

**REPORT FROM:** PLANNING, ECONOMIC DEVELOPMENT AND  
REGULATORY SERVICES MANAGER

**TO:** BRIERFIELD AND REEDLEY COMMITTEE

**DATE:** 6th November 2019

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## PLANNING APPLICATIONS

### PURPOSE OF REPORT

To determine the attached planning applications.

## REPORT TO BRIERFIELD & REEDLEY COMMITTEE 6<sup>TH</sup> NOVEMBER 2019

**Application Ref:** 19/0592/FUL

**Proposal:** Full: Change of use from a shop (Use Class A1) to a hot food takeaway (Use Class A5), erection of a ramp to the front entrance and installation of extractor outlet to rear (Resubmission).

**At:** 49 Burnley Road, Brierfield

**On Behalf of:** Mr Salim Baksh

**Date Registered:** 29 August, 2019

**Expiry Date:** 24 October, 2019

**Case Officer:** Christian Barton

This application has been brought before Committee as requested by the Chairman.

### **Site Description and Proposal**

The site is the ground floor of a mid-terrace property located within the settlement boundary and a Local Shopping Frontage. It has commercial premises to two sides with houses to the east and west.

The proposed development is the change of use of the ground floor to a hot food takeaway. An access ramp is proposed for the front entrance with steel safety rails 1.1m in height alongside an extractor outlet to the rear.

### **Relevant Planning History**

13/15/0152P – Full: Change of use of ground floor from shop (A1) to hot food takeaway (A5) with erection of disabled access ramp to front and extraction flue to rear – Approved with Conditions – May 2015.

### **Consultee Response**

LCC Highways – The proposed development should have a negligible impact on highway safety.

PBC Environmental Health – Odours and noise emissions can be adequately controlled through condition.

Lancashire Constabulary

Brierfield Town Council

### **Public Response**

The nearest neighbours have been notified by letter and comments have been received objecting on the following grounds;

- The site has no rear windows;
- No fire extinguishers have been installed;

- The site has no gas or electricity;
- The site has no extraction unit;
- Smells could permeate adjoining premises;
- Upset during the construction phase;
- Impacts of additional noise;
- Increased parking requirements;
- Increased anti-social behaviour and littering;
- Issues with vermin;
- Lack of space to accommodate the ramp.

## **Officer Comments**

The starting point for consideration of any planning application is the development plan. Policies which are up to date and which conform to the provisions of the National Planning Policy Framework (NPPF) must be given full weight in the decision making process. Other material considerations may then be set against the Local Plan policies so far as they are relevant.

The main considerations for this application are the principle of development, residential amenity and the road network.

### **1. The relevant Pendle Borough Council Local Plan Part 1: Core Strategy (2011 – 2030) policies are:**

- CS Policy ENV2 (Achieving Quality in Design) identifies the need to protect and enhance the character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that the siting and scale of development should be in context and harmony with the wider locality;
- CS Policy ENV 5 (Pollution and Unstable Land) aims to ensure that air, water, noise, odour and light pollution are minimised, both during and after construction.

#### **Replacement Local Plan**

- Saved Policy 26 (Non-Shopping uses in Town Centres and Local Shopping Areas) aims to prevent excessive concentrations of non-shopping uses within Local Shopping Frontages.
- Saved Policy 31 Plan (Parking) sets out appropriate parking standards for new developments.

### **2. Principle of Development**

Saved Policy 26 aims to protect the retail function of shopping areas. The policy states that proposals to introduce non-shopping uses within Local Shopping Frontages can only be supported if the proposed change of use would not result in the non-shopping uses exceeding 50% of the frontage.

The proposed change of use would result in the loss of an existing retail unit. The shopping frontage length is 19.2m in total, with the current ratio;

- Shopping - 13.8m;
- Non-Shopping - 5.4m.

The proposed development would result in the following;

- Shopping - 9.1m;

- Non-Shopping - 10.1m.

