Hewitt&CarrArchitects

Appeal Statement

Proposed single storey rear extension
(Householder PD Prior Notification)
For Mr. & Mrs. Smith

Document Reference: 00392 – AP1
Date: November 2016

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1.0 INTRODUCTION

1.1. Hewitt & Carr Architects Ltd. has been instructed by Mr. & Mrs. Smith to lodge an appeal under s78 of the Town and Country Planning Act 1990 (As Amended) against the decision of Staffordshire Moorlands District Council to refuse a householder prior notification for the erection of a single storey rear extension at no.22 Folly Lane, Cheddleton (LPA Reference: HNT/2016/0030).

1.2. The prior notification submission was lodged pursuant to the provisions of the Schedule 2, Part 1, Condition A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

1.3. The application is described by the Local Authority as a single storey rear extension that would project 5.95m beyond the rear wall of the original dwelling, standing to maximum height of 3.75 metres to its ridge, and 2.22 metres to its eaves. However, it is apparent from the submitted plans that the extension would only project 5.1 metres off the rear elevation. This was the basis upon which the Local Authority considered the prior notification as they specifically reference the extension within their delegated report as projecting by 2.9 metres off the rear elevation, stepping in and then extending a further 2.2 metres. The Grounds of Appeal has been prepared on this basis.

1.4. The prior notification was refused on the following grounds:

1. The proposed single storey rear extension as shown in drawing 00392 AL(0)05 would adversely affect the amenity of the neighbouring property at No.22 Folly Lane in particular when assessed in relation to the principal ground floor rear window as evidenced by assessment of the 45 degree horizontal angle measured from the mid point of the principal window. As such the proposal is found contrary to the guidance of the Council's Space About Dwellings supplementary planning document and contrary to policy DC1.

2. In relation to No.18 Folly Lane and in particular a ground floor principal window in the side elevation the proposal is found to extend the impact of the neighbouring property by some further 2.0m beyond any ground floor rear extension which might be carried out under Permitted Development. Noting the orientation of the properties in relation to the predominant daylight of the sun's arc the effects on the residential amenity of that property are considered significantly adverse and therefore contrary to Policy DC1.

1.5. This appellant's Grounds of Appeal against the Local Authority's decision are set out within the Statement of Case below. An application for an award of costs against the Local Authority is also set out at the end of this document.

2.0 SITE DESCRIPTION

2.1. The appeal site comprises a semi-detached two storey dwelling located on the southwestern side of Folly Lane, within the established settlement boundary of Cheddleton. The attached semi-detached property to the south is no.22 Folly Lane, whilst to the north beyond two individual driveways lies no.18 Folly Lane.

3.0 PLANNING HISTORY

3.1. There is a considerable site history relating to this site which is summarised below for the Planning Inspector's information. The appellants have made a number of attempts to arrive at a scheme which improves their property without compromising the amenity of their neighbouring occupiers, culminating in the proposal which is now the subject of this appeal. The site history is described below in chronological order.

SMD/2015/0494 (refused 13/1/16)

3.2. This application had proposed the erection of a two storey side extension and part single storey, part two storey rear extension. The application was refused by the Local Authority on the grounds that the proposal would have an unacceptably overbearing impact upon the occupiers of no.18 Folly Lane (to the north of the site) by virtue of the proposal conflicting with the Local Authority's Space about Dwellings Supplementary Planning Guidance in respect of a principal window in the side elevation of no.18 Folly Lane. No objection was raised in respect of impacts on no.22 Folly Lane to the south.

SMD/2016/0030 (approved 27/4/16)

3.3. This application proposed the erection of a single storey side extension extending along the entire side elevation of the dwelling (adjacent to the boundary with no.18 Folly Lane) and the erection of a single storey rear extension extending 3 metres off the original rear elevation. The application was found to have an acceptable relationship with both neighbouring occupiers and was approved. A copy of the approved plan is enclosed as Appendix A.

HNT/2016/0021 (refused 15/6/16)

3.4. This prior notification submission proposed the erection of a single storey rear extension extending up to 5.95 metres off the rear elevation of the original dwelling, with an eaves height of 2.22m and a maximum ridge height of 3.75 metres. The scheme differs from the appeal proposal in that the full projection extended across the whole width of the rear elevation. The prior notification was refused on the grounds that it would result in an overwhelming intrusion into the amenity of the neighbouring occupier at no.22 Folly Lane by virtue of it conflicting with the 45 degree standard set out in the Local Authority's Supplementary Planning Guidance by 4 metres (some 3m more than what could otherwise be undertaken as permitted development). No concerns were raised in respect of the impact of the proposal on the amenity of the occupiers at no.18 Folly Lane.

