

TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPULSORY PURCHASE ACT 2004)
SECTION 78 APPEAL.

STATEMENT OF CASE ON BEHALF
OF THE APPELLANT

APPELLANT : MR SANTARAM SANTOK
APPEAL SITE : 3D PERRY CLOSE HILLINGDON UB8 3HR
OUR REF : 230922
LPA REF : 78093/APP/2024/183
DECISION DATE : 11th March 2024

MR SANTOK

3D PERRY CLOSE HILLINGDON UB8 3HR

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1.0 **INTRODUCTION**

1.1 This is a statement of case on behalf of appellant Mr Santok.

1.2 The appeal is made against the London Borough of Hillingdon's decision, made on 11th March 2024, to refuse planning permission for Retention of an external canopy with timber posts, decking and corrugated roof sheeting (Retrospective application).

1.3 The Hillingdon Borough Council refused this planning permission at 3D Perry Close Hillingdon UB8 3HR for the Retention of an external canopy with timber posts, decking and corrugated roof sheeting (Retrospective application), planning reference 78093/APP/2024/183 for the following reason(s):

- "The existing canopy, by reason of its size, scale, bulk, height, width and design, would represent an incongruous form of development which would be detrimental to the architectural composition of the existing dwelling and would fail to harmonise with the local context to the detriment of the visual amenities of the street scene and the character and appearance of the wider area. The proposed development is therefore contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012) and Policies DMHB 11 and DMHD 1 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020)."

2.0 **THE SITE LOCATION AND DESCRIPTION**

2.1 The site is located on the North East side of Perry Close, Uxbridge. The front garden is covered in hard surfacing and grass and forms an area of off-street parking.

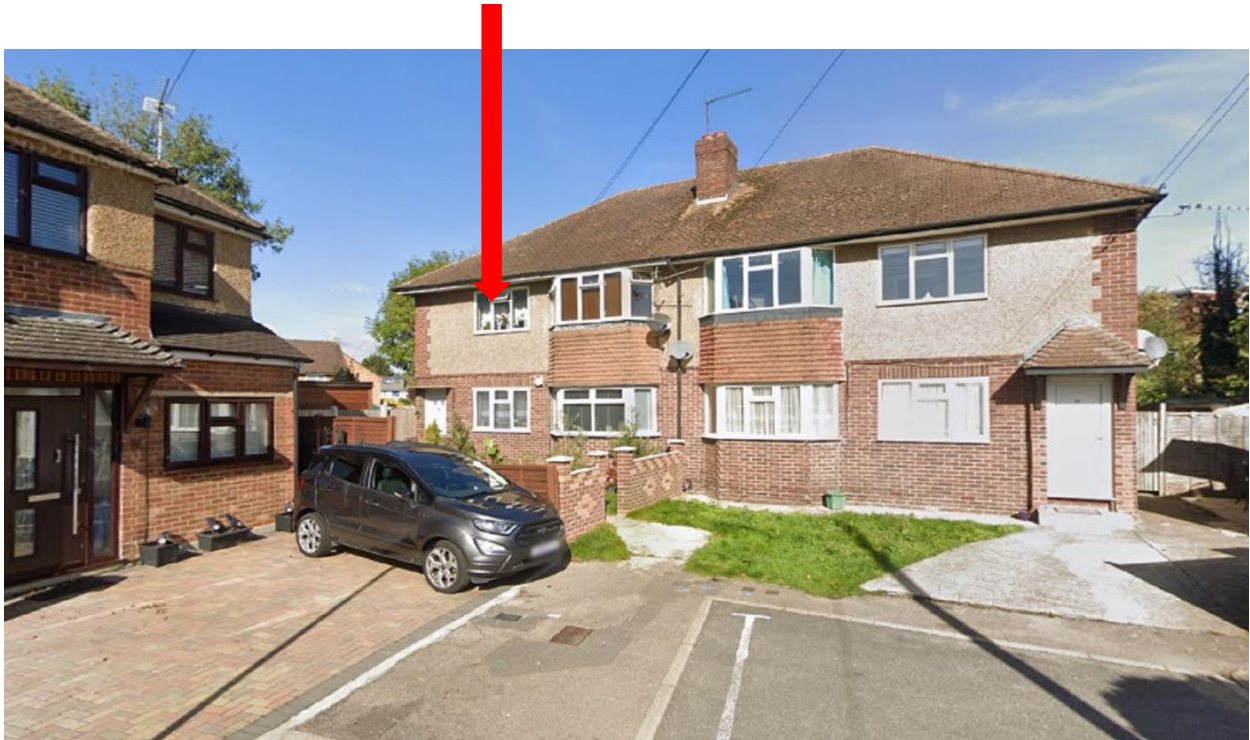
2.2 The application site falls under no heritage or policy constraints. The appellant site is located within a predominantly residential area and is not within a Conservation area, nor is it a listed building.

