Appeal Statement

28 Duchess Crescent East

Jarrow

Tyne and Wear

NE32 5QR

Planning Application Reference ST/0552/23/HFUL

Dear Inspectorate

I truly believe that the decision to decline my application and the process it went through to be highly inconsistent with South Tyneside's policy and timeline.

To map out the full process I will try to articulate all the facts and inconsistencies and clear lack of empirical evidence the local authority has been unable to provide during the decision phase of this work, I also want to include as it is highly relevant a very close by (within eye line) new development that received no less than 6 objections and ended up being constructed over and above the original submitted plan as further mitigation to my own case. When dealing with the senior planning officer I have been informed the LA must be consistent to which I'd really like to offer some hard facts to demonstrate this is not the case, in fact far from it.

My application was noted as valid from 22nd August 2023, as with any application it went into the standstill/consultation phase and received 0 objections nor any comments from Neighbours during this process. I received a letter to confirm which went on to note that I would receive a decision by 17th October (I've a copy of this if needs be) The letter goes on to note that if no decision was reached by this point the LA would reach out and inform why and ask for more time – None of this happened.

I patiently waited and therefore chased up post the 17th Oct and after myself calling I was informed the local officer wished to make a 'routine visit' I found this a little surprising as surely if this was the case it would have taken place before their own target deadline. An officer visited on the 23rd for no longer than 5 minutes, did not come inside and took a

couple of photo's and left informing all was good. I then received the following email later that day. I do believe there was a wish for objections at this stage to support what feel very subjective as you will note in my evidence.

I'd like to point out that this is the first inconsistency of failing to follow their own protocol, something the senior planning officer Geoff Horman has subsequently apologised for. (Verbally)

To highlight my case and challenge against the inconsistencies the local authority have provided and to be open and transparent I've included email exchanges between myself and the LA planning team.

From: Emma Thomas <Emma.Thomas@southtyneside.gov.uk>
Sent: 23 October 2023 16:22
To: [redacted]
Subject: ST/0552/23/HFUL - 28 Duchess Crescent East, Jarrow

Good afternoon,

With regards to the proposed first floor rear extension at the above address, having made a site visit this morning and further assessed the submitted plans, the proposed first floor would need to be set back.

SPD 9 states that 'A reasonable outlook should be maintained from the habitable room windows of neighbouring properties. This generally means that an extension should not be so large and/or so close that it forms a very dominant feature when looking out from habitable rooms of a neighbouring property. Should an extension result in an oppressive or overbearing visual impact upon a neighbouring property it is possible that permission may be refused.' As it stands I believe the proposed first floor extension would form a very dominant feature when looking out from habitable rooms of a neighbouring property.

I am happy to agree to extend the deadline date for this application if you wish to make amendments to the proposal, or if you wish for the application to be determined as it is then please let me know.

I called immediately to challenge this as was very shocked given there was no notion of this when the visit took place, note the officer despite being asked if she wanted to look inside refused. When I obtained further information in relation to setting back, I was informed that a 45 degree angle would need to be struck from my Neighbouring properties upper bedroom window (No 26) which the proposed brickwork line would

follow. I challenged this as given the room below which was extended (single floor) in 2010 how on earth that would be possible and more importantly how that would visually look to which I received no tangible comment but was informed if I altered this would be approved. When I pressed for a more formal response I received this email

From: Emma Thomas <Emma.Thomas@southtyneside.gov.uk>
Sent: 26 October 2023 18:01
To: [redacted]
Subject: RE: ST/0552/23/HFUL - 28 Duchess Crescent East, Jarrow

Good afternoon,

Although no comments / objections have been received from the attached neighbours, we still have to consider residential amenity. I also appreciate that the attached neighbour is located south and therefore no overshadowing would be created from a first floor rear extension. The main concern here is outlook and overdominance.

SPD 9 advises that two-storey rear extensions that would project 3 metres from the rear wall of the original dwelling, and be set in 2 metres from the any side boundary and 7 metres from the rear boundary (opposite the rear wall of the dwelling) will often be "permitted development", and will generally be acceptable in many situations unless specific impacts of privacy, over-dominance or over-shadowing arise for neighbouring properties.

The proposed first floor rear extension would project 3m from the rear wall of the original dwelling and be set in 7m from the rear boundary, however would not be set back 2m from the side boundary.

In terms of outlook and over-dominance, an approximate 45-degree line from the centre of the rear first floor window of no. 26 indicates the first floor element would impede on this line on plan. This notation is used to demonstrate that the proposed first floor element is not compliant under The Building Research Establishment (BRE) guidelines "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice" (1991). This BRE document provides guidance on avoiding unacceptable impacts and sets out non-mandatory targets for levels of daylight and sunlight within existing and proposed development.