HNT/2016/0030 (refused 13/9/16 and the subject of this appeal)

3.5. The appeal proposal was refused on the grounds of its impact on the amenity of no.22 Folly Lane as set out in reason for refusal #1. It was also refused on the grounds of adverse impact on no.18 Folly Lane as set out in reason for refusal #2. It should be noted in this regard that the proposed rear extension, insofar it relates to impact on no.18 Folly Lane, was less imposing than that which the Local Authority found to be acceptable under application HNT/2016/0021.

4.0 PLANNING POLICY

4.1. The development plan for this area comprises the Staffordshire Moorlands Core Strategy. Policy DC1 of the Core Strategy states that all development shall be well designed and reinforce local distinctiveness by positively contributing to and complementing the special character and heritage of the area in line with the Council's Design SPD. In particular, new development should protect the amenity of the area, including residential amenity, in terms of satisfactory daylight, sunlight, outlook, privacy and soft landscaping.

5.0 MATERIAL CONSIDERATIONS

SMDC Space about Dwellings SPG

5.1. The stated objective of this document is to provide privacy for existing and proposed residents and the protection of their amenities to enable reasonable enjoyment of their residence and garden with a degree of freedom from unwanted social contact. It sets out a number of standards that new development should seek to achieve including the 45 degree standard. The content of this document has been taken into consideration in the preparation of the appeal proposal.

6.0 STATEMENT OF CASE

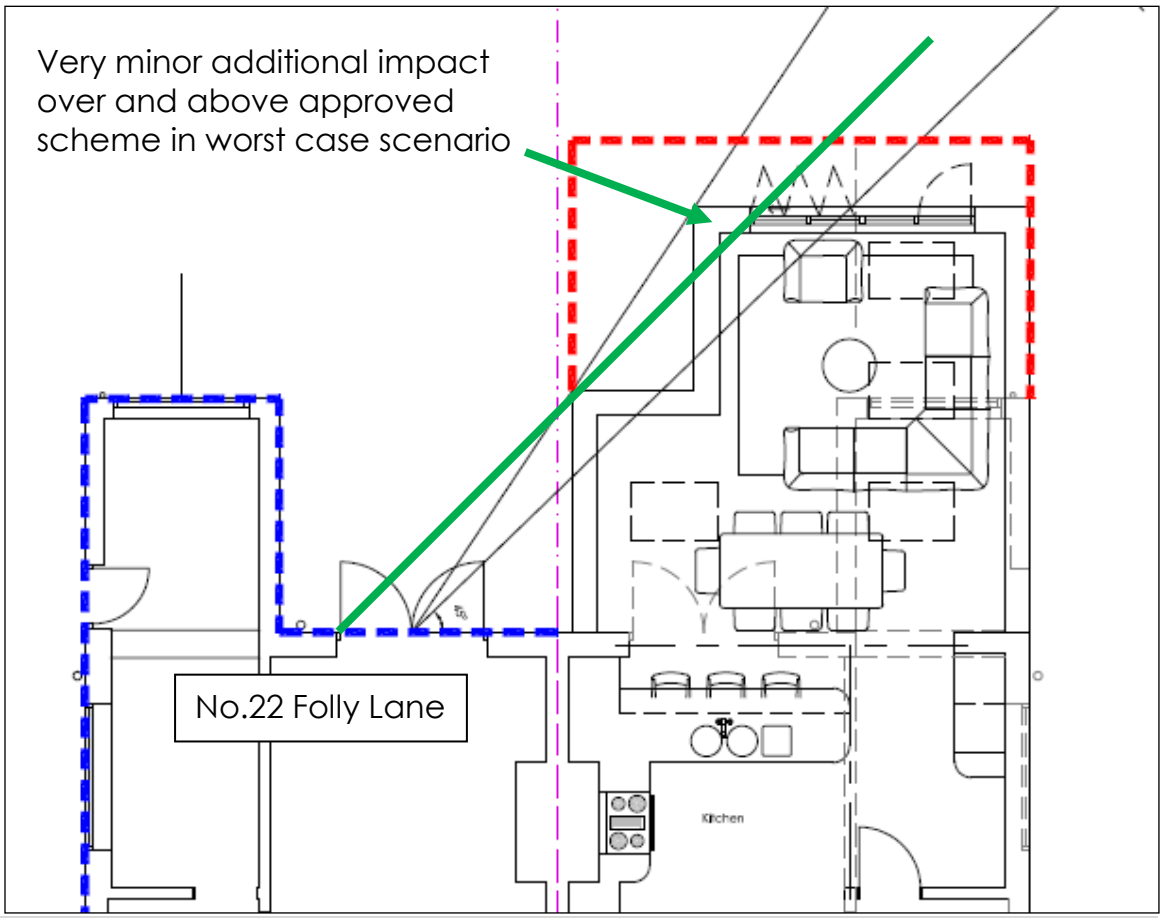
6.1. The prior notification the subject of this appeal proposes the erection of a single storey rear extension that will project a total of 5.1 metres off the original rear elevation of the existing dwelling, and stand to a maximum ridge height of 3.2 metres. Its eaves height will extend to 2.22 metres. The extension incorporates a stepped design in order to alleviate previous concerns regarding the impact of the development on the amenity of no.22 Folly Lane as set out in HNT/2016/0021.

