

# **Section 78 Appeal**

## **Written Statement on behalf of Mr Asif Meer**

against the failure of the London Borough of Hillingdon to determine the planning application for the

***"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"***

**at**

**Land r/o 69 - 71 Fairfield Road  
Yiewsley  
Middlesex  
UB7 8EZ**

**July 2025**

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## 1 Introduction and Background

The application the subject of this appeal was submitted on 19 March 2024 - on behalf of the appellant Mr Asif Meer - by Mr Saud Ahmad of SA Design and Management Ltd. The description of the proposed development was stated as "change of use from a warehouse (B8 use) to a MOT test centre (Sui Generis use)."

It confirms the floorspace of the building is 83m<sup>2</sup>; that there is no proposed alteration to the existing vehicular and pedestrian access arrangements; that there are two existing car parking spaces which are to be retained and used in association with the proposed use. The estimated cost of the project is up to £2 million, creating 2 full time jobs. The proposed opening hours are stated as 0800 – 1800 hours, Monday to Friday and 0800 hours – 1300 hours on a Saturday.

The description of development being subsequently amended to account for the small operational development element, confirmed on the drawings and indirectly referenced on the planning application form when confirming that the proposed development required materials to be used were to match the existing. The following description having been agreed:

*"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"*

The planning application was also accompanied by a Planning Design and Access Statement, a Noise Impact Assessment, location plan, block plan, existing and proposed floor plans and elevations.

The case officer wrote to the agent via email on 21 January 2025 and this has been copied and pasted below

**From:** Daniel Ambrose <DAmbrose@hillingdon.gov.uk>

**Date:** 21 January 2025 at 16:04:18 GMT

**To:** Saud Ahmad <saudahmad67@gmail.com>

**Cc:** Asif Meer <asifclassic786@gmail.com>, Saud Ahmad <saud\_ahmad67@outlook.com>

**Subject: RE: 69-71 Fairfield Road - 11917/APP/2024/726**

Hi Saud,

*I hope you are well. I am emailing you to notify you of my intention to refuse this application as stated previously. You should receive your refusal in the coming days.*

*Reasons for refusal include:*

*The development is proposed to be used resulting from the change of use of a Warehouse (Class B8) which does not benefit from planning permission or a certificate of lawful development being granted to establish their lawful use as a warehouse.*

*Regards,*

**Daniel Ambrose**

*Planning Officer – Central and South  
Planning, Regeneration and Environment  
Central Services  
Hillingdon Council*