2.3 The surrounding area is predominantly mixed, characterized by two storey family homes along the road.

2.4 Planning History - The following applications are relevant to this site

- 78093/APP/2023/1677 Erection of roof canopy over part of rear garden (Retrospective application)

Decision: 31-08-2023 **Refused**



The arrow on the photo shows the site of the proposed development

3.0 THE APPEAL PROPOSAL

- 3.1** The Appellant seeks planning permission for the Retention of an external canopy with timber posts, decking and corrugated roof sheeting (Retrospective application).
- 3.2** Copies of the planning application forms submitted to the Council are enclosed in Appendix B. The floor plans, elevations and location plan drawing are also enclosed.

4.0 POLICY CONSIDERATIONS

- 4.1** Section 38 (6) of the Planning and Compulsory Purchase Act 2004 gives priority to the provisions of development plans in determining planning applications and appeals as well as all other material considerations.

The Planning law requires **that applications for planning permission be determined in accordance with the development plan**, unless material considerations indicate otherwise. **The revised National Planning Policy Framework which came into force in 2019 must be taken into account in preparing the development plan, and is a material consideration in planning decisions.** Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

- 4.2** Advice in Paragraph 38 of NPPF highlights that Local planning authorities should approach decisions on proposed development in a **positive and creative way**. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. **Decision-makers at every level should seek to approve applications for sustainable development where possible.**
- 4.3** Advice in Paragraph 54 of NPPF underscores that, Local planning authorities should consider whether otherwise **unacceptable development could be made acceptable through the use of conditions or planning obligations**. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 4.4** Advice in Paragraph 117 highlights that Planning policies and decisions should **promote an effective use of land in meeting the need for homes and other uses**, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed.
- 4.5** Advice in paragraph 120 states that Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:
- a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and
 - b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area**
- 4.6** Advice in paragraph 122 states that **Planning policies and decisions should support development that makes efficient use of land, taking into account:**
- a) the identified need for different types of housing and other forms of development**, and the availability of land suitable for accommodating it;
 - b) local market conditions and viability;
 - c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;**
 - d) the desirability of maintaining an area's prevailing character and setting (Including residential gardens), or of promoting regeneration and change; and

e) the importance of securing well-designed, attractive and healthy places.

4.7 Underlining these principles is advice in paragraph 124 of the revised NPPF 2019 which underscores that "The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. **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. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process".

4.8 Advice in paragraph 127 of NPPF states that Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, **while not preventing or discouraging appropriate innovation or change (such as increased densities)**;

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) **optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development** (including green and other public space) and support local facilities and transport networks.

4.9 Advice in paragraph 130 of NPPF states Permission **should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards** or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

4.10 The London Plan

- Policy D4 – Delivering good design

- Policy D6 – Housing quality and standards
- Policy 7.4 – Local character
- Policy 7.6 – Architecture
- NPPF – National Planning Policy Framework

4.11 Local Plan Designation and London Plan

- Part 1 Policies:
- PT1.BE1 (2012) Built Environment
- Part 2 Policies:
- DMHB 11 Design of New Development
- DMHD 1 Alterations and Extensions to Residential Dwellings
- LPP D4 (2021) Delivering good design
- LPP D6 (2021) Housing quality and standards

5.0 THE PLANNING CONSIDERATIONS

5.1 This section considers the planning issues relating to this planning application and demonstrates – with reference to relevant Development Plan policies and other material considerations - that permission should be granted.

- Under the provisions of S.38 (6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to determine planning applications in accordance with the policies of the Development Plan, provided they are up to date and relevant, unless material considerations indicate otherwise.

5.2 The relevant policies quoted in the decision notice in relation to the District Plan Policy provide only general guidance, each case is to be judged on its own individual merits, having regard to the circumstances at the site and the design of the proposal.

In refusing planning permission, the LPA raised the following issues which will be discussed point by point:

- 1- The existing canopy, by reason of its size, scale, bulk, height, width and design, would represent an incongruous form of development which would be detrimental to the architectural composition of the existing dwelling and would fail to harmonise with the local context to the detriment of the visual amenities of the street scene and the character and appearance of the wider area. The proposed development is therefore contrary to Policy BE1 of the Hillingdon Local Plan: Part One – Strategic

Policies (November 2012) and Policies DMHB 11 and DMHD 1 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020).

