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TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

Section 78 Appeal by James Campbell Associates LTD

**Against the decision of Rochdale Borough Council to refuse the
application for planning permission for a First Floor extension
with the addition of front and rear dormers**

At 48 Rose Avenue, Littleborough, Rochdale, OL15 8QJ

Statement of Case of the Appellant

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1. INTRODUCTION

- 1.1 This statement submitted on behalf of the appellants, Karl & Carol Whittaker & McCarthy with regard to the planning appeal lodged in respect of the site at No.48 Rose Avenue, Littleborough.
- 1.2 The appeal is lodged against the decision of Rochdale Borough Council to refuse planning permission for a first floor extension with the addition of front and rear dormers.
- 1.3 The single reason stated for the refusal of the application was as follows :-

By virtue of its size and prominent siting on a corner plot, the proposed development would result a hard edge forming on the building line of Johnston Avenue and would inflict undue harm to the character and appearance of the street scene. As such, the proposed development would fail to accord with Policies DM1 and P3 of the adopted Rochdale Core Strategy, the Council's 'Guidelines and Standards for Residential Development' SPD and the National Planning Policy Framework.

- 1.4 This statement should be read in conjunction with the submitted planning application package which comprised the following :-
 - Submitted planning application forms and ownership certificate, signed and dated 1st June 2023.
 - Submitted drawings, including ;
 - Location plan
 - Existing & Proposed Block plan - dwg.no:- 22.3023.SC3.1B
 - Existing Floor Plans and Elevations - dwg.no:- 22.3023.SC3.1B
 - Proposed Floor Plans and Elevations - dwg.no:- 22.3023.SC3.1B
- 1.5 The following statement will respond to the single reason for refusal cited by the Local Planning Authority and will demonstrate that the proposal is acceptable and should be granted planning permission.

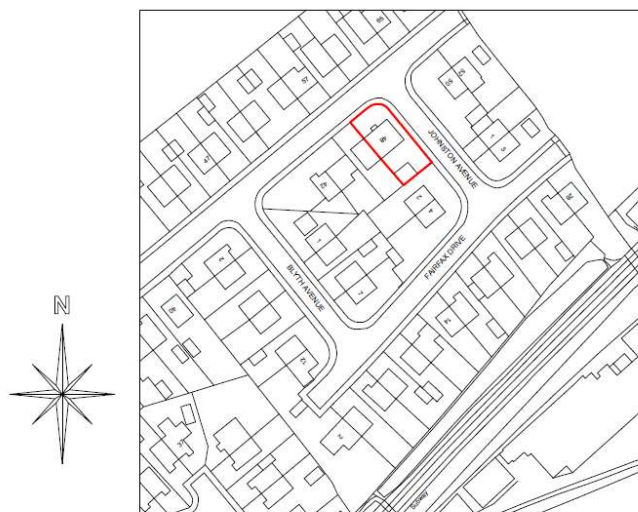
2. APPEAL PROPOSAL

- 2.1 The appeal proposal seeks planning permission for the erection of a first floor extension with the addition of front and rear dormers.
- 2.2 The property is an existing semi-detached dormer bungalow and the proposed side extension will measure approximately 3.6m in width and 7.9m in length sitting above the existing single storey side extension. It will have pitched roof with a ridge and eaves height of approximately 7.3m and 2.6m respectively, incorporating a dormer to the front and rear.
- 2.3 The proposed front dormer will measure 1.7m in height with a width of 3.4metres and a depth of 1.8metres, the dormer will continue the existing dormer the existing property, will be set down from the ridgeline and setback from the eaves. The rear dormer will measure 1.7m in height with a width of 3.3metres and a depth of 1.8metres, the dormer will continue the existing dormer the existing property, will be set down from the ridgeline and setback from the eaves. The rear dormer
- 2.4 The materials of external construction would match those of the existing dwellinghouse.

3. APPEAL SITE

3.1 The appeal site is located on a corner plot within the Wardle and West Littleborough ward of Rochdale and is located at the junction of Rose Avenue and Johnston Avenue.

Figure 1: Location Plan



Scale 1:1250

SITE LOCATION PLAN

3.2 The appeal property is a semi-detached pitched roof dormer bungalow sited on a corner plot, the property is faced with red brick and has a grey concrete tiled roof. There is a bay window feature at ground floor to the front elevation, a front porch and an existing single storey side extension forming a garage. There is off road parking available for 2.no vehicles.

Figure 2: Front Elevation of no.48 Rose Avenue



3.3 The appeal site is adjoined by an attached semi-detached dormer bungalow residential dwellinghouse at Number 46 Rose Avenue to the south-west. To the front (North) of the site are semi-detached dormer bungalows.

3.4 There is a separation distance of 14metres to the neighbouring at the rear (south) at no.2 Johnston Avenue.

3.5 The neighbouring property on the opposite corner plot (to the east) at no.50 Rose Avenue is sited 19metres away.

3.6 The neighbouring dwellings surrounding the appeal site comprise of red brick and grey tiled semi-detached pitched roof dormer bungalow style dwellings.

4 PLANNING HISTORY

4.1 Planning Application 23/00582/HOUS: First Floor extension with the addition of front and rear dormers: Refused – 13/09/2023.

4.2 Planning Application 99/D36414: Single Storey Side Extension To Dwelling: Granted – 21/06/1999.

4.3 Planning Application: 81/D12023 - Private Garage: Granted – Date Unknown.

5 LOCAL PLANNING POLICIES AND GUIDANCE

5.1 Saved Rochdale Unitary Development Plan - Adopted June 2006

G/D/1 Defined Urban Area

states that the council wishes to ensure that new development, wherever possible and appropriate, is concentrated within the urban area in order to support urban regeneration and to protect the countryside.

5.2 Rochdale Core Strategy – Adopted October 2016

P3 - Improving design of new development

This policy states that all new development should adhere to high standards of design. Although the Local Planning Authority's reason for refusal refers to and cites this policy, very limited reference to the policy or assessment of the proposal against the provisions of this policy is made within the Planning Officer's Delegated Report.

