

PLANNING AND DEVELOPMENT COMMITTEE AGENDA

Wednesday, 3 April 2019 at 10.00 am in the Bridges Room - Civic Centre

From the Chief Executive, Sheena Ramsey

Item	Business
1	Apologies for Absence
2	Minutes The Committee is asked to approve as a correct record the minutes of the meeting held 13 March 2019 (copy previously circulated).
3	Declarations of Interest Members to declare interests in any agenda items
4	Planning Applications (Pages 3 - 8) Report of the Service Director, Communities and Environment
4i	No. 1 - Woodmans Arms, Fellside Road, Whickham NE16 5BB (Pages 9 - 14)
4ii	No. 2 - 83 Whaggs Lane, Whickham, NE16 4PQ (Pages 15 - 26)
4iii	No. 3 - Land adj Meynell House, Dipwood Road, Rowlands Gill NE39 1DA (Pages 27 - 40)
4iv	No. 4 - Fistril, Smailes Lane, Rowlands Gill, NE39 2LS (Pages 41 - 54)
4v	No. 5 - 7 Kays Cottages, Gateshead NE10 9ST (Pages 55 - 60)
4vi	No. 6 - 25 Cornmoor Road, Whickham, NE16 4PU (Pages 61 - 78)
5	Delegated Decisions (Pages 79 - 88) Report of Service Director, Communities and Environment
6	Enforcement Team Activity (Pages 89 - 90) Report of the Service Director, Communities and Environment

- 7 **Enforcement Action** (Pages 91 - 98)
Report of the Strategic Director, Communities and Environment
- 8 **Planning Appeals** (Pages 99 - 102)
Report of the Service Director, Communities and Environment
- 9 **Planning Obligations** (Pages 103 - 104)
Report of the Service Director, Communities and Environment



PLANNING AND DEVELOPMENT
COMMITTEE
3 April 2019

TITLE OF REPORT: Planning applications for consideration

REPORT OF: Anneliese Hutchinson, Service Director,
Development, Transport and Public Protection

Purpose of the Report

1. The Committee is requested to consider the attached schedule of miscellaneous planning applications, which are presented as follows:-

PART ONE:

Planning Applications
Applications for Express Consent under the Advertisement Regulations
Proposals for the Council's own development
Proposals for the development of land vested in the Council
Proposals upon which the Council's observations are sought
Any other items of planning control

PART TWO: FOR INFORMATION ONLY

Applications determined in accordance with the powers delegated under Part 3, Schedule 2 (delegations to managers), of the Council Constitution.

Recommendations

2. Recommendations are specified in the schedule.

The Human Rights Implications of the recommendations have been considered. Unless specified there are no implications that outweigh the material planning considerations.

Contents

Application Number	Site Location	Ward
1. DC/18/01036/FUL	Woodmans Arms Fellside Road	Whickham South And Sunniside
2. DC/18/01154/FUL	83 Whaggs Lane Whickham	Whickham North
3. DC/19/00001/FUL	Land Adj Meynell House Dipwood Road	Chopwell And Rowlands Gill
4. DC/19/00002/FUL	Fistral Smailes Lane	Chopwell And Rowlands Gill
5. DC/19/00037/HHA	7 Kays Cottages Gateshead	Windy Nook And Whitehills
6. DC/19/00149/FUL	25 Cornmoor Road Whickham	Dunston Hill And Whickham East

DEVELOPMENT PLAN

Section 38(6) of the Planning & Compulsory Purchase Act 2004 specifies that: 'If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the Plan unless material considerations indicate otherwise.'

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

The NPPF was published in June 2018 by Ministry of Housing, Communities and Local Government (MHCLG) and is a material consideration in planning decisions. The NPPF is supported by Planning Practice Guidance (PPG), which provides further detail on how some policies of the NPPF should be applied.

LOCAL PLAN

In 2015 Gateshead Council and Newcastle City Council adopted Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2010-2030 (CSUCP). This Development Plan Document (DPD) sets area-wide Planning Policies for Gateshead and Newcastle, (including policies setting out the amount, and broad distribution of new development) and provides more detailed policies for the Urban Core of Gateshead and Newcastle.

In accordance with the Planning and Compulsory Purchase Act 2004 (as amended) the CSUCP now forms part of the statutory development plan for Gateshead. The CSUCP also supersedes and deletes some of the saved policies in the Unitary Development Plan (UDP). A list of deleted UDP policies is provided in Appendix 1 of the CSUCP.

The Unitary Development Plan for Gateshead was adopted in July 2007 and the remaining saved policies together with the CSUCP represent a current up to date development plan. In the report for each application, specific reference will be made to those policies and proposals which are particularly relevant to the application site and proposed development. Where the saved UDP policies are in general conformity with the NPPF due weight should be given to them. The closer the consistency with the NPPF the greater the weight can be given.

Some UDP policies are supported by Interim Policy Advice notes (IPA), or Supplementary Planning Guidance (SPG). IPA 4 and 17 and SPG 4 and 5 excerpts, will continue to be used until they have been replaced by appropriate alternatives.

The Council is currently working on new draft detailed policies and land allocations for the new Local Plan. The DPD will be called Making Spaces for Growing Places (MSGP), which once adopted will replace any remaining saved UDP policies and designations/allocations.

UPDATES

The agenda is formed and printed approximately a week prior to the Planning and Development Committee meeting. Information, correspondence and representations can sometimes be received in the intervening period. In such cases a written update report will be circulated to Members the day prior to the meeting and on occasion there may be further verbal updates to Members from officers, so that Members are aware of all material planning considerations when making their decision on applications.

SPEAKING AT COMMITTEE

Gateshead Council seeks to be inclusive in its decision making process and therefore allows applicants, agents and interested parties to make verbal representation to Members at Committee in accordance with the Council's agreed speaking rights protocol; amongst other procedural requirements, a person must have submitted a request to speak in writing at least a week, in advance of the meeting, and subsequently confirmed their intention to speak.

For further details of speaking rights at committee contact the Development Management Section on (0191) 4333150 or please view the leaflet 'Having Your Say' available from Development Management.

SITE PLANS

The site location plans included in each report are for illustrative purposes only. Scale plans are available to view on the application file or via Public Access.

PUBLICITY/CONSULTATIONS

The reports identify the responses to site notices, press notices, consultations and/or neighbour notifications which have been undertaken. The reports include a précis of the comments received, full copies of letters are available to view on the application file. In all cases the consultations and publicity have been carried out in accordance with the appropriate procedure(s).

SITE VISITS

On occasion the Committee will defer making a decision until they have viewed the application site themselves as a group. The visits are fact finding visits only and no debate or decision making will take place on the visit and no representations will be heard at these visits and therefore the Local Planning Authority will not invite applicants or third parties to attend unless for the sole purpose of arranging access to land and or/ buildings.

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION (AS AMENDED)

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These papers are held on the relevant application file and are available for inspection during normal office hours at the Communities and Environment reception, Civic Centre, Regent Street, Gateshead NE8 1HH.

Generalised Guide to Use Classes Order 1987 (as amended)

A1 Shops	Shops, retail warehouses, hairdressers, undertakers/funeral directors, travel and ticket agencies, post offices, pet shops, sandwich shop, showrooms, domestic hire shops.	C1 Hotels	Hotels, boarding and guest houses
A2 Financial and Professional Services	Banks, building societies, estate and employment agencies, professional and financial services.	C2 Residential Institutions	Residential schools and colleges convalescent homes/nursing homes
A3 Restaurants and Cafes	Restaurants, snack bars, cafes.	C2A, Secure Residential Institutions	Secure residential accommodation including detention centres, young offenders institutions, prisons and custody centres.
A4 Drinking Establishments	Public Houses and Wine bars etc	C3 Dwellinghouses.	Dwellings, small business at home, communal housing of the elderly and handicapped
A5 Hot food Take-Aways	Hot Food Take-away shops	C4 Houses in Multiple Occupation	Small shared dwellinghouses, occupied by between 3 and 6 unrelated individuals who share basis amenities such as kitchen or bathroom.
B1 Business	Offices not within A2, research and development studios, laboratories, high tech., light industry appropriate in a residential area.	D1 Non-residential Institutions	Places of worship, church halls, clinics, health centres, crèches, day nurseries, consulting rooms, museums, public halls, libraries, art galleries, exhibition halls, non-residential education and training centres.
B2 General Industry	General industry.	D2 Assembly & Leisure	Cinemas, music and concert halls, baths, skating rinks, gymnasiums. Other indoor and outdoor sports and leisure uses, bingo halls.
B8 Storage and Distribution	Wholesale warehouses repositories, including open air storage	Sui generis	Any use not included within any of the above use classes, such as theatres, nightclubs, taxi businesses, motor vehicle sales, betting shops.

In many cases involving similar types of use, a change of use of a building or land does not need planning permission. Planning permission is not needed when both the present and proposed uses fall within the same 'class', or if the Town and Country Planning (Use Classes) Order 1987 says that a change of class is permitted to another specified class.

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Committee Report

Application No:	DC/18/01036/FUL
Case Officer	Joanne Munton
Date Application Valid	4 October 2018
Applicant	Moorgate Bars Ltd
Site:	Woodmans Arms Fellside Road Whickham NE16 5BB
Ward:	Whickham South And Sunnyside
Proposal:	Construction of single storey extension to provide marriage and function room facilities, internal refurbishment and external alterations to existing building (revised application) (amended 10/01/19 and additional information received 14/01/19).
Recommendation:	GRANT
Application Type	Full Application

1.0 Background

- 1.1 This application was deferred at the meeting of the Planning and Development Committee on 20 February 2019 to allow the Committee to visit the site. Members visited the site on 7 March 2019. The application was reported back to Planning Committee on 13 March 2019, with a recommendation to refuse planning permission due to the impact on the Green Belt.
- 1.2 The Committee considered that the proposal would be inappropriate development but that by reason of the benefits to local employment and economic development, very special circumstances exist that clearly outweigh the intrinsic harm to the Green Belt and any other harm.
- 1.3 Therefore, the Committee was minded to grant the application, subject to conditions. This report seeks Committee approval for the recommended conditions below.

2.0 Recommendation:

- 2.1 It is therefore recommended that planning permission be granted subject to the below planning conditions:

1
Unless otherwise required by condition, the development shall be carried out in complete accordance with the approved plan(s) as detailed below:

Site Location Plan (received 04.10.2018)
WA-18-01
WA-18-02 rev A

WA-18-03
WA-18-04
WA-18-05
WA-18-06 rev A
WA-17-07 rev C

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

3

The development hereby permitted shall be constructed entirely of the materials detailed and shown on plan number WA-18-04.

Reason

To ensure that the external appearance of the development is of an appropriate design and quality in accordance with the NPPF, Saved Policies DC2 and ENV3 of the Unitary Development Plan and Policies CS14 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

4

Notwithstanding the approved plans, the single storey extension hereby approved shall not be occupied until final details of part of the car park (between bays 27 and 28 as shown on WA-17-07 rev C) to be marked out to be kept clear for coach turning have been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure appropriate space for coach turning on site, in accordance with policy CS13 of the Core Strategy and Urban Core Plan.

5

The details approved under condition 4 shall be implemented in full accordance with the approved details before the single storey extension hereby approved is occupied and retained as such for the lifetime of the development.

Reason

To ensure appropriate space for coach turning on site, in accordance with policy CS13 of the Core Strategy and Urban Core Plan.

6

Notwithstanding the approved plans, the single storey extension hereby approved shall not be occupied until final details of secure and weatherproof cycle parking, including clarity over allocations for staff and customers, have been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure adequate cycle storage provision on site, in accordance with policy CS13 of the Core Strategy and Urban Core Plan.

7

The details approved under condition 6 shall be implemented in full accordance with the approved details before the single storey extension hereby approved is occupied and retained as such for the lifetime of the development.

Reason

To ensure adequate cycle storage provision on site, in accordance with policy CS13 of the Core Strategy and Urban Core Plan.

8

The development shall be implemented in full accordance with sections 3, 4 and 5 of the submitted Arboricultural Method Statement by All About Trees (dated 11.01.2019) at all times during construction and until final completion of the development.

The tree protection scheme shall be implemented in full accordance with plan AMS-TPP dated 11.01.2019, before external site works including demolition, soil stripping or movement, or bringing onto site of materials, supplies or machinery have commenced, and shall be retained on site at all times during construction and until final completion of the development.

Reason

To ensure the development would not have an unacceptable impact on trees, in accordance with saved policy ENV44 of the Unitary Development Plan and policy CS18 of the Core Strategy and Urban Core Plan.

9

The single storey extension hereby approved shall not be occupied until a fully detailed replacement landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

The landscaping scheme shall include details of all existing trees and hedges to be retained, ground preparation, planting plans noting the species, plant sizes, planting densities for all new planting, measures for management and maintenance, and timescales for implementation.

