

Appeal Statement

For
K-Outlet

Nos. 6-9 Park Hill, Bury Old Road,
M25 0FX

February 2023



Work.Life
Core
30 Brown Street
MANCHESTER M2 1DH

www.mialex.co.uk

Regulated by RTPi

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1 INTRODUCTION

- 1.1 This Appeal Statement has been prepared on behalf of K-Outlet following Bury Council's refusal of planning application Ref 68881 which proposed the retention of five shipping containers used for storage ancillary to the K-Outlet commercial unit (Use Class E).
- 1.2 The application was refused by the Council on 19th December 2022 by delegated decision (please refer to the Decision Notice and Case Officer Report enclosed at **Appendix 1 and 2**).
- 1.3 This Statement will set out why the Council's decision to refuse the planning application was unjustified in terms of local and national planning policy, and accordingly, why the appeal should be allowed.
- 1.4 The grounds of appeal are as follows:
- The retention of five existing shipping containers for storage use is supported by the Council's Local Development Framework;
 - As demonstrated within this Statement, the siting of the containers within the site has been informed by the unique back land character of the location which has previously been considered acceptable by the Planning Inspectorate for the location of storage containers. Therefore, the proposal will have no unacceptable impact upon the Bury Old Road street scene;
 - The proposed development is subordinate in nature and will have no unacceptable impact upon the amenity of neighbouring residential occupiers within the frontage terrace that adjoins the site off Bury Old Road;
 - The proposal will not have any unacceptable impact upon the continued operation or servicing of the frontage commercial units; and
 - Accordingly, the proposal complies with Policies EN1, EN1/1, EN1/2, S1, S1/4, S1/5 and S2 of the Bury Unitary Development Plan.
- 1.5 In terms of structure, this Statement will provide a summary of the case background prior to examining the Council's reasons for refusal and demonstrating why these are unjustified and inappropriate in planning terms. The statement addresses the following:
- 1) Background
 - 2) Site and Surroundings;
 - 3) Planning History;
 - 4) Planning Policy, and
 - 5) Planning Considerations.

- 1.6 The Statement concludes that the Council was unjustified in refusing the application, and as such, the appeal should be allowed.

2 BACKGROUND

2.1 Application Ref68881 was refused by the Council for the following reasons (as worded on the Decision Notice):

1. The proposed development by virtue of the height, size, appearance, and position of the containers, would be seriously detrimental to the visual amenities of the site and surroundings. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EN1/2 Townscape and Build Design and EC4/1 Small Businesses.
2. The proposed development would, by reason of its size, siting and appearance would be extremely unsightly and visually overbearing in relation to nearby residents. The proposed development is therefore seriously detrimental to the residential amenities of those residents and conflicts with the following policies of the Bury Unitary Development Plan: EC4/1 Small Businesses.
3. The proposed development by virtue of the siting and scale of containers would have an adverse impact on the servicing and parking arrangements and provision and would therefore be contrary to Bury Unitary development Plan Policies EN1/2 – Townscape and Built Design, HT2/4 – car parking and New Development and HT6/2 – Pedestrian/Vehicular Conflict.

2.2 In the context of the reasons for refusal, it is considered that the key issues in respect of the proposed development can be summarised as follows:

1. Whether the containers would disrupt the visual amenity of the street scene by way of their height, size, appearance and position;
2. Whether the proposed containers would have a significant overbearing impact upon neighbouring residential properties,
3. Whether the containers would have an adverse impact on the servicing and parking arrangements on the site and neighbouring properties.

3 SITE AND SURROUNDINGS

- 3.1 The site relates to a two storey mid-terraced building located on the western side of Bury Old Road forming part of an established retail parade within a designated Local Centre.
- 3.2 Notably, to the front of the site provides off-road parking for up to 18 vehicles to serve customers of the local shopping parade as depicted within the site images below.
- 3.3 To the rear of the local parade there are a number of storage buildings, existing containers and a small number of employee parking spaces accessed via an unadopted highway off Bury Old Road.
- 3.4 The site is situated within an accessible, sustainable location for consumers sitting just 57 metres from the Singleton Court bus stop offering frequent services between Manchester City Centre and Bury Town Centre.
- 3.5 Importantly, the site forms part of Bury Old Road Local Shopping Centre (LC15). Please refer to the site images below.