DM1 – General Development Requirements

This policy states that all development proposals, including extensions and alterations, will be expected to demonstrate that they:

- A. Are of high quality design and take the opportunity to enhance the quality of the area;
- B. Are 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;
- C. Do not adversely affect the amenity of residents or users through visual intrusion, overbearing impact, overshadowing or loss of privacy;
- D. Mitigate against any impacts due to noise, air, dust, light and odour pollution, traffic generation or inadequate access, where such mitigation is identified as being necessary;
- E. Provide satisfactory vehicular access with adequate parking, manoeuvring, and servicing arrangements taking into account of the proposed use and location;

T2 – Improving Accessibility

This policy states all developments should provide parking in compliance with the Council's Car Parking Standards. There is no minimum car parking standards however there is a maximum provision of 2 spaces per residential dwelling. The appeal proposal is in accordance with this policy as confirmed within the Planning Officer's Delegated Report.

5.3 Supplementary Planning Documents (SPD's)

SPD's do not form part of the Statutory Development Plan, nevertheless they do provide non-statutory Council approved guidance that is a material consideration when determining planning applications and appeals. The relevant SPD's cited in the Local Planning Authority's reason for refusal of the planning application include :-

5.4 Guidelines and Standards for Residential Development SPD - Adopted June 2016

Extensions and alterations to existing properties, including dormer extensions, should be carefully designed to protect the amenity of the occupants of adjoining properties. As well as maintaining the space standards set out in Section 4 of the SPD. They should be designed to be in keeping with the host property and generally should be subservient to it.

If the design of an extension significantly increases the massing of the extension to the detriment of neighbouring occupiers, it is possible that it will not be acceptable even if it meets the standards set out in the SPD. Applicants are encouraged to incorporate roof designs that minimise the impact of any extension on their neighbours, such as by hipping the roof away from the neighbouring property / properties.

There may be some cases where a proposed extension complies with the standards set out in the SPD but the circumstances of the property and its relationship with other properties, such as a variation in levels or staggered orientation, are such that there will still be an unacceptable impact. There may be circumstances where a larger extension may be acceptable. Each application will be determined on its merits.

Dormers

Dormer extensions can be visually prominent, particularly where they can be seen from the public highway, and therefore it is important that they are carefully designed and sited. Dormers to the front elevation will not normally be permitted. Rear dormers should be modest in size and not occupy a disproportionately large portion of the roof.

The following principles will apply to dormer extensions:

- (i) They should not exceed the height of the ridge and where possible, should be sited below the ridge line of the dwelling;
- (ii) They should be set back from the eaves line;
- (iii) They should be set in from the party/side walls of the house;
- (iv) Dormers with flat roofs should be avoided, unless they are considered to better respect the design of the host building and character of the area;
- (v) Dormers which wrap around the side ridges of a hipped roof are not acceptable;
- (vi) Dormer windows should normally line up vertically with existing windows and/or be smaller than existing openings and the window design should match the existing window style;
- (vii) The materials used in the construction of dormers should match those of the existing roof; and
- (viii) Dormer extensions should protect the amenity of neighbouring occupants and should achieve the minimum space standards set out in Section 4. Side facing windows should be obscurely glazed

Residential properties should include space for bins to be stored out of public view to avoid them dominating residential streets. Bins should be stored to the rear of a property away from the street scene and/or in a designated area that is well-designed, appropriately sited and screened. Extensions to properties should not compromise the ability for the required bin storage areas to be provided.

Where two-storey or first floor side extensions to semi-detached or detached dwellings extend up to the main front wall of the house and close to the boundary of the curtilage, they can lead to houses appearing to be a terrace rather than separate dwellings, which

can harm the character of the property and the area. Proposals that would create this sort of 'terracing effect', or which would have the potential to contribute to such an effect if neighbouring properties extended in a similar way, will not normally be supported.

To avoid the 'terracing effect', two storey and first floor side extensions that would be within 1 metre of the side boundary of the property will not normally be permitted unless either:

- (i) The first floor of the extension is set back a minimum of 2 metres from the front main wall of the house; OR
- (ii) The ground and first floor of the extension are both set back a minimum of 1 metre from the front main wall of the house

Exceptions to the above distances will only be possible where there is little chance of a serious terracing effect occurring, for example where dwellings are angled away from each other or the dwelling is on a corner plot.

Side Extensions to Dwellings on a Corner Plot

Extensions to houses on corner plots can have an unacceptable impact on the street scene by eroding the space around buildings and presenting a hard edge to the public highway. Therefore, planning permission will not normally be granted for a single or two-storey extension to a dwelling on a corner plot unless it maintains sufficient space between the boundary or back of service strip and the nearest part of the extension. However, as will be explained within the Case for the Appellant/Grounds of Appeal. In view of the relationship of the appeal site and proposed first floor side extension to the neighbouring property at nos. 2 and 4 Johnston Avenue, the proposed first floor side extension would effectively maintain sufficient space between the boundary or back of service strip and the nearest part of the extension.

Factors that will be taken into account when determining what constitutes 'sufficient space' include the presence of a strong building line and any overriding need to protect it, the proximity of neighbouring buildings, and the space surrounding other buildings in the immediate vicinity of the site and the contribution this space makes to the overall character of the street scene. However, as will be explained within the Case for the Appellant/Grounds of Appeal, in view of the relationship of the appeal site and the presence of a strong building line, the proposed first floor side extension would not override the building line.

5.5 THE NATIONAL PLANNING POLICY FRAMEWORK

The revised National Planning Policy Framework (NPPF), issued by the Ministry of Housing, Communities and Local Government in 2021, sets out the Government's planning policies for England and how they should be applied.

Paragraphs 2 and 47 of the NPPF confirm the tests in Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 and that the NPPF is a material consideration in planning decisions and appeals.

Of direct relevance to the appeal proposal is Paragraphs 11, 38, 126, 130 and 134 of the NPPF.

Para 11 states "*Plans and decisions should apply a presumption in favour of sustainable development.*

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay"

Para 38 states *“Local planning authorities should approach decisions on proposed development in a positive and creative way. They should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible”*.

Para 126, which states *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process. ”*

Para.130 *“Planning policies and decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

Para.134 *“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:*

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or*
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”*

6 THE CASE FOR THE APPELLANT/GROUNDS OF APPEAL

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 require that where an adopted development plan contains relevant policies, an application for planning permission or an appeal should be determined in accordance with the plan, unless material considerations indicate otherwise.

6.2 The applicable development plan for Rochdale is the Rochdale Core Strategy and Rochdale Unitary Development Plan, The guidance contained within the Guidelines and Standards for Residential Development Supplementary Planning Document (SPD) and the advice contained within the National Planning Policy Framework (NPPF) are also

material considerations. As such, it is submitted that the appeal should be assessed against Core Strategy & UDP policies, SPD guidance and the advice contained within the NPPF.

