

# **TOWN AND COUNTRY PLANNING ACT 1990**

## **GROUND OFS OF APPEAL**

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**APPEAL** On behalf of Mr Martin Basak  
of 31 Thatchers End, Hitchin, Herts SG4 0PD

**SITE AT 31 THATCHERS END, HITCHIN, HERTS SG4 0PD**

LPA Ref: 24/02811/FPH

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## **APPELLANT'S STATEMENT OF CASE**

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Date: 9th July 2025

*A James MA MRTPI  
Harpenden  
Herts*

## **CONTENTS**

|                                                                             | <b>Page</b> |
|-----------------------------------------------------------------------------|-------------|
| <b>1. Introduction</b>                                                      | <b>3</b>    |
| <b>2. Application considered by the Council<br/>and reasons for refusal</b> | <b>4</b>    |
| <b>3. Appeal site and surrounding area</b>                                  | <b>5</b>    |
| <b>4. Planning policy context</b>                                           | <b>6</b>    |
| <b>5. The case for the appellant</b>                                        | <b>9</b>    |
| <b>6. Conclusion</b>                                                        | <b>13</b>   |
| <b>7. APPENDIX A – PHOTOS</b>                                               | <b>14</b>   |

## 1. INTRODUCTION

- 1.1 This statement of case sets out the Grounds of Appeal in respect of the appeal by Mr Martin Basak of 31 Thatchers End, Hitchin, Herts SG4 0PD (the ‘appellant’) against the **DECISION NOTICE** 24/02811/FPH issued by **NORTH HERTS DISTRICT COUNCIL** (the ‘Council’) on 16<sup>th</sup> June 2025.
- 1.2 An appeal has been lodged in accordance with the Planning Inspectorate (‘the Procedural Guide’), Planning Appeals – England updated 30<sup>th</sup> June 2025.
- 1.3 This statement sets out the appellant’s Grounds of Appeal. This statement comprises the following components:
- Section 2: Application considered by the Council and the Reasons for Refusal;
  - Section 3: The Appeal Site and Surrounding Area
  - Section 4: Planning Policy Context
  - Section 5: The Case for the Appellants
  - Section 6: Conclusion

## **2. APPLICATION CONSIDERED BY THE COUNCIL AND REASONS FOR REFUSAL**

- 2.1 The appeal concerns the erection of a single storey rear and side extension, patio and rear outbuilding at the appeal site.
- 2.2 Development has already commenced. The appellant considered the scheme fell within the criteria established under permitted development as it reflected a similar extension to the south-east of the site which was approved under the prior notification procedure.
- 2.3 It later transpired that due to a slight fall in land levels, it was necessary to raise the extension in line with the host property and, as a consequence, the development exceeded the height allowed under permitted development and a planning application was required and this was submitted in March 2025.
- 2.4 The application was refused by the Council on 16<sup>th</sup> June 2025 for the following reasons:

*1. The existing rear extensions, by reason of their scale and layout in the site, are not sympathetic to the scale of the host dwelling and its plot, and are harmful to the prevailing character and grain of development within the area. The development does not respond positively to the sites local context or be sympathetic to the existing house, contrary to Policy D1 and D2 of the North Herts Local Plan 2011 2031 and Section 12 of the National Planning Policy Framework*

*2. The rear extensions, by reason of their design and depth extending past the original rear elevation result in an unacceptable overbearing impact upon the occupiers of the adjoining neighbouring properties. The development fails to comply with Policy D3 of the North Hertfordshire Local Plan 2011-2031 and the core principles set out within the National Planning Policy Framework (2024).*

### **3. THE APPEAL SITE AND SURROUNDING AREA**

- 3.1 The appeal site comprises a two storey semi-detached dwellinghouse located within a fairly similar streetscene. The appeal site is also linked by means of a single storey side structure to No 33.
- 3.2 The surrounding area comprises a predominantly residential neighbourhood and is within walking distance of a number of local schools, recreation ground as well as a frequent bus service.
- 3.3 In 2024 the appellant applied and received approval for a single storey rear extension measuring 6m in length under the prior approval process. At that time there were no neighbour objections. Planning Ref 24/00159/NCS refers.
- 3.4 For reasons of consistency the appellant sought to extend rearwards, the other side of the house, to the same depth as the extension approved under the prior approval process and in so doing provides an additional room for the needs of the growing family.

