

# Planning Appeals Update

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## **Planning Committee**

### **Report of Head of Planning and Infrastructure**

#### **DATE OF COMMITTEE**

**June 2018**

#### **PLANNING APPEALS**

##### **WRITTEN REPRESENTATIONS**

PA/340595/17      Greenfield House, Chew Valley Road, Greenfield, OL 3 7NF  
PA/340260/17      Primrose Hill, Roebuck Lane, Strinesdale, Oldham, OL4 3RD

##### **HOUSE HOLDER**

HH/340994/17      127 Delph Lane, Oldham, OL3 5UT

##### **ADVERTISEMENTS**

##### **APPEAL DECISIONS**

PA/340115/17      99a and 99b High Street, Oldham, OL4 4LY  
PA/340304/17      464 Oldham Road, Failsworth, M35 0FH  
PA/340333/17      Former Shaw Bank Club, Dale Street, Shaw, Oldham, OL2 8RN  
AD/340617/17      Adj 18 Oldham Road, Failsworth, M35 0JE  
PA/340367/17      Parliament Square Café and Deli, 32-34 High Street, Oldham, OL1 1JA  
HH/340979/17      31 Pennine Avenue, Chadderton, OL9 8PH

**RECOMMENDATION -**      That the report be noted.

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The following is a list of background papers on which this report is based in accordance with the requirements of Section 100D (1) of the Local Government Act 1972. It does not include documents, which would disclose exempt or confidential information as defined by that Act.

Files held in the Development Control Section

The above papers and documents can be inspected from 08.40am to 4.30pm on level 12, Civic Centre, West Street, Oldham.



## Appeal Decision

Site visit made on 13 March 2018

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> April 2018

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### Appeal Ref: APP/W4223/W/17/3192368 99a and 99b High Street, Oldham OL4 4LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr David Windle against the decision of Oldham Metropolitan Borough Council.
  - The application Ref PA/340115/17, dated 19 April 2017, was refused by notice dated 28 June 2017.
  - The development proposed is alterations to form two units and four flats.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. I saw that some internal works were on-going on the first and second floors of the building, though these were not at a stage where it could be determined if they were in full compliance with the submitted plans. For the avoidance of doubt, I have considered the appeal on the basis of the plans provided only.
3. The appellant has provided a signed and dated Unilateral Undertaking (UU) which offers to limit the tenancy of the flats. I shall return to this matter below.

### Main Issue

4. The main issue is the effect of the development on the living conditions of future occupiers, with particular regard to internal living space.

### Reasons

5. The appeal relates to a three storey building that forms part of a terrace on the High Street. The ground floor is currently in use as a single shop unit. This was in use as a charity shop at the time of my visit. The development would result in the subdivision of the shop into two units, with two one bedroom flats on the first floor. The second floor and attic space would be converted into two, two bedroom flats.
6. The Council has included reference to the Government's 'technical housing standards'<sup>1</sup> (THS) in its reason for refusal. However, the Written Ministerial Statement of 25 March 2015 makes it clear that such standards can only be

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<sup>1</sup> Technical housing standards – nationally described space standard – March 2015 (Department for Communities and Local Government).

applied where there is a relevant current local plan policy. In this case, there is no such policy. The national standards cannot therefore be applied on a mandatory basis and consequently, this is not a matter which carries significant weight against the proposal. However, a core planning principle of the National Planning Policy Framework (the Framework) and the Joint Core Strategy and Development Management Policies (CSDM) (2011) is to ensure a good standard of living conditions for all existing and future occupants. Therefore while non-compliance with the THS is not decisive, the scale and configuration of internal living space provided remains an important factor in determining whether a good standard of accommodation is achievable.

7. Flat 1 would provide just 31 sqm of space, which in my judgement is severely limited. It would have a separate bedroom and shared living room kitchen area separated by a small corridor. The bathroom would be accessed through the bedroom. Although the size of the flat would only realistically cater to an individual, the overall lack of space would make it feel overly cramped and oppressive in nature. While a shared kitchen and living room might not be unusual, the total area given to these two functions would be constrained. The bedroom would also be small with limited circulation space. These characteristics would serve only to exacerbate the overall cramped conditions within the flat.
8. Flat 3 would provide 33 sqm of space on one level and then an additional 18 sqm in the attic. Even if I were to accept the limitation on occupancy suggested by the appellant, this would still be a significantly constrained amount of space for two people to share, particularly when a large proportion of the total floorspace is given over to the upstairs bedroom. Although both bedrooms would have their own WC and bathing facilities, the shared open plan kitchen and living area would again feel cramped and confined. Bedroom 2 also appears to be particularly small, even for a single occupancy room. The plans show that even with only a single bed there would be little circulation space. This room in particular would feel unduly cramped and would create an unacceptably confined and oppressive environment for any future occupants.
9. Flat 4 is the largest of the four flats and provides for a separate living room and kitchen. Although a dining area is shown on the plans, which would curtail the amount of shared space, the layout of that room would be open to some flexibility. Bedroom 2 of Flat 4 is larger than that of Flat 2. However, I still have some concern over whether the amount of space provided would be sufficient to provide occupants with a satisfactory form of accommodation. No wardrobe or other storage area is shown on the plan and while it may be possible to accommodate such basic furniture without obscuring the window, it would inevitably reduce space even further. Again, a significant proportion of the overall space of the flat relates to the attic room and would thus not be available for all occupants. Notwithstanding the overall scale of the flat, I am not convinced that its configuration would result in a satisfactory living environment for two people sharing.
10. I saw nothing to suggest the amount of light that would be likely to enter the habitable rooms would mitigate the harmful impacts of the either the overall amount of space or the configuration of any of these flats.
11. I have fewer concerns over the potential living environment within Flat 2, particularly if limited to one person. Although the kitchen and living area is still

open plan, it is nevertheless a larger area than Flat 1 and would not feel as cramped. The bedroom would also be larger and occupants would not feel as confined. Nonetheless, this does not alter my view that the other three flats would not provide an adequate amount of internal space to provide a satisfactory living environment.

