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## **APPEAL STATEMENT**

**SITE:** 24 SPENCER AVENUE, HILLINGDON, HAYES, UB4 0QX

**APPEAL AGAINST REFUSAL OF:** 'ERECTION OF A SINGLE STOREY EXTENSION TO REAR'

**LOCAL AUTHORITY:** HILLINGDON

**PLANNING APPLICATION NUMBER:** 35894/APP/2023/2092

**APPELLANT:** MRS DEVINDER JABBAL

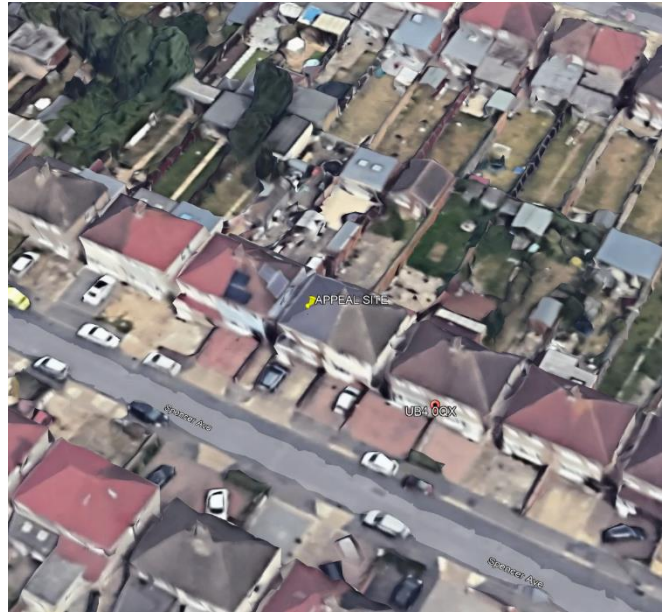
### **Introduction**

The appeal is against a refusal by Hillingdon Council of an application for '*Erection of a single storey extension to rear*'.

The appeal is lodged pursuant to s.78 of the Town and Country Planning Act 1990 (As Amended) on behalf of the Appellant, Mrs Devinder Jabbal.

The appeal relates to an existing semi-detached dwelling located on the north-east side of Spencer Avenue, a residential area of Hayes. The property has been previously extended to the rear by way of a single storey rear extension projecting 3m in depth. The extension has a mono pitched roof with 2 rooflights. Both the adjoining and adjacent properties have been extended to the rear by way of single storey extensions.

The appeal site is bound to the north-east by a dwelling on Chaucer Avenue, to the south-east by the attached dwelling number 22, to the north-west by neighbouring number 26 and to the south by Spencer Avenue. The location of the site in respect of its surroundings is shown on the below aerial image.



The area does not exhibit any prevailing character of importance and there are no planning constraints or designations in place. As such, it is safe to allow the appeal in respect of interests of acknowledged importance as there can be no harm attributed to the proposal in this regard.

### Relevant planning history

- 35894/APP/2009/1796 Single storey rear extension with 2 roof lights involving demolition of existing rear conservatory (Application for a Certificate of Lawfulness for a Proposed Development). Approved 2009. **(Appendix 1)**.

### Refusal Reasons

The Decision notice is dated 8<sup>TH</sup> September 2023 and contained the following reason for refusal:

*'The proposed single storey rear extension, by virtue of its size, scale, bulk, excessive depth and proximity, would be detrimental to the amenities of the adjoining occupiers at 22 Spencer Avenue by reason of overdominance, overshadowing, visual intrusion, loss of outlook and loss of light. Therefore the proposal would be contrary to Policies DMHB 11 and DMHD 1 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020).'*

The proposal has been refused in respect of neighbouring residential amenity. Attached number 22 exhibits a single storey projection to the left-hand side of the rear elevation and a canopy over the right-hand side of the rear elevation, as the below image demonstrates.



As the window at ground floor level faces the garden, there would be no direct view of the proposal from inside the dwelling, with the only views of the extension in relation to that window being along the top of the existing fence line.