Reason

To ensure that a well laid out planting scheme is achieved in the interests of the visual amenity of the area and in accordance with Policies DC1 and ENV3 of the Unitary Development Plan.

10

The details approved under condition 9 shall be implemented in accordance with the approved timescales and details.

The approved landscaping scheme shall be maintained in accordance with British Standard 4428 (1989) Code of Practice for General Landscape Operations for a period of 5 years commencing on the date of Practical Completion and during this period any trees or planting which die, become diseased or are removed shall be replaced in the first available planting seasons (October to March) with others of a similar size and species and any grass which fails to establish shall be re-established.

Reason

To safeguard the visual amenities of the area in accordance with the NPPF, Saved Policies DC2 and ENV3 of the Unitary Development Plan and Policies CS14 and CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

11

No breaking of ground associated with the development hereby approved shall commence until a report of intrusive site investigations in relation to coal mining legacy, and where required, measures and timescales for remediation, monitoring, and verification reports has been submitted to the Local Planning Authority.

Reason

To ensure there is adequate land stability in accordance with saved policies DC1 and ENV54 of the Unitary Development Plan, policy CS14 of the Core Strategy and Urban Core Plan and the National Planning Policy Framework.

12

The remediation and monitoring measures approved under condition 11 shall be implemented in full accordance with the approved timescales and the approved details.

Reason

To ensure there is adequate land stability in accordance with saved policies DC1 and ENV54 of the Unitary Development Plan, policy CS14 of the Core Strategy and Urban Core Plan and the National Planning Policy Framework.

13

Where remediation is required (under conditions 11 and 12), following completion of the approved remediation and monitoring measures, the single storey extension hereby approved shall not be occupied until a verification report that demonstrates the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure there is adequate land stability in accordance with saved policies DC1 and ENV54 of the Unitary Development Plan, policy CS14 of the Core Strategy and Urban Core Plan and the National Planning Policy Framework

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Committee Report

Application No:	DC/18/01154/FUL
Case Officer	Joanne Munton
Date Application Valid	22 November 2018
Applicant	Mr Chris Hannant
Site:	83 Whaggs Lane Whickham Newcastle Upon Tyne NE16 4PQ
Ward:	Whickham North
Proposal:	Construction of single storey building in rear garden and change of use from dwellinghouse (C3 Use) to a mixed use of dwellinghouse and yoga studio (sui generis) (retrospective) (description amended 12.03.2019)
Recommendation:	GRANT
Application Type	Full Application

1.0 The Application:

- 1.1 This application was deferred at the meeting of the Planning and Development Committee on 13 March 2019 to allow the Committee to visit the site. Members visited the site on 28 March 2019. The report below has been updated from that which was previously considered to include reference to additional representations that have been received.
- 1.2 **DESCRIPTION OF SITE**
The application site on the location plan is a dwelling and its curtilage. The site has a larger rear garden, approximately 55m long and, particular to this application, includes an existing single storey building at the western end.
- 1.3 The building is timber clad, is 8.1m wide, 4.9m deep and, with a monopitch roof, measures between 2.6m high at the rear and 3m high at the front.
- 1.4 **DESCRIPTION OF APPLICATION**
The application is retrospective and proposes a single storey building at the western end of the garden and a change of use of this building to a yoga studio, which would be a gym and therefore would fall within use class D2 (assembly and leisure). The rest of the land would remain in residential use.
- 1.5 Therefore the proposal is for the change of use from a dwellinghouse (C3) to mixed use dwellinghouse and yoga studio (sui generis).

1.6 RELEVANT PLANNING HISTORY

DC/07/00486/FUL - Raising of roof height to provide first-floor level and construction of pitched roof over existing flat roofed garage and kitchen at side
- Granted 01.05.2007

DC/12/00365/HHA - Erection of single storey extension to the rear of dwellinghouse - Granted 22.05.2012

2.0 Consultation Responses:

None

3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015.

3.2 Councillor Peter Craig has requested that the application be reported to Planning Committee.

3.3 8 objections from residents have been received, raising concerns regarding:

- Clarification of use proposed in the application;
- Has been operating without planning permission;
- Lack of detail regarding hours of business and parking provision;
- Building is up against rear garden fence rather than near the dwelling at no.83;
- Increased noise, disturbance and nuisance at nearby residential properties;
- Potential for classes outside in the summer and increase in noise/disturbance;
- Loss of privacy and security at neighbouring properties from clients walking through the garden of no.83;
- Impact of external lighting shining into neighbouring properties;
- Parking demand leading to increased on-street parking on Whaggs Lane, subsequent difficulty for footpath users, access to buses, visibility issues at neighbouring driveways and impact on highway safety;
- No other commercial uses on the road and application site is not a suitable location for the proposed use;
- Potential for use to take place elsewhere/a more suitable commercial area;
- Impact on Area of Special Character and residential character of the street;
- Potential for use early in the morning and late at night and/or increased number of classes per week, and subsequent worsening of issues;
- Potential for classes to be run/classes currently area being run by external people (ie. Not living at no.83) and for responsibility and control of the business to be diluted;

- Impact on property values;
- Some property deeds restrict certain uses of land.

3.4 A further objection has also been received on behalf of two objectors, making the following additional comments to those outlined above:

- Letters of support are from users of the facility rather than necessarily being immediate neighbours;
- Neighbours are already experiencing noise and disturbance from the yoga studio and customers accessing the studio over and above what would be typical of a residential area;
- Inadequate car parking provision and impact on highway safety;
- If application was approved, the commercial use should be restricted;
- Residents find noise disturbance after 8pm unacceptable;
- The condition restricting the number of sessions each day would allow for an increase in sessions that the current situation, which would have a significant impact on the site and area, and if four classes are permitted on weekdays the length of classes should be restricted;
- There should only be two classes allowed on Saturdays, Sundays, Bank Holidays;
- Specific details relating to background noise levels when the yoga studio is not operating should be required by the noise management plan (under recommended condition 7);
- Potential for overlooking at neighbouring properties and requested to impose condition requiring classes to only operate within the building itself and not within the rear lawn of 83 Whaggs Lane;
- The evidence required to support a commercial use in this location has not been provided or assessed;
- A maximum of four sessions per day (under recommended condition 6) would allow for more sessions than the four sessions per week as proposed by the applicant, and would impact on amenity.

3.5 Additionally, 27 letters of support for the application have been received, commenting on the following:

- the use is beneficial to health and mental and physical wellbeing;
- the facility provides a smaller environment for clients who do not wish to/do not feel they can attend larger classes elsewhere;
- the classes are quiet and noise and disturbance from the use if minimal;
- clients are respectful of neighbours if parking on street and Whaggs Lane is a wide and busy road in any event;
- parking demand is minimal in terms of small and infrequent classes and as some patrons walk;

- the quality and welcoming, supportive nature of the classes and the value of the business;
- the class sizes are small and a larger venue would not be viable;
- concern if the use was to stop;
- the use contributes to national and local objectives for healthier lifestyles and wellbeing.

4.0 Policies:

NPPG National Planning Practice Guidance

NPPF National Planning Policy Framework

RCL5 District and Local Centres

DC2 Residential Amenity

ENV3 The Built Environment - Character/Design

ENV25 Areas of Special Character

ENV61 New Noise-Generating Developments

CS7 Retail and Centres

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

GPGSPD Gateshead Placemaking Guide SPG

5.0 Assessment of the Proposal:

5.1 The key considerations to be taken into account when assessing this planning application are the principle of the proposal, visual amenity, residential amenity and highway safety and parking.

5.2 PRINCIPLE

The application proposes a main town centre use outside of a retail centre, as defined by saved policy RCL5 of the UDP and policy CS7 of the CSUCP. As such, the applicant has submitted a statement addressing why the use is proposed in this location and not in a retail centre.

5.3 The detail submitted clarifies that the building is also used personally by the applicant and family and that the proposed D2 use, whilst considered to be at such a level to require planning permission (rather than being an ancillary use), would run on a small scale basis. The website for the business associated with

the subject building confirms that there are also classes available in larger venues, and that classes in the proposed yoga studio are intentionally more intimate, which, as in the submitted statement, appeals more to particular clients.

- 5.4 The submitted detail states that the nature and frequency of the proposed use would render locating in a permanent commercial unit unviable, although no data/evidence has been submitted with the application to demonstrate this.
- 5.5 It is considered that sequential opportunities are limited and on the basis of the described nature and frequency use that it would be unlikely for alternative suitable central premises providing for the same specific requirements of the building would be available.
- 5.6 It is recommended that conditions be imposed restricting the number of customers on site, restricting the number of sessions per week, and restricting hours of operation of sessions.
- 5.7 It is acknowledged that the proposed D2 use definition encompasses other uses rather than just specifically relating to a gym. Whilst it is considered that the size and design of the building would itself limit the potential for some alternative uses within class D2 on site, the proposed use, setting and the reasoning for the use outside of the retail centre are so specific that it is recommended that condition 2 be imposed restricting the use to that proposed (yoga studio) and no other use within the broader D2 use class.
- 5.8 Therefore, it is considered that the principle of the proposed use would be acceptable and would comply with the aims and requirements of saved policy RCL5 of the UDP and policy CS7 of the CSUCP.
- 5.9 VISUAL AMENITY
The site is within an Area of Special Character and the proposal would not have an adverse impact on the specific main characteristics of low density housing, dense coverage of mature trees and long, well-established gardens. The rear garden of the property is large and the proposed building itself would appear neither untypical nor overly dominating in this residential context.
- 5.10 It is considered that the proposal would respect the character of the area and would comply with the aims and requirements of saved policies ENV3 and ENV25 of the UDP, policy CS15 of the CSUCP and the Gateshead Placemaking SPD.
- 5.11 RESIDENTIAL AMENITY
Paragraph 91 of the NPPF requires that planning decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, are safe and accessible, and enable and support healthy lifestyle.
- 5.12 Policy CS14 of the CSUCP states that the wellbeing and health of communities will be maintained and improved by requiring development to contribute to creating an age friendly, healthy and equitable living environment through:

- i. Creating an inclusive built and natural environment,
- ii. Promoting and facilitating active and healthy lifestyles,
- iii. Preventing negative impacts on residential amenity and wider public safety from [amongst others] noise,
- iv. Providing good access for all to health and social care facilities, and
- v. Promoting access for all to green spaces, sports facilities, play and recreation opportunities.

- 5.13 In terms of potential future uses of the building, specifically, the yoga studio would provide an intentionally small facility promoting active and healthy lifestyles, appealing to certain customers more than larger venues. Generally, the proposed D2 use would contribute to recreation opportunities and meeting socially as a small group. It is considered that the proposed use would contribute to creating an age friendly, healthy and equitable living environment and would promote social interaction.
- 5.14 Saved policy DC2 of the UDP requires that new development should not cause undue disturbance to nearby residents or conflict with other adjoining uses, safeguards the enjoyment of light and privacy for existing residential properties, and ensures a high quality of design and amenity for existing and future residents.
- 5.15 In terms of existing residents, concerns have been raised from objectors regarding the increase in noise and disturbance and impacts on privacy and security at neighbouring properties resulting from the proposed use.
- 5.16 As above, it is recommended that the D2 use of the garden building be limited to the use proposed rather than within the broader D2 use class definition. It is considered that with this recommended limitation and further appropriate conditions detailed below, the proposed use could operate without resulting an unacceptable level of noise or disturbance or unacceptable loss of privacy or sense of security.
- 5.17 In this particular location on Whaggs Lane the gardens are large and long, with the rear garden at no.83 being approximately 55m long. These gardens, by virtue of their size, allow space for lots of outdoor activity, be this gardening, fitness or social gatherings. Consideration is also given to the potential for a building or swimming pool incidental to the enjoyment of the dwellinghouse under residential permitted development rights at these properties.
- 5.18 Whilst there would be members of the public accessing the rear garden of no.83, in a garden of such a size it would be reasonable to expect a certain level of activity, social gatherings and guests visiting associated with the residential use in any event, particularly in the summer months.
- 5.19 It is recommended that a condition be imposed restricting hours of operation to between 09.00 and 21.00 on any day (condition 4). It is considered that provided the number of customers and sessions, and the potential for amplified music are controlled, the recommended operating hours would be appropriate,

and it therefore would not be necessary or reasonable to restrict hours of operation further.

