



Officer Report

Case Reference: PL/2026/0073
Location: BUERSIL HOUSE, EXMOUTH STREET, ROCHDALE, OL16 4SX
Proposal: Retrosepctive application for the demolition of the former unit and change of use of land facilitated by the erection of a new larger unit comprising a vehicular workshop and MOT testing station (Sui Generis)
Recommendation: Refuse
Officer: Nick Brookman

SITE

The application site relates to an existing Unit within the planning unit of Buersil House which is the primary building on the site and this was formerly a garage and workshop which now benefits from a residential use approved in the 1990's. Buersil House itself benefits from it's own curtilage which is separately fenced off from the rest of the yard space surrounding the dwelling.

This application site along with other smaller units lies on the west boundary of the site.

The application site is surrounded by residential properties to the north, east, south and west with some industrial/commercial units to the south east. The Sudden Brook bounds the north eastern boundary of the site.

Access into the site is from the south west corner via a wrought iron secure gate.

The application site is approximately 3km south of Rochdale Town Centre.

PROPOSAL

Planning permission is sought for the change of use from a vehicle workshop to an MOT testing station.

RELEVANT PLANNING POLICY

National Guidance

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

Local

Adopted Rochdale Core Strategy (CS):

- DM1 General development requirements
- P1 Improving Image
- P3 Improving design of new development
- G9 Reducing the impact of pollution, contamination and land instability

Unitary Development Plan (UDP):

- G/D/1 Defined Urban Area

Supplementary Planning Documents (SPD):

Supplementary Planning Guidance note 'Guidelines and Standards for Residential Development' (June 2016).

Places for Everyone Joint Development Plan (PfE)

The Places for Everyone Joint Development Plan was adopted and became 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:

- JP-S1 Sustainable Development
- JP-S4 Flood Risk and the Water Environment
- JP-P1 Sustainable Places

RELEVANT SITE AND NEIGHBOURING HISTORY

In 1992 under application D28658, planning permission was granted for the change of use of Buersil House itself to a light industrial (Class B1) business use with part of the works also granting the change of use of the building to a dwelling with the erection of a single storey side extension to form additional storage space.

The approval of application D28658 resulted in a portion of Buersil House located along the western side of the building being altered to provide a dwelling that offers 3 bedrooms, open plan lounge dining, kitchen and family bathroom with the remaining areas of the building being classed as B1 light industrial, this included the former brick and timber store along eastern elevation (now replaced).

There is no evidence of planning history relating to the application site and the existing vehicle workshop subject to this application.

CONSULTATION RESPONSES

Highways and Engineering:

No objection.

Environmental Health:

The Environmental Health Team commented as follows:

The Environmental Protection Team has reviewed the Noise Impact Assessment prepared by Braiden Acoustics Ltd (Report Ref: 11491, dated April 2026). The assessment concludes that the BS 4142 rating level is 5 dB below the measured background sound level at the nearest residential receptor, indicating a low likelihood of adverse noise impact. The assessment is based on a measured internal workshop noise level of 75 dB(A), which the consultant considers representative of typical operations within the premises. However, the report provides limited information regarding the specific activities taking place during the monitoring period and whether the measured noise levels reflect a worst-case operational scenario. In addition, the assessment relies on a calculated noise breakout model rather than measurements taken at nearby residential properties whilst representative activities were being undertaken. Whilst this approach is acceptable in principle, it introduces a degree of uncertainty into the conclusions reached.

The Environmental Protection Team require clarification on the following:

- Will all vehicles repair, servicing and MOT-related activities be undertaken within the building?
- Will any repairs, engine testing, use of pneumatic tools or other noisy activities take place externally?
- Was any monitoring undertaken within the gardens or curtilage of the nearest residential properties, particularly those on Charlotte Street identified as the nearest sensitive receptors?

REPRESENTATIONS

Letters of notification were sent to the occupiers of surrounding buildings on the 20th May 2026. In addition, a site notice was displayed adjacent to the application site on 28th May 2026.

2 comments were received which raised the following points:

The occupiers are already loud enough.

Development would create mayhem around the area and there isn't enough room for the truck they have.

I would support this application if a fence at the highest permitted height was erected along the Charlotte Street side of Sudden Brook and the opening times of the proposal are within business hrs and don't go into out of hrs.

