



STATEMENT OF CASE – AMEND A 18/04/24

14 Bankfield Terrace
Outcote Bank
Huddersfield
HD1 3HW

ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING.

Appendix

Please refer to the following documents:

- 2024.04.02 - BAN014 - Appeal Drawing Binder containing plans WD 2.1 – WD 2.2, WD3.1 – WD3.3, WD 4.1, WD5.1 – WD5.4.

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Statement of case for appeal, relating to a full planning permission application for the erection of a single storey side extension to form additional living space to improve the safety and comfort of a disabled person.

Prepared by Flocc Studio Limited on
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08.04.2024

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Section 01: Planning history of application site.

Application address: 14 Bankfield Terrace, Outcote Bank, Huddersfield.

The following planning history is documented on Kirklees Council planning database.

Application Reference	Description	Decision Date	Decision
2023/62/92827/W	Erection of single storey side extension and alterations.	7/2/24	Refused

Section 02: Timeline for refused householder application

Date	Sender	Recipient	Correspondence or Action
22/9/23	KC	Agent	Business support emails agent requesting payment for planning fee on the basis that the proposal benefits the house and is not solely for a disabled person.
22/9/23	Agent	KC	Agent clarifies that the proposal is solely intended for assisted care and offers to provide a blue badge and any other evidence needed to demonstrate this.
22/9/23	KC	Agent	Business support maintains that the application does not qualify for fee exemption.
25/9/23	Agent	KC	Agent highlights that under the town and planning act that the client should be exempt from paying the fee as the proposal will improve the comfort and safety of a person with a disability.
25/9/23	KC	Agent	Council maintain that the fee is required.
26/9/23	Agent	KC	Agent sends the extract from Article 4 to The Town and

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			Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended) and requests an explanation from council why the fee needs to be paid.
27/9/23	KC	Agent	Business support provide a form and request full details on the applicants disability for further assessment.
28/9/23	Agent	KC	Agent returns completed form to business support.
29/9/23	Agent	KC	Agent checks application progress with council.
29/9/23	KC	Agent	Council maintain the fee is still required based on the choice of wording used on the application form.
29/9/23	Agent	KC	Agent clarifies requests confirmation from council on how they want the certificate worded.
29/9/23	KC	Agent	Council respond by quoting the exact wording used, but don't offer any comments on the wording required on the certificate.
29/9/23	Agent	KC	Agent highlights that Kirkless are deliberately avoiding waiving the fees, which is against Article 4 to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended) and provides an amended certificate.

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29/9/23	Agent	KC	Agent queries whether the application can be validated.
29/9/23	KC	Agent	Kirkless maintain that the fee needs to be paid.
6/10/23	KC	Agent	Business support make contact requesting payment for the planning fee.
9/10/23	Agent	KC	Agent re-iterates that the applicant is exempt from paying the planning fee.
9/10/23	KC	Agent	Business Support send an email highlighting in bold that the proposal must comply with Kirkless Council's interpretation of the fee regulations.
9/10/23	Agent	KC	Agent clarifies what is needed for the proposal to qualify for the exemption.
9/10/23	KC	Agent	Business support refer back to previous comments relating to the extension being for the benefit of the whole house and that the disabled person is not on the application form.
10/10/23	KC	Agent	Council note that there are steps on the floor plan, which suggest the design is not for someone with a mobility disability.
10/10/23	Agent	KC	Agent highlights that the steps are simply a model part on the drafting software and that it is intended for internal access to be ramped.
12/10/23	KC	Agent	Council request plans are updated to show ramped access.

