

## Statement of Case

### 3 Jubilee Gardens New Mills SK22 4PL

#### Preface

The appellant had no knowledge permitted development rights had been removed, he wrongly believed the dormer would be permitted development. The council inspected during the course of construction but did not warn it was unlawful until after it was completed. He made an application [25/0497] which was refused so he resubmitted with amended plans. His reasoning was that whilst the size of the dormer remained unchanged, he proposed matching materials<sup>1</sup>, which the LPA now appears to accept overcomes that concern/reason, but still says it is too large, smaller dormers will be acceptable.

#### Submissions

When planning permission was granted in 1989 the council removed permitted development rights for “*Extensions garages loose boxes sheds greenhouses etc or storage tanks*”. Its reasoning was “*In order to retain a degree of control over the development*”. That condition would not satisfy the current 6 NPPG tests<sup>2</sup>, moreover fundamentally it is contrary to NPPG<sup>3</sup>:

*“Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity”.*

It was open to the appellant to apply to vary, but it is plain the LPA would refuse saying only small rear dormers are satisfactory.

The **25/0497 report** referred to the 2005 SPD and a design guide of 2018.

The former is significantly out of date being contrary to the Framework which has a whole policy chapter encouraging effective use of previously developed land/home improvements. Given there was no justification for removing the right to enlarge the roof pursuant to permitted development, the starting point is that its size is to be judged against current policy. The OR in this appeal still disagrees, so each is considered in turn below.

#### Old SPD

The chapter of the 2005 SPD at 9.0 refers to “street scene” and “neighbouring amenity”. The 25/0497 OR confirmed there was no harm to amenity, and being a rear dormer it was considered there is no impact to street scene.

The rear of this house faces a dead-end backstreet, it has the usual mix of fences, sheds etc as one normally finds in housing estates that include rear accesses and garage courts. Parliament distinguishes the rear of housing from the front by prohibiting all but a small porch to the front, encouraging ALL enlargements to terraces to the rear including roof enlargement.

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<sup>1</sup> Existing brick slips to be replaced with Marley plain roof tiles Smooth Grey MA14028 to match existing roof, visualizations were also enclosed.

<sup>2</sup> Tests 5 & 6

<sup>3</sup> 017 Reference ID: 21a-017-20190723

The paragraph quoted in the 25/0497 report , 9.4.2, starts by referring to dormers posing difficulties in terms of design and overlooking. The latter does not arise and there was no explanation as to why they should be kept as simple and small as possible. The rest of the paragraph is not relevant as it's not to the "front" of this terraced house.

#### Current local policy

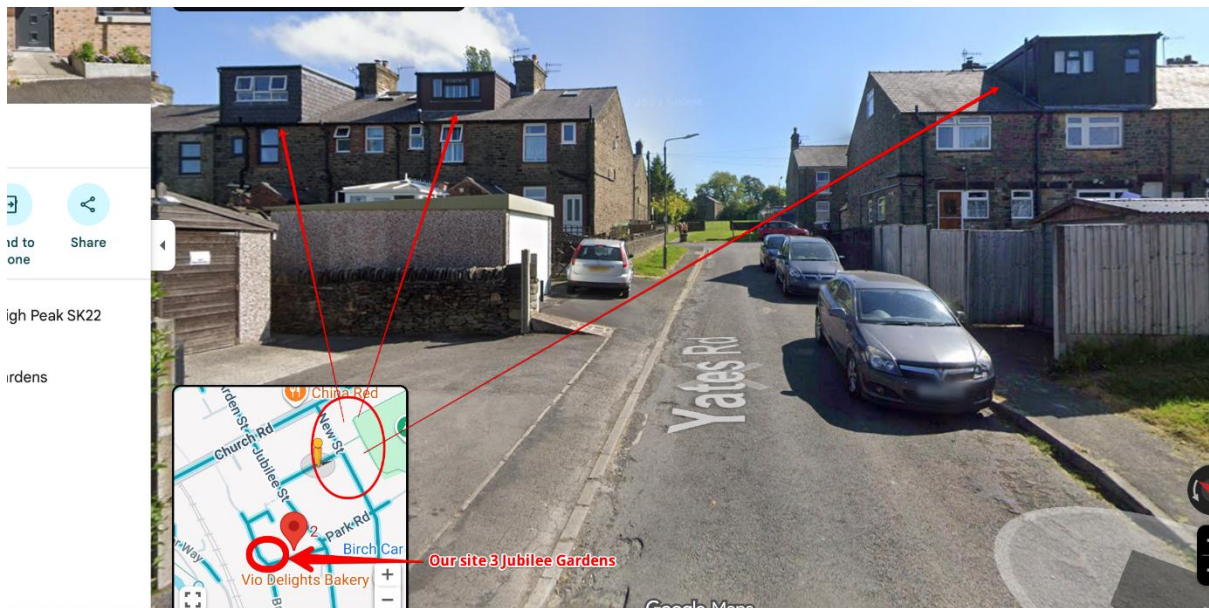
EQ6 is the policy cited. It refers to respecting context, relationship to adjacent buildings. More specifically, visual impact of the proposal would not be "intrusive" (EQ6b4) given the matching materials. This is the starting point per s38(6) PCPA 2004 viz adopted local policy, not "as simple and small as possible".

