and diverse housing around district centres which meet local needs, all in a*

distinct environment. The majority of new residential development in these neighbourhoods will be in the Inner Areas, defined by the North Manchester , East Manchester and Central Manchester Regeneration Areas.

- *The City is covered by regeneration areas including the City Centre. All development should have regard to the character, issues and strategy for each regeneration area as described in the North, East, Central and South Manchester and Wythenshawe Strategic Regeneration Frameworks and the Manchester City Centre Strategic Plan.*
- *The City's network of open spaces will provide all residents with good access to recreation opportunities. The River Valleys (the Irk, Medlock and Mersey) and City Parks are particularly important, and access to these resources will be improved.*
- *New development will maximise the potential of the City's transport infrastructure, in particular promoting walking, cycling and use of the public transport. The extension to the Metrolink network through the Oldham and Ashton lines will create key corridors for new development.*

Core Development Principles

Development in all parts of the City should:-

- *Make a positive contribution to neighbourhoods of choice including:-*
 - * *creating well designed places that enhance or create character.*
 - * *making a positive contribution to the health, safety and wellbeing of residents*
 - * *considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income.*
 - * *protect and enhance the built and natural environment.*
- *Minimise emissions, ensure efficient use of natural resources and reuse previously developed land wherever possible.*
- *Improve access to jobs, services, education and open space by being located to reduce the need to travel and provide good access to sustainable transport provision. “*

3.2.4. It should be noted that the appeal proposal is in principle compliant with policy SP1 in that it improves access to jobs.

3.2.5. The Council, in refusing the appeal application, has not demonstrated how it has considered the public benefits of the appeal proposal in terms of creating accessible local employment facility provision and jobs in the planning balance.

4. Consideration of the main issues raised by the Reason for Refusal.

4.1. Summary of main issues.

4.1.1. The main issue that needs to be addressed in considering this appeal are:

- Does the appeal proposal give rise to the alleged offence against local policy in terms of unacceptable adverse impact on the amenities of adjacent residential properties as a result of the appeal site being used as a vehicle repair garage?

4.2. Does the appeal proposal give rise to the alleged offence against local policy in terms of unacceptable adverse impact on the amenities of adjacent residential properties as a result of the appeal site being used as a vehicle repair garage?

4.2.1. Offence is alleged against policies DM1 of the Core Strategy of the Local Development Framework, and saved policy DC26 of the Unitary Development Plan.

4.2.2. Core Strategy Policy DM1 “Development Management” provides (inter alia, only applicable criteria listed):

“Development Management

All development should have regard to the following specific issues for which more detailed guidance may be given within a supplementary planning document:-

- * *Appropriate siting, layout, scale, form, massing, materials and detail.*
- * *Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.*
- * *Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.*
- * *Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.*
- * *Community safety and crime prevention.*
- * *Design for health.*
- * *Adequacy of internal accommodation and external amenity space.*
- * *Refuse storage and collection.*
- * *Vehicular access and car parking.”*

4.2.3. Alleged offence is assumed to arise in terms of the 3rd bullet of policy DM1.

4.2.4. Saved Unitary Development Plan Policy DC26 relates to Development and Noise:

“DC26.1 The Council intends to use the development control process to reduce the impact of noise on people living and working in, or visiting, the City. In giving effect to this intention, the Council will consider both:

a. the effect of new development proposals which are likely to be generators of noise; and

b. the implications of new development being exposed to existing noise sources which are effectively outside planning control.

4.2.5. The appellant took over the lease from the previous leaseholder, Mr Balisane in October 2021 for the sum of £15,000. The appellant now appreciates that he was misadvised¹¹ in terms of the lease he purchased not being in relation to an authorised subsisting vehicle repair and servicing and MOT testing facility, and he is eager to achieve retrospective consent with appropriate conditions.

4.2.6. The appellant operates the business on his own without staff. In that his main business is major and complex vehicle repairs, this physically limits the number of client vehicles that are worked on at any one time. The theoretical daily maximum capacity of the workshop would be one vehicle in the unit being serviced/ repaired and 2 parked outside awaiting servicing, although this capacity has never in practice been achieved. No works are undertaken at asocial hours. I attach at Appendix 2 a 6 month sample of client bookings from the appellants work diary to verify this. I also submit that this very low intensity pattern of use by its nature cannot give rise to the alleged offences of unacceptable noise and disturbance.