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12/10/23	Agent	KC	Agent provides updated plans.
12/10/23	KC	Agent	Business support requests the submitted forms are updated.
12/10/23	Agent	KC	Agent clarifies whether this is done via the portal or directly with council.
12/10/23	KC	Agent	Business support confirm via the portal.
13/10/23	Agent	KC	Agent checks application progress with council.
18/10/23	KC	Agent	Business support request red line boundary is updated on plans and certificate B submitted.
20/10/23	Agent	KC	Agent emails business support confirming updated plans and certificate has been submitted.
24/10/23	KC	Agent	Planning request additional sections to show the relationship of the extension to the existing retaining wall. Council also query if any investigations have been undertaken to assess the stability of the wall and foundations. Both items are not planning related matters.
24/10/23	Agent	KC	Agent emails business support highlighting that existing footings do not relate to planning.
25/10/23	KC	Agent	Business support maintain that the additional section drawings are required.
25/10/23	Agent	KC	Agent clarifies whether the request came from a senior planning officer as the details of existing footings are a building not planning matter.

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25/10/23	KC	Agent	Business support confirm the request came from the planning team leader.
25/10/23	Agent	KC	Updated sections and site plan provided.
30/10/23	Agent	KC	Agent contacts business support to check validation progress.
31/10/23	KC	Agent	Application validated and letter emailed to agent.
10/11/23	KC	Agent	Planner confirms the site visit has been carried out and highlights the proposal does not comply with planning policy.
22/11/23	Agent	KC	Agent emails council asking whether the application could be discussed in further detail following the neighbour consultation period.
8/12/23	Agent	KC	Agent checks application progress offering a date and time to discuss the submitted plans.
11/12/23	KC	Agent	Case is escalated from the planning assistant to the Team leader. Concerns are raised over the proposal and requests information already clarified/provided at validation: - Window fenestration - Non-compliance with SPD - Boundary ownership - Fee exemption - Internal steps on plans - Stability of existing boundary retaining wall (not a planning matter)

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			Extension of time requested to 15/12/23 requested by planner.
15/12/23	Agent	KC	Agent clarifies ownership of site and highlights this information was provided at validation and provides justification for the scale of the extension.
22/12/23	KC	Agent	Planner acknowledges revised plans, but again highlights the size of the extension.
22/12/23	Agent	KC	Agent acknowledges councils email raising concerns over the proposal.
11/1/24	Agent	KC	Agent responds to councils email raising concerns over the proposal.
17/1/24	KC	Agent	Planner acknowledges additional drawings provided during validation were not uploaded to the case file. Concerns were raised regarding the development. Extension of time requested to 2/2/24
17/1/24	Agent	KC	Agent follows up with council to check application progress.
17/1/24	Agent	KC	Agent agrees to an extension of time.
22/1/24	Agent	KC	Agent request that the application is determined on the submitted plans.
24/1/24	KC	Agent	Planner requests extension of time.
24/1/24	Agent	KC	Agent requests confirmation on councils recommendation.

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24/1/24	KC	Agent	Planner confirms that the application will be recommended for refusal.
5/2/24	Agent	KC	Follow up email sent by the agent requesting dates for when the decision notice will be issued.
6/2/24	KC	Agent	Planner confirms the decision notice will be issued by 9/2/24.
7/2/24	KC	Agent	Refusal notice sent to agent.

Section 03: Statement of Case

This statement of case relates to Kirklee's Council's decision notice dated 7th February, 2023 (application ref: 2023/62/92827/W) and the purpose of the appeal is to respectfully dispute the reasons for refusal provided in said decision notice.

The application was determined as refused. The reasons for refusal were based upon Kirklees Local Plan, Key Design Principles 1 and 2 of the adopted House Extensions & Alterations SPD and paragraph 135 of the National Planning Policy Framework. The decision notice also notes siting, scale, design would result in an unacceptable degree of harm to the neighbouring occupiers at 16 Bankfield Terrace.

Upon thorough deliberation and a careful review of Kirklee's Council's delegated report, we extend our support for the applicant's decision to appeal the ruling. We believe the decision was unduly harsh and, in accordance with Article 35 (2) of the Town and Country Planning (Development Management Procedure) England Order 2015 (as amended), Kirklee's Council should have actively engaged with the agent/applicant during the application process. Unfortunately, the anticipated level of engagement was not achieved. Instead, prior to validation, Kirklee's Council made repeated efforts to avoid waiving the planning application fee through meticulous scrutiny of the plans and application form. This scrutiny extended to matters such as the existing footings of retaining walls, which were unrelated to the planning process, and necessitated additional drawings at the expense of the applicant. Following approximately 36 email exchanges and clarifications on the plans, Kirklee's Council ultimately waived the fee and validated the application.