12. In conclusion, I find that the development would cause harm to the living conditions of future occupants. Accordingly, there would be conflict with Policy 9 of the CSDM which seeks, amongst other things, to ensure development does not cause harm to the amenity of future occupants. There would also be conflict with paragraph 17 of the National Planning Policy Framework (the Framework) which seeks, amongst other things, to ensure development provides a good standard of amenity.

### **Other Matters**

13. The appellant has suggested that the Council cannot demonstrate a five year supply of deliverable housing land as required by paragraph 47 the Framework. While the Council has disputed references made regarding the undersupply of housing or that there is a shortage of smaller housing, I have not been provided with detailed or substantive evidence from either party on the level of housing supply or what shortfall might exist. Four additional units would clearly be of some assistance in meeting housing needs. The site lies in a sustainable location with good access to facilities. There would therefore be some limited social, economic and environmental benefits associated with the development. The re-use of underutilised upper floors above a shop is also a recognised benefit. However, the small scale of development results in only moderate weight in favour of the proposal.
14. I have had regard to the appellant's evidence relating to the demand for smaller flats and likely difficulties in letting larger flats. However, the letter from a single agent is not convincing evidence of a significant shortage of this type of accommodation or that larger flats could not be let. In any event, I am not persuaded that allowing flats that would not provide acceptable living conditions would be an appropriate means of meeting local needs.
15. I note that planning permission was granted in 2012 for a similar form of development under the same policies as are in place now. I do not have the full details of this permission before me. The Council argues that the publication of the THS is a material change in circumstance, as these standards provide a clear indication of what should be considered to be acceptable in principle to create a satisfactory living environment. This permission has expired and while I have had regard to it, I have considered the appeal on its own merits based on the evidence before me. The earlier permission does not alter my view that the development would not provide an appropriate standard of accommodation.
16. The appellant has suggested that they have a legitimate fallback position in terms of being able to sub-divide the shop into two units and then creating two flats above each without requiring planning permission. Notwithstanding the somewhat convoluted approach described, to qualify for permitted development rights the upper floors must also be in an A1 or A2 use and be part of the same planning unit. There is little evidence before me in relation to the lawful use of the upper floors. They do not currently appear connected to the retail use on the ground floor and can be accessed separately. There is

insufficient evidence therefore to be certain that the upper floors would meet the requirements of permitted development. As such, there is no certainty that the fallback position is valid and thus I have given it only moderate weight in my decision.

17. The appellant has drawn my attention to an appeal<sup>2</sup> decision he considers relevant. I do not have the full details of that case and thus cannot conclude it is directly comparable to that before me. Importantly, the Inspector in that case concluded that the shortfall in size compared to the THS would not cause harm to living conditions. I have already concluded that the THS are not decisive in this case. Nonetheless, I still consider the flats to be too small and/or poorly configured to provide an acceptable standard of accommodation. This is a clear material difference to the alternative appeal.
18. As I have found that at least three of the flats would provide an inadequate degree of space for their intended occupancy levels, the UU would not result in an acceptable form of development or provide sufficient mitigation to make the development acceptable in planning terms. The UU does not therefore alter my decision.
19. Taking all matters into account, I find that the material considerations considered above do not outweigh the harm identified or lead me to a different conclusion as to the acceptability of the proposal. Even if the Council cannot demonstrate a five year supply of deliverable housing land, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when considered against the Framework as a whole. In such circumstances, paragraph 14 of the Framework does not suggest that permission should be granted. There is nothing to suggest therefore that a decision other than in accordance with the development plan should be made in this instance.