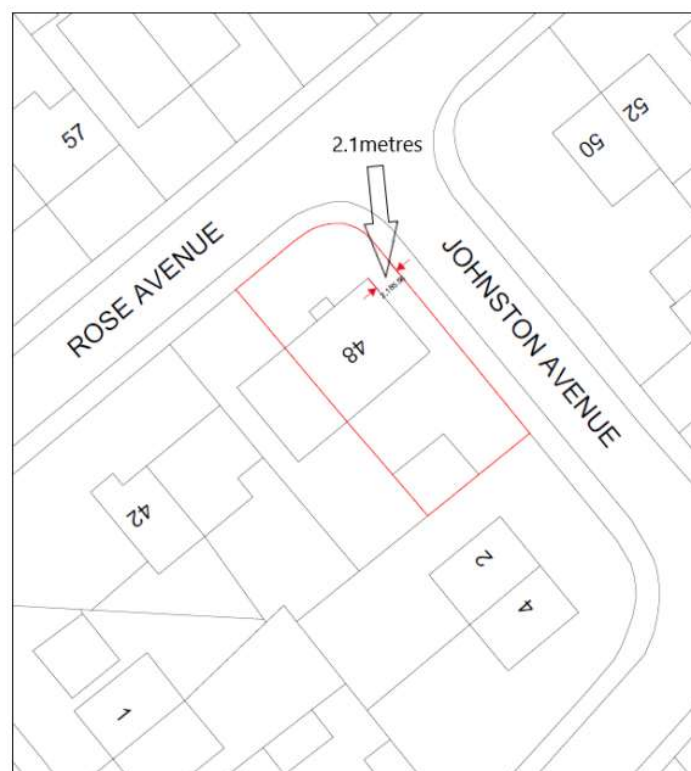
- 6.3 The appellant contends that the proposed first floor side extension would not by virtue of its size and siting on a corner plot, would not result in a hard edge forming on the building line of Johnston Avenue and would not inflict undue harm to the character and appearance of the street scene. The proposal therefore complies with policies DM1 and P3 of the adopted Rochdale Core Strategy, the Council's 'Guidelines & Standards for Residential Development' SPD and the National Planning Policy Framework.
- 6.4 Matters not in dispute are the impact on the amenities of the neighbouring properties, impacts on highways & parking and bin storage as stated in the officers delegated report. As such, these matters will not be considered further.
- 6.5 The appellant intends to demonstrate within this Statement that the proposal would be wholly compliant with policies DM1 and P3 of the adopted Rochdale Core Strategy, the guidance contained within the SPD and the advice contained within the NPPF, as cited in the Local Planning Authority's single reason for refusal of the planning application.
- 6.6 As a matter of clarity and for the avoidance of doubt, the appellant would disagree with the Local Planning Authority's assertion within the reason for refusal of the planning application that the proposed first floor side extension by virtue of its size and prominent siting on a corner plot, would result a hard edge forming on the building line of Johnston Avenue and would inflict undue harm to the character and appearance of the street scene.
- 6.7 Having viewed the relevant local policies and guidance cited in the reason for refusal of the planning application, it is contended that the main issues for consideration is the potential impact of the proposed first floor side extension.

6.8 *Size & Prominent on Corner Plot*

- 6.9 The Council is concerned that the proposed first floor side extension by virtue of its size and prominent siting on a corner plot would inflict undue harm to the character and appearance of the street scene. However, the proposal will not devise of an incongruous or dominant feature. The extension has been carefully designed to respect the character and appearance of the original dwelling mimicking the form, scale and materials of the existing dwelling.
- 6.10 By virtue of its siting and scale the first floor side extension would be particularly inconspicuous and have no discernible impact on the character or appearance of the host property or streetscene.
- 6.11 The highest point of the roof would be in line with the ridge height of the original dwelling. The roof profile would successfully relate to that of the host property and the distinctive features of the original property would remain in place.
- 6.12 The extension would not dominate the existing property or street scene. Consequently, the extension would be a subservient addition thus complying with the Councils 'Guidelines and Standards for Residential Development SPD' that specifically states, *"Extensions should be designed to be in keeping with the host property and generally should be subservient to it."*
- 6.13 Its positioning and massing would not cause it to be highly prominent on the approach to the site from the south-east along Johnston Avenue.

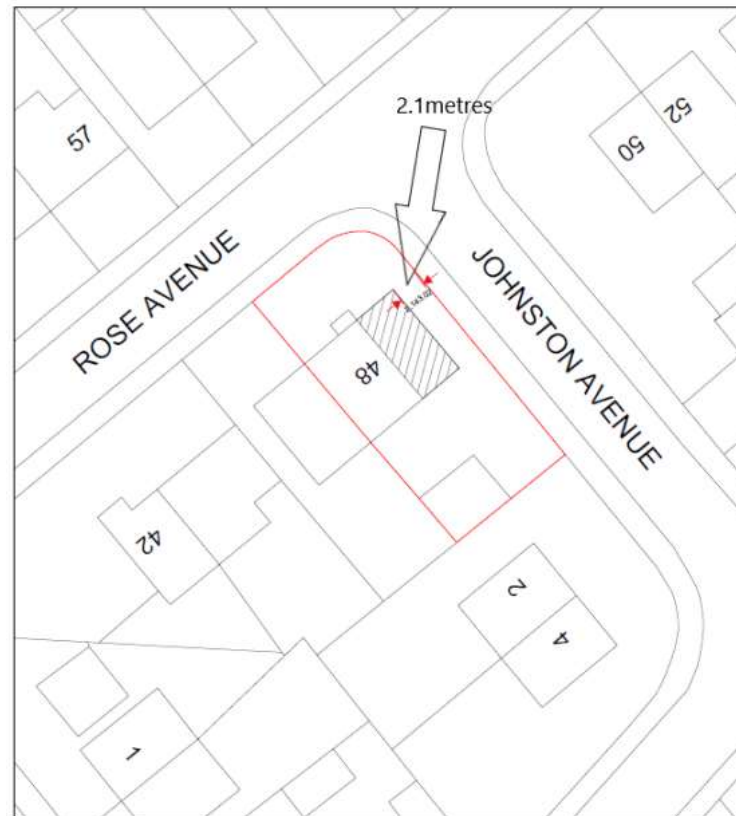
- 6.14 The proposed extension will effectively sit on top of the existing extension and will not project beyond the existing side elevation of the property. The extension respects the layout of the host dwelling noting the proposed front and rear dormers, of which the council have no concerns regarding the design of the dormers and the roof form.
- 6.15 In addition the features of the extension (front and rear dormer and steeply pitched roof) mirroring the existing form of the dwelling provides a degree of subservience that given the size of the plot and the existing house, would not be overly large or dominant additions to the property. Furthermore, the proposal offers an appropriate design that maintains the character of the surrounding area and would complement the host property.
- 6.16 When assessing how much sufficient space is considered acceptable a general rule can be applied whereby at least half the available width between the property and the side boundary should be retained. This is reiterated by Rochdale Councils 'Guidelines & Standards for Residential Development' SPD which states that sufficient space between the boundary and the nearest part of the extension is required.
- 6.17 The single storey scale ensure that the extension is not overly prominent in the streetscene and does not detract from the good spacing currently existing noting the separation distance to the side boundary will remain the same as existing as shown below.