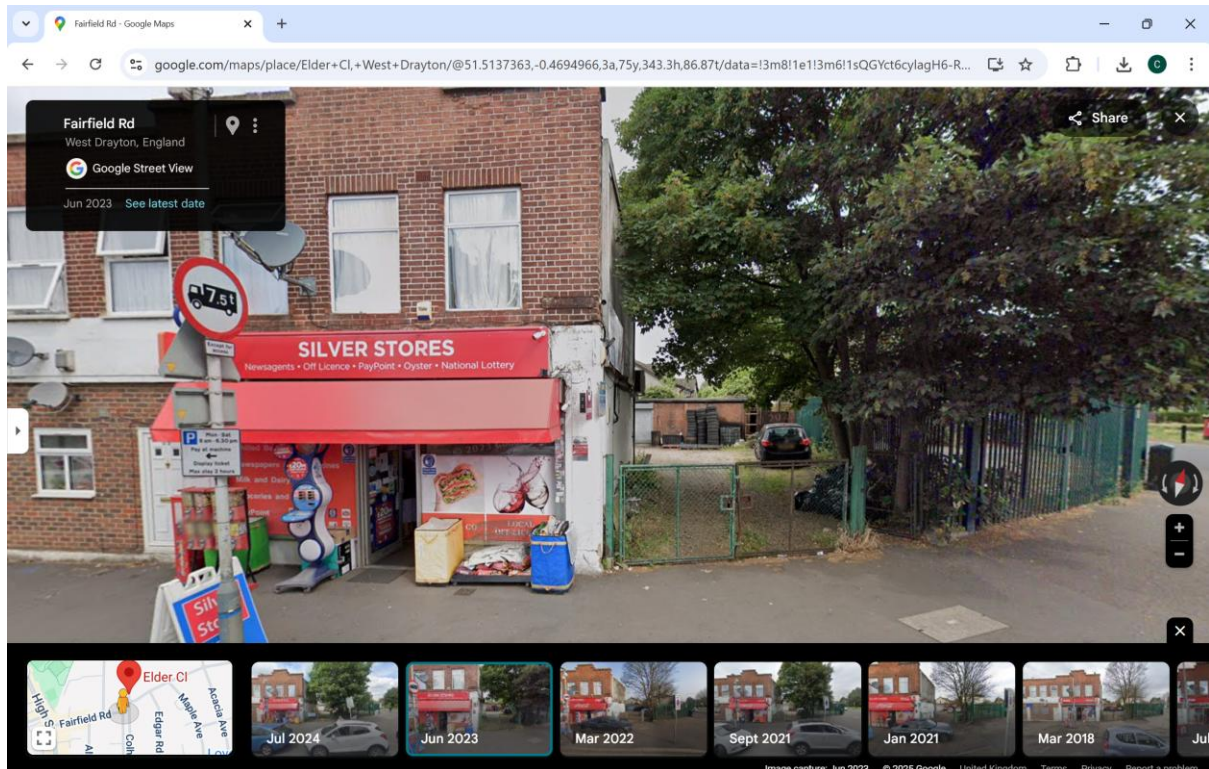
The statement will address this purported reason for refusal in the planning officer's email later and how entirely unreasonable it is. However, to date no decision notice has been received and as can be seen below from the screenshot of the Council's public register confirms it remains undetermined. The applicant has not received any further communication from the Local Planning Authority and has been left with no option but to appeal, given the Council's failure to determine the planning application within the agreed time frame.

The screenshot shows a web browser window with the URL [planning.hillingdon.gov.uk/OcellaWeb/planningDetails?reference=11917/APP/2024/726&from=planningSearch](https://planning.hillingdon.gov.uk/OcellaWeb/planningDetails?reference=11917/APP/2024/726&from=planningSearch). The page header features the Hillingdon London logo. Below the header, the section 'PLANNING APPLICATION DETAILS' is displayed. At the top of this section are three buttons: 'View Documents', 'Enter Comment', and 'Back to Search page'. The details are listed in a table format:

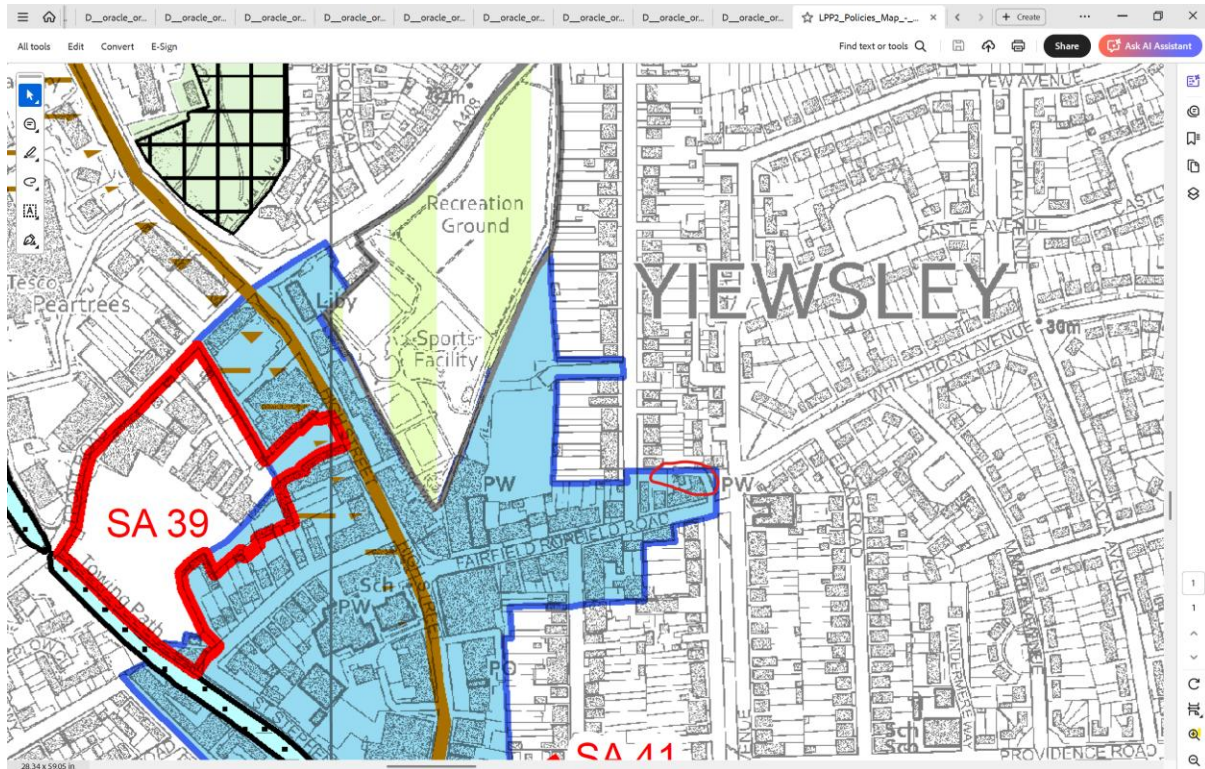
|              |                                                                                                                                                               |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reference    | 11917/APP/2024/726                                                                                                                                            |
| Status       | Undecided                                                                                                                                                     |
| 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. |
| Location     | 69-71 FAIRFIELD ROAD YIEWSLEY                                                                                                                                 |
| Ward         | YIEWSLEY 2022                                                                                                                                                 |
| Case Officer | Daniel Ambrose                                                                                                                                                |
| Received     | 19-03-24                                                                                                                                                      |
| Validated    | 19-03-24                                                                                                                                                      |
| Decision By  | 31-01-25                                                                                                                                                      |
| Neighbours   | Consultation Started : 28-03-24, Comments Due : 20-04-24                                                                                                      |
| Agent        | Mr Saud Ahmad 65 Hunters Grove Hayes UB3 3JE                                                                                                                  |

## 2 Appeal Site and Surroundings

This appeal relates to an existing detached “L” shaped building located within the Yiewsley and West Drayton Town Centre, located behind the rear of 69 – 71 Fairfield Road. It can be seen in the - Google Street View - background to the right of the Silver Stores commercial unit. It has direct vehicle access via the dropped kerb on to the highway and is enclosed by gates across the vehicular access and has a pedestrian gate to the side.