### **Conclusion**

20. For the reasons given above I conclude that the appeal should be dismissed.

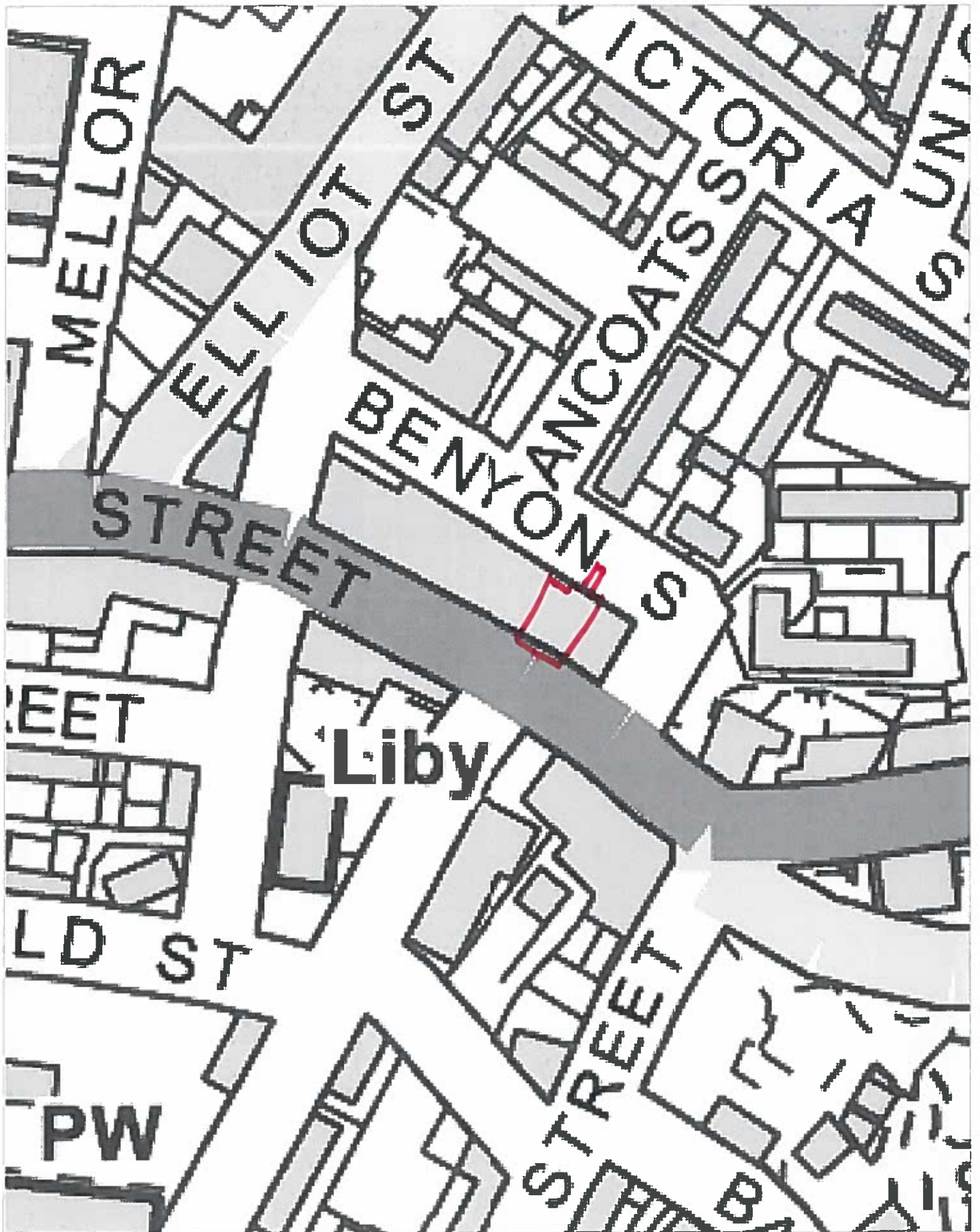
*S J Lee*

INSPECTOR

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<sup>2</sup> Appeal reference: APP/Z5630/W/17/3171717

340115









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## Appeal Decision

Site visit made on 17 April 2018

by **Alison Partington BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st May 2018

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**Appeal Ref: APP/W4223/W/18/3194397**

**464 Oldham Road, Failsworth M35 0FH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Sargeant (Rintarah) against the decision of Oldham Metropolitan Borough Council.
  - The application Ref PA/340304/17, dated 1 June 2017, was refused by notice dated 27 July 2017.
  - The development proposed is described as "the change of use of the first floor of former public house to massage centre with associated external staircase and new entrance door including new signage and porch (part retrospective)."
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of the first floor of former public house to massage centre with associated external staircase and new entrance door and porch at 464 Oldham Road, Failsworth M35 0FH in accordance with the terms of the application, Ref PA/340304/17, dated 1 June 2017, subject to the conditions set out in Annex A.

### Procedural Matter

2. The change of use of the first floor has already taken place and the external door and staircase have been constructed. Although the description of development given refers to signage as well, the appellant has confirmed that this element is now being dealt with separately, and the Council's Officer's Report makes no reference to this element in its assessment either. Therefore, I am satisfied that they determined the application on this basis, and so I have determined the appeal likewise. Given this, in my formal decision I have removed the reference to the signage, and have left out the reference to the proposal being 'part retrospective' as this is superfluous.

### Main Issue

3. The main issue in the appeal is whether or not the proposal would preserve or enhance the character or appearance of Failsworth Pole (Wrigley Head) Conservation Area.

### Reasons

4. The appeal property is a former public house on the end of a terrace of commercial properties that lies within Failsworth Pole (Wrigley Head) Conservation Area. Section 72(1) of the *Planning (Listed Buildings and*

*Conservation Areas) Act 1990* requires special attention to be had to the desirability of preserving or enhancing the character and appearance of a conservation area. The area's association with Ben Brierley gives historic, as well as architectural, significance to the conservation area. However, there is no indication that the host property has any specific architectural or historic significance. The surrounding area has a mix of commercial and residential uses, and to the west of the site runs a canal.

5. The Council has not raised any objection to the proposed change of use which utilises the first floor of the former public house. It is indicated that the appellant provides deep tissue massage for musculoskeletal problems for people with a range of mainly work and sport related injuries and problems. Nothing I have seen or read, leads me to come to a different conclusion regarding this aspect of the appeal scheme.
6. The staircase, door and proposed porch are located on the western elevation of the property. As such there would be no views of them when approaching the site from the East. Moreover, due to the height of the boundary wall along the western edge of the site, the staircase cannot be seen when approaching the site from the west, and only part of the door and part of the proposed porch structure would be able to be seen. The visibility of these would be further reduced in the summer months when the vegetation immediately beyond the wall is in leaf. As such, I am satisfied that the appeal scheme would not be a prominent feature in the street scene.
7. In addition, I observed that a number of other buildings within the conservation area, including the prominent mill and chimney opposite the site, had external metal staircases and doors at high levels. Whilst these may not provide the main access to these buildings, their presence means these elements of the appeal scheme are not alien or incongruous features, or out of keeping with the character of the area.
8. The proposed porch is of a simple design which would be subservient to, and not detract from, the host property. Given there would be limited visibility of it from the public realm, subject to a condition controlling its colour, it would not be an intrusive feature that would harm the character and appearance of the area.
9. Consequently, I consider that the proposal would preserve the character and appearance of Failsworth Pole (Wrigley Head) Conservation Area. Accordingly, there would be no conflict with Policies 20 and 24 of the *Oldham Joint Core Strategy and Development Management Development Plan Document (adopted November 2011)* which seek to ensure that developments have a high quality of design that reflects the character of the local area and protects, conserves, and enhances heritage assets.

#### *Other Matters*

10. The Council have highlighted that the access to the first floor makes no provision for wheel chairs. Be that as it may, it appeared to me that the use was one that would predominantly operate on an appointment system rather than attracting casual trade from passers-by, and the appellant has indicated that alternative arrangements could be made to see people unable to access the premises, for example by treating them in their own home. In addition, there is no persuasive evidence that the proposal would lead to a loss of property values.

### **Conclusion and Conditions**

11. For the reasons set out above I conclude the appeal should be allowed.
12. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans as this provides certainty. In the interests of the character and appearance of the area, a condition is required to control the external appearance of the proposal, although I have altered the wording from that suggested by the Council to reflect the fact that some of the proposal has already been implemented, and have combined the two conditions suggested into one. A condition to control opening hours is needed in order to protect the living conditions of nearby residents.