- 5.20 It is recommended that conditions be imposed restricting the number of customers on site to a maximum of ten people, restricting the operation of the use to the building only (as opposed to garden land outside of the building), and restricting the number of sessions to four per day (Conditions 3, 5, and 6). Whilst this latter restriction would not limit the length of classes, it would ensure that the movements through the garden to/from the building would not result in an unacceptable level of disturbance or perceived loss of privacy and/or security at neighbouring properties.
- 5.21 It is considered that it would not be necessary to restrict the length of sessions as the recommended conditions would ensure appropriate levels of noise and movements that would not have an unacceptable impact on residential amenity. Similarly, it is also considered that it would not be reasonable or necessary to restrict the number of sessions on a weekend and Bank Holidays further than weekdays, or the number of sessions to only four per week.
- 5.22 Additionally, it would be reasonable to expect a yoga studio to involve an amplified sound system, and it is recommended that conditions be imposed requiring that from the date of the decision, before such a system is used in the building, a noise management plan be submitted to the LPA for consideration, and requiring implementation of the approved plan (conditions 7 and 8).
- 5.23 Subject to conditions, it is considered that the proposal would facilitate active and healthy lifestyles without having an unacceptable impact on the residential amenity of neighbours. The proposal would comply with the aims and requirements of saved policy DC2 of the UDP, policy CS14 of the CSUCP and the NPPF.
- 5.24 HIGHWAY SAFETY AND PARKING
The proposal would result in customers travelling to and from the site, and therefore would generate a level of parking demand. Conditions are recommended to restrict the number of customers, sessions and hours of operation. Whaggs Lane is wide and unrestricted in this location, some customers would walk/cycle to the site, and it is considered that the parking demand could be accommodated on street/in the vicinity without resulting in an unacceptable impact on highway safety.
- 5.25 The proposal would comply with the aims and requirements of saved policy CS13 of the CSUCP and the NPPF.
- 5.26 OTHER MATTERS
Property values/saleability and the quality of the service provided are not a material planning consideration.
- 5.27 Granting a planning permission also does not affect other legal requirements/obligations landowners may have.

- 5.28 It is not recommended that the permitted use be restricted to this particular applicant, therefore, there is potential for other people to operate the use. It is considered that the recommended conditions would ensure that the use would not have an unacceptable impact on residential amenity.
- 5.29 In terms of external lighting, it would be reasonable to expect this to be part of residential properties, and if this was to be included on the single storey building in the garden in an excessive way, this would be a matter to be dealt with through Environmental Health legislation.
- 5.30 **COMMUNITY INFRASTRUCTURE LEVY**
On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is not CIL chargeable development.

6.0 CONCLUSION

- 6.1 The proposal would provide an intentionally small facility supporting active and healthy lifestyles and promoting social interaction, without having an unacceptable impact on the residential amenity of neighbours, subject to appropriate conditions.
- 6.2 It is considered that the proposed development is acceptable in principle and in terms of visual and residential amenity, highway safety and parking, and would comply with the aims and objectives of the NPPF, and the relevant policies of the UDP and the CSUCP.
- 6.3 Therefore, it is recommended that planning permission be granted, subject to the below conditions.

7.0 Recommendation:

That permission be GRANTED subject to the following condition(s) and that the Service Director of Development, Transport and Public Protection be authorised to add, vary and amend the planning conditions as necessary:

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -

01.A4

02.A1

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

The D2 (assembly and leisure) part of the mixed use hereby approved shall be limited to use as a yoga studio, including sessions for yoga, pilates, and health and wellbeing workshops, and no other use within class D2.

Reason

To ensure appropriate use of land in the interests of amenity of the residents of no.83 and residential neighbours, in accordance with saved policy DC2 of the UDP, policy CS14 of the CSUCP and the NPPF.

3

Sessions associated with the operation of the yoga studio part of the mixed use hereby approved shall be restricted to the single storey garden building as shown on plan no 02.A1 only.

Reason

To ensure appropriate use of land in the interests of amenity of the residents of no.83 and residential neighbours, in accordance with saved policy DC2 of the UDP, policy CS14 of the CSUCP and the NPPF.

4

Sessions associated with the yoga studio part of the mixed use hereby approved shall only be open to the public between 09.00 and 21.00 on any day.

Reason

To ensure appropriate use of land in the interests of amenity of the residents of no.83 and residential neighbours, in accordance with saved policy DC2 of the UDP, policy CS14 of the CSUCP and the NPPF.

5

The number of customers on site associated with the yoga studio part of the mixed use hereby approved shall be limited to a maximum of ten people at any time.

Reason

To ensure appropriate use of land in the interests of amenity of the residents of no.83 and residential neighbours, in accordance with saved policy DC2 of the UDP, policy CS14 of the CSUCP and the NPPF.

6

The number of sessions associated yoga studio part of the mixed use hereby approved shall be limited to a maximum of four sessions each day.

Reason

To ensure appropriate use of land in the interests of amenity of the residents of no.83 and residential neighbours, in accordance with saved policy DC2 of the UDP, policy CS14 of the CSUCP and the NPPF.

7

From the date of this decision, no amplified sound system or similar equipment associated with the yoga studio part of the mixed use hereby approved shall be used on site until details of a noise management plan (including timescales) have been submitted to and approved in writing by the Local Planning Authority.

Reason

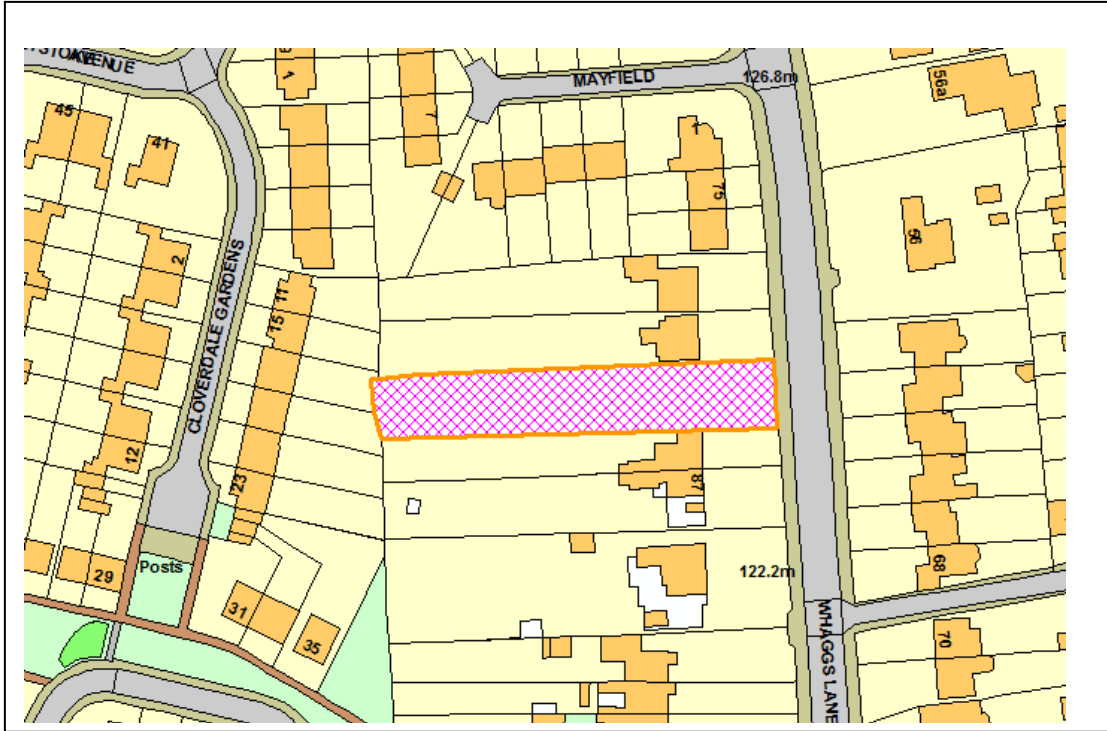
To ensure that the use would not result in an unacceptable level of noise/disturbance to neighbouring properties, in accordance with Saved Policies, DC2 and ENV61 of the Unitary Development Plan, Policy CS14 of the Core Strategy and Urban Core Plan and the National Planning Policy Framework.

8

The details approved under condition 7 shall be implemented and maintained in accordance with the details and timescales approved and retained as such for the lifetime of the development.

Reason

To ensure that the use would not result in an unacceptable level of noise/disturbance to neighbouring properties, in accordance with Saved Policies, DC2 and ENV61 of the Unitary Development Plan, Policy CS14 of the Core Strategy and Urban Core Plan and the National Planning Policy Framework.



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REPORT NO 3

Committee Report

Application No:	DC/19/00001/FUL
Case Officer	Tracy Long
Date Application Valid	15 January 2019
Applicant	Mrs I Carmichael
Site:	Land Adj Meynell House Dipwood Road Rowlands Gill NE39 1DA
Ward:	Chopwell And Rowlands Gill
Proposal:	Demolition of existing detached garage and shed buildings followed by erection of 5-bedroom detached house in garden of dwellinghouse with new vehicular and pedestrian access.
Recommendation:	REFUSE
Application Type	Full Application

1.0 The Application:**1.1 DESCRIPTION OF THE APPLICATION SITE**

The application site is the eastern part of the existing garden area to Meynell House, a two storey, semi detached, residential property, at the junction of Dipwood Road and Derwent Avenue, within Rowlands Gill Conservation Area. The existing Meynell House site is roughly square in shape and measures 0.17 hectares. The site is generally level. The site is within a residential area of Rowlands Gill and is surrounded by other residential properties.

1.2 DESCRIPTION OF THE APPLICATION PROPOSAL

This planning application proposes the sub-division of the existing garden to Meynell House and the erection of one new house in the eastern area of the garden. The proposed house would be a two storey (with loft accommodation), 5 bedroom, detached house. The application also proposes the demolition of the existing detached garage and shed buildings within the garden area.

1.3 The planning application has been submitted with the following supporting information

- Heritage statement
- Design and access statement
- Tree survey / report
- Preliminary Risk Assessment (contamination)

1.4 RELEVANT PLANNING HISTORY

1.5 DC/18/00512/FUL

Demolition of existing detached garage and shed buildings and erection of 5-bedroom detached house in garden of dwellinghouse with new vehicular and pedestrian access onto Derwent Avenue. REFUSED planning permission on 20 September 2018 due to harm to the Conservation Area and harm to the adjacent tree (tree T12).

1.6 The difference between this application and the current application (DC/19/00001/FUL) is that the proposed house has been moved further to the north towards the Dipwood Road frontage and the attached garage on the south elevation of the house has been removed. These changes have been made to provide more space between the proposed house and the large adjacent tree to the south west (tree T12).

1.7 DC/03/00263/FUL

Planning permission for the sub-division of the garden at Meynell House and the erection of 1 new detached 4 bed house was REFUSED planning permission on 7 April 2003 on the grounds of harm to the Conservation Area.

1.8 This decision was subsequently appealed. The appeal was DISMISSED on 28 May 2004 on the grounds of harm to the Conservation Area.

2.0 Consultation Responses:

Archaeology Officer The proposal will not impact on any archaeological features.

3.0 Representations:

3.1 The Council sent neighbour notification letters to 11 properties surrounding the site, as well as displaying a notice opposite the site along Derwent Avenue. A notice also appeared in the Newcastle Journal on 23 January 2019.

3.2 6 letters of support have been received – 4 from 3 local residents, 1 from Councillor Bradford and 1 from Councillor McNestry.

3.3 4 letters of support have been received from 3 local residents on the following grounds:

- It would be good for / enhance the area
- It would remove 3 unsightly buildings
- The gardens of Meynell House are too large for the owners to maintain
- There have been several similar applications approved in the Conservation Area
- The new proposal will not harm the trees

- 3.4 One letter of support has been received from Councillor Bradford on the grounds that the main issue for the previous application that was refused planning permission was the need to protect the tree close to the proposed house. Now that the garage has been removed there seems to be little objection to the development.
- 3.5 One letter of support has also been received from Councillor McNestry on the grounds that the applicant has complied with protection of the tree, the position of the garage has been moved, so I see no objection to this planning application. Also similar house builds in gardens in this area have been approved in the past so see no reasons for the application not to be approved.