The guidance makes clear that to avoid harm caused to an adjacent neighbour an extension should not exceed a line taken at 45-degrees from the centre of the nearest window of a habitable room in an adjoining property. In this case the 45-degree line would be broken from the first floor neighbouring window, which suggests that there would be harm caused to the adjacent neighbour. It would be that significant in which to warrant refusal of the application in terms of the first floor rear extension when viewed from the closest habitable room windows at first floor level.

As advised, you can do one of the following –

- Make the necessary amendments to the first floor rear extension so that the 45 degree line from the centre of the neighbours rear first floor window is not impeded.
- Leave the current planning as it is and the Council would proceed with refusing the application. You would then have the option of appealing the Council's decision for free. An inspector from the Planning Inspectorate would then independently assess the application and make a decision on whether to allow or dismiss the appeal.

Having read this from Emma Thomas and after consultation with my architect and local designers I felt quite frustrated as I was being informed now that my proposal was 'none compliant' under the BRE guidelines, this is simply not the case and has to be challenged, the BRE guidelines in this example highlight this 45 degree rule but it is very consistent with shadowing and loss of day light as I have pointed out. Due to the very lucky orientation of my property this is simply not the case, the LA have stuck by this throughout but it is their own subject view and not based from facts, please note I'll also come to the development at 1A Duchess Crescent to further demonstrate why.

I therefore challenged Emma and would ask that these facts are reconsidered, I sent them back to Emma and received no response other than a phone call from the Senior planning officer to note Emma's decision was final – I do feel there are many unanswered questions below and would truly welcome a site visit to support ?

From: [redacted]
Sent: 27 October 2023 13:58
To: Emma Thomas <Emma.Thomas@southtyneside.gov.uk>
Subject: Re: ST/0552/23/HFUL - 28 Duchess Crescent East, Jarrow

Afternoon Emma

Thanks for the time taken to give me some further information, I've tried to call this afternoon but remembered you did say you were on leave. Hope you are enjoying

As we discussed yesterday, I do understand some of the rationale but having discussed with my Architect, I'd like to raise the following to further support - I'd appreciate if you can take a further look before we get into that appeal territory, as I do feel I have some valid points to support an approval.

I have spoken again with my Neighbour who is currently mulling over his options in terms of timing, as we discussed he is also looking at rear extensions however I like to raise the following for your consideration and to reiterate where I am currently with a builder oven ready and a very small 3rd bedroom we are in somewhat critical living conditions with an aging family so I am if I can help it, really hoping to not loose further time getting this work started.

So from the middle of the upper Window @ No 26 when applying that 45 degree line there is an impact to the current plan, though looking at what my Architect done on the screen today to show me it's not significant in any way whilst it could be stepped back, we have used the term over dominant, visually this would look very very poor and a design that could only be described as a 'work around' Notwithstanding the structural steel implications to gain a negligible impact.

We have had a good look through the BRE Guidelines as you note below in your response and need to draw your attention to some points contained within this same document that does provide some mitigation to the detail that is being discussed.

- The BRE document is very clear that the 45 degree approach is correlated to over shadowing and detrimental impact to light
- As we have already agreed there is zero overshadowing with this specific proposal thanks to the orientation of my property and No 26, they get more sun than me regardless of what I could ever build
- Section 2.2 is where all of the real topical information relates which goes on to note as follows
- 2.2.1 - Calls out an existing building which is going to be extended with importance to safeguard light - We know this isn't an issue
- 2.2.2 - Calls out the rooms impacted IE in this case the upper bedroom but again references required daylight - We know this does not change
- 2.2.9 - Calls out if following the construction the direct skylight is reduced to less than 0.8 times its former value this will be noticeable and more poorly lit - again we know this is not the case
- 2.2.14/15 Calls out if following a domestic extension which adjoins the rear a quick method can be used to assess, this is the method you have provided as part of the summary, however the BRE give an illustration as part of this with the 45 degree approach and shows a proposed extension severely overshadowing a neighbouring property - None of this is relevant to our proposal as we know there is zero impact nor reduction in light due to orientation.
- 2.2.16 Very salient to what we are debating as within this clause it discusses a rule of thumb and flexible interpretation, IE a guide to good practice. There is nothing I can see in this document that proves what is being proposed as 'none complaint' I therefore must ask where I can find this to be able to draw the same conclusion you have ?
- 2.2.17 States that the 45 degree approach deals with diffuse skylight only, therefore given what we know already, the orientation and no impact to sun nor light I am really struggling to understand how this can be used to decline what is being proposed.