Image 1: The site as viewed from Bury Old Road currently trading as K-Outlet



Image 2: The containers which are proposed to be retained as a result of this appeal to the rear of the site with associated staff parking and storage buildings for other properties within the local parade

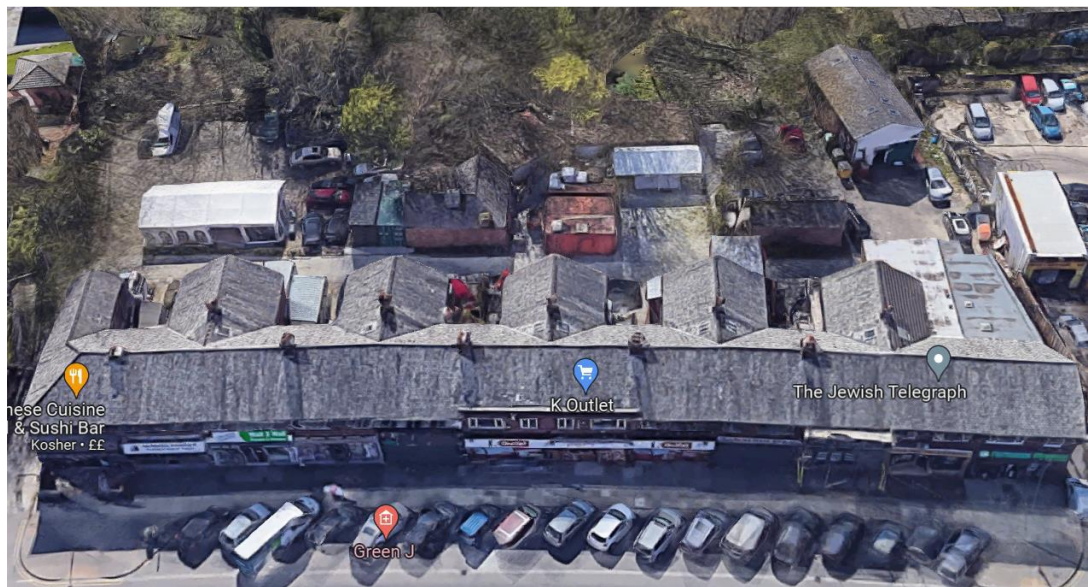


Image 3: 3D overhead view of the site demonstrating the relationship the site shares with the wider terrace and the 18 customer parking spaces to the front of the property



Image 4: Overhead view of the site demonstrating its relationship with Bury Old Road and the corresponding access road to the rear of the site

4 PLANNING HISTORY

The Site

- 4.1 A review of the Council's records indicates that the site has not been subject to any recent planning applications of relevance to this application proposal.

Surrounding Area

- 4.2 Importantly, there have been a number of applications for the retention of storage containers in the immediate vicinity of the site as summarised below:

- An applications (**Ref 59720**) was initially made for the retention of a storage container to the rear of No. 11 Park Hill by the Jewish Telegraph – Refused 21st March 2016,
 - This application was refused on the sole basis that the proposed storage container would offer the potential for an increase in crime to the frontage commercial building due to the poor siting of the proposal within the site,
 - Consequently, this application was appealed and subsequently dismissed under appeal **Ref APP/T4210/W/16/3153012** with the inspectorate importantly noting that the site *"would not be readily visible to passers-by and is in a secluded location"*. However, given the siting of the container (directly adjacent to No. 1a Park Hill) it was considered the container would increase opportunities for crime in the area. Please refer to the Appeal Decision Notice enclosed at **Appendix 3**.
- Subsequently, a further application (**Ref 60956**) was then made for the relocation of a storage container at the same site with an increased separation to No. 1a Park Hill – Approved 10th February 2017.

5 THE PROPOSAL

5.1 The application seeks consent for the following works:

- Retention of five (5) storage containers in a stacked formation up to a maximum height of 5.8 metres, width of 6 metres and depth of 7.2 metres to the rear of the frontage terrace building.