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

DC1D Protected Species

DC1P Contamination, derelict land, stability

DC2 Residential Amenity

ENV3 The Built Environment - Character/Design

ENV7 Development within Conservation Areas

ENV10 Dev in Gdns/Grounds in Conservation Area

ENV46 The Durham Biodiversity Action Plan

ENV47 Wildlife Habitats

ENV51 Wildlife Corridors

ENV54 Dev on Land Affected by Contamination

H4 Windfall and Small Housing Sites

H5 Housing Choice

H13 Local Open Space in Housing Developments

H15 Play Areas in Housing Developments

CFR20 Local Open Space

CFR28 Toddlers' Play Areas

CFR29 Juniors' Play Areas

CFR30 Teenagers' Recreation Areas

CS11 Providing a range and choice of housing

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS18 Green Infrastructure/Natural Environment

5.0 Assessment of the Proposal:

- 5.1 The main material planning considerations are considered to be the impact on the Conservation Area, impact on trees, residential amenity, highway safety and the potential for contaminated land.
- 5.2 **NPPF**
The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Paragraph 11 states that there is a presumption in favour of sustainable development.
- 5.3 **HERITAGE / DESIGN ISSUES**
This site is situated within Rowlands Gill Conservation Area, which is a designated heritage asset.
- 5.4 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in making decisions on planning applications within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the Conservation Area.
- 5.5 Paragraph 193 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset (such as Rowlands Gill Conservation Area), great weight should be given to the asset's conservation. Paragraph 194 of the NPPF goes on to state that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification.
- 5.6 Paragraph 195 of the NPPF states that where a proposed development will lead to substantial harm (or total loss of significance of) a designated heritage asset, Local Planning Authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

- 5.7 Paragraph 196 of the NPPF explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 5.8 Saved Policy ENV10 of the Council's Unitary Development Plan (UDP) states that planning permission will not be granted for development (especially that which would involve sub-division) in gardens and grounds which make a contribution to the character of a conservation area.
- 5.9 Policy CS15 of the Council's Core Strategy and Urban Core Plan (CSUCP) also seeks the conservation and enhancement of the historic environment / heritage assets.
- 5.10 The main issue in assessing such a proposal is therefore the effect of the development on the significance of the designated heritage asset – Rowlands Gill Conservation Area.
- 5.11 With regards to the proposed demolition of the existing detached garage and garden shed buildings - all the buildings are of a considerable age and in need of maintenance. However, the existing garden buildings form part of the domestic paraphernalia normally associated with a dwelling. It is considered that their removal would not detract from the overall appearance of the area as the garden would remain intact. The removal of the three existing outbuildings in the garden is therefore considered to be acceptable from a heritage point of view.
- 5.12 With regards to the subdivision of the existing garden and the construction of an additional new house. The pattern of development at this part of the conservation area is characterised by large properties within substantial plots. Meynell House is a large semi detached house, on a corner plot at the junction of Dipwood Road and Derwent Avenue, with a substantial garden area. The road frontage to this site is wide and spacious. The garden area around the building is also large and spacious. Council officers are therefore of the opinion that the garden of Meynell House does make a positive contribution to the character of the conservation area, as character is defined not just by buildings and structures but also by the spaces and views between them.
- 5.13 The house opposite to the east (The Poplars) is a large detached house set in a spacious plot. The grouping of The Poplars and Meynell House then leads to a considerable length of undeveloped woodland, which borders the road along Dipwood Road. It is therefore considered that this site makes a significant contribution to the Conservation Area as a whole.
- 5.14 Council officers are of the opinion that the sub-division of this spacious corner garden site and the building of a new house in the side garden of Meynell House would interrupt this pattern of development and alter it significantly. The width of the roadside frontage would diminish and the density of the development pattern in this location would intensify. The street frontage would therefore become more built up and would erode the sense of openness that currently exists, which is significant to the character and appearance of the

conservation area. Council officers are therefore of the opinion that the proposal would substantially harm the character and appearance of this part of the conservation area, and its significance taken as a whole.

- 5.15 The proposed scale and massing of the proposed house is greater than that of Meynell House. It has a particularly dominant roof which features a large hipped roof with high ridge line and pitched gable projections. The proposed ridge height measures 9.4 metres high and the eaves height measures 5.2 metres high. The proposed external materials include red brick, slate and white plastic windows. The proposed scale and design of the house is considered appropriate for the locality. The proposed external materials (subject to the use of timber not plastic for the windows) are considered typical of the area.
- 5.16 It is acknowledged that the proposed development would bring some public benefit by providing an additional new family house in the Borough and removing 3 existing dilapidated buildings from the garden. Council officers have considered the benefits that would arise from the proposal but do not consider that the limited public benefits would outweigh the less than substantial harm that would be caused by the development to the significance of the heritage asset.
- 5.17 It is therefore recommended that planning permission be refused for the proposal on the grounds of less than substantial harm to the Rowlands Gill Conservation Area, that would not be outweighed by substantive public benefits, contrary to the aims and objectives of the NPPF, saved policy ENV10 of the UDP and policy CS15 of the CSUCP.
- 5.18 TREES
There are a number of large trees and hedges on the site which provide a green frontage and contribute to the character and appearance of the Conservation Area. All of the trees on the site are protected given that they are situated within a Conservation Area. Therefore no tree works should be carried out to the trees without the prior written approval of the Council.
- 5.19 An Arboricultural Impact Assessment and Arboricultural Method Statement have been submitted as part of the planning application. These reports identify that 3 individual trees (trees 9, 10 and 11), a group of trees (group 2) as well as 2 hedges (hedges 3 and 4) will need to be removed to build the proposed development. The reports also suggests the removal of group 1 for good tree management reasons. Council officers do not consider their loss to be a significant loss of visual amenity to the area as a whole, as the trees and hedges in question are not particularly valuable in amenity terms.
- 5.20 The previous planning application (DC/18/00512/FUL) was refused planning permission due to harm to the Conservation Area and harm to the adjacent tree (tree T12) which is an Atlantic Cedar which has been classified in the submitted tree report as having a categorisation of A Good - a tree of high quality with a remaining safe useful life expectancy of more than 40 years.

- 5.21 This current revised planning application DC/19/00001/FUL is considered by Officers to be an improvement on the previous scheme DC/18/00512/FUL in that the dwelling has been re- positioned further north towards the Dipwood Road frontage, in order to have less of an impact on the retained trees.
- 5.22 In revising the scheme, Council officers consider that the proposed dwelling is now impacting on the root protection zones of trees T5, T6 and T7 along the northern boundary of the site along Dipwood Road. However, the supporting Arboricultural Method Statement has demonstrated that these trees can be retained safely using special tree friendly foundations. Council officers are of the opinion that this should allow the proposal to be built whilst minimising the impact on the trees, providing extreme care is taken and the methodology is followed.
- 5.23 Although the trees can potentially be retained safely during the construction process they are going to be very close to the proposed house when it is built. Council officers are of the view that living in close proximity to trees can often lead to resentment from the future occupiers of the proposed house, as trees will drop leaves, twigs, branches and honey dew, as well as blocking light to habitable rooms and the garden. This can sometimes cause damage to property and can sometimes result in unreasonable requests to fell or prune trees. Therefore, Council officers are of the opinion that the revised proposal could have a negative impact on the retained trees in the short and medium term.
- 5.24 If planning permission is granted for this revised proposal planning conditions will be necessary to confirm which trees are to be removed, to approve and provide tree protection measures during construction and to approve the detailed pile foundation construction methodology to protect the trees that are to be retained on site.
- 5.25 Council officers are therefore of the opinion that the proposed development in this revised planning application is an improvement on the last application DC/18/00512/FUL in terms of its impact on tree T12. Subject to suitable planning conditions, the revised proposal could be acceptable from a tree point of view and could then accord with the aims and objectives of the NPPF, saved policy ENV44 of the UDP and policy CS18 of the CSUCP, which seek to protect trees of value.
- 5.26 **RESIDENTIAL AMENITY**
Given the remaining distances between the proposed house and the existing properties surrounding the site and also taking into account the existing trees and hedges that provide an element of screening around the proposed house, and that would be retained if the development were to receive planning permission, it is considered that the development would not cause any significant harm to the living conditions of adjacent residents through loss of light, overshadowing, visual intrusion or loss of privacy.

- 5.27 The existing trees that are to be retained on the site will however be very close to the proposed house when it is built. Council officers are of the view that living in close proximity to trees could lead to resentment from the future occupiers of the proposed house, as trees will drop leaves, twigs, branches and honey dew, as well as blocking light to habitable rooms and the garden.
- 5.28 The proposed development is on balance considered to be acceptable from a residential amenity point of view and accords with the aims and objectives of the NPPF, saved policy DC2 of the UDP and policy CS14 of the CSUCP, which seek to protect residents living conditions.
- 5.29 HIGHWAY ISSUES
- 5.30 Access
There are two existing vehicle accesses to Meynell House – one off Dipwood Road to the north and a second off Derwent Avenue to the east. The existing vehicle access off Dipwood Road to Meynell House would be retained to serve only Meynell House. The existing vehicle access off Derwent Avenue which is very close to the junction with Dipwood Road would be closed as part of the proposed development to improve highway safety at the junction. The final details of the closure of the existing access would need to be approved by the Council as it would require the reinstating of the footway and the provision of full kerbs. These details could be covered by a planning condition should planning permission be granted. A new vehicle and pedestrian access is proposed off Derwent Avenue to serve the new proposed house. The proposed access arrangements for both the existing Meynell House and proposed house are considered to be acceptable.
- 5.31 Traffic Generation
Council officers are of the opinion that the traffic movements associated with one new house would be limited and can be safely accommodated on the surrounding roads.
- 5.32 Car Parking Provision
The proposed car parking provision for the new house includes a driveway within the site where 2 vehicles can park. The proposed car parking provision is considered to be acceptable.
- 5.33 Cycle Parking Provision
The submitted Design and Access Statement and proposed site layout drawing show that an existing shed in the rear garden of the proposed house could be used as secure cycle parking storage – which Council officers consider to be acceptable.
- 5.34 Bin Storage /Collection
The proposed layout shows an enclosed bin store immediately adjacent the new driveway, with easy access for bin lorries to collect from along Derwent Avenue. The proposed bin storage and collection arrangements are therefore considered to be acceptable.

- 5.35 The proposed development is therefore considered to be acceptable from a highway safety point of view and accords with the aims and objectives of the NPPF, policy CS13 of the Council's CSUCP and the Council's Cycling Strategy.
- 5.36 **LAND CONTAMINATION**
The risk of the proposed development being affected by contamination is considered to be low given that the site is within a garden area. A Phase 1 Desk Top study report has been submitted as part of this planning application. This report recommends that a soils investigation which includes for soil gas monitoring and some limited contamination testing should be undertaken. Council officers agree with these recommendations.
- 5.37 Given that the site has some potential to be contaminated and given the future sensitive residential land use, planning conditions would be required, should planning permission be granted, to ensure that further investigations with a Phase II detailed risk assessment and where required remediation, monitoring and verification reports are carried out.
- 5.38 Council officers are however of the opinion that any issues relating to gas monitoring and gas mitigation measures will be covered by Building Regulations and it is therefore not considered necessary in this instance, if planning permission were to be granted, to also require the proposed gas monitoring and mitigation measures by planning conditions as well.
- 5.39 These planning conditions would ensure that the proposed development is acceptable from a contaminated land point of view and accords with the aims and objectives of the NPPF, saved policies DC1(p) and ENV54 of the Council's UDP and policy CS14 of the CSUCP.
- 5.40 **ECOLOGY**
No ecological information has been submitted of this planning application. The proposed development site is located within a designated Wildlife Corridor and comprises a large residential garden containing a number of mature and semi-mature trees, ornamental shrubs and hedging, areas of lawn and several small single storey timber buildings used for storage.
- 5.41 Habitats/features within and adjacent the proposed development have the potential/are likely to be used by a limited range of statutorily protected and/or priority species including breeding birds, foraging and commuting bats, hedgehog and terrestrial amphibians.
- 5.42 Given the nature of the buildings to be demolished, it is considered likely that they pose a negligible risk for roosting bats. The proposals require the retention of the majority of the existing trees on site and those trees to be removed are considered to pose a negligible risk for roosting bats. The proposals have the potential to reduce the value of the proposed development site for foraging and commuting bats through increased disturbance (e.g. increased light levels) and habitat loss.