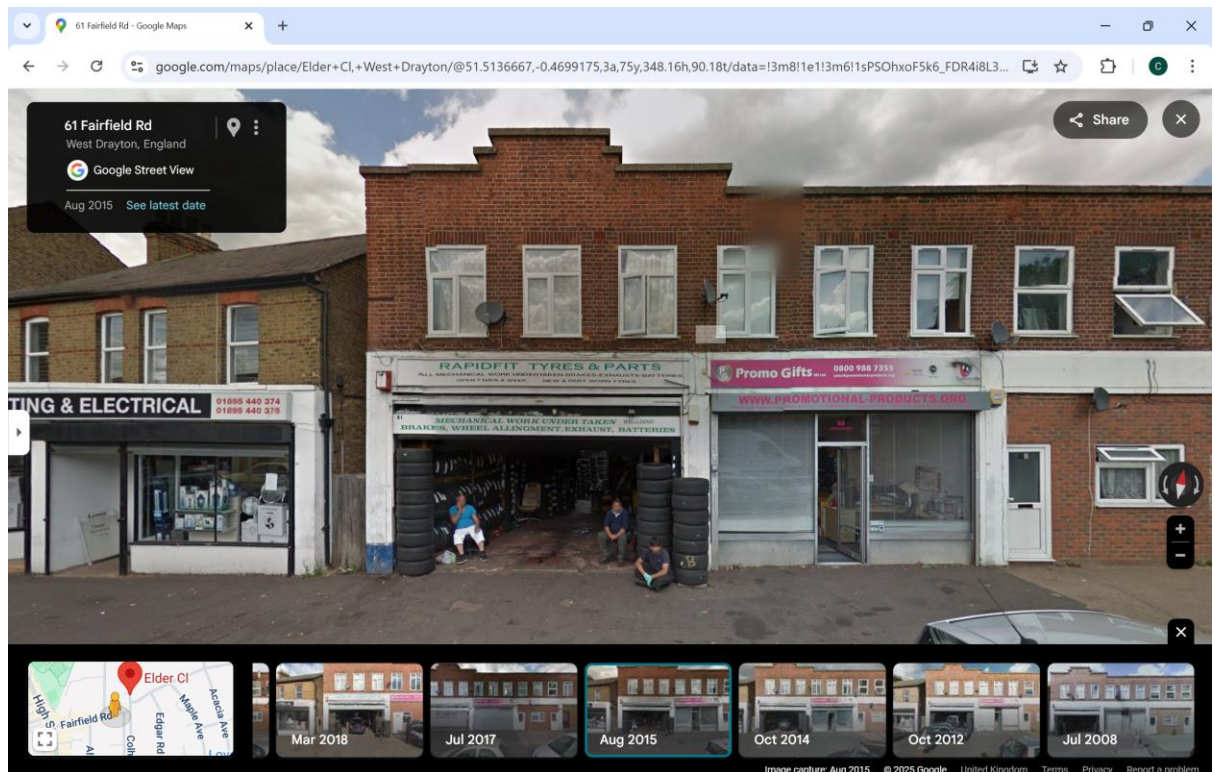


As identified above the appeal site is located with the Yiewsley and West Drayton Town Centre, which provides a wide range of amenities, facilities, shops, restaurants, schools, offices, employment opportunities for residents and businesses alike. Part of the Town Centre is shown in the extract of the Local Planning Authority's Proposals Map below, with the approximate location of the appeal site, identified with the red line, being situated towards the eastern Town Centre boundary (coloured blue).



The town centre forms part of a wider compact urban area, with commercial premises cheek by jowl with residential uses, within the Town Centre boundary as will be self-evident from the Inspector's site visit, with older more established dwellings on the south side of Fairfield Road and more "recent" conversions of retail units in the shopping parade to the front/west of the appeal site. A copy of the entries from the Council's electronic public register in respect of the nearby changes of use in Fairfield Road are attached at Appendix 1.

- 63 Fairfield Road – planning permission was granted for the change of use from Class B1 office to two class C3 studio apartments on 20 December 2017. (Prior Approval) This site is shown below in a Google Street View taken in 2015, adjacent to the appellant's tyre fitting and car repair workshop. The proposed residential use adjoining the car workshop/tyre fitting service, sharing the same party wall, was found acceptable by the Local Planning Authority who concluded that it complied with all conditions and requirements notably in respect of amenity - **(d) impacts of noise from commercial premises on the intended occupiers of the development.** (My Emphasis)



- 65 Fairfield Road – erection of a single storey extension and conversion of shop to a one-bedroom flat with external alterations on 21 April 2004.
- 67 Fairfield Road – planning permission was granted on appeal for the change of use from Class A1 retail to Class C3 residential in a decision dated 10 June 1997.
- 69 Fairfield Road – planning permission was granted to convert to two self-contained studio flats in 1999.

As noted above the first of these decisions was the grant of planning permission on appeal by a Planning Inspector, followed by grants of express planning permission by the Local Planning Authority and a grant of planning permission by the GDPO. These decisions provide an essential context for residential dwellings being permitted and having acceptable living environments, notwithstanding the proximity of commercial uses, the town centre location, no defensible space and no external amenity area. It also assists in showing the mixed-use character of the area in which the appeal site is located.

