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WRITTEN APPEAL STATEMENT

Of

Paul Fay BSc (Hons)

On behalf of:

**Mr & Mrs H Wood
70a Downham Road
Chatburn
Clitheroe
BB7 4AU**

**TOWN AND COUNTRY PLANNING ACT 1990
Planning Appeal in Respect of 70a Downham Road, Chatburn,
Clitheroe, BB7 4AU.**

LPA REF: 3/2013/1060
OUR REF: Wood/633/1702/GH
DATE: April 2014



Chartered Surveyors ■■■ Planning & Development ■■■ Land Agents
Valuers ■■■ Property Agency ■■■ Property Management



1. INTRODUCTION AND BACKGROUND INFORMATION.

1.1 Gary Hoerty Associates has been instructed by Mr & Mrs H Wood, the owners of 70a Downham Road, to submit a written representations Planning Appeal against the refusal by Ribble Valley Borough Council to grant planning permission for the proposed construction of a part two storey, part single storey extension at the property known as 70a Downham Road, Chatburn, Clitheroe, BB7 4AU.

1.2 The planning application that is the subject of this appeal is application number 3/2013/1060. It was registered with Ribble Valley Borough Council and validated on 18 December 2013 and was refused on 12 February 2013 under delegated powers.

1.3 The planning application was refused planning permission for the following reason:

“The proposed development by virtue of its design, mass, scale and proximity to the neighbouring property would lead to development that would have an overbearing impact upon neighbours which would result in overshadowing and the loss of natural light to a habitable room at the neighbouring property of No. 72 Downham Road. This would be to the detriment of the residential amenity of the occupants of this property and contrary to Policy G1 of the Ribble Valley Districtwide Local Plan, Policy DMG1 of the Ribble Valley Core Strategy 2008-2028 (Regulation 22 Submission Draft) and the Council’s adopted SPG on Extensions and Alterations to dwellings”.

1.4 The proposed development is for the demolition of the existing single storey garage and ancillary storage rooms and their replacement with a part two storey, part single storey extension to the side elevation of the property. The proposed development is sited wholly within the curtilage of 70a Downham Road and will not reduce the amount of parking/turning space available to the appellant’s.

1.5 This Planning Appeal Statement demonstrates how the proposal to which this statement relates is appropriate and meets the policies required. During discussions with the Planning Officer regarding his initial concerns the proposed scheme was amended to take account of the concerns outlined, the Officer seemed satisfied with these amendments. The Officer then raised a new concern before the decision was made and during ongoing discussions on this matter the proposal was refused. This appeal statement outlines why we disagree with the reasons cited for refusal

1.6 During the consultation period of the application concerns were raised by the Planning Officer. These were regarding the size and scale of the proposed extension and certain design features that were proposed. The concerns were communicated in an e-mail that is appended in Appendix 3. This e-mail prompted

the arrangement of a meeting between ourselves and the Planning Officer where we discussed the changes deemed necessary. As a consequence of this meeting we amended the plans and sent these to the Officer who acknowledged receipt of them and indicated that he was satisfied with the amendments made. He then raised the issue of amenity concerns voiced by the neighbours and advised that he intended to revisit the site and assess the degree of merit of the neighbours concerns. After not receiving any response the following day an e-mail was sent requesting advice on the progress of the application and the Officer responded by saying it was his opinion that there would be overshadowing as a result of the development and he was therefore going to refuse the application.

- 1.7 When the decision notice was issued citing 'overbearing' and 'loss of light' we informed the appellant, who is a Land Surveyor and he advised that like ourselves he did not believe that an accurate determination could be made solely from a visual assessment on site. The appellant indicated that he would like some tests conducted that would determine the actual level of overshadowing that would occur following the development. The appellant contacted a Surveyor who specialises in loss of light assessments who then conducted the tests, which are industry recommended and follow BRE guidance that is approved by the RICS, and issued us with the results. A report was then prepared by our office, this is appended in Appendix 2, and this report clearly showed that there would be no significant loss of light when following the guidance.
- 1.8 This report was then sent to the Planning Officer with a brief explanation summarising the report and indicating that, now definitive proof existed clarifying that the neighbours would not suffer an unacceptable loss of amenity, the appellant would be willing to re-submit his application if the Council could give an assurance it would be met positively. The Planning Officer indicated that he would read the report and then comment thereafter. He responded seven days later and his response was very negative. He questioned the validity of the industry recommended tests, stating "*They are by no means a fool proof test*", which would be a fair comment but questionable when his determination that it would cause a loss of light was based on a subjective opinion reached from a visual perspective stood in the neighbouring garden.
- 1.9 He then goes on to question the marginality of the 'pass' the development received as a result of the test. Firstly he wrongly interprets the guidance stating "*The guidelines state that if the VSC at the centre of a window is less than 27% **and** less than 0.8 times its former value, the diffuse day lighting of the existing building will be adversely affected*". I have highlighted the word 'and' in the cited extract as this is the crucial word. Our results indicated a figure of 26.33% so the Officer focussed on this figure but if we consider the wording of the guidance and the fact that our results indicate a figure less than 27% but not less than 0.8 times its former value this renders the Officers point invalid as our results do not fall under the guidance that he has quoted. He then states "*This therefore leads to the conclusion that whilst the pass fail assessment utilised would indicate*

