



APPEAL BY:
Mr Jigar Chheda

AGAINST THE LONDON BOROUGH OF HILLINGDON COUNCIL'S REFUSAL TO GRANT
AN APPLICATION FOR PRIOR APPROVAL UNDER SCHEDULE 2, PART 1, CLASS AA OF
THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)
(ENGLAND) ORDER 2015 (AS AMENDED)

Construction of one additional storey

AT
139 North Hyde Road, Hayes, UB3 4NR

London Borough of Hillingdon Council's Reference: 13207/APP/023/3059

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

January 2024

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1.0 INTRODUCTION

1.1 This statement has been prepared by RJS Planning, on behalf of Mr Jigar Chheda, and is submitted in support of the appeal lodged against the London Borough of Hillingdon Council's decision that prior approval was refused for the construction of one additional storey under application ref 13027/APP/2023/3059.

1.2 The application was submitted on 19th October 2023 and proposed the "*Construction of one additional storey*" at no. 139 North Hyde Road in Hayes.

1.3 The council confirmed that prior approval was refused on 12th December 2023 for the following reasons:

The proposed development, by reason of its siting in this prominent corner plot position, size, scale, bulk, site coverage would result in the loss of an important gap characteristic to the area and would thus result in a cramped, unduly intrusive, visually prominent over-development of the site. The proposal would therefore be detrimental to the character, appearance and visual amenities of the street scene and the surrounding area. The proposal is therefore contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (2012), Policies DMHB 11 and DMHB 12 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020), Policies D1, D3, D4 of the London Plan (2021) and the National Planning Policy Framework (2021).

The proposed development does not constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2020 (as amended) as the proposal, by reason of its siting, scale, bulk, height, and design would result in harm to the amenities of numbers 4 Wyre Grove and 137 North Hyde Road by reason of loss of light, overlooking, loss of outlook and a harmful loss of privacy contrary to Policies DMHB 11 and DMHD 1 of the Local Plan: Part Two – Development Management Policies (2020). Therefore Prior Approval is refused pursuant to Condition AA.2.- (3)(a)(i) of Schedule 2, Part 1, Class AA, the Town and Country Planning (General Permitted Development) (England) Order 2020 (as amended).

1.4 This grounds of appeal will consider whether the council were correct in declaring that the proposed works would be detrimental to the character appearance and visual amenities of the street scene and surrounding area; and whether the proposal would result in harm to the amenities of nos. 4 Wyre Grove and 137 North Hyde Road by virtue of the provisions of Part 1 of Schedule 2 Class AA of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020.