EQ6 is dated 2016. The later 2018 SPD does not say such should be '*kept as small and as simple as possible*'. Rather it refers to "*respecting dominance of the original building*" and being "*subordinate*" in terms of its size and massing. At page 25 "harmonisation with the parent building" is expected and it states it "may be acceptable to consider extensions which do not emulate the style of the original building". Such needs to "respond to the scale and character of the host building". The term "simple" is not pertinent as this dormer is simple, the sole issue is size.

Size is normally effectively that permitted by GPDO 2015 as amended, since anything more than this would require express planning approval. Put another way, Parliament has long since already granted planning permission for rear dormers of the size scale and mass one sees in this appeal case.

It is noted the 2018 SPD viz extensions is confined to the host "building" and this dormer is subordinate to the original building. Nothing is visible from the street fronting the principal elevation. Given permitted development rights allow enlargement of house rear roofs this size and the proposal can be brought into compliance viz materials, why is it too large – why have smaller dormers?

The OR says it is highly visible from the street and detracts from the uniformity of the street scene introducing a roof form that is not characteristic nor established within the surrounding pattern of development. This is disputed, the image below shows the surrounding pattern of development and rear dormers are commonplace. All these examples below are lawful because they are were erected under permitted development, as are the overwhelming majority of dormers throughout the country.



As above, there is only limited visibility of the appeal dormer, its context is backstreet. As for “uniformity” this should necessarily only be applied to front roof slopes given permitted development allows the same size, scale, mass and position as the proposed dormer. The unusual tower like roof structures close by, with double roofs, are what draws the eye from the front or rear.

The OR argues small dormers ensure the original roof slope can still be read and sit unobtrusively within the slope. But the council's argument is not logical because small dormers here would still be seen, on its own argument, in this (limited) backstreet scene.

The OR cites the ancient RDG of 2005, not its current adopted plan which has a different metric, as above. It then cites NPPF 135 but the 2005 argument is out of date and NPPF is not set out in full context.

135a refers to “functioning well” - the proposal will function well and the council doesn't explain why it will not. It then refers to “overall quality of the area”, not the “immediate” backstreet, only the “area”. This area contains many similar dormers on rear roof slopes, backstreet views are full of similar dormers nationwide. Worldwide the rear of buildings are not treated the same as the front. To the rear of buildings it is acknowledged such have limited appreciation even in heritage locations.

It is vital in all planning cases to consider context. The council's case relies upon “backstreet” limited view coupled with a demand for (unviable – see 135c below) small dormers. This is considered unreasonable as it acts as a complete embargo in practice.

135b refers to being “visually attractive”. There are no rear dormers in non-heritage locations in PINS decisions found to be attractive; such must be seen in context. There is no amenity harm, there is no highway objection, materials are agreed no longer a reason to refuse.

135c refers to local character including surrounding built environment and not discouraging appropriate innovation or change. The local character is typified by similar rear dormers. What the council prefers would not result in good living conditions, there would be inadequate floor

space with full head height to be viable, so limited it would undermine the overriding encouragement one optimise the potential for previously developed land. The LPA is effectively vetoing any rear dormer. It is misleading to argue small dormers would be acceptable when such would be unviable.

135d refers to maintaining a strong sense of place to create attractive welcoming and distinctive places to live. There are no front dormers in the vicinity and this informs local character. There are plenty of rear dormers and that informs local character. Street frontages hereabouts do create an attractive welcoming and distinctive place to live, none of the rear facades and back gardens could be said to fulfil that objective, nor would one expect it because as Parliament and the development plan acknowledge, a balance must be struck between the needs of the occupiers of land and buildings/home making on the one hand, and public amenity on the other. That balance is achieved by allowing a dormer of this size scale and mass on rear roof slopes nationwide. This is not a heritage location where public benefit needs to be demonstrated. The council's argument that small dormers instead would be acceptable is unjustified as such would be unviable.

Per NPPF chapter 12 it will accomplish the essential aims in context, any harm outweighed by the benefit, given smaller dormers as demanded are unviable.

### Conclusions

The council had already confirmed that there is no harm to the amenities of neighbours, now it accepts the materials would be satisfactory, yet still relies upon an old 2005 policy to contend the roof enlargement is too large, it should have small dormers. The reality is small dormers are unviable, so its argument is unjustified. There was no good reason to remove permitted development rights. All that is necessary is to comply with what Parliament expects in terms of matching materials for rear dormers, there will then not be visual intrusion, the EQ6 test. The proposal is, objectively, not too large and it is sustainable as it complies with the Framework. Consequently, pursuant to s38(6) PCPA 2004 planning permission should have been granted.