

5th August 2025



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Dear Claire

Re: APP/T4210/W/25/3367078 — Albion Mill Industrial Estate, Albion Street, Bury BL8 2AD

Thank you for your letter of 24th July.

We have been instructed by the appellant to prepare a response to the appeal statement prepared by Bury Council to assist the Inspector in determining the appeal.

Bury Council Appeal Statement

The main issues raised within the Council's appeal statement are addressed in turn below.

Lawful Use of the site

Our full justification of the existing lawful use of the site as Class E commercial is enclosed within Paragraph 6.4-6.11 of the Appeal Statement that supports this appeal.

Notwithstanding this, we note the Council state within Page 3 of their supporting Appeal Statement that:

“Car servicing, by its very nature, is the maintenance of and thereon any repair work or associated works which would need to be carried out and would compromise processes that would be detrimental to residential amenity in terms of noise, fumes and smell – cars being revved and tyres being changed etc.”

To confirm the use described by the Council within their Appeal Statement goes far beyond what comprises car servicing, instead describing a more industrial vehicle repair use as clearly demonstrated by its use of the “repair work”. To confirm, a car service would be expected to comprise only the following:

- Check instruments, gauges, warning lights;
- Check horn;
- Check windscreen wipers;
- Check adblue;
- Check interior light;
- Check clutch operation;
- Check seat belt;
- Reset service light;
- Check climate control/aircon system;
- Check engine diagnostic codes;
- Check exterior lights and lamps;
- Check doors operation and condition;

- Check boot operation and condition;
- Check fuel cap operation and condition;
- Check mirrors operation and condition;
- Check steering, suspension linkages and ball joints for wear, damage and condition;
- Check shock absorbers and springs;
- Check tyre tread, pressure and alignment;
- Check battery condition;
- Check battery wiring;
- Test battery electrics (battery, alternator, starter motor);
- Check coolant level;
- Check brake fluid;
- Check bonnet catch;
- Check brake pipes and hoses;
- Check power steering fluid;
- Check auxiliary drive belt condition;
- Check radiator and coolant hoses;
- Check fuel pipes for routing corrosion and damage;
- Check drive shaft joints and gaiters;
- Check exhaust system and mountings;
- Replace engine oil and filter;
- Check windscreen washer fluid;
- Replace air filter, and
- Replace pollen filter,

To confirm, for the avoidance of any doubt, a standard vehicle service does not include the revving of an engine or tyres being changed as stated at Page 3 of the Council's Appeal Statement. It is an in depth visual check of a vehicles condition to advise upon further work required, or not, to keep the vehicle in the best possible condition alongside the replenishment of consumable items such as oil, washer fluid and coolant.

All of the activities stipulated above can be carried out in a residential area without detriment to residential amenity in terms of noise, fumes or smells.

In particular it is our understanding that the site focuses on the servicing of classic vehicles by a private individual where owners are exempt from undertaking a MOT certificate and wish to maintain regular servicing to ensure their vehicles are in a roadworthy condition.

Transport Impacts

The Traffic, Transport and Highway Consultancy (TTHC) have been instructed by the appellant to provide a detailed response to the Council's Appeal Statement and have confirmed the following:

"[...] the LPA maintain that there would be an unacceptable transport impact and that there would be significant highway safety issues, but has still not provided any evidence of such, only opinion. As highlighted in the Transport Appeal Statement (TAS) prepared in May 2025, the original claimed intensification of use provides the premise for the LHA conclusions in respect of impact. The LPA has provided no evidence or data to support this argument or to counter the information and evidence we have submitted. This is despite the TAS providing a written response to the following LPA claims:

'Intensification of use of the Site'

'Inadequate off-street parking facilities'

'Significant impact on access to and parking facilities'

[we] would note also that both the January 2025 Transport Statement and the May2025 TAS, include plans and details of access, parking, servicing and tracking arrangements within the retained site. Importantly, at paragraph 2.20 of the TAS, I noted that for more than 10 years almost all of the area proposed for residential parking has been taken up (and therefore not available) by storage containers. I provided an aerial photograph

of the containers and noted that these would be removed if the existing use is replaced by residential.”