5.2 As set out within the accompanying drawings package, the containers will be subordinate in size and scale to the frontage terrace and benefit from a secluded location that will ensure the visual character and appearance of the local parade and wider street scene is preserved.

6 PLANNING POLICY

6.1 Bury Borough Council's Local Development Framework currently comprises the Unitary Development Plan Strategy (2012) and the Development Management Plan Document (DPD) (2013). The policies relevant to the determination of the application are set out below.

Core Strategy (2012)

6.2 **Policy EN1 (Built Environment)** advises that the Council will seek to protect, preserve and enhance the character, appearance and amenity of the Borough's built environment.

6.3 **Policy EN1/1 (Visual Amenity)** advocates that development will not be permitted where proposals would have a detrimental effect on:

- Public views of prominent or important buildings, especially those in areas of architectural or historic interest;
- The visual amenity both within, or viewed from areas of environmental interest such as the Green Belt, Special Landscape Areas or the river valleys.

6.4 **Policy EN1/2 (Townscape and Built Design)** states that the Council will give favourable consideration to proposals which do not have an unacceptable adverse effect on the particular character and townscape of the Borough's towns, villages and other settlements. Factors to be considered when assessing proposals will include:

- The external appearance and design of the proposal in relation to its height, scale, density and layout;
- The relationship of the proposal to the surrounding area;
- The choice and use of materials;
- Access and other design features for the mobility impaired;
- The design and appearance of access, parking and service provision;
- Landscaping, including the use of natural landscape features, and open space provision; and
- The use of lighting

6.5 **Policy S1 (Existing Shopping Centres)** outlines the Council will seek to protect, maintain and enhance the role and function of the existing hierarchy of shopping centres within the Borough.

6.6 **Policy S1/4 (Local Shopping Centres)** states that the Council will seek to maintain and enhance local shopping centres and will encourage the provision of a range of shopping facilities required to serve purely local needs.

6.7 **Policy S1/5 (Neighbourhood Centres and Local Shops)** states that the Council will seek to retain retailing as the predominant use in small neighbourhood centres and in new or existing local shops, to cater primarily for the day to day needs of residents and businesses.

6.8 **Policy S2 (Control of New Retail and Non-Retail Development)** outlines the Council will seek to protect and enhance the vitality and viability of the Borough's shopping centres by encouraging and controlling the type and location of retail and non-retail development to benefit the retailing activities of the centres.

7 PLANNING CONSIDERATIONS

- 7.1 The planning issues relevant to the determination of the development proposal are assessed in detail below.

Whether the containers would disrupt the visual amenity of the street scene by way of their height, size, appearance and position.

- 7.2 In assessing this issue, the Council state at Page 3 of the Delegated Report that:

- 7.3 *“The containers would be in a stacked formation, approximately 5.8m high. Each container is in an extremely poor condition, discoloured and rusted in parts and generally appear unsightly. Stacked one on top of the other, the bulk, form and appearance of the containers is both extremely unsightly, discordant and incongruous. Regardless that the site is behind the shops, the containers are still visible from outside the site and from occupiers of the shops and flats.”*

- 7.4 A detailed assessment of the visual character of the street scene is set out at Section 3 of this statement. To confirm the commercial parade fronting onto Bury Old Road conceals the containers from the north, east, and south of the site with no part of the containers visible from the Bury Old Road street scene.

- 7.5 Indeed, this location to the rear of the Park Hill local parade has already been considered in principle to be acceptable for the location of storage containers under appeal **Ref APP/T4210/W/16/3153012** with the Planning inspectorate stating at Paragraph 5 that:

- 7.6 *“Although occupiers of neighbouring premises would be aware of it, the container is not readily apparent to passers-by on Bury Old Road and is, in my judgement, in a secluded location.”*

- 7.7 On the basis of this assessment, our view is that the proposal represents no unacceptable impact upon the visual amenity of the street scene due to the back land nature of the site and its lack of visibility in close and longer views down Bury Old Road. It therefore accords with Policy EN1/1 of Bury Council’s Local Development Framework.