This is a business which is sandwiched in between two residential streets and consideration should be given to residents residing on these two streets.

ANALYSIS

Principle of Development

Planning permission is sought for the change of use from a vehicle workshop to an MOT testing station.

The application site lies wholly within the defined urban area where Policy G/D/1 of the UDP seeks to concentrate development. The surrounding area is predominantly residential with some industrial uses in close proximity to the application site.

However, owing to the benefit of a site visit by the Planning Officer and a full assessment of the application site comprising a research into the site's planning history, it is considered by Planning Officers that the current use of the site as a vehicle repair workshop does not benefit from planning permission and in its current form, it does not appear to be lawful through passage of time in accordance with Section 171b of the Town and Country Planning Act 1990.

This assessment and evidence of the Council's findings are set out below:

Firstly, on the 14th May 2019 there was unquestionably a previous building on site (edged in red) which appeared to be narrower and of different construction to the existing building on site now subject to this planning application. The existing smaller building can also be seen to the south.

Secondly on the 22nd April 2020 the building shown to be on site on the 14th May 2019 appears to have been demolished entirely and a concrete slab with a wider footprint has been laid. The concrete footprint has been extended north to touch the existing long and narrow building to the north. Previously, as shown in the 2019 image, there was a gap.

Finally, on the 22nd April 2021 the building that is currently present on site now appears to be in situ on the application site as shown below.

It is acknowledged that that this application is not an application for a Certificate of Lawfulness for an existing use or development submitted to the Council under Section 191 of the Town and Country Planning Act 1990 (as amended). However, the assessment of the Lawfulness of the existing building and its operational use is now reviewed below with the same examination.

In the first instance, the former building as shown by the 2019 imagery may well have been in operation as a vehicle repair workshop for a period of 10 years or more meaning it would be lawful for planning purposes through passage of time. However, the building as it currently exists is now materially wider with a larger footprint and it is substantially taller. It is also noted that the office / reception building comprising the smaller building to the west of the application site appears to have been in situ since at least September 2016 but this building appears to remain unchanged in appearance to this day.

In the Officers assessment of this application, Section 171B of the Town and Country Planning Act 1990 (as amended) states that where there has been a breach of planning control involving unauthorised operational development, no enforcement action may be taken after ten years from the date the operations were substantially completed.

This ten-year period was introduced by Section 115 of the Levelling-up and Regeneration Act 2023 ("LURA"), which came into force on 25 April 2024 and applies only in England. It replaces the previous four-year rule for operational development.

Transitional provisions under Regulation 5 of the associated 2024 Commencement Regulations, however, confirm that the four-year rule continues to apply where the breach occurred before 25 April 2024. For example, operational development completed or a change of use to a single dwellinghouse that occurred before this date may still become lawful after four years if no enforcement action is taken.

Taking this into account, the Local Planning Authority recognise that the existing elevations appear to have been in situ since at least 22nd April 2021 as shown by the satellite imagery above. This therefore implies that the existing elevations and operational development on site has been in situ for a period of least 4 years and would in its own right be immune from planning enforcement powers through passage of time. Because the development was substantially completed before 25 April 2024. However, where operational development is facilitating an unauthorised material change of use, enforcement action can require the removal of such development even if it is ordinarily immune from enforcement action by reason of passage of time.

In this case, the operational development is fundamental to the use of the application site as a vehicle repair workshop (rather than being ancillary to) and in the opinion of the Local Planning Authority the ten year rule would apply not the four year rule.

In the Officers further assessment, if a use is to be found to be immune from enforcement action the onus is on the appellant to show that, over the 10 years concerned, it has been in reasonably continuous operation and the use did not cease for such a significant period of time as to indicate that a fresh breach of control resulted on resumption.

It is therefore significant to note that as demonstrated by the satellite imagery on 22nd April 2020 there are no elevations or roof on site to support the use of the land as a vehicle repair workshop which is claimed to be the lawful use of the application site.

The lack of any physical structure on site could therefore imply that the use of the land at that time may have ceased. There is no evidence that clearly demonstrates when the elevations or roof shown on the 14th May 2019 were actually removed from the site but there is no reason why these works could have commenced on the 15th May 2019 and the works to substantially complete the building as it currently exists were not finished until April 2021 which is a time difference of almost 24 months.