6.2. In respect of reason for refusal #1 it is highlighted that the Local Authority has already approved a rear extension to the appeal property that extends some 3 metres off the rear elevation of dwelling (in effect reflecting that which could be undertaken as permitted development). This extension was approved under application SMD/2016/0030 and remains extant. It is therefore a material fall-back position against which this appeal proposal should be assessed.

6.3. The appeal proposal incorporates a rear extension that projects along the boundary between nos. 20 and 22 Folly Lane by 2.9 metres. It then steps back in away from the site boundary by some 1.5 metres (1.6 metres to the site boundary itself) before extending a further 2.2 metres rearward. The resultant effect of this design is that the impact of the extension on the amenity of no.22 Folly Lane is no greater than that which has already been approved under SMD/2016/0030. The layout plan submitted to accompany the proposal shows the 45 degree horizontal angle taken from the centre point of the nearest window of no.22 Folly Lane and shows that the approved rear extension already breaches it.

6.4. The layout plan also plots a secondary line which is the direct line of sight from the centre point of the window. The stepped nature of the rear extension means that it has no impact on that line of sight over and above that which the Local Authority has already approved, as the additional projection beyond 2.9 metres will be set in some 1.6 metres from the site boundary. Even when the line of sight is taken from the furthest point of the neighbour's window (as shown by the green line in Figure 1 below) the extension would only have a marginally greater impact over and above that which is already approved. This is not considered to amount to a significant impact on neighbouring amenity over and above that which has already been approved by the Local Authority.

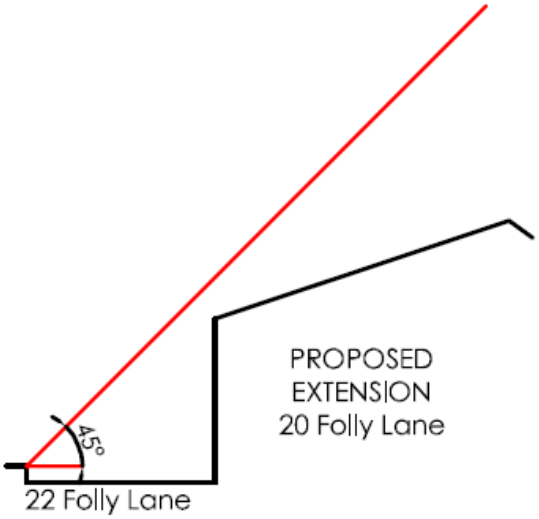
Figure 1 – Extract of refused plan with additional line of sight shown in green



6.5. It is also important to note the way in which the 45 degree standard should be applied having regard to the Local Authority's Space about Dwellings SPG. The text within the SPG along with Figures 1a and 1b confirms that it involves the application of a horizontal **and** a vertical 45 degree angle.

6.6. Whilst the proposed development will breach the 45 degree horizontal standard when measured from no.22 Folly Lane, this breach is no different to the scheme which the Local Authority has already granted planning permission under SMD/2016/0030. Furthermore, when the 45 degree vertical angle is plotted along the 45 horizontal line, as shown in the cross-section in Figure 2 below and enclosed as a scaled plan in Appendix B, the 45 degree vertical line overshoots the eaves and ridge line of the proposed rear extension, and thus has no conflict with this part of the standard.

Figure 2 – Cross-section showing application of 45 degree standard to no.22



6.7. It is therefore concluded that the proposed development is compliant with the Space about Dwellings SPG and will not give rise to any appreciable harm to residential amenity over and above that which has already been granted planning permission by the Local Authority. The proposal therefore complies with policy DC1 of the Core Strategy.