The existing building's - the subject of this appeal - immediate boundaries is formed by the access road from Fairfield Road to the south, to the east by dwellings "recently" erected on a former garage site, which adjoin an electricity substation to the south, to the north by the front amenity area associated with 1 Elder Way and to the west by the 25m+ rear garden of 2 Otterfield Road.

### 3 Relevant Planning History

|                     |                                                             |                                                                                                                                                           |                              |
|---------------------|-------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 11917/APP/2011/874  | LAND<br>REAR OF<br>69 & 71<br>FAIRFIELD<br>ROAD<br>YIEWSLEY | Warehouse for storage and distribution within detached garage and store (Application for a Certificate of Lawful Development for an Existing Development) | 08-04-11<br>Withdrawn<br>(P) |
| 11917/APP/2010/2153 | LAND<br>REAR OF<br>69 & 71<br>FAIRFIELD<br>ROAD<br>YIEWSLEY | Continued use of building as a warehouse (Application for a Certificate of Lawfulness for an Existing Development).                                       | 14-09-10<br>Refusal          |
| 11917/F/80/2262     | 69-71<br>FAIRFIELD<br>ROAD<br>YIEWSLEY                      | Extension/Alterations to Retail premises (P) of 27 sq.m.                                                                                                  | 30-12-80<br>Approval         |

#### Comments on Planning History

It is unclear if the 1980 application actually relates to the appeal site and it is considered that it likely relates to the planning units fronting onto Fairfield Road.

In terms of the 2010 refused application, the officer's comments are noted on the report found at Appendix 2

*"Based on the evidence supplied, it is evident that the premises has been used for warehouse/storage purposes. This is evident by the leases, letter and electricity bills. However, there appear to be a gap over the last 10 years of which the applicant has failed to provide information. Furthermore, the change in the use of the premises indicates that the warehouse use falls short by 2 months of a 10 year continuous use."*

The whole report is considered material in showing that the existing building the subject of this appeal has operated independently for a considerable period without any functional link with the frontage Fairfield Road properties.

## 4 Development Plan

Section 38(6) of the Act requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan for the London Borough of Hillingdon currently consists of the following documents:

- The London Plan 2021
- The Local Plan: Part 1 - Strategic Policies (2012)
- The Local Plan: Part 2 - Development Management Policies (2020)
- The Local Plan: Part 2 - Site Allocations and Designations (2020)
- The West London Waste Plan (2015) The London Plan (2021)

The National Planning Policy Framework and the Planning Practice Guidance., as a matter of law, both are statements of national policy issued by the minister with overall responsibility for the operation of the planning system, and both are capable of being material considerations in the determination of planning applications.

The recent handed down judgment in - January 2025 - Mead Realisations Ltd v Secretary of State for Housing, Communities and Local Government [2025] EWCA Civ 32 confirmed that the legal status of the NPPF and PPG is essentially the same.

### National Planning Policy Framework

Paragraph 7 confirms that

"The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development and supporting infrastructure in a sustainable manner."

Adding at paragraph 8:

*"Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):"*

*a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.*

*b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

*c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

Paragraph 9 informs:

*"Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area."*

Paragraph 10 adding:

*"So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)."*

## **The presumption in favour of sustainable development**

Paragraph 11 confirms:

Plans and decisions should apply a presumption in favour of sustainable development.

For plan-making this means that:

a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;

*For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination*

Paragraph 111 advises that

*"Planning policies should: a) support an appropriate mix of uses across an area."*

## **London Plan 2021**

### **Policy D11 Safety, security and resilience to emergency**

The Mayor uses his convening power to work with relevant partners and stakeholders to ensure and maintain a safe and secure environment in London that is resilient against emergencies including fire, flood, weather, terrorism and related hazards as set out in the London Risk Register.

Boroughs should work with their local Metropolitan Police Service 'Design Out Crime' officers and planning teams, whilst also working with other agencies such as the London Fire Commissioner, the City of London Police and the British Transport Police to identify the community safety needs, policies and sites required for their area to support provision of necessary infrastructure to maintain a safe and secure environment and reduce the fear of crime. Policies and any site allocations, where locally justified, should be set out in Development Plans.