that both development proposals would pass the test it would appear the pass would be marginal". It is our opinion that industry recommended guidance exists for just that reason, it provides clarification when doubt exists and indicates best practice. To take the results of such tests and then question the validity of a 'pass' ignores the reason the test exists. It is our opinion that if the results had been the opposite and we had been arguing they only indicated a marginal 'fail' then the Officer would not have even entertained the question of marginality.

- 1.10 The next issue raised in his reply is the precise wording given for the reason for refusal and he states "*I would draw your attention to the precise wording of the recent reason for refusal which states: The proposed development by virtue of its design, mass, scale and proximity to the neighbouring property would lead to development that would have an overbearing impact upon neighbours which would result in overshadowing and the loss of natural light to a habitable room at the neighbouring property of No. 72 Downham Road*" and "*You will note that the loss of light was not the sole aspect for the reason for refusal, the overbearing impact the development would have upon neighbouring properties was also detailed. Whilst the assessments you have provided may technically demonstrate that any loss of light would not be significant this does not address the overbearing impact the development would have*". This however is contradicted by his delegated report which is complementary of the scheme in regard to design, mass, scale and proximity in all regards except the loss of light issue.
- 1.11 The Officer states on the issue of the design and mass: "*This will result in the visual bulk and general mass of the property increasing. However I do not consider the proposed development would result in harm being caused to the Conservation Area. That would warrant refusal on consent of such grounds. It could be argued that the Conservation Area could be enhanced to a degree by virtue of the property being renovated and that the proposals would be an improvement. The general location of the property being set back within the general streetscene aides to reduce any adverse visual impact which may be caused*".
- 1.12 The Officer states on the issue of scale: "*As such whilst accepting that the proposed addition would be significant I do not consider it to be of such a scale and extent that would be considered harmful to the character, setting or visual amenities of the built environment*".
- 1.13 The Officer states on the issue of proximity: "*the overall projected width of the extension has also been reduced from 5.9m to 4.8m. This was to address concerns that the proposed side extension would appear over dominant when set against the original dwelling. It is considered that the proposal as now amended is more in keeping with the existing dwelling and visually is better proportioned*"
- 1.14 With regard to the above extracts taken from the Officers delegated report it would appear that his insistence that the loss of light issue was not the only reason

for refusal is flawed as he is positive about all the relevant aspects, namely design, scale, mass and proximity, except when in regard to overshadowing and loss of light.

1.15 The Officer then recommends that any re-submission would be met in the same way, even submitted with the right to light appraisal included, stating *“I would therefore advise that were a re-submission to be made proposing either the gable ended design or the hipped roof design then it is highly likely that the eventual determination of such an application would be the same as the previous application; even if it were to be accompanied by the light assessments you have subsequently provided to the LPA. It may therefore be the case that your client's best interests are best served by pursuing an appeal of the recent decision”*. This frankly was typical of the Councils attitude regarding the appellant's proposal. The Officers delegated report, appended in Appendix 4, and appraised above, paragraphs 1.11 – 1.14, outlines the positive effect the development would have not only on the subject property but on the Conservation Area as a whole but the proposal was refused citing a overshadowing and loss of light concern, but when provided with evidence negating this concern they were still unwilling to reconsider the matter objectively.

1.16 My evidence is laid out as follows:

- 1) Section 2 describes the appeal site and its surroundings.
- 2) Section 3 describes the relevant planning history of the appeal site.
- 3) Section 4 outlines the relevant planning policies that the proposal was identified as contravening and assesses the proposed development against them.
- 4) Section 5 outlines similar development approved within the Borough
- 5) Section 6 examines appeal decisions in respect of similar development
- 6) Section 7 sets out the summary and conclusions.

