

CALDERDALE METROPOLITAN BOROUGH COUNCIL**PLANNING COMMITTEE****WARDS AFFECTED: MORE THAN THREE**

Date of meeting: 31 January 2023

Chief Officer: Director of Regeneration and Strategy.

1. SUBJECT OF REPORT

APPLICATIONS FOR DETERMINATION RE PLANNING PERMISSION, LISTED BUILDING CONSENT/CONSERVATION AREA CONSENT, LOCAL AUTHORITY APPLICATIONS, CROWN APPLICATION OR CONSENT TO FELL PROTECTED TREES

- (i) Executive Summary
- (ii) Individual Applications

2. INTRODUCTION

- 2.1** The attached report contains two sections. The first section contains a summarised list of all applications to be considered at the Committee and the time when the application will be heard. Applications for Committee consideration have been identified in accordance with Council Standing Orders and delegations.
- 2.2** The second section comprises individual detailed reports relative to the applications to be considered.
- 2.3** These are set out in a standard format including the details of the application and relevant planning site history, representations/comments received arising from publicity and consultations, the officers assessment and recommendation, with suggested conditions or reasons for refusal, as appropriate.
- 2.4** Where the Committee considers that a decision contrary to the recommendation of the Director of Regeneration and Strategy may be appropriate, then consideration of the application may be deferred for further information.
- 2.5** Where a Legal Agreement is required by the Committee, the resolution will be "Mindful to Permit Subject to a Legal Agreement being completed", combined with a delegation to the Director of Regeneration and Strategy.

3. IMPLICATIONS ARISING FROM REPORT

3.1 Planning Policies

These are set out separately in each individual application report.

3.2 Sustainability

Effective planning control uses the basic principle of sustainable development by ensuring that development meets the needs of the present without compromising the ability of future generations to meet their own needs. Through the development control system, the Council can enable environmental damage to be minimised and ensure that resources are used efficiently and waste minimised. Particular sustainability issues will be highlighted in individual reports where appropriate.

3.3 Equal Opportunities

All applications are considered on their merits having regard to Government guidance, the policies of the Development plan and other factors relevant to planning. This will be done using the Development Control Code of Conduct for officers and members as set out in the Council's Standing Orders.

In the vast majority of cases, planning permission is given for land, not to an individual, and the personal circumstances of the applicant are seldom relevant.

However, the Council has to consider the needs of people with disabilities and their needs are a material planning consideration. Reference will be made to any such issues in the individual application reports, where appropriate.

The Council also seeks to apply good practice guidance published in respect of Race and Planning issues.

3.4 Finance

A refusal of planning permission can have financial implications for the Council where a subsequent appeal is lodged by the applicant in respect of the decision or if a case of alleged maladministration is referred to the Local Government Ombudsman or a Judicial Review is sought through the Courts.

In all cases indirect staff costs will be incurred in processing any such forms of 'appeal'.

There is no existing budget to cover any direct costs should any such 'appeal' result in 'costs' being awarded against the Council. These would have to be found by way of compensatory savings from elsewhere in the Planning Services budget.

Reference: 6/00/00/CM

Richard Seaman
For and on behalf of
Director of Regeneration and Strategy

FOR FURTHER INFORMATION ON THIS REPORT CONTACT:

Richard Seaman
Corporate Lead
For Planning Services

TELEPHONE :- 01422 392241

DOCUMENTS USED IN THE PREPARATION OF THIS REPORT:

1. Planning Application File (numbered as the application show in the report)
2. National Planning Policy and Guidance
3. Calderdale Development Plan(including any associated preparatory documents)
4. Related appeal and court decisions
5. Related planning applications
6. Relevant guideline/good practice documents

DOCUMENTS ARE AVAILABLE FOR INSPECTION AT:

www.calderdale.gov.uk.

You can access the Council's website at the Council's Customer First offices and Council Libraries.