- 7.8 Should the Planning Inspectorate retain concerns around the discolouration of the containers and the impact this would have upon the street scene the applicant would be willing to agree to a suitably worded materials condition to ensure the containers are painted in a similar manner to application **Ref 60956** at the neighbouring No. 1a Park Hill.

Whether the proposed containers would have a significant overbearing impact upon neighbouring residential properties

- 7.9 In assessing the impact upon neighbouring occupiers’ amenity, the Council state at page 3 of the delegated report that:

- 7.10 *“The containers would be approx. 9.2m from a directly facing first floor flat above No. 6 and within view of the other flats which are formed above this row of shops. Given the height of the stacked*

formation to almost 6m, the relationship to the residential units is considered unneighbourly and detrimental to their outlook."

- 7.11 It is our view that given the low overall height (5.8 metres), flat roof design and layout of properties at first floor level within the frontage terrace, there will be no adverse impact upon any other residential occupiers of the frontage buildings by loss of outlook, overbearing or privacy.
- 7.12 Whilst the adjoining property at No. 6a Park Hill is currently in residential use the orientation of the containers to the rear of the site allows an adequate outlook to be retained to the rear facing habitable bedroom window with a separation distance of approximately 12 metres maintained to the containers which rise to a maximum of 5.8 metres.
- 7.13 Moreover, as demonstrated on the enclosed proposed site plan the containers will obscurely face the aforementioned bedroom window with only the very southern edge of the containers encroaching upon a 45 degree view as taken from the window.
- 7.14 Therefore, given the height, distance and overall siting of the containers it is considered there will be no loss of sunlight/daylight or privacy and no significant adverse impact upon outlook for residential neighbours.
- 7.15 Whilst the provision of visual amenity needs for residents is an important issue, it needs to be considered in the context of the wider planning balance and the benefits that the scheme will provide. Most notably in terms of providing essential storage for a community focused commercial unit and meeting day to day needs of residents within a commercial local parade.
- 7.16 Therefore, it is our view that the proposal complies with policy EN1/1 and S1/5 of Bury Council's Local Development Framework.

Whether the containers would have an adverse impact on the servicing and parking arrangements on the site and neighbouring properties.

- 7.17 In reviewing the issue of parking and servicing on the site, the Council's Delegated Report at page 3 states that:
- 7.18 *"The plans and application do not provide any information as to whether the containers would also be located on parking spaces which would be used by delivery vehicles and employees of the row of businesses."*
- 7.19 *"It is therefore considered that given the scale and development and position within the yard area, the proposed development would be detrimental to the parking provision and the carrying out of servicing and deliveries to the businesses and therefore contrary to EN1/2, EC4/1, and HT6/2."*
- 7.20 Customer parking for the retail parade is provided at the front of the site, off Bury Old Road. Therefore, the presence of containers would only concern parking for the workers of K-Outlet, towards the rear of the site. Despite the installation of the containers on site four parking spaces are to be retained for employees of K-Outlet to park which is considered adequate. This area will also be utilised for small (3.5 ton) delivery vans which services K-Outlet.

- 7.21 To confirm, no part of the site subject to this appeal is utilised by any other commercial premises for parking or servicing.
- 7.22 Moreover, it is considered that if concerns remain relating to the servicing of K-Outlet this may be dealt with by way of an Operational Management Plan, secured by condition as necessary.
- 7.23 Therefore, the proposal complies with policy EN1/2 of Bury Council's Local Development Framework.

8 CONCLUSIONS

8.1 It is concluded that the appeal scheme is in accordance with the NPPF and the Council's Local Development Framework. It therefore constitutes appropriate development and should be supported for the following reasons:

- The proposed container units will provide essential storage for a specialist, community focused commercial unit.
- The containers will not be readily visible from the street scene and will have no unacceptable impact upon the amenity of neighbouring occupiers.
- No servicing and parking arrangements for the commercial terrace will be disrupted by the containers.

8.2 Accordingly, the proposal complies with Policies EN1, EN1/1, EN1/2, S1, S1/4 and S1/5 of the Bury Unitary Development Plan.