2. THE APPEAL SITE AND LOCATION

2.1 The application site comprises the property known as 70a Downham Road, which is a three bedroom property with associated garden area. The property is of two storey construction with an attached single storey, flat roofed building comprising garage and ancillary storage. The walls are rendered and the pitched roof is covered in blue slate. The windows are uPVC double glazed units and the doors are painted timber. The building is quite uninspiring and was constructed more for purpose than aesthetics.

- 2.2 The proposed development is the construction of a part two storey, part single storey extension, projecting from the Easterly facing gable elevation of the building, constructed of block and rendered to match the existing dwelling, under a pitched blue slate roof, which will accommodate a kitchen / dining area at ground floor level with en-suite master bedroom accommodation above. The proposed extension will measure 9.92m x 4.8m at ground floor level and 5.93m x 4.8m at first floor level. It is proposed that it will have an eaves height of 5.08m and the ridge height will be 7.67m.
- 2.2 The application site is located within the settlement boundary of the village of Chatburn; the property is sited just inside the boundary defining the designation of a Conservation Area and was formerly the old Police Station for Chatburn this is examined in more detail in the Heritage Asset Statement.
- 2.3 The design of the appearance was formulated with overall enhancement of the building and local area in mind. The building in its present format is quite uninspiring and lacking in character. This results in the building being unsightly and derogating the overall street scene. The proposed design adheres to guidance contained in the Councils SPG regarding innovative design greatly improving the appearance of an unsightly building.

3. PLANNING HISTORY

- 3.1 There has only been one previous application in respect of the application site, the details of which are set out below:
- 3.2 Planning application number 3/2011/0513. Planning application to grant the change of use of part of the property from Sui Generis to residential use. Approved 06 September 2013.

4. PLANNING CONSIDERATIONS

4.1 General

- 4.1.1 Local planning authorities are required to determine planning applications in accordance with the statutory development plan unless material considerations indicate otherwise. In order for this planning application to be approved it must satisfy as far as possible the guidance contained within the National Planning Policy Framework (NPPF, adopted March 2012), the relevant saved policies of the Ribble Valley Districtwide Local Plan (adopted June 1998), the relevant policies of the Ribble Valley Core Strategy 2008 - 2028 (as yet un-adopted) and the guidance found in the Ribble Valley Supplementary Planning Guidance – ‘Extensions and Alterations to Dwellings’ (adopted September 2000).

4.1.2 The general principles of the application have been covered in the originally submitted Planning Statement and Heritage Asset Statement so for the avoidance of repetition this statement will just address the relevant policies identified in the officer's delegated report and stated in the reason for refusal. These are **Policy G1: Development Criteria**, of the Ribble Valley Districtwide Local Plan; **Policy DMG1: General Considerations**, of the Ribble Valley Core Strategy 2008-2028 (as yet un-adopted) and the Council's adopted **SPG on Extensions and Alterations to Dwellings**.

4.1.3 We set out below extracts from the relevant documents to assess the application against the appropriate policies and guidance.

4.2 Ribble Valley Districtwide Local Plan

4.2.1 The Ribble Valley Districtwide Local Plan was adopted in June 1998. The application site is shown on the local plan proposals map and is located within an area designated as a Conservation Area and we will comment on the appropriateness of the proposed development in the context of the relevant saved policy referred to in paragraph 4.1.2 above, namely Policy G1.

4.2.2 Policy G1 contains thirteen criteria which any proposal is determined against. Not all of these criteria are appropriate to the appellant's proposal and as such have already been appraised in the original planning statement. For the avoidance of repetition this appeal statement will focus on the relevant criteria identified in the reason given for refusal. These criteria are appraised below:

Policy G1 Development Criteria

All development proposals will be expected to provide a high standard of building design and landscape quality. Development which does so will be permitted, unless it adversely affects the amenities of the surrounding area. In determining planning applications the following criteria will be applied:

(a) Development will be sympathetic to existing and proposed land uses in terms of its size, intensity and nature;

4.2.3 It is our opinion that the proposal is appropriate in terms of size and scale. The height of the extension is lower than the existing dwelling in terms of both eaves and ridge height; this creates subservience to the main dwelling. The two storey element of the extension is also set back from the existing building line to reduce impact. It is set to the side of the main dwelling and the roof will be clad in the same materials and will have the same pitch as the existing roof to create an appearance of continuity, albeit at a lowered height from the main dwelling.

4.2.4 The proposed development is sympathetic to the surrounding existing dwellings. It is set well back from the road and set lower than the existing building. It is

proposed that after construction there will still be a space of approximately 8.5 metres between the appellant's proposed development and the neighbouring property. This should negate any potential overshadowing and enclosing impact.