List of Applications at Committee 31 January 2023

Time & No.	App No.	Location	Proposal	Ward	Page No.
1400	22/00388/HSE	142 Roils Head Road Halifax Calderdale HX2 0NQ	Single storey extension to rear, porch to front, canopy to side and front and dormer windows to rear and side elevations (Part Retrospective) (Amended Scheme to Planning Application No 19/00759/HSE)	Warley	5 - 14

Time Not Before: 1400

Application No: 22/00388/HSE

Ward: **Warley**

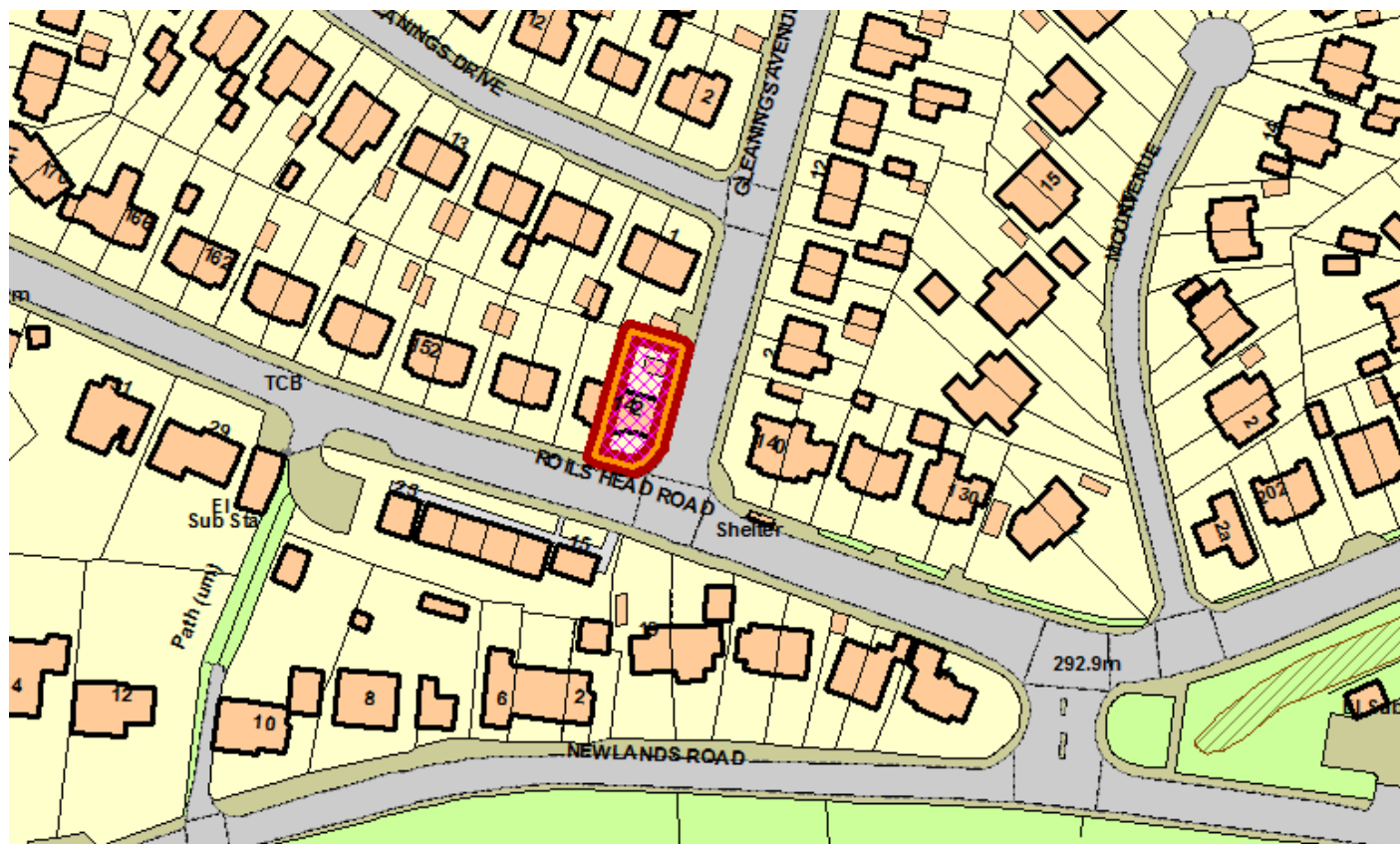
Area Team: **North Team**

Proposal:

Single storey extension to rear, porch to front, canopy to side and front and dormer windows to rear and side elevations (Part Retrospective) (Amended Scheme to Planning Application No 19/00759/HSE)

Location:

142 Roils Head Road Halifax Calderdale HX2 0NQ



Applicant:

Mr S Ali

Recommendation: **REFUSE**

Parish Council Representations:

N/A

Representations:

No

Departure from Development Plan:

No

Consultations:

Highways Section

Description of Site and Proposal

The site is a previously extended standard design semi-detached house at the junction of Roils Head Rd and Gleanings Ave and forms part of a well-established residential development of similar dwellings within the Primary Housing Area. The proposal is for a single storey rear extension, a porch to the principal elevation and dormer extensions to the rear and side elevations. The application is part retrospective, as most of the development has already been constructed.

Planning permission for a single storey extension to the rear, a porch to the front, canopy to the side and dormer windows to the rear and side elevations was given in 2016 (16/01137/HSE). A subsequent application to amend the scheme was permitted in 2017 (17/01034/HSE). However the development that has been constructed is not in accordance with the approved plans of either permission.

Two further applications were submitted in 2019, in order to regularise the profile and design of the dormer extensions together with the massing of the rear extension. The first application 19/00105/HSE was refused on design and private amenity of neighbours and a subsequent scheme, 19/00759/HSE, was withdrawn.

The current application seeks planning permission for the front porch, front and side canopy, and dormer windows to rear and side elevations as constructed. The single storey rear extension as proposed is smaller than that constructed and is shown to be set in from the boundary with 144 Roils Head Road by approximately 1.2m. It is also proposed to lower the wall height of part of the extension by two courses at roof level, which would give a height of approximately 2.9m.

The reason that the application has been brought to Committee is because a written request, giving planning reasons, has been made by a Councillor concerning an application in their ward.

Relevant Planning History

15/42043/42DAYS – This was an application for prior approval for a proposed single storey extension to rear, extending out by 6 metres, maximum height 3.707 metres, 2.649 metres to eaves. Prior approval was refused as it was considered that the proposed development would create an unacceptable overbearing impact upon the main aspect room window to the rear of the adjacent dwelling, 144 Roils Head Road. The extension would be detrimental to the residential amenity of the occupier of this adjacent property.

16/01137/HSE – This was an application for a single storey extension to the rear with a pitched roof structure; a porch to the front; a canopy to side and modest dormer extensions to the rear and side elevations. Planning permission was granted for this scheme as the section of the rear extension adjacent to the boundary with 144 adjoining had been reduced in projection to meet planning policy BE2 in terms of impact upon a neighbouring main aspect window. Two off street parking spaces were approved on this scheme and were conditioned to be present prior to occupation of the development.

17/01034/HSE – Application for amendments to the previously approved scheme and to regularise works that had taken place but not in accordance with the previous permission. The single storey extension to the rear would be constructed with a flat roof, the porch to front had been redesigned to incorporate cast stone pillars which further extended the porch from the principal elevation. The proportions and design of the dormer windows to rear and side elevations were amended from the plans that were permitted on application 16/01137/HSE. A marginal planning permission was

granted subject to conditions again to provide the off- street parking prior to occupation and also restricting incidental use of the flat roof to avoid overlooking towards neighbouring properties.

19/00105/HSE – Application to regularise works that had taken place not in accordance with the previous planning permission. The single storey extension to rear had been constructed with a much larger projection from the rear than previously approved and extended at full depth along the full width of the dwelling up to the boundary with the adjoining dwelling. The porch to front had been constructed wider and deeper than approved and the dormer windows to rear and side elevations have been constructed with increased massing than previously approved. An access door had been provided to the flat roof, marked on the plan as escape door only but which would allow for that area to be used as a raised seating area. The submitted drawing showed a single off street parking area where previous schemes had shown the required two spaces. However, access to this off-street parking provision is no longer available as it has been enclosed by a new boundary wall. It was considered in this instance that the changes made to previously approved elements were contrary to planning policies BE1 and BE2 in terms of respecting the established character of the streetscene and detriment to neighbouring private amenity and planning permission was refused.