The detail in the body of the email are all drawn from issues with light, therefore that same guidance that is being used to avoid harm is a reference to light being impacted, I cant see any unacceptable impacts as a result of reading it and applying what you have informed. To confirm just to be totally clear I have to challenge the point made regards the 45 degree approach would cause harm becuse this is only a factor when light is impacted, this is detailed throughout many pages with the BRE ?

The BRE also do not reference at all over dominance, whilst I understand SPD 9 does make a reference this is advice and guidance and obviously extremely subjective to the person viewing, I reiterate my Neighbour who is essentially the source of this entire debate does not feel that way nor do I, he is likely to build which also creates a much simple design leaving as proposed. In terms of over dominance there is a very cost effective way around in terms of setting back but visually we create an awful outlook, therefore over dominance vs visual appearance could be debated as far a chicken and egg..very subjective.

I do appreciate your help but I've tried to help provide you and I am sure you need to discuss with your superiors some further rationale, I am being given the BRE as a 'this is how it needs to be' but before you determine as rejected can I please ask you (or another) come back to me using the same argument you have to land the same issue below to clearly state with a reference clause where in that same document my proposal is none complaint, as I simply cannot see it ? Therefore suggest I've provided surely enough supporting mitigation to accept my proposal based from solid facts within the BRE ?

Many Thanks

David

I therefore stand by my email sent on the 27th October as the main fundamental reasoning to why there is no argument to the 45 degree line being applicable in this instance given orientation and zero shadowing, I feel the LA have used this with no regards to any positioning of my property as just a blanket approach.

In terms of their other cause for concern being over dominance, I reiterate this proposal received zero objections, I do not believe there is any over dominance, there are many 2 storey rear extensions in my neighbourhood and this really is a subjective view, please note further below to again demonstrate the subjective nature of over dominance.

As I felt I had received no real clarity I wrote to Geoff Horsman the Senior planning officer as follows to reiterate my points as follows

From: [redacted]
Sent: 02 November 2023 22:29
To: geoff.horsman@southtyneside.gov.uk <geoff.horsman@southtyneside.gov.uk>
Subject: Fw: ST/0552/23/HFUL - 28 Duchess Crescent East, Jarrow

Evening Geoff

I am not sure if Emma got the chance to speak to you as we spoke late on this afternoon but she informed she would pass over for a further conversation.

Whilst I broadly understand from a conversation (only)where Emma is trying to get to with this, I really cant help but feel somewhat aggrieved for the following reasons.

You will see from the email thread below Emma has provided some rationale in terms of why my application is 'more than likely' going to be rejected and gave me some subsequent guidance to support that based from the BRE.

Both myself and architect have spent time reviewing against her points and I must point out they are simply not correct and not valid based from the Orienatation of my property. The sun drives the light and given the sun shoots into the both properties consistently until we all loose it late afternoon there is simply no correlation nor loss of light what so ever.

I think if we are being fair and reasonable given Emma is not moving on her verbal decision, at the very minimum I have provided what I believe to be a more than fair response to the rationale below and I've to this point not had one clarification based from the same BRE docmentment to demonstrate otherwise, all I am being told is extremely subjective information. This feels very very unfair ?

If the BRE and it's guidelines is being called out in the statement as Emma puts it to be none compliant based from the 45 rule, I've not been provided with one point back to state what I have written below is incorrect, that has to be a minimum if it is being used to support the decision to not approve. There is nothing in the BRE to concur this is the case, this alone provides much argument back to the point if we are being fair and reasonable ?

The BRE is abundantly clear on shadowing and the consequential issues, by the way of sheer luck nothing else, this is 100% not applicable in the proposed plan but is being used as it is - This is extremely unfair.

Emma has noted she will approve being set back (but has not been inside the property to understand that consequential implication) I would really welcome a visit to demonstrate what I am trying to achieve and why stepping back is a ludicrous suggestion. Given where we are this is more than reasonable so it can be demonstrated ?

I therefore ask to see from the same policy I am being directed to where Emma's points prevail, as I cant see that?

Then there is the overdominance, this is also extremely subjective to one person. Again given the Orientation this is simply not the case, my Neighbour at 26 fully concurs (and would also welcome the chat). Stepping back to gain approval would look a design disaster, Emma broadly agrees, I really don't think it is fair and reasonable to inform me this would be approved (stepping back) as it feels like we would be all ticking a very subjective box and in doing so create a monstrosity that my neighbour who does eventually wants to build out then also create a situation where by the construction would be very very difficult to achieve - And he is more than likely going to appeal that. I am sure at this point you may feel my sheer exaspirations trying to provide a roof over

the head of an expanding family, there has to be some consideration to this which isn being drawn in....

