

# Planning Appeals Update

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## Planning Committee

### Report of Head of Planning and Infrastructure

#### DATE OF COMMITTEE

2018

#### PLANNING APPEALS

#### WRITTEN REPRESENTATIONS

##### HOUSE HOLDER

HH/340979/17      31 Pennine Avenue, Chadderton, Oldham, OL9 8PH  
HH/340379/17      2 Monarch Close, Royton, Oldham, OL2 5AE

##### ADVERTISEMENTS

AD/340617/17      Advertising Hoard adj 18 Oldham Road, Failsworth

##### APPEAL DECISIONS

HH/340475/17      36 Melling Road, Oldham Council, OL4 1PN  
Original Decision      Del  
Appeal Decision      Dismissed

HH/340922/17      4 Marsh Lea, Harrop Green Lane, Diggle, OL3 5LB  
Original Decision      Del  
Appeal Decision      Allowed

HH/340886/17      20 Ryecroft Close, Chadderton, Oldham, OL9 8AT  
Original Decision      Del  
Appeal Decision      Dismissed

**RECOMMENDATION -**      That the report be noted.



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## Appeal Decision

Site visit made on 26 March 2018

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4<sup>th</sup> April 2018

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**Appeal Ref: APP/W4223/D/17/3189928**

**36 Melling Road, Oldham OL4 1PN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs R Kauser against the decision of Oldham Metropolitan Borough Council.
  - The application Ref HH/340475/17, dated 17 June 2017, was refused by notice dated 20 October 2017.
  - The development proposed is a single storey rear extension.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue of the appeal is the effect on the living conditions of occupiers of neighbouring properties, with particular regard to No 34 Melling Road and matters of outlook.

### Reasons

3. The appeal proposal relates to a single storey rear extension to the mid terraced property that was in-situ at the time of my visit. The extension subject to the appeal links to a single storey rear outrigger. The single storey rear extension adjoins the boundary with No 34 Melling Road (No 34) with a set in from the boundary with No 38 Melling Road (No 38) and extends up to a shared alleyway at the rear.
4. No 34 has a habitable window within its ground floor rear elevation and unlike other properties within the terraced row it has not been previously extended beyond its main rear building line. In contrast, the extension to No 36 has introduced a projection of built form of considerable depth with a height of approximately 3m adjoining the shared boundary with No 34. The resultant depth, scale and massing of the single storey extension in close proximity to the shared boundary has a considerable overbearing effect upon the ground floor habitable window in the rear elevation of No 34 and its rear yard, with a loss of outlook and a sense of enclosure when taken together with an existing extension at No 32. Consequently, the extension has an unacceptable impact upon No 34 which is harmful to the living conditions of its existing and future occupiers.
5. In reaching the above findings, I have taken into account that the design of the extension incorporates a hipped roof which results in the maximum height of

the extension being set away from the boundary and reduces the bulk and massing at its furthest extent. I also observed that the rear elevation and rear yard of No 34 has a southern aspect with some existing light loss associated with a conifer tree. Nonetheless, such matters do not mitigate or justify the harm I have identified, nor does the absence of an objection from the existing occupier of No 34.

6. I am not aware of the planning status and circumstances which led to a similar extension at No 38 or other extensions visible nearby in the terraced row. In any case, the relationships of those extensions to habitable windows within neighbouring properties are different to the proposal before me and its relationship to No 34. Consequently, the nearby presence of considerable rear extensions, including at No 38, does not justify the harm I have identified.
7. The appellant has suggested a fallback position is afforded by extensions that benefit from permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015. However, in my view, any extension to the appeal property capable of being undertaken without the need for planning permission would not be as substantial as the proposal now before me and would not replicate the harm I have identified.
8. The Council has not expressed any concern in terms of the character and appearance of the extension or the relationship with No 38 given the presence of its similar extension. Based upon my observations I have no reason to take a different view. The separation distance of the extension to the shared boundary prevents any unacceptable overbearing effect upon No 38, whilst the facing windows are non-habitable and therefore, do not result in a significant loss of privacy. In addition, the absence of facing windows in the side elevation of the extension facing towards No 34 and the rear elevation prevents any privacy concerns to other neighbouring properties. However, the absence of concern in those respects is a neutral factor.
9. I conclude that the development has a harmful effect upon the living conditions of occupiers of No 34 Melling Road. The proposal, therefore, conflicts with Policy 9 of the Oldham Local Development Framework Joint Core Strategy and Development Policies Development Plan Document, adopted November 2011, which, amongst other things, seeks to ensure development does not cause significant harm to the amenity of existing and future neighbouring occupants. The policy is consistent with the core planning principle of the National Planning Policy Framework that seeks a good standard of amenity for all existing and future occupants of land and buildings.