In terms of the frontage length, the change of use would result in 52.6% being non-shopping, which is technically above the Policy threshold. However, in terms of the available units within this row of 4, 2 would be on-shopping and 2 (the double unit at 47-45) would be A1 retail.

A similar issue was considered during an Appeal at 3 Church Street, Barnoldswick (13/10/502P). Here the Inspector allowed a non-shopping use within a designated frontage where it exceeded the percentage allowance. Her assessment was made on the basis of a marginal increase beyond the non-shopping threshold (0.6m on the ground) and the configuration of the units within the row making it difficult to meet the requirements of the policy exactly.

A similar principle should be applied in this case, where a difference of 0.5m exists. In light of these factors, the proposed change of use is deemed to be acceptable and would not have an unacceptable impact on the vitality of the row in compliance with Saved Policy 26.

### **3. Visual Amenity**

Concerns have been raised about the access ramp. The two adjoining commercial properties have similar additions to the front and due to the depth of the pavement in this location, it would not appear prominent or incongruous in the street scene.

To the rear a small extractor outlet would be installed. There are limited public vantage points to this elevation and in design terms it raises no adverse issues. The external alterations thereby comply with Policy ENV2.

### **4. Residential Amenity**

Concerns have been raised about the potential for disruption from noise alongside antisocial behaviour and littering. The opening hours proposed extend to 11pm. The site is located in close proximity to a large number of dwellings and noise and disturbance from late night activities are a concern. In allowing the adjacent takeaway at Number 51 on appeal in 2009 (13/09/0091P) the Inspector established that 10pm was a suitable closing time for a hot food takeaway in this location. In light of this and in the interests of consistent decision making, the same restriction should be imposed at this site. With use of such a restriction the cumulative impacts of the development would be acceptable. With regard to littering it would be unreasonable to penalise the operators of A5 establishments because of the potential for unlawful behaviour from customers.

Revised plans have been submitted showing a smaller extractor outlet to the rear. Objections have cited concerns that odours from the proposed use would cause issues for the adjacent businesses. Subject to the imposition of a condition regarding the use of filters and sound insulation, the matter can be suitably controlled and with use of that condition the proposal would have no unacceptable impacts on residential amenity in accordance with Policies ENV2 and ENV5.

### **5. Highways**

Saved Policy 31 requires development proposals to be served with adequate parking. The site has no parking associated with it. Burnley Road is heavily trafficked and accommodates regular bus services. Parking is available immediately outside this parade of shops and is also uncontrolled along other nearby stretches of this road.

The hours of operation may generate different patterns of demand for parking but there is no reason to believe that overall it would generate any greater concerns with regard to parking than a retail use. No objections have been received from the Highway Authority in this regard and I concur with their findings. The proposal would have no unacceptable impacts on highway safety.

## **6. Wider Considerations**

Objections have cited concerns regarding a lack of rear windows, fire extinguishers and gas/electricity provision. Concerns have also been raised regarding disturbance during the construction phase and the potential for increased vermin however those matters are not material to the assessment of this application.

## **7. Summary**

The application seeks to change the lawful use of a shop to a hot food takeaway with associated works. Subject to appropriate conditions, the proposal would be acceptable in terms of use, design, residential amenity and the road network in compliance with Policies ENV2, ENV5 and Saved Policy 26.

## **Reason for Decision**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan, unless material considerations indicate otherwise. Subject to appropriate conditions, the development would be acceptable in terms of use, design, impact on amenity and the highway network. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

## **RECOMMENDATION: Approve**

Subject to the following conditions:

1. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (1:1250), Ground Floor Plan Proposed (1:100) and Proposed Front and Rear Elevations – Amendment (1:100) (Submitted 14<sup>th</sup> October 2019).

**Reason:** For the avoidance of doubt and in the interests of proper planning.

3. The A5 use hereby approved shall not be open to customers or any other persons not employed within the business operating from the site outside the hours of 08:00 and 22:00.