(e) *The density, layout and relationship between buildings are of major importance. Particular emphasis will be placed on visual appearance and the relationship to surroundings as well as the effects of development on existing amenities;*

4.2.5 The visual appearance of the proposed development will in our opinion improve significantly the appearance of the existing dwelling. The extension will be to the side of the property and will still leave enough space between itself and the neighbouring property to avoid any issues with overshadowing. Visually the introduction of the proposed lean to roof extending across the front elevation will soften the impact of the proposal whilst providing an enhanced appearance to the entire front façade of the building, which at present has a very plain and uninspired look.

4.3 Ribble Valley Core Strategy

4.3.1 The Council's Core Strategy underwent public in January 2014 and further work was required to be undertaken by the Council before it could be adopted, therefore the Council currently does not have an adopted Core Strategy. Although the Council's Core Strategy document has not been adopted it is a material consideration when considering planning applications and development proposals must conform to the relevant policies of this document. Below we will comment on the appropriateness of the proposed development in the context of the relevant policies, referred to in paragraph 4.1.2 above, as follows:

4.3.2 In the preamble to Policy DMG1 - General Considerations, the Ribble Valley Core Strategy states that the purpose of the policy is to guide the principles of development and provide a clear approach to following the criteria required by the Core Strategy. The criteria required under policy DMG1 is in essence the same criteria required under policy G1 of the Ribble Valley Districtwide Local Plan, examined in Paragraphs 4.2.3 – 4.2.5 above, with the exception of the first criteria, therefore to avoid reiteration only this first criteria will be commented upon in this chapter;

Policy DMG1 - General Considerations

In determining planning applications, all development must:

(a) *Be of a high standard of building design which considers the building in context principles (from the CABI / English Heritage Building in Context Toolkit);*

4.3.3. The Building in Context Toolkit was developed by English Heritage and CABI as a method of establishing an objective method of appraising development. The Toolkit involves a series of criteria that must be considered when appraising a proposal. These considerations are;

- *The Site - How does the proposed building relate to the site?*
- *Wider Setting - How does the proposal relate to the wider setting?*
- *Density - How does the density of the proposal relate to the density of the existing building (s)?*
- *Impact on Close Views - Has scale and siting been respected?*
- *Materials – Do they relate to the surrounding built form?*
- *Composition – Does the architecture display consideration?*
- *Public realm – What contribution, if any, is made to the public realm?*
- *Views and vistas – What affect has the proposal on the existing views and vistas?*

4.3.4 We consider that the proposed development properly and adequately reflects the relevant criteria listed above. The siting of the proposed development has been carefully selected to have the least possible impact on both the applicants' property and the neighbouring properties, particularly in regards scale and appearance. The wider setting of the area is also respected as the street scene is one of variance and individuality, therefore the enhancement of the applicant's property can only be seen as positive for the locality as a whole. The scale of the development relates well to the existing property and together with the reduced height of the building ensures there will be no undue visual impact on the surrounding area. The development does not represent over-development as it primarily uses a footprint area already containing development.

4.3.5 The proposed development is sympathetic to the surrounding existing dwellings; it is set well back from the road and set lower than the existing building. It is proposed that after construction there will still be a space of approximately 8 metres between the appellant's proposed development and the neighbouring property. This should negate any potential overshadowing and enclosing impact. After the refusal of the application, for potential overshadowing and loss of light to the neighbouring property, the appellant commissioned industry recommended testing to be conducted to assess the exact level of overshadowing. These tests concluded that the proposed development represented **no significant impact on the neighbouring property**. This testing procedure is commented upon later in this statement, and a copy of the report is attached in Appendix 2.

4.3.6 Considering the required criteria set out in the Ribble Valley Core Strategy / Building in Context Toolkit, we are firmly of the opinion that the proposed development adequately takes into account the local context and we feel that the proposed development represents a sympathetic design solution.