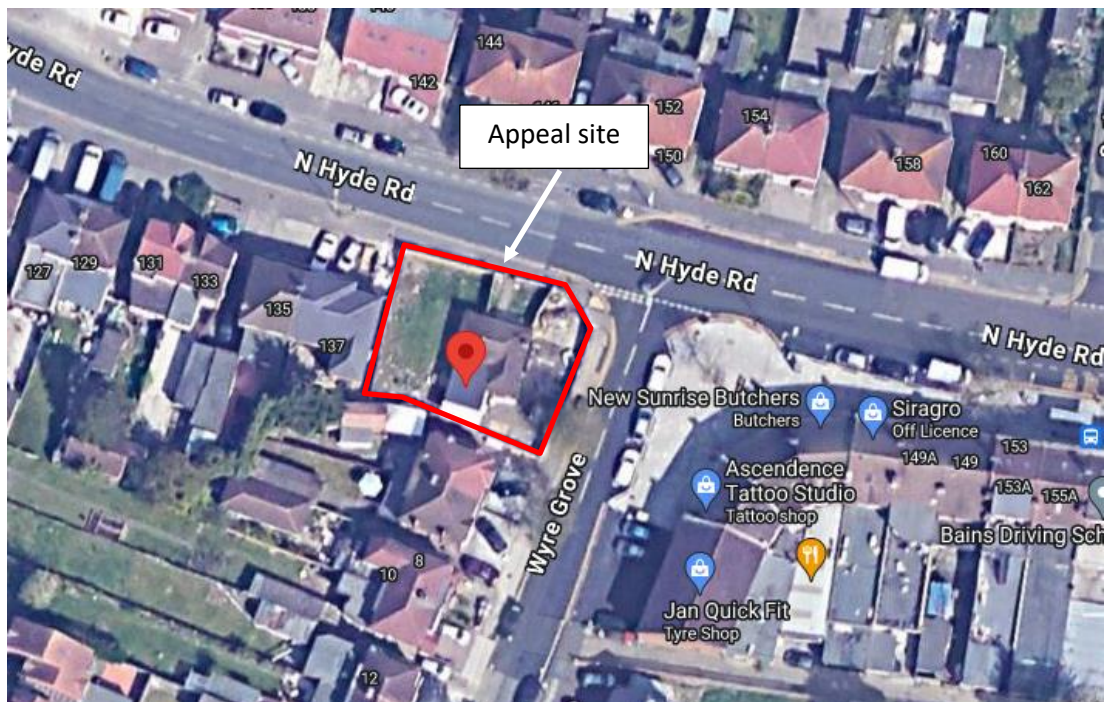
2.0 APPEAL PROPERTY AND SITE LOCATION

- 2.1 The appeal property is a detached, single storey, family dwellinghouse built in the 1950s.



No. 139 North Hyde Road

- 2.2 The appeal site positioned on a corner plot to the southern side of North Hyde Road and eastern side of Wyre Grove. The site is not located on article 2(3) land or on a site of special scientific interest.



Aerial view of the appeal site

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3.0 THE APPELLANT'S CASE

- 3.1 Part 1 of Schedule 2 (permitted development rights - development within the curtilage of a dwellinghouse) of the Town and Country Planning (General Permitted Development) (England) (Amendment) (no. 2) Order 2015 (as amended) permits under Class AA – development consisting of the enlargement of a dwellinghouse by construction of additional storeys.

Permitted development

AA. The enlargement of a dwellinghouse consisting of the construction of—

- (a) up to two additional storeys, where the existing dwellinghouse consists of two or more storeys; or*
- (b) one additional storey, where the existing dwellinghouse consists of one storey,*

immediately above the topmost storey of the dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction.

- 3.2 The appeal development proposes the construction of one additional storey immediately above this single storey dwellinghouse and therefore, the elements of AA are satisfied and the proposal complies.

Development not permitted

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

- (a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class [G], M, [MA], N, O, P, PA or Q of Part 3 of this Schedule (changes of use);*
- (b) the dwellinghouse is located on—*
 - (i) article 2(3) land; or*
 - (ii) a site of special scientific interest;*
- (c) the dwellinghouse was constructed before 1st July 1948 or after 28th October 2018;*

- (d) the existing dwellinghouse has been enlarged by the addition of one or more storeys above the original dwellinghouse, whether in reliance on the permission granted by Class AA or otherwise;*
- (e) following the development the height of the highest part of the roof of the dwellinghouse would exceed 18 metres;*
- (f) following the development the height of the highest part of the roof of the dwellinghouse would exceed the height of the highest part of the roof of the existing dwellinghouse by more than—*
 - (i) 3.5 metres, where the existing dwellinghouse consists of one storey; or*
 - (ii) 7 metres, where the existing dwellinghouse consists of more than one storey;*
- (g) the dwellinghouse is not detached and following the development the height of the highest part of its roof would exceed by more than 3.5 metres—*
 - (i) in the case of a semi-detached house, the height of the highest part of the roof of the building with which it shares a party wall (or, as the case may be, which has a main wall adjoining its main wall); or*
 - (ii) in the case of a terrace house, the height of the highest part of the roof of every other building in the row in which it is situated;*
- (h) the floor to ceiling height of any additional storey, measured internally, would exceed the lower of—*
 - (i) 3 metres; or*
 - (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing dwellinghouse;*
- (i) any additional storey is constructed other than on the principal part of the dwellinghouse;*
- (j) the development would include the provision of visible support structures on or attached to the exterior of the dwellinghouse upon completion of the development; or*
- (k) the development would include any engineering operations other than works within the curtilage of the dwellinghouse to strengthen its existing walls or existing foundations.*