**Reason:** To protect the general amenities of the area.

4. Unless otherwise agreed in writing by the Local Planning Authority the ramp handrail to the front hereby approved shall be finished and maintained in a matt black colour at all times.

**Reason:** To ensure a satisfactory appearance to the development.

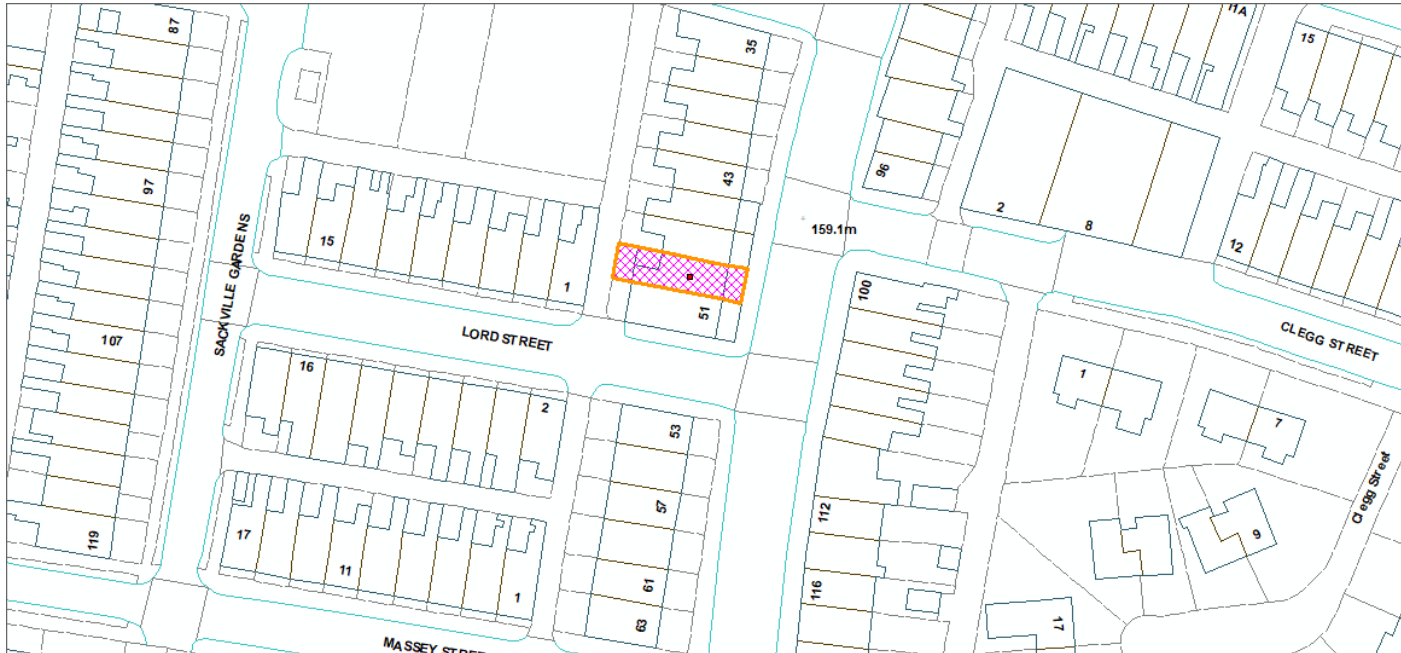
5. The operation of the extractor outlet hereby approved shall not commence unless and until, a scheme for the extraction, treatment and dispersal of fumes and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a. The provision of odour filters (which shall incorporate grease and carbon filters);

**b.** Details of the sound insulation of odour control equipment.

The approved scheme shall be implemented prior to commencement of the operation of the extractor outlet and the extractor outlet shall thereafter be operated and maintained in accordance with the agreed details and the manufacturers specifications and be retained for so long as the A5 use continues.

