

Statement of Case

Appeal under Section 78 of the Town and Country Planning Act 1990

Our Reference	21 Tiverton Road – Scheme 1
LPA Reference	73915/APP/2021/3221
PINS Reference	TBC
Date of Application	23 rd August 2021
Date of Determination	18 th October 2021
Site Address	21 Tiverton Road, Ruislip, Hillingdon, HA4 0BW
Proposal	Householder application for erection of two storey side extension involving the demolition of an existing single storey garage.

1) Introduction, Background and Procedural Matters

This Statement of Case (SofC) is submitted on behalf of Mr and Mrs Quy (the 'Appellants') in response to the refusal by the Local Planning Authority (the 'LPA') the London Borough of Hillingdon to approve a householder application (the 'application') for the above cited development at 21 Tiverton Road, Ruislip, HA4 0BW (the 'site').

This SofC will demonstrate why the Appellant considers the proposal to be in compliance with the LPA's Development Plan, the Hillingdon Design and Accessibility SPD and the NPPF.

On 23rd August 2021 the Appellants through their agent, applied for:

2 storey side extension involving the demolition of an existing garage.

Which the LPA reworded to:

Erection of a two-storey side extension involving the demolition of an existing single storey garage.

The change is considered immaterial and accordingly the part of the Appeal form which questions whether there has been a description change, has been left blank. The Appellant is/was content with the revised wording.

The appeal encompasses this SofC with appendices, and further information pertinent to the Appellant's case:

Additional Information/documents contained in the appendices.

- Details of refused application 73915/APP/2021/830 dated 26th April 2021.

By way of background – see also paragraphs 1.2-1.6 of the submitted Planning Statement - the Appellant previously sought consent for a two-storey side extension larger than the subject of this Appeal. Consent was refused on 26th April 2021 for the following 2 Reasons for Refusal (RforRs).

- 1) *The proposed two storey side/rear extension, by virtue of its size, scale, bulk, and design, including the awkward juxtaposition of the proposed roof with the existing roof works, would fail to harmonise with the architectural composition of the host dwelling and would be detrimental to the character, appearance and visual amenities of the street scene and surrounding area. The proposal is therefore contrary to Policy BE1 of the Hillingdon Local Plan: Part One – Strategic Policies (November 2012) and Policies DMHB 11, DMHB 12 and DMHD 1 of the Hillingdon Local Plan: Part Two. – Development Management Policies (January 2020).*
- 2) *The proposed two storey side/rear extension, by virtue of its size, scale, bulk, height, and proximity, would be detrimental to the amenities of the neighbouring*

occupiers at no. 19 Tiverton Road, by reason of overdominance, overbearing effect, sense of enclosure and loss of outlook. The proposal 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 (January 2020).

The Appellant immediately engaged with their architect to revise the design to address the 2 principal issues cited on the Decision Notice. This process reduced the massing of the roof to replace a gable-end with a hipped roof form, changes to reduce the volume of the roof form generally and to narrow still further the width of the extension.

As set out in paragraphs 1.2-1.6 of the Planning Statement, the Appellant was content to consider that the further revisions and reduction in scale, in particular the replacement of the gable roof with a hipped roof, fully addressed all the LPA's recommendations including (a) setting the extension still further from its immediate neighbour no.19 Tiverton Road, and (b) changing the roof form to a policy compliant design entailing a hipped roof projecting from a previously formed gable end. Despite the design changes made, the resubmitted scheme was refused consent.

The Appellant considers that the LPA have misunderstood the proposal and indeed some of their own Policies / Guidance - in particular the LPA have misdirected themselves as to how the Design Guide requires an extension is to be assessed in terms of gauging its acceptability in terms of maintaining the amenities of adjacent neighbours. Whilst elaborated upon below, in brief it is the Appellant's strongly held view that the LPA have mis-applied the '45-degree rule' used to assess to assess such proposals, and have taken the line from the incorrect part of no.19. In this case, the LPA have taken the line from the nearest part of no. 19 (which is an attached garage), rather than the middle of the nearest habitable room window as per the Design Guide. This mistake was made despite the Planning Statement explaining the appropriate assessment format given the same misapplication was evident in the April 2021 refusal, and the Site Block Plan showing the correct 45-degree lines. The latter demonstrate that the extension would sit far outside the 45 lines (from both adjacent properties).