4.4 SPG – Extensions and Alterations to Dwellings

- 4.4.1 The Ribble Valley Supplementary Planning Guidance – ‘Extensions and Alterations to Dwellings’ was adopted in September 2000 as a part of the Local Development Framework for the Borough. Below we will comment on the appropriateness of the proposed development in the context of the relevant guidance outlined in this document, referred to in paragraph 4.1.2 above, as follows:
- 4.4.2 This Supplementary Planning Guidance document has been prepared by the Council to explain the Council’s planning policy regarding residential extensions and alterations to dwellings. It serves to incorporate all the design criteria required for appropriate development into a concise document that reflects best practice and therefore acts as a material consideration when determining planning applications. Upon consideration we feel that the proposed development does reflect this general guidance and will comment in more detail below.
- 4.4.3 The guidance generally sets out the importance of any proposed development being sympathetic to its surroundings, both in terms of visual appearance and the actual siting of the development. It advocates the preservation of character and respect for amenity, particularly that of neighbouring properties. In terms of visual appearance the guide recommends the use of materials to match the form of any existing dwelling; it also advocates the preference for a pitched roof incorporated into the development and regarding the Conservation Area designation specifically states “*any development to these areas is expected to contribute to their character*”.
- 4.4.4 The proposed development meets the criteria outlined in the document; the construction materials proposed will be sympathetic to the existing dwelling. The walls and all openings will be formed to match the existing dwelling. The doors and windows of the entire property will be new to allow for uniformity throughout the property. The proposed roof will be pitched and the ridge is to run parallel to the existing ridge, albeit at a reduced height of 0.45 metres, and covered in blue slate. The proposal represents an architecturally sympathetic development, considerate to its surroundings regarding its design and a significant enhancement over and above the existing dwelling.
- 4.4.5 In terms of the siting of the development the guide recommends that consideration be given to the impact any development will have on architectural character and the loss of amenity, both for the existing property and any affected neighbouring properties. Of particular consideration is the recommendation of avoidance of over-development of the garden space and overshadowing of neighbouring properties.

- 4.4.6 The proposed development is considerate of this guidance. The neighbouring properties are of an appropriate distance from the development so as to be virtually unaffected by its construction. The proposed site utilises a very small percentage of the area of the properties curtilage, using an already developed parcel of land. The reduced height of the construction and the respect for appropriate distance from the properties boundary line also reduces the visual mass of the development and negates any overshadowing issues. The slight increase in building mass is felt to be proportionate to the existing dwelling and the appellant's requirements.
- 4.4.7 The guidance recommends that the "*any extension is set back from the main frontage*". On the proposed development this has been achieved with the two storey element of the extension which is set back from the main frontage by 500mm. Although the ground storey element of the extension is in line with the existing frontage this type of development was deemed acceptable in planning application 3/2011/0605 (discussed below) where the officers delegated report states "*the ridge height will be set down from the main ridge height of the property by 0.4 metres and set back from the front building line by 1.1m at first floor level thus satisfying the requirements of the Councils SPG on 'Extensions to Alterations and dwellings' (sic) ensuring that the extension is viewed as a subservient addition to the main property*". The fact that our proposed development is set down 0.45 metres and back 500mm further confirms that our proposal satisfies guidance requirements.
- 4.4.8 Guidance contained within the SPG outlines that size controls for extensions within Conservation Areas will be more strictly enforced than for extensions outside the designation. The guidance recommends that ideally a 33% increase in floor area should be observed. Although our proposal represents a slight increase in this figure, our proposal would see a 42% increase, we believe this slight increase is mitigated by the quality of the extended dwelling. The guidance states "*In considering applications for sites on the fringe of a settlement or with close visual linkages to settlements the 33% figure may be relaxed to a degree. This will be assessed on the merits of the individual case*". Indeed the case officer dealing with the application was happy with the volume of the extension after amendments were made to it following discussion with him prior to it being determined.
- 4.4.9 We are of the firm belief that this is such an occasion where the scheme as a whole must be assessed on its individual merits, and not merely strict adherence to figures which are intended as a guide. The proposal represents an opportunity for the Council to grant permission for the rejuvenation of a 'tired' property that currently has a negative impact on the street scene as a whole. The renovation of this property would represent an enhancement for the area as a whole and a positive contribution to the Conservation Area.

5. OTHER DEVELOPMENT APPROVED WITHIN THE BOROUGH

5.1 We set out below two examples of similar developments that have been approved by the Council in recent years. Both examples are relevant to the proposal that is the subject of this appeal although the first example is specifically relevant in terms of size, scale, massing and design and the second example is specifically relevant in terms of orientation with regard to neighbouring properties.

5.2 **Planning Application No 3/2011/0605: Two storey side extension, single storey rear extensions, detached garage & gravel hardstanding parking area for four cars at 21 Clitheroe Road, Whalley, Lancashire, BB7 9AA**

5.2.1 The property concerned with this application is a two storey, semi-detached property, with a single storey extension to the rear that housed the kitchen & utility. The dwelling featured rendered walls under a red tiled roof. When the development was approved and completed the extended dwelling featured rendered walls under a dark grey tiled roof. All new windows and doors throughout complemented the dwelling. The extension represented an increase in floor area of 66% at ground floor level and 77% at two storey level.