#### **4. THE PLANNING POLICY POSITION AND THE APPROACH TO BE TAKEN IN THE DETERMINATION OF THE APPLICATION.**

4.1 The starting point for decision making is the development plan, ie the adopted North Herts Local Plan 2011-2031. S38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) are both important material considerations in planning decisions. Neither change the statutory status of the development plan as the starting point for decision making but policies of the development plan need to be considered and applied in terms of their degree of consistency with the NPPF, PPG and other material considerations. Determination of the application needs to consider whether the proposals constitute sustainable development having regard to development plan policy and the NPPF as a whole.

#### **4.2 National Planning Policy Framework 2025**

4.3 The NPPF was updated in February 2025 and sets out the government's planning policy position with the aim of addressing housing provision, sustainability, economic growth, community well-being and modernised planning processes. This document sets out the approach to be taken in the determination of the application and appeal.

4.4 The NPPF exemplifies the Government's push toward efficiency in the planning system and embodies a pro-development stance. At the core of the NPPF is a presumption in favour of sustainable development. Councils should grant permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

- 4.5 Section 2 - *Para 8* is clear that the purpose of the planning system is to contribute to the achievement of sustainable development, including the three-overarching directive of sustainable development – an economic objective, a social objective and an environmental objective.
- 4.6 Para 110 The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.
- 4.7 Para 113 states that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of the NPPF).
- 4.8 Section 12 requires that good design is a key aspect of sustainable development and should contribute positively to making places better for people.

#### The North Herts Local Plan 2011-2031

- 4.9 The following policies have been applied to the reasons for refusal and are set out below:
- 4.10 Policy D1 – This policy requires development to respond positively to the site's local context.
- 4.11 Policy D2 – This policy requires housing extensions to be sympathetic to the existing house and not to dominate adjoining properties.

- 4.12 Policy D3 - This policy requires development to not cause unacceptable harm to living conditions. *More importantly, “where the living conditions of proposed developments would be affected by an existing use or the living conditions of an existing development would be affected by a proposed use, the Council will consider whether there are mitigation measures that can be taken to mitigate the harm to an acceptable level. If the Council is not satisfied that mitigation proposals would address the identified harm, development proposals will not be permitted.*
- 4.13 The appeal scheme is in accordance with the LP and the NPPF and this is set out within the following section of the Appellant’s Statement of Case.

## **5. THE CASE FOR THE APPELLANTS**

5.1 In this section of the appellant's Statement of Case, the appellant would comment on the 2 grounds for refusal.

5.2 The First reason for refusal states that:

(1) *The existing rear extensions, by reason of their scale and layout in the site, are not sympathetic to the scale of the host dwelling and its plot, and are harmful to the prevailing character and grain of development within the area. The development does not respond positively to the sites local context or be sympathetic to the existing house, contrary to Policy D1 and D2 of the North Herts Local Plan 2011 2031 and Section 12 of the National Planning Policy Framework*

5.3 Firstly, the prevailing character and grain of development within the area reflects a fairly similar streetscene within a predominantly residential setting. Many of the neighbouring properties have been extended at both ground and first floor level and therefore the pattern of development is of a typical residential character.

5.4 The proposal at No31 is no different. The appellant considers the appeal scheme has been designed to reflect the extension on the south-eastern boundary with No 29 Thatchers End. This extension was enabled via the prior approval process and did not require planning permission. This popular Government initiative allows householders to double the depth of extensions under permitted development regulations and are therefore not bound by material planning considerations such as residential or visual amenity issues. Clearly, the Government has acknowledged, as a consequence of the relaxed permitted development rights, there will be changes to the residential grain and character of towns and cities.

5.5 The changes to the permitted development rights allows householders to make good use of space without needing to move home. Historically there has been a persistent under provision of housing nationwide and therefore the prior

approval process allowed families to extend further and as such could continue to live in the same house without the expense of having to move to a larger property. Whilst it is acknowledged the implications of these relaxed measures would impact on the character of areas, a test of reasonableness has to be applied and the degree of additional harm assessed.