The current canopy is aligned with the height of the existing "dwelling," which, in reality, is a separate timber shed distinct from the Appellant's main residence. Constructed primarily of timber and harmonizing with the brown and black color scheme of the shed, it maintains the same ground level and height. It does not present an incongruous form of development but rather serves as a complementary and purposeful extension to the timber shed. Utilizing high-quality building materials and finishes, it facilitates the secure and tranquil enjoyment of the garden for the Appellant.

The Canopy has no adverse impact on the amenity, daylight, or sunlight of neighbouring properties and open space. It is seamlessly connected to the pre-existing timber shed, sharing the same height and floor level. Importantly, the doors and windows of the shed do not open towards or face any neighbouring property. Furthermore, the garden is thoughtfully enclosed, secure, and environmentally conscious. It features a variety of trees, plants, and natural habitats that support various species. The well-maintained lawn enhances the overall appeal of the space.

The site remains concealed from public view, encompassing roads, footpaths, bridleways, and other public areas. Consequently, any argument asserting its disharmony with the local context, affecting visual aesthetics, or altering the character of the broader area lacks merit.

It is essential to emphasize that the canopy is not an extension of the Appellant's main dwelling but rather connected to a pre-existing timber shed, categorically distinct from the Appellant's residence. No unacceptable loss of outlook to neighbouring occupiers occurs, as the canopy is not within immediate view of neighbouring properties, with only one adjacent neighbour who does not overlook the canopy. Objector contentions are debunked as baseless, vexatious, and inaccurately presented.

The Hillingdon Development and Building Control team's consultation with 7 neighbouring properties resulted in just one objection during the statutory 21-day period, with the remaining 6 properties endorsing the development. The refusal's reliance on the objection of a sole neighbour overlooks the explicit support of the majority.

Lastly, it is contested that the existing canopy is not affixed to a dwelling but to a shed, rendering the provisions of Policy DMHD 1 irrelevant and inapplicable in this specific case.

5.3 Principle of the development

The refusal did not make reference to the principle of the development; however, it is important that the principle of the development should be taken into consideration.

The principle of development is supported by Paragraph 117, 118 and 127 of the revised NPPF 2019. Paragraph 117 advice that Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while **safeguarding and improving the environment and ensuring safe and healthy living conditions**; while Paragraph 118 highlights that **Planning policies and decisions should encourage multiple benefits from both urban and rural land**.

- 5.4** Furthermore paragraph 127 advocates that planning policies should ensure that developments **optimise the potential of the site** to accommodate and sustain an appropriate amount and mix of development, and subsequently.
- 5.5** Policy DMHB 11 of the Hillingdon Local Plan, Part Two - Development Management Policies (2020), underlines the importance of designing developments to the highest standards, incorporating principles of good design. These principles include harmonizing with the local context, using high-quality building materials and finishes, and protecting features of positive value within and adjacent to the site.

In the case of 3D Perry Close, the canopy is an existing structure for which retrospective permission is sought. It is essential to acknowledge that while the canopy's height, at 2.89 meters, slightly exceeds the permitted development limit of 2.5 meters, this deviation can be considered marginal. The attachment of the canopy to an existing shed represents a logical extension in line with good design principles.

Crucially, the neighbour's objection, claiming that the canopy is highly visible from their dining room and back garden seating area, has been proven to be inaccurate upon closer inspection. The orientation of their property completely obstructs any visual access to the appellant's property. Therefore, it is imperative to take this into consideration when evaluating the impact on character and appearance.

Furthermore, the neighbour's claims that the canopy is constructed of scrap materials and that the shed is painted in garish stripes have not been substantiated with evidence. The materials used are of suitable quality, and the design choices made are in line with good design principles.

- 5.6** Policy DMHD 1 requires that alterations and extensions to residential dwellings should 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 mandates that there should be no unacceptable loss of outlook to neighbouring occupiers.

Therefore, the following supporting comments from the neighbours should be duly considered:

"3a Perry Close: Please accept this as my full support for the retrospective planning application submitted by my neighbour (applicant in this matter) concerning the erection of a canopy around their outbuilding, in their rear garden.

The current canopy is aligned with the height of the existing separate timber shed and away and unconnected from our neighbour's (applicant) main dwelling. Constructed primarily of timber and harmonizing with the brown and black colour scheme of the shed, it maintains the same ground level and height. It does not represent an incongruous form

of development but rather serves as a complementary and purposeful extension to the timber shed. Utilizing high-quality building materials and finishes, it facilitates the secure and tranquil enjoyment of the garden for my neighbour. There is no noise from the coated corrugated new sheets of roofing used, that affects us, as immediate neighbours during any rainy or windy season or otherwise.