Figure 3; Existing Separation Distance to the Boundary



EXISTING BLOCK PLAN
1:200

Figure 4; Proposed Separation Distance to the Boundary



**PROPOSED BLOCK PLAN
1:200**

- 6.18 Applying the above principle (section 6.16), the appeal proposal will sit above an existing single storey side extension and the space from the side elevation to the side boundary is at a maximum of 2.1m. With adequate space to be retained around the side of the dwelling a sense of openness would be retained between the new built form and the adjacent highway.
- 6.19 There would be an appreciable degree of openness that would be retained and in terms of the Councils policy on single storey side extensions on corner plots the proposal is in full accordance. As a result, the appeal proposal would be a subservient addition and would maintain at least half the width available between the side boundary and side elevation of the proposal. As such, sufficient space would remain between the side wall of the extension and the plot boundary to ensure that the perception of space at the corner of this road would not be harmfully impaired ensuring that the extension retains an appreciable degree of openness and spaciousness.
- 6.20 The extension would not harmfully unbalance the pattern of development by virtue of utilising an atypical space in the street scene.
- 6.21 Furthermore, the depth of the plot is substantial and the proposal would provide garden areas to the front, side and rear. The scale of which would be more than adequate to serve the needs of a dwelling of the size proposed. In this sense, the footprint and scale of the extension is not disproportionate to the size of the site and sufficient space would remain between the side wall of the extension and the plot boundary creating a sense of spaciousness within the surrounding area.

Figure 5 - Photograph of spaciousness between side wall and side boundary to number 48 Rose Avenue



- 6.22 The proposal represents a natural progression to the existing design of a house characterised by a steeply pitched roof containing dormer windows. The reason for the dormers is clearly to account for the narrow space created by the roof shape. This pattern is replicated within the whole estate. Therefore it is not possible to introduce an alternative design for the extension. If a setback is proposed to alleviate size and prominence concerns the alignment of the dormer would not work practically or visually. Furthermore, if the dormer is omitted there would inadequate space to create sufficient accommodation to make an extension viable. It is therefore logical to continue the dormer across the new section as creating a separate dormer would be illogical and appear unbalanced.
- 6.23 The addition would be in keeping with the general simple design characteristics of the dwelling and the proposed extension would provide for a continuation and in this way its appearance would be in keeping with the original dwellinghouse. The appellant considers that the simple form of the appeal proposal would reduce its prominence. This is also referenced and related with the extension allowed on appeal (APP/P4225/D/17/3180197) at 3 Johnston Avenue, Littleborough OL15 8RD (Appendix 3) which sited approximately 25metres away from the appeal site.

Figure 6; Aerial Map Showing the Appeal Site (no.48 Rose Avenue and No.1 Johnston Avenue



Figure 7; Front Elevation and Allowed Appeal Extension at No.3 Johnston Avenue



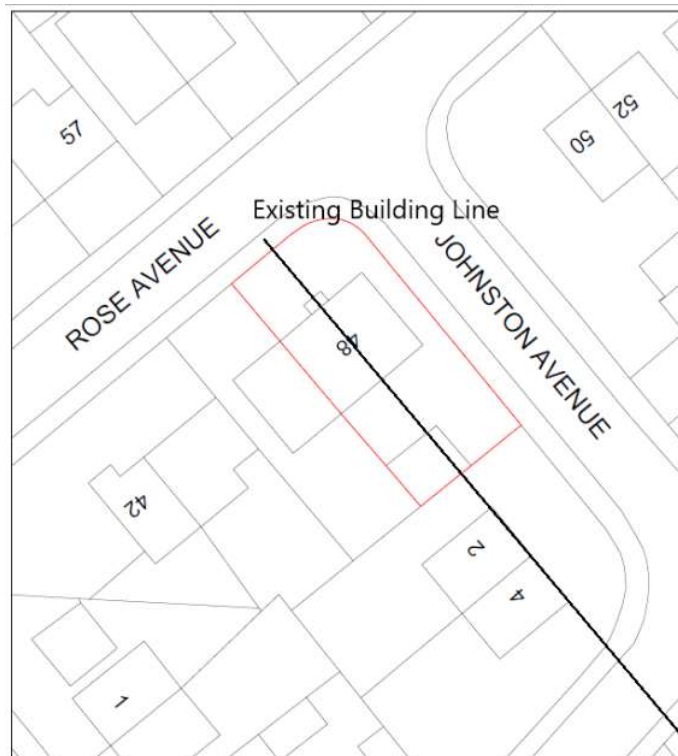
6.24 ***Building Line***

6.25 The Council is concerned that the first floor side extension would result a hard edge forming on the building line of Johnston Avenue. However, as can be seen from the below photograph (figure 6) and site plan (figure 7), the existing house and built form of the existing dwelling already projects forward of this building line. There is already an established character in this location of which the proposal will not exacerbate.