- 5.43 The demolition of the buildings, loss of habitat and reduced connectivity resulting from the installation of additional/new boundary fencing has the potential to impact breeding birds and/or hedgehog.
- 5.44 In order to avoid/minimise adverse impacts on biodiversity during the construction phase and following occupation of the development, and to provide enhanced opportunities for biodiversity in accordance with the principles of the NPPF; if planning permission was to be granted, suitably worded planning conditions and informatives relating to the following, would be required:
- Breeding Bird Informative – to control timing of site clearance works to protect breeding birds
- Bat Box Condition – to approve details and provide 2 integral bat roost features in the new house
- Bat Informative – to remind the developer that bats and their roosts are protected in law.
- 5.45 Subject to the above planning conditions and informatives, the proposed development would be considered to be acceptable from an ecology point of view, as it would accord with the NPPF, saved policies DC1 (d), ENV46, ENV47, ENV51 of the Council's UDP and policy CS18 of the Council's CSUCP.
- 5.46 **OPEN SPACE/PLAY PROVISION**
Saved policies H13 and H15 of the Council's UDP require new residential development to contribute towards open space and play provision. This is based on the anticipated population of the development and is based on the standards of open space and play provision required per population under saved policies CFR20, CFR28, CFR29 and CFR30 of the UDP.
- 5.47 The NPPG (Paragraph: 031 Reference ID: 23b-031-20161116) is clear that tariff style contributions should not be sought from residential developments of 10 units or less, and which have a maximum combined gross floor space of no more than 1000sqm.
- 5.48 While it cannot be concluded that the proposed development would comply with saved policies H13, H15, CFR20, CFR28, CFR29 and CFR30 of the UDP, it is considered it is not possible to require any contribution for either play or open space in this case based on the above assessment.
- 5.49 **COMMUNITY INFRASTRUCTURE LEVY**
On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is CIL chargeable development as it is for qualifying housing related development in residential CIL zone B. As such this development is CIL charge liable.
- 5.50 **OTHER ISSUES**

- 5.51 Maintenance of Garden
The submitted Design and Access Statement explains that the applicant finds the site difficult to maintain. Whilst this may be the case, for the current occupiers of Meynell House, Council officers do not consider that this outweighs the substantial harm that would be caused as a result of the proposed development.
- 5.52 Consistency
The submitted Heritage Statement states that saved policy ENV10 of the UDP is subject to interpretation. In regard to saved policy ENV10 there is not a blanket objection to the development of gardens or grounds in Conservation Areas. The test / consideration is whether a development site / proposal contributes positively to the significance of the Conservation Area.
- 5.53 In addition the applicant considers that the Council has been inconsistent in applying this policy when considering and determining planning applications. A number of local residents have also written in support of the proposed development on the grounds that similar developments have been approved in the Conservation Area.
- 5.54 The Heritage Statement refers to five other planning applications for new houses which were granted permission between 2008 and 2015 in Rowlands Gill Conservation Area.
- 5.55 Council officers have reviewed the five examples provided but do not consider these cases to be directly comparable to the current proposal. The examples given do not relate to spacious corner plots which contribute positively to the Conservation Area, were recommended for refusal by the Council and / or were dismissed at Appeal by the Planning Inspectorate. In addition, planning policy has changed significantly particularly in relation to heritage assets since the introduction of the NPPF in 2012.
- 5.56 The details of the sites are provided below.
- 5.57 The Poplars, Dipwood Road – DC/08/00052/FUL
Planning application to sub-divide rear garden (not a corner plot but with a road frontage) and construct 1 new detached two storey house with roof accommodation. This was recommended for approval by officers on the grounds that the site was historically two separate plots as shown on the Ordnance Survey map of 1939. The application was refused permission by Planning Committee on 3 April 2008 on the grounds of harm to the Conservation Area and trees. This decision was subsequently appealed where it was allowed by the Planning Inspectorate on 22 October 2008. The house has since been built and is known as Yewdale House. The Planning Inspectorate placed emphasis on clear historic mapped evidence that the side garden was previously two separate plots in allowing the appeal. Council officers are of the opinion that the reasons for allowing this appeal on the grounds of re-instating the historic plot layout to be a different set of

circumstances to the current proposal at Meynell House. Planning policy has also changed significantly since with the introduction of the NPPF in 2012.

- 5.58 The Poplars Dipwood Road – DC/09/00393/FUL
Planning application to demolish the existing two storey dental surgery and construct a new two storey semi detached house (not a corner plot but with a road frontage). This was recommended for approval by officers and was approved under delegated powers on 6 July 2009. This proposal was approved on the grounds that the replacement of a flat roof two storey dental surgery with an appropriately designed house would enhance the Conservation Area. Council officers are of the opinion that the reasons for approving this development (replacement of existing building with a more appropriately designed building) to be a different set of circumstances to the current proposal at Meynell House. Planning policy has also changed significantly since with the introduction of the NPPF in 2012.
- 5.59 Lennox Lodge, Lintzford Road – DC/06/01445/OUT
Outline application to sub-divide rear garden (not a corner plot) and construct 1 new detached bungalow. This was recommended for refusal by officers and was refused permission by Planning Committee on 15 February 2007 on the grounds of insufficient information to assess the impact on the Conservation Area and trees. This decision was subsequently appealed where it was allowed by the Planning Inspectorate on 14 January 2008. This permission has not been implemented. The consent has since expired and planning policy has changed significantly since with the introduction of the NPPF in 2012.
- 5.60 4a Orchard Avenue – DC/13/00225/FUL
Planning application to sub divide garden (not a corner plot but with a road frontage) and construct 1 detached 3 storey house. This was recommended for refusal by officers and was refused permission by Planning Committee on 17 July 2013 on the grounds of harm to the Conservation Area. This decision was subsequently appealed where it was dismissed by the Planning Inspectorate on the grounds of harm to the Conservation Area. Given that this appeal was dismissed, the principle of sub-division has not been agreed at this site.
- 5.61 Holmside, Stirling Lane – DC/15/00861/FUL
Planning application to sub divide garden (back land site in rear garden with no site frontage - not a corner plot) and construct 1 detached, two storey house. This was recommended for approval by officers and was granted permission by Planning Committee on 20 November 2015. In this instance the decision was taken that the development site on its own did not positively contribute to the significance of the Conservation Area.

6.0 CONCLUSION

- 6.1 Taking all the relevant material planning issues into account, including the comments made by local residents and the local Councillor in support of the application and the comments made by the applicant in their submitted documents, Council officers are of the opinion that the proposed development would cause less than substantial harm to the Conservation Area. It is

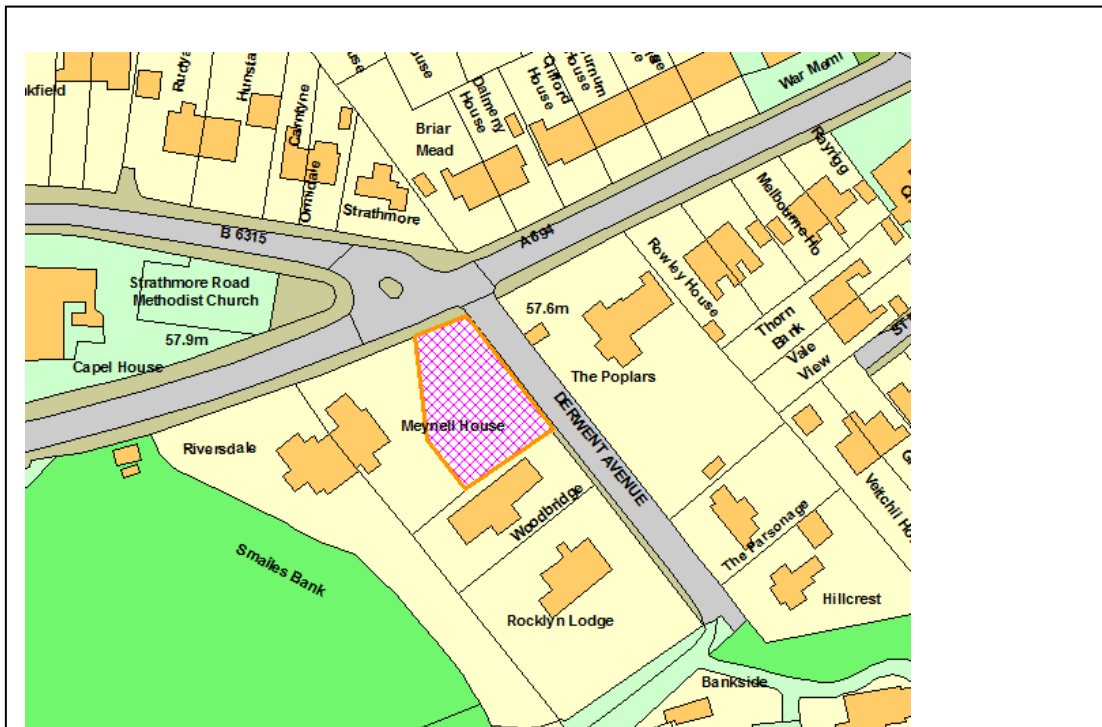
acknowledged that the proposed development would bring Some public benefits in terms of providing an additional family house and removing some existing dilapidated buildings from the garden. However, Council officers do not consider that these public benefits outweigh the less than substantial harm that would be caused by the proposed development. It is therefore recommended that planning permission be refused as the proposed development is contrary to both national and local planning policies.

7.0 Recommendation:

That permission be REFUSED for the following reason(s) and that the Strategic Director of Communities and Environment be authorised to add, vary and amend the refusal reasons as necessary:

1

The sub-division of the existing garden and the construction of a new house would result in less than substantial harm to the significance of the Rowlands Gill Conservation Area, that would not be outweighed by substantive public benefits, contrary to the aims and objectives of the National Planning Policy Framework, saved policy ENV10 of the Unitary Development Plan and policy CS15 of the Core Strategy and Urban Core Plan.



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Committee Report

Application No:	DC/19/00002/FUL
Case Officer	Joanne Munton
Date Application Valid	20 December 2018
Applicant	Broadleaf Construction Developments Ltd
Site:	Fistral Smailes Lane Rowlands Gill NE39 2LS
Ward:	Chopwell And Rowlands Gill
Proposal:	Erection of two split level, three bedroom semi-detached houses (additional information received 16/02/19).
Recommendation:	REFUSE
Application Type	Full Application

1.0 The Application:

1.1 DESCRIPTION OF SITE

The application site lies to the south of Smailes Lane in Highfield, Rowlands Gill and comprises of the garden area to the side of an existing bungalow. There is a significant drop in land levels by approximately 11m between the northern boundary of the application site at Smailes Lane and the southern boundary. To the east of the site is an area of scrubland and to the south is an undeveloped housing plot.

1.2 Surrounding properties are a mix of various house types although all residential properties on the south of Smailes Lane at this location are bungalows.

1.3 DESCRIPTION OF APPLICATION

This application is a resubmission of the scheme DC/17/00623/FUL, which was refused on highway safety grounds. This revised application also seeks planning permission for the erection of a pair of semi-detached dwellings. The dwellings would be three bedroom family homes and would be split over three floors. In terms of the external materials, the dwellings would be finished in red brick and the roof would be tiled with concrete roof tiles.

1.4 The vehicular and pedestrian access into the site would be gained from Smailes Lane between the junctions with Cowell Grove and The Green opposite, and there would be a large front courtyard with four parking spaces.

1.5 The changes in the proposal and immediate area in this revised application are:

- The speed restriction at this part of Smailes Lane has been reduced from 30mph to 20mph;

- The access point for the proposed development would be located further east than the previously refused scheme, so it would be more central on the northern boundary;
- The layout of landscaping and parking at the front of the site have been amended to provide more landscaping to the front of the dwellings and parking areas to the east and west;
- The proposed doors on the side elevations on the previous scheme have been replaced with proposed high level windows.

1.6 RELEVANT PLANNING HISTORY

DC/17/00623/FUL - Erection of two split level x three bedroom, semi-detached dwellings with gables, balconies and dormer windows on south elevations (as amended 30.01.2018) - Refused 14.02.2018

DC/10/01099/FUL - Erection of split level two-storey dwellinghouse (use class C3) with associated parking and landscaping in garden area at side of existing dwellinghouse (resubmission) (amended 17/11/10, 31/12/10 and 09/02/12). - Granted - 30.03.2012. This permission has now lapsed.

DC/09/01786/FUL - Erection of split level two-storey dwellinghouse (use class C3) with associated parking and landscaping in garden area at side of existing dwellinghouse. - Withdrawn - 09.04.2010

1471/89 - Erection of a detached bungalow (use class C3) (amended plan dated 9/1/90) - Granted - 05.02.1990

2.0 Consultation Responses:

Tyne And Wear Archaeology Officer	No objection
Northumbrian Water	Information provided

3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015.

3.2 Councillor Dave Bradford has objected to the application in relation to road safety.

3.3 Additionally, five objections have been received from residents, raising the following concerns:

- Despite the reduction in speed limit and installation of traffic calming measures, traffic exceeds 20mph, there is a busy shop opposite, cars park on the road and the limited visibility would lead to unsafe access and egress to and from the site;

- Overdevelopment of the site;
- Removal of hedgerow would reduce bird habitat;
- The site is made up ground and the surrounding land is mainly sand, and the proposal would damage surrounding properties;
- Neighbours not informed of application.

4.0 Policies:

NPPG National Planning Practice Guidance

NPPF National Planning Policy Framework

H4 Windfall and Small Housing Sites

H5 Housing Choice

DC1P Contamination, derelict land, stability

DC2 Residential Amenity

ENV3 The Built Environment - Character/Design

ENV54 Dev on Land Affected by Contamination

CS10 Delivering New Homes

CS11 Providing a range and choice of housing

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

5.0 Assessment of the Proposal:

5.1 The key considerations to be taken into account when assessing this planning application are: the principle of residential development on the site, highway safety, residential amenity, visual amenity, and ground conditions.

5.2 PRINCIPLE OF RESIDENTIAL DEVELOPMENT
Paragraph 11 of the NPPF states that:

'Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

(c) approving development proposals that accord with an up-to-date development plan without delay; or

(d) 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 proposed⁴; 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.'

5.3 Policy CS10 of the CSUCP states that 11,000 new homes (excluding purpose built student accommodation) will be built in Gateshead over the period April 2010 to March 2030.

5.4 The site would be considered as a housing windfall site under policy H4 of the UDP. Given the choice of nearby local amenities and that the site is not in an isolated location, it is considered that the location of the proposal is sustainable. The additional requirements of policy H4 are addressed later in the report.

5.5 Saved policy H5 of the UDP requires a range of housing choice and policy CS11(1) of the CSUCP requires that a range and choice of housing is provided. The proposal is for two dwelling with three bedrooms each, so this policy requirement would be satisfied.