Noise Impacts

Amber Acoustics have been instructed on behalf of the applicant to provide a similarly detailed response to the Council's Appeal Statement which is enclosed in full at **Appendix 1** of this letter and the Planning Inspector is directed to this letter which sets out a detailed analysis of the Council's comments regarding noise impacts in particular.

The Impact on intended occupiers of the development by way of the introduction of a residential use in an area the Local Authority considered important for general or heavy industry, waste management, storage and distribution or a mix of such uses

Our detailed assessment of this condition is set out within Paragraphs 6.54 to 6.61 of the supporting Appeal Statement which has been provided in respect of this appeal.

In particular we note that the impact on intended occupiers by way of noise and transport has been addressed by the relevant consultant reports as detailed above, no other impact on future occupiers has been identified by the Council in their assessment of the application.

We note that this condition is limited in its scope to considering the impact on **intended occupiers of the development** and there is no mechanism within the scope of this condition to consider the impact on future ground floor uses or adjacent employment uses.

To confirm, the impact of the proposal **on** the Employment Generating Area cannot therefore be considered as part of this appeal.

We reiterate that should the Council be sufficiently concerned with the introduction of a residential use within an allocated employment area then it is within their power to introduce an Article 4 Direction in order to limit the aforementioned change of use but have chosen not to do so in this instance.

Conclusion

This assessment concludes that the proposed scheme is acceptable in regard to all relevant planning issues. It is respectfully requested that the Inspector allows the appeal.

Yours sincerely



Harry Johnson

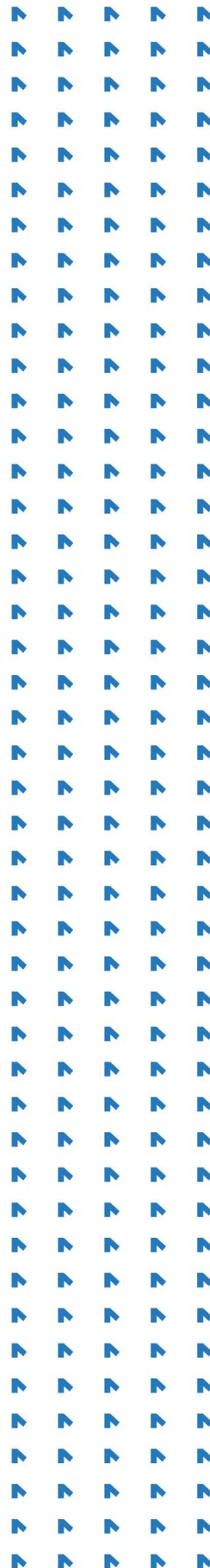
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Appendix 1



Sam Golding
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31st July 2025

Re: Planning Appeal – Albion Mill, Albion Street, Bury
Appeal Ref: APP/T4210/W/25/3367078

**Subject: Rebuttal on Procedural Weighting and Dismissal of
Environmental Health Advice**

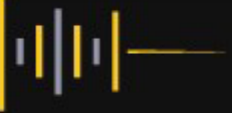
Dear Mr. Golding,

Further to your email correspondence, I write to provide a formal statement addressing one of the key procedural points raised by the Local Planning Authority (LPA) in its Appeal Statement — specifically the assertion that:

“The Environmental Health Officer is a consultee, and the LPA have every right to weight issues as they see fit.”

It is submitted with the greatest respect that this position reflects an approach that departs from the expectations of consistency, transparency, and evidence-based decision-making which underpin the national planning system.

In contrast, this rebuttal is offered on behalf of the appellant in full acknowledgment of the Planning Inspectorate’s important role in resolving matters of planning judgement through the application of established guidance, relevant case law, and demonstrable evidence.