*Alison Partington*

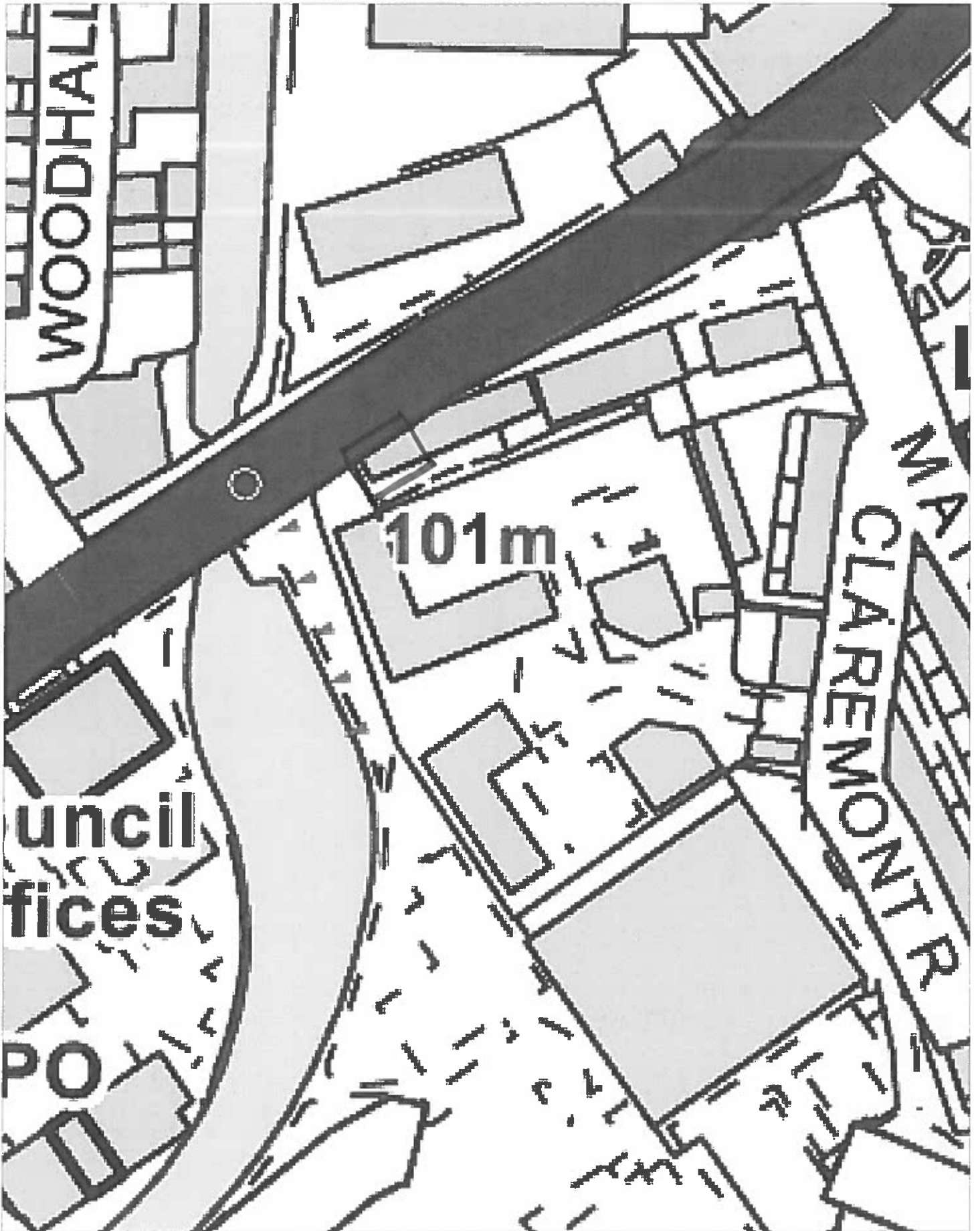
INSPECTOR

## **Annex A**

### **Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Existing Elevation Facing South West; Existing First Floor Layout Plan; Isometric Views and View from Canal Bridge DWG1; Proposed Elevations DWG2; and Plan - New Porch at Roof and Landing Level DWG3.
- 3) No further development shall take place until samples of the materials to be used in the construction of the external surfaces of the porch, and a colour scheme for the porch, rainwater goods, and the external door, has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved samples and colour schemes.
- 4) The use hereby permitted shall only be open for customers between the following hours:  
10.00 hours – 21:00 hours Monday to Sunday

340304







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## Appeal Decision

Site visit made on 23 April 2018

by **Siobhan Watson BA(Hons) MCD MRTPI**

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

Decision date: 2 May 2018

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**Appeal Ref: APP/W4223/W/18/3194828**

**Former Shaw Band Club, Dale Street, Shaw, Oldham, OL2 8RN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Widdall (Karma Ju-Jitsu) against the decision of Oldham Metropolitan Borough Council.
  - The application Ref PA/340333/17, dated 6 June 2017, was refused by notice dated 24 November 2017.
  - The development proposed is the change of use of the ground floor from financial and professional services (use class A2) to Ju-Jitsu club (use class D2).
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of the ground floor from financial and professional services (use class A2) to Ju-Jitsu club (use class D2) at the former Shaw Band Club, Dale Street, Shaw, Oldham, OL2 8RN in accordance with the terms of the application, Ref PA/340333/17, dated 6 June 2017, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan and Drawing No 31 "Ground Floor Plan as Proposed", dated 30 May 2017.
  - 3) The development hereby permitted shall not be brought into use until the car parking spaces have been marked out and provided in accordance with the approved plan. The spaces shall be retained and be available for parking thereafter.
  - 4) The use hereby permitted shall only take place between the following hours: 09:30 and 22:00 hours.