- 3.3 The property is not located on article 2(3) land and there are no pre-existing conditions which remove permitted development rights.
- 3.4 Following the development the highest part of the dwelling house would be approximately 7.6m increasing by 2.75m and therefore, would not exceed 18m.
- 3.5 The floor to ceiling height of the additional storey would also not exceed the floor to ceiling height, measured internally, of any storey of the principal part of the existing dwellinghouse which is also less than 3m.
- 3.6 The additional storey would be constructed on the principal part of the dwellinghouse and would not include the provision of visible support structures on or attached to the exterior of the dwellinghouse.
- 3.7 In summary, all elements of AA.1 are satisfied and as a result the proposal complies.

Conditions

AA.2.- (1) Development is permitted by Class AA subject to the conditions set out in sub, paragraphs (2) and (3).

(2) The conditions in this sub-paragraph are as follows—

- (a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;*
- (b) the development must not include a window in any wall or roof slope forming a side elevation of the dwelling house;*
- (c) the roof pitch of the principal part of the dwellinghouse following the development must be the same as the roof pitch of the existing dwellinghouse; and*
- (d) following the development, the dwellinghouse must be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as a dwellinghouse.*

(3) The conditions in this sub-paragraph are as follows—

- (a) before beginning the development, the developer must apply to the local planning authority for prior approval as to—*
 - (i) impact on the amenity of any adjoining premises including overlooking, privacy and the loss of light;*

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- (ii) *the external appearance of the dwellinghouse, including the design and architectural features of—*
 - (aa) *the principal elevation of the dwellinghouse, and*
 - (bb) *any side elevation of the dwellinghouse that fronts a highway;*
 - (iii) *air traffic and defence asset impacts of the development; and*
 - (iv) *whether, as a result of the siting of the dwellinghouse, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012(3) issued by the Secretary of State;*
- (b) *before beginning the development, the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on adjoining owners or occupiers will be mitigated;*
- (c) *the development must be completed within a period of 3 years starting with the date prior approval is granted;*
- (d) *the developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion; and*
- (e) *that notification must be in writing and include—*
 - (i) *the name of the developer;*
 - (ii) *the address of the dwellinghouse; and*
 - (iii) *the date of completion.*

3.8 The materials used in the exterior work would be similar to those of the existing house, there would also be no windows in any wall or roof slope forming a side elevation and the roof pitch would be the same and, following the development the dwelling would be used as a Class C3 dwellinghouse.

3.9 Whilst the limitations of AA.2 (2) have been satisfied the council refused the scheme in relation to its design and appearance, and impacts on neighbouring amenity. The following paragraphs will seek to demonstrate that the council's assessment is unwarranted.

Design/ character and appearance

- 3.10 Paragraph 130 of the NPPF states that *“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”*.
- 3.11 Local Plan policy DMHB 11 (Design of new development) seeks to ensure that development harmonises with local context taking into account the surrounding scale of development, building lines, height, design and materials of the area. Policy DMHB 12 (Streets and public realm) requires development to take account of the established townscape character and quality of the surrounding area.
- 3.12 Policy DMHD 1 (Alterations and extensions to residential dwellings) requires all development to ensure that there is no adverse cumulative impact of the proposal on the character, appearance or quality of the existing street or wider area.
- 3.13 The council refused the application citing that the development by reason of its siting in this prominent corner plot position, size, scale, bulk, site coverage would result in the loss of an important gap characteristic to the area and would thus result in a cramped, unduly intrusive, visually prominent over-development of the site. The proposal would therefore be detrimental to the character, appearance and visual amenities of the street scene and the surrounding area.
- 3.14 The proposed scheme by reason of its high quality design respects the architectural composition of the existing house whilst complementing the prevailing pattern of development which comprises predominantly of two-storey dwelling houses. In fact, the appeal property is an anomaly within this part of North Hyde Road being surrounded by two storey semi-detached dwellings whilst also sitting opposite to a two storey, terrace of commercial properties.