5.6 Policy CS11(4) of the CSUCP requires that new residential development provides "adequate space inside and outside of the home to meet the needs of residents." It is considered that the proposal would provide appropriate space internally and externally.

5.7 It is considered that the proposal would comply with saved policies H4 and H5 of the UDP, policies CS10 and CS11 of the CSUCP and the NPPF.

5.8 HIGHWAY SAFETY AND PARKING
Paragraph 109 of the NPPF states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

5.9 Objections from residents and Councillor Bradford raise the issue of highway safety and objectors have commented that there is a busy shop opposite the site, cars park on the road and the limited visibility would lead to unsafe access and egress to and from the site. Officers have reviewed access arrangements following the introduction of traffic calming measures and associated reduction in speed limit, which has seen a reduction in vehicle speeds. However, it is considered that the proposed egress from and access into the development

from Smailes Lane would pose a risk to vehicles travelling past in both directions and that the access is situated on an unsafe bend on a busy road and therefore would be a hazard.

- 5.10 Officers consider that the proposed location of the access on the bend in the road presents visibility issues. As such, actual traffic speeds were needed to determine the required visibility splay from the new access and the required stopping distance for vehicles travelling along Smailes Lane.
- 5.11 The applicant has submitted a speed survey (the measured 85th percentile speeds recorded as 20.4mph and 23.6mph for vehicles traveling eastbound and westbound respectively) and a visibility splay marked on a plan based on their interpretation of the data. However, officers consider that the proposed splay falls short of the requirement based on the submitted survey data. Additionally, achieving the visibility splay to the left is dependent on the relocation of an electric pole, the removal and rebuilding of a boundary wall at a neighbouring property not within the application site and the retention/maintenance of that arrangement, which would be outside of the control of planning. To the right, the splay relies on the maintenance of vegetation that is not within the adopted highway or the application site, which again would be outside of the control of planning.
- 5.12 Land within the visibility envelope is outside of the applicant's ownership/control and it is considered that conditions requiring implementation of works to create the necessary visibility splay, and to maintain it for the lifetime of the development, would not be reasonable or enforceable. Therefore, officers are not satisfied that the required visibility splay could be reasonably safeguarded to be free from any obstructions in perpetuity.
- 5.13 As such, it is considered that the proposal would give rise to an unacceptable impact on highway safety and would not comply with the aims and requirements of policy CS13 of the CSUCP or the NPPF.
- 5.14 **RESIDENTIAL AMENITY**
Local policies CS14 of the Core Strategy and DC2 of the UDP require that development does not have any negative impacts on nearby residents and ensures a high quality of design and amenity for existing and future residents.
- 5.15 The application site is approximately 5.5m higher than the land level of the adjacent plot to the south - 1 Red Kite Way. Planning permission was granted for the erection of a dwelling at 1 Red Kite Way in September 2010. Whilst the construction of the dwelling has not been commenced, the permission was implemented through discharging conditions, conducting groundworks and laying foundations therefore the 2010 approval is extant.
- 5.16 It is considered that the proposed houses would not have an unacceptable impact on the future occupants of 1 Red Kite Way. 1 Red Kite Way has been designed with a fully glazed wall looking south, and on the northern elevation, which faces the application site, there would be 2 clear glazed windows serving bedrooms. These windows would be small, only 70cm in width and would not

directly face onto the rear elevations of the proposed development, therefore it is considered that any overlooking from the proposed houses would not have a material impact on the living conditions of the future occupiers of 1 Red Kite Way. Further, there would be a separation distance of over 30m between the rear elevation of the proposed houses and 1 Red Kite Way preventing both the perception of, and actual level of overlooking.

- 5.17 Officers do not consider that the proposed houses would cause harm to the living conditions of the occupiers of 2 Red Kite Way which is complete and occupied, as there would be a 35m separation distance and the development would be at an oblique angle.
- 5.18 The application site is within the garden of 'Fistral'. The side wall of the proposed development would be located approximately 14m from this bungalow. The proposed properties are likely to have a slight overshadowing effect on the side elevation of 'Fistral' however as there are no primary windows in this elevation the development would not have a material impact on the occupiers of the bungalow. With regard to overlooking, the rear elevation of the proposed dwellings would be set back by over 5m from 'Fistral'. It is considered this staggered building line would ensure the current occupiers of 'Fistral' would not suffer undue loss of privacy on account of the development, particularly, the level of privacy the occupiers currently enjoy in the rear garden.
- 5.19 Overall, it is officers' opinion that the proposed development would be acceptable in terms of its impact on residential amenity as the proposal would not cause an unacceptable loss of privacy nor would it create an unacceptable overshadowing or overbearing impact on the neighbouring properties.
- 5.20 Turning to the living conditions of the future occupiers of the proposed dwellings, the internal floor area of the properties would be 112sqm. The internal living space the dwellings would provide would be adequate for a family home with 3 bedrooms. It is also considered that the level of outdoor amenity space would ensure the living conditions for the future occupants is acceptable.
- 5.21 In light of the above it is considered the proposed scheme would comply with the aims and requirements of saved policy DC2 of the UDP and policy CS14 of the CSUCP.
- 5.22 VISUAL AMENITY
It is considered that the proposed dwellings would integrate well within the established street scene. The scale and massing of the properties would be comparable to the surrounding properties when seen from Smailes Lane on the northern boundary of the site. The proposal would respect the established character of the area and positively respond to the site's topography.
- 5.23 As the site can accommodate the new dwellings whilst providing a sufficient internal floor area and an acceptable amount of outdoor amenity space, it is considered that the proposal would not appear out of character or overdevelopment.

- 5.24 In terms of external materials, the dwellings would be finished in red brick and hanging tiles and it is proposed that the roof be tiled with concrete large format flat tiles. If the application was recommended to be granted, conditions could be imposed requiring final details of external materials to be submitted to the LPA for consideration, and implementation of the approved scheme, to ensure the materials are appropriate for the area to ensure the development integrates within the street scene.
- 5.25 The proposal would result in the loss of hedge along the southern boundary of Smailes Lane, which makes a positive contribution to the area. However, it is considered that the removal of the hedge to facilitate the access and to create an adequate visibility for drivers would not cause significant harm to the character or appearance of the area. If the application was to be granted, conditions should be imposed requiring final details of replacement boundary treatment to be submitted to the LPA for consideration, and implementation of the approved scheme, to ensure that the replacement is appropriate and helps mitigate the loss of the existing hedge.
- 5.26 It is officers' opinion that the proposed development would respond positively to the site and would integrate well within the existing street scene. It is therefore considered that the proposal complies with the aims and requirements of saved policy ENV3 of the UDP and policy CS15 of the CSUCP.
- 5.27 **GROUND CONDITIONS**
The application site has not previously been developed and as such, the risk of contamination in made ground affecting the development is considered to be low. However, given the proposed sensitive end use and the ground works that would be required, if the application was recommended to be granted, conditions could be imposed requiring, in the event of undesirable material discovered during ground works, a risk assessment with relevant remediation to be submitted to the LPA for consideration, and implementation of the approved scheme.
- 5.28 The proposal would comply with the aims and requirements of saved policies DC1 and ENV54 of the UDP and policy CS14 of the CSUCP.
- 5.29 **COMMUNITY INFRASTRUCTURE LEVY**
On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is CIL chargeable development as it is housing related. The development is located within Charging Zone C, with a levy of £0 per square metre for this type of development. Therefore, this proposal would not be charged.
- 5.30 **OTHER MATTERS**
As part of the formal planning application, residents were notified through the neighbour notification process and a site notice was posted on the junction of Smailes Lane and Cowell Grove. The Council has therefore satisfied its statutory duty to advertise the planning application.

- 5.31 An objection also states that the work associated with the development would cause damage to the surrounding properties. Whilst it is understandable residents will wish to protect their property from damage, this is not a material consideration in the determination of planning applications.

6.0 CONCLUSION

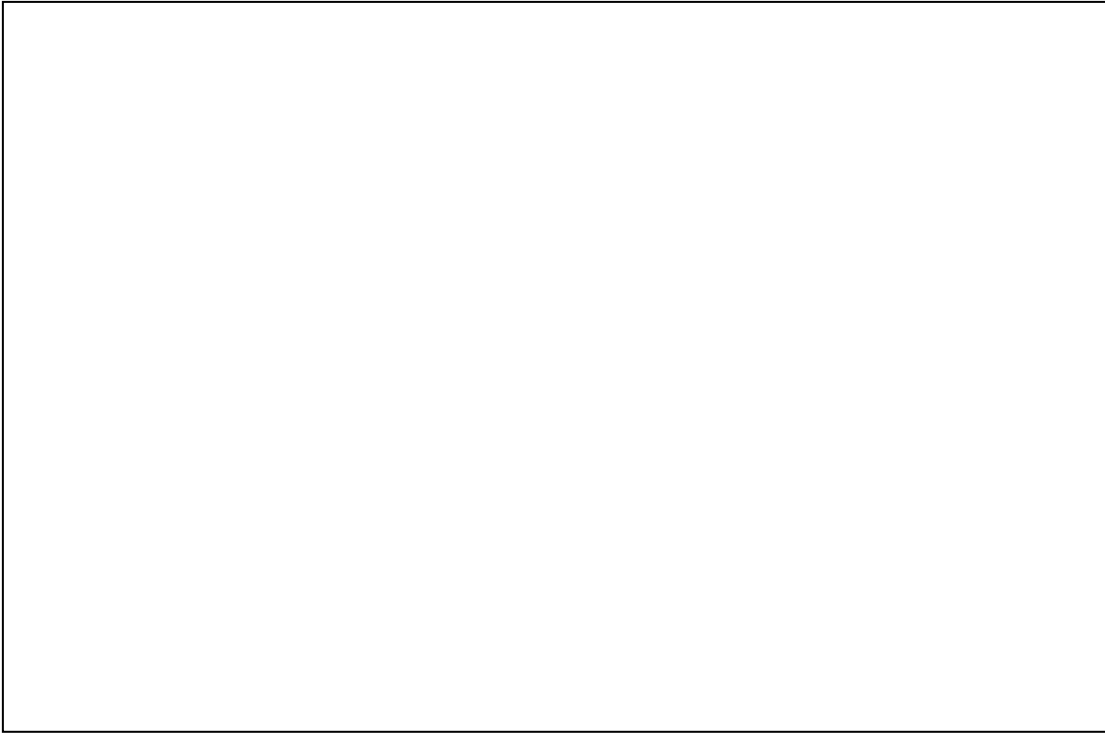
- 6.1 Taking all the material planning considerations into account, including the objections raised, the proposal would be acceptable in principle and in terms of visual amenity, residential amenity, and ground conditions. However, based on actual traffic speed data, officers are not satisfied that the required visibility splay could be reasonably safeguarded to be free from any obstructions in perpetuity. It is considered that the proposal would give rise to an unacceptable impact on highway safety and would not comply with the aims and requirements of policy CS13 of the CSUCP or the NPPF it is recommended that planning permission is refused

7.0 Recommendation:

That permission be REFUSED for the following reason(s) and that the Service Director of Development, Transport and Public Protection be authorised to vary and amend the refusal reason as necessary:

1

The proposal would pose a risk to road users as it would not provide an adequate visibility splay that could be reasonably safeguarded to be free from any obstructions for the lifetime of the development. Therefore, the proposal would have an unacceptable impact on highway safety and would conflict with policy CS13 of the Core Strategy and Urban Core Plan or the National Planning Policy Framework.



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UPDATE

**REPORT OF THE
SERVICE DIRECTOR, DEVELOPMENT TRANSPORT AND PUBLIC
PROTECTION**

**TO THE PLANNING AND DEVELOPMENT COMMITTEE ON
3 April 2019**

Please note this document should be read in conjunction with the main report of the
Service Director, Development Transport and Public Protection

MINOR UPDATE

Application No:	DC/19/00002/FUL
Site:	Fistral Smailes Lane Rowlands Gill NE39 2LS
Proposal:	Erection of two split level, three bedroom semi-detached houses (additional information received 16/02/19 and 29/03/19).
Ward:	Chopwell And Rowlands Gill
Recommendation:	Refuse Permission
Application Type	Full Application

Reason for Minor Update

Application has been withdrawn

The applicant has confirmed they wish to withdraw the current planning application with a view to discuss highway safety concerns further with officers and to submit a revised scheme in a new planning application.

SEE MAIN AGENDA FOR OFFICERS REPORT.

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Committee Report

Application No:	DC/19/00037/HHA
Case Officer	Josh Woollard
Date Application Valid	24 January 2019
Applicant	Mr Leslie Oxberry
Site:	7 Kays Cottages Gateshead NE10 9ST
Ward:	Windy Nook And Whitehills
Proposal:	Installation of 2 antennae on chimney stack and 1 antennae on side of house
Recommendation:	GRANT
Application Type	Householder Application

1.0 The Application:

1.1 DESCRIPTION OF THE SITE

The site is located within High Felling. The property is one of sixteen dwellings located in a block of sheltered housing known as Kay's Cottages. The dwellings are built in a square with a communal garden in the centre. Number 7 is located in the south-east corner of the block and is bounded on all sides by other residential properties.