The Delegated Report considers some of the material considerations relevant to the proposal including those issues cited on the Notice – in particular that the development would not be subordinate to, or harmonise with, the host dwelling nor street scene and would also dominant and be overbearing to the occupiers of 19 Tiverton Road.

The Delegated Report confirms that no consultee, no neighbour, or the Ruislip Residents Association raised objection to the proposal. It is also welcomed that no other department within the Council i.e., the Policy section, Urban Design Officer or Highways, raised concern.

It is an important material consideration worthy of reiteration, that no member of the public, be they local residents who would interact with the site on a daily basis, or any other member of the public, raised concern regarding the proposal. This is reflective of the Appellant's strongly held belief that in contrast to the LPA's concerns, those who would experience the development every day do not share the LPA's belief that the proposal would (1) fail to respect the scale and proportions of the host dwelling, (2) fail to respect the character and appearance of the street scene and surrounding area, (3) be at odds with the prevailing character of the area and/or pattern of development, and (4) result in harm to the amenities of adjacent occupiers in any way, shape or form.

Despite there being no objection from any party, the scheme was considered contrary to the Development Plan and consent refused under Delegated Powers for two RforRs.

- 1) *The proposed two storey side/rear extension, by virtue of its size, scale, bulk, and design, including the awkward juxtaposition of the proposed roof with the existing roof works, would fail to harmonise with the architectural composition of the host dwelling and would be detrimental to the character, appearance and visual*

amenities of the street scene and surrounding area. The proposal is therefore contrary to Policy BE1 of the Hillingdon Local Plan: Part One – Strategic Policies (November 2012) and Policies DMNB 11, DMHB 12 and DMHD 1 of the Hillingdon Local Plan: Part Two – Development Management Policies (January 2020).

- 2) *The proposed two storey side/rear extension, by virtue of its size, scale, bulk, height, and proximity, would be detrimental to the amenities of the neighbouring occupiers at number 19 Tiverton Road, by reason of overdominance, overbearing effect, sense of enclosure and loss of outlook. The proposal 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 (January 2020).*

It is noted that whilst the design had been demonstrably and significantly changed from that refused consent in April 2021, the RforRs are identically worded. Given the changes made in the Appeal scheme, in particular the alteration to the roof form to reduce the scale, nature and massing of the same, it is surprising that the LPA felt these changes were not worthy of reflection on the Decision Notice.

The wording of the RforRs confirms that the LPA do not object to the principal of development in this particular location. However, the LPA do hold concerns with the scale and massing in relation to the host dwelling, how the extension would appear within the street scene and the impact of the same on the amenities of no.19 Tiverton Road.

As noted above, the Appellant is perplexed as to the inclusion of concerns regarding the extension impacting on no.19 Tiverton Road, given the actualities of the existing situation; namely that a garage separates no.19 from the extension and the extension would sit comfortably outside the principal assessment tool used by the LPA to judge the acceptability of such relationships. Nevertheless, as part of the second RforR, it is necessary to comment further below.

In light of the above, the Reason for Refusal are considered to give rise to the following considerations:

Whether the siting, scale and design of the proposal represents 'good design' in keeping with the host building and street scene.

Whether the siting, scale and design of the proposal would reduce the amenities presently enjoyed by the occupiers of 19 Tiverton Road.

The application was determined on 18th October 2021.

2) Executive Summary

The Appellant considers the proposal is a high-quality design commensurate in scale, siting and massing to the host property and curtilage, and also the character and appearance of the Tiverton Road street scene.

The host dwelling and its curtilage are entirely typical representatives of the local suburban built form which dominates the architectural make-up of the locale. The site is readily capable of absorbing what would be within this curtilage and local context, a development in scale with the built form and environment evident, and certainly a scheme in scale with the end of terrace format of the host dwelling.

