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PLANNING CONSULTANCY

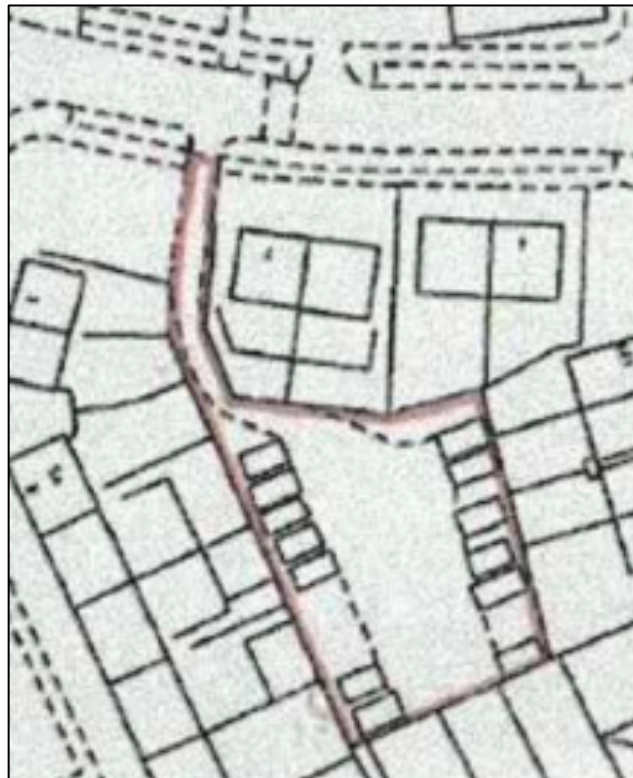
APPEAL STATEMENT

On behalf of Ian McDonald

Erection of 14 garages – 2 identical blocks of 7 units each at Land at rear of Westminster Avenue, Radcliffe, Manchester, N26 3WD

1. Deletion of condition 9 – resurfacing of site access between the junction with Westminster Avenue and the proposed gate position in respect of planning permission 71464

1.0 Background and Reasons for Appeal



Appeal site – edged red

- 1.1 The appeal site is a long-established garage court site on land to the rear of Westminster Avenue. A tarmac surfaced access was included within the sale that allowed the historic vehicular access from Westminster Avenue to the garage site. Over the years the garage

court was poorly maintained by the Council and as a result became underutilised. The Council subsequently disposed of the asset by way of a local auction. My client purchased the site as a lawful garage site and subsequently started works resurfacing the existing hardstanding with a view to reinstalling garages to be used by local residents to park their cars.

- 1.2 Following the resurfacing works complaints were received by the Planning Enforcement Team regarding engineering works and the building of a row of garages. Once this breach of planning control was brought to the appellant's attention a full planning application was submitted for formal consideration. The initial proposal for 12 garages was refused planning permission on the basis that the submitted plans did not contain sufficient information for the application to be assessed properly alongside other technical reasons. On 5th February 2025 the application was resubmitted for 14 garages and planning permission was granted on 22nd October 2025 subject to 13 planning conditions – Application Reference number 71464. As the hardstanding had already been installed the application was treated as a part retrospective application.
- 1.3 Condition 9 of 71464 is a condition that does not allow further works to take place until a scheme for resurfacing the proposed site access between the junction with Westminster Avenue and the proposed gate position together with measures to prevent the discharge of surface water from the site access onto the adjacent adopted highway has been approved in writing by the Local Planning Authority. The planning application did not seek to resurface the site access as it was always considered to be acceptable in its current form. The purpose of this appeal seeks to delete condition 9 of 71464.

2.0 **Planning Policy** **The Statutory Planning Framework**

- 2.1 In September 2004 the Planning and Compulsory Purchase Act 2004 ('the Act') came into effect which reformed the development planning system in England. Section 38(6) of the Act requires that all planning applications should be determined in accordance with the development plan, provided the policies or proposals it contains are relevant and unless 'material considerations' indicate otherwise.

The National Planning Policy Framework (Framework) and the National Planning Policy Guidance (PPG)

- 2.2 Paragraph 56 of the Framework states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Paragraph 57 states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Planning Practice Guidance (PPG) provides further advice in this respect, confirming that these six tests must all be satisfied each time a decision to grant planning permission subject to conditions is made. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

Bury Unitary Development Plan 1997¹

EN1/2 - Townscape and Built Design

Places for Everyone March 2024²

Policy JP-C5 Streets for All

Policy JP-C6 – Walking and Cycling

Policy JP-C8 – Transport Requirements of New Development

3.0 **Whether the planning conditions meet the six planning tests of ‘necessary’, ‘relevant to planning and to the development to be permitted’, ‘enforceable’, ‘precise’ and ‘reasonable’**

3.1 Condition 9 states

“9. Notwithstanding the details indicated on the approved plans, no further development shall commence unless and until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

1. Scheme of carriageway resurfacing works on the proposed site access between the junction with Westminster Avenue and the proposed gate position, and all associated remedial/accommodation works;

2. Measures to prevent the discharge of surface water from the site and site access onto the adjacent adopted highway.

The highway works subsequently approved shall be implemented to an agreed programme before the development hereby approved is brought into use.

Reason. To ensure good highway design and the intervisibility of the users of the site and the adjacent highways in the interests of road safety and to maintain the integrity10 11 12 of the adopted highway Development Plan Policies Development Plan Policies EN1/2 - Townscape and Built Design, JP-C5 - Streets for All, JP-C6 - Walking and Cycling, JP-C8 - Transport Requirements of New Development and JP-P1 - Sustainable Places.”

3.2 The existing site access from Westminster Avenue to the entrance gates has been used for many years to access the former Council owned garage site. It is in a reasonable condition and contains a concrete kerbline to delineate it from the adjoining grass. Paragraph 56 of the Framework states that local planning authorities should consider whether otherwise

¹ <https://www.bury.gov.uk/planning-building-control/planning-policy/bury-unitary-development-plan>

² <https://www.greatermanchester-ca.gov.uk/media/2drduk0t/places-for-everyone-joint-development-plan-dec24.pdf>

unacceptable development could be made acceptable through the use of conditions. As the access to the garage court is existing and is in an acceptable condition, it is not necessary for it to be resurfaced and on that basis the condition should be removed.

- 3.3 Below is a series of photographs of the site access that show its condition in relation to the public highway at Westminster Avenue.



Tarmac surfaced access to garage site with concrete edgings



Tarmac surfaced access to garage site with concrete edgings



4.0 **Conclusion**

- 4.1 It is requested that condition 9 is deleted as they are do not satisfy the test of being necessary. All other planning conditions meet the strict planning tests for conditions and a condition discharge application is in the process of being prepared.