19/00759/HSE - Single storey extension to rear, porch to front, canopy to side and front and dormer windows to rear and side elevations (Part Retrospective) – withdrawn pending a further revised scheme.

Key Policy Context:

Replacement Calderdale Unitary Development Plan Designation/Allocation	Primary Housing Area
Replacement Calderdale Unitary Development Plan policies	H2 Primary Housing Area BE1 General Design Criteria BE2 Privacy, daylighting and Amenity Space T18 Maximum Parking Allowances
National Planning Policy Framework Paragraphs/ National Design Guide	12. Achieving well designed places
Other Relevant Planning Constraints	None

Publicity/ Representations:

The application was publicised by 13 neighbour notification letters.

There have been 2 letters of objection received.

Summary of points raised:

Objection

- Inappropriate design in terms of properties within the vicinity
- Disregard for planning and enforcement procedures by the applicant
- Overlooking from dormers

Ward Councillor Comments

Councillor Ashley Evans requests that the application is referred to Planning Committee, and makes the following comments:

"I would like to formally request that this application goes to Planning Committee for the following reasons:

1. The applicant has put forward compromises to the as built scheme in order to address concerns raised by officers and in representations received.
2. I contend that those changes are sufficient for the application to be able to be supported as I believe the amended plans now comply with Policies H2, BE1, BE2 and T18 of the Development Plan".

Councillor James Baker also requested that the application be heard at Planning Committee. He makes the following comments:

"The planning committee meets on 31st January. Can I request that application 22/00388/HSE is determined by the committee at that meeting? My reasons are as follows:

This application is the third retrospective application for permission. It was submitted in March 2022 and has still to be determined. I am requesting it goes before the committee to expedite a determination of the application, and to give members an opportunity to consider this third attempt to reach a compromise position and gain retrospective permission via modification of works already undertaken on the property".

Parish/Town Council Comments

The development is not located within a parished area

Assessment of Proposal

Principle of Development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework 2021 (NPPF) then sets out the Government's planning policies for England and how these are to be applied, alongside other national planning policies. The NPPF advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the NPPF policies, the greater the weight they may be given.

The NPPF has a presumption in favour of sustainable development, which means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

RCUDP Policy H2 establishes that within the Primary Housing Area, as indicated on the Proposals Map, extensions to existing housing are acceptable in principle provided that there are no unacceptable environmental, amenity, traffic or other problems are created and the quality of the housing area is not harmed.

As discussed further under the headings below, it is considered that the development would have a detrimental impact on the amenity of the neighbouring property and it would be incongruous with the established character and appearance of the area thus harming the quality of the area. It is therefore considered that the development would be contrary to Policy H2.

Residential Amenity

Policy BE 2 states that development proposals should not significantly affect the privacy, daylighting and private amenity space of adjacent residents or other occupants and should provide adequate privacy, daylighting and private amenity space for existing and prospective residents and other occupants. Annex A of RCUDP sets out guidelines to help assess whether such impacts arise.

The proposed plans indicate a single storey, flat roofed, extension projecting approximately 5.45m from the rear of the dwelling and set in from the neighbour's boundary by approximately 1.2m. It would be approximately 2.8m in height adjacent to the neighbour (No.144) and approximately 3.2m on the east side.

As proposed, it is smaller than the extension that has been constructed and would require alteration to it.

The adjoining dwelling has a dining room window adjacent to the boundary. The proposed extension would cross a 45° line taken from the centre of this window, which would be contrary to the guidance in Annex A. The extension is to the east of the neighbour's window and it would therefore result in overshadowing during the morning hours. It is considered that the rear extension would have a detrimental impact on the amenity of the neighbour by reason of being overshadowing and overbearing.

The windows in the rear (north) elevation of the extension are to serve a small bedroom and a family room. They would be approximately 15m from the dining room and kitchen windows on the rear of 1 Gleanings Drive, which is to the north. There would be a 3m shortfall between the proposal and the adjacent dining room (18m recommended between secondary to main), however this could be addressed by screening on the boundary.

The rear dormer window would be approximately 21m from the rear windows of 1 Gleanings Drive and would be within the recommended distance in Annex A (15m secondary to secondary). It is considered that there would not be a detrimental impact on privacy.