The key test, as established by the Court of Appeal in *SoS and Terry Holding v Thurrock BC* 27/02/2002, in which the High Court's judgment in *Thurrock BC v SoS & Terry Holding* 22/02/2001 was upheld, is whether if at any time during the relevant period the Local Planning Authority would not have been able to take enforcement proceedings in respect of the breach because, for example, no breach was taking place, then any such period cannot count towards the rolling period of years that gives rise to the immunity.

In the assessment of the available evidence (comprising of the satellite imagery, no planning history and lack of evidence provided by the applicant) the Planning Practice Guidance states that in the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make an applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

In this instance the Local Planning Authority believe the satellite imagery above is compelling to its view and this by itself provides clear cut evidence that the application site does not benefit from planning permission to be used as a vehicle repair workshop which has now been facilitated by operational development.

It is noteworthy to set out that the applicant has not provided sufficient evidence to satisfy the Council of the lawful use/development of the existing operations on the application site and the Council are not aware of evidence to the contrary. The applicant has provided screenshots of a Companies House excerpt but taken either individually or cumulatively in this instance it is not substantive evidence. There is no business name, no address or company name included and the screenshot itself bears no relationship to the application site. It isn't clear that this is connected to the red edge application site.

The second screenshot relates to a Google AI screenshot which suggests a company named Manchester Recovery Services Ltd may have operated or may still be operating from Buersil House. However, this bears

no relationship or connection to the application site subject to this planning application. Manchester Recovery Services Ltd may be operating from another unit or area of the wider Buersil House Site but the applicant name in this instance is CODE RED AUTO SHOP LTD. In this regard, it is noted that the applicants Noise Impact Assessment states the following in section 2:

“The previous tenant was Manchester Recovery Services who were a 24 hour roadside assistance & vehicle recovery breakdown assistance service”.

The applicant has not for example provided any statutory declarations by neighbours or previous landowners, or former or existing clients. The applicant has not provided any of their own photographs or satellite imagery, invoices for completed work, building certificates, business rates evidence or any other evidence that could be taken into consideration.

It is noted that the applicants Noise Impact Assessment states the following in section 1.1:

“The applicant has two buildings on site: a small unit used as a reception (which has been in situ since, at least, 2017) and larger unit (which has been in situ since 2020/21) which is used as a vehicle workshop, with the hope of becoming an MOT station

It seems that this newer workshop building does not have planning permission, hence this retrospective application”.

The applicant also provided an email from the Council’s Business Rates team which provided the applicant with the description of the property in the Valuation Office Agency’s rating list. This information stated that the property was described as a Workshop and Premises from as far back as the systems show (1 April 2017) up until its removal from the rating list on 9 January 2025. This period does not add up to a 10-year period and the fact the premises has been removed from the rating list for business rates is intriguing.

On the basis of the information provided, it is considered that the application site is currently being used unlawfully and the use being facilitated by the extended site area does not benefit from planning permission through passage of time in accordance with Section 171b of the Town and Country Planning Act 1990 (as amended).

Design and Appearance

Paragraph 131 of the NPPF states that *“the creation of high quality, beautiful and sustainable buildings is fundamental to what the planning and development process should achieve”*. Paragraph 135 goes on to state that planning policies and decisions should ensure that developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

Additionally, Paragraph 139 sets out that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

The National Design Guide (NDG) states that *“The long-standing, fundamental principles for good design are that is it: fit for purpose; durable; and brings delight”*. The NDG advises that scale, appearance materiality and detailing of buildings are key components for well-designed places. The Building for a Healthy Life guidance document states that building forms and materials should be used to reflect local character.

The above considerations are largely reflected within Policies DM1 and P3 of the Council’s adopted Core Strategy which ultimately require development proposals to demonstrate high quality design. CS Policy

DM1 also states that all development proposals should be of a high quality design and take the opportunity to enhance the quality of the area.

This application is retrospective and the existing building as it currently stands is much larger and wider than the building that formerly existed on site. Whilst the building may appear to fit in with other existing buildings on site in terms of materials and appearance, as a whole it is completely at odds within the wider residential environment with its much larger scale and massing. The building is unnecessarily larger than its predecessor and this is assumed to be so that sufficient roof space is provided internally to allow vehicles to be lifted and worked on appropriately within the means of their repair. However, this has resulted in the existing building being incompatible with the surrounding residential land uses. The buildings impact is overbearing, particularly on the residents to the rear on Oldham Road where the building is only approximately 5m away from the rear elevation of these properties and the distance is even shorter to the rear amenity spaces.