### **Other Matters**

10. The appellant has indicated that the construction of the extension was not a wilful breach of planning control and I appreciate the wish to provide additional space for a growing family. However, such personal circumstances do not outweigh the harm I have identified.

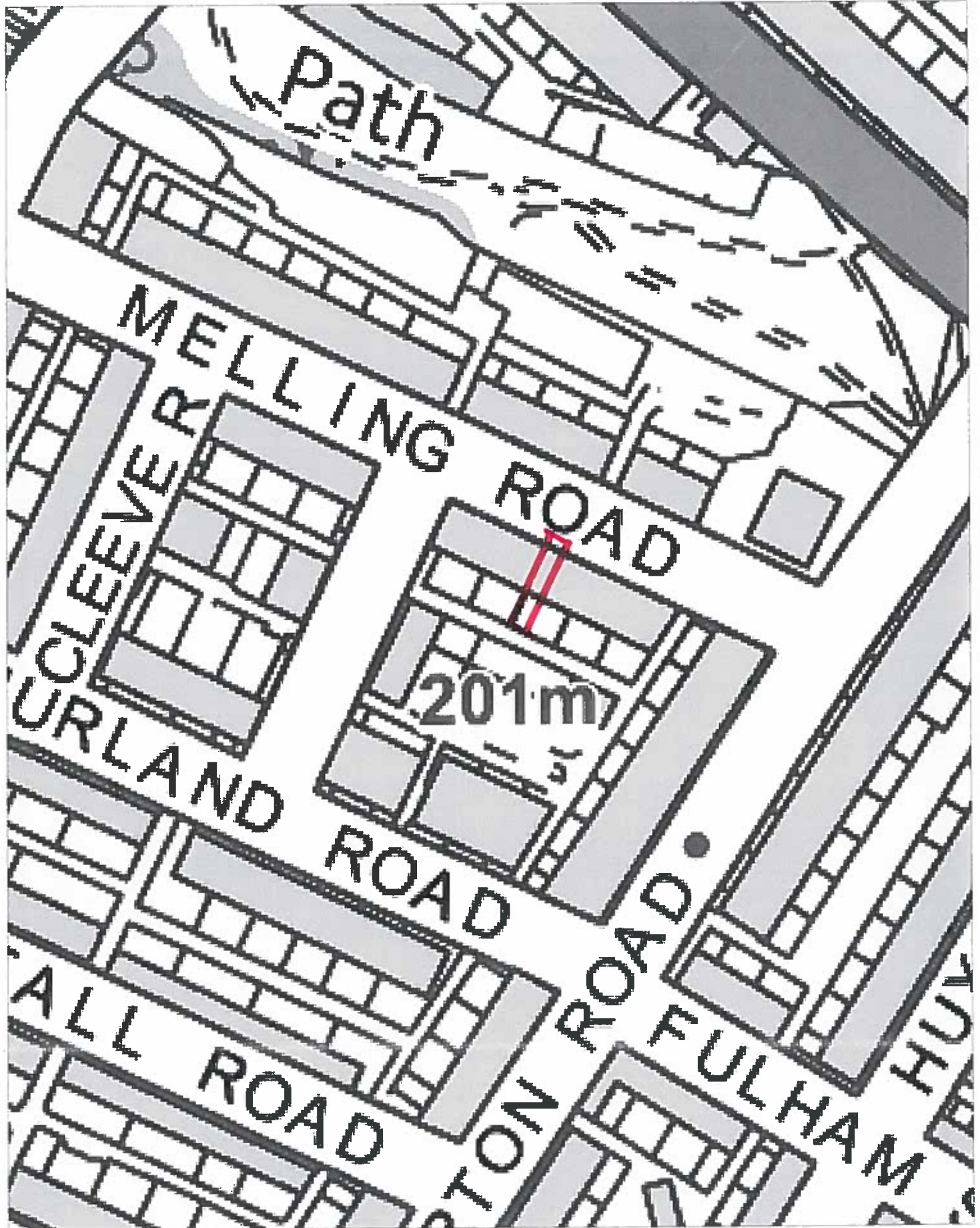
### **Conclusion**

11. For the reasons given above, I conclude that the appeal should be dismissed.

*Gareth Wildgoose*

INSPECTOR

340475





## Appeal Decision

Site visit made on 27 March 2018

by **S R G Baird BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6<sup>th</sup> April 2018

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**Appeal Ref: APP/W4223/D/18/3193000**

**4 Marsh Lea, Harrop Green Lane, Diggle OL3 5LB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Ashworth against the decision of Oldham Metropolitan Borough Council.
  - The application Ref HH/340922/17, dated 12 October 2017, was refused by notice dated 8 December 2017.
  - The development proposed is a 2-storey side extension to extend existing living accommodation with internal alterations to the existing dwelling and a new rear porch.
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### Preliminary Matters

1. In the absence of the appellants or their agent the site visit was carried out unaccompanied.
2. On the 19 December 2017 an appeal decision<sup>1</sup> in relation to a proposed 2-storey extension to No. 4 was issued and is material to my assessment of the current proposal. Whilst I have not been provided with details of the previous scheme, I discern from my colleagues analysis that the scheme before me is materially different and as such the previous decision does not constitute a precedent that I am bound to follow.

### Decision

3. The appeal is allowed and planning permission is granted for a 2-storey side extension to extend existing living accommodation with internal alterations to the existing dwelling and a new rear porch at 4 Marsh Lea, Harrop Green Lane, Diggle OL3 5LB in accordance with the terms of the application, Ref H340922/17, dated 12 October 2017, subject to the following conditions:
  - 1) the development hereby permitted shall begin not later than 3 years from the date of this decision;
  - 2) the materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building;
  - 3) the development hereby permitted shall be carried out in accordance with following plans: P-01; P-02; P-03 and P-04.

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<sup>1</sup> APP/W4223/D/17/3183673.

## **Main Issue**

4. Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies.