Figure 8; View from existing front elevation



Figure 9; Existing block plan with existing building line shown



EXISTING BLOCK PLAN
1:200

- 6.26 The proposed side extension would not project further than the existing extension line. Additionally, given the design of the proposal and its location and distance away from the adjacent semi-detached properties. We do not consider that it would present a harder edge to the public highway than currently exist noting the existing roof form and extension already in-situ.
- 6.27 The councils policy on corner plots relates to preventing a hard edge to the highway by retaining sufficient space in simple terms of preventing the loss of garden space measured to the adjacent pavement. E.g. there is not any reference in the policy to any impact in terms of adding an upper floor to an existing garage on the ground floor. Therefore deliberately the policy includes both single storey or two storey extensions with no differentiation made between the two. The policy reads as attached below:

Figure 10; The councils policy on corner plots



Guidelines & Standards for Residential Development SPD
Adopted June 2016

Figure 9 One Metre Set Back (both floors)



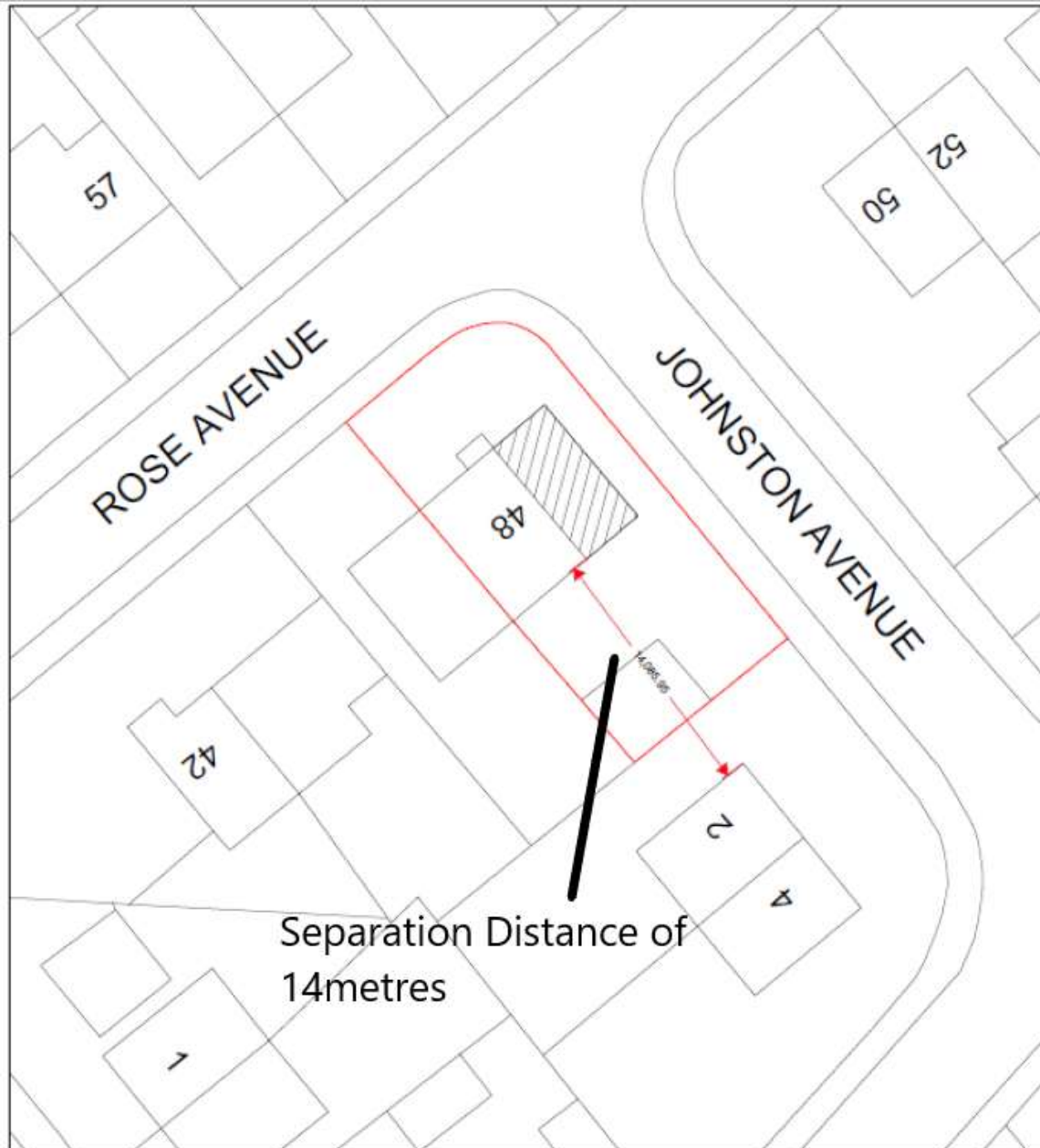
Side Extensions to Dwellings on a Corner Plot

- 5.14 Extensions to houses on corner plots can have an unacceptable impact on the street scene by eroding the space around buildings and presenting a hard edge to the public highway. Therefore, planning permission will not normally be granted for a single or two-storey extension to a dwelling on a corner plot unless it maintains sufficient space between the boundary or back of service strip and the nearest part of the extension.
- 5.15 Factors that will be taken into account when determining what constitutes 'sufficient space' include the presence of a strong building line and any overriding need to protect it, the proximity of neighbouring buildings, and the space surrounding other buildings in the immediate vicinity of the site and the contribution this space makes to the overall character of the street scene.

- 6.28 The building line on Johnston Avenue would not be broken because of the space and the separation between the rear of the appeal property and the neighbouring house at No.2 Johnston Avenue is such that the extension would not, in this case, dominate or be harmful to the street scene in that road. In addition, a service strip will be retained as required as per the councils corner plot policy above.

6.29 The proposal would not be intrusive or overly prominent nor would it project beyond a strong building line, as it would be well set back from the site frontage and set away from the neighbour at the rear (no. 2 Johnston Avenue) by approximately 14m (as shown below in fig.11). This would provide a sufficient separation distance resulting in no strong building line to this side of the road that would be broken for the reasons explained above.

Figure 11; Site plan showing the dimensions of proposed extension to the neighbour at the rear



PROPOSED BLOCK PLAN
1:200

6.30 The new extension would be set back from the footway and it would be modest in height. It would be visually 'read' within the context of the existing dwelling. Therefore the proposal would not look out of place nor would it make the corner plot feel too built up or enclosed.

6.31 The councils delegated report states *“the proposed first floor extension constitutes a prominent addition to the host dwelling which would significantly erode the sense of space between the adjacent dwellings.”*

6.32 Although the Council is of the view that the proposal significantly erodes the sense of space between the adjacent dwellings and present a hard edge to the highway, that assertion is not explained or justified in any extensive detail within the officer's delegated report. Also this assertion is not an appropriate analogy given that the side garden at present will be preserved and no policy justification is provided by the council's adopted policy on corner plots.

6.33 As there is already a single storey extension this factor cannot be embellished or misinterpreted in the way it has been referenced.