8.3 We therefore respectfully request that the appeal is allowed and planning permission granted for the development.

Appendix 1

NOTICE OF REFUSAL OF PLANNING PERMISSION

Town and Country Planning Act 1990 Town and Country Planning (Development Management Procedure) (England) Order 2015

To:

JC Design
Work.Life Core
Brown Street
Manchester
M2 1DH

On Behalf Of:

K-Outlet
6-9 Park Hill
Bury Old Road
Prestwich
Manchester
M25 0FX

PART 1 - Particulars of Application

Application Number: 68881

Date of Registration: 12/09/2022

Proposal:

Retention of five shipping containers

Location:

6-9 Park Hill, Bury Old Road, Prestwich,
Manchester, M25 0FX

PART 2 - Particulars of Decision

The Bury Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been **REFUSED** for the carrying out of the development referred to in Part 1 hereof for the following reasons:-

- 1 The proposed development by virtue of the height, size, appearance and position of the containers, would be seriously detrimental to the visual amenities of the site and surroundings. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EN1/2 Townscape and Built Design and EC4/1 Small Businesses.
- 2 The proposed development would, by reason of its size, siting and appearance would be extremely unsightly and visually overbearing in relation to nearby residents. The proposed development is therefore seriously detrimental to the residential amenities of those residents and conflicts with the following policies of the Bury Unitary Development Plan: EC4/1 Small Businesses.
- 3 The proposed development by virtue of the siting and scale of containers would have an adverse impact on the servicing and parking arrangements and provision and would therefore be contrary to Bury Unitary development Plan Policies EN1/2 - Townscape and Built Design, HT2/4 - car parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.

The following policies of the Bury Unitary Development Plan, National and Regional Government were considered relevant:

NPPF National Planning Policy Framework

EC4/1 EC4/1 - Small Businesses
EN1/2 EN1/2 - Townscape and Built Design
S1/5 S1/5 - Neighbourhood Centres and Local Shops
HT2/4 HT2/4 - Car Parking and New Development
HT6/2 HT6/2 - Pedestrian/Vehicular Conflict

This decision relates only to the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Applicant Plan Numbers:

Existing plans and elevations A1.1

NOTES TO APPLICANT

Not Applicable

Signed:

A handwritten signature in black ink, appearing to read 'Paul Harris', is written over a dotted line.

2 of 2

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On behalf of the Council

Date of Decision: 19/12/2022

Appendix 2

DELEGATED REPORT

Report by Jennie Townsend	Date of report: 19/12/2022	Ref: 68881/FUL
Registration: 12/09/2022	LDfC: 25/10/2022	Expiry Date: 07/11/2022
Site Visit: 28/10/2022	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Retention of five shipping containers

Location: 6-9 Park Hill, Bury Old Road, Prestwich, Manchester, M25 0FX

Description

The site relates to land to the rear of a parade of shops known as Park Hill in the Bury Old Road/Kings Road Local Shopping Centre. Beyond the site, to the west are allotments/gardens and there is residential development to the north and south. The first floor of some of the shops are habited as residential flats.

The area behind the shops is used for the servicing and parking for the shops and there are also a number of permanent single storey brick builds and single shipping containers used for storage purposes in association with the businesses. There is a vehicular and pedestrian entrance/exit at either end of the shopping parade for access purposes.

The application relates to a supermarket, No 6-9 Park Hill , a commercial premises in the middle of the shopping parade, which seeks consent for the retention of 5 storage shipping containers in association with the business for the storage of goods. The containers have been installed on site without planning permission.

The containers have been located directly behind the property approx 9.2m away in the yard/servicing/parking area. The containers are positioned between two existing single storey brick builds. The containers have been stacked to a height of approx 5.8m, a width of 6m and depth of 7.2m.

A planning application ref 59720 was refused and dismissed on appeal for the retrospective retention of a shipping container on the advice of GMP as the container had been used to gain access to outbuildings which caused security issues (2016).

A subsequent planning application ref 60956 was submitted to relocate the container to a different part of the site away from other buildings. GMP raised no objection as it was considered the re-siting of the container did not represent security issues and the application was approved (2017)

Relevant Planning History

60956 - Relocation of storage container - Approved 10/2/17

59720 - Retention of storage container (Retrospective) - Dismissed at appeal 2/9/16

20/0090 - Installation of 5 no shipping containers- application received.