## **Reasons**

5. The appeal site is within the Green Belt where Development Plan<sup>2</sup> Policy 22 says that development will be permitted provided it does not conflict with national policies on the Green Belt. Framework paragraph 87 says that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Framework paragraph 89, third bullet point, says that the extension or alteration of a building is not regarded as inappropriate development provided it does not result in disproportionate additions over and above the size of the original building.
6. Neither the Framework nor Policy 22 defines disproportionate. The Council as a guideline refer to the largely superseded Unitary Development Plan which defined an extension within the Green Belt as being disproportionate if it increased the volume of the original building by more than 33%. The appellant submits that the extension would increase the volume of the original house by some 39% and the Planning Officer's report suggests that the increase in volume would be some 48%. Whilst the submitted plans do include some dimensions neither party identify how the increase has been calculated and I have no way of verifying either figure. Accordingly, I attach little weight to the respective calculations in coming to my conclusion. Similarly, as the Council's guideline figure of 33% is not contained within an adopted policy and there is no explanation of how it has been derived, I attach limited weight to this guideline. Accordingly, in this case whether the proposed extension would be disproportionate addition and therefore inappropriate development is a matter of planning judgement.
7. When assessing whether an extension may be disproportionate the Framework refers to size, which, as well as volume, involves looking at increases in floorspace and external dimensions. Here, given the limited sideways projection at some 3.7m, the substantial set- back of the front elevation by some 2.7m and the lower ridge height of some 0.5m, I conclude that this proposal would not be a disproportionate extension to the original building and would not be inappropriate development in the Green Belt.
8. Unless there is a specific requirement to consider the actual effect on openness, the impact on openness is implicitly taken into account in the exceptions contained within Framework paragraph 89. The exception contained within the third bullet point of Framework paragraph 89 does not say that an assessment of the effect of a proposal on openness is a determinative factor in assessing whether a scheme would fall to be considered as inappropriate development. Accordingly, here there is no requirement to assess the impact of the extension on the openness of the Green Belt. Similarly, given my conclusion that the proposed extension would not

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<sup>2</sup> Oldham Local Development Framework, Development Plan Document – Joint Core Strategy & Development Management Policies – November 2011.

constitute inappropriate development, it is unnecessary for me to consider whether very special circumstances exist to justify the development.