This assessment correlates with that of the Inspector's in respect of appeal decision reference APP/R5510/W/17/3167146 (**Appendix 2**), which related to the impact of a 6m single storey extension to a nearby semi-detached dwelling, where the neighbouring property did not exhibit any rear extensions and as such, is of relevance to this assessment in respect of the ground floor window in question to attached number 22. Whilst it is noted that number 22 does exhibit a single storey projection to the left hand side of the rear elevation, this projection extends less than 3 metres in length and any loss of light as a result of that projection is considered to be 'off set' by the half-glazed door which also serves the room in question.

The Inspector went on to conclude at paragraph 8 of appeal decision reference APP/R5510/W/17/3167146:

*'The Council's SPD recommends that rear extensions on plots the size of the appeal site should be no more than 3.6 metres in length, from the rear wall of the original house. This is to help guard against the loss of daylight and sunlight to neighbouring properties. The proposed extension, at 5 or 6 metres, would exceed this recommended distance'.*

....

*‘The window concerned is double-paned and therefore sufficient in size to allow good levels of daylight and sunlight into the internal living space. The extension of the proposed development above the existing fence would not be such that levels of daylight and sunlight would be reduced to a level that would be harmful to living conditions.’*

Again, this assessment is applicable to the case in hand and considered to be the appropriate assessment in respect of the proposal. In addition to the double-paned window, there is also a half-glazed door into the room adjacent to the window, providing additional light.

The proposal would feature a flat roof, with centralised roof lanterns. The roof lanterns would not be visible from within the room and the flat roof design would be more preferable to a pitched roof design in respect of amenity. The flat roof would replace the existing sloping roof to the 3m extension, thus reducing the height of the roof through the removal of the slope.

It is considered that the proposal would not extend sufficiently above the existing closed boarded boundary fencing such as to compromise neighbouring residential amenity to the room either in terms of outlook or daylight/sunlight.

It is evident from the Inspector’s assessment of the above referenced appeal that the deviation from the SPD requirements is not considered to result in conflict, given the lack of harm attributed to the proposal. Whilst it is acknowledged that the LPA have since adopted a new Local Plan in 2020 and thus the requirements of the SPD are since incorporated into policy as well (DMHD 1). The policy requires at criterion B) i) that *‘single storey rear extensions on terraced or semi-detached houses with a plot width of 5 metres or less should not exceed 3.3 metres in depth or 3.6 metres where the plot width is 5 metres or more’*. It is considered that this requirement of policy DMHD 1 is excessive, given that 6 metre extensions can be achieved to a semi-detached dwelling pursuant to Prior Approval: Larger Homes Extensions pursuant to Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). To restrict development to that within permitted development renders the policy requirement superfluous, given that there would be no need to then apply for planning permission. As such, the policy is determined to be out of date, triggering the weighted balance of paragraph 11 d). The proposal is determined to result in *de minimis* harm in respect of the refusal reason.

## Planning Officer Report

To assist in the consideration of the Appeal, some of the paragraphs of the report of the Planning Officer are included below with HEAL commentary shown in **bold**.

*The main considerations are the design and impact on the character of the existing property, the impact upon the streetscene and locality the impact upon the amenities of adjoining occupiers, the reduction in size of the rear garden and car parking provision.*

*The Hillingdon Local Plan: Part One Strategic Policy BE1 seeks a quality of design in all new development that enhances and contributes to the area in terms of form, scale and materials; is appropriate to the identity and context of the townscape; and would improve the quality of the public realm and respect local character.*

*Policy DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) advises that all development will be required to be designed to the highest standards and incorporate principles of good design. It should take into account aspects including the scale of the development considering the height, mass and bulk of adjacent structures; building plot sizes and established street patterns; building lines and streetscape rhythm and landscaping. It should also not have an adversary impact on the amenity, daylight and sunlight of adjacent properties and open space.*

