



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:

Mr Asif Meer

Proposal:

*Change of use from a Warehouse (Class B8) to a MOT test centre (Sui Generis use)
including alterations to the front elevation and an increase in roof height"*

Appeal Site:

Land R/O 69-71 Fairfield Road
Yiewsley
Middlesex
UB7 8EZ

Our Ref: 11917/APP/2024/726

Your Ref: APP/R5510/W/25/3370285

1. Introduction

1.1 This appeal statement is submitted by the London Borough of Hillingdon, as the Local Planning Authority (LPA), in respect of the appeal against the non-determination of planning application reference 11917/APP/2024/726

1.2 The LPA had some concerns with accuracy of the submission including the description of development, specifically relating to the lawful use of the appeal property. The applicant had agreed to submit a CLUED with evidence to support the lawful use of the building as evidenced in the image below.

 To: Daniel Ambrose
Cc: Asif Meer <asifclassic786@gmail.com>; Saud Ahmad <saud_ahmad67@outlook.com>; Christopher Brady
Fri 11/29/2024 9:2

Good morning Daniel,

Thank you for your email. I will update you as soon as I submit the application for certificate of lawfulness.

Saud Ahmad
Sent from my iPhone

On 26 Nov 2024, at 19:20, Daniel Ambrose <DAmbrose@hillingsdon.gov.uk> wrote:

Hi Saud,

Thank you for the update. Please let me know once you have applied on the Planning Portal for the CLE

Thanks,

Daniel

From: Saud Ahmad <saudahmad67@gmail.com>
Sent: 15 November 2024 20:47
To: Daniel Ambrose <DAmbrose@hillingsdon.gov.uk>
Cc: Asif Meer <asifclassic786@gmail.com>; Saud Ahmad <saud_ahmad67@outlook.com>; Christopher Brady <CBrady@Hillingdon.Gov.UK>
Subject: Re: 69-71 Fairfield Road - 11917/APP/2024/726

Dear Mr Ambrose,

Thank you for your email, we would like to apply for Certificate of Lawfulness Existing so kindly keep this application open until 31st of January 2025.

Kind Regards

Saud Ahmad
Director
SA Design and Management Ltd

As such we are surprised that the applicant has decided to submit an appeal against non-determination. The lawful use of the building is a key part of the assessment of the proposal as it would set the baseline for how the appeal scheme could give rise to harm upon the local highway network and also surrounding properties. It should be noted that during the assessment of the application the LPA received 12 objections raising concerns relating to parking, noise, privacy and the accuracy of the submitted documents.

1.3 In accordance with the NPPF which encourages planning authorities to work with applicants, the LPA had tried to engage with the applicant and reached an agreement for a CLUED to be submitted which would have enabled us to confirm the buildings lawful use.

2. LPA Comments on Appellant's Statement of Case

2.1 The first part of the assessment of the application is to determine whether the description of development accurately presents the proposed development. The description of development forms a fundamental part of any planning application, as it sets the parameters for what is being applied for and assessed. In this case, the inaccuracy of the submitted description created significant issues in terms of clarity, transparency, and the ability to undertake a comprehensive and lawful assessment of the proposal.

2.2 The description serves to define the scope and nature of the development being proposed. An inaccurate or vague description can lead to uncertainty about what is being sought, which in turn undermines the ability of the local planning authority to properly assess the impacts of the proposal, particularly in relation to material planning considerations such as scale, use, access, and design.

2.2 The description is also central to the public consultation process. It forms the basis of the information made available to statutory consultees, neighbouring residents, and other interested parties. An incorrect or misleading description risks undermining the integrity of the consultation process by preventing third parties from understanding the true nature of the development and submitting informed comments or objections.

2.3 Officers rely on the description to undertake a policy-based assessment of the development against the local development plan and other material considerations. An inaccurate description can misrepresent the proposal, potentially leading to an erroneous policy analysis or a failure to consider relevant planning impacts.

2.4 A precise description is also necessary to provide legal certainty around any eventual permission and to ensure enforceability. If the development granted permission is not clearly defined, it becomes difficult for the local authority to monitor compliance or to take enforcement action if the development is not carried out as approved.

2.5 In this case, the inaccuracies in the description of development led to material concerns about the nature and extent of what was being proposed. This hindered the progression of the application and contributed to delays in the determination process. The Local Planning Authority made efforts to clarify and rectify the description, but the lack of a corrected and agreed form ultimately limited the ability to complete a full and proper assessment of the application within the statutory timeframe.