The east side windows in the ground floor extension and dormer would be approximately 18m from the windows in the side of 140 Roils Head Road. It is considered that the distance is sufficient that the privacy of residents would not be detrimentally affected.

For the above reasons it is considered that the development as proposed would comply with Policy BE2.

Layout, Design & Materials

RCUDP Policy BE1 and National Design Guidance call for development to make a positive contribution to the quality of the existing environment or, at the very least, maintain that quality by means of high standards of design.

Within Section 12 (Achieving well designed places) of the NPPF paragraphs 126 and 130 are relevant.

126. The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

130. Planning policies and decisions should, amongst others, ensure that developments:
a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

The current application seeks planning permission to regularise a single storey flat roofed extension to the rear of the dwelling. This structure is largely in place and has evolved through additions to a considerably smaller extension that was approved in 2017. The extension approved in 2017 was an L-shape, designed with a section adjacent to the boundary with number 144 reduced in depth to comply with Annex A. The proposed extension is a rectangular shape and covers the bulk of the rear garden area. In terms of design, it is considered that it would not have any greater impact on the character and appearance of the streetscene than that previously approved.

A tiled canopy has been added to the front elevation, in addition to the canopy on the side elevation that was permitted in 2017. The canopy has been finished in red profiled roof tiles, whereas previously it was conditioned to be in materials to match the existing roof in order to respect the character and appearance of the existing building. The submitted plans do not indicate the roofing material, but this could be addressed by a condition.

The 2016 and 2017 permissions included two dormer extensions, one to the side and one to the rear elevation. The structures that are largely completed have been linked together and, as a result have formed a most discordant feature within the streetscene with a roofscape that is completely out of keeping with the largely unchanged hipped roof arrangement of properties within the vicinity.

The planning permission in 2017 approved a porch with a tiled canopy supported on stone columns. This has been constructed but on a much grander scale than originally approved. The porch is very prominent and again this is considered to form a discordant feature within the streetscene.

It is considered that the development is out of character with the existing building and incongruous within the streetscene, as such the development would be contrary to RCUDP policy BE1 and Section 12 of the NPPF, particularly paragraph 130 in terms of design.

Highways and Movement

RCUDP policy T18 relates to off street parking and sets out maximum parking allowances for new development.

The dwelling originally had provision for parking two vehicles clear of the highway. On assessment of both the 2016 and 2017 proposals, the proposed layout showed provision for parking two vehicles within the site. The depth of the single storey extension was also reduced by 0.5m on the 2017 permission to make the parking spaces more practical in terms of use. There were concerns with regard to existing street furniture (a lighting column, a telegraph pole and telecommunications inspection grate) that would need to be relocated to allow access into the parking area. A condition requiring the spaces be made available prior to use of the approved development was added to the previous permissions to ensure the parking area would be available for use before the proposal was occupied. The street furniture is still in place and a new boundary wall has been constructed essentially removing access to one of the proposed spaces.

The Assistant Director – Strategic Infrastructure (Highways) were consulted on the application and made the following comments:-

“Two parking spaces are required given the size of the dwelling as with the 2016 and 2017 permissions.

The latest submitted plan indicates two parallel spaces although the drawing it is not on a surveyed base and does not indicate the relationship with the adjacent dwelling or existing street furniture.

On site measurement indicate that there is a gap of 4.1m between the garage of 1 Gleanings Avenue and the as-built extension at the rear of the application property. The garage would therefore need to be removed to accommodate 2 car parking spaces.

The application would result in the loss of all off-street car parking at 1 Gleanings Avenue. It is therefore not supported.

The need to relocate the street lighting column and a telegraph pole that would be in front of the spaces is not indicated on the drawing. Should the proposal be approved then a condition that this is carried out within 6 months of approval is required.”

The extension as built is approximately 7.5m, however the rear extension indicated on the proposed plans is approximately 5.5m. If planning permission was given it would be subject of the proposed plans, and a condition could be added requiring the provision of the two parking spaces within a specified timescale. As such it is considered that there would not be a conflict with RCUDP Policy T18.