*Policy DMHD 1 requires that alterations and extension of dwellings would not have an adverse cumulative impact on the character and appearance of the street scene, and should appear subordinate to the main dwelling. It also required that there is no unacceptable loss of outlook to neighbouring occupiers. With regard to rear extensions Policy DMHD1 requires: i) single storey rear extensions on terraced or semi-detached houses with a plot width of 5 metres or less should not exceed 3.3 metres in depth or 3.6 metres where the plot width is 5 metres or more; ii) single storey rear extensions to detached houses with a plot width of 5 metres or more should not exceed 4.0 metres in depth; iii) flat roofed single storey extensions should not exceed 3.0 metres in height and any pitched or sloping roofs should not exceed 3.4 metres in height, measured from ground level;*

**The proposal is assessed in respect of local plan policy later in this Appeal Statement.**

*At a depth of 6m, the proposed extension would exceed the dimensions required by the above policy. However, the extension would appear subordinate in scale, and being located to the rear of the property, would not result in sufficient visual harm to justify a refusal of planning permission.*

**It is noted that the Officer's does not take issue with the proposal in terms of character and appearance.**

*Policy DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) states that development proposals should not adversely impact on the amenity, daylight and sunlight of adjacent properties and open space. The proposed extension would extend 3m beyond the rear wall of the extension at adjoining number 22 and adjacent number 26 Spencer Avenue. Concerns are raised in terms of the impact that the 6m extension alongside the boundary would have on the occupants of adjoining number 22 Spencer Avenue. Whilst this property has been extended to the rear, the extension adjacent to the boundary is a canopy with the habitable room relying on windows in the original rear wall of the property. At a depth of 6m, the proposed extension would result in an unacceptably dominating impact on terms of light and outlook and cannot be supported.*

**6 metre extensions are commonplace features to semi-detached dwellings, being obtainable pursuant to Prior Approval as well. A single storey extension of 6 metres adjacent to an attached dwelling exhibiting no or minimal extensions is not unusual. It has been rationalised as to why the proposal would not result in unacceptable harm to adjoining number 22 earlier in this Appeal Statement, with the rationale of an Inspector in respect of another such extension in the locality considered and duly applied.**

## National Policy

The following sections of the NPPF are relevant to this application, with HEAL commentary shown in bold.

- Paragraph 8 which set out the three dimensions to sustainable development and states:

*'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):*

- 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;*

**The proposal would create employment for local builders, suppliers and trades people, thus in turn contributing to the local economy.**

- 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*

**The proposal supports a strong, vibrant and health community by providing the dwelling occupants with additional living space, conducive to modern family living and appropriate to all future occupants.**

- 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.'*

**Given the nature of the proposal, the proposal does not cause any harm by way of waste, pollution or any effect on biodiversity or ecology. The proposal will utilise good quality sustainable materials for the build, designed to last for longevity.**

**The proposal entirely accords with paragraph 8 of the NPPF.**

- Paragraph 11 which 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;*

*or*

*d) 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.”*

**The proposal is assessed in relation to paragraph 11 of the NPPF later in this Appeal Statement.**

- Paragraph 38 relates to decision-making of Local Planning Authorities and all other levels. It states that decision-takers at every level should seek to approve applications for sustainable development where possible.
- Paragraphs 47 and 48 set out how weight should be attributed to Development Plan policies.
- Paragraph 55 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable precise and reasonable in all other aspects.

## Local Planning Policy Context

The proposal was refused on policies DMHB 11 and DMHD 1 of the Hillingdon Local Plan: Part two – Development Management Policies (2020).

In line with paragraph 11 of the NPPF, the most important policies for determining the appeal need to be identified from local policy. It is clear from the judgement ***Wavendon Properties Ltd v SoSoHCLG & Milton Keynes Council [2019] EWHC 1424 (Admin)***, that the collection of most important policies should be considered in the round.

Most important policies should only be those that govern the development proposed in a particular area. More generic policies that can apply to multiple types of development should not logically be considered as most important policies. This approach is adopted in the below assessment of the refusal policies.

The most important policy in respect of this appeal is identified as DMHD 1: Alterations and extensions to residential dwellings as this policy relates to the form of development being applied for. The proposal is assessed in respect of the refusal policies below.