Publicity

Letters sent to 23 properties on 4/10/22. No responses received.

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Statutory/Non-Statutory Consultations

Traffic Section - Recommend refusal on lack of information with regards servicing, access and parking.

Environmental Health - Pollution Control - No response received

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EC4/1	Small Businesses
EN1/2	Townscape and Built Design
S1/5	Neighbourhood Centres and Local Shops
HT2/4	Car Parking and New Development
HT6/2	Pedestrian/Vehicular Conflict

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have

due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Siting and layout - The containers have been sighted directly behind the applicant's premises, No 6-9 Park Hill in between two single storey brick builds. The containers would be more or less centrally positioned in the rear yard area and given the footprint of approx 43 sqm, the containers accommodate a sizeable part of the central yard area leaving little room for manoeuvring or access for cars and delivery vehicles.

The plans and application do not provide any information as to whether the containers would also be located on parking spaces which would be used by delivery vehicles and employees of the row of businesses.

The Highway Section have recommended refusal on the lack of information to understand impacts on the access, servicing and parking areas.

Whilst the applicant states that the containers are required for storage facilities for the supermarket, the containers are sizeable units and 5 units to serve the one shop would seem to be unnecessary without the applicant providing any reasoned justification for the scale of development. It is also not clear how the top containers would be accessed at such a high level.

It is therefore considered that given the scale of development and position within the yard area, the proposed development would be detrimental to the parking provision and the carrying out of servicing and deliveries to the businesses and therefore contrary to EN1/2, EC4/1 and HT6/2.

Residential and visual amenity impacts - The containers would be in a stacked formation, approx 5.8m high. Each container is in an extremely poor condition, discoloured and rusted in parts and generally appear unsightly. Stacked one on top of the other, the bulk form and appearance of the containers is both extremely unsightly, discordant and incongruous. Regardless that the site is behind the shops, the containers are still visible from outside the site and from occupiers of the shops and flats.

The containers would be approx 9.2m from a directly facing 1st floor flat above No 6 and within view of the other flats which are formed above this row of shops. Given the height of the stacked formation to almost 6m, the relationship of the containers to the residential units is considered unneighbourly and detrimental to their outlook.

It is considered that the proposed development would be seriously harmful to residential and visual amenity and therefore contrary to EN1/2 and EC4/1.

Other matters

The applicant directed the LPA to two previous applications for the site.

The first was for the retention of a single container. This was refused by the LPA and dismissed at appeal by the Inspector.

The second application sought to relocate the refused container. This was accepted as it was located in a different area of the site so as not to cause security concerns.

Given the application was for one container, to be painted a dark green and sited at the back of the service yard and not in a highly visible location, the application was approved.

This application is for a significant number of containers comparative to the single unit above.

Through the application process, the LPA engaged with the applicant and advised they re-consider their long term plans for storage facilities, significantly reduce the number of containers and/or relocate the containers elsewhere, as they would be located behind the rear of the shops, in direct site of residential properties and generally appear unsightly.

DELEGATED REPORT

The applicant has failed to suitably address the issues raised and as such the application is recommended for refusal based on the original submission.

Recommendation: Refuse

Conditions and Reasons:

- 1 The proposed development by virtue of the height, size, appearance and position of the containers, would be seriously detrimental to the visual amenities of the site and surroundings. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan: EN1/2 Townscape and Built Design and EC4/1 Small Businesses.
- 2 The proposed development would, by reason of its size, siting and appearance would be extremely unsightly and visually overbearing in relation to nearby residents. The proposed development is therefore seriously detrimental to the residential amenities of those residents and conflicts with the following policies of the Bury Unitary Development Plan: EC4/1 Small Businesses.
- 3 The proposed development by virtue of the siting and scale of containers would have an adverse impact on the servicing and parking arrangements and provision and would therefore be contrary to Bury Unitary development Plan Policies EN1/2 - Townscape and Built Design, HT2/4 - car parking and New Development and HT6/2 - Pedestrian/Vehicular Conflict.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
JT	19/12/22		