Properties to the western side of the appeal site

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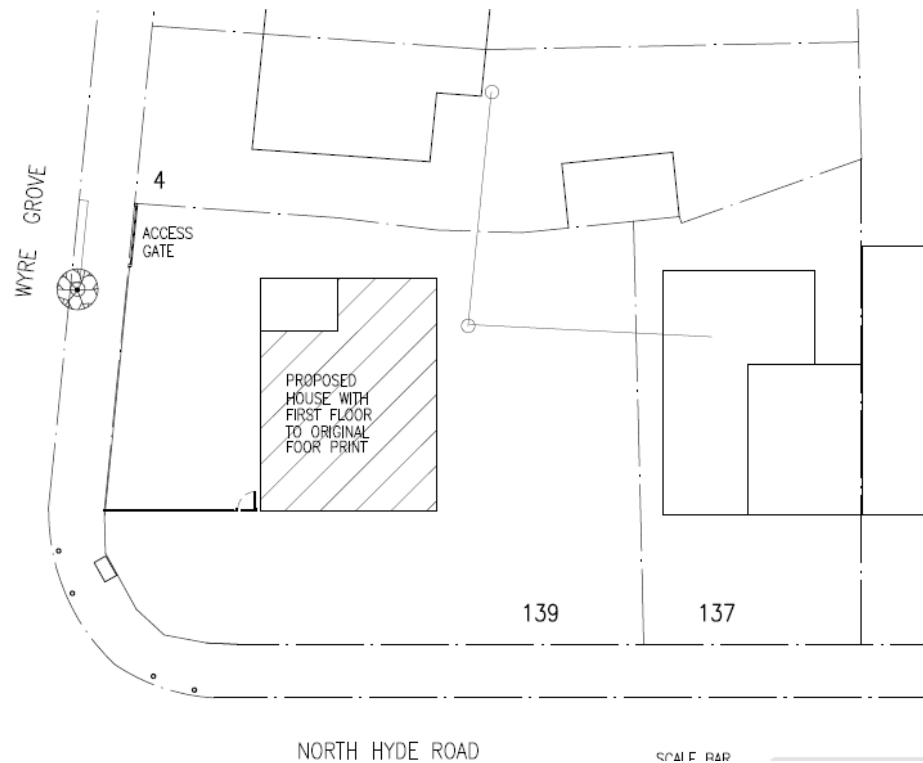


Properties to the northern side of North Hyde Road



Properties on Wyre Grove

- 3.15 The host property sits on a modest 440sqm plot with outdoor space to the front, sides and rear. The proposed extension would be positioned above the original dwelling and thus the built footprint on the site which is approximately 83sqm would not increase. 357sqm (approximately 80%) of the site would remain free from development.
- 3.16 The appellant therefore rejects the council's claims that the development would be a cramped over-development of the site when this would clearly not be the case.
- 3.17 Furthermore, due to the position of the extension above the existing dwelling the property would maintain the existing building lines of both North Hyde Road and Wyre Grove, and therefore, although the extension would result in a modest increase in height it would not appear visually prominent or intrusive as suggested by the council.



Building lines on Wyre Grove and North Hyde Road

- 3.18 In addition, the existing property is set in from the side boundary of Wyre Grove by 7.1m and set back from the front boundary on North Hyde Road by 6m. By reason of the position of the dwelling within the site the proposal would not result in the unacceptable closure of an existing gap due to the existing built form.



Existing context

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- 3.19 Other corner plots upon North Hyde Road differ from the appeal site and therefore, the council's statement that the proposal would result in the loss of an important gap characteristic to the area is unwarranted. As stated a reasonable gap would still be retained and taking the context of the site into account the development would not be detrimental to local character.
- 3.20 The following images illustrate the wider context of the appeal site in order to highlight that the proposal would not be detriment to the character, appearance or visual amenities of the street scene and surrounding area as claimed by the council.