#### **Policy DMHD 1: Alterations and Extensions to Residential Dwellings**

**A) Planning applications relating to alterations and extensions of dwellings will be required to ensure that:**

- i) there is no adverse cumulative impact of the proposal on the character, appearance or quality of the existing street or wider area;
- ii) a satisfactory relationship with adjacent dwellings is achieved;
- iii) new extensions appear subordinate to the main dwelling in their floor area, width, depth and height;
- iv) new extensions respect the design of the original house and be of matching materials;
- v) there is no unacceptable loss of outlook to neighbouring occupiers;
- vi) adequate garden space is retained;
- vii) adequate off-street parking is retained, as set out in Table 1: Parking Standards in Appendix C;
- viii) trees, hedges and other landscaping features are retained; and
- ix) all extensions in Conservation Areas and Areas of Special Local Character, and to Listed and Locally Listed Buildings, are designed in keeping with the original house, in terms of layout, scale, proportions, roof form, window pattern, detailed design and materials.

#### **B) Rear Extensions**

- i) single storey rear extensions on terraced or semi-detached houses with a plot width of 5 metres or less should not exceed 3.3 metres in depth or 3.6 metres where the plot width is 5 metres or more;
- ii) single storey rear extensions to detached houses with a plot width of 5 metres or more should not exceed 4.0 metres in depth;
- iii) flat roofed single storey extensions should not exceed 3.0 metres in height and any pitched or sloping roofs should not exceed 3.4 metres in height, measured from ground level;
- iv) In Conservation Areas and Areas of Special Local Character, flat roofed single storey extensions will be expected to be finished with a parapet;
- v) balconies or access to flat roofs which result in loss of privacy to nearby dwellings or gardens will not be permitted;

- vi) two storey extensions should not extend into an area provided by a 45-degree line of sight drawn from the centre of the nearest ground or first floor habitable room window of an adjacent property and should not contain windows or other openings that overlook other houses at a distance of less than 21 metres;
  - vii) flat roofed two storey extensions will not be acceptable unless the design is in keeping with the particular character of the existing house;
  - viii) pitched roofs on extensions should be of a similar pitch and materials to that of the original roof and subordinate to it in design. Large crown roofs on detached houses will not be supported; and
  - ix) full width two storey rear extensions are not considered acceptable in designated areas or as extensions to Listed Buildings or Locally Listed Buildings.
- C) Side Extensions**
- i) side extensions should not exceed half the width of the original property;
  - ii) extensions to corner plots should ensure that the openness of the area is maintained and the return building line is not exceeded;
  - iii) garages should reflect the size guidelines set out in Appendix C Parking standards;
  - iv) two storey side extensions should be set in a minimum of 1 metre from the side boundary or in the case of properties in the Copse Wood and Gatehill Estates, at least 1.5 metres, but more if on a wider than average plot, in order to maintain adequate visual separation and views between houses;
  - v) two storey side extensions to detached and semi-detached properties should be set back a minimum of 1 metre behind the main front elevation;
  - vi) where hip to gable roof extensions exist, a two storey side extension will not be supported; and
  - vii) In Conservation Areas, single storey side extensions may be required to be set back.
- D) Front Extensions**
- i) alterations and extensions to the front of a house must be minor and not alter the overall appearance of the house or dominate the character of the street. Front extensions extending across the entire frontage will be refused;

- ii) porches should be subordinate in scale and individually designed to respect the character and features of the original building; pastiche features will not be supported; and
- iii) notwithstanding the above, at least 25% of the front garden must be retained.

#### **E) Roof Extensions**

- i) roof extensions should be located on the rear elevation only, be subservient to the scale of the existing roof and should not exceed more than two thirds the average width of the original roof. They should be located below the ridge tiles of the existing roof and retain a substantial element of the original roof slope above the eaves line;
- ii) the Council will not support poorly designed or over-large roof extensions including proposals to convert an existing hipped roof to a gable;
- iii) raising of a main roof above the existing ridgeline of a house will generally not be supported;
- iv) all roof extensions should employ appropriate external materials and architectural details to match the existing dwelling; and
- v) in Conservation Areas, Areas of Special Local Character and on Listed and Locally Listed Buildings, roof extensions should take the form of traditional 'dormer' windows, on the rear elevation, to harmonise with the existing building. The highest point of the dormer should be kept well within the back roof slope, away from the ridge, eaves or valleys, whilst each window should match the proportions, size and glazing pattern of the first floor windows.