- 5.6 The appellant has constructed a similarly designed extension to the one built under permitted development on the south-eastern boundary and the Council consider its scale and layout of the extensions are *“not sympathetic to the scale of the host dwelling and its plot, and are harmful to the prevailing character and grain of development within the area”*.
- 5.7 The site is not located within a conservation area nor an area designated as having special value. Moreover, the scale and layout cannot be seen from the public highway. As such it cannot detrimentally impact on the street scene and therefore character of the area. The extension is single storey and projects the same depth as the extension allowed by the prior approval process where scale and location are not assessed as having harm. At the front of the dwelling, the appellant has replaced a brick-built structure which was located to the side of the dwelling and integrated this within the design of the appeal scheme.
- 5.8 The new extension does not project any further forward than the existing building line at the front and is set back from the principal elevation. There is no detrimental impact on streetscene or character of the area.
- 5.9 The second reason for refusal states:
- 2. The rear extensions, by reason of their design and depth extending past the original rear elevation result in an unacceptable overbearing impact upon the occupiers of the adjoining neighbouring properties. The development fails to comply with Policy D3 of the North Hertfordshire Local Plan 2011-2031 and the core principles set out within the National Planning Policy Framework (2024).*
- 5.10 As mentioned above, the design and depth of the appeal scheme is similar to the design and depth of the extension allowed under the prior approval process.

- 5.11 That said, the adjoining occupiers at No 33 have raised concerns over their loss of privacy with regard to their rear amenity space. There are no windows on the western flank wall of the extension overlooking the garden and as such there would be no loss of privacy from any overlooking windows. The occupiers at No 33 have not objected to the depth of the extension, which due to the design, has a flat roof and is 3m in height (see Appendix A). Therefore the impact in terms of visual intrusion, overshadowing or loss of privacy is not considered sufficiently injurious to warrant refusing on this basis.
- 5.12 Bearing in mind that the depth of the extension matches the depth of the extension allowed under permitted development then the appellant is unclear why on one side the depth of the extension is acceptable but on the other side it is not. Whilst there is a modest increase in height, height due to the fall in land levels, and the extension is single storey and would not exceed 4m in height.
- 5.13 It is however acknowledged that there is an element of the appeal scheme which would impact on the privacy of the adjoining occupiers, and this would be from the patio area. Should the Inspector consider that there is detriment to the living environment caused by overlooking from this area, then this can be overcome by the removal of approximately 2m of the raised patio area adjacent to the shared boundary. As the patio area is not annotated on the drawings, the Inspector is invited to impose a condition to ensure that this part of the patio is removed.
- 5.14 In consideration of the wording of Policy D3 of the LP which states *“the Council will consider whether there are mitigation measures that can be taken to mitigate the harm to an acceptable level”, it is considered that steps can be taken to remove the area from which any overlooking might occur.*
- 5.15 It is considered that mitigation does exist and the appellant is willing to mitigate any harm to his neighbour.

- 5.16 On balance it is considered that in view of the location of the appeal scheme to the side and rear of the site, there would be no harm to the residential character of the area.
- 5.17 There have been no objections from technical consultees and sufficient car parking exists on site.
- 5.18 The appeal scheme also reflects the design and scale of an extension allowed under the prior approval process where no objections from neighbouring properties were received. Moreover, mitigation measures exist to overcome any concerns regarding overlooking and loss of privacy.

## **6 CONCLUSION**

- 6.1 The information submitted in support of this appeal demonstrates that the appeal scheme can address the two reasons for refusal.
- 6.2 The appeal scheme is a single storey structure with a flat roof which is similar in design and scale to an existing extension. The appeal site is not located within a conservation area and the appeal scheme cannot be seen from any public viewpoint. It is therefore not considered to bring detriment to the character and grain of existing development which is predominantly residential in nature.
- 6.3 Whilst certain elements of the appeal scheme could result in some overlooking of the rear amenity space belonging to the occupiers of No33, mitigation measures can be applied to overcome any concerns relating to loss of privacy.
- 6.4 There have been no objections from any technical consultees.
- 6.5 On balance the appeal scheme meets with the aims and objectives of local and national policy and can result in an acceptable scheme.

## 7 APPENDIX A – SITE PHOTOS



*Similarly sized extension to pd*

## Measurements taken from ground to roof top



*3m from ground level to flat roof*



**Patio area can be partially removed**