6.34 **Character and Appearance of the Street scene**

6.35 There is generous space between the side of the appeal site and the side boundary of the site, and the adjacent dwellings to the rear on Johnston Avenue are substantially set back from the appeal property (as shown below). These factors help create a sense of openness in the immediate locality.

Figure 12; Photograph showing the separation distance and openness between the rear elevation no.48 Rose Avenue and the side elevation of no.1 Johnston Avenue



6.36 It is acknowledged as referenced above the appeal dwelling has an existing extension positioned to the side. The overall scale of the dwelling would not be significantly altered as the existing ridge height of the extension is 4.9metres (as shown below). The proposed ridge height will be 7.6m (as shown in fig.14)

Figure 13; Existing Front Elevation with annotation of existing ridge height of the garage extension



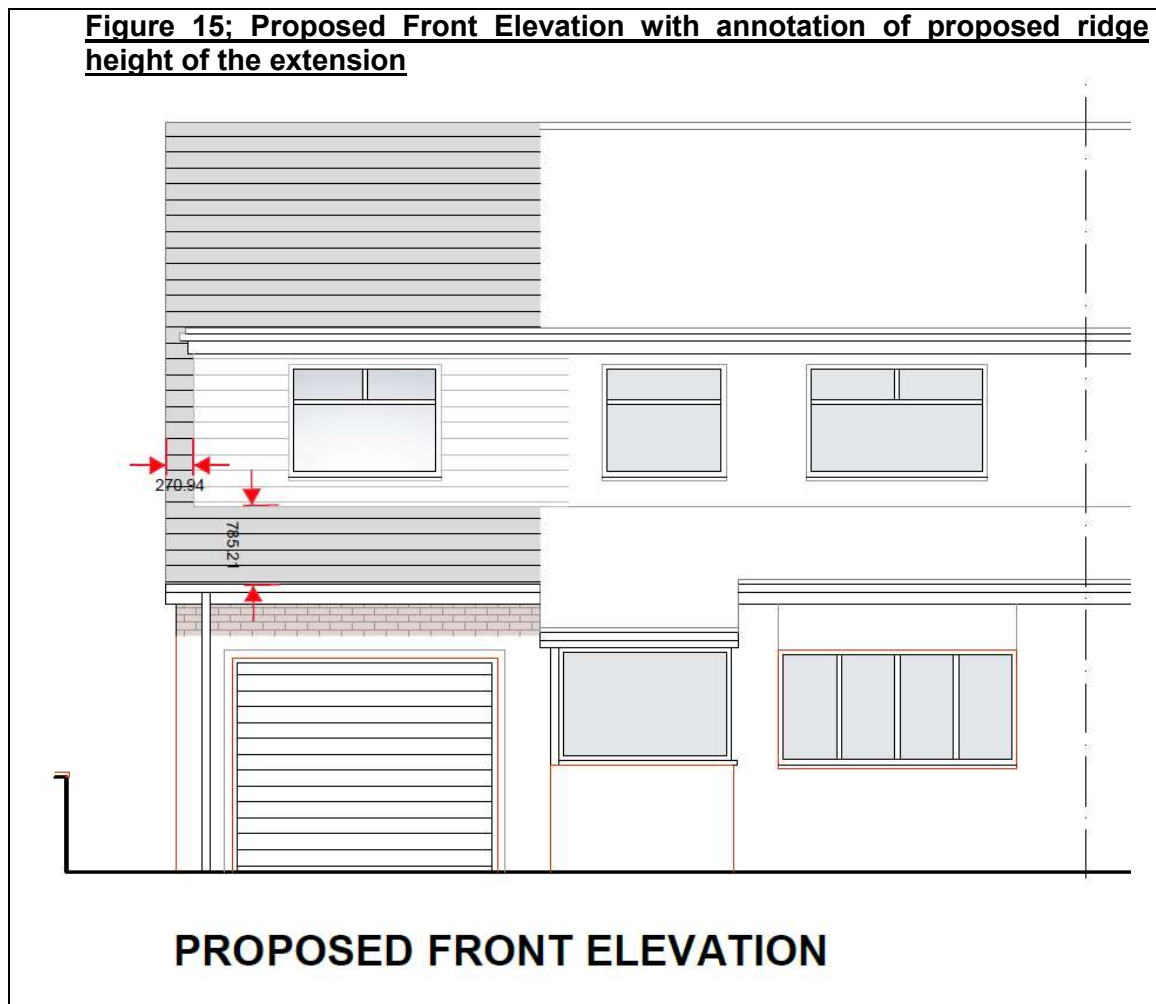
EXISTING FRONT ELEVATION

Figure 14; Proposed Front Elevation with annotation of proposed ridge height of the extension



PROPOSED FRONT ELEVATION

- 6.37 Therefore the increase of 2.4m would not be a visually intrusive addition in the street scene and would not noticeably erode the good spacing to the side which currently contributes positively towards the character of the area.
- 6.38 The proposed ridge height and dormers would be consistent with the SPD as it would not project beyond the existing ridgeline of the property and the dormers are setback from the eaves by 785mm and set off the side wall of the property by 270mm as shown below. This ensures that the extension would be subservient to the host property in that respect.



- 6.39 The extension is in line with the existing front and rear walls of the dwelling and will be built up in line with the existing gable of the ground floor single storey garage extension. The eaves will align, and the ridge will align. There will be a visual break to the front of the property and the side boundary. The extension will continue the existing architectural form of the host dwelling thereby matching the current design of the dwelling. The scale is within the parameters of the existing dwelling and the design matches the existing dwelling in terms of materials, and fenestration features.
- 6.40 The extension is very common type of extension on a very common dwelling style within the borough of Rochdale. The width of the overall dwelling will increase at first floor only and come in line with the ground floor, this would provide additional scale and mass but not an overbearing amount, certainly within the context of a property of this nature. In addition the proposal will compliment the streetscene without interrupting the dominant architectural style (semi-detached dormer bungalows).
- 6.41 Furthermore Johnston Avenue is of short length of road therefore the impact is localised and in addition the extension respects the design of the existing building in

respect of continuing the roof style which is not contrary to policy as referenced within the delegated report.

6.42 The appellant believes that observing the existing similar development within the vicinity, it is not considered that they have resulted in a visually harmful impact upon the character and appearance of the streetscene, and the appeal proposal would result in a similar visual impact.

6.43 Precedent and Consistency

6.44 Guildford Borough Council Vs Secretary of State for Community and Local Government (2009) states that *"in the exercise of planning judgment a relevant consideration may be the local authority's own approach to similar applications in the locality. Public law principles demand consistency in the application of policies by public bodies such as local planning authorities, unless there are good reasons to the contrary. Consistency is required as a broad principle of good administration and derives from general principles of fairness in the treatment of citizens. "*

6.45 Mann LJ in North Wiltshire District Council v Secretary of State for the Environment(1993) 65 P & CR 137: explained that *"One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency [...]. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system."*

6.46 There are two recent decisions in the High Court that have now emphasised the importance of consistency in planning decisions and the need for clear reasons to be given where inconsistencies arise.

6.47 The first case, R (Midcounties Co-Operative Limited) v Forest of Dean District Council [2017] EWHC 2050, Planning permission was quashed by the court after it held that the council had made clearly inconsistent decisions and had failed to provide adequate reasons for doing so. Singh J confirmed (at paragraph 107) that: *"Although the authorities demonstrate that a local planning authority is not bound by its earlier decision, nevertheless it is required to have regard to the importance of consistency in decision-making."*

6.48 The case emphasised that, in circumstances in which an earlier decision is a material consideration in the context of a current application, a decision-maker must provide clear reasons for any departure from their original position.

6.49 In the second case, Baroness Cumberlege v Secretary of State for Communities & Local Government [2017] EWHC 2057. Howell QC stated (at paragraph 100) that: *"There is a public interest in securing reasonably consistency in the exercise of administrative discretions that may mean that it is unreasonable for a decision-maker not to take into account other decisions that may bear in some respect on the decision to be made. There is no exhaustive list of the matters in respect of which a previous decision may be relevant. That must inevitably depend on the circumstances."*

6.50 These two court decisions emphasise the need for consistency in planning decision-making, especially when assessing similar developments. Whilst it is noted that this is not so onerous to mean all previous decisions must be considered. However, it is clear that there are instances where decisions are so similar that to fail to take them into account would be nothing but unreasonable.

6.51 As such, the court decisions highlight the need to be aware of relevant earlier decisions when dealing with a planning application. Where a different decision is being sought, adequate evidence must be provided to enable a decision-maker to depart from

their previous decision and be able to back this up with reasons. The appellant is of the view that this evidence is lacking within the delegated report.

- 6.52 Whilst the appellant understands that each application is judged on its own merits, the existing similar developments within the area is a material consideration in the determination of this appeal as they have altered the original built form of development, and urban grain, within this area. For example no.3 Johnston Avenue which was allowed at appeal (APP/P4225/D/17/3180197) on 26.10.2017 for a two storey side extension. Further details on this appeal is attached to appendix 3.

Figure 16; Photograph of no.3 Johnston Avenue showing the two storey side extension.



- 6.53 The Council have not acknowledged that there is an example of a two storey side extension in the locality nor is there any reference to the extension within the officer's delegated report.
- 6.54 There are also granted planning applications within the borough of Rochdale where the circumstances are comparable to the appeal site and the applications were assessed against the same planning policies and supplementary planning guidance.
- 6.55 17/01180/HOUS - Proposed single storey rear and two storey side extension including detached garage (resubmission of 17/00802/HOUS) at no.16 Woodgate Avenue, Rochdale OL11 4DW approved 11th December 2017 (Appendix 4).
- 6.56 The delegated officers report explained the reasons for granting the application as follows *"The side elevation of the existing dwelling currently contributes to a strong building line shared with the front elevations of the dwellings along the northern side of Cambridge Avenue. The proposed side extensions and attached garage would project forward of this building line contrary to the requirements of the SPD. However given the significant size of the side garden and generally spacious character of the street scene, a moderate degree of incursion over the building line is, on balance, considered to be acceptable in this location"*.

Figure 17; View from front elevation of Number 16 Woodgate Avenue



Figure 18; View when travelling along Cambridge Avenue



6.57 As the above pictures (figures 17 & 18) confirm the circumstances are comparable to the appeal proposal, however the council formed a different view at these locations despite the similar setting.

6.58 Another example is 19/00323/HOUS - Two storey side extension at no.11 Hillcrest Avenue, Heywood OL10 4RL approved on 16th May 2019 (Appendix 5). As you can clearly see below the extension extends beyond a strong building (Figure 19).

Figure 19; View when travelling along Norfolk Avenue



6.59 The delegated officers report justified the reasons for granting the application which are as follows "The terraced properties positioned along the west side of Norfolk Avenue have a strong established building line. The side elevation of the host dwelling sits flush with this building line. **Whilst the proposed extension would extend beyond this building line, considering that it fronts Hillcrest Avenue; is positioned approximately 14m from these properties** and is separated from them by a highway it is considered that **it would not, by virtue of its width appear unduly prominent in the street scene when viewed from Norfolk Avenue.**

6.60 The appeal proposal extends beyond the building line of Johnston Avenue, fronts Rose Avenue and is positioned approximately 14m from the properties at the rear, which is almost identical to the planning application approval referenced above in 6.58 and 6.59. Therefore, it is considered that **the proposal would not, by virtue of its**

size and siting appear unduly prominent in the street scene when viewed from Johnston Avenue.

- 6.61 07/D50041 - Demolition Of Existing Porch And Erection Of Two Storey Side Extension To Dwelling at 1, Chelmer Grove, Heywood, OL10 4RX granted in 2007. As you can clearly see below (Figure 20 & 21) the same principle applies.

Figure 20; View from front elevation of Number 1 Chelmer Grove



Figure 21; View when travelling along Higher Lomax Lane



- 6.62 The National Planning Practice Guidance for ‘Appeals’ (“the Guidance”) sets out the Secretary of State’s policy on Paragraph 049 of the Guidance gives various examples of substantive unreasonable behaviour, including:

- not determining similar cases in a consistent manner;

- 6.63 It is the Appellant’s position that the Council have not determined similar applications in a consistent manner, and therefore merits an allowed appeal. The Appellant contends that the Council has refused this application without clear justification and in contradiction to other approvals in the streetscene.

- 6.64 The LPA is entitled to consider the cumulative effect of similar decisions that would cause harm, but the possibility of precedent should not lead to a refusal where there are other good reasons for allowing a development. There is a lack of consistency shown against similar planning applications.

- 6.65 Furthermore, the appeal proposal meets with the design character of the area, as clearly established by the Councils guidance documents, and relates directly to recent

identical approved applications by the Council in the last few years under current Rochdale MBC policies.