The extension would not result in detrimental harm to the appearance of the street scene for a number of reasons. These include that the siting, scale, and massing of the extension are entirely typical of side extensions evident in the vicinity of the Appeal site. A short walk around the local area would reveal numerous such examples of two-storey side/rear hipped roof extensions. Further, the scale of the extension – just over 2.2m wide, no wider than the garage to be removed whilst also set further from the flank boundary – coupled with a subordinate ridge height and overall depth less than the rearmost projection at no./21, all support the Appellant's strongly held view that the proposal would not be out of character with either the house or the street scene. Instead, the form, massing, scale, facing materials, and architecture of the extension are entirely appropriate, quite typical of built form in the local area and appropriate in all assessment measures against the requirements of the Development Plan and Residential Extensions Design Guide SPD.

The proposal will ensure the delivery of a high quality well-designed functional addition to the host dwelling without prejudicing issues of acknowledged importance. Further, the quality of the design is such that it is considered to make a positive contribution to the character of the area – a belief enhanced by the material palette and principal architectural features i.e., hipped roof as per the requirements of the Design Guide, and a standardised atypical extension format akin to examples found in the locale.

Paragraph 5.20 of the LPA's Design Guide states that when assessing a schemes acceptability in terms of 'daylight/sunlight' reduction on adjacent properties, if a two-storey extension extends beyond a 45-degree horizontal angle taken from the middle of a principal window to a habitable room on an adjoining dwelling, the extension may not be acceptable. The proposed extension sits comfortable outside of this line. The same assessment is evident in para 3.15 for single storey extensions and indeed for two-storey 1st floor extensions in para 6.2. In each case the 45-degree line is taken from the middle of the nearest principal window to a habitable room on the adjacent property. The proposal would not breach this line.

Setting aside the LPA's mistaken belief that the 45-degree line is taken from the nearest edge of an adjacent building rather than a window, it is welcomed that the LPA did not find other failings within the proposal. Accordingly it is deemed common ground that the scheme is acceptable in terms of (a) the principle of an extension in this location (b) impact on no.23 Tiverton Road and other adjacent occupiers except no.19 (c) biodiversity (d) drainage (e) arrangements for pedestrian and vehicular access (f) internal and external layout (g) crime prevention / secure by design (h) waste management (i) flooding risk (j) environmental pollution (k) parking (l) accessibility (m) the sustainability of the location (n) materials, site coverage and landscaping, to list the main considerations.

Overall, the development would reflect the core principles of sustainable development as set out in paragraphs 8 and 11 of the NPPF. The scheme would also comply with objectives of the Development Plan in terms of delivering a high quality development in a suitable location.

The Appellant wishes to highlight that whilst comparisons are made herein with the refused April 2021 application, the Appellant's strongly held opinion is that the revised proposal is acceptable in its own right when assessed against the Development Plan.

3) The Development Plan Framework

The NPPF stipulates amongst its key planning principles that the planning system has three overarching interdependent objectives – set out in para 8 - to achieve the overriding aspiration of the planning system to deliver sustainable development. This aspiration is reinforced via the presumption in favour of sustainable development which in terms of decision making requires the approval of developments that accord with up-to-date development plans, and, where there are no relevant development plan policies, granting permission unless there would be clear harm to an area / issues of particular importance or by in granting consent the adverse impacts of that consent would demonstrably outweigh the benefits when the entire NPPF is considered.

The LPA's Development Plan is in 2 parts, with only Part 2 being up to date. The Development Plan therefore comprises the Local Plan Part 1 (2012), the Local Plan Part 2 (2020), as supplemented by the Design and Accessibility Statement (HDAS) SPD (2008), alongside the NPPF (2021) and The London Plan (2021).

The policies referred to by the LPA and cited on the Notice are:

Local Plan Part 1 (2012)

BE1 Built Environment

Local Plan Part 2 (2020)

DMHB 11 Design of New Development

DMHB 12 Streets and Public Realm

DMHD 1 Alterations and Extensions to Residential Dwellings

In addition, the LPA also refer to the following within the delegated report.