In the context of the application site and surrounding character, the development is inappropriate in terms of its scale and massing. Therefore, the proposal is unacceptable in terms of design and appearance and contrary to adopted Rochdale Core Strategy Policies P1 and DM1 and the National Planning Policy Framework.

Neighbour Amenity and Noise

Paragraph 135 of the NPPF seeks to ensure that planning decisions create places which promote health and well-being, with a high standard of amenity for existing and future users.

The Council's adopted Supplementary Planning Document '*Guidelines and Standards for Residential Development*' contain a number of guidelines and requirements for the design and layout of new housing in order to preserve the amenity standards for surrounding residents. Included within the above document are the expected space standards for new residential development:

- 21 metres between directly facing principal windows of habitable rooms, at an upper floor level and 10.5m between a principal window at an upper floor level and a directly facing boundary of the curtilage;
- 14m between a principal window and any directly facing two storey elevation which does not contain a principal window to a habitable room;
- 10m between a principal window and any directly facing single storey elevation which does not contain a principal window to a habitable room.

The SPD advises that where these separation distances cannot be achieved, proposals should be "compatible with the density and character of surrounding development".

In an assessment against the above guidance, the existing building is only sited approximately 5.5m away from the rear elevations of the closest existing dwellings on Oldham Road and the building is even close to the curtilage and rear boundaries of these properties. This distance falls well short of the above guidance and creates a significantly overbearing impact on these neighbouring dwellings and their amenity spaces to the rear.

Whilst it is recognised that the typical format of terraced housing stock places kitchens to the rear, which is not considered to be a habitable room, such rooms ordinarily provide dining functions and therefore they are considered habitable as the occupants would spend a lot of time in this room, and the deprivation of direct light and outlook is therefore harmful.

Paragraph 198 of the NPPF also states that planning policies and decisions should ensure that new development is appropriate for its location, taking into account the likely effects of pollution on health,

living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

The NPPG states that local planning authorities' decision taking should take account of the acoustic environment and in doing so consider: whether or not a significant adverse effect is occurring or likely to occur; whether or not an adverse effect is occurring or likely to occur; and whether or not a good standard of amenity can be achieved.

Policies DM1 and G9 of the adopted Rochdale Core Strategy seek to ensure that new development is compatible with surrounding land uses, both in terms of its impact upon those uses and the impact of the surrounding land uses upon the amenities of future residents / users, also requiring that development does not have impacts that lead to an unacceptable increase in air, water, noise, light or other pollution.

Guidance on noise as set out within PPG, advises that whether noise could be a concern will depend on how a combination of factors combine in any particular situation and goes on to identify them as including:

- the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night;
- for a new noise making source, how the noise from it relates to the existing sound environment;
- for non-continuous sources of noise, the number of noise events, and the frequency and pattern of occurrence of the noise;
- the spectral content of the noise (i.e. whether or not the noise contains particular high or low frequency content) and the general character of the noise (i.e. whether or not the noise contains particular tonal characteristics or other particular features), and;
- the local arrangement of buildings, surfaces and green infrastructure, and the extent to which it reflects or absorbs noise.

The existing building on site is materially wider and taller than the previous building and it's increased size would appear to have facilitated a double garage rather than a single garage which in effect has doubled the vehicular space inside the unit and this has therefore intensified the use of the site and consequently the noise emanating from the site.

Given the development proposed, the application is accompanied by a Noise Impact Assessment which highlights that the background noise level at the nearest residential receptor was 58 dB and the upper typical 15 minute reverberant noise level within the workshop during times of activity was 75 dB. The noise level produced by the use of the application site therefore evidently significantly exceeds the background noise levels measured at the nearest residential receptor.

The submitted Noise Impact Assessment states that a noise breakout calculation has been used to assess noise break-out at the nearest residential receptor. When this is compared to the typical Background Noise Level, the result is -5 dB and is therefore considered to be of low impact in the opinion of the Acousticians.