Development proposals should maximise building resilience and minimise potential physical risks, including those arising as a result of extreme weather

fire, flood and related hazards. Development should include measures to design out crime that – in proportion to the risk – deter terrorism, assist in the detection of terrorist activity and help mitigate its effects. These measures should be considered at the start of the design process to ensure they are inclusive and aesthetically integrated into the development and the wider area.

#### **Policy D14 Noise**

In order to reduce, manage and mitigate noise to improve health and quality of life, residential and other non-aviation development proposals should manage noise by: 1) avoiding significant adverse noise impacts on health and quality of life

2) reflecting the Agent of Change principle as set out in Policy D13 Agent of Change

3) mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on existing noise-generating uses

4) improving and enhancing the acoustic environment and promoting appropriate soundscapes (including Quiet Areas and spaces of relative tranquillity)

#### **Policy BE1: Built Environment**

The Council will require all new development to improve and maintain the quality of the built environment in order to create successful and sustainable neighbourhoods, where people enjoy living and working and that serve the long-term needs of all residents. All new developments should:

1. Achieve a high quality of design in all new buildings, alterations, extensions and the public realm which enhances the local distinctiveness of the area, contributes to community cohesion and a sense of place;
2. Be designed to be appropriate to the identity and context of Hillingdon's buildings, townscapes, landscapes and views, and make a positive contribution to the local area in terms of layout, form, scale and materials and seek to protect the amenity of surrounding land and buildings, particularly residential properties;
5. Improve areas of poorer environmental quality, including within the areas of relative disadvantage of Hayes, Yiewsley and West Drayton. All regeneration schemes should ensure that they are appropriate to their historic context, make use of heritage assets and reinforce their significance;
6. Incorporate a clear network of routes that are easy to understand, inclusive, safe, secure and connect positively with interchanges, public transport, community facilities and services;
7. Improve the quality of the public realm and provide for public and private spaces that are attractive, safe, functional, diverse, sustainable, accessible to all, respect the local character and landscape, integrate with the development, enhance and protect biodiversity through the inclusion of living walls, roofs and areas for wildlife, encourage physical activity and where appropriate introduce public art;
8. Create safe and secure environments that reduce crime and fear of crime, anti-social behaviour and risks from fire and arson having regard to Secure by Design standards and address resilience to terrorism in major development proposals;
9. Not result in the inappropriate development of gardens and green spaces that erode the character and biodiversity of suburban areas and increase the risk of flooding through the loss of permeable areas;

#### Policy DMHB 11: Design of New Development

- A) All development, including extensions, alterations and new buildings will be required to be designed to the highest standards and, incorporate principles of good design including:
- i) harmonising with the local context by taking into account the surrounding:

- scale of development, considering the height, mass and bulk of adjacent structures;
  - building plot sizes and widths, plot coverage and established street patterns;
  - building lines and setbacks, rooflines, streetscape rhythm, for example, gaps between structures and other streetscape elements, such as degree of enclosure;
  - architectural composition and quality of detailing;
  - local topography, views both from and to the site; and
- impact on neighbouring open spaces and their environment.
- ii) ensuring the use of high quality building materials and finishes;
  - iii) ensuring that the internal design and layout of development maximises sustainability and is adaptable to different activities;
  - iv) protecting features of positive value within and adjacent to the site, including the safeguarding of heritage assets, designated and un-designated, and their settings; and
  - v) landscaping and tree planting to protect and enhance amenity, biodiversity and green infrastructure.
- B) Development proposals should not adversely impact on the amenity, daylight and sunlight of adjacent properties and open space.
- C) Development will be required to ensure that the design safeguards the satisfactory re-development of any adjoining sites which have development potential. In the case of proposals for major development<sup>5</sup> sites, the Council will expect developers to prepare master plans and design codes and to agree these with the Council before developing detailed designs.
- D) Development proposals should make sufficient provision for well designed internal and external storage space for general, recycling and organic waste, with suitable access for collection. External bins should be located and screened to avoid nuisance and adverse visual impacts to occupiers and neighbours.