Hillingdon Design and Accessibility Statement (HDAS) Supplementary Planning Document Residential Extensions (the 'Design Guide').

National Planning Policy Framework

Chapter 2 contains the core principle of the NPPF namely the presumption in favour of sustainable development. Paragraph 11 (c) sets out that in terms of decision taking, LPAs should approve development proposals that accord with an up-to-date development plan without delay. The LPA have only a partially up-to-date Development Plan.

Paragraph 38 stipulates that LPAs should approach decisions in a positive and creative way working proactively with applicants to secure developments that will improve on matters such as the environmental conditions of an area. Decision-makers at every level should seek to approve applications for sustainable development whenever possible.

In light of the on-going Corona virus situation, it is material to note the encouragement in Chapter 6 paragraph 81 (d) that policies be flexible enough to cater for new and flexible working practices not anticipated when the plan was written. One repercussion of the virus is a significant increase in 'home-working'. The study/office element of the proposal will provide occupiers with an alternative working environment than would otherwise be the case.

Chapter 12 considers design - '*Achieving well-designed places*'. Paragraph 124 states 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, LPAs and other interest groups throughout the process.

Paragraphs 128 and 129 encourages the provision of design guides and codes to assist clarify design expectations and provide a framework for creating distinctive places with a consistent and high-quality standard of design.

Paragraph 130 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 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; and*
- f) *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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

Paragraph 134 states that *'development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design'.*

Conversely, significant weight should be given to:

- (a) *development which reflects local design policies and government guidance on design, considering any local design guidance and SPDs such as design guides and codes; and/or*
- (b) *outstanding or innovative designs which promote high levels of sustainability, or help to raise the standard of design more generally in an area so long as they fit in with the overall form and layout of their surroundings.*

As the proposal is a high-quality design, does not conflict with other guidance – in particular the HDAS 'Design Guide' - and is not out of character with local built form, the Appellant opines that the proposal accords with Chapter 12 guidance.

Paragraph 131 states that in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design generally in an area, so long as they fit in with the overall form and layout of their surroundings. The proposal is a well-considered and modest addition to this end-of-terrace dwelling and would entail the replacement of a ramshackle un-fit-for purpose garage with an extension entirely in keeping with the host dwelling which would add valuable additional accommodation for the family residing therein.

4) Principal Planning Considerations

The Decision Notice contains 2 RforRs and cites 4 Policies from the Development Plan.

Policy Considerations / General Commentary.

Reason for Refusal no.1

The LPA opine that the proposal would not be in accordance with the Development Plan, due to:

The siting, scale and design of the proposal not being of 'good design' in keeping with the host building and street scene.

The LPA's rationale behind RforR1 hinges, fundamentally, on a belief that the proposal would give rise to such an unacceptably poor quality design, that it would conflict with design led policies in the Plan, and the LPA's own Design Guide (the HDAS). This belief is considered without merit. The LPA have not provided evidence to support this belief or identify why this particular two-storey side/rear extension would conflict with policies requiring that extensions be modest in scale and subordinate to the host dwelling, incorporate certain design features (i.e., front set-backs and subordinate ridges) and matching materials, when all such features are manifest within the proposal. It is unclear where conflict with Policy is manifest - indeed the Appellant is uncertain how a subordinate two-storey side extension might be realised other than through the design proposed whilst still adding a usable amount of additional space.

Further, that the local suburban residential area in which the site is located, contains a wide variety of side and/or rear two-storey extensions, is evidence that the proposal would, rather than conflicting with the Development Plan, actually deliver an entirely appropriate modest addition to a family home akin to examples found locally (see below).

Policy BE1 of Part 1 sets out the LPA's over-arching approach that new development improves and maintain the quality of the built environment in order to *create 'successful and sustainable neighbourhoods'*. Of the 11 sub-sections which follow, those of particular relevance to the proposal – primarily those consider with design assimilating with their site, improve the quality of the public realm and make positive contributions to their locale - are all attributes manifest in the proposal. The extension will be a modest addition to the host dwelling, would not be prominent or more ungainly within the street scene than any other existing built form evident therein, and would assimilate in design, massing, scale and design terms with the site, the host dwelling, and the street scene generally.

