

PLANNING APPEAL STATEMENT OF CASE

s78 of the Town and Country Planning Act (1990)

**ERECTION OF DETACHED DWELLING AND
ALTERATIONS TO PARKING ARRANGEMENTS**

**STONEY CROFT
15 PARK HEAD LANE
HOLMFIRTH
HD9 2LB**

Ref: KIRKLEES COUNCIL

Application No: 2022/62/92851/W

Appellant: MR M O'BRIEN

DECEMBER 2022

CLIENTS:

This appeal statement has been prepared by Andy Rushby BA(Hons), BTP, MBA, MRTPI, who is the Principal of Assent Planning Consultancy Ltd, on behalf of the appellant.

Reasons for Refusal (Decision Notice dated 10 October 2022)

1. The proposed development, by virtue of its prominent location, size, scale, massing and three storey design including lower ground floor level with terraced area above, would fail to sympathetically integrate and harmonise with existing development in the locality and would be read as an incongruous addition within the streetscene. The proposal would therefore cause detrimental harm to the visual amenities and character of the area, contrary to Policies LP1, LP2, LP11 and LP24(a) of the Kirklees Local Plan, Policies 1 and 2 of the Holme Valley Neighbourhood Development Plan, Principles 2 and 5 of the Council's adopted House-builders Design Guide Supplementary Planning Document and policies contained within Chapter 12 of the National Planning Policy Framework.

Appellant's Case

1.1 In summary, it is the appellant's case that the LPA has over-exaggerated the alleged impact of the proposed development, and in particular its alleged detrimental impact on the streetscene and the character of the wider area.

1.2 The LPA's delegated officer report ("officer report") confirms that the LPA has no objections in principle to residential development on this site, as established by a 2020 outline planning permission (2020/90962). The delegated officer report also concludes that the proposed development would not have an unacceptable impact on the residential amenity of nearby dwellings nor on highway safety.

1.3 The approved outline application (2020/90962) was for access and layout, with all other matters reserved. The grouped plans and elevations for this permission are attached as Appendix 1. It should be noted that indicative sections were provided with this application that clearly show a significant amount of "underbuild" due to the topography of the site, giving rise to the potential for use of this space as a basement to provide for a dwelling with a two storeys to the rear and three storeys to the front, a not unusual arrangement for a dwelling on the steep slope of this part of Holmfirth. Whilst scale and appearance was not applied for, nevertheless the inclusion of this indicative section should have led the LPA to presume that the indicative floor layouts and scale / massing would follow as per the indicative sections as part of any reserved matters application for scale and appearance. The outline permission in respect of layout showed a dwelling that projects 1.2m beyond the line of Stoney Croft to the south, yet the LPA objects to the basement/terrace of the proposed scheme projecting beyond this building line. The proposed basement/terrace also projects 1.2m beyond the line of Stoney Croft.

1.4 Following this outline permission, the appellant decided to submit a full application (2021/93866), as the footprint of the proposed scheme was to be increased in area from that given permission in the outline. The proposed site plan and block layout for this application is attached as Appendix 2. A comparison between the footprint of the outline scheme and the footprint of the full application scheme indicates an increased footprint for the latter but, importantly, the section included with this application continues to show an “underbuild” slightly larger than that shown indicatively on the outline approval, to provide for two storeys to the rear and three storeys to the front.

1.5 The officer report for the 2021 application is attached at Appendix 3 and, in relation to the layout and scale of the proposed dwelling, states that -

In conclusion, the proposed size, scale and massing of the dwelling is considered to be out of keeping with the immediate area and would be openly visible given its siting prominent and raised location on Park Head Lane. This coupled with the significant amount of glazing and balcony areas proposed within the southern elevation are considered to be incongruous additions which do not reflect windows and design details found within the current streetscene.

1.6 Whilst the appellant would have agreed to a certain extent with regard to the footprint of the proposed dwelling and its location within the site, the appellant could not agree that the scale and massing of the dwelling would be significantly different to the indicative scale and massing shown as part of the outline approval. The appellant would further disagree that the glazing and balcony areas are somehow “incongruous” within the streetscene, as the area contains a wide variety of house styles (and materials) and ages, and so there is no common “theme” to the character and appearance of the wider area. As such, the glazing and balcony are not considered to be “incongruous”.

1.7 The 2021 application was refused for the reasons set out in the decision notice for that application - see Appendix 4. Whilst the appellant disagreed with elements of this reason for refusal, he determined to amend the scheme to take account of matters of footprint and building

lines. The appellant did not agree however, that scale and massing represented valid reasons for refusal, nor did he agree the design of the scheme was incongruous.

1.8 These amendments resulted in the scheme that is the subject of this appeal. Despite amendments to the scheme, the LPA determined to refuse this application for substantially the same reasons as the previous application. The officer report for the appeal scheme states -

In relation to the immediate neighbours to the west, which this dwelling would have a strong visual relationship with, these have principal elevations facing to the south and the rear elevations face to the north. Whilst amendments are welcomed so that the south elevation appears less as a rear elevation compared to the previously refused application 2021/93866 so that the proposal better integrates with existing development, Officers still do not consider that the changes are sufficient enough give this elevation the appearance of the principal elevation thereby appearing visually jarring. Of note, the proposed basement area is still shown on the submitted plans and Officers do have concerns that the proposals would result in the south elevation of the proposed dwelling appearing more in line with an elevation typically found to the rear. The terracing area above this basement level is also something which Officers hold the view is something more typical to the rear of dwelling. Given this, Officers have significant concerns that the dwelling would not sympathetically integrate with existing development. As a result of this basement level too, thereby creating a 3 storey appearance to the south, Officers consider that the building would appear noticeably larger than neighbouring dwellings to the west which would only add the incongruent nature of the dwelling when viewed amongst this row of dwellings.

