

Appeal against Kirklees Council

Refusal of Planning Application 2022/HHPD/92666/W

34 Foster Avenue

Crosland Moor

Huddersfield

HD4 5LN

The proposal is for erection of single storey rear extension. The extension projects 6m beyond the rear wall of the original dwellinghouse. The maximum height of the extension is 4m, the height of the eaves of the extension is 3m

Appellant:	ZM Construction & Properties Ltd
Date:	26 th October 2022
Prepared:	LB
Checked:	TP

Statement of Case

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1.0 INTRODUCTION

1.1 RBA Town Planning have been instructed by the Applicant, ZM Construction & Property Ltd, of Planning Application 2022/HHPD/92666/W to act on their behalf in the preparation and submission of an Appeal against the decision of the Local Planning Authority to refuse Planning Consent for the proposed development.

1.2 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing. (*National Planning Policy Framework 47*).

1.3 The Application was refused Prior Notification on 16th September 2022, for the reasons outlined with the issued Decision Notice, which cites policies contained within the Councils Adopted Plan.

1.4 This Statement sets out the Appellant's Case and makes reasoned justification against Adopted Plan Policies cited within the Notice. This statement should be read in conjunction with the proposed plans and all other documentation submitted as part of the original planning application and attached appendices.

1.5 Given the determination date of the Refused Planning Application it is considered that the Appeal is not outside the prescribed time limits for submission and is lodged under the Written Representation Procedure.

2.0 THE SITE

2.1

The property is a semi-detached bungalow, there is plenty of garden area to the rear with a large drive to the side for off street parking.

The area is residential with a large green open space to the rear of the property.

Fig 1. Location Plan

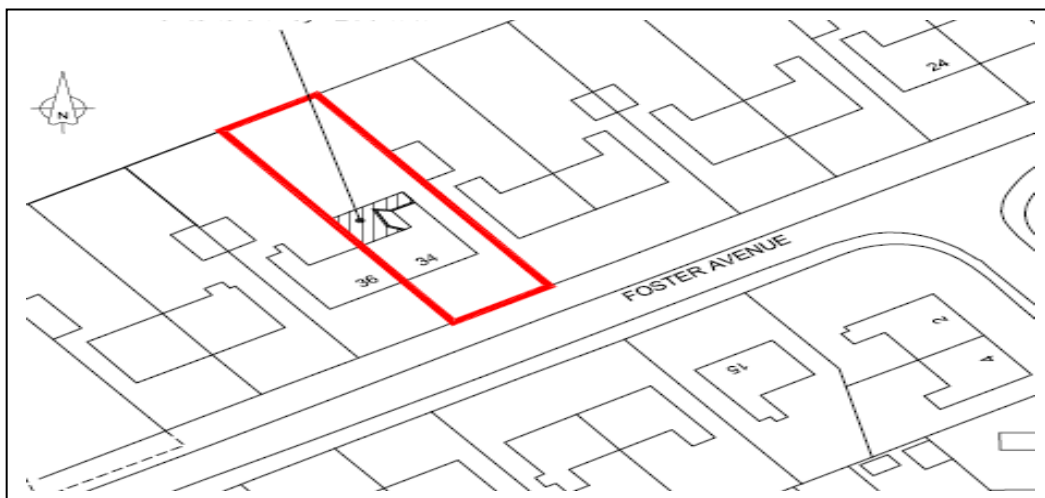


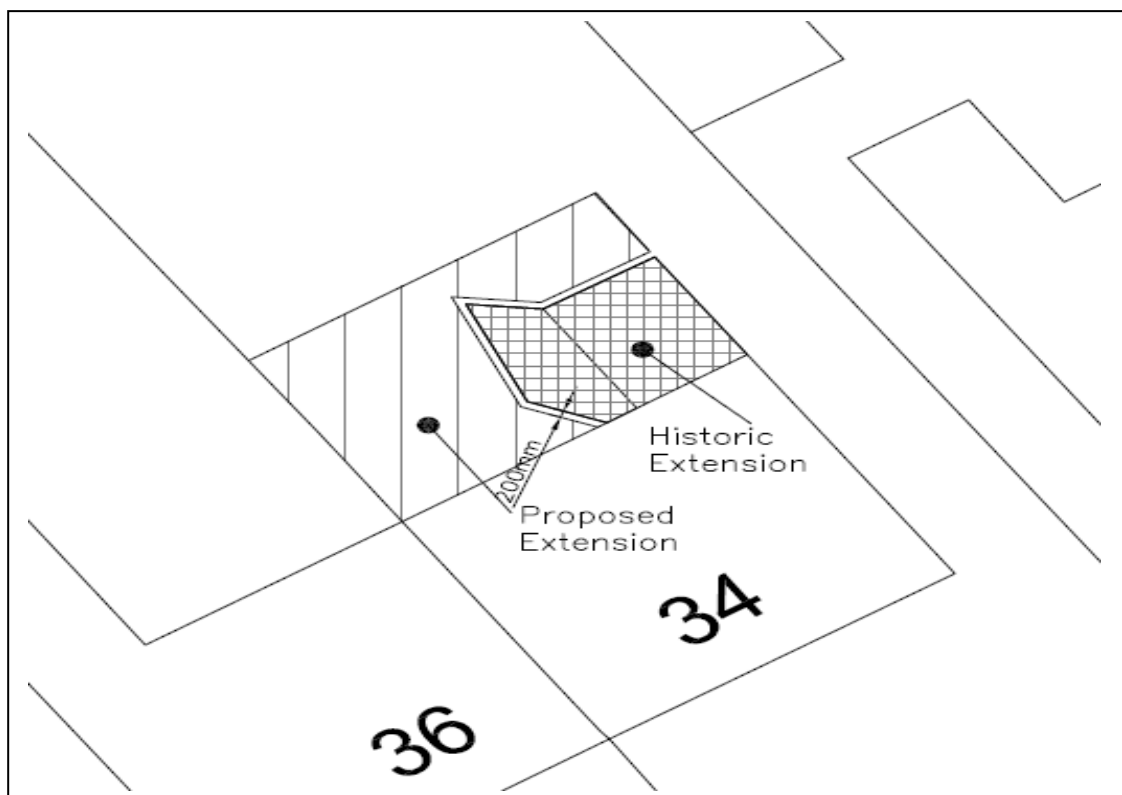
Fig 2 – Street View



3.0 PROPOSAL

3.1 The Appellant sought Prior Notification Consent from Kirklees Council for the erection of single storey rear extension. The extension projects 6m beyond the rear wall of the original dwellinghouse. The maximum height of the extension is 4m, the height of the eaves of the extension is 3m

Fig 3. – Block Plan



4.0 REFUSAL

4.1 The Application was refused Prior Notification on 16th September 2022 for the following reasons;

1. The proposed enlargement projects beyond a side wall of the original dwellinghouse and is more than half the width of the original dwellinghouse, thus contrary to sub-paragraph (j) of Part 1, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

5.0 POLICY

5.1 Class A – enlargement, improvement or other alteration of a dwellinghouse

Permitted Development

A. The enlargement, improvement or other alteration of a dwellinghouse.

Development not permitted

A.1 Development is not permitted by Class A if—

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

(b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

(c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

(d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;

(e) the enlarged part of the dwellinghouse would extend beyond a wall which—

(i) forms the principal elevation of the original dwellinghouse; or

(ii) fronts a highway and forms a side elevation of the original dwellinghouse;

(f) subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height;

(g) until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or

- (ii) exceed 4 metres in height;
- (h) the enlarged part of the dwellinghouse would have more than a single storey and—
- (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or
- (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;
- (i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;
- (j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—
- (i) exceed 4 metres in height,
- (ii) have more than a single storey, or
- (iii) have a width greater than half the width of the original dwellinghouse; or
- (k) it would consist of or include—
- (i) the construction or provision of a verandah, balcony or raised platform,
- (ii) the installation, alteration or replacement of a microwave antenna,
- (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
- (iv) an alteration to any part of the roof of the dwellinghouse.

A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if—

- (a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;
- (b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
- (c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.

Conditions

A.3 Development is permitted by Class A subject to the following conditions—

- (a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- (b) any upper-floor window located in a wall or roof slope forming a side elevation of the

dwellinghouse must be—

- (i) obscure-glazed, and
- (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and
- (c) where the enlarged part of the dwellinghouse has more than a single storey, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

A.4—(1) The following conditions apply to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g).

(2) Before beginning the development the developer must provide the following information to the local planning authority—

(a) a written description of the proposed development including—

(i) how far the enlarged part of the dwellinghouse extends beyond the rear wall of the original dwellinghouse;

(ii) the maximum height of the enlarged part of the dwellinghouse; and

(iii) the height of the eaves of the enlarged part of the dwellinghouse;

(b) a plan indicating the site and showing the proposed development;

(c) the addresses of any adjoining premises;

(d) the developer's contact address; and

(e) the developer's email address if the developer is content to receive communications electronically.

(3) The local planning authority may refuse an application where, in the opinion of the authority—

(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with,

the conditions, limitations or restrictions applicable to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g).

(4) Sub-paragraphs (5) to (7) and (9) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

(5) The local planning authority must notify each adjoining owner or occupier about the

proposed development by serving on them a notice which—

(a) describes the proposed development, including—

(i) how far the enlarged part of the dwellinghouse extends beyond the rear wall of the original dwellinghouse;

(ii) the maximum height of the enlarged part of the dwellinghouse; and

(iii) the height of the eaves of the enlarged part of the dwellinghouse;

(b) provides the address of the proposed development;

(c) specifies the date when the information referred to in sub-paragraph (2) was received by the local planning authority and the date when the period referred to in sub-paragraph (10)(c) would expire; and

(d) specifies the date (being not less than 21 days from the date of the notice) by which representations are to be received by the local planning authority.

(6) The local planning authority must send a copy of the notice referred to in sub-paragraph (5) to the developer.

(7) Where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.

(8) The local planning authority may require the developer to submit such further information regarding the proposed development as the authority may reasonably require in order to determine the application.

(9) The local planning authority must, when considering the impact referred to in sub-paragraph (7)—

(a) take into account any representations made as a result of the notice given under subparagraph (5); and

(b) consider the amenity of all adjoining premises, not just adjoining premises which are the subject of representations.

(10) The development must not begin before the occurrence of one of the following—

(a) the receipt by the developer from the local planning authority of a written notice that their prior approval is not required;

(b) the receipt by the developer from the local planning authority of a written notice giving their prior approval; or

(c) the expiry of 42 days following the date on which the information referred to in subparagraph

(2) was received by the local planning authority without the local planning authority notifying the developer as to whether prior approval is given or refused.

(11) The development must be carried out—

(a) where prior approval is required, in accordance with the details approved by the local planning authority;

(b) where prior approval is not required, or where sub-paragraph (10)(c) applies, in accordance with the information provided under sub-paragraph (2), unless the local planning authority and the developer agree otherwise in writing.

(12) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the impact of the proposed development on the amenity of any adjoining premises.

(13) The development must be completed on or before 30th May 2019.

(14) The developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.

(15) The notification referred to in sub-paragraph (14) must be in writing and must include—

(a) the name of the developer;

(b) the address or location of the development, and

(c) the date of completion.

6.0 ASSESSMENT

6.1 it is suggested by the Council that the proposed extension projects beyond the side elevation of an existing extension and that the resulting extension is more than half the width of the original dwelling making the proposal contrary to sub-paragraph (j) of Part 1, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

6.2 The proposed plan clearly shows an historical extension of which is an unorthodox shape, however this is not a true representation of the site with the extension being more rectangular, the Appellants Agent was told to include the unusually shaped extension on the plan by the Local Authority although RBA Town Planning Advised to the Contrary as it is not present on site with no evidence of it previously being there other than on some historic plans held at the Authority.

6.3 The proposed block plan shows the proposed extension to be detached from any previous extension and thus only projecting from the rear wall of the dwelling. Whilst therefore the proposed extension sits to the side of existing rear extension it does not project from any of its elevation by a matter of fact, it therefore follows that it does not project from the side elevation.

6.4 It is contended that the criteria of the GPDO has clearly been met without any doubt or ambiguity and whilst the proposal does sit with an unorthodox design it does provide the Appellant with the space required.

7.0 CONCLUSION

7.1 The National Planning Policy Framework (NPPF) states in paragraph 10 to ensure that “sustainable development is pursued in a positive way, at the heart of the framework is a presumption in favour of sustainable development”. The proposal comprises sustainable development when considered against guidance in the NPPF. The framework advises that developments should respond to local character and history and reflect the identity of local surroundings and materials, whilst not discouraging appropriate innovations.

7.2 It has been evidenced in the assessment above that the proposed development does not contravene the criteria set out in sub-paragraph (j) of Part 1, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

7.3 It is respectfully requested that the appeal is upheld and permission granted for the proposed development subject to appropriate conditions.