The Canopy has no adverse impact on the amenity, daylight, or sunlight of our property or any neighbouring property. Most importantly, the doors and windows of the shed do not open towards or face our or any other neighbouring property. It is completely private. Furthermore, the garden is well maintained, thoughtfully enclosed, secure, and environmentally friendly. The canopy remains concealed from public view and there is no unacceptable loss of outlook to us as immediate neighbours or to the neighbourhood.

I have no hesitation in recommending that this retrospective application is approved, as the canopy blends very well with the surroundings and is a very welcome addition to my neighbours garden and outbuilding and their peaceful enjoyment."

"3b Perry Close: This is an expression of support and no objection for the retrospective planning application submitted by my neighbour concerning the erection of a canopy around their shed, in their rear garden. Please note that this shed or the canopy is not connected to their main dwelling. We are immediate neighbours.

The canopy is very beautiful. Blends in well with the neighbourhood and is not visible from the street or any public road and public place. It is very private.

I have been in the building trade for decades and can reassure that this copy is built very solid and with high quality materials. It is also of a height that does not exceed the roof of the existing shed and forms a very good and welcome addition. The overall size overall is just adequate enough to allow my neighbours protection from the elements so that they can peacefully enjoy their garden. It is ideally purposeful.

We are the occupiers of the building, in the most immediate vicinity. The canopy and shed do not disturb us in any way, rain or shine, day or night whatever the weather. The canopy does not cause any nuisance or disturbance. We are stating this from experience having been through very wet, sunny, and windy seasons. The canopy is there, but its build makes it unnoticeable and quiet.

Please approve the application and allow my neighbours to enjoy their most loved and cherished garden, which they beautifully maintain, all year round.

Thank you very much for inviting me to comment."

"3c Perry Close: I am writing to offer my full support for the retrospective planning application submitted by my neighbour concerning the erection of a canopy around their outbuilding in their rear garden. This is not connected in any way to their main dwelling.

This addition not only enhances the usability and functionality of their property but also benefits their privacy in their garden. By providing shelter from the elements, the canopy allows for year-round use of their garden, making it a more inviting and enjoyable space for themselves.

Importantly, the installation of the canopy ensures that this part of the garden becomes weatherproof, benefiting my neighbour. It extends the usability of their property without encroaching on privacy. The design of the canopy is thoughtfully integrated with the surroundings, preserving the visual harmony of the neighbourhood. It has been very carefully designed and built using very good and high-quality building materials and professional craftsmanship.

In light of these considerations and the positive impact on the community, I urge you to approve this retrospective planning application. It represents a valuable enhancement to their property and contributes to the overall well-being of the neighbourhood.

Thank you for considering my comments."

Accordingly, the proposed canopy's positioning does not have a detrimental impact on neighbouring amenity in terms of loss of outlook, light, or an overbearing presence. The canopy serves a functional purpose, enhancing the garden's usability, and contributes positively to the overall aesthetics of the property. These factors are in alignment with the policy's objectives.

5.7 The development indisputably accords with the underlining principles and advice in paragraph 124 of the NPPF which underscores that "The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. 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. This advice distinguishes good design from poor design and encourages LPAs to approve development with good design.

5.8 The Appellant also argues that the proposal will not harm the character of the locality, instead it will bring a form of innovation that will enhance the character of the locality in response to Paragraph 127 which highlights that:

Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, **while not preventing or discouraging appropriate innovation or change**

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

"The word 'Dwelling' is not a term of art with a specialised legal meaning. It is the place where an occupier lives and to which he returns and which forms the centre of his

existence. No doubt he will sleep there and usually eat there; he will often prepare some of his meals there''.

The pre-existing shed is not the Appellant's dwelling nor forms part of a separate dwelling and is not a place where the occupier lives and to which he returns to, nor does he sleep or eat in the shed. The timber shed is detached from the main dwelling.

It is respectfully submitted that the application for the canopy should not have been considered under Policy DMHD 1 of the Hillingdon Local Plan: Part Two-Development Management Policies (2020) as the canopy is not connected to the Appellant's main dwelling.

5.9 Summary

The design and construction of the canopy seamlessly align with the existing timber shed, forming a cohesive and complementary addition without discord or detriment to its architectural composition. Its location within the rear garden, off-street visibility, and congruence with the surrounding elements contribute to its effective integration and harmonization with the immediate setting. The structure facilitates the utilization of the garden regardless of prevailing weather conditions, promoting increased usage.

Given its strategic placement, size, height, and orientation, the canopy does not give rise to substantive overlooking concerns, particularly as it does not face neighbouring properties. Its sympathetic relationship with the adjacent dwelling, matching rooflines, and consistent color scheme contribute to a visually cohesive and unobtrusive presence.