1.9 In response to these assertions, the appellant would wish to provide a strong rebuttal as follows -

- At no point in the determination of the application did the LPA attempt to explain or elucidate on what is meant by the south elevation appearing “less as a rear elevation” nor to explain or elucidate on what constitutes “the appearance of the principal elevation. The appellant is at a

complete loss to know or understand what these subjective phrases actually mean. How does the southern elevation of the proposed dwelling look like a rear elevation? What does a principal elevation look like? What does a “typical” rear elevation look like? In response to these matters, it is considered that the proposed south elevation has a front entrance door and sidelight arrangement, generally replicating the entrance door arrangement to Stoney Croft & Hillway, together with a projecting feature gable and so appears very much as a front elevation. The appellant also states that he chose the architectural practice who designed the proposed dwelling because of their strong local connections, knowledge and experience - the practice was founded in Holmfirth 45 years ago and has designed and built many, many residential properties in the town and surrounding area in that time. It therefore understands site context and design in the area and so for the LPA to subjectively assert that the proposed dwelling is “visually jarring” is held to be both factually incorrect and entirely inappropriate given this practice’s track record of excellent design and development.

- It is not unusual in Holmfirth and the Holme Valley to have dwellings with three storeys facing down the slope and two storeys facing up the slope in order to make the best use of the topography of sloping valley sites. This often creates a lower ground floor which, in itself, is not unusual and the appellant is again at a loss as to why the LPA objects to this type of common layout. The fact that the appellant has chosen to extend this lower ground floor to provide for a walkway above the lower ground floor to take advantage of the fabulous views across the valley to the south is a clear design “plus” and does not affect the residential amenity of the occupiers of neighbouring properties. It is also not unusual for such an area to take advantage of the best views that a property has to offer, whether that be to the rear, front, or even side elevations. Such an arrangement is not “typically” to be found on just a rear elevation.
- The appellant holds that the last part of the assessment is the most telling in terms of the LPA’s refusal of this scheme. The inference in the report is that the proposed property should look like its neighbours, otherwise it is somehow “incongruous”. This is a fundamental issue

which the appellant strongly opposes. The appellant contends that, by insisting that a new property looks like its neighbours, this simply leads to pastiche development, with everything “looking the same”. This is considered to stifle innovative and creative design and, in some cases, to copy “bad” designs of the past. The adjacent properties of Stoney Croft and Hillway have pebbledash render upper walls which don’t reflect the local vernacular architecture in any way - the proposed scheme is held to be of a much higher architectural and design quality.

- Modern or contemporary designs are “of their time” and should be recognised as such - design should reflect and respect site context and, in this case, that is exactly what the appellant holds to be the case. The fact that the proposed development is larger than its neighbours is irrelevant - the proposed development is considered to “fit” the site and the area.

1.10 The officer report goes on to consider further the lower ground floor and in particular construction details. In order to provide the pathway to the front of the dwelling, significant earthworks would be required to bring the existing lower garden levels up to ground floor level in the south-east area of the site, where existing ground levels are some 2.2m-2.5m below ground floor level. To achieve this, a substantial stepped retaining wall would need to be constructed, parallel to and approximately 2m distance from, the boundary wall to Park Head Lane for a length of at least 5m in order to retain the infill. This in itself would be particularly visible from Park Head Lane due to its close proximity to the boundary. The appellant would also strongly disagree with the assertion that an “under-build” was not shown on the indicative plans at outline stage - this is clearly incorrect, as such a feature can be seen on the section in Appendix 1. The fact that this does not show excavations, as are shown in the sections of the proposed scheme, is all that is different in this respect.

1.11 The officer report continues with the objection to the proposed scheme in terms of scale and massing, the main issue being that the southern elevation would appear as three storeys whilst its neighbours southern elevations appear as two storeys. Notwithstanding the argu-

ments set out in paragraph 1.9 above, the ridge line of the proposed dwelling is 300mm lower than the properties to the west. Whilst there may be more a more visible built form in a three storey dwelling than a two storey, this in itself is no reason to refuse an application, especially given the proposed scheme is held to successfully integrate with the site's context and setting.

1.12 Finally, turning once again to the reason for refusal, the appellant contends, for the reasons set out above, that the size, scale, massing and three storey design (including the lower ground floor level and small terrace/path above) of the proposed development respond appropriately to the site's context in terms of topography and visual impact. As such, the appellant holds that the design of the proposed scheme does in fact integrate with development in the locality, the character of which is varied and eclectic, and cannot be reasonably considered to be incongruous in the streetscene, unless existing development is simply to be "copied". The appellant contends strongly that the proposed scheme would not cause any detrimental harm whatsoever to visual amenities or the character of the area and this has been demonstrated with proposed visuals submitted with the application that show that the lower ground floor level will not be visible from all perspectives, both from across the valley and close proximity.

As such the appellant holds that the proposed scheme does, in fact, meet the requirements of the relevant Local Plan policies and the Plan's supporting Supplementary Planning Guidance, as well as the requirements of the Holme Valley Neighbourhood Plan

2. Conclusion

2.1 Therefore, for the reasons set out above, it is respectfully requested that this appeal is allowed.

2.2 The information above justifies the proposed scheme, in that it demonstrates how the scheme responds positively to site context and the wider environment, providing an example of a well-reasoned and evidenced high-quality design within the area.

2.3 If the Inspector is minded to allow the appeal, the appellant has no objections to the imposition of any conditions as deemed necessary by the Inspector.