4.2.7. To support the retrospective planning application, a Acoustic Planning Report was prepared by Lighthouse Acoustics in October 2022, which concludes that sound levels due to typical operational activities at the car workshop are likely to achieve the required maximum sound level of LAmax 60dB at the nearest noise sensitive receptor with the roller shutter door closed. I can confirm that a planning condition requiring that the roller shutter doors remain closed when the typical operational activities listed at para.7.3 of the Acoustic Planning Report are undertaken is acceptable to the appellant.

- 4.2.8. In May 2010 an appeal decision (ref APP/B4215/A/10/2119586, decision letter attached at Appendix 3) was issued in respect of refusal of planning permission for the use of premises as a vehicle repair, service and MOT garage (Use Class B2) at Unit 5 Longden Road. The main issues identified were effect of the development on highway safety with particular regard to off-street parking provision and its effect on the living conditions of nearby residents in terms of noise and disturbance.
- 4.2.9. In dismissing that appeal, where it was common ground that the garage in that case carried out repairs to around eight cars each day, Inspector Fitzsimon considered that the level of off-street parking available to the garage was not sufficient to enable all associated vehicles to be accommodated within its curtilage at all times, and as a result held that the appeal proposal in that case compromised highway safety as a result of inadequate off-street parking. In relation to the current appeal, this is a considerably less intense use with dedicated external parking for up to 3 vehicles, and hence in comparison the impact on highway safety must surely be negligible, in that no on street parking will result.
- 4.2.10. In relation to allegations of noise and disturbance, Inspector Fitzsimon in the appeal at Unit 5 concluded that no evidence had been advanced that the daily comings and goings generated by the garage are materially greater than the levels of activity likely to be associated with previously permitted uses of the building. Furthermore, it would be possible to prevent vehicle repairs from being undertaken outside the building by imposing an appropriately worded planning condition. In addition, any noise generated by mechanical and body repairs undertaken within the building itself could be adequately mitigated by the fitting and appropriate use of acoustic doors. Given that the appellant is operating a far less intense operation than that considered at Unit 5 in 2010, I submit that with the imposition of appropriate conditions (suggested conditions attached at Appendix 4) the appeal proposal should be allowed on the same basis.
- 4.2.11. I consider that the Council has been inconsistent in its approach to considering identical/similar, and it must be emphasised, considerably larger uses in very close proximity to the appeal premises. On this basis the Council has been demonstrably willing to grant consents in the immediate vicinity of the same, if not greater, magnitude, with appropriate conditions imposed.

4.2.12. The following Consents have been granted in the period since the Manchester Core Strategy was adopted, when assessed against the same policies on which the Council deemed the appeal proposal to be unacceptable. (Decision notices attached at appendix x)

107140/FO/2014/N2 – Change of use from B1 light industrial unit to B2 vehicle repair, service & MOT centre, Unit 9a Longden Rd, Approved with conditions 12 Dec 2014.

099981/FU/2012/N2 – Change of use from warehousing to car servicing and car repair garage, Unit 4 Longden Road, Approved with conditions 1 Nov 2012.

4.2.13. In deciding to refuse the appeal application, the Council has failed to consider the “fallback” position that the appeal site has an unconstrained lawful E class use and could accommodate an equally or more intense user, for instance an office or retail user with staff and far greater numbers of customer visits, without the need for planning permission.

5. Conclusions.

5.1. The Council were wrong to refuse permission on the following grounds:

- The alleged adverse impacts on neighbouring amenity are overstated and as the submitted Acoustic Planning Report confirms, could be avoided through the imposition of appropriate conditions.
- The Council failed to demonstrate how it has (in compliance with National Guidance and Local Development Plan policy) considered the public benefits of the appeal proposal in terms of creating accessible local employment facility provision and jobs in the planning balance.
- The Council failed to take into account the recommendations of the submitted Acoustic Planning Report.
- The Council's decision to refuse planning permission is inconsistent with the decision at appeal (ref APP/B4215/A/10/2119586) in respect of refusal of planning permission for the use of premises as a vehicle repair, service and MOT garage (Use Class B2) at Unit 5 Longden Road, and their own decision to grant planning permission (ref 107140/FO/2014/N2) for the change of use from B1 light industrial unit to B2 vehicle repair, service & MOT centre at Unit 9A Longden Road Industrial Estate.
- The Council failed to consider the "fallback" position that the appeal site has an unconstrained lawful E class use and could accommodate an equally or more intense user without the need for planning permission.

5.2. For these reasons, the Inspector is respectfully requested to allow this appeal.

Documents Referred To

National Planning Policy Framework 2021 and Planning Practice Guidance thereto

Manchester Core Strategy 2012-2027 (July 2012) and Saved Unitary Development Plan.

Manchester Economy and Employment Space Study (May 2010).