Contrary to objections, the paint colors, maroon and black, align with the existing timber shed, dispelling claims of garishness or vexatious embellishments. The choice of materials, including newly coated tin sheets for the roof, demonstrates a commitment to high-quality construction, and the noise impact from rainfall is mitigated by both the tin coating and the double/treble glazed windows of neighbouring properties.

The objections from one neighbour overlook the positive engagement with the majority of neighbours, six out of seven, who are supportive of the canopy's existence, design, and impact on the neighbourhood. Appellant had proactively informed and involved neighbours in the process, fostering understanding and appreciation for the project.

Several neighbours have expressed their strong support for the retrospective planning application concerning the erection of a canopy around an outbuilding at 3D Perry Close, Hillingdon. Neighbours from 3A, 3B, and 3C Perry Close have highlighted various positive aspects of the canopy, emphasizing its alignment with the existing timber shed, the use of high-quality materials, and its harmonious integration with the surrounding environment.

3A Perry Close notes that the canopy, constructed of timber and matching the existing colour scheme, does not affect their amenity, daylight, or privacy. They appreciate the structure's private nature, as it does not face any neighbouring properties, and commend its aesthetic and functional enhancement to the garden.

3B Perry Close, with a background in the building trade, vouches for the canopy's solid construction and high-quality materials. They emphasize the canopy's adequate size, which allows for protection from the elements without causing any nuisance or disturbance, reinforcing the structure's unobtrusiveness and quietness.

3C Perry Close supports the canopy for its ability to enhance the property's usability and privacy, enabling year-round enjoyment of the garden. They appreciate the thoughtful design and professional craftsmanship, which maintain the neighbourhood's visual harmony and positively impact the community.

In conclusion, these neighbours unanimously support the retrospective application, recognizing the canopy's contribution to the applicants' enjoyment of their property and its harmonious fit within the neighbourhood. They urge approval, highlighting the lack of negative impact and the overall benefits to the community.

The contention that the canopy is not connected to the main dwelling challenges its classification under certain Local Plan Policies, questioning the applicability of such policies to the retrospective planning permission request.

Moreover, the Appellant raises concerns about fair treatment, human rights, and the enforcement team's approach, citing perceived partiality, prejudicial instructions for compulsory removal, and an absence of consideration for the retrospective application and appeal processes. These concerns highlight a perceived lack of procedural fairness and an intimidating atmosphere that warrants further examination.

In summary, the Appellant argues for the canopy's seamless integration, neighbourhood support, and a fair assessment aligned with human rights principles, challenging the objections and enforcement team's directives.

6.0 CONCLUSIONS

- 6.1** Taking into account the above, it is considered that the proposals would not harm any interests of acknowledged importance.
- 6.2** Considerable effort has been made to put forward a proposal that would complement the design, character and appearance of the area. The development would be visually sympathetic and would not harm the character and appearance of the surrounding area.
- 6.3** The design and siting of the proposal is a well thought-out, creative and appropriate design solution, specific to this particular appeal premises. The proposal would not detract from the character and appearance of Perry Close. Consequently, the proposal would not conflict with the policies D4, D6 and 7.4 of The London Plan (2021), and Paragraph 124 and 127 of NPPF.
- 6.4** The appellant ground for appeal is that the proposal will not harm the visual amenities of the street-scene. The building is not of any listed value plus the site is not in a conservation area and therefore the proposal will not have a harmful impact on the visual amenities or the character and appearance of the area.

- 6.5** In conclusion, we kindly request that the Local Planning Authority reconsiders the refusal of planning permission for the Retention of an external canopy with timber posts, decking, and corrugated roof sheeting (Retrospective application) at 3D Perry Close, Hillingdon. The existing canopy, despite a slight deviation from the permitted development height, does not appear to be incongruous with the surrounding area and does not negatively impact neighbouring amenity. It serves a practical purpose, enhancing the garden's functionality, in line with good design principles and the use of high-quality building materials.
- 6.6** In the event of approval, we wish to express our willingness to accept any reasonable conditions imposed by the Planning Authority to ensure compliance and harmony with the local context.
- 6.7** Considering the policies outlined in the Hillingdon Local Plan, Part Two, and the inaccuracies in the neighbour's objections, we believe that the retrospective development aligns with the objectives of these policies. We kindly request that the Planning Authority reevaluates the application and gives due consideration to the policies mentioned in the report and the observations made in this appeal statement.
- 6.8** In these circumstances, the Inspector is respectfully requested to uphold the appeal and allow for the grant of planning permission for the proposed development.