#### Policy DMHB 12: Streets and Public Realm

- A) Development should be well integrated with the surrounding area and accessible. It should:
- i) improve legibility and promote routes and wayfinding between the development and local amenities;
  - ii) ensure public realm design takes account of the established townscape character and quality of the surrounding area;
  - iii) include landscaping treatment that is suitable for the location, serves a purpose, contributes to local green infrastructure, the appearance of the area and ease of movement through the space;
  - iv) provide safe and direct pedestrian and cycle movement through the space;
  - v) incorporate appropriate and robust hard landscaping, using good quality materials, undertaken to a high standard;
  - vi) where appropriate, include the installation of public art; and
  - vii) deliver proposals which incorporate the principles of inclusive design.
- Proposals for gated developments will be resisted.
- B) Public realm improvements will be sought from developments located close to transport interchanges and community facilities to ensure easy access between different transport modes and into local community facilities.

## Policy DMT 2: Highways Impacts

Development proposals must ensure that:

- i) safe and efficient vehicular access to the highway network is provided to the Council's standards;
- ii) they do not contribute to the deterioration of air quality, noise or local amenity or safety of all road users and residents;
- iii) safe, secure and convenient access and facilities for cyclists and pedestrian are satisfactorily accommodated in the design of highway and traffic management schemes;
- iv) impacts on local amenity and congestion are minimised by routing through traffic by the most direct means to the strategic road network, avoiding local distributor and access roads; and
- v) there are suitable mitigation measures to address any traffic impacts in terms of capacity and functions of existing and committed roads, including along roads or through junctions which are at capacity.

## Policy DMT 6: Vehicle Parking

A) Development proposals must comply with the parking standards outlined in Appendix C Table 1 in order to facilitate sustainable development and address issues relating to congestion and amenity. The Council may agree to vary these requirements when:

- i) the variance would not lead to a deleterious impact on street parking provision, congestion or local amenity; and/or
- ii) a transport appraisal and travel plan has been approved and parking provision is in accordance with its recommendations.

B) All car parks provided for new development will be required to contain conveniently located reserved spaces for wheelchair users and those with restricted mobility in accordance with the Council's Accessible Hillingdon SPD.

## 5 Main Planning Issues

The appeal site represents previously developed land in a highly sustainable location, within Yiewsley and West Drayton Town Centre.

It proposes to use a lawful commercial building for a small-scale commercial use i.e. MoT Test Station appropriate to the area.

The appeal proposal is sustainable development and has synergy with the appellant's tyre and exhaust business at 61 Fairfield Road.

It also allows for people to undertake a multi trip to the Town Centre to go shopping, visit the dentists/doctors, go for a meal, a coffee, even to meet friends in adjacent residential areas.

The size/scale of the proposed development restricts the possible intensity of the use, together having to book for an MoT and the operator to comply with the Government's Driver and Vehicle Standards Agency.

For the Council's planning officer to advise the planning application would be refused for the following reason:

*" The development is proposed to be used resulting from the change of use of a Warehouse (Class B8) which does not benefit from planning permission or a certificate of lawful development being granted to establish their lawful use as a warehouse."*

is demonstrative of unreasonable behaviour. The appellant's agent described the use to the best of his knowledge based on its planning history. The proposed could have been simply described for the proposed use of detached commercial building as a MoT Station (sui generis). The fact that the Council's records do not show a grant of planning permission or the grant of a certificate of lawfulness is largely immaterial and to use this as a reason for refusal, is highly unreasonable. The application needs to be determined on its merits, it is accepted that if the building was ancillary/supportive of a nearby commercial use then this would need to be addressed. However, this is clearly not the case as the 2010 S191 report referenced earlier confirms. There is no enforcement notice on the land, and is therefore reasonable to assume that the commercial use of this building has not caused any amenity or highway's issues.