Dwellings on corner plots at junction of North Hyde Road with Crane Gardens



Dwellings on North Hyde Road at junction with Cranford Park Road



Dwellings on corner plots at junction of North Hyde Road with Cranford Park Road

- 3.21 In this instance the design of the development has retained the typical details and key features of the property including the roof design, window format, building materials and the design detailing of the elevations and as a result, the appellant states that the council's objections on this occasion are unsound.
- 3.22 Therefore, by reason of the overall design, the modest increase in height and massing, the proposal would not be detrimental to the character, appearance and visual amenities of the street and surrounding area.
- 3.23 Furthermore, the host property is not locally or statutorily listed, and site is not within a conservation area and consequently, the appellant states that the area is not so sensitive that it could not accommodate the changes proposed specifically when taking into account other relevant material factors such as the design, site coverage, position and scale.
- 3.24 Given the points above it is evident that the proposed development would not conflict with the aims of the NPPF, Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (2012), Policies DMHB 11 and DMHB 12 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020), Policies D1, D3, D4 of the London Plan (2021) which collectively seek a high standard of design that makes a positive contribution to the character of the area.

Impact on residential amenities of neighbouring occupiers

- 3.25 Paragraph 135 point f) of the NPPF seeks to 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.

- 3.26 Local Plan policy DMHB 11 (Design of new development) states that new residential development should not adversely impact on the amenity, daylight and sunlight of adjacent properties and open space. DMHD 1 (Alterations and Extensions to residential dwellings) states that applications will be required to ensure that there is no unacceptable loss of outlook to neighbouring occupiers.
- 3.27 The council refused the scheme citing that the proposal, by reason of its siting, scale, bulk, height, and design would result in harm to the amenities of numbers 4 Wyre Grove and 137 North Hyde Road by reason of loss of light, overlooking, loss of outlook and a harmful loss of privacy.
- 3.28 The appeal site is on a corner plot and shares common boundaries with no. 4 Wyre Grove to the south and no. 137 North Hyde Road to the west. Both properties are semi-detached dwellinghouses.

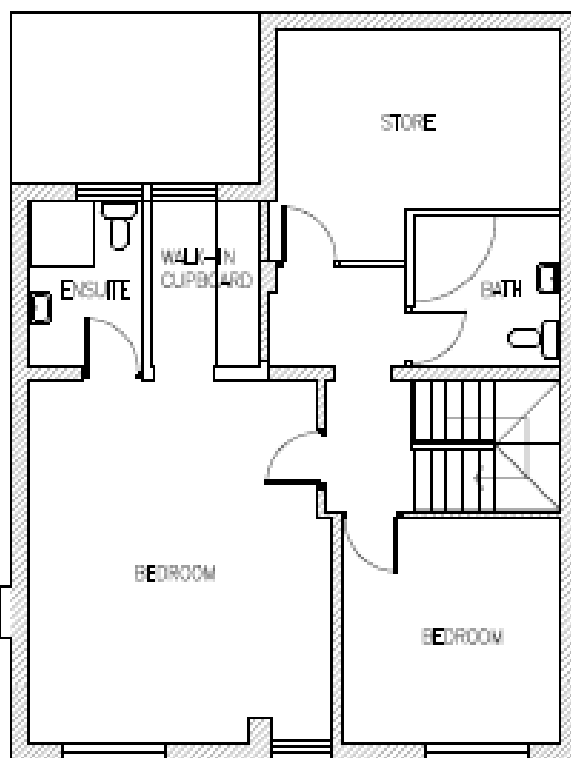
4 Wyre Grove

- 3.29 The officer's report confirms that this property contains windows in its side elevation which serve non-habitable rooms or as secondary windows to habitable rooms. However, the report then goes onto conversely state that the additional storey and increase in height would lead to an unacceptable loss of outlook, sense of enclosure and overbearing impact for occupiers of no. 4.



