inspire planning solutions

HEARING STATEMENT

663 Oldham Road, Rochdale, OL16 4PE

Alterations to form access, boundary walls and gates and associated landscaping works

Europa Business Park, Building 67

Bird Hall Lane

Stockport

SK3 0XA

March 2020

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1.0 Introduction

1.1 This Hearing Statement has been prepared by Inspire Planning Solutions Ltd. on behalf of the Appellant, Mr. Zain M Ali, in response to an Enforcement Notice, Ref 17/0435/EUD, served by the Rochdale Borough Council on 24th July 2019, at No. 663 Oldham Road, Rochdale OL16 4PE. The Notice was served regarding an alleged breach of planning control for:

Without the benefit of planning permission ongoing engineering operations comprising the formation, laying out and construction of a means of access to a classified road, and the excavation, raising, levelling and regarding of the front garden area to form an area of hardstanding

1.2 This appeal also forms an appeal against a planning refusal (19/00372/HOUS) at the same address, for a similar development.

1.3 The development relates to a minor domestic proposal consisting of a vehicular entrance, driveway, with associated landscaping as well boundary treatment. The planning application was also for this same development, but also including a front porch.

1.4 Under section 174 of the Town and Country Planning Act 1990 (as amended), the Appellant wishes to Appeal the Enforcement Notice under grounds a), c) and g):

a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
c) that, the matters do not (all) constitute a breach of planning control;
g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed;

1.5 The Hearing Statement should be read alongside the Grounds of Appeal Statement and appended documents submitted at the outset, along with the planning application documentation ref: (19/00372/HOUS), including the supporting statement which accompanied the submission. The plans accompanying that application were prepared by a Landscape Architect.

1.6 The Hearing Statement should also be considered alongside the supporting 'Highway Statement To Support Planning Appeal' by AMNI Transportation (Highway Statement), which has been provided to provide detailed consideration of highways issues and supporting evidence, further to the highways information previously submitted in support of the proposals, and in response to the LPA concerns in respect of highway safety.

2.0 Policy Context

2.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004).

2.2 The Rochdale Core Strategy forms the relevant part of the development plan for this development. The Supplementary Planning Document 'Guidelines & Standards for Residential Development' is also relevant and a material consideration. These were set out in the 'Grounds of Appeal' Statement but are repeated here for ease of reference.

Rochdale Core Strategy (2016)

2.3 The following policies have been noted in the Enforcement Notice and also in the decision notice on the refused planning application; they are considered to be of relevance to the appeal development:

Policy DM1 - General development requirements - All development proposals, extensions and alterations, will be expected to demonstrate that they are of high quality design and take the opportunity to enhance the quality of the area,

Policy P3 - Improving design of new development – Development proposals should respect the context where it is, having regard to the scale, density, massing, height, layout, landscape, materials and access of surrounding buildings and areas in general,

Policy SO3 - To improve design, image and quality of place – This Policy seeks to raise design quality and promote sustainable development, 6

Policy SD1 - Delivering sustainable development – When determining an application, the Council must take an approach with reflects the presumption

in favour of sustainable design and work pro-actively to find solutions to promote developments which improve the local economic, social and environmental conditions,

Policy P1 - Improving image – High quality design will be especially sought in areas which are crucial to the image of the Borough,

Policy P2 - Protecting and enhancing character, landscape and heritage – Development must enhance the character, landscape and heritage of the Borough and must not be harmful,

Policy T2 - Improving accessibility - a generic transport related policy that is seeking to improve accessibility.

Guidelines & Standards for Residential Development SPD

2.4 The SPD sets out guidance to help ensure that the design and appearance of new homes and extensions will make a positive contribution to the local environment. Paragraphs 3.14-3.16 set out relevant matters relating to car parking such as the size of spaces and that on busy roads, it will normally be necessary to provide a turning area within the site to allow for vehicles to turn and leave in forward gear.

3.0 Planning Appraisal

3.1 The This Statement is to support an appeal against a refusal of planning permission and under section 174 of the Town and Country Planning Act 1990 (as amended), the Appellant is also appealing the Enforcement Notice under grounds a), c) and g).

a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged,

c) that, the matters do not (all) constitute a breach of planning control,

g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Ground (a)

3.2 As well as setting out the case under ground (a) for the Enforcement Appeal, this section also forms the basis of planning appeal against the refusal of planning permission.

3.3 The Enforcement Notice, along with the prior planning refusal, set out the Council's concerns, which relate to highway safety matters and character and appearance. The remainder of the appraisal for the ground (a) appeal will focus on these two key relevant planning issues.

3.4 The development consists of a typical access driveway to a domestic dwelling. The Appellant has provided a considerable level of supporting information, over a number of applications to the Council, including a bespoke landscape design

to demonstrate the acceptability of the development and the lack of harm which would result.

3.5 This consisted of procuring the services of a transport specialist to assess manoeuvrability within the site and also visibility when exiting the site. In addition to this, the Appellant has sought to provide further evidence to allay concerns related to the usage of a nearby bus stop, the proximity of local schools and accident data in the vicinity of the site. This information has now been further supplemented with the production of a detailed Highways Statement.

Character and Appearance

3.6 In relation to the development's effects on visual amenity, it is considered that the LPA has overstated and oversimplified the impacts of the development, arguing that the development would have an unacceptably hard and industrial form and scale, that it is visually intrusive, dominant and incongruous, simply because it increases the existing parking/hard standing area. The reality is that significant efforts have been made to make the alterations to the property that create the driveway and parking area whilst respecting the existing character of the area and providing a well landscaped scheme that is in keeping with the pleasant and verdant character of the surroundings (see Figure 1). Simply increasing the area of hardstanding does not detract from this, which in any event would be well shielded in street level views by the boundary treatment.



Figure 1: Streetview Comparison - May 2012 and May 2019 (Google Maps)

Taken in similar position/season, verdant character still prevalent, note appeal development including its frontage still to be completed which would provide a continuous brick/metal gate alongside neighbouring properties

3.7 As was highlighted within the Grounds of Appeal Statement, the services of a specialist landscape architect were sought in devising this proposal. It is highly unusual for a bespoke landscape architect to work on the front garden of a domestic property; however, this demonstrates the Appellant's intent to provide a high quality scheme, which is befitting to the property and to the

character of the area. This also confirms that the Appellant has worked pro-actively, over a number of applications, in an effort to allay the Council's concerns, even though these were not all considered to be well founded.

3.8 The first reason for refusal and the first part of the Enforcement Notice states: *"The proposed development, by reason of its hard and industrial form and scale, is visually intrusive, dominant and incongruous in relation to the adjacent residential landscaped garden areas and fails to respect its surroundings. The proposal would change the character and appearance of the front garden area and be significantly harmful to the character of the adjacent high quality residential street scene."*

3.9 The Council's Officer's Report on the refused planning application provides the reasoning for this aspect of the refusal of planning permission/service of the Enforcement Notice. Their concerns relate to the levelling of the front garden area and what is said to be the creation of an extensive hard surfaced area.

3.10 Brief reference is also made in the Officer's Report for the planning application to four mature trees which previously existed, which also appears to have been given weight. The report does not indicate that the previously existing trees were not subject to any statutory protection and these were removed without the need for any consent (and therefore should not be seen as part of this development). Notwithstanding this, significant efforts have been made to provide high quality replacement planting that would not only preserve, but result in an enhancement of the property and the area. This can be seen in Figure 1 – even without the proposed planting, the street maintains a green, verdant character.

3.11 With regard to the level changes, this related to an area in the middle of the front garden which was set down (identified in Figure 1 of the Grounds of

Appeal Statement). As the area of garden adjoining the highway was ‘raised’ i.e. in line with the footway, as was the area of the garden closest to the house, the proposal has simply brought the remaining garden into line with these rather than standing out as an obtrusive feature. Whilst it is factually correct to refer to the front garden as being ‘sunken‘, the importance of this feature is overstated. It is hidden behind the boundary wall, as are those on neighbouring properties and whilst it is seen from the front windows of neighbour’s properties, its removal is not visually apparent, due to the already "flat" aspect of the immediate landscape. This does not result in any noticeable effect, let alone a significant and detrimental impact to the area. Rather, it is the verdant character of the street scene and the contribution made by the gardens that are important contributors to the character and appearance of the area. This character would continue to be preserved and enhanced by the development for the reasons set out.

3.12 Work was commenced on site, due to the Appellant’s understanding at the time that planning permission was not required. Work stopped following communication with the Council and for over a year, there has been no work taking place, with the Appellant focussing on seeking to obtain retrospective planning permission. The recent planning application illustrates the proposal for the front garden area, incorporating extensive soft landscaping, which would make a significant positive contribution over and above the current situation on site that the Enforcement Notice has been served in respect of.

3.13 The application proposals show that around half the width of the site and for around one third of the depth of the site at the front, there will be a soft landscaped area which will contain a grassed area, as well as hedges and trees, which would be visible over the boundary. In addition, the area in front of the bay window would be soft landscaped as would a good width of the site along the extent of the boundary with No. 661 and along most of the boundary with No. 663. A further six trees would be planted, as specified on the plans (included in the documents appended to the initial Grounds of Appeal Statement). This is

a significant amount of soft landscaping which makes the LPAs' characterisation of the proposals as 'hard, 'bare' and 'utilitarian' somewhat distanced from the reality of what the proposals would achieve.

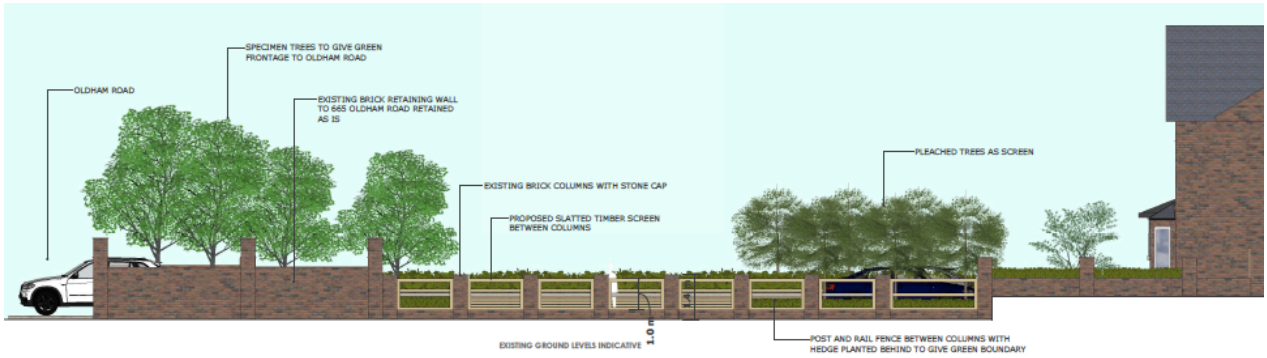


Figure 2: Elevation from 665 Oldham Rd (Squareyard), Not to Scale

The significant tree planting at the front and rear can be seen as well as continuous hedges which will rise above fence/wall and be evident in views when established



Figure 2: Proposed Elevation/Previous view from Oldham Rd (Squareyard/Google Maps), Not to Scale

Proposal results in little change to boundary wall/gates; additional planting will deliver enhancements

3.14 While there is an overall increase in the overall area of hardstanding, this has been designed to not provide a stark or industrial form as alleged. The hardstanding comprises of a combination of gravel and block paving split into different areas with edging. The hardstanding area is further broken up by hedges and planting, such that in views through the gate towards the access/parking area, the viewer will see various greenery and a landscaped area that has been thoughtfully designed.

3.15 The above arguments highlight that the proposed development would retain the verdant character of the area and would not have an overly 'hard' appearance or cause harm to the character in the manner that the Council suggests simply because the hardstanding area is increased overall. Taking all of the above together, and having regard to the high boundary treatment that is prevalent along this section of Oldham Road, which ensures that minor changes in land levels within gardens are not prominent, the scheme would not have any detrimental effect on the visual amenity of the area. Considerable effort that has gone into ensuring the design and landscaping reflects the verdant character of the area. The proposal would not conflict with Policies DM1, P1, P2, P3 or SO3 of the Rochdale Core Strategy. There would also be not conflict with the SPD or the NPPF.

Highway Safety

3.16 The other aspect of the Enforcement Notice and the second reason for refusal on the planning application relate to highway safety matters. The proposal seeks to provide vehicular entrance from the front, as is typical for many dwellinghouses, including other properties in the area along Oldham Road.

3.17 The Appellant has provided, at various stages, supporting information and evidence to demonstrate that the use of the access by a small number of vehicles would not give rise to any material adverse harm in respect of highway

safety. There is sufficient space within the site for vehicles to park, turn and leave in forward gear and Oldham Road is also long and straight with the proposal allowing for adequate visibility in both directions. A further Highway Statement is also now provided which accompanies the submission of this Hearing Statement.

3.18 After reviewing the text of the Enforcement Notice and the Officer's Report on the planning application, the Council's concerns appear to relate to an increase in vehicle movements resulting from the development that would allegedly interfere with the free flow of traffic along Oldham Road; and the presence of the nearby bus stop and specifically, the potential for a congregation of people at the bus stop to interfere with driver visibility.

3.19 As set out within the Grounds of Appeal Statement, the vehicular access would result in a very low number of additional vehicle movements onto Oldham Road, in a manner where acceptable visibility splays can be achieved, with swept path analysis plans showing that vehicles can enter and leave the site in a forward gear (NB swept path analyses included within the document bundle submitted with the Grounds of Appeal Statement). As set out in the transport note accompanying the visibility splay plans (see Appendix 1 to the Grounds of Appeal Statement), the frequency of vehicles will be very low (less than one per hour). Vehicles would be able to turn in from the road to the site and be clear of the highway. Exiting vehicles would be in forward gear and even with a bus at the stop alighting/picking passengers, this would be for a short period and unlikely to be regular occurrence.

3.20 It is noted that the Council's Report on the planning application raised some concern with the way visibility splays were calculated, following the Highway Authority's comments. Paragraph 5.19 of the Highways Statement provides clarification regarding this. Initially visibility splays had been produced that showed the visibility splays drawn to the centre line of the road, which were

unacceptable to the Highway Authority. Further visibility splays were produced using Table 7/1 from TD42/95 of the Design Manual for Roads and Bridges. These further plotted splays were submitted for consideration by the Council. The plotted splays showed the visibility splays intersecting with the nearside kerb, as specified by the Council. These visibility splays are shown in Appendix 1 of the Grounds for Appeal Statement.

3.21 The photographs provided at Appendix 2 to the Grounds of Appeal Statement highlight that the presence of the bus stop would not obscure visibility and that views could be maintained in to the north, beyond the bus stop, without any serious harm being caused to highway safety. Any interference with visibility due to the bus stop would only be momentary/temporary. The physical structure of the bus stop itself incorporates a clear side panel, allowing visibility through it.

3.22 This is also a quiet suburban stop that is infrequently used. While buses run every 10 minutes or so at peak times, surveys indicated that buses stopped only 2 – 4 times within 60 minute periods when the surveys were carried out, stopping only momentarily, with very low numbers of passengers waiting at the bus stop. Neither the presence of buses or passengers is considered to cause a significant threat to highway safety. There are also no nearby schools within close proximity whose pupils would likely use the stop (the closest school, St Cuthbert's RC High School, to the west, is served by other bus stops closer to the school). Any momentary visibility obscureness would be an extremely rare occurrence.

3.23 The Grounds of Appeal Statement also identified that there are many driveways along Oldham Road, including some directly outside bus stops. Unlike the appeal proposal, which has been designed to ensure vehicles do not need to reverse out, many of these other driveways require drivers to reverse in or out (see Appendix 4 to the Grounds of Appeal Statement). Despite this, looking at

accident data over the last few years, there is no pattern of them being unsafe or a source of accidents (see plan submitted with planning application 'Accident History Context Plan').

3.24 The supporting Highway Statement provides a more detailed assessment of these issues, which further reinforces the arguments already set out on behalf of the Appellant. The Highway Statement considers the Council's highway safety objection in respect of the submitted planning application, which is also relevant in response to the Enforcement Notice.

3.25 The Highway Statement concludes that the development will provide an internal parking layout with turning space to allow for vehicles to drive in and drive out in forward gear. A detailed and accurate swept path analysis has been provided to demonstrate this. The LPA have argued that vehicles could leave the driveway in reverse gear, with the Officer's Report seemingly giving significant weight to this in refusing permission and serving the subsequent Enforcement Notice. Clear evidence has been provided on behalf of the Appellant to show that vehicles can enter and egress the site in a forward gear. There is no reason to doubt the swept path showing a vehicle turning. It is a fairly reasonable/easy three point turn manoeuvre. One would expect any sensible and reasonable driver to utilise the turning that is there within the site, compared to a long reverse along the driveway, before backing out onto the main road. Common sense dictates that vehicles would not reverse onto the highway when a perfectly adequate turning facility exists within the site.

3.26 In response to the LPA's concerns regarding the proximity of the bus stop, site surveys have also been undertaken to assess the level of usage at the bus stop. The surveys, over different time periods, evidenced there to be low usage at the bus stop (initially in June 2019 and then in March 2020 – see 5.11 of Highways Statement for Appeal). There would also be a low number of

vehicular movements associated with the creation of a private access (less than one per hour) as has been demonstrated in a previous transport note.

3.27 The Council has argued that the private access would be detrimental to highway safety as it would introduce turning movements along a 'quality bus corridor'. The Council also remarked that the positioning of a private access near a bus stop "*would present a danger to highway and pedestrian safety and would result in a serious risk of accidents where cars entering and exiting the site would potentially be in conflict with pedestrians, cyclists, buses and other motorists*". No evidence has been provided by the LPA to demonstrate that there would be any unacceptable danger to highway and pedestrian safety, or any serious accident risk associated with a single private access, where it has been demonstrated that there is acceptable visibility.

3.28 The Highways Statement has also noted a number of other private accesses along the A671, some situated either side of a bus stop, without the benefit of internal turning space. These have been identified in supporting documentation already supplied with the appeal at Grounds of Appeal stage. The proposed development will allow vehicles to leave in forward gear, which is a highway safety benefit, when compared to the existing private accesses. The LPA have sought to argue that a number of these either do not have planning permission and have been in place for a number of years as justification for taking action in this particular case. Whether express planning consent was granted for other accesses is irrelevant, they still make up part of the established character along this stretch of Oldham Road and are being used on a regular basis.

3.29 Furthermore, while the Council's Officer Report for the planning application attributes accidents referred to accident data provided by the Appellant, the LPA has not provided any evidence to demonstrate that their assertion is correct, nor have the LPA referred to any accident data that they have obtained and reviewed themselves. The Council has not provided any statistical evidence

of private accesses along the A671 being unsafe and resulting in injury accidents. The Appellant, has, though, submitted a number of accident investigation studies that demonstrated that private accesses, even without internal turning space, are not resulting in any highway safety problems. The assertion from the Council that the private access at 663 Oldham Road will create highway safety issues is therefore unfounded.

3.30 It is also noted that the Council Officer's Report on the planning application indicates that the Council appear to have given considerable weight to an appeal decision dating back to 2005 in their decision making (Appeal Ref: APP/P4225/A/04/1160726). That decision dismissed an appeal for the creation of a driveway further along Oldham Road (no. 657).

3.31 It would appear that the Council have applied significant weight to a case that is of limited relevance and that this has had an undue bearing on the refusal of planning permission and the subsequent service of an Enforcement Notice for this proposal.

3.32 That appeal was decided 15 years ago, when the site context and planning policy context would have been different. Indeed, the appeal decision refers to PPG13, which is now obsolete and does not contain the presumption in favour of sustainable development and the direction to only prevent development on highway safety or transport grounds when there are unacceptable/severe impacts which are now present within the NPPF.

3.33 There is also no clear indication of what evidence was presented before the Inspector in that case or any of the other circumstances of that development. In the case of the current appeal, detailed supporting information to demonstrate why the proposal is acceptable in respect of highway safety issues

has been provided – that may not have been the case in the case at 657 Oldham Road.

3.34 From what we can see, commentary in paragraph 8 of the Inspector's decision for the case at 657 Oldham Road also appears to indicate that a permanent physical obstacle (a boundary wall), outside of the application site would have prevented an acceptable visibility splay from being achieved. That had a significant bearing on that appeal being dismissed, and is fundamentally different from the current appeal case at 663 Oldham Road, where an acceptable visibility splay is achieved and the only issue raised by the LPA in this respect are momentary/infrequent occurrences of small numbers of people present at a quiet bus stop, not a permanent barrier to visibility.

3.35 In any event, due to the passage of time and the different context, as well as the lack of information on that case, the comparability of that proposal with this one is not appropriate, and there is limited inference that can be drawn from it.

3.36 To summarise, for the reasons explained above and detailed further within the Highways Statement, there would be no conflict with Policy T2 of the Core Strategy or the NPPF. The NPPF indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, neither of which would be the case.

3.37 The Council has provided a highway safety reason for service of the Enforcement Notice and refusal of the planning application. The Highway Statement has concluded that the highway safety reason given by the Council for preventing the development from going ahead on highway safety grounds is unreasonable and not evidence, whereas the Appellant's position has been

supported by detailed evidence. It is considered that the ground (a) appeal should therefore be allowed.

Ground (c)

3.38 As acknowledged in the Grounds of Appeal Statement, an appeal is also made under Ground (c), in the event that the Ground (a) appeal should fail. This is because the Council reference within their Enforcement Notice the need to rebuild the brick stone wall and erect gates at the frontage to the property. These works do not in themselves require planning permission. They were removed to allow the delivery of material to the site, and not facilitate car access. As planning permission was not required for these works, it is requested that the Notice is amended to reflect this.

Ground (g)

3.39 A Ground (g) appeal is also made, in the event that the Ground (a) appeal should fail. The Appellant considers that the period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. Should the Inspector disagree, and planning permission is not forthcoming, the 6 month time-scale to comply with the notice is considered too short notice, considering the work required.

3.21 The Appellant requires more time in order to evaluate what options are available, in terms of costing/sequencing of works, should planning consent not be forthcoming. The Appellant should not be required to do this until such point as a decision is made on the appeal. As the time limit imposed within the Council's notice would result in unnecessary disruption to the Appellant's family, the Inspector is kindly requested to consider an extension of time to 10 months, which is considered to be a reasonable compliance period in the circumstances.

4.0 Conclusion

4.1 This Hearing Statement, along with the supporting Highways Statement have provided additional detail in respect of the main two issues for consideration in the appeal – the effect of the development on the character and appearance of the area, and the effect of the development on highway safety – further to the Appellant's initial Grounds of Appeal Statement, relating to the appeals against the Enforcement Notice and against the refusal of planning permission.

4.2 The proposal is a minor development to an existing house and the Appellant has taken significant steps to work proactively in attempting to address the LPA's concerns, including arranging for the front of the property to be designed by a Landscape Architect, to ensure the development contributed positively to the characteristics of the area, which would not ordinarily be expected for a development of this nature and scale. The LPA has alleged that a hard, bare and utilitarian appearance would result from the development, however, this would not be the case. While the overall amount of hardstanding would be increased, this would not be harmful due to the care taken in the detail of the scheme. While the 'sunken garden' area would be removed this is not a feature of importance or particularly visible within the street scene and would be more than compensated for by the extensive landscaping proposals.

4.3 It is therefore respectfully requested that planning permission should be granted. On the Enforcement Appeal, if consent under ground a) is not forthcoming, then it is considered that the Notice ought to be varied for reasons set out under ground c) and, with additional time required for compliance as per ground g).