The principle of the small scale, 1 bay MoT service station is considered acceptable in principle. It would result in a significant investment in a building to the benefit of the economy, providing 2 full time jobs and a service that complements the appellant's nearby tyre/car workshop and the wider town centre. The re-use of an existing building, within a sustainable location, representing sustainable development is fully in accordance with the NPPF and in turn the aims, objectives and policies of the Development Plan.

In terms of impact on the amenities of neighbours in terms of noise, the appellant's Noise Impact Assessment undertaken by ACCON Environmental Consultants, confirms at page 25 of the report that:

*"A noise assessment has been carried out to determine the noise impact of the proposed MOT testing centre at 69-71 Fairfield Road, West Drayton, on the nearest existing noise sensitive receptors (NSRs) to the site.*

*ACCON have carried out background sound level measurements at the proposed MOT testing centre site. This measurement data, combined with previously undertaken source noise measurements, has been used to carry out an assessment of the noise impact of the proposed development on residential NSRs in line with the methodology provided in BS 4142:2014+A1:2019. The BS 4142 assessment indicates that, when context is taken into account, the operation of the proposed development would have a low noise impact at all of the nearest existing NSRs.*

*As it has been concluded that the proposed development of an MOT testing station will have a low noise impact on surrounding noise sensitive receptors, ACCON recommend that there should be no objection to the proposed development on noise grounds."*

Turning to the increase in height of the building this is by 1.1m, in materials to match thereby ensuring an acceptable appearance in accordance with the Council's requirements. In terms of amenity the northern boundary is adjacent to the open amenity area associated with 1 Elder Close, away from the windows serving habitable rooms within the dwelling house and from its private amenity area.

Turning to the dwelling immediately to the east of the appeal site these were erected relatively recently on a former garage site and the approved plans and decision notices are attached at Appendix 3.

The floor plans are copied and pasted below:



As can be seen there are no habitable room windows in the west elevation. The only windows serving bathrooms and the stairwell. The front door entrance to this dwelling being from the north. The space between the dwelling and its boundary is for circulation and not useable amenity space. The increase in height of just over a metre would not adversely impact upon the amenities of the occupiers of this dwelling. To the dwellings to the south there would be no discernible increase in height with the southern elevation remaining the same.

Turning to the issue of parking, the proximity of the public car park in Otterfield Road is duly noted. Notwithstanding the appellant's case is not reliant on parking elsewhere. The proposed MoT use would only have one operating bay and would be subject to an appointment booking system. The operation of these facilities is well governed by the Government via the Driver and Vehicle Standards Agency. 2 parking spaces are to be provided and whilst it is possible to accommodate a third space it is not deemed necessary. The appellant also operates his tyre replacement/car repair business from 61 Fairfield Road without any off street parking provision, other than the space within the commercial premises.

## **Other Material Considerations**

There is a nearby garage just to the north of the 5 properties in Elder Close (N.1 adjoining the appeal site) which was granted planning permission on 4 June 2004 for the

“erection of a replacement workshop for car repairs, MOT station and ancillary office and a 2 metre high boundary wall. railings and gates, together with the installation of a new vehicular access from Yew Avenue (Works involve the demolition of existing single storey buildings) -

The site is known to the Local Planning Authority as 20a Otterfield Road, with access between two dwelling houses on Otterfield Road and also an access to the commercial garage and MoT station being approved in April 2016 from the small cul-de-sac of residential dwellings in Spinney Close.

Moreover in July 2021 the Council allowed for the use of this site to intensify when planning permission was granted for an

*“Extension to provide store/workshop area for servicing of electric/hybrid vehicles.”*

Local Planning Authority referenced 24045/APP/2021/1500.

A copy of the planning permission, officer report and approved documents are attached at Appendix 4.

## **6 Conclusion**

The appeal proposal represents sustainable development, constituting the use of an existing commercial building, within a sustainable Town Centre location, bringing investment, creating employment opportunities and offering a service and use complementary to the offerings of Yiewsley and West Drayton Town Centre. The proposal accords with the NPPF and adopted development plan policies.