5.2.2 Planning application No: 3/2011/0605 granted planning consent for the construction of a two storey side extension, single storey rear extension, detached garage and gravel hardstanding parking area for four cars. This planning application, which allowed similar development in the Borough, provides a clear indication that the type of development proposed in our client's planning application has been considered to be acceptable in the Borough and supports our assertion that the design, layout and proportion of the development proposed are acceptable and should have been approved.

5.2.3 The appendix to the originally submitted Planning Statement contains before and after images of the property that was subject to the above planning permission, with the similarities between this application and the appellant's proposal these illustrate the enhancement that the appellant's proposal could bring to the current building and the conservation area as a whole.

5.2.4 It should be noted that this application was not in a designated conservation area, as the appellants is, but the principle of the development was deemed acceptable in line with Council guidance, therefore our proposal, which is almost identical, should be met with similar approval.

5.3 **Planning Application No 3/2012/0411: Demolition of existing garage and office previously used as a Police house/Office and erection of a semi-detached dwelling. Re-submission at 127 Padiham Road, Sabden, Lancashire, BB7 9EX**

5.3.1 Planning Application No: 3/2012/0411 saw the construction of an open market dwelling within the curtilage of an existing residential property at the above address, which is in an area designated as an Area of Outstanding Natural Beauty (AONB). The scale of construction approved by this application is far in excess of that proposed by the application that is subject of this appeal, as this application approved a new attached dwelling not merely an extension. The outstanding similarities between the appellant's proposal and this proposal are the buildings former use as a rural beat police station and the designated status of the site location, albeit the appellant's property is in a Conservation Area and this application being in a designated AONB.

5.3.2 The similarity that is most noteworthy is that this application was a resubmission of a previous application seeking the same outcome. Planning Application No 3/2011/0886 sought the *'demolition of existing garage and office (attached to existing house – all previously used for Police house/office) and erection of new semi detached dwelling over existing footprint'*. This application was refused and the two reasons for refusal were:

"the proposal by virtue of its scale and proximity to the neighbouring dwelling is considered contrary to Policy G1 of the Districtwide Local Plan. It would result in an overlarge and overbearing development which would have a detrimental affect on the residential amenities of the adjacent dwelling"

"The proposal is contrary to Policy G1 of the Ribble Valley Districtwide Local Plan in that it would lead to conditions to the detriment of highway safety, due to the lack of off-street manoeuvring provision to allow access to and from the highway in a forward gear".

5.3.3 The first reason for refusal is the focus here and in the officers delegated report it states *"I consider that the extension would overshadow this dwelling and remove a significant amount of light from a large habitable room. Moreover the creation of a two storey dwelling where there is currently a flat roof extension would be overbearing and oppressive to the occupiers of the dwelling when using this habitable room to the detriment of their enjoyment of this dwelling"*.

5.3.4 In the subsequent re-submission, that was approved, the above reasons for refusal had been addressed in so much that there had been the provision of parking spaces to satisfy the second consideration but more relevant for this appeal the property had undergone Building Research Establishment (BRE) tests to ascertain the level of overshadowing suffered by the existing dwelling. The officers delegated report states *"In relation to neighbouring amenity, the previous application was considered to be overbearing and oppressive to No 1 Simonstone Lane, a bungalow set at a higher level, as a two storey dwelling running flush with the front of the existing house would remove light from a window serving a habitable room. Having carried out the BRE test on this proposal the set back of the proposed dwelling by 2.0 metres will now not affect the window in question;*

therefore the impact on this neighbour is now acceptable". Clearly the development will affect the neighbours but it is considered the affect is not unacceptable or significant. It is quite clear from this application that the Council places great weight on the outcome of the industry standard BRE tests when considering the acceptability of proposed development in terms of its impact on the amenity of neighbouring property.

- 5.3.5 The similarities between the appellant's proposal and the above examples and the subsequent approval of the above applications together with the comments in the officer's report, clearly indicate the importance and consideration that should be given to industry standard tests to clarify situations where doubt can arise and also as an indicator of good practice. This further strengthens our belief that the judgement in the appellant's case that overshadowing would result from the proposed development, which was determined from a subjective opinion garnered from a site visit, was misguided and consideration should have been given to the tests that were subsequently conducted that conclusively proved that no significant impact would be felt as a result of the development.