Appendix 3

Appeal Decision

Site visit made on 25 October 2016

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 November 2016

Appeal Ref: APP/T4210/W/16/3153012

Telegraph House, 11 Park Hill, Bury Old Road, Prestwich, Manchester, Lancashire M25 0HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Harris of Jewish Telegraph Ltd against the decision of Bury Metropolitan Borough Council.
 - The application Ref 59720, dated 1 February 2016, was refused by notice dated 21 March 2016.
 - The development proposed is described as 'retrospective planning permission for the retention of a storage container'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The storage container is already in place and appears to conform to the plans before me. I have determined the appeal on this basis.

Main Issues

3. The main issue is the effect of the development on adjacent premises with regard to crime.

Reasons

4. The container is situated on private land to the rear of a shopping parade, beyond a back street and an area of rough ground used for car parking and the siting of several brick buildings. Immediately adjacent to the site is the detached pitched roof building of 1a Parkhill Place. The container is set behind a timber gate and mesh fence that extends from No 1a to a brick building to the south. Mature trees and shrubs are beyond the fence. To the north and east of the appeal site is a car wash and a further shopping parade. Residential properties are above the nearest shopping parade and on nearby streets.
 5. Although occupiers of neighbouring premises would be aware of it, the container is not readily apparent to passers-by on Bury Old Road and is, in my judgment, in a secluded location.
 6. The container was initially sited on the land in 2003 and is used for the storage of documents, furniture and stationary by the Jewish Telegraph following a
-

series of temporary planning permissions. Since then there has been a single recorded crime incident, in 2015, in which, according to Greater Manchester Police (GMP), the container was used as a climbing aid to enable entry into No 1a via a roof light.

7. The container has been sited on the land for some time and it is required to store documents which need to be accessible during unsociable hours. Nevertheless crime can occur at any time. I recognise the appellant's point concerning making assumptions about the problems and their causes given just the single incident, and note that No 1a was granted planning permission for a change of use to an office and storage¹ with the container in place. I am also mindful, however, that the change of use application was determined at a time when the container failed to benefit from planning permission, its temporary consent having expired.
8. Nonetheless, the Planning Practice Guidance sets out that "*Designing out crime and designing in community safety should be central to the planning and delivery of new development.*" (Paragraph: 010 Ref ID: 26-010-20140306). Similarly, the National Planning Policy Framework, which is a significant material consideration, is clear that developments should create safe and accessible environments, where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.
9. In addition, I am mindful of the response from GMP, which, notwithstanding the overall low crime rate in the area, recommends the removal or re-positioning of the container in order to discourage its misuse. It may be that GMP would not have commented on the application had the crime at No 1a not taken place. This is, however, is not the point. The container has been used to access No 1a and GMP have raised a legitimate concern on the back of these new circumstances.
10. No 1a could be subject to incidents of crime in any event and the owner is responsible for ensuring its security. Nonetheless, as demonstrated by the 2015 incident, the close proximity of the container, together with its secluded location, clearly provides an unwelcome and unnecessarily helpful opportunity for offenders to potentially gain access to No 1a, which has not long been in use as an office.
11. Whilst the appellant requires storage, there is no evidence to suggest that the container, or any other storage facility, needs to be positioned in this precise location in order to sustain the long standing business. If permanently retained in its current position, the container could be subject to, or enable, further incidents of crime.
12. Even though crime related issues were not raised in the consideration of previous temporary planning permissions, which appear to have been limited in order to protect the visual amenity of the area, I have determined this appeal in accordance with the development plan and the material considerations of the case. The granting of previous temporary planning permissions does not automatically mean that a further planning permission should be granted. In terms of security measures at No 1a, this is a matter for the owner to address and I have determined the appeal on the basis of the development applied for.

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13. Thus, I conclude that the development would increase opportunities for crime in the area which would conflict with Policy EN1/5 of the Bury Unitary Development Plan. This policy seeks to discourage crime through environmentally sensitive design features, including the use of and creation of defensible space and natural surveillance. It would also conflict with the requirements of the Framework, which are noted above.

Conclusion

14. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR