

ROCHDALE BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78



APPEAL BY: Mr A Bangs

APPEAL SITE: The Lake Garage (Smithybridge) Ltd, Smithy Bridge Road,
Littleborough, OL15 0BQ

STATEMENT OF THE LOCAL PLANNING AUTHORITY

LPA REFERENCE: 23/00356/FUL

15th October 2024

PINS REFERENCE: APP/P4225/W/24/334915

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1.0 Introduction

- 1.1 The planning application (23/00356/FUL) subject to this appeal was validated by the Local Planning Authority (LPA) on 11th May 2023. The planning application was refused under delegated powers on 31st January 2024.
- 1.2 I understand that the Inspectorate has already received copies of the following documents in respect of this appeal:
- The decision notice for this application;
 - The Officer delegated report for this application;
 - Relevant adopted local and structure plan policies;
 - Internal consultation responses received by Officers; and
 - Representations in support or objection for the application.
- 1.3 For clarity, the application plans and supporting documents upon which the LPA based its decision are listed on the LPA's Decision Notice which has already been submitted to the Inspector. These plans were considered in the determination of this application by the Planning Officer.
- 1.4 As part of their appeal submission, the Appellant has provided an amended Site Plan - Drawing No: 21 Rev PP2 B. This plan is an amendment to refused Drawing No: 21 Rev PP1 date Dec 2022 - Site Plan. For clarity, the respective plans are shown in Appendix A and Appendix B of this statement. Further comment on this amendment is covered in 5.8.34 below.
- 1.5 Due to the Hearing appeal procedure having initially been considered for the proposal, the LPA and the Appellant had progressed Statements of Common Ground (SoCG) for Planning and Highways. Whilst the appeal is now to be determined by Written Representations these SoCGs have been submitted for clarity by the Appellant's Agent and are referred to in this Statement of Case.

2.0 Site Description

- 2.1 The site relates to a former car sales and repairs garage on Smithy Bridge Road. The site is now vacant. The garage building is set towards the rear of the site and towards

the front there was a sales forecourt, parking and access to the servicing section of the garage. The existing building is currently in a state of disrepair.

2.2 Adjacent to the site the predominant land use is residential but the Smithy Bridge Library is sited directly opposite the garage. The Smithy Bridge Village Centre (local centre) is located approximately 70m north west of the site. There are levels at the site, particularly at the rear where the site sits at a lower level than the residential properties on Shaftesbury Avenue. There are three access points into the site from Smithy Bridge Road.

2.3 Smithy Bridge Road is part of the Strategic Highway Network and the mini-round-about junction with Milnrow Road (Wildhouse Lane) (also part of the Strategic Highway Network) is situated approximately 30m from the south east of the site.

3.0 Planning History

3.1 The Planning History is detailed in full in the Officer delegated report and thus is not repeated here unnecessarily. The LPA does however consider it important to highlight to the Inspector that the Appeal Site has been subject to significant consideration through various applications and pre-application enquiries in regards to the proposed development, including the dismissed appeal (appeal ref: APP/P4225/W/18/3217443 – attached to Appendix D of the Appeal Statement - Transport). The primary issue raised by the LPA has consistently been the effect of the proposal on the safety and convenience of other highways users, including pedestrians.

4.0 Planning Policy

4.1 Relevant planning policy and guidance is set out in full in the Officer delegated report and will not be covered in detail in this section. However, for the purposes of the appeal, the relevant parts of the Development Plan are:

- The Rochdale Core Strategy ('CS') adopted 19th October 2016;
- The Rochdale Unitary Development Plan ('UDP') adopted 15th June 2006, specifically the policies that were saved by a Direction of the Secretary of State, dated 13th May 2009 and retained upon adoption of the Core Strategy; and
- National Planning Policy Framework.

- 4.2 Since the determination of the application the Places for Everyone Joint Development Plan has been adopted and this has become part of the statutory development plan for each of the 9 authorities covered by the plan on 21st March 2024. The following policies are relevant and are shown in full in Appendix C:

JP-S1 Sustainable Development

JP-S4 Flood Risk and the Water Environment

JP-J1 Supporting Long-Term Economic Growth

JP-G7 Trees and Woodland

JP-G8 A Net Enhancement of Biodiversity and Geodiversity

JP-P1 Sustainable Places

JP-C1 An Integrated Network

JP-C8 Transport Requirements of New Development

5.0 Response to Appellant's Grounds of Appeal and Planning Considerations

- 5.1 With regard to comments made by the Appellant in relation to the reasons for refusal, the Council has the following comments:

5.2 Reason for Refusal

Smithy Bridge Road is a narrow highway forming part of the Council's Strategic Highway Network and is within close proximity to the M62 motorway diversion route. Swept path analysis fails to demonstrate safe access to and from the site and the manoeuvres undertaken by service vehicles would result in conflict with other vehicles and pedestrians accessing and manoeuvring within the site. This could result in servicing taking place from the highway and creating unacceptable obstructions. The proposed development by reason of providing insufficient on-site parking provision, along with a shared vehicular access point, would also result in vehicular conflict on Smithy Bridge Road and surrounding roads and undue harm to pedestrian safety, placing greater emphasis on access for service vehicles over pedestrians. In addition, the proposed kerb alignment gives rise to unacceptable obstructions for the visually impaired where proposed pavement alignments should be consistent and logical, enabling the visually impaired to predict and interpret unfamiliar environments. As such, the proposed development would be detrimental to highway safety for all users of the highway, including the visually impaired which is contrary to the hierarchy of Policy T2 and the NPPF along with Policy DM1 of the Rochdale Core Strategy.

5.3 The Appellant has provided a Statement of Case: Planning in support of the proposed development which is summarized in paragraph 1.4 a) to i) of their statement. The Council are generally in agreement with:

- a) The principle of development being acceptable;
- e) The proposed development would visually enhance the site although 'making use of a prominent and vacant building' is not accurate as the buildings are to be demolished;
- f) Aside from the highway reason for refusal, there are no technical matters that would prevent the development of the appeal proposal;
- h) There are economic, environmental and social benefits associated with the proposal although Officer's do not consider that these are sufficient to outweigh the harm in respect of highway and pedestrian safety; and
- i) Any disagreement between the parties relates solely to highway matters.

5.4 The Council are not in agreement with:

- b) The current appeal is fundamentally different from the first appeal proposal and this is not reflected in the reason for refusal;
- c) The provision of two separate areas for servicing and customer parking remove any potential for customer and HGV conflict;
- d) The scheme is designed to ensure that pedestrian movements take priority over vehicle movements; and
- g) With the implementation of a Delivery Management Plan, secured by condition, the Council will be able to control the size of delivery vehicles.

5.5 The Officer's delegated report clearly sets out the Council's views on the highway concerns. Paragraph 114 of the NPPF states that applications for development should ensure... b) safe and suitable access to the site can be achieved for all users. Paragraph 115 of the NPPF states 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'*.

5.6 Officer's acknowledge that the scheme has evolved from the dismissed appeal scheme with changes to the design of the proposed building and the configuration of the parking and servicing areas however, even with these amendments, Highways

Officers remain of the opinion (and have done so through other many variations of the scheme) that the proposed development would be detrimental to highway safety for all users of the highway, including the visually impaired. The Inspector on the dismissed appeal summarized in paragraph 6 that *'the size of the site is too small for the development proposed and the servicing movements which it would generate'*. The Appeal Proposal has not been reduced in size, nor includes any additional land, and thus the Inspector's view on that matter remains valid.

5.7 The Appellant has provided, as part of their appeal submission, a separate Appeal Statement – Transport. This statement has been reviewed by Rochdale Borough Council's Highways Officers (as the Highway Authority) and their comments have been incorporated into the Council's comments below (shown in full in Appendix D).

5.8 The Appellant's Statement of Case attempts to address the Council's highway safety concerns and states that the Officer's delegated report 'speculates' that the operation of the proposed scheme may result in highway safety issues with various scenarios highlighted. The Appellant's scenarios are addressed by the LPA below:

i) A situation where the service area is blocked and the HGV parks on Smithy Bridge Road

5.8.1 The Appellant's Statement of Case states *'the scheme has been designed and will be operated on the basis of assumed normality. It is not typical to design developments for abnormal occurrences'*. Paragraph 2.19 of the Appellant's Statement of Case states *'it is not practical or feasible for the delivery to be made from the roadside.....in the unlikely event that the delivery area is blocked, staff will be able to have the vehicle moved'*.

5.8.2 The Officer's delegated report states that any vehicle parked in the service yard, either customers entering the store, stopping to use the ATM or other service vehicles delivering to the site, would restrict internal servicing access leading to larger vehicles parking on Smithy Bridge Road.

5.8.3 Officers agree that schemes should be designed and operated on the basis of assumed normality. However, it is considered that assumed normality must account for typical road user behaviors. The scenarios referred to by officers are typical real world scenarios that occur frequently within such developments. What is of concern is

the implications on the highway if access to the service yard is blocked by indiscriminate parking and how realistic it would be for staff members to have vehicles moved. Smithy Bridge Road is of minimum width for its function as a classified road as a result of historic development patterns (paragraph 7 of the Inspectors dismissed appeal) and the road is part of the strategic road network which, in itself, may generate more customer visits to the site.

5.8.4 Paragraph 2.20 of the Appellant's Statement of Case states *'the Planning Officer speculates that HGVs may park on the road. There are double yellow lines along the site frontage preventing vehicles from parking on the highway. In addition, as noted above, it is not practical or feasible for the delivery driver to make deliveries from the roadside, having to wheel heavy cages along a longer and more contrived route, when a dedicated service area is provided next to the store'*. This may be the case however, if access into the service yard is restricted then drivers may have no option other than to wait on the road whilst awaiting clear access to the servicing area.

5.8.5 The Appellant reiterates in paragraph 2.19 that *'there is at most one HGV delivery a day so it is unlikely that the delivery van would be obstructed at the time of delivery in a way that could not be dealt with by staff beforehand'*. There is an assumption here that staff members will be available at the time of delivery to be in the service yard to monitor parking and deliveries and the delivery times cover both the morning and evening peak hours. Notwithstanding this, Highways Officers have stated that *'in any circumstance of a change of service vehicle, even a temporary or one off scenario, the impacts on the safe operation of the local highway network are significant, unsafe and unsatisfactory for other transport modes'*.

5.8.6 The Appellants Statement of Case in paragraph 2.21 states *'if Officer's have witnessed poor servicing practices at other stores, it does not follow that it will occur here. It is standard planning practice to determine each application on its merits'*.

5.8.7 Officers do not disagree that applications should be determined on their own merits. The use of relevant comparable examples in assessing proposals is not however untypical, as the Appellant has also sought to do in its evidence. Highways Officers have considered the relevance of other stores that have experienced poor servicing on the basis of comparable access and servicing arrangements and how these may evidence likely highways issues. The evidence of example sites provided by the Appellant demonstrates where conditional approval has been determined by other

LPAs, however this does not evidence the successful enforcement of these conditions, or the absence of highway safety issues arising from any breaches of these controls.

ii) A situation where a motorway diversion is in force

5.8.8 The Appellant's Statement of Case in paragraph 2.23 states motorway diversions are an infrequent occurrence and the diversion route is 3.6km from the appeal site. With one HGV delivery a day and no requirement for the HGV drivers to park on Smithy Bridge Road it is speculation to state deliveries to the store would result in additional queuing or reduced highway capacity during an atypical adverse situation.

5.8.9 The Appellant's Appeal Statement – Transport in paragraph 4.6 argues that the site cannot be classified as being in 'close proximity' to the diversion route due to its distance from the motorway and as there are four major junctions between the site and the diversion route. Paragraph 4.7 continues that proximity to a motorway diversion route is an unusual reason for refusal and is not considered to be a material planning consideration.

5.8.10 The Officers delegated report is clear that the LHA would expect that when the motorway diversion is in force that all junctions and connecting routes are available to operate at their maximum capacity to accommodate both the existing and additional traffic expected. HGV's undertaking difficult manoeuvres to gain access to the development site are likely to disrupt these vehicle movements, cause additional queuing and reduced highway capacity.

iii) A situation where a HGV over sails the footpath or encroaches onto the other lane of traffic on entry

5.8.11 The Officer's delegated report raises concerns over manoeuvres that would be tight and *'in some instances, would be likely in real life scenarios to over sail the footway, or encroach into the other lane of traffic which presents a road safety risk'*. The Appellant argues that the evidence presented shows that delivery vehicles would not over sail the footpath and that the design complies with recognised design standards.

5.8.12 The Appellant's Appeal Statement – Transport states the swept paths included within the Transport Statement show that the proposed service vehicle can be accommodated by the proposed site layout. Paragraph 4.12 states that swept paths

have been revisited without any restriction on vehicle speed for a 10.675m HGV (Drawing No: SCP/240209/ATR03 Rev C – Swept Path Analysis) and a 10m rigid vehicle (Drawing No: SCP/240209/ATR04 Rev B – Swept Path Analysis).

5.8.13 The swept path for a 10m rigid vehicle has been provided as the Appellant's Appeal Statement – Transport states in paragraph 4.14 *'in order to future proof the development a 10m rigid vehicle has also been tested in response to the LHA's concern that another retailer may operate the site in the future and may not have a 10.675m HGV'*. In theory, a smaller vehicle should improve the tracking however, Highways Officers have been consistent in their argument that the size of the service vehicle cannot be adequately controlled and there are other sized vehicles that could potentially be used.

5.8.14 Officers have always been clear that the site cannot safely accommodate a 16.5m articulated vehicle which in modern logistics is an expected size of delivery vehicle even for smaller retail outlets. Highways Officers have reviewed the submitted swept path analysis submitted with the Appeal Statement – Transport and advised that the *'access may be just about achievable for a highly skilled driver at low speed'*.

5.8.15 Highways Officers continue that *'Smithy Bridge Road has a relatively narrow carriageway width along the site frontage and access point which makes access challenging, it is therefore likely that these vehicles will mount the footways on either side of the proposed access'*. Not only does this present significant pedestrian safety concerns it will also create highway maintenance liabilities for the Council. If the vehicles did not mount the footway the likelihood is that they would enter the opposite carriageway which raises the potential for vehicular conflict and would interrupt opposing traffic flow'.

5.8.16 The Appellant's Appeal Statement – Transport in paragraph 4.15 states that *'both swept path drawings demonstrate that the respective vehicles are able to comfortably enter the site, turn within the proposed service area and exist. When exiting and turning left service vehicles would overrun the centre-line, which is a widely accepted arrangement for service vehicles in line with Manual for Streets'*. Paragraph 4.16 states that *'the swept paths provide an appropriate degree of clearance from the kerb-line where vehicles are turning at the site access at low speeds'*. Requests from the LPA and the LHA have been made for swept path drawings to include the speed of manoeuvre data which has never been forthcoming. Highways Officers believe the

results of the swept path analysis provided show an appropriate degree of clearance partly due to unrealistic speeds.

5.8.17 The Appeal Statement – Transport comments that the LHA’s concerns *‘have been simply retained from the previous application’*. This is not the case as officers have engaged with the appellant through extensive pre-application dialogue and through the subsequent Appeal application. Officers have been consistent with the concerns raised as the iterative changes to the proposals have failed to sufficiently overcome these concerns. The Officers delegated report clearly sets out its assessment based upon the latest proposals and determines that the constraints surrounding the site, in combination with insufficient parking on-site, are such that Officers consider the proposed development remains unacceptable in terms of highway safety for all users of the highway.

iv) A situation where the delivery driver enters the site at speed

5.8.18 The Officer’s delegated report stated that no speeds were included in the tracking information provided which presented a risk that in reality these manoeuvres may not be achievable or leave no room for error. The Appellant’s Appeal Statement – Transport argues that it can be demonstrated *‘that the proposed servicing vehicle can be accommodated without any overhanging or overrunning of the footway and with 300mm of clearance from the access kerb-radii on entry and exit and complies with recognised design standards. Furthermore, the store will be serviced by the Applicant’s own delivery fleet and its own staff’* and continuing that first time drivers to the site have delivery guidance available to them, drivers are monitored by ORBCOMM telematics and face disciplinary action for on road accidents.

5.8.19 Highways Officers have undertaken their own swept path analysis (shown in Appendix D) which have shown that a 12m rigid truck crosses the centre line of Smithy Bridge Road and over runs the kerbs at the proposed site access. The LHA cannot assume service vehicles will be able to use the full width of the carriageway to manoeuvre unlike residential streets where there are reduced vehicle speeds and volume of vehicles.

v) A situation where the store is operated by another retailer

5.8.20 The Appellant argues that the application should be determined on the basis of what is presented and that the store will be serviced by a vehicle no larger than 10.675m and **typically** [emphasis placed by Planning Officer] the Applicant retains and operates all of its stores.

5.8.21 The Appellant continues in paragraph 2.31 that *'the operation of the store can also be controlled in perpetuity by the Council through a Delivery Management Plan and this is normal practice'*.

5.8.22 Highways Officers have always been consistent in their concerns relating to the proposed site access and servicing arrangements. In terms of a non-standard service vehicle proposed as part of a service management plan, there is no way of the LHA guaranteeing or enforcing that this type of vehicle be exclusively available for deliveries to this site on a long term basis and that this creates an unsatisfactory situation as it has been proven that any other vehicle cannot safely navigate the access or egress from this site.

5.8.23 The LPA have carefully considered the use of a condition and the Officers delegated report clearly states that a condition to restrict the size of the service delivery vehicle to 10.675m would in its own right be extremely challenging to enforce, bringing into question how adequately this meets the tests, and if breached could result in immediate issues related to highway safety and/or impact on the strategic highway network.

5.8.24 Notwithstanding the above, the Inspector on the dismissed appeal in paragraph 7 referred to the Appellant's suggestion that a condition to allow deliveries between the hours of 0700 to 2200 be used to regulate hours of delivery could be imposed however, the Inspector noted that these hours cover *'both the morning and evening peak hours and would not be effective in controlling the effects on deliveries on Smithy Bridge Road'*.

vi) A situation where size of delivery vehicle cannot be enforced

5.8.25 The Appellant has provided examples of other planning permissions where a Delivery Management Plan has been imposed by condition to restrict the size of delivery vehicles and frequency of deliveries advising that *'it would not take the expert eye of a highway officer or enforcement officer to confirm the breach as there is a clear*

distinction in size which would be easy for neighbouring residents and customers to notice'.

5.8.26 Officer's agree with the Appellant in that typically it is local residents who report breaches of planning consent however, as stated in paragraph 5.8.22 above, a condition restricting the size of the service delivery vehicle would in its own right be challenging to enforce.

5.8.27 The Appellant's Appeal Statement – Transport highlights that *'whilst not directly referred to in the decision notice, the highways consultation response and officer report both suggest that the site would need to accommodate a 16.5m articulated vehicle and limiting service vehicles to the 10.675m articulated vehicle proposed could not be effectively controlled by condition. As detailed in paragraph 4.13...a 10m rigid vehicle can also be accommodated'.*

5.8.28 Highways Officers have always maintained that a none standard vehicle as proposed cannot be supported by the LHA as there is no guarantee another future operator would have access to the same service vehicle. The swept path analysis undertaken by the LHA further supports their position in relation to servicing which is based on a 12m rigid truck. The swept path analysis clearly shows there is not enough space within the highway or within the proposed site to facilitate any larger service vehicles. The level of specificity that would be required in terms of vehicle restrictions would go beyond what the Council considers to be reasonably or realistically enforceable. As such, a condition would not provide suitable control and without such a condition there would be unrestricted access for larger vehicles entering the site which increases the concerns about the safe operation of the proposed access.

5.8.29 As noted above at paragraph 5.8.14 Officers would expect the site to be able to accommodate a 16.5m HGV and the fact a 10m rigid vehicle may be able to access to site under very specific circumstances does not provide sufficient evidence to officers of the safe operation of the servicing of the store. The Inspector on the dismissed appeal in paragraph 8 was presented with a number of sites where there had not been any highways objections to similar developments however, the Inspector concluded that *'each case in these examples would have been considered on their merits against the development plan for that area. As such, I give these examples little weight'.*

vii) A situation where customers park on the road

- 5.8.30 The Appellant's Statement of Case stated the Officer's delegated report identified that the proposed development provided fewer than the maximum threshold of car parking spaces and whilst this is not an issue in principle, within this location, the reduced parking does increase the likelihood of overspill parking into the loading bay area or onto surrounding residential roads resulting in an unacceptable impact on highway and pedestrian safety.
- 5.8.31 The Appellant's Appeal Statement – Transport argues that *'there is ample parking to meet the needs of customers. The customer dwell time is generally a few minutes and rarely are its store car parks at full capacity. It is also highly unlikely that customers will park on Smithy Bridge Road as it is subject to parking restrictions which are known to be enforced'*.
- 5.8.32 The Appellant's Appeal Statement – Transport in paragraph 4.36 states *'the reason for refusal is based on the assertion that there would be insufficient on site car parking provision'*. Officers disagree with this comment. As noted in 5.8.29 above, fewer than the maximum car parking spaces would not be an issue in principle however, in consideration of the location of the appeal site and the impacts that would result from overspill parking within the loading bay or surrounding roads and how this interacts with the servicing concerns, the reduced parking provision in this context would be unacceptable.
- 5.8.33 Officers acknowledged in the delegated report that the level of parking provision was not previously raised as an issue in the previous application or through pre-application discussions however, each application is considered on its own merits and when considering the overall impact of the proposed use on highway safety, a reduction in the level of on-site parking could lead to indiscriminate parking within the service parking area or surrounding roads which has the potential to restrict delivery vehicles entering the site and more so where there are high levels of passing traffic who may use the site on their journey along Smithy Bridge Road.
- 5.8.34 As part of the appeal submission, amendments have been made to the site layout (Drawing No: 21 Rev PP2 B – Site Plan) which is referenced above in paragraph 1.4. The amendments include the relocation of the motorbike space, 3 bike stands instead of 2, the EV charging point parking space also becoming an accessible space, the relocation of a pole sign and planting at the frontage to the front corner and a reduced

area adjacent to the entrance (shown as hashed on the amended plan). The amended plan refers to a total of 16 car parking spaces which does not include the 2 staff car parking spaces in the service yard. The Appellant's Appeal Statement – Transport in paragraph 4.39 states the amendments have *'resulted in the overall number of spaces reduced by 1 from 18 to 17 spaces, 3 below the maximum standard of 20'*. The reason for the plan revision at this stage is unclear, particularly given that multiple draft plans were discussed prior to determination of the application and the appellant specified the plan listed on the decision notice as that which they wished to be determined. The revisions appear to attempt to place more emphasis on visitors to the site by more sustainable modes of transport or with mobility impairments, however officers do not consider this would overcome the concerns set out. Officers would defer to the Inspector as to whether this plan should be that which is determined through this appeal but do feel that for consistency in decision making the original plan should be the basis of the decision.

5.8.35 The Appellant has attempted through the submission of the amended Site Plan to address the lower parking provision by merging an EV charging point parking space with an accessible parking space which is one of the furthest parking spaces from the main entrance of the proposed store which Officers do not consider is the most accessible location.

5.8.36 The Officers delegated report accepts that the site is in a relatively accessible location and raised no objections to the impact of the proposed development in terms of the number of vehicular trips generated. The LHA has however, continuously raised concerns regarding the potential interruption to the free flow of traffic on the highway network created by the difficult access into the site for service vehicles.

6.0 Other Matters

Pedestrian Safety

6.1 The Appellant's Appeal Statement – Transport refers to pedestrian safety and that *'RBC's concerns with regards to pedestrians have been repeated directly from the 2017 reason for refusal despite the significant changes to the proposed layout and access arrangement including the separate dedicated pedestrian access avoiding the need for pedestrians to share vehicle access'*.

- 6.1.1 The Officer's delegated report clearly sets out the proposed development and under the 'Proposal' section, details the changes to the proposed scheme, including the layout and the direct pedestrian route. The assertion that Officers have directly repeated concerns over pedestrian safety is due to the fact that there remain pedestrian safety concerns.
- 6.1.2 The submitted tracking diagrams all show the delivery vehicles running very close to the pavements on either side of the access which in itself raised significant pedestrian safety concerns on this busy footway, especially for the less able (even without knowing the speeds of the delivery vehicles entering the site). The swept path analysis undertaken by the Council in Appendix D clearly shows delivery vehicles mounting the pavement.

Fallback Position

- 6.2 Page 14 and 15 of the Appellant's Appeal Statement – Transport states *'the previous appeal decision dismissed the suggestion that the servicing proposals would be an improvement over the fallback position, noting that no evidence was provided that HGVs were used on site'* and then goes on to state that the TRICS database has been analysed to consider this further. Paragraph 4.25 states *'applying this to the floor area of 645sqm would equate to 4 trips by large goods vehicles per day, or 20-24 per week, depending on the number of operational days, which is in excess of the 13-14 movements per week specified for the proposed convenience store'*
- 6.2.1 Paragraph 4.26 of the statement claims the previous use would have generated more vehicle trips by large goods vehicles than that of the proposed use and that *'given the previous access and car parking layout of the former operations.....it does appear that HGVs were unable to turn within the site and would have been required to reverse onto or from the highway to enter the site'*.
- 6.2.2 The planning history of the site shows that the garage use was in existence in the 1980's and therefore it has a long established use. The site is now vacant and has been for a number of years. Although the buildings remain, they are currently in a state of disrepair. It is likely that any return to historic uses would in their own right require substantial works on the site that would likely be subject to a requirement for planning permission. Officers do not consider there to be any realistic fallback position in relation to the historic use and thus do not consider this argument to have any significant

weight. Paragraph 11 of the dismissed appeal decision stated *‘The appellant claims that the proposal would create better servicing arrangements than the previous use. These arrangements are likely to have had less impact than claimed and I have given the fallback little weight’*.

- 6.2.3 The Appellant’s comments still do not provide specific site evidence to show that larger vehicles entering the site had to reverse onto, or from, the highway or how the previous use managed parking/deliveries etc. The historic and proposed uses are considerably different and a direct comparison cannot be made. Planning policy has changed over time and the proposal has to be considered on its own merits. Officers do not therefore agree that the fallback position is a reasonable argument.

7.0 Conclusion

- 7.1 After consideration of the Appellant’s Statement of Case and Appeal Statement - Transport, the Local Planning Authority remains of the opinion that, having regard to the provisions of the Development Plan and other material considerations, including the National Planning Policy Framework and associated guidance, the proposed development refused under reference 23/00356/FUL remains unacceptable.
- 7.2 The Inspector is respectfully requested to dismiss this appeal for the reasons set out in this statement.
- 7.3 If the appeal is to be allowed, the Council requests that the conditions attached at Appendix E be imposed.