**Reason:** In order to ensure the adequate treatment and dispersal of fumes and odours and attenuation of noise in the interests of residential amenity.



**Application Ref:** 19/0592/FUL

**Proposal:** Full: Change of use from a shop (Use Class A1) to a hot food takeaway (Use Class A5), erection of a ramp to the front entrance and installation of extractor outlet to rear (Resubmission).

**At:** 49 Burnley Road, Brierfield

**On Behalf of:** Mr Salim Baksh

## REPORT TO BRIERFIELD & REEDLEY COMMITTEE 6<sup>TH</sup> NOVEMBER 2019

**Application Ref:** 19/0613/HHO

**Proposal:** Full: Demolition of existing kitchen and stores and erection of replacement single-storey rear extension.

**At:** 25 Sefton Street, Brierfield

**On Behalf of:** Mrs Farzana Zaman

**Date Registered:** 15 August, 2019

**Expiry Date:** 10 October, 2019

**Case Officer:** Christian Barton

This application has been brought before committee as requested by the Chairman.

### **Site Description and Proposal**

The site is a mid-terrace house located in the settlement boundary. It is surrounded by similar housing to all sides. The house has natural stone elevations, a slate roof, white uPVC windows and a walled yard to the rear.

This application involves the erection of a single-storey extension following demolition of an outrigger and store buildings. The proposed extension would have depth of 6.3m, a width of 3m and a flat roof up to 3.8m in height. It would have rendered elevations and white uPVC windows.

### **Relevant Planning History**

No relevant planning history.

### **Consultee Response**

LCC Highways – The Highway Development Support Section would raise no objection to the proposal on highway safety grounds.

Brierfield Town Council

### **Public Response**

The nearest neighbours have been notified by letter and no comments have been received.

### **Officer Comments**

The main considerations for this application are the design and residential amenity.

#### **1. The relevant Pendle Borough Council Local Plan Part 1: Core Strategy (2011 – 2030) policies are:**

- CS Policy ENV2 (Achieving Quality in Design) identifies the need to protect and enhance the character of the Borough and quality of life for its residents by encouraging high standards of

quality and design in new development. It states that the siting and design of development should be in scale, context and harmony with the wider locality.

Other policies and guidance's are also relevant:

- The Design Principles Supplementary Planning Document (SPD) applies to domestic developments and sets out the aspects required for good design;

The principle policy relating to this proposal is Policy ENV2 of the Pendle Local Plan requiring good design. The adopted Design Principles SPD provides further clarity on what is an acceptable design in relation to neighbouring properties and the street scene.

## **2. Design and Visual Amenity**

The Design Principles SPD states that the style, design and scale of domestic extensions should respect the existing character of the location. The extension would not occupy a prominent position in the street scene and the materials proposed are common to the location. It would be a proportionate addition to the house in terms of roof height and the proposal would have no unacceptable impacts on visual amenity.

## **3. Residential Amenity**

The Design Principles SPD states that development proposals must adequately protect neighbours enjoying their homes. Windows are proposed facing the rear yards of adjoining properties. Those yards are already overlooked by existing windows however the proposal would have no unacceptable impacts on domestic privacy.

Section 5.7 of the Design Principles SPD states that single-storey rear extensions located immediately adjacent to the party boundary are only acceptable where they would not create any unacceptable losses of light for neighbours, or overbearing impacts. The Design Principles SPD further advises that such extensions of depths greater than 4m will only be permitted if they do not breach the 45 degree rule.

The extension is proposed directly on the party boundary with number 23, the neighbouring house immediately to the north. Number 23 has a lounge window to the rear. Here the development would fail to respect the 45 degree rule for those neighbours. Whilst the proposed roof height has been reduced to be as low as feasible, the introduction of such a depth at a mid-terrace property can rarely be achieved without having an adverse impact on neighbours.