6.66 It is unreasonable for a decision-maker not to take into account other decisions and appeals that may bear in some respect on the decision to be made. As such, the LPA should have regarded previous decisions and appeals on extensions in the immediate area.

6.67 As explained above it is well-established case law that previous planning decisions and appeals need to be taken into account by those determining subsequent applications for permission. It is concluded in this case that previous planning decision most notably at no.3 Johnston Avenue (APP/P4225/D/17/3180197) allowed on 26.10.2017 should have been taken into account and instances where decisions are so similar that to fail to take them into account is unreasonable.

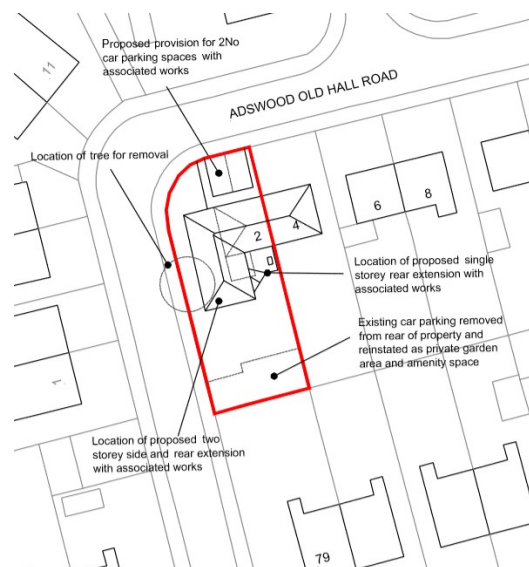
6.68 Based on the assessment of no.3 Johnston Avenue allowed on appeal in October 2017 (APP/P4225/D/17/3180197) the appeal proposal should of been granted by the LPA resulting in a consistent planning decision making process. The appellant believes that consistency has not been addressed in the determination of this application and respectfully requests for the planning inspectorate to approve the appeal in line with the points raised within this statement.

6.69 There is further established case law in the form of Appeal: APP/G4240/D/20/3244243 that was allowed in June 2020 at 94 Granada Road, Denton M34 2LA, (see Appendix 6) this was an appeal that the appellants agent contested on the grounds of precedent and consistency.

6.70 The inspector concluded in this case ***“There are several examples of extensions nearby which are similar to the proposal in terms of their design, scale and massing. From the street outside the appeal property the extensions can be viewed together. They therefore help to define the character and appearance of the area surrounding the appeal site.”***

6.71 Another established case law is in the form of Appeal: APP/C4235/D/14/2221993 (see Appendix 7) that was allowed in August 2014 for a two storey side extension on a corner plot of a similar nature at 2 Adswood Old Hall Road, Cheadle Hulme, Cheadle, Cheshire, SK8 5QZ. As shown below;

Figure 22: Proposed site plan of allowed appeal at Number 2 Adswood Old Hall Road.



- 6.72 The Appellants have designed the proposal with a high regard for the locality and ensured that the host dwelling is respected, and the character of the street scene is not detrimentally harmed mimicking the form, scale and materials of the existing dwelling.
- 6.73 The proposal does not project forward of the front elevation or beyond the existing side wall of the property and as such, it would not dominate the existing property or street scene. Consequently, the extension would be a subservient addition thus complying with the Councils 'Standards for Residential Development SPD'.
- 6.74 In view of the above, it is contended that the appeal proposal would not fail to result in a satisfactory standard of design and would not result in undue harm to the character and appearance of the street scene.
- 6.75 No neighbour comments were submitted objecting to the proposal; therefore, it is reasonably considered that the neighbouring properties are of the view that the proposal is not harmful to the streetscene.
- 6.76 **Corner Plot Policy**
- 6.77 The Council has a specific policy on corner plots as outlined by the reason for refusal. The only matter that is relevant is the loss of the side garden. No other matter can be introduced used from elsewhere to embellish what is a clearly worded policy on corner plots. It is the second paragraph of the policy on corner plots set out factors that will be taken into account when determining what constitutes 'sufficient space'. This is however, a matter already defined by part one of the policy as being '*sufficient space between the boundary or back of service strip and the nearest part of the extension*'. The appeal proposal contains sufficient space between the boundary and also provides a service strip.
- 6.78 **Sustainable Development**
- 6.79 Paragraph 8 of the NPPF states that "*Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives)*":
- 6.80 **a) an economic objective** – *to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- 6.81 **b) a social objective** – *to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- 6.82 **c) an environmental objective** - *to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*
- 6.83 The scheme provides planning gain benefits for example the proposal would make for the effective use of land under the Framework, given that it will extend a building providing additional space for residential use.
- 6.84 The proposal would facilitate the provision of job opportunities for local residents. This would assist in terms of employment for construction works.

6.85 In addition, there will be a social advantage as the design will improve the look of the property and increase its value, bringing an economic advantage to the housing stock of the area.

6.86 On balance, the appellant believes the proposal would amount to sustainable development as explained above and this is a material consideration that weighs in allowing the appeal.

7 CONCLUSIONS

7.1 Paragraph 49 of the Framework requires that applications should be considered in the context of the presumption in favour of sustainable development. The workings of the presumption in favour of sustainable development are set out in paragraph 11 of the Framework which highlights that the presumption in favour of sustainable development should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking, the presumption means approving proposals that accord with the development plan without delay, and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: (i). the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii). any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

7.2 In conclusion, the above Case for the Appellant/Grounds of Appeal has clearly demonstrated that the proposed development by virtue of its size and siting on a corner plot, would not be prominent and would not result a hard edge forming on the building line of Johnston Avenue and would not inflict undue harm to the character and appearance of the street scene. . In addition, the proposed development would not cause significant harm to the outlook and light that neighbouring residents currently enjoy and would not be overbearing. Furthermore, there would be no detrimental impact to highway safety as a result of the proposal.

7.3 For these reasons, the appellant contends that the appeal proposal would comprise sustainable development, which would comply with the relevant Core Strategy policies DM1 and P3 and guidance contained within the 'Guidelines and Standards for Residential Development' SPD and the policies contained within the National Planning Policy Framework.

7.4 The Appellant would agree to the following conditions if the appeal is allowed:

1. The standard time limit in the interest of proper planning.
2. Use of matching materials in the interests of consistency of appearance.
3. A list of the approved plans in the interests of certainty.

7.5 In view of the above statement of Case of the Appellant, it is respectfully requested that the appeal is allowed.