The Councils Environmental Health team were consulted on this application, and they have commented that the Noise Impact Assessment *"concludes that the BS 4142 rating level is 5 dB below the measured background sound level at the nearest residential receptor, indicating a low likelihood of adverse noise impact. The assessment is based on a measured internal workshop noise level of 75 dB(A), which the consultant considers representative of typical operations within the premises. However, the report provides limited information regarding the specific activities taking place during the monitoring period and whether the measured noise levels reflect a worst-case operational scenario. In addition, the assessment relies on a calculated noise breakout model rather than measurements taken at nearby residential properties whilst representative activities were being undertaken. Whilst this approach is acceptable in principle, it introduces a degree of uncertainty into the conclusions reached"*.

The Environmental Protection Team have therefore requested that further clarification is provided on matters such as working practices and whether they take place internally or externally, what type of activity will be taking place and whether or not monitoring was undertaken within the curtilages of the nearest residential properties, particularly those on Charlotte Street.

In response, the Acoustician confirmed that all vehicle repairs, servicing and MOT related activities would be undertaken within the building and no repairs, engine testing, use of pneumatic tools or other noisy activities would take place externally.

The Acoustician also confirmed that it was not possible to gain access to the gardens of the rear of the Properties on Charlotte Street. Therefore, no monitoring was accurately undertaken within the gardens or curtilage of the residential properties facing the application site from Charlotte Street.

Consequently, at this stage and in the event of an approval, further information would be required before the application could be reasonably considered acceptable in terms of amenity in accordance with Policy G9 and DM1.

It is however evident that the larger unit now being used is exacerbating impacts on residential amenity and to approve the addition of an MOT station on the premises would only intensify the existing obtrusive impacts on residential amenity. As a whole, the proposed development is contrary to Policies P1, P3 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework and the Council's adopted Supplementary Planning Document 'Guidelines and Standards for Residential Development'

Ecology and Biodiversity Net Gain

Core Strategy Policy G7 sets out that it is expected that development proposals will protect and include existing biodiversity and take opportunities to promote biodiversity and create new habitats using landscaping and building and construction features wherever possible. CS Policy G7 requires that no development should result in a net loss of biodiversity and geodiversity.

PfE Policy JP-G9 seeks to deliver a net enhancement of biodiversity resources through a collective of measures which are broadly aligned with the approach to BNG outlined within the Environment Act (2021), the NPPF and supporting guidance documents. The provisions of the Environment Act in respect of BNG are now a statutory requirement for planning applications but given the urban and built environment on and around the application site, it is acknowledged that this site does not impact any biodiversity and the site has a completely sealed surface and therefore has a biodiversity value of **zero**.

Accordingly, it is not considered that the statutory requirement to provide 10% BNG is applicable here.

Drainage

The development has not increased or re-directed surface water elsewhere and Officers consider that the development accords with Policy G8 of the adopted Rochdale Core Strategy, Policy JP-S4 of PfE and the NPPF.

Highways

Highways were consulted on this application and they raised no objection. Accordingly, the proposed development is acceptable and would comply with Policy DM1 of the Core Strategy, PfE and NPPF.

Recommendation: Refuse

Refusal(s) (1)

- 1 By reason of its siting and scale, the development significantly reduces the light and outlook received by the rear facing ground floor habitable room windows and garden areas of nos. 545 and 547 Oldham Road whilst also giving rise to an adverse overbearing impact. The design, siting and scale of the building is also incompatible with the surrounding character and appearance of the residential area. The proposed MOT testing station and increase in background noise levels would exacerbate the existing impacts on residential amenity and such impacts are not able to be mitigated by condition. On this basis the proposed development is contrary to Policies G9, P1, P3 and DM1 of the adopted Rochdale Core Strategy, Policy JP-P1 of the adopted Places for Everyone Joint Development Plan, the National Planning Policy Framework and the Council's adopted Supplementary Planning Document 'Guidelines and Standards for Residential Development'.

INFORMATIVE: This Decision Notice relates to the following drawings and documents:

- 1
 - Location Plan dated 27th January 2026
 - Existing Site Plan
 - Existing Floor Plan and Elevations Drawing No NA-P01
 - Noise Impact Assessment dated 23rd April 2026 Report No 11491
 - Design and Access Statement
- 2 The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application.