It is acknowledged that two similar extensions (at numbers 3 and 9) have been approved following adoption of the Design Principles SPD. However, those proposals were deemed to be acceptable in each case given the presence of existing extensions/alterations which mitigated against any overbearing impacts. The proposal here would appear significantly overbearing and would cause unacceptable losses of light for the neighbours at number 23 and therefore it does not accord with Policy ENV2 and the guidance of the Design Principles SPD.

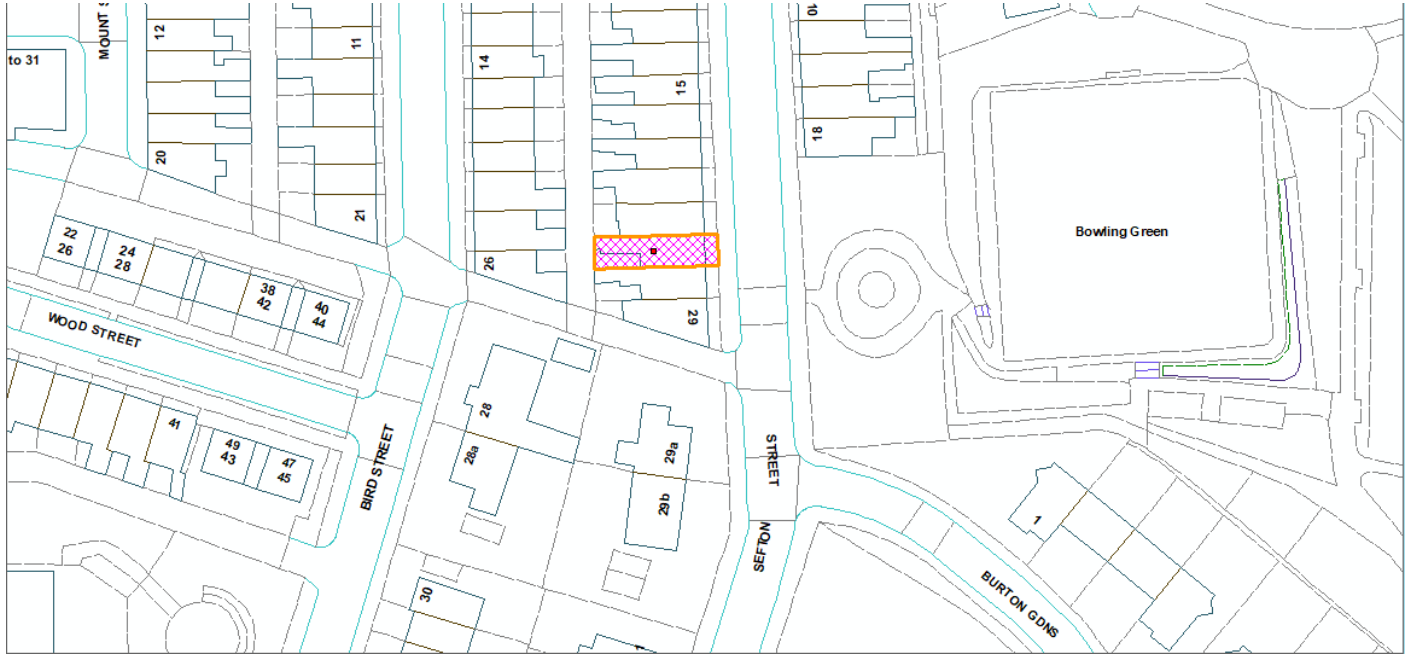
## **4. Summary**

The application seeks to erect a single-storey rear extension. The proposal would be acceptable in design terms. However, the depth of the extension, at 6.3m would create significantly overbearing impacts and unacceptable losses of light for the neighbours to the north and the proposal fails to comply with Policy ENV2 and the guidance of the Design Principles SPD.