2.6 Officers gave consideration to the planning history and in particular the refusal of application reference 11917/APP/20210/2153 and withdrawn application reference 11917/APP/2011/874.

2.7 Application reference 11917/APP/2010/2153 sought to confirm that the appeal property which had been converted to a warehouse and was now lawful due to the passage of time which it had been in operation. This application was refused, and the decision was not appealed. Based on this alone it is clear that the buildings

change of use to a warehouse had not been undertaken with the benefit of planning consent. Furthermore, it should be noted that the Council received multiple reports from local residents over the course of 2015 up to 2020 where it was alleged that the appeal property had been used for the service and repair of motor vehicles, the same use which is operated within the associated tyre fitting shop at the front of the parade.

2.8 In 2016 a site visit was undertaken by enforcement which it was observed that tyre fitting was being undertaken within the premises itself, and it was not just a warehouse for the storing of tyres which is the description given the submitted Design and Access Statement. As such not only has the applicant failed too accurately describe the proposed development within there description, the sites operation as a warehouse was not considered to be lawful in 2010 even in the event that they were to state the property has been used for tyre storage to serve the tyre fitting shop at the front of the parade, the use of the space for tyre fitting will have broken the B8 (warehouse) use they state is it's lawful use.

2.9 Turning to the proposal and its potential impact. As a matter of principle, Use Class E was introduced to consolidate a wide range of uses that were previously in separate use classes. Its creation was intended to introduce greater flexibility for businesses by allowing changes between uses within Class E without the need for a planning application, unless specific restrictions apply. Class E(g) was adopted which includes light industrial and these are considered to be appropriate operations within residential settings as they are less harmful. The issue with the submission is that it attempts to use the B8 use class as the baseline for the assessment of harm which is false.

2.10 This is not the only issue with the submission, the Noise Impact Assessment fails to take into consideration the inevitable situation which is the operation within the building overspilling out into the access road of which there are obvious highway concerns but also noise as well. The appellant will assert that this won't happen, but you only have to look at street view to see that it is happening at present, on the public footpath where they have no license to mount and park or undertake vehicle repairs. The Council has gone as far as installing bollards to prevent it from happening, but the business continues to operate in this way. As you can see from the images this operation is being undertaken directly outside a residential property blocking access to the front door and subjecting the occupants to unacceptable levels of noise.





2.11 This unlawful and arguably dangerous operation is being undertaken on a busy parade where pedestrians have no choice other than to manoeuvre into the road to get past this property. The back of the parade is a more secluded where the opportunity for this type of overspill into outside areas is far greater.

2.12 The appellant has submitted a noise impact assessment; this incorrectly assumes that the appeal property benefits from permission for use class B8 which it does not as demonstrated above. Whilst the survey information is useful it isn't clear whether the survey has taken place at a time where works which are evidence in the photos above have been taking place. If so, it would be expected that the background noise levels would be higher than they should be as the works should be contained within the building and subject to similar mitigation measures which are outlined in the submitted document. Furthermore, the noise impact assessment fails to accurately address the noise impact from the comings and goings of vehicles. The access road which is infrequently used at present would be subjected

to a high increase of comings and goings each day which has not been accurately addressed in the report.

2.13 To add to the lack of accurate details within the submission, the applicant had initially completed Certificate A in the Certificate of Ownership section of the application form. Access to the site would be gained from an unadopted access at the eastern end of the adjacent terrace of residential dwellings, shops and businesses that extends from 61 to 71 Fairfield Road. The applicant has submitted Drawing 69-FR/WD-A002 00 titled Site Location & Block Plan which shows the red line around the site and has completed Certificate of Ownership - Certificate A on the Application Form which states that the applicant was the sole owner of the land within the red line, however, concerns are raised regarding the existing access to the rear of the terrace for the other businesses and residential dwellings from 61 to 71 Fairfield Road which may displace car and delivery parking onto Fairfield Road increasing parking stress to the detriment of highway safety. Although an amended certificate was issued to the LPA it does compound the spurious and inaccurate information which was submitted for assessment.

2.14 On highway matters the applicant has failed to provide a Transport Statement which would provide details of trip generation. Given the nature of the business it would be expected, at a minimum, to provide details of how many vehicles are likely to access the site on a daily basis and an assessment of which other properties use the access road and the area which is referenced in the DAS as a forecourt given that the applicant is not the sole owner of this land. The DAS refers to the potential to double park or store vehicles within the forecourt informally but provides no indication of where, how many or how long for. Officers are unclear as to how the appellant has come to the conclusion that this type of information and level of detail would not be required to be able to properly assess the potential impacts and benefits of the proposal.