1.2 Access into the communal garden is provided by a small vehicular access road to the north-east.

1.3 The properties are constructed from red brick with a red slate roof.

1.4 DESCRIPTION OF THE APPLICATION

The application seeks planning permission for the installation of 3 no. antennae on the dwellinghouse, 7 Kay's Cottages.

1.5 One antenna, the Chameleon V1 Antenna, would be 2m in length, mounted onto a 3m long aluminium pole which would be secured to the rear elevation of the dwelling by 2 stand-off brackets. The antenna would project 2m above the eaves of the dwelling.

1.6 Two further antennae are proposed to be mounted on 50cm long aluminium poles, attached to the chimney stack by 2 lashing kits with antenna brackets. The X2 UHF CHF Colinear Antenna would be 1m in length and would project 60cm above the chimney stack whilst the ADS-B Colinear Antenna would be 70cm in length also projecting 60cm above the chimney stack.

2.0 Consultation Responses:

None received.

3.0 Representations:

- 3.1 Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015.
- 3.2 One petition has been received with 24 signatories. The petition states 'we the undersigned wish to object very strongly to the proposed planning application (No. DC/19/00037/HHA'.
- 3.3 In addition, Councillor Tom Graham has objected to the application and has requested to speak at Planning Committee. His grounds for objection are the antenna are out of character with the area and interfere with resident's television reception.
- 3.4 One representation has been received raising concerns regarding potential illegal broadcasting. This is not relevant and has not been considered further in the assessment of this planning application.

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

DC2 Residential Amenity

ENV3 The Built Environment - Character/Design

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

HAESPD Householder Alterations- Extensions SPD

5.0 Assessment of the Proposal:

- 5.1 The key issues to be considered in the determination of this planning application are considered to be visual amenity and residential amenity.
- 5.2 VISUAL AMENITY
When considering planning applications for telecommunications, paragraph 113 of the NPPF states that 'where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.
- 5.3 Saved policy ENV3 of the UDP requires the design, density and scale of new development to make a positive contribution to the established character and

identity of its locality. All development will be expected to recognise established design principles with regard to such factors as scale, massing, height, materials, density, legibility, views and vistas. The relationship between buildings and the spaces around and between them must be handled in a sensitive manner.

- 5.4 All three of the proposed antennae can be described as a slender pole with limited equipment attached to the top. It is not considered that they appear overly bulky or prominent.
- 5.5 With regard to their siting and the impact on views and vistas, whilst being taller and longer than most domestic television aerials, the longest of the three antennae (2m in length) will be attached to the rear elevation of the dwellinghouse just below the eaves. The rear elevation faces inwards onto a communal garden. The roof of the dwellinghouse will therefore provide a significant level of screening for those standing outside of the housing block. Moving to the two antennae which will be attached to the chimney stack, there is already an existing aerial on the chimney stack. Given the existing aerial on the chimney stack and the existing satellite dish installed on the south-east elevation facing towards Garvey Villas, it is considered that the proposal would not be out of character. It is also considered that there would not be an over-proliferation of antennae on the chimney as a result of the proposal.
- 5.6 Given the above, the design and siting of the antennae is sympathetic to the surrounding character of the area in compliance with paragraph 113 of the NPPF. It is considered that the proposal would be acceptable and compliant with policy CS15 of the CSUCP and Saved policy ENV3 of the UDP.
- 5.7 RESIDENTIAL AMENITY
Policy CS14 of the CSUCP seeks to ensure the wellbeing and health of communities will be maintained and improved by:
1. Requiring development to contribute to an age friendly, healthy and equitable living environment through:
 - i) Creating an inclusive built and natural environment
 - ii) Promoting and facilitating active and healthy lifestyles
 - iii) Preventing negative impacts on residential amenity and wider public safety from noise, ground stability, ground and water contamination, vibration and air quality
- 5.8 Saved policy DC2 of the UDP states that planning permission will be granted for new development where it:
- a) Does not have an adverse impact on amenity or character of an area, and does not cause undue disturbance to nearby residents or conflict with other adjoining uses;
 - b) Safeguards the enjoyment of light and privacy for existing residential properties;

- c) Ensures a high quality of design and amenity for existing and future residents
- 5.9 As previously outlined in the preceding section, all three of the antennae are slender poles which lack bulky additions. Given their shape, it is not considered that they would have an unacceptable impact on the residential amenity of neighbouring properties. The proposal is considered to be compliant with the NPPF, policy CS14 of the CSUCP, and Saved policy DC2 of the UDP.
- 5.10 **OTHER MATTERS**
Representations received which object to the proposal raise the issue of potential interference with television signals. The applicant has submitted further information providing measures to be taken to avoid potential interference.
- 5.11 Paragraph 112 of the NPPF states that planning policies and decisions should support the expansion of electronic communication networks, including next generation mobile technology (such as 5g) and full fibre broadband connections.
- 5.12 In assessing applications for telecommunications, paragraph 116 requires local planning authorities to determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.
- 5.13 When dealing with the matter of interference within planning applications/appeals, the Planning Inspectorate has previously found that ‘the potential noise from the equipment cabinets, the effect on TV signals, potential reduction in property values and a loss of view all fall outside of the matters to which I can have regard in reaching my decision’ (APP/D0840/W/17/3183876).
- 5.14 A further Inspector found that ‘reference has been made to the potential nuisance and electrical interference that could arise from the use of antennas... Having regard to the licensing requirements to operate an amateur radio system, the potential risks could be addressed by other legislation, and I am not convinced that the effect on living conditions would warrant dismissal of the appeal’ (APP/W3520/D/18/3197199).
- 5.15 Given the above, Council officers are satisfied that interference is covered by other legislation (The Wireless Telegraphy Act 2006), and the licensing of amateur radio and the enforcement against undue interference is regulated by other bodies (OFCOM).

6.0 CONCLUSION

6.1 Taking into account the above assessment, representations received, and all relevant material planning considerations, it is considered that the proposed development would be compliant with the relevant national and local planning policies.

7.0 Recommendation:

That permission be GRANTED subject to the following condition(s) and that the Service Director of Development, Transport and Public Protection be authorised to add, vary and amend the planning conditions as necessary:

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -

Location Plan

Antenna Location - Back of 7 Kays Cottages

Antenna Location on Chimney Stack

ADS-B Colinear Antenna

Chameleon V1 Antenna

X30 UHF VHF Colinear Antenna

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.



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Committee Report

Application No:	DC/19/00149/FUL
Case Officer	David Morton
Date Application Valid	22 February 2019
Applicant	Mr Alistair Sundin
Site:	25 Cornmoor Road Whickham Newcastle Upon Tyne NE16 4PU
Ward:	Dunston Hill And Whickham East
Proposal:	Erection of detached dwellinghouse.
Recommendation:	REFUSE
Application Type	Full Application

1.0 The Application:**1.1 DESCRIPTION OF THE SITE**

The site is located within the Whaggs Lane/Broom Lane Area of Special Character, as identified by saved UDP Policy ENV25. The site was typical of the original layout of plots in the area where properties have large elongated rear gardens with dense landscaping, albeit a large part of the curtilage has been annexed off through the introduction of a boundary treatment across the garden and adjacent to the existing driveway.

1.2 The site remains relatively well planted, however there is evidence of the recent removal of trees and planting, further the garage associated with the site has been removed.

1.3 There are residential properties located to the north (23 and 19b Cornmoor Road), to the south (27 and 27a Cornmoor Road) and also to the west (14a, 14, 16 and 18 Whaggs Lane).

1.4 DESCRIPTION OF THE APPLICATION

The application follows previously withdrawn application DC/18/01037/FUL (withdrawn January 2019); the application proposes the same development with no alterations.

1.5 The application seeks planning consent for the erection of a single detached dwellinghouse, the dwelling would have two levels of accommodation with one level being provided within the roofspace.

1.6 The dwelling would have a maximum width of 11.5 metres and a maximum depth of 21 metres. The proposed dwelling would have a maximum overall height of 5.7 metres. All windows proposed within the northern and southern elevations are proposed to be provided as rooflights, all ground floor rooms would be served by windows within the eastern and western elevations.

1.7 The following documents were submitted with the application;

- Coal Mining Risk Assessment
- Contaminated Land Preliminary Risk Assessment

1.8 PLANNING HISTORY

The relevant planning history associated with the application site is summarised as follows;

- DC/10/00995/FUL for a single two storey dwellinghouse in the rear garden of 25 Cornmoor Road was refused planning permission 01 December 2010 on the grounds that the proposal would result in backland development contrary to UDP policy ENV25 and the second ground was that the proposed development would result in significant harm to the visual amenity of the area and would have a detrimental impact on the area of special character and the amenities of neighbouring properties contrary to policy ENV3 of the UDP.
- DC/10/01349/FUL for a dormer bungalow in the rear garden of 25 Cornmoor Road was refused planning permission on 02 February 2011 on the grounds that the proposal would result in backland development contrary to UDP policy ENV25. The decision was appealed and the appeal was dismissed on 08 June 2011, the Planning Inspector stating *'... the proposed dwelling would create a continuous run of four backland properties. This would result in a concentration of this form of development in the immediate vicinity and would undermine the sense that backland housing is only a sporadic feature of the area'* and would thus be unacceptable when considered against Policy ENV25 and the Planning Policy Statement 1 (PPS1).
- DC/14/00167/FUL for the erection of a dormer bungalow in the rear garden of 25 Cornmoor Road was refused planning permission on 29 April 2014 on the grounds that the proposal would result in backland development contrary to UDP policy ENV25. An appeal to the Planning Inspectorate was lodged by the Applicant, the appeal was dismissed on 29 August 2014.
- DC/14/00484/CPL was an application for a certificate of lawfulness for 'The provision within the curtilage of the dwellinghouse of a building required for purposes incidental to the enjoyment of the dwellinghouse.' The application was refused on 10 June 2014 for the following reason;

"Following consideration of the evidence provided by the applicant, it is considered that on the information submitted it has not been demonstrated that the proposed detached building would benefit from a deemed planning permission by virtue of Article 3, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 as amended."
- DC/14/01096/CPL was an application for a certificate of lawfulness for 'The provision within the curtilage of the dwellinghouse of a building required for purposes incidental to the enjoyment of the dwellinghouse.' The application was refused on 14 November 2014 for the following reason;

"Following consideration of the evidence provided by the applicant, it is considered that on the information submitted it has not been demonstrated that the proposed detached building

would benefit from a deemed planning permission by virtue of Article 3, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 as amended."

The applicant subsequently appealed the refusal to the Planning Inspectorate; the appeal was allowed on 17 September 2015.

- DC/15/00969/FUL was a planning application for '*Proposed erection of a single-storey 3-bed bungalow (Use Class C3) to rear of existing property with shared access and erection of single garage for host property.*' The application was approved on 20 November 2015.
- DC/18/01037/FUL was an application for the erection of detached dwelling in rear garden of 25 Cornmoor Road. The application was withdrawn on 04 January 2019.
- DC/19/00008/HHA was an application for extension to 25 Cornmoor Road comprising of a loft conversion, two storey side extension and single storey rear extension. The application was approved on 06 March 2019.

2.0 Consultation Responses:

Coal Authority No objection subject to conditions.

3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015. A total of 11 letters of objection were received including one from a Ward Councillor (Councillor Peter Maughan), in addition to a single letter of representation. The objections are summarised below;

- The development would impact on the amenities of surrounding properties;
- The proposed development would lead to additional parking congestion and;
- It will not be possible to get heavy plant and machinery to the rear of the application site.
- The proposed development would lead to additional flood risk to neighbouring properties.
- The proposed development would have a determinantal impact on ecology and specifically badgers.
- The proposed development fails to comply with the requirements of Policy ENV25 of the UDP.

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

H4 Windfall and Small Housing Sites

H12 Housing Density

H13 Local Open Space in Housing Developments

H14 Neighbourhood Open Space-New Housing Dev

H15 Play Areas in Housing Developments

ENV3 The Built Environment - Character/Design

ENV25 Areas of Special Character

ENV54 Dev on Land Affected by Contamination

CFR20 Local Open Space

CFR28 Toddlers' Play Areas

CFR29 Juniors' Play Areas

CFR30 Teenagers' Recreation Areas

DC2 Residential Amenity

CS10 Delivering New Homes

CS11 Providing a range and choice of housing

CS14 Wellbeing and Health

CS15 Place Making

CS18 Green Infrastructure/Natural Environment

GPGSPD Gateshead Placemaking Guide SPG

MSGP Making Spaces for Growing Places

5.0 Assessment:

- 5.1 The key planning considerations are whether the development would comply with relevant national and local housing policies, the principle of the development in an Area of Special Character, the impact on the visual amenity of the site, the residential amenity of neighbouring properties, density, any impact on trees, any highway safety implications, open space and play provision, land conditions and any other issues arising.
- 5.2 PRINCIPLE OF THE DEVELOPMENT
- 5.3 Housing demand and policy

As the application site is not specifically allocated for housing in the UDP, proposals for housing would need to be considered in terms of windfall housing under policy H4 of the UDP. Policy H4 of the UDP gives a number of criteria that need to be assessed.