6. APPEAL DECISIONS IN RESPECT OF SIMILAR DEVELOPMENT

- 6.1 In this section of the statement we consider the proposed development in relation to development that has been approved on appeal. We attach in Appendix 1 copies of two appeal decisions that we consider to be particularly relevant in considering the appropriateness of the proposed development that is the subject of this appeal. We have highlighted below certain key issues addressed by the Inspectors and include extracts from the appeal documents.

6.2 Planning Appeal Ref: APP/C3620/A/09/2100526 - Windy Ridge, Tower Hill, Dorking, RH4 2AP.

- 6.2.1 The first appeal is in respect of a proposal for alterations to a roof, involving raising the ridge height, formation of gable ends with balconies and replacement of dormers with one new dormer at Windy Ridge, Tower Hill, Dorking and the appeal was allowed (Ref: APP/C3620/A/09/2100526). The main issue identified is *"the effect that the development would have on the living conditions of adjoining residents, having regard in particular to their light, outlook and privacy"*.
- 6.2.2 The appeal was in respect of Planning Application No: MO/2008/1140, which was refused by Mole Valley District Council on 14 August 2008.
- 6.2.3 In the officer's delegated report it is noted that using the 25 and 45 degree test on-site it is their opinion that the proposed development will fail the test, stating *"The applicant property already cuts pairs of 45 degree guidelines from the centre of these windows; 25 degree rising planes are also cut. This indicates that*

the existing building already has a significant impact on light entering these windows. The proposed increase in roof height would mean that more light would be cut to these windows particularly in the morning. Whilst there are further unaffected windows to the rear of the property, it is considered that the northernmost side window is important in providing light to the rear of this L-shaped room. On balance, it is considered that the additional loss of light caused by the proposal would be detrimental to the living conditions at Southwood”.

- 6.2.4 Also noted from the officer’s delegated report is the separation distance between the two subject properties, it states *“Given the relationship between the two buildings, where the applicant is positioned forward of the tower and the separation distance is only about 5.75m, it is considered that the proposal would result in a detrimental loss of light and have an overbearing impact on The Tower”*
- 6.2.5 Subsequently the reason given for refusal was *“The proposed extension, by reason of its height and proximity to the boundary, would have an overbearing impact and cause a significant loss of daylight harmful to the neighbouring property’s amenities and in conflict with Mole Valley Local Plan policy ENV32”.*
- 6.2.6 On appeal the Inspector states at paragraph 8 *“the appellants have submitted documentation to show that, using the recommended method of calculating skylight loss set out in the Building Research Establishment publication “Site layout planning for daylight and sunlight”, there would be at this window a vertical sky component (v.s.c) of 37.5%, which is well above the level of 27% that would normally permit good daylight within the room. From this calculation and from my on-site judgement, I agree that any loss of daylight to this room would be small and would not be such to justify refusal”.*
- 6.2.7 This extract and the subsequent decision thereafter to allow the development indicates at the accuracy of the on-site test methods used in this case and demonstrates the consideration given to the outcome of modern scientific industry approved testing methods in the resolution of doubt and the determination of potential issues. The separation distance quoted as 5.75 metres must also be considered as the appellant’s proposed development will leave a separation space of approximately 8.5 metres post construction, this is of significance when judging the apparent ‘overbearing’ nature of the appellant’s proposal.
- 6.3 **Planning Appeal Ref: APP/Q1445/A/12/2180864 – 150 Ladies Mile Road, Brighton, BN1 8TE.**
- 6.3.1 The second appeal is in respect of the construction of a new detached dwelling at 150 Ladies Mile Road, Brighton, BN1 8TE, and the appeal was allowed (Ref: APP/Q1445/A/12/2180864). The main issue identified on the appeal notice is *“the effect of the proposed dwelling on the living conditions of neighbours,*

particularly in terms of loss of sunlight and daylight, outlook and loss of privacy”.