#### **F) Front Gardens and Parking**

- i) new or replacement driveways should use permeable (porous) surfacing. Surfaces of more than five square metres will need planning permission for laying traditional, impermeable driveways; and
- ii) the design, materials and height of any front boundary must be in keeping with the character of the area to ensure harmonisation with the existing street scene.

A) i) The proposal has not been refused in relation to character and appearance.

ii) The proposal would not compromise the existing relationship to the attached dwelling. As the window at ground floor level faces the garden, there would be no direct view of the proposal from inside the dwelling, with the only views of the extension in relation to that window being along the top of the existing fence line. It is considered that the proposal would not extend sufficiently above the existing closed boarded boundary fencing such as to compromise neighbouring residential amenity to the room either in terms of outlook or daylight/sunlight.

iii) The proposal would remain subordinate to the host dwelling, comprising a 3m single storey addition to the existing 3m projection. The proposal would reduce the height of the roof from that existing and would represent a standardised and commonplace form of development.

iv) The proposal would respect the design of the existing dwelling, which already features an existing modest projection to which the proposal would be well related. The Appellant would ensure that appropriate materials are utilised to achieve assimilation, and this can be secured by way of condition.

v) As previously set out, as the window at ground floor level faces the garden, there would be no direct view of the proposal from inside the dwelling, with the only views of the extension in relation to that window being along the top of the existing fence line. It is considered that the proposal would not extend sufficiently above the existing closed boarded boundary fencing such as to compromise neighbouring residential amenity to the room either in terms of outlook.

vi) The appeal site features a long, relatively narrow garden with an outbuilding positioned at the end. The proposed extension of 3m would not impede the enjoyment or use of the remaining garden space and sufficient space would be retained, given the length of the garden. This was not a concern had by the LPA.

vii) The proposal does not relate to the provision of off-street parking.

viii) The proposal would not affect any trees, hedges or landscaping features.

ix) The proposal does not relate to a heritage assets.

B) i) It is accepted that the proposal would exceed the length stated pursuant to the criteria, however the proposal is shown to be acceptable for the rationale set out earlier in this Appeal Statement, which is supported by other appeal decisions. In any event, the length imposed under the policy is overly restrictive, given that an extension of 6m can be achieved on a semi-detached dwelling pursuant to Prior Approval.

- ii) The proposal does not relate to a detached dwelling.
  - iii) The proposal would be acceptable in relation to height.
  - iv) The proposal does not relate to a heritage asset.
  - v) The proposal does not relate to balconies or flat roof accesses.
  - vi) The proposal does not relate to a two-storey extension.
  - vii) The proposal does not relate to a flat roofed two storey extension.
  - viii) The proposal does not relate to a pitched roof extension.
  - ix) The proposal does not relate to a full width two storey extension.
- C) The proposal does not relate to side extensions, which this criterion covers.
- D) The proposal does not relate to front extensions, which this criterion covers.
- E) The proposal does not relate to roof extensions, which this criterion covers.
- F) The proposal does not relate to front gardens and parking, which this criterion covers.

Whilst some policy conflict is identified in respect of criterion B i), it is determined that criterion B i) is overly restrictive, given that a 6-metre extension can be achieved to a semi-detached dwelling pursuant to Prior Approval. Accordingly, the policy is found to be out of date, triggering the weighted balance of paragraph 11 d).

**Policy DMHB 11: Design of New Development**

**A) All development, including extensions, alterations and new buildings will be required to be designed to the highest standards and, incorporate principles of good design including:**

- i) harmonising with the local context by taking into account the surrounding:**
  - scale of development, considering the height, mass and bulk of adjacent structures;
  - building plot sizes and widths, plot coverage and established street patterns;
  - building lines and setbacks, rooflines, streetscape rhythm, for example, gaps between structures and other streetscape elements, such as degree of enclosure;
  - architectural composition and quality of detailing;
  - local topography, views both from and to the site; and
  - impact on neighbouring open spaces and their environment.
- ii) ensuring the use of high quality building materials and finishes;**
- iii) ensuring that the internal design and layout of development maximises sustainability and is adaptable to different activities;**
- iv) protecting features of positive value within and adjacent to the site, including the safeguarding of heritage assets, designated**

and un-designated, and their settings; and

v) landscaping and tree planting to protect and enhance amenity, biodiversity and green infrastructure.