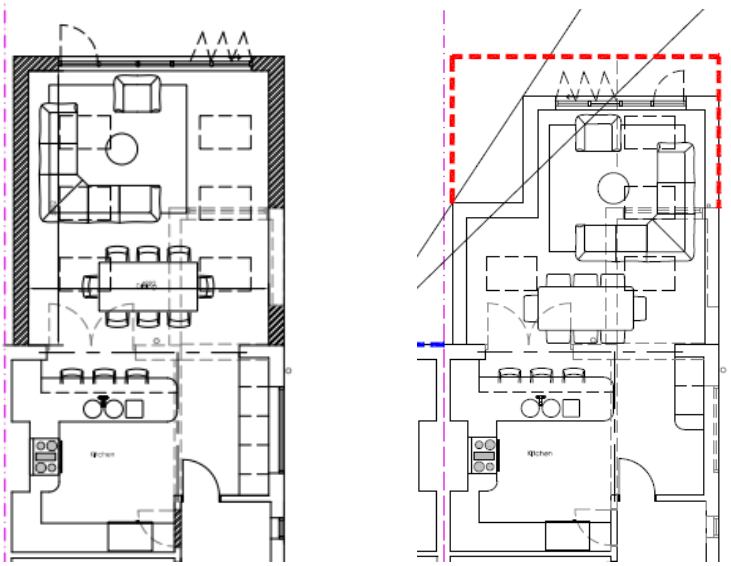
6.8. In respect of reason for refusal #2 the Planning Inspector's attention is drawn specifically to the conclusions of the Local Authority in its determination of application HNT/2016/0021. That application had proposed an extension that projected 5.95 metres off the original rear elevation of the dwelling and extended across the whole width of the property. The refused plans are enclosed as Appendix C. In determining that application the Local Authority concluded that:

"For No.18 the proposed extension would not breach any 45 degree line. Consideration has been given to the proposed side window and its relationship to a side window at No. 18 but they are not directly facing and there is arguably less impact from this than from an existing facing window relationship in the side kitchen windows of both properties" (my emphasis)

6.9. The resultant reason for refusal furthermore made no reference to impacts on the amenity of no.18 Folly Lane, instead only raising concerns about the impact of the proposal on the amenity of no.22 Folly Lane. A copy of the Local Authority's delegated report and decision notice for application HNT/2016/0021 are enclosed as Appendices D and E for the Inspector's consideration.

6.10. These aforementioned conclusions of the Local Authority about the impact of the proposal on no.18 are considered to be directly relevant to the appeal proposal as that scheme involves an extension that projects rearward of the original elevation by 5.1 metres which is 0.85 metres less than that which was found to be acceptable by the Local Authority under application HNT/2016/0021 in terms of its impact on no.18 Folly Lane. A comparison between the two schemes is shown in Figure 3 below, with the dotted red line on the refused plan depicting the previously refused scheme.

Figure 3 – Comparison of HNT/2016/0021 and HNT/2016/0030



HNT/2016/0021 HNT/2016/0030

6.11. Despite the appeal scheme projecting less off the rear elevation of the dwelling than the previously refused scheme, the Local Authority introduced impact of the development on the amenity of no.18 Folly Lane as a new reason for refusal. In doing so it is submitted that the Local Authority has acted unreasonably. The appeal proposal will have less of an impact on the amenity of the neighbouring

occupier than that which was found to be acceptable by the Local Authority in terms of its impact on no.18 Folly Lane and not referenced as a reason for refusal. Yet despite this a new reason for refusal was introduced.

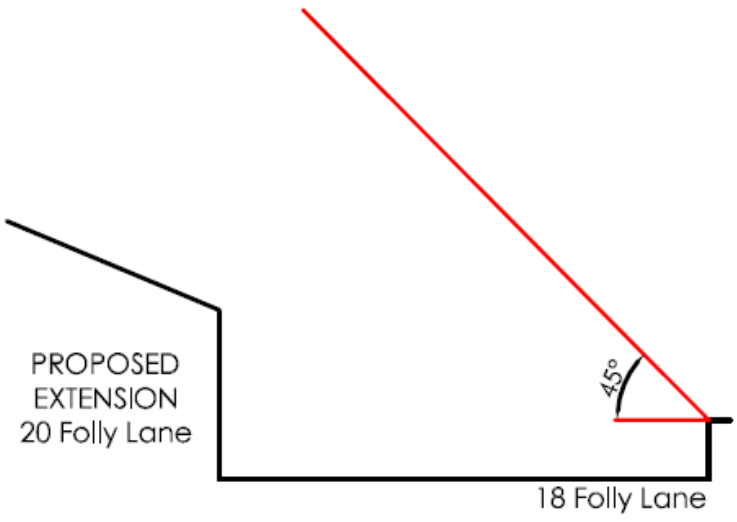
6.12. The delegated report relating to the appeal proposal comments in respect of impacts on no.18 Folly Lane that:

> *"The proposal would have a significant adverse effect on the principal ground floor side window of No18 in relation to which all that part of the extension beyond the 3m PD limit – a further c.2.0m – would exacerbate the impacts of the existing facing development".*

6.13. Contrast that with the Local Authority's refusal of application HNT/2016/0021 where the Local Authority raised no concerns in respect of the impact of the extension on no.18 Folly Lane, despite it projecting 2.95 metres beyond that which could otherwise be undertaken as permitted development/approved under SMD/2016/0030.