### Main Issue

2. The main issue is the effect of the proposed change of use upon highway safety.

### Reasons

3. The appeal building has a dance school on the first floor and is currently vacant at ground floor level. I understand that it was previously in use as an employment exchange.

4. Access to the site would be via Dale Street which also serves some engineering type workshops and housing; or from Diggle Street which is residential and has single yellow lines on both sides preventing parking during the day, Monday to Friday.
5. The building has a car park to the rear which contains space for some nine cars. The car park is possibly too small for all visitors to use. However, the site is within an urban area and near housing so it is likely that some people will arrive to the venue without a car especially as the Council accepts that the site is in a sustainable town centre location with excellent links to public transport. Furthermore, there are public car parks nearby, within easy walking distance.
6. The site's carpark is accessed along a narrow track which does not allow space for vehicles to pass. However, the track is straight and it would be easy for drivers to see whether or not a car is coming along it before entering. Therefore, I consider that conflict between vehicles is likely to be uncommon. Moreover, I do not consider that pedestrians using the access to the car park would be in danger because, as the access is so narrow, drivers are likely to go very slowly along it.
7. Furthermore, I do not accept that there would be significant conflict between cars and pedestrians on Dale Street because the road is very potholed and uneven. Therefore, it is likely that cars would drive slowly along it too. I have no technical evidence that drivers accessing the site would park so carelessly on Dale Street or Diggle Street that they would cause an obstruction to other road users. Neither do I have reason to believe that the use would generate so much traffic that it would lead to congestion at the road junctions.
8. I appreciate that cars might park on Diggle Street during the period of unrestricted car parking, in the evenings and weekends. This might result in some competition for spaces between users of the building and residents. However, due to the availability of other parking and transport options, I would not expect the parking demand to be so high that it would harm the living conditions of neighbours or would create a hazard.
9. Furthermore, the building was last used as an employment exchange and the Council has not provided any comparative evidence of the car parking and traffic implications between the proposed use and the last use. It would be unrealistic to expect the ground floor of the building to remain empty and I have no technical evidence that the proposed use would generate any more traffic or cause any more harm than would a Class A2 use.
10. I therefore conclude that the proposed change of use would not harm highway safety. Consequently, I find no conflict with Policy DMP 9 of the Oldham Local Development Framework<sup>1</sup> which, amongst other matters, seeks to protect local environmental quality including the prevention of harm to the safety of road users. Neither do I find conflict with Paragraph 32 of the National Planning Policy Framework which indicates that decisions should take account of whether safe and suitable access can be achieved.

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<sup>1</sup> Development Plan Document - Joint Core Strategy and Development Management Policies, 2011



### **Other Matters**

11. I note comments from a neighbour that the dance studio creates noise. However, whilst some comings and goings would arise as a result of the development, I have no reason to believe that they would be unacceptably noisy, especially against other activities within the district centre and I am mindful that the Council's Pollution Control, which was consulted about the application, made no comments. A condition controlling hours of operation can ensure that the site is not used during the night. I have taken into account all other matters raised but none outweigh the conclusions I have reached.

### **Conditions**

12. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance. In addition to the standard implementation condition it is necessary, in the interest of precision, to define the plans with which the scheme should accord. It is necessary to limit the hours of operation in the interests of the living conditions of neighbours. A condition in respect of car parking is required in the interests of the living conditions of neighbours and highway safety.

### **Conclusion**

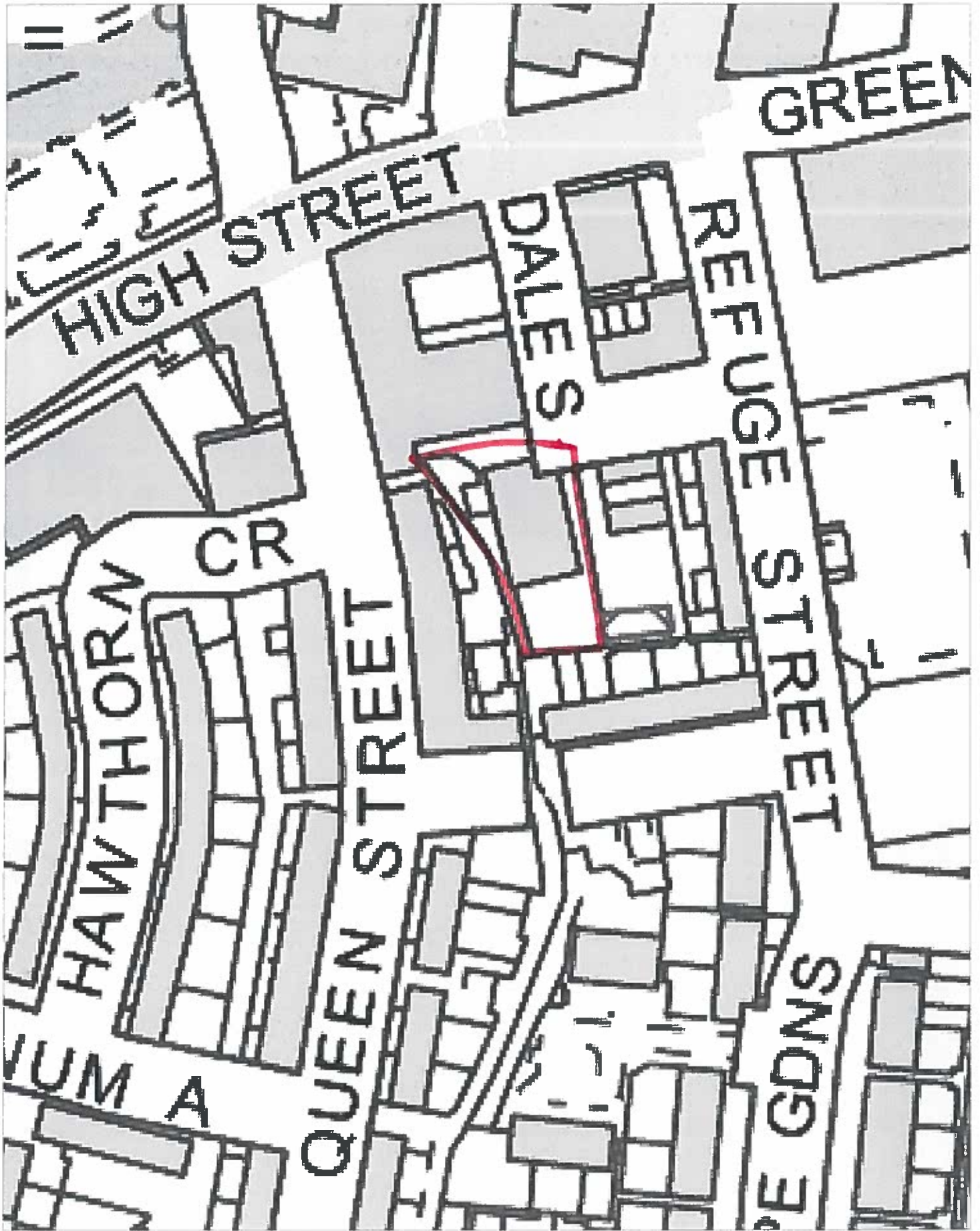
13. I allow the appeal subject to the above conditions.