**RECOMMENDATION: Refuse**

1. The rear extension, by virtue of its 6.3m depth, would appear significantly overbearing and would result in unacceptable losses of light for the occupants of 23 Sefton Street to the north and the development therefore fails to comply with Policy ENV2 of the Pendle Local Plan Part 1: Core Strategy (2011 – 2030) and the guidance of the Design Principles Supplementary Planning Document.



**Application Ref: 19/0613/HHO**

**Proposal:** Full: Demolition of existing kitchen and stores and erection of replacement single-storey rear extension.

**At:** 25 Sefton Street, Brierfield

**On Behalf of:** Mrs Farzana Zaman

## REPORT TO BRIERFIELD & REEDLEY COMMITTEE 06<sup>TH</sup> NOVEMBER 2019

**Application Ref:** 19/0648/HHO

**Proposal:** Full: Erection of dormers to front and rear roofslopes and single storey extension to rear.

**At:** 24 Pennine Crescent, Brierfield

**On Behalf of:** Mrs Salma Ahmad

**Date Registered:** 22 August, 2019

**Expiry Date:** 17 October, 2019

**Case Officer:** Christian Barton

This application has been brought before Committee as it has received more than 2 objections from neighbours.

### **Site Description and Proposal**

The site is a semi-detached dormer bungalow located in the settlement boundary. It is surrounded by similar housing to three sides with two-storey houses to the east. The house has red brick elevations, a concrete tiled roof, white uPVC windows and garden areas to the front and rear.

The proposed development is a single-storey rear extension and roof dormers to the front and rear. The rear extension would have a depth of 4m, a width of 8.3m, a flat roof 2.7m in height and rendered elevations. The rear dormer would have a depth of 3.6m, a width of 8.3m and a flat roof 2.3m in height. To the front two identical dormers are proposed separated by 0.9m. They would have depths of 3m, widths of 3.2m and shallow pitched roofs 1.7m in height. The dormers would be clad with concrete tiles with uPVC windows proposed throughout.

### **Relevant Planning History**

No relevant planning history.

### **Consultee Response**

LCC Highways – There is no objection to this proposal. Conditions should be added to any approval to ensure satisfactory parking is provided and a Construction Method Statement is submitted prior to the commencement of works.

Brierfield Town Council

### **Public Response**

The nearest neighbours have been notified by letter and comments have been received objecting on the following grounds;

- Loss of views;
- The street is exclusively bungalows;
- Overgrown trees within the site;
- Potential impacts on domestic privacy;

- The development would be an intrusion into the general street scene;
- The front dormer would look unsightly and is out of keeping with the area;
- A similar scheme was refused previously on the street;
- Upset during the construction phase.

### **Officer Comments**

The main considerations for this application are the design, residential amenity and the road network.

#### **5. The relevant Pendle Borough Council Local Plan Part 1: Core Strategy (2011 – 2030) policies are:**

- CS Policy ENV2 (Achieving Quality in Design) identifies the need to protect and enhance the character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that the siting and design of development should be in scale, context and harmony with the wider locality.

#### **Other policies and guidance's are also relevant:**

- The Design Principles Supplementary Planning Document (SPD) applies to domestic developments and sets out the aspects required for good design;
- Saved Replacement Local Plan Policy 31 (Parking) sets out appropriate parking standards for developments.

The principle policy relating to this proposal is Policy ENV2 of the Pendle Local Plan requiring good design. The adopted Design Principles SPD provides further clarity on what is an acceptable design in relation to neighbouring properties and the street scene. Saved Policy 31 is also relevant given the proposed addition of bedrooms.

#### **6. Design and Visual Amenity**

The Design Principles SPD states that the style, design and scale of domestic developments should respect the existing character of the location which is defined by modest semi-detached bungalows. The proposed rear extension would be a proportionate addition to the house in terms of massing and roof height. The proposed rear dormer would project slightly above the ridge height. However, a number of dormers are found locally with a similar design. The extension and the majority of the rear dormer would not be visible from the public domain and they would have no unacceptable impacts on visual amenity.