Despite validation, the planning team leader persisted in attempting to secure the planning fee and revisited issues pertaining to the footings and internal design, despite these matters having been resolved during the validation process.

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A 'high-level' timeline of correspondence between the involved parties is provided in 'Section 2

The delegated report notes:

The agent responded by providing amended plans which compensated for a 'model error in the software' regarding the internal steps and explained that the extension's design prioritises ample space for wheelchair access, manoeuvring, and stationary resting. Additionally, the generously sized bathroom caters to the needs of occupiers. The agent stated that consideration was given to minimise visual bulk by introducing a low flat roof for the extension. It was stated by the agent that this would not significantly surpass the height of the existing retaining wall on the site and that privacy screening could be added if required to address concerns about overlooking at number 16.

The agent state the proposed structure is set 1m back from the existing southern boundary retaining wall. Additional section drawings were provided during validation to prompt the contractor to engage a structural engineer, ensuring the existing footings remain intact.

It was reiterated that we can be flexible where innovative and contemporary designs which enhance the appearance and character of an area are proposed, provided no material harm is caused to the neighbouring properties. However, there were still concerns regarding the unchanged scale of the extension remaining contrary to the adopted SPD on extensions.

The agent was again requested to amend the plans/provide further justification for the scale of the development, in particular the scale of the front extension. However, the agent requested the application be determined on the basis of the submitted plans.

It's concerning to note that the council heavily scrutinized the plans during validation. Particularly troubling is their decision to assume the extension was primarily for the greater good of the household rather than for the improved safety and comfort of a disabled occupant. However, the agent responded appropriately by providing amended plans that compensated for a 'model error in the software,' specifically addressing internal steps. Furthermore, they clarified that the extension's design prioritizes ample space for wheelchair access, maneuvering, and stationary resting, emphasizing its commitment to accommodating the needs of disabled occupants.

It's worth noting that the height difference between the existing wall and proposed extension is borderline negligible, approximately 735mm, as highlighted on the elevations and presented to the planner. Additionally, offers were made to introduce privacy screening along the boundary to mitigate overlooking into the neighboring property at number 16. However, it's regrettable that the council did not entertain these offers.

The agent has emphasized that consideration was given to minimizing visual bulk by introducing a low flat roof for the extension. They clarified that this design choice would not

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significantly exceed the height of the existing retaining wall on the site. This demonstrates a proactive approach to addressing potential issues and a willingness to collaborate on finding solutions that meet both regulatory requirements and community concerns.

It's important to recognize that each site is unique in its location and positioning, and therefore, each proposal should be assessed on a case-by-case basis. While the adopted Supplementary Planning Document (SPD) provides guidance, it should not be viewed as a definitive set of rules to follow. In cases where a site presents unique characteristics, the council should have the flexibility to take a holistic view and work towards a favorable solution.

It's encouraging to hear that flexibility can be exercised, especially for innovative and contemporary designs that enhance the appearance and character of an area, provided they do not cause material harm to neighboring properties. It's noted that council had concerns regarding the scale of the extension, but this highlights the need for constructive dialogue and collaboration between the applicant and the council to find a solution that balances design innovation with compliance with planning guidelines.

Unfortunately, after a prolonged and challenging battle with the council, characterized by their reluctance to engage in meaningful negotiation on the plans, the agent found it necessary to request that the application be determined based solely on the drawings provided. We strongly disagree with this decision. Despite repeated requests for amendments or further justification for the scale of the development, especially regarding the front extension, the agent's decision to proceed with the submitted plans reflects the culmination of a frustrating process marked by a lack of flexibility and collaboration from the council's side.