*Siobhan Watson*

INSPECTOR



3+0333



**OLDHAM**   
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## Appeal Decision

Site visit made on 30 April 2018

by **Siobhan Watson BA(Hons) MCD MRTPI**

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

Decision date: 3<sup>rd</sup> May 2018

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**Appeal Ref: APP/W4223/Z/18/3195229**

**Advertising hoarding adjacent to 18 Oldham Road, Failsworth, M35 0JE**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Paul O'Sullivan (Insite Poster Properties Ltd) against the decision of Oldham Metropolitan Borough Council.
  - The application Ref AD/340617/17, dated 8 August 2017, was refused by notice dated 14 December 2017.
  - The advertisement proposed is the replacement of an existing 48 sheet advertisement display with a digital LED display.
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### Decision

1. The appeal is allowed and express consent is granted for the display of the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:-
  - 1) No part of the sign shall exceed an illumination level of 300 candelas per square metre at any time.
  - 2) At all times, each advertisement shall be displayed for no fewer than 10 seconds and there shall be no special effects (including animation, flashing, scrolling, intermittent or video elements) of any kind before, during or after the display of any advertisement.

### Main Issue

2. The main issue is the effect of the advertisement hoarding on highway safety.

### Reasons

3. The LED display would replace an existing 48 sheet poster hoarding and would be of a similar size and position. The road alongside the display site is straight and uncomplicated. There is a bus lane but this is on the opposite side of the road to the traffic which would be facing the sign. There are junctions near to the site but these are with fairly minor roads. I do not consider that the advertisement would distract drivers turning right across the bus lane as it would not interfere with views of oncoming traffic. The pedestrian crossing referred to by the Council is some distance from the site so the display would be too far away to distract drivers from the crossing.
4. I note the Council's comments that there have been 6 personal injury accidents within 150 metres of the site but I do not know over what time period these

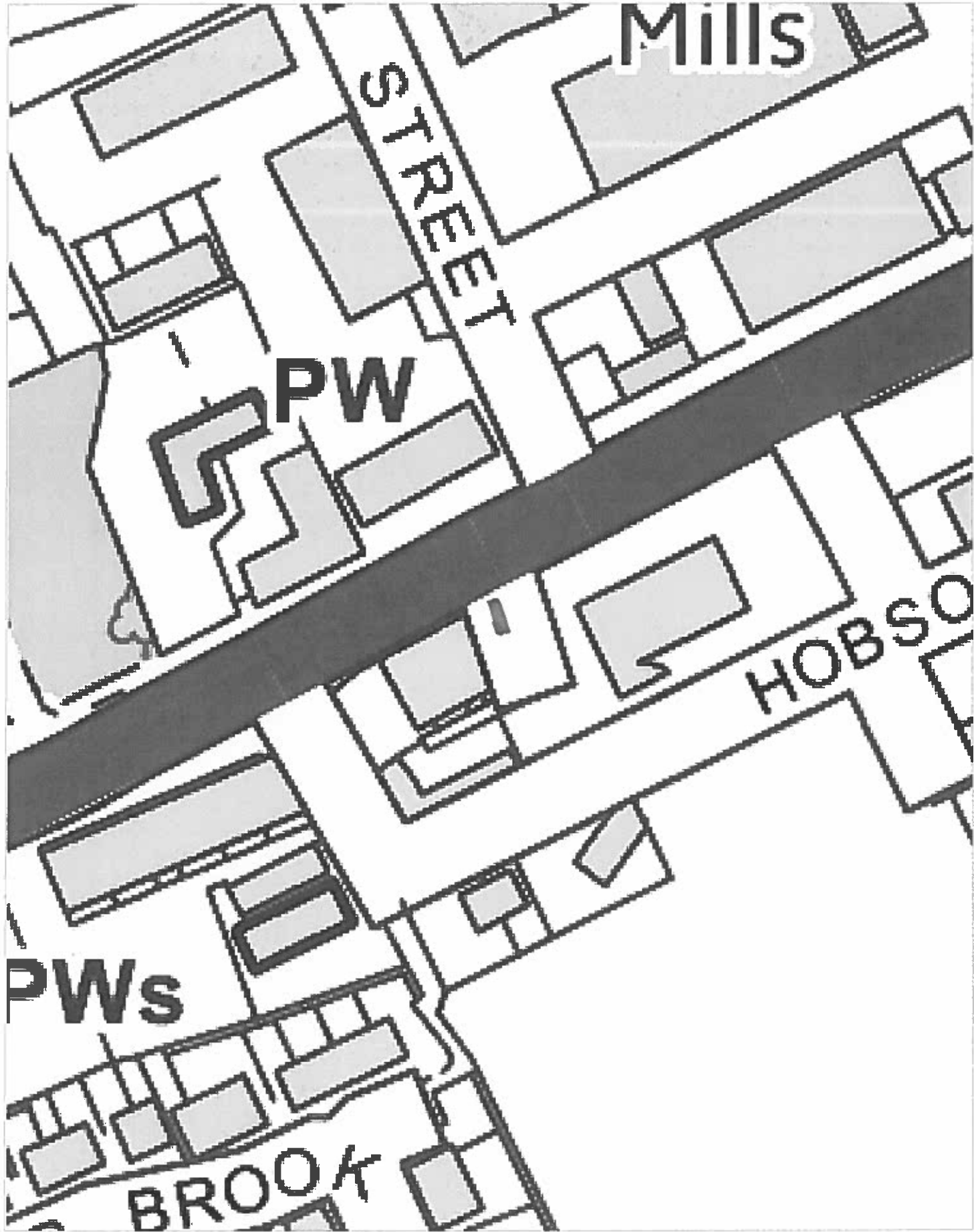
accidents have been recorded. For the above reasons I do not consider that the display would unacceptably add to the general risks on the road. This is especially as, in addition to the five standard conditions, I have imposed conditions in respect of luminance and display in order to ensure that the advert is not overly distracting.