**Conclusion**

9. The proposal would not be a disproportionate extension to the existing dwelling and as such would not be inappropriate development in the Green Belt. Accordingly, the proposal would not conflict with the objectives of the Framework or the development plan. For these reasons and having taken into account all other matters I conclude that the appeal should be allowed.

**Conditions**

10. In the interests of the appearance of the area and certainty, conditions relating to the use of matching materials and the specification of the relevant drawings have been imposed.

*George Baird*

Inspector

340922







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## Appeal Decision

Site visit made on 13 March 2018

by **W Johnson BA (Hons) DipTP DipUDR MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 April 2018

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**Appeal Ref: APP/W4223/D/17/3191845**

**20 Ryecroft Close, Chadderton OL9 8AT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Alan Ryan against the decision of Oldham Metropolitan Borough Council.
  - The application Ref HH/340886/17, dated 5 October 2017, was refused by notice dated 30 November 2017.
  - The development proposed is front dormer.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. In addition to the front dormer, the application plans show side and rear dormer windows and a single storey rear extension, all of which have notes stating 'under permitted development'. The application and appeal form clearly indicate that the proposal for consideration is a front dormer only, and the Council's application report confirms similarly. I have dealt with this appeal on the same basis.

### Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the appeal site and the surrounding area.

### Reasons

4. Ryecroft Close is a small cul-de-sac located off Semple Way. The properties located on Ryecroft Close are modest semi-detached bungalows of brick construction with tiled hipped roofs that are set behind front gardens enclosed by low boundary walls. Currently none of the properties on Ryecroft Close have any dormer windows on the front facing roof slopes, and this makes for a distinctive and unifying feature of the street scene.
5. Although the front dormer would be set within the roof slope, it would by virtue of its size, design and location on the front facing roof slope, result in an incongruous addition out of keeping with surrounding properties. It would dominate the roof, would fundamentally alter its shape and would unbalance its form. The resulting significant adverse effect on the character and appearance of the host property would be readily visible in the street scene.

6. My attention has been drawn to other dormers in the area, in particular to properties located on Teasdale Close and photographs have been provided in support. Whilst noting the presence of other extensions, relatively little detail has been provided regarding the particular planning backgrounds to those schemes. Without such information a full and detailed comparison between those developments and the case before me cannot be drawn except insofar as I was able to observe and assess the sites at my visit, and I find on that basis that the other developments cited have little implication for the specific impact of the appeal scheme. I have considered this appeal proposal on its own particular merits and concluded that it would cause harm for the reasons set out above.
7. Reference has been made by the appellant to a 'Residential Design SPD guidelines for front dormers'. Both parties have been afforded the opportunity to comment and the only response received was from the Council on 15 March 2018 wherein it was confirmed that the extract does not appear to have come from a Council document. Under these circumstances and in the absence of any substantive information to the contrary, I do not consider the extract to be directly relevant in the context of this appeal.
8. For all of these reasons, I therefore conclude that the proposed front dormer would unacceptably harm the character and appearance of the area. This would be contrary to Policy 9 and 20 of the Oldham Local Development Framework Joint Development Plan Document-Joint Core Strategy and Development Management Policies. These policies seek, amongst other things, to protect and improve local environmental quality and the amenity of an area, through high quality design that reflects the character of the area in which the development is taking place, and reinforcing local identity. As a result, the proposal would also be contrary to a core planning principle of the National Planning Policy Framework, which in relation to new development seeks to secure high quality design.

### **Conclusion**

9. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

*Wayne Johnson*

INSPECTOR

340886