Current Enforcement Position

In respect of development subject of this application before members an Enforcement notice ('EN') was issued on 3 July 2019. The breach alleged was:

Without planning permission, the carrying out of operational development on the land comprising:

- the construction of a single storey extension to rear;
- the construction of a front porch;
- the construction of a second and third storey extension to side;
- the installation of French doors at first floor level in rear elevation to facilitate access onto the roof of the single storey extension to rear;
- the use of red profiled roof tiles on the canopy to side

The EN issued requires:

(i) Permanently remove:

- Single storey extension to rear
- Front porch
- Second and third floor extension to side
- French doors at first floor level in rear elevation
- Red profiled roof tiles on the canopy to side

(ii) Remove all materials, equipment and temporary structures arising from compliance with step 5(i) from the land and reinstate the land to its condition before the breach took place.

OR

(iii) Construct the development on the land in accordance with the planning permission 17/01034/HSE granted on 13 October 2017.

Timescale for compliance with EN was two months and four months.

On 1 August 2019 an appeal against the issuing of the EN was made by Applicant on ground (f) and (g) as set out in section 174 of the Town and Country Planning Act 1990, namely:

Ground (f) - That the steps required to comply with the EN are excessive, and lesser steps would overcome the objections

Ground (g) – That the time given to comply with the EN is too short

On 15 January 2020 appeal was dismissed and EN upheld without modification. It was a finding of Inspector (paragraph 2) that “...the development was not carried out in accordance with this permission [Ref: 17/01034/HSE]”.

Regard timescales to comply with EN the Inspector stated (paragraphs 9 and 10):

I have seen no evidence of financial hardship and it appears to me that 2 months is adequate time to organise and carry out steps 5(i) and 5(ii)

The required works to carry out steps 5(iii) and 5(iv), i.e. the option of reconstructing the development as approved in 2017, are more extensive and this is recognised in the notice, in allowing a period of 4 months undertake such works. This appears to me to be a reasonable period to carry out the development, bearing in mind also the harm that is being experienced as a result of the unauthorised development

The requirements of the Enforcement Notice are outstanding. However, should Members be minded to permit the application, the Enforcement Notice would cease to have effect so far as it is inconsistent with the planning permission.

This would mean that the front porch and second and third storey extension (dormer / roof extension) could not be enforced against because they would benefit from planning permission.

However, as the French doors, rear ground floor extension and canopy as constructed would still not be built in accordance with any approved plans they could be enforced against even if Members are minded to permit the application. In order to address this the developer would need to alter the development so that it is in accordance with the approved plans, whether this be the original permission or the scheme before us now, if permitted.

The Enforcement Notice is a material consideration. It is a matter for members to ascribe appropriate weight.

CONCLUSION

The proposal is not considered to be acceptable. The recommendation to REFUSE planning permission has been made because the development is not in accordance with policies H2, BE1 and BE2 of the Replacement Calderdale Unitary Development Plan and paragraphs 126 and 130 of the National Planning Policy Framework, nor have there been any material considerations to indicate that an exception should be made in this case.

Richard Seaman
For and on behalf of
Director of Regeneration and Strategy

Date: 19 January 2023

Further Information

Should you have any queries about this application report, please contact:

Sally Rose (Case Officer) on 01422 392266 or Claire Dunn (Lead Officer) on 01422 392155

Reasons

1. The Council considers that the proposed porch and dormer extensions would be out of character with the existing dwelling because of their scale and form relative to the existing building and that the resulting appearance would make the building unduly conspicuous in the street scene and harm the visual amenity of the area and, as such, would be contrary to policies H2 and BE1 of the Replacement Calderdale Unitary Development Plan.
 2. The extensions would be incongruous with existing buildings in the vicinity because of their scale and massing and would be obtrusive in the street scene and, as such would be contrary to policies H2 and BE1 of the Replacement Calderdale Unitary Development Plan.
 3. The proposed development would introduce a large single storey extension which would be adjacent to habitable room windows of the adjoining property at close quarters. As such it would be detrimental to the amenity of the adjoining dwelling by means of overbearing and overshadowing effect, and would be contrary to policies H2 and BE2 of the Replacement Calderdale Unitary Development Plan.
-