5. I therefore conclude that the advertisement hoarding would not harm highway safety. Consequently, I find no conflict with the National Planning Policy Guidance which seeks to ensure that advertisements do not cause danger to road users.
6. I allow the appeal.

*Siobhan Watson*

INSPECTOR

340617



**OLDHAM**   
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## Appeal Decision

Site visit made on 23 April 2018

by **Siobhan Watson BA(Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3<sup>rd</sup> May 2018

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**Appeal Ref: APP/W4223/W/18/3194968**

**Parliament Square Cafe and Deli, 32-34 High Street, Oldham, OL1 1JA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr R McGivern against the decision of Oldham Metropolitan Borough Council.
  - The application Ref PA/340367/17, dated 26 May 2017, was refused by notice dated 4 August 2017.
  - The development proposed is the change of use of the public footway to place 10 tables and 20 chairs for outdoor dining.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development upon (i) pedestrian safety and (ii) the historic environment.

### Reasons

#### *Pedestrian Safety*

3. The café is a corner property and the seating area would be on the pavement at the corner of High Street and Parliament Square. I noted on my visit, during the morning on a weekday, that pedestrians continuously walk around this corner very close to the shop front. The number of pedestrians would be much higher on a Saturday.
4. Introducing tables and chairs in this area would obstruct pedestrian flows, particularly as there are planters in front of the proposed seating area. Even one or two tables would cause an unacceptable obstruction and would force people to weave around the planters. This would be particularly cumbersome for people with pushchairs or those with mobility difficulties. At best, the seating area would cause annoyance and inconvenience and at worst, it might result in people bumping into each other or nearby objects. I appreciate that it is proposed to leave some 2.8m between the tables and the nearby planters but due to the corner location of the site and because it might be difficult to stop people pushing the barrier out further to gain more space, I consider that the outdoor seating would be inappropriate.
5. I therefore conclude that the proposed development would harm pedestrian safety. Therefore, it would conflict with DMP 9 of the Oldham Local

Development Framework<sup>1</sup> (OLDF) which, amongst other matters, seeks to protect local environmental quality and to ensure that development is safe.

### *Heritage*

6. The site is adjacent to the Town Centre Conservation Area and is diagonally opposite Barclays Bank which is a Grade II Listed Building. The bank is an imposing 3-storey corner building which is ashlar faced with a Welsh slate roof containing dormers and a dome. The setting of this building is a busy and built up town centre. There are street-lights, a bus shelter, planters and other buildings close by. I consider that the tables and chairs would be characteristic with this town centre setting and they would be some distance from the Listed Building anyway. Furthermore, they would be removable and the development would be of a very small scale. I therefore consider that the development would not harm the setting of the Listed Building or the setting of the adjacent conservation area, within which the Listed Building is situated.
7. I therefore conclude that the proposed development would not harm the historic environment. Consequently, I find no conflict with DMP 20 or DMP 24 of the OLDF which, in combination, seek to ensure that development is of a high quality design and protects the historic environment.

### **Other Matters**

8. I recognise that, in a small way, the development might help the vitality and vibrancy of the town centre and therefore it would have limited economic and social benefits. However, these benefits are not so significant as to outweigh the harm I have identified.