A number of objections have been raised citing design concerns with particular reference to the proposed front dormer. The plans now show two pitched roofed dormers to the front. Their design has been amended to ensure they would not dominate the roofslope and would appear balanced to the property. The cladding material proposed would match the roof coverings of the house and subject to the construction materials being agreed through condition the development would be appropriate in visual design terms.

Comments have been made citing similarities with an application at number 18 (13/09/0482P) which was refused on design grounds. That application involved the implementation of a 1m roof lift and the situation is materially different with this proposal which does not involve increasing the ridge height. In any case all applications are assessed against their own planning merits. When the amended design of the front dormers is taken into account the proposal would have no unacceptable impacts on the character of the area and is acceptable in relation to visual amenity thereby complying with Policy ENV2 and the guidance of the Design Principles SPD.

## **7. Residential Amenity**

The Design Principles SPD states that development proposals must adequately protect neighbours enjoying their homes. Concerns have been raised about losses of views. The protection of private views is not a material planning consideration and there would be no losses of public views to the extent which would lead to the conclusion that this application should be refused. The massing of the rear extension would have no overbearing impacts on the adjoining neighbours given its modest depth. The massing of the proposed dormers would also have no detrimental impacts on the living environments neighbours.

Concerns have been raised about losses of privacy. The windows proposed for the rear extension would not face any main habitable room windows within 21m. Whilst new windows would be introduced to the upper floors with the addition of the dormers, existing separation distances to nearby neighbours would be maintained. In a street layout such as this, no part of the development raises any adverse privacy or amenity issues and the proposal complies with Policy ENV2 and the guidance of the Design Principles SPD.

## **8. Highways**

Saved Policy 31 requires development proposals to be served with adequate parking. The proposal would add two bedrooms to the house increasing parking demand. The submitted parking plan shows parking for three cars within the curtilage and this is acceptable. LCC Highways have recommended two conditions. It would be unreasonable to condition a Construction Method Statement given the scale of the proposed development. Subject to a condition requiring additional parking, the proposal would have no unacceptable impacts on highway safety.

## **9. Wider Considerations**

Comments have been made raising concerns about overgrown trees and the potential for disruption during the construction phase. Such matters are not material to the assessment of this application however.

## **10. Summary**

The proposal seeks to erect a single-storey rear extension and roof dormers to the front and rear. Subject to appropriate conditions, the proposal would be acceptable in terms of design, residential amenity and the road network and complies with Policy ENV2, Saved Policy 31 and the guidance of the Design Principles SPD.

## **Reason for Decision**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan, unless material considerations indicate otherwise. Subject to appropriate conditions, the development would be acceptable in terms of design, residential amenity and highways. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

## **RECOMMENDATION: Approve**

1. The proposed development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in strict accordance with the following approved plans: U47: P01, P02A, P03, P04D and P05A.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

3. No above ground works shall commence on site unless and until, representative samples of the render to be applied to the walls of the extension together with samples showing the colour and finish of the windows, doors and cladding materials of the dormers to be installed as part of the development hereby approved, have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved materials.