B) Development proposals should not adversely impact on the amenity, daylight and sunlight of adjacent properties and open space.

C) Development will be required to ensure that the design safeguards the satisfactory re-development of any adjoining sites which have development potential. In the case of proposals for major development<sup>5</sup> sites, the Council will expect developers to prepare master plans and design codes and to agree these with the Council before developing detailed designs.

D) Development proposals should make sufficient provision for well designed internal and external storage space for general, recycling and organic waste, with suitable access for collection. External bins should be located and screened to avoid nuisance and adverse visual impacts to occupiers and neighbours.

A) I)

- The scale of the proposal would be appropriate to the site, comprising a depth that can be achieved pursuant to Prior Approval and exhibiting a flat roof design. The proposal is for a common place extension of standardised measurements.
- The appeal site would retain an appropriately sized outdoor amenity space, given the length of the garden.
- The proposal would not affect the streetscape rhythm or building lines. The rear elevation building lines to the street feature a mix of extended and not extended dwellings and projections of various lengths.
- The proposal would not affect the architectural composition of the dwelling or quality, being an easily read and commonplace form of extension to semi-detached, post war dwellings. The proposal would demonstrate evident subordination and appropriate integration.
- The proposal would not harm views from or of the site, especially given the dwelling already exhibits a single storey projection.

- ii) The extension would exhibit matching materials to the host dwelling, which can be secured by way of condition.
- iii) The proposal demonstrates good design, providing additional living space conducive to modern family living.
- iv) The proposal does not relate to heritage assets or other such designations.
- v) The proposal would not impact upon landscaping or biodiversity. The Appellant would be amenable to a condition in relation to landscaping, should this be considered relevant by the Inspector.

- B) The proposal would not adversely affect the neighbouring dwelling. As the window at ground floor level faces the garden, there would be no direct view of the proposal from inside the dwelling, with the only views of the extension in relation to that window being along the top of the existing fence line. It is considered that the proposal would not extend sufficiently above the existing closed boarded boundary fencing such as to compromise neighbouring residential amenity to the room either in terms of outlook or daylight/sunlight.
- C) The proposal does not relate to major development.
- D) The proposal does not relate to a requirement for the provision of outdoor storage space.

The proposal accords with policy DMHB 11, in so far as it relates.

## Conclusions

The appeal is against a refusal by Hillingdon Council of an application for '*Erection of a single storey extension to rear*'.

The proposal is determined to result in *de minimis* harm in respect of the refusal reason.

The proposal was refused on policies DMHB 11 and DMHD 1 of the Hillingdon Local Plan: Part two – Development Management Policies (2020). The most important policy in respect of this appeal is identified as DMHD 1: Alterations and extensions to residential dwellings as this policy relates to the form of development being applied for. The proposal is found to conflict with criterion B) i) of the policy only. This requirement is overly restrictive, given that 6 metre extensions can be achieved to a semi-detached dwelling pursuant to Prior Approval: Larger Homes Extensions pursuant to Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). To restrict development to that within permitted development renders the policy requirement superfluous, given that there would be no need to then apply for planning permission. As such, the policy is determined to be out of date, triggering the weighted balance of paragraph 11 d).

Paragraph 11 d) of the NPPF sets out:

*'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, 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<sup>7</sup>; 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.'*

The proposal does not relate to any protected areas or assets of importance pursuant to footnote 7. As such, limb i) is disapplied.

Limb ii) relates to the standard 38 (6) planning balance. It has been determined in the assessment of the proposal that any harm attached is *de minimis*, as such that the threshold of significant and demonstrable harm is not met and accordingly, planning permission should be granted.

## **Recommendation**

The Inspector is respectfully requested to allow this appeal.

**HEAL Planning**

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