6.14. This notwithstanding, it is submitted that the proposed extension complies with the Local Authority's 45 degree standard to this side facing window in any event. The cross section shown in Figure 4 below and enclosed as a scaled drawing in Appendix B, demonstrates the 45 degree vertical angle plotted along the horizontal 45 degree line (as per the approach set out in the Space about Dwellings SPG). It shows that the proposed extension will not project above the 45 vertical angle, and indeed the extension would need to be much taller to result in a conflict with the 45 degree vertical angle. As a consequence the proposal accords with the Space about Dwellings SPG and will not result in significant harm to the amenity of the occupiers of no.18 Folly Lane.

Figure 4 – Cross-section showing application of 45 degree standard



6.15. It is also noted in this regard that the kitchen served by the side facing window is also served by a large window in its rear (southwest) elevation, thus ensuring that occupiers of no.18 Folly Lane will not be adversely affected in terms of loss of light to this room. They will continue to benefit from daylight during the middle of the day and afternoons owing to their property being orientated broadly east/west, and the presence of this window is considered to lessen the concerns raised by the Local Authority in respect of impact on the amenity of no.18 Folly Lane. The proposed development therefore complies with policy DC1 of the Core Strategy.

7.0 CONCLUSION

7.1. For the reasons set out above it is concluded that the proposed rear extension will not have any greater impact on the amenity of the neighbouring occupiers at no.22 Folly Lane compared to that which has previously been approved by the Local Authority, owing to the stepped design of the extension. The part of the extension beyond that which has already been approved furthermore complies with the Local Authority's 45 degree standard in respect of this neighbouring property.

7.2. It is also concluded that the proposed development will not have an adverse impact on the amenity of the occupiers at no.18 Folly Lane, with the appeal proposal demonstrating that the proposal accords with the Local Authority's 45 degree standard. It is furthermore noted that the submitted proposal projects less further off the rear elevation of the host dwelling than that which was previously found to be acceptable by the Local Authority in respect of impacts on no.18 Folly Lane under application HNT/2016/0021.

7.3. The proposed development is thus considered to comply with the requirements of the Local Authority's Space about Dwellings SPG and the requirements of policy DC1 of the Staffordshire Moorlands Core Strategy DPD (2014). The Planning Inspector is therefore requested to allow the appeal and grant approval for the proposed extension.

8.0 APPLICATION FOR COSTS

8.1. The National Planning Practice Guidance confirms in paragraph 030 that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Paragraph 046 goes on to confirm that awards against a local planning authority may be either procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It goes on to set out a number of examples of unreasonable behaviour by a Local Authority which may give rise to an award of costs (paragraph 049). This list includes:

"not determining similar cases in a consistent manner"

8.2. For the reasons discussed in paragraphs 6.8 – 6.15 above, it is submitted that the Local Authority has acted unreasonably by not determining similar cases on this site in a consistent manner. By introducing impact on residential amenity to no.18 Folly Lane as a new reason for refusal the Local Authority has caused the appellant to incur wasted expense in having to prepare evidence to rebut the second reason for refusal in circumstances where the relationship to that neighbouring property had previously been found to be acceptable by the Local Authority in its determination of HNT/2016/0021.

8.3. That prior notification was refused solely on the grounds of impact on no.22 Folly Lane and proposed an extension that projected further off the rear elevation than that the subject of this appeal. That previous scheme was therefore arguably more harmful than that which the Local Authority has now deemed to be unacceptable. The Local Authority furthermore specifically commented within its delegated report on the previous application (HNT/2016/0021) that the impact of that previous scheme was acceptable in terms of its relationship to no.18 Folly Lane. Their stance has now completed changed with no justification and has unreasonably moved the goalposts.

8.4. The relationship between the appeal proposal and the side facing window of no.18 is not materially different to that considered under application HNT/2016/0021 aside from a reduction in the projection off the rear extension which makes the relationship between the two more acceptable. The failure to determine these two applications in a consistent manner amounts to unreasonable behaviour that has caused the appellant unwarranted expense, and as a consequence a partial award of costs against the Local Authority is sought.