Emma has noted it might be better to go to appeal, well if so that's the way it is.... but out of common decency before we get to that stage can I ask you visit, come in for a cuppa, take a look at the bedroom internally and externally, talk to me and my neighbour, we are more than reasonable people and if you concur then that's the way it is. I am however trying to get to a point where by I don't loose any more time.

However before we get to that point, I'd really like the policy that is being used to support a rejection as is to be answered back to the more than robust points I've made below, I am sure you will agree that is more than fair?

You may be aware this application went over the deadline to respond, it was me that had to chase after the deadline. I was informed of a 'standard visit' from Emma post your own deadline then received the 'you need to step back response', this is another point that frustrates me as given STC can see all plans from the outset and I am already up against keeping my builders slot I struggle to understand why if this was always the going to be the view it took so long to inform, this is a minor piece of detail granted but in the round of where we are it adds to the frustration.

Looking forward to meeting you if you can spare some time to have a more detailed look ahead of any next step. I work from home so can be more than flexible for that visit ?

Many David

[redacted]

Geoff called me post email to again just reiterate there was no movement !!

I think I have provided enough evidence based from the same guidelines the LA have underwritten to me (the BRE) to in my opinion prove their views are not correct. I'd also like to support their claim for over dominance and highlight the approved new development of one property being 1A Duchess Crescent East, this property is in eyeline of my own, has been built on a grassed area where there really was no room for a new property. This development which is very very over dominant to x 2 neighbouring properties and received no less than 6 objections and a revised in progress addition to make it taller all sailed through. I therefore must challenge their own policy and again very subjective view as if my proposal is over dominant then this new development is far worse, this can be demonstrated on their portal but I've included some salient details and of course this can be viewed as a comparison during a site inspection.

Hi Geoff

Thanks for the time today and update, whilst you provided some detail as we agreed certainly a case of agreeing to disagree.

When the call ended I did reflect on some of the narrative we spoke about, in the main you were very clear on consistency being a driver in the proposed potential decision.

This got me thinking back to the attached which is within view of my property. IE the new property noted as 1A Duchess Crescent East

Having looked through the final permission with no less than 6 objections might I add, the very same detail is being discussed with this case which is correlated to my own proposal but to highlight that subjective nature of your case officer he does not feel a dormer bungalow with a full 2 storey height build right up to ridge with an over extended height on top of what was originally approved and tight as can be to neighbouring properties (No 14 & 16 Beaufront Tce) is neither over dominant nor any issue to light ?

Whilst I have no personal issue with 1A, I think if I am being treated fair and 'consistent' there is absolutely no argument possible given what has been approved at 1A to suggest the same cannot be applied to my proposal, 1A is a huge over plot built extremely close to more than 1 property, if your case officer has approved for the reasons set out in this attachment if we are apply8ing the same rules I can see no further debate to my proposal.

I guess it makes it worse given the number of objections there was no problem approving then re approving when it was amended without permission - Can I ask (or plead) with a further review given this detail and what is noted about no loss of light as attached (as I have) I have been informed by both you and Emma daylight and sunlight are different, there is 100% no way that is being considered at 1A if we apply the same logic - All I am asking for is consistency and in your many years you surely can see my point to the attached ???

Many Thanks

Please find enclosed further evidence to demonstrate a full new property and fundamental over dominant feature which from the same LA and same policy I've been told in over dominance then how can this be argued to not be equal if not worse, I simply cant see it. A site visit gives an even more dominant feature


ST058316FUL Proposed Elevations f


ST080517VC ADDITIONAL INFORM


ST080517VC Officer Report.pdf

In summary, all I am asking for is what I feel my very valid points are answered as I don't feel they have been nor do I believe there is any consistency and the reasoning for decline is weak and very subjective. I struggle to get my head around how I have been informed I can do half of what I am proposing then strike a 45 degree line to create a visual disaster, if the LA are going to use the likes of over dominance how they can suggest what they have is utterly preposterous. This would also be evidenced with an internal inspection, something the LA have not managed to do at all

In all of this they have used my neighbour at No 26 as the reasoning (IE his property) yet he did not object and fully supports the proposal.

I'd really welcome an objective view to this appeal based from all the facts I've provided, you will see I've done as much research and provided lots of unanswered points.

Many Thanks

David - [redacted]