Policy DMHB 11 of Part 2, is similar to BE1 of Part 1 inasmuch as requiring development, including extensions, to be of the highest design standards and harmonise with local context taking account of factors including scale of development, height, massing, bulky plot widths, building lines and set-backs, rooflines, and street scene rhythm, amongst related matters. The modest and subordinate scale of the extension would align entirely with the design-led requirements of DMHB 11.

Subsection (B) of DMHB 11, requires that developments *'should not adversely impact on the amenity, daylight and sunlight of adjacent properties'*. The Officer Report considers the extension would cause harm to no.19 by reason of scale, height, rear project, bulk, and massing resulting in an overbearing development when viewed from their patio area, resulting in a sense of enclosure, and being overbearing.

It is unclear to the Appellant how an extension no deeper than the existing house, with a hipped ridge-height lower than both no.19 and the host dwelling, with a hipped rear roof form, with no windows facing towards no.19 and set further from the mutual boundary than the garage to be removed, would lead to the situation the LPA infer. Further, it is not considered in the least bit likely that the occupiers of no.19 would choose to sit in their rear garden facing sideways facing towards the flank wall of the proposed extension – a wall which in any case would be seen against the backdrop of the existing, bulkier, and taller form of the main part of the host dwelling.

Policy DMHB 12 of Part 2 considers development in the context of the street scene and how proposal should integrate with the surrounding area, amongst various requirements. The Officer Report notes on page 5, that the lack of a frontage set-back would result in a '*visually dominant feature, disruptive to the existing rhythm of the host building and wider area – the same exacerbated by the proposed roof form*'. The Appellant respectively disagrees. On the first point, the extension would in fact be set back from the front building line by 155mm as indicated on the presented drawings (and further still behind the projecting bay window), would have a roof form required by the Design Guide for side-extensions on properties with previous 'hip-to-gable' extensions, and a scale of modest proportions comparable to the main house.

The Inspector is encouraged to view the local area where two-storey side extensions are to be found in number within a short distance of the site, with these all having fundamentally the same characteristics as that forming the Appeal scheme design.

Policy DMHD 1 relates to alterations and extensions to dwellings. Of the criteria relevant to the proposal, the proposal unquestionably complies (subsection C) i.e., the extension would not exceed half the width of the original property and would be set a minimum of 1.0m from the flank boundary. Being the end of a terrace, the requirement that the extension be set back 1.0m from the front boundary is not required – albeit a set-back is provided to provide relief.

Policy Considerations / General Commentary.

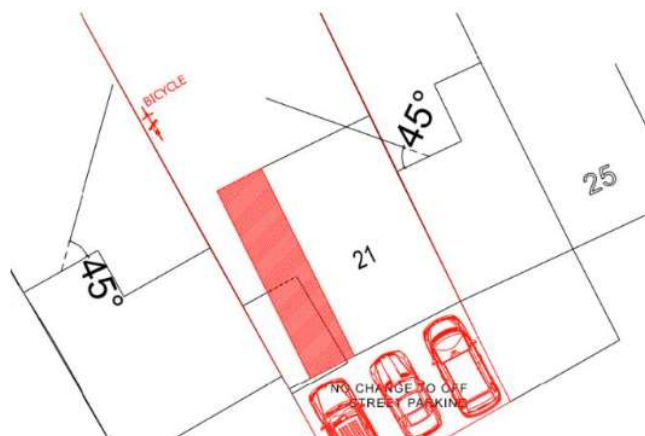
Reason for Refusal no.2

The LPA opine that the proposal would not be in accordance with the Development Plan, due to:

The siting, scale and design of the proposal reducing the amenities presently enjoyed by the occupiers of 19 Tiverton Road.

As set out above, the proposal would not by reason of its scale, setting, massing breach any 45-degree lines from any adjacent property, in particular in relation to 19 Tiverton Road.