1. Respect for Technical Consultee Advice and Due Process

While the Environmental Health Officer (EHO) is not classified as a statutory consultee, they are professionally qualified, internal specialists in environmental protection and public health.

They reviewed the submitted Environmental Noise Impact Assessment, and raised **no objection**, having accepted that acceptable internal noise levels would be achieved through mitigation measures including appropriate glazing and background ventilation.

It is crucial to note that in *Steer v Secretary of State for Communities and Local Government* [2017] EWHC 1456 (Admin), the court held that although a decision-maker is not bound by the views of a consultee, they "must have 'cogent and compelling reasons' for disagreeing with the consultee".

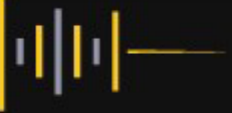
The LPA has presented no contrary technical evidence, no critique of the assessment's methodology, and no reference to any error or omission. Instead, the dismissal of the EHO's view appears to rest on unsupported assertion — a position difficult to reconcile with procedural fairness or with the principle that planning decisions must be guided by technical evidence and published policy.

2. Legal Duty to Inform the Decision – *Tameside* Principle

The courts have consistently emphasised that public decision-makers must properly inform themselves before reaching conclusions. This duty was clearly expressed in:

Secretary of State for Education and Science v. Tameside MBC
[1977] AC 1014, at 1065:

"The question for the court is, did the Secretary of State ask himself the right question and take reasonable steps to acquaint himself with the relevant information to enable him to answer it correctly?"



In this instance, the LPA has not demonstrated that it took reasonable steps to contradict or supplement the uncontested findings of the noise assessment.

The Planning Inspectorate, whose decisions are founded on reasoned evidence and lawful process, will be aware of the importance of this principle when assessing the procedural soundness of the LPA's approach.

3. Inconsistency with the Council's Own Recent Decision-Making

The importance of consistency in planning decision-making has long been recognised in case law. The principle is clear: where materially similar facts apply, decision-makers must either act consistently or explain clearly why they are not doing so. This was confirmed in:

North Wiltshire DC v Secretary of State for the Environment [1993] 65 P&CR 137

In their statement, the LPA state that:

"The acoustic consultant also refers to the Environmental Noise Impact Assessment submitted with the application which concluded that the internal noise levels recommended by BS8233 should be achieved with the windows closed. This is considered to provide a poor standard of living accommodation for future residents.

Together with the assessment in the Officer report, in conclusion, it is considered that the proposed development would have harmful and adverse impacts on the amenity of future occupiers in noise of noise and disturbances."

In this context, it is relevant to note that the same authority recently approved a residential prior approval application at the Acorn Business Centre, Fountain Street North, Bury (Ref: 70688, approved 11 July 2025), also located within the Employment Generating Area (EGA) and surrounded by active commercial uses.



The accompanying Noise Impact Assessment (Ref: 42190-R1) confirmed that suitable internal noise levels would only be achieved with closed windows and background ventilation — a mitigation approach identical to that proposed for Albion Mill.

The Council raised no objection to amenity on that application and approved the scheme without reference to unacceptable noise conditions.

To now oppose the current proposal, without new evidence or altered context, represents a material inconsistency. In line with the above case law, such divergence requires clear justification, which is absent in this instance.

4. Conclusion

The Planning Inspectorate is rightly guided by policy, technical evidence, and legal principle. It is on that basis that we respectfully submit that the Council's position — dismissing internal professional advice without evidential basis or technical review — is procedurally flawed.

This appeal has been presented with reference to accepted technical standards, national guidance, and consistent application of case law.

We trust that the Inspector will recognise that the appellant has sought to engage fully and properly with the planning system and has submitted a proposal that is both policy-compliant and technically robust.

Should any further clarification or supporting material be of assistance to the Inspector, I would be pleased to provide it.

Kind Regards

Aharon Horwich

PGDip, MSc, CEnv, AMIOA, MCIEH, MIEEnvSc, MCABE, MCIQB, MIFSM, MEI