2.15 Whilst crossing into land ownership territory, the fact remains that the applicant recognised the need to submit evidence to demonstrate the B8 use is lawful and agreed to do so (as shown in the image above). No transport assessment has been provided which would provide details of the existing trip generation or the proposed trip generation to enable Officers to consider whether the number of trips which would not doubt increase, would be harmful. The applicant has provided a site plan which shows 2 spaces located to the eastern edge of the access road. The drawing illustrates that a vehicle cannot turn around with parked vehicles in PS1 and PS2 without colliding with the wall/roller shutter of the appeal property. This is clearly a highway safety concern and would form a reason for refusal along with the lack of detail submitted to demonstrate that the appeal scheme would not give rise to a significant increase in trips which could lead to vehicles stacking up on the public highway and the obstruction of the access which serves residential properties along the parade and the properties to the rear.

2.16 The application site is located within an Air Quality Management Area, in accordance with Policy DMEI 14 of the Hillingdon Local Plan: Part Two – Development Management Policies (2020) applicants must demonstrate that proposals are at least air quality neutral. This means that the applicant should have submitted an Air Quality Assessment, in absence of one Officers would normally refer to the Transport Assessment to ascertain whether the development would

result in an increase or decrease in vehicle trip generation thus improving or exacerbating the poor air quality in an area. In this case the applicant has not provided a Transport Assessment or any detail which would enable Officer to assess the number of trips as existing and those proposed. As such the only conclusion which can be reached is that there would be a potential increase in vehicle trips which would be harmful to the air quality in this management area and no mitigation is proposed.

2.17 To summarise the key issues, the appellant has had the opportunity to provide a CLUED to substantiate the B8 use as lawful, he agreed to do so but instead has submitted an appeal against non-determination. The application significantly lacks detail, the DAS is mainly a regurgitation of planning policy, some of which is not relevant to the assessment of the proposal. For this type of development there would be two main considerations, the first being how does the proposed use impact the surrounding residential properties and the second what would be the potential impact upon the local highway network and highway safety.

2.18 Although a NIA has been submitted it incorrectly refers to the warehouse as the existing use, it also fails to take into consideration the noise levels generated by the operations undertaken on the public footpath outside of the existing and associated tyre fitting business which fronts Fairfield Road. It fails to provide any form of mitigation to prevent the same issues occurring within arguably a more attractive and secluded location for the appellant. The fact no Transport Assessment has been submitted makes it impossible for the noise generated by the comings and goings to have been properly considered within the findings of the NIA. As such the potential and significant noise impacts arising from the appeal scheme forms reason for refusal 1.

2.19 The appeal scheme would inevitably involve trips to and from the site, no details are provided of how many. The proposed parking arrangements would give rise to potentially dangerous vehicle movements, potential vehicles stacking up on the highway in an already congested street (see image below). Furthermore, there are other properties both in the parade and to the rear of it which have right of access across the access road which the proposed parking arrangement could obstruct. This forms reason for refusal 2.



2.20 The appeal site is located within an Air Quality Management Area therefore applicants are required to demonstrate that the proposal would be air quality neutral. The applicant has failed to submit an Air Quality Assessment and has not submitted a Transport Assessment either. As such in the absence of such information it is considered that the proposed development would give rise to an increase in poor air quality.

Reason for Refusal 1 - Noise

The proposed development, by reason of the nature and intensity of the activities associated with an MOT testing station – including the operation of machinery, vehicle movements, and associated external noise – would result in an unacceptable level of noise and disturbance to neighboring residential properties. This would cause significant harm to the amenity of nearby occupants, particularly during operational hours, and is considered incompatible with the predominantly residential character of the surrounding area. The applicant has failed to demonstrate, through the submission of a satisfactory noise assessment or appropriate mitigation measures, that the proposed use would not give rise to adverse impacts on residential amenity.

As such, the proposal is contrary to Policy DMHB 11 of the Hillingdon Local Plan : Part Two – Development Management Policies (2020) which seeks to ensure that developments are sympathetic to local character and do not create unacceptable levels of noise pollution affecting health and quality of life.

Reason for Refusal 2 – Highways

In the absence of a Transport Assessment, the proposed development would result in an intensification of vehicle movements to and from the site associated with MOT testing operations, including customer vehicles, staff, and delivery vehicles. The

application site is located in an area where the surrounding highway network is constrained and already subject to high levels of on-street parking and traffic congestion.