- 6.3.2 The appeal was in respect of Planning Application No: 2011/02845, which was refused by Brighton and Hove City Council on 02 April 2012.
- 6.3.3 The reason given by Brighton and Hove City Council for refusal was *“The proposed development by reason of its size, arrangement, scale and massing would have an adverse and overbearing impact on the properties at 150 and 152 Ladies Mile Road. This would cause an unacceptable loss of sunlight and daylight to those properties contrary to policies QD1, QD2 and QD27 of the Brighton and Hove Local Plan 2005”.*
- 6.3.4 On appeal the Inspector states at paragraph 8 *“There are two windows and a glazed door in the side elevation of No 152 but they are not main windows to habitable rooms and although there would be a loss of light through these apertures I do not consider that the proposed development would cause oppressive or claustrophobic conditions for the occupiers because they are not the main sources of natural light in the house. Reference is made by the neighbours Right of Light consultant to the lack of Average Daylight Factor (ADF) and No Sky Line (NSL) tests. However, the Consultant did not submit any substantive evidence in this regard and therefore I can only give the assertion that the results of any such tests would have found that there would be a significant reduction in daylight, little weight”.*
- 6.3.5 The first part of the statement is particularly relevant as the window that is referenced in the refusal to which this appeal concerns is a side window that is also not the main source of light into the room as there is a considerably larger window serving the same room that the officer acknowledges in his delegated report, stating *“From visiting the neighbouring property this window in question serves the kitchen area of the property, which is also used as a kitchen diner. I did note however during my visit that the side elevation window did allow for natural light to fall into the kitchen diner space owing to its orientation to the west. In addition to which there is a further window opening on the rear of the elevation of No. 72 that serves the same room”.*
- 6.3.6 It was also of interest that on inspection of the planning documents pertaining to this case that the approximate space between buildings, after the proposal would have been constructed, would have been approximately 2.0 metres, given that the space between the appellant’s proposed development and the neighbouring property would be approximately 8.5 metres this further strengthens our belief that the reference by the Council to our clients proposal being ‘overbearing’ is misguided.
- 6.3.7 The second part of the statement reproduced in paragraph 6.3.4 is also of particular relevance as the officer references the neighbours Right to Light

consultant questioning the lack of ADF and NSL tests. It is clear that even though the appeal is allowed anyway, the tests would have provided a conclusive answer.

7. SUMMARY AND CONCLUSIONS

- 7.1 This is an appeal against the refusal of Planning Application No 3/2013/1060: for the construction of a part two storey, part single storey side extension at the property known as 70a Downham Road, Chatburn, Clitheroe, BB7 4AU. The application was refused on 12 February 2014. The proposed development is required so that the dwelling that comprises the application site will meet the changing needs of the applicant and their family.
- 7.2 We have demonstrated within this Planning Appeal Statement that the proposed development meets the criteria set out within the relevant local policies and with the approval of Planning Application No: 3/2011/0605, discussed above in paragraphs 5.2.1 – 5.2.4, clearly establishes that the principle of this style of development in the Borough is deemed appropriate and we feel that given the striking similarities between this and the appellant's proposal that this example is a clear illustration of a similar type of development approved by the Council. This serves to support and justify the applicant's stance.
- 7.3 The approval of planning application reference 3/2012/0411, discussed above in paragraphs 5.3.1 – 5.3.5 clearly establishes a principle in favour of the use of properly conducted testing in instances of doubt. This Appeal Statement seeks to overturn the refused application which cited that the development would result in an overbearing impact on the neighbour's property. This was surmised without any relevant testing being conducted and with no corroborating evidence with which to reach this decision. Even when provided with this evidence the Council were very uncooperative and dismissed it without any justification.
- 7.4 The appeal decisions outlined in section 6 of this statement demonstrate the consideration that must be given to recommended industry testing in situations of potential impact. The decisions discussed both involved developments that were refused by a subjective judgement made from a site visit. Both appeals were subsequently allowed when evidence emerged that indicated that the impact would not be significant enough to warrant refusal. It is our opinion that this appeal represents such a case.
- 7.5 When the appellant's proposal was refused we entered into discussions with the Council regarding the fact that the refusal appeared to be based on a subjective approach with no recommendation for industry recognised tests to be conducted to clarify the position. As we disagreed with the planning officers conclusions we felt it prudent to instruct a Right to Light expert to conduct BRE recommended tests to establish the exact loss of light that would be experienced by the neighbouring property. The report attached in Appendix 2 was the conclusion to

these tests. The report clearly shows that any light loss experienced by the neighbouring property would be classified as an insignificant impact under industry recommended guidance. The Council were provided with these results, but the Council retained a stance of negativity towards the appellant's proposal. Any attempt to work cooperatively with the Council was refused and they ultimately encouraged us to go to appeal, something we had attempted to avoid.

7.6 We have provided a reasoned argument as to why we believe the officer was incorrect in refusing this planning application within this appeal statement. We firmly believe that the impact of this proposal is negligible and the proposed development should be looked upon favourably given the case made above.

Signed..........Date.....10.04.2014.....

Paul Fay BSc Hons (For and on behalf of Gary Hoerty Associates)