### **Conclusion**

9. Although I find no harm to heritage I do find harm to pedestrian safety and therefore, I dismiss the appeal.

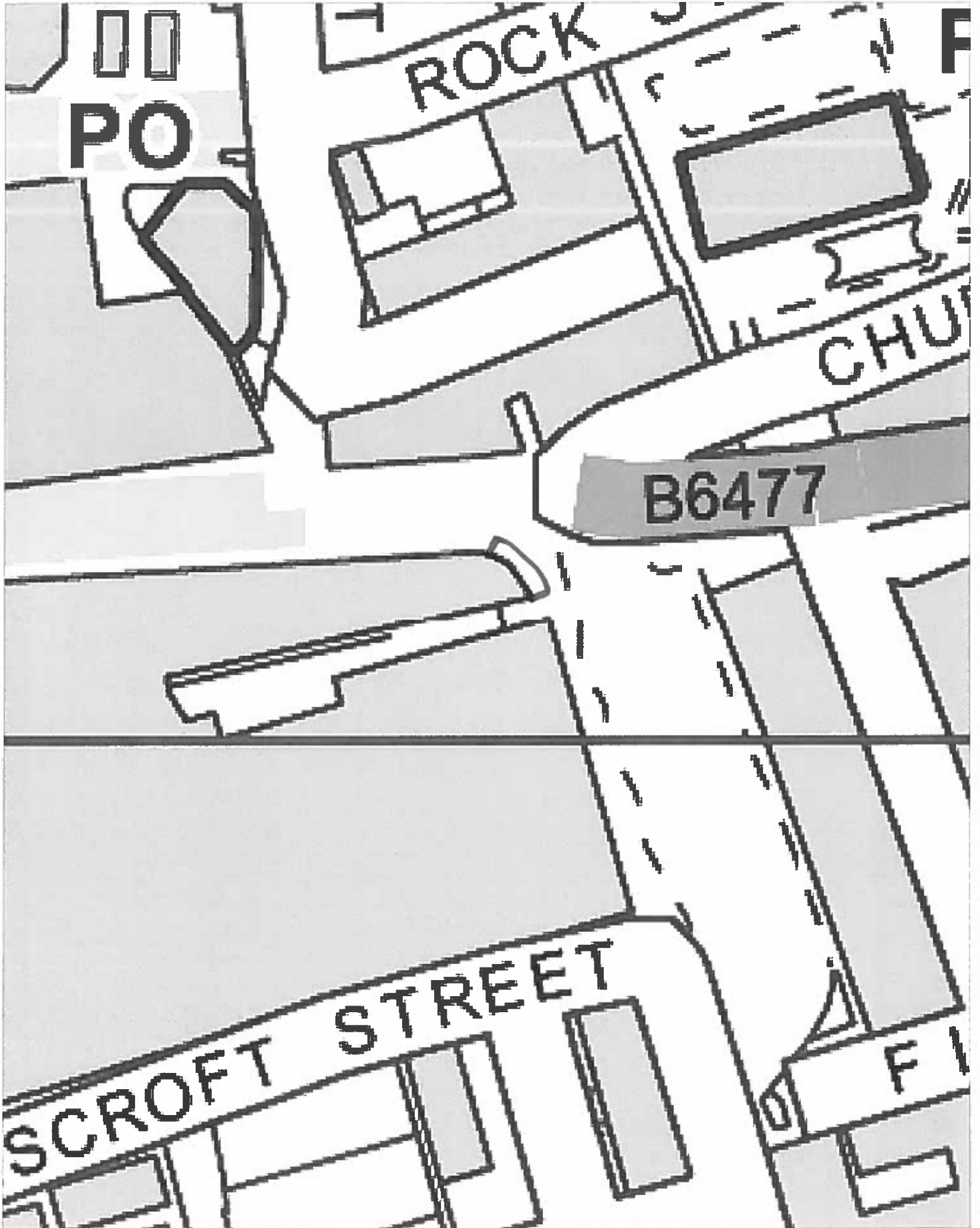
*Siobhan Watson*

INSPECTOR

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<sup>1</sup> Development Plan Document – Joint Core Strategy and Development Management Policies, 2011

340367







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## Appeal Decision

Site visit made on 23 April 2018

by **W Johnson BA (Hons) DipTP DipUDR MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 14 May 2018**

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**Appeal Ref: APP/W4223/D/18/3194536**

**31 Pennine Avenue, Chadderton OL9 8PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Phillip Heath against the decision of Oldham Metropolitan Borough Council.
  - The application Ref HH/340979/17, dated 27 October 2017, was refused by notice dated 18 December 2017.
  - The development proposed is front and rear dormers.
- 

### Decision

1. The appeal is dismissed.

### Procedural matter

2. In the absence of the appellant for the access required site visit, I undertook an unaccompanied site inspection from public land, and, was satisfied that I could gather sufficient information to determine the appeal.

### Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the appeal site and the surrounding area.

### Reasons

4. The properties located on Pennine Way are modest semi-detached bungalows of brick construction with tiled roofs with gable ends that are set behind front gardens enclosed by low boundary walls. Currently a high proportion of properties on Pennine Way do have dormer windows present on either the front, rear or both roof slopes, and this makes for a distinctive feature of the street scene, as they are in a location and of sufficient number to have a material effect on the character of the road on which the appeal property is located.
5. In contrast to the existing distinctive pattern of other dormers, the front and rear dormers as proposed would extend above the existing ridge line, and by a noticeable distance. It is acknowledged that the adjoining property to the host dwelling has a rear dormer that projects above the ridge, albeit only slightly, and, as a consequence, this does not form a prominent feature on the dwelling or in the surrounding area.

6. The appeal scheme, in comparison, by virtue of its size, design and projection above the ridge, would result in a bulky addition that would dominate the roof, would fundamentally alter its shape and would unbalance its form. The resulting significant adverse effect on the character and appearance of the host property would be readily visible in the street scene. It is noted that the facing materials proposed on the extension would consist of 'rustic tiles', but I consider that this would not provide sufficient mitigation to outweigh the harm otherwise created.
7. My attention has been drawn to other dormers in the area that have exceeded the ridge line. Whilst noting the presence of these extensions, relatively little detail has been provided regarding the particular planning backgrounds to those schemes. Without such information a full and detailed comparison between those developments and the case before me cannot be drawn except insofar as I was able to observe and assess the sites at my visit.
8. I note that majority of the dormers present in the street do not extend above the ridge line, and so contribute to a much more sympathetic pattern of extensions to the dwellings. Therefore, I attach limited weight to the properties that have dormers located above the ridge lines, as they are not a predominant design in the street, and, in any event, the fact that apparently similar dormers may exist is not a reason, on its own, to allow otherwise unacceptable development. I have considered this appeal proposal on its own particular merits and concluded that it would cause harm for the reasons set out above.
9. For the above reasons, I therefore conclude that the proposed front and rear dormer would unacceptably harm the character and appearance of the appeal site and the surrounding area. This would be contrary to Policy 9 and 20 of the Oldham Local Development Framework Joint Development Plan Document– Joint Core Strategy and Development Management Policies. These policies seek, amongst other things, to protect and improve local environmental quality and the amenity of an area, through high quality design that reflects the character of the area in which the development is taking place, and reinforcing local identity. As a result, the proposal would also be contrary to paragraph 60 of the National Planning Policy Framework, which amongst other things seeks to promote or reinforce local distinctiveness.
10. Whilst the appellant also refers to the absence of local objections and other harm arising from the scheme, these factors, for the reasons described, do not out-weigh my assessment of the main issue.

### **Conclusion**

11. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

*Wayne Johnson*

INSPECTOR

340979



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