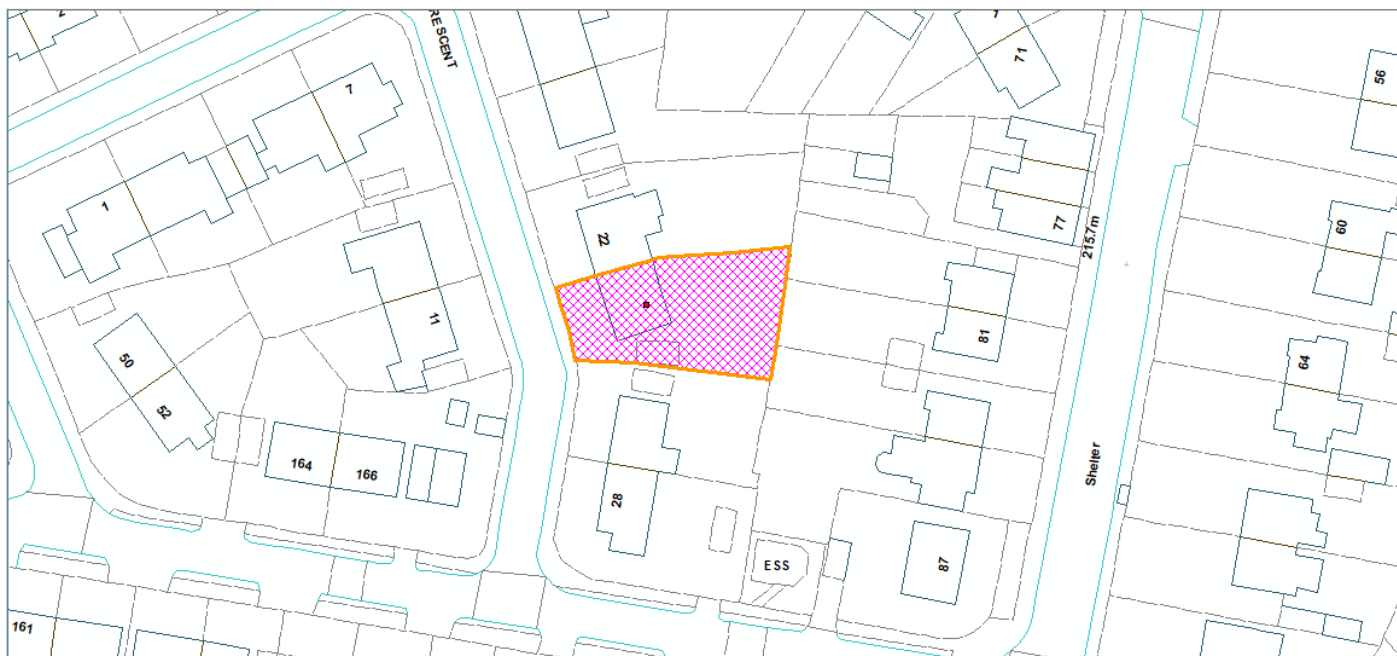
**Reason:** To ensure a satisfactory form of development in the interests of the visual amenity of the area.

4. The two extra bedrooms hereby approved shall not be used unless and until, the parking area as shown on the approved plan 'U47 - P05A' has first been constructed, laid out and surfaced in a bound porous material, unless otherwise agreed in writing by the Local Planning Authority. The parking spaces shall thereafter remain free from obstruction and be available for the parking of vehicles associated with the occupants of the dwelling.

**Reason:** To provide adequate parking to service the development and to prevent loose surface material from being carried on to the public highway thus causing a potential source of danger to other road users.

### **Informative**

This consent requires the construction, improvement or alteration of an access to the public highway. Under the Highways Act 1980 Section 184 (Vehicle crossings over footways and verges) Lancashire County Council as Highway Authority must specify the works to be carried out. Only the Highway Authority or a contractor approved by the Highway Authority can carry out these works. Therefore, before any works can start, the applicant must complete the online quotation form found on Lancashire County Council's website using the A-Z search facility for vehicular crossings at <http://www.lancashire.gov.uk/roads-parking-and-travel/roads/vehicle-crossings.aspx>.



**Application Ref: 19/0648/HHO**

**Proposal:** Full: Erection of dormers to front and rear roofslopes and single storey extension to rear.

**At:** 24 Pennine Crescent, Brierfield

**On Behalf of:** Mrs Salma Ahmad

## **LIST OF BACKGROUND PAPERS**

Planning Applications

**NW/MP**

**Date: 28<sup>th</sup> October 2019**