Mindful of a RforR imposed on the April 2021 refusal, the Appellant ensured that the submitted plans indicated 45-degree lines taken from the middle of principal habitable room windows on both adjacent properties. The following is an extract from Dwg 03-A1 '*Plans as Existing and Proposed*' which accompanied the application. This demonstrates how the extension, in red, sits far outside of the relevant 45-degree lines contrary to the LPA's assertions.





The above image shows no.21, indicated by red arrow, and the dilapidated garage which will be replaced by the extension. It is material to the Appellant's case that no.19 to the left, has a flat roofed single storey garage which negates concerns regarding the extended no.21 being overbearing to no.19, as the extension would be separated from the same by the garage. This image, when coupled with the Site Plan above, also confirms that the extension would not breach the 45 degree line from no.19.



The above image, whilst unfortunately slightly blurred, shows the rear of Tiverton Road properties including no.21, depicted by the red arrow. It is possible to make out the rear windows at no.19, which shows there are 2 ground and 2 first floor windows. The 45 degree line is taken from the ground-floor window in the rear-most projection, though were it taken from other windows not set so far back, the extension would continue to sit outside of the 45 degree line. Indeed, even were the line taken from the nearest corner of the rear of no.19s garage, the 1st floor element of the proposed extension would still sit outside the 45 degree line.

There is therefore no substance to the LPA's assertion that the extension would impinge on the amenities enjoyed by the occupiers of no.19, when it is evident that no matter which rear facing window the 45 degree line is taken from, the extension would simply not impinge on this line.

Turning to the assertion that the proposal would result in a loss of outlook from no.19, as the extension would project no deeper into the site than the rear extension in situ at no.21, maintain the same rear building line as evident across the rear of Tiverton Road properties presently – see image above – and be set away from the rear of no.19 by no.19's garage, it is the Appellant's strongly held belief that the extension would not result in a loss of outlook, would not impact negatively on nos. 19s amenities in general terms, or otherwise be of any harm in any meaningful way that could give support to the LPA's assertion that the extension would have a negative impact on the amenities enjoyed by no.19.

That the occupiers of no.19 did not object to the proposal, merely serves to support the Appellant's belief that the extension would be acceptable to those occupiers in every manner.

The above image also shows far left, the two-storey rear projection evident at 31 and 31A Tiverton Road. That projection is considered to confirm that the LPA can be satisfied to accept two-storey rear projections in this locale.

Further, there are recently approved examples of very similar extensions consented by the LPA within the last 24 months. One nearby example is consent 34458/APP/2019/3090 at 8 Tiverton Road, which gained consent on 10th December 2019 for a two-storey side extension and part two storey, part single storey rear extension. Copyright prohibits the inclusion of the approved drawings herein, though the same can be viewed via the LPA's Planning Portal.

The extension at no.8 is very similar to that proposed at no.21, including in terms of scale, massing, visibility in the street scene, roof form, materials, and relationship to adjacent occupiers.

The Inspector is invited to review the consented scheme at no.8, and indeed view in situ the similar extensions approved at the neighbouring property 10 Tiverton Road, which also has a two-storey side/ rear extension. A tour of the local area will reveal a plethora of similar extensions.

In light of the many local examples of similar development forms, the proposal would not set a precedent for further extensions for the simple reason that it would not be the first such extension in the local area.

5) Representations

The Delegated Report notes that no objections were raised by local residents nor indeed any other party including the local Residents Association. It is clear that no stakeholders share the LPA's concern with regard to any of the concerns cited within the RforRs.

6) Conclusion

In conclusion, the Appellant considers that the proposal comprises a high-quality addition entirely subordinate to the host property and in keeping with the form of the same. Further, it would not facilitate the overdevelopment of the site, would not impact on the amenities of any adjacent occupiers, or result in a design anything other than entirely acceptable within the context of the site and local area.

That the proposal would also introduce a form of development already evident nearby, merely serves to reinforce that the proposal is entirely in keeping with the appearance of the street scene and, by implication, the local area.

In conclusion, the development would reflect NPPF core principles of sustainable development. The application also accords with those principal design aspirations in the Development Plan concerned with design in the round.

The Appellant requests that the Inspectorate concur and uphold the appeal.