The proposed development fails to provide adequate on-site parking, turning, and servicing arrangements to safely accommodate the anticipated vehicle demand. As a result, the development would likely lead to vehicles parking on the public highway and or on private land, manoeuvring unsafely in the vicinity of the site, including reversing onto or from the carriageway. This would cause obstruction to traffic flow, compromise pedestrian safety, and increase the risk of conflict between vehicles and other road users.

The proposal therefore fails to provide a safe and suitable access arrangement for all users and would result in an unacceptable impact on highway safety. It is contrary to Policies DMT 1, DMT 2, DMT 5 and DMT 6 of the Hillingdon Local Plan: Part 2 – Development Management Policies (2020), Policy T2, T4 and T6 of the London Plan (2021).

Reason for Refusal 3 – Air Quality

The applicant has failed to adequately assess the potential air quality impacts of the proposed development or to demonstrate that the increased vehicle activity would not further exacerbate local air quality or undermine the objectives of the Air Quality Action Plan. In the absence of a robust Air Quality Impact Assessment and appropriate mitigation measures, the development is considered to pose an unacceptable risk to human health and would contribute to the deterioration of air quality within the AQMA.

As such, the proposal is contrary to Policy DMEI 14 of the Hillingdon Local Plan : Part Two – Development Management Policies (2020) and the objectives of the Council's Air Quality Action Plan, and the aims of paragraph 199 of the National Planning Policy Framework (NPPF), which require developments to mitigate impacts on health, living conditions, and the natural environment where air quality is a concern, particularly within AQMAs.

3. Other Matters

3.1 No other matters are raised by the Council.

4. Conclusion

4.1 For the reasons set out in this statement the proposed development would result in a significant, detrimental impact to public and highway safety and the amenities of the neighbouring properties and would provide a substandard form of accommodation for future occupiers. The Inspector is therefore respectfully requested to dismiss the appeal.

Appendices

Appendix 1 – Enforcement Officer Photos

Appendix 2 – Copies of Relevant Planning Policies

Appendix 3 – Recommended Conditions

Appendix 3 – List of Conditions

1. Time limit

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

REASON

To comply with Section 91 of the Town and Country Planning Act 1990

2. Approved Documents

69-FR/WD-A001

69-FR/WD-A002

Design and Access statement

69-FR/WD-A003

REASON

To ensure the development complies with the provisions of the Hillingdon Local Plan Part 1 (2012), Part 2 (2020) and the London Plan (2021).

3. Hours of Operation

The premises shall not be used for the preparation or sale of food outside the hours of:-

[08.00 to 18.00] Mondays - Fridays

[08.00 to 13.00] Saturdays

No working on Sundays, Public or Bank Holidays.

REASON

To safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

4. Noise

For the lifetime of the development hereby permitted the rating level (LAr) of noise caused by its operation shall not exceed: 40 dB LAr 15 min for any fifteen-minute period between 2300 and 0700, and 50 dB LAr 1 hour for any one-hour period between 0700 and 2300, determined one metre free field external to any window or door of any permanent residential, or equivalently noise sensitive premises, in accordance with 'Methods for rating and assessing industrial and commercial sound' British Standards Institution BS4142 2014.' Reason To ensure that occupants of dwellings would not be exposed to noise caused by the permitted development that would be likely to cause an adverse effect on their health and quality of life with windows open for the purposes of ventilation and cooling. Informative It is considered that a condition based on fixed noise levels is consistent with noise and planning policy by relating external noise levels to the point at which adverse effects on health and quality of life start to be observed. The limit values are intended to be consistent with the evidence base that formed the bases for the guidelines published by the WHO in 1999 and 2009 the former being reflected in guidance: 'Guidance on Sound Insulation and Noise Reduction for Buildings' BS8233 2014. This is combined with

the assessment principles and procedures detailed in guidance: 'Methods for rating and assessing industrial and commercial sound' British Standards Institution BS4142 2014.' This is used to set reference time periods for the assessment and adjust measured or calculated LAeq values for character as detailed in BS4142.

REASON

To safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

5.Restriction of external operation

All MOT testing, including associated vehicle inspections, maintenance, and mechanical operations, shall be carried out entirely within the building as shown on the approved plans. At no time shall any MOT testing activities take place outside of the enclosed building.

Reason:

To safeguard the residential amenity of the occupiers of adjoining and nearby properties in accordance with policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).