First floor side elevation windows at no. 4 Wyre Grove

- 3.30 Whilst it is accepted that the proposal would increase the height of the building, given the type of windows that overlook the appeal site the development could not be considered to result in a material loss of outlook, create a sense of enclosure or overbearing impacts.
- 3.31 The primary windows which serve the habitable rooms would retain the same outlook over Wyre Grove or their private garden to the rear and therefore, a change in outlook from the side windows would not unduly affect the living conditions of occupiers.
- 3.32 The officer's report also states that the proposed first floor windows would face towards the private amenity space and give rise to a perceived sense of overlooking and loss of privacy.
- 3.33 The proposed layout of the property has been sensitively designed to ensure it would not result in any unacceptable levels of overlooking. Windows to the first floor rear elevation would face the flank elevation of no. 4 and would serve an ensuite and walk-in cupboard. As a result of their use these rear facing, first floor windows would be obscure glazed.



Proposed first floor layout

- 3.34 Nevertheless, the appellant states that they would be willing to accept a condition of approval relating to the type of obscure glass proposed to ensure that it would not give rise to a perceived sense of overlooking or loss of privacy.

137 North Hyde Road

- 3.35 The officer's report sets out that no. 137 has been extended and that according to the approved drawings the windows which face the appeal site are secondary windows for the lounge at ground level and a bedroom at first floor level. As such, the council have considered that the size, scale and height would be overbearing and have overshadowing effect on the private external amenity space.
- 3.36 To clarify the application reference referred to within the officer's report relating to a development at no. 137 is inaccurate as this relates to a roof extension, the correct reference is 53992/APP/2018/1216 for a *'Two storey side/rear extension'*.
- 3.37 This application at no. 137 was refused by the council on 25th May 2018 but subsequently allowed on appeal on 23rd October 2018 (Details attached in **Appendix A**).
- 3.38 The plans illustrate two ground floor side elevation windows and a first floor high level window which are secondary windows that were approved with obscure glass.



Existing obscure glazed side windows at no. 137 North Hyde Road

- 3.39 The proposed extension at no. 139 would be positioned 9m from the shared boundary with no. 137 and approximately 10.2m from its flank elevation.
- 3.40 Because of the separation gap available between the two properties and the obscure glazed side facing windows within no. 137, the proposed development would not have an overbearing impact on the living conditions at the neighbouring property.

- 3.41 Regarding overshadowing effects, no. 137 has been extended with a large side/rear extension, as shown on the submitted site plan in **Appendix A**. The extended form of no. 137 would likely cast shadow over its own garden space.
- 3.42 Therefore, taking into account the existing built form of no. 137, the position of its garden amenity space to the south of the dwelling and the separation distance available between the appeal property and this neighbouring dwelling the scheme would not have a noticeable overshadowing impact on their outdoor space.
- 3.43 The negligible impact of the development is further confirmed by the lack of neighbour objection to the proposal which although not determinative should add further weight in favour of the scheme.
- 3.44 Taking the above points into account the proposed scheme would be a neighbourly form of development which would not result in a material loss of light, loss of outlook, loss of privacy or give rise to unreasonable levels of overlooking. Therefore, the development would comply with the aims of the NPPF, and with policies DMHB 11 and DMHD 1 of the Local Plan: Part Two – Development Management Policies (2020).

4.0 CONCLUSION

- 4.1 The development specified would be permitted development by virtue of Class AA of Part 1 of Schedule 2 (permitted development rights - development within the curtilage of a dwellinghouse) of the Town and Country Planning (General Permitted Development) (England) (Amendment) (no. 2) Order 2015 (as amended).
- 4.2 The appellant has demonstrated that all elements of Class AA are satisfied, including the limitations as the development would have an acceptable impact on the character, appearance and visual amenities of the street scene and the surrounding area and would not result in any unacceptable impacts on the residential amenities of neighbouring occupiers that would materially affect living conditions.
- 4.3 For the reasons given above and the evidence provided, on the grounds that the council's refusal to grant prior approval in respect of the erection of one additional storey above the principal part of the dwellinghouse at no. 139 North Hyde Road was not well founded it is politely requested that this appeal should be allowed.