- 5.4 It is considered that the site meets the saved criteria set out in policy H4 in relation to its sustainable location within an established housing area, close to local services and public transport routes, and it would help to sustain the local community. As a result, the principle of developing this site for residential use is considered acceptable should all other material planning considerations be satisfied.
- 5.5 **Housing choice**
Policy CS11 of the Core Strategy and Urban Core Plan requires 60% of new private housing across the Plan area to be suitable for and attractive to families, defined as dwellings of three or more bedrooms. The application proposes the erection of a single family home and as such the development is considered appropriate in the context of the NPPF, saved policy H4 of the UDP and policies CS10 and CS11 of the CSUCP.
- 5.6 **Residential space standards**
Policy CS11(4) requires that new residential development provides "adequate space inside and outside of the home to meet the needs of residents". It is considered based upon the submitted information that the application meets the above requirements, providing an acceptable level of internal and external space for existing and proposed properties.
- 5.7 **AREA OF SPECIAL CHARACTER**
The application site is within the Broom Lane/Whaggs Lane Area of Special Character and therefore saved policy ENV25 of the UDP applies. This policy states that certain areas of the borough have '*...a distinctive built character deriving from their buildings and spaces, which are worthy of recognition.*' Specifically referring to the Broom Lane/Whaggs Lane area, the policy identifies low density housing, a dense coverage of mature trees and long, well established gardens as the key characteristics of the area.
- 5.8 The supporting text of this policy states that the detrimental development allowed in the 1980's and 1990's, namely small housing estates and single dwellings on infill and rear garden plots has had an adverse impact on the established character of the area and that 'The area's protection under this policy will control similar damaging development in the future.'
- 5.9 The current UDP was adopted in 2007. The previous UDP was adopted in 1998 and had a policy relating specifically to the Broom Lane/Whaggs Lane area alone. This policy (E12) identified specific blocks within the area where single residential developments at the rear of properties would be unacceptable but that 'elsewhere, they will be permitted at the rear of properties' but only if new dwellings were not 'visually intrusive' and that new access arrangements were linked to existing access into the site and that parking capacity and any trees were not detrimentally affected.

- 5.10 The two policies are considered to be fundamentally different. The 1998 policy focuses on the design of backland development as opposed to the principle, except within very specific parts of the Broom Lane/ Whaggs Lane area where it was clear such development was not acceptable. The current UDP policy adopted in 2007 focuses on the principle and states that backland development damages the character of the area and should be resisted.
- 5.11 Whilst eight backland developments have been granted permission within the Area of Special Character since 2007, all of these have been revised and resubmitted versions of schemes originally determined under the previous UDP (adopted in 1998) or have been significantly different from the one currently proposed. Where original schemes had been approved, the principle of development had been established as acceptable, under policy E12 of the 1998 UDP. Where schemes had been refused, the refusal reasons were not based on the principle of backland development, due to the more relaxed nature of the policy in the previous UDP policy (adopted in 1998) and were refused on design.
- 5.12 Where extant permissions existed which could be implemented and were approved prior to 2007 the Council took a pragmatic approach to resubmissions of schemes where it was considered these were an improvement on the extant permissions that could be implemented.
- 5.13 Schemes that were refused permission under the former Policy E12 (1998 UDP) were refused due to the design considerations of the scheme rather than the principle of developing in rear gardens and in those cases if resubmissions were made post adoption of the 2007 policy these would need to be considered against the current development plan in force which resists the principle of backland development in this area unless there are material considerations of significant weight to outweigh that policy (ENV25).
- 5.14 The three most recent approvals for a backland development within the area were at 35A Broom Lane (October 2008), 36A Cornmoor Road (August 2013) and 25 Cornmoor Road (November 2015). The application at 35A Broom Lane was not considered to be further detrimental to the character of the area due to an existing tandem arrangement of dwellings on that specific plot where one dwelling sat behind the other (albeit linked) and where the elongated garden was already subdivided and also where important mature trees and landscaping were being retained. In assessing the application at 36A Cornmoor Road significant weight was offered to the fall back position of a previously approved detached granny annex, it was concluded given the proposed dwelling was "... almost identical [to the annex] except for the ground floor window arrangement... that the effect of the proposed bungalow on the character and appearance of the area would not be different from that of the previously approved granny annex." The same view was taken in approving the development at 25 Cornmoor Road given the existence of a certificate of proposed lawful development which allowed the erection of a swimming pool building. In approving the application Officers concluded '*It is considered that the fallback position open to the application is of such material weight that the non-compliance with Policies ENV25 and ENV3 are outweighed in this instance.*'

- 5.15 It is therefore considered that a precedent has not been set for the approval of new schemes submitted since 2007 and although backland development has been allowed, the policy acknowledges this and aims to prevent further detriment to the character of the area.
- 5.16 There was a significant change in circumstance following the refusal of planning application DC/14/00167/FUL at 25 Cornmoor Road. Two separate applications seeking to obtain certificates of lawful development (DC/14/00484/CPL and DC/14/01096/CPL) were submitted. The first application (DC/14/00484/CPL) sought a certificate of lawfulness for the provision of a building required for purposes incidental to the enjoyment of the dwellinghouse, the application was refused and was not subsequently appealed.
- 5.17 The second application (DC/14/01096/CPL) again sought to obtain a certificate of lawful development for the erection of a building required for purposes incidental to the enjoyment of the dwellinghouse. More specifically the application proposed that the structure would be single storey in nature with a footprint of 20 metres by 10 metres, the building would have an eaves height of 2.4 metres and ridge height of 3.5 metres. The building would be located 4 metres and 4.2 metres from the common boundary with the properties to the north and south of the site respectively and 15.3 metres from the boundary with the boundary to the rear.
- 5.18 The proposed detached building would be made up of the following accommodation; a swimming pool, a plant/store, a shower/changing room and a hallway.
- 5.19 It must be noted that a Certificate of Lawfulness application is determined not on the basis of planning policies or material planning considerations, but in accordance with the specific factual matrix and in accordance with all relevant legal principles. Therefore, while it is considered that the erection of such a detached building would undoubtedly have a significant detrimental impact on the application site and the wider area in direct conflict with saved UDP Policy ENV25 this was not material in determining the application for the swimming pool structure.
- 5.20 Once granted, a certificate of lawfulness remains valid for the use or development described in it, on the land it describes, provided there is no subsequent material change in the circumstances. This is clearly set out in Section 192 of the Town and Country Planning Act 1990;
"The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness."
- 5.21 The existence of the above certificate of lawfulness was afforded significant weight in the granting of application DC/15/00969/FUL. However, in assessing all previous planning applications for housing development within the Broom

Lane/Whaggs Lane Area of Special Character, Policy ENV25 has been viewed as, and applications determined on the basis of it being a restrictive policy.

- 5.22 In considering the previous appeal (DC/10/01349/FUL) on the current application site the Planning Inspector concluded;
- "The proposal does not strictly conflict with the wording of policy ENV25 which seeks to encourage development that maintains and/or enhances Areas of Special Character. However, when read in conjunction with the supporting justification, it is clear that the intention of the policy is to control development which would damage the character and appearance of the Broom Lane/Whaggs Lane area"*
- 5.23 The Gateshead Placemaking Supplementary Planning Document which has been prepared as an accompaniment to the Local Plan makes specific reference to Broom Lane within Appendix B - Local Character Guidance - 'Place Portraits'. It is stated within the Design Guidance for Broom Lane that the aims of the LPA should be to;
- "Resist backland development within the gardens of existing properties to protect the character and setting of existing properties."*
- 5.24 Further to the above, Policy MSGP24 of the emerging Making Spaces for Growing Spaces DPD (MSGP) continues to identify Broom Lane/Whaggs Lane as an area of special character. The inclusion shows a clear direction of travel indicating a clear intention to continue to protect the Broom Lane/Whaggs Lane Area of Special Character while also confirming that Saved UDP Policy ENV25 remains in compliance with the NPPF.
- 5.25 It is considered that the proposal for the dwelling at the rear in a tandem arrangement would not accord with Policy ENV25 of the current development plan.
- 5.26 Following the grant of the Certificate of Lawfulness (as set out above) significant changes have been undertaken on site; a boundary treatment has been erected on site effectively separating the land on which the proposed dwellinghouse would stand from the existing dwellinghouse and its curtilage. In addition, it is understood that the existing dwellinghouse and the land on which the proposed dwellinghouse would stand within different ownership (based upon the ownership certificates submitted in relation to applications DC/19/00008/HHA and DC/19/00149/FUL). Based on these facts Officers are of the view that the area of land on which the proposed dwelling would be constructed is no longer within the curtilage of 25 Cornmoor Road. The land is now physically separate and distinct from the land on which the existing dwellinghouse stands, the two areas of land are separately enclosed and appear to be in separate legal ownership. On this basis, the swimming pool structure would no longer benefit from a deemed planning permission by virtue of Article 3, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) as amended.
- 5.27 Further, the previously approved planning application (DC/15/00969/FUL) lapsed in November 2018 with no lawful commencement taking place.

- 5.28 It is, therefore, considered that no fallback position exist on the site. It is accepted by officers that the subdivision of the land could be reversed and as such a fallback could be re-established. The Case Law on the issue of fallbacks (R (on the application of Zurich Assurance Ltd) v North Lincolnshire Council [2012] EWHC 3708 (Admin)) is clear.
- 5.29 The judgement states;
"The prospect of the fallback position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Where the possibility of the fallback position happening is "very slight indeed", or merely "an outside chance", that is sufficient to make the position a material consideration (see Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government [2009] EWCA Civ 333 at [20]-[21] per Sullivan LJ). Weight is, then, a matter for the planning committee."
- 5.30 Therefore, even were a fallback position to be established, as set out above the weight attached to such a fallback is a matter for the decision maker.
- 5.31 In this instance, it is considered that such a fallback position should be attributed little weight, given it is considered that there is no genuine prospect of the (swimming pool building) development coming forward. This view is taken given the site has been subdivided and the dwelling and its curtilage are within separate ownership.
- 5.32 Section 38(6) of the Planning & Compulsory Purchase Act 2004 specifies that:
'If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the Plan unless material considerations indicate otherwise.'
- 5.33 As set out above, it is considered that the proposed development would conflict directly with the requirements of saved UDP Policy ENV25, The Gateshead Placemaking Supplementary Planning Document and Policy MSGP24 of the emerging MSGP. In the absence of a fallback position no material considerations exist which would outweigh the presumption to refuse the application based upon its impact on the Broom Lane/Whaggs Lane Area of Special Character.
- 5.34 IMPACT ON THE STREETSCENE AND APPEARANCE OF THE AREA
The NPPF at Paragraph 124 makes it clear that *'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.'* It goes on to make clear that *'good design is a key aspect of sustainable development...'*
- 5.35 Further, Paragraph 130 states that;
"Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords

with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development."

- 5.36 The CSUCP reflects the general aims of the NPPF encouraging economic growth and identifying the importance of quality of place. Policy CS15 refers specifically to Place Making and the need for new development to demonstrate high and consistent design standards in line with the Council's design guidance contained in the Gateshead Placemaking SPD.
- 5.37 The proposed dwelling is considered to be of a not dissimilar (in terms of its footprint) to the adjacent properties to the east and south of the application site. The proposed dwelling would create a continuous run of four backland properties. It is considered that the development would undermine the sense that backland housing is only a sporadic feature within the area, while also being prominent and causing a visual intrusion when seen from surrounding properties. It is considered that the proposal would not maintain the essential spacious distinctiveness of the Area of Special Character, contrary to the objectives of the NPPF, saved policy ENV3 of the Council's UDP and policy CS15 of the CSUCP.
- 5.38 It is considered that the proposed development would conflict directly with the requirements of the NPPF saved UDP Policy ENV3 and policy CS15 of the CSUCP.
- 5.39 RESIDENTIAL AMENITY
It is considered that the proposed development would not lead to any significant impact on residential amenity. The proposed dwelling would be located an acceptable distance from all neighbouring properties. The separation distance between the proposed dwelling and the existing bungalow at 19b is 5.5 metres and the separation distance between the proposed dwelling and the two storey dwelling at 27a Cornmoor Road is 3.5 metres. The property in situ at 27a Cornmoor Road does have windows located in the side elevation, however it is considered that impact would be minimal based upon the scale of the dwelling and the separation distance afforded. The distance to the rear elevation of 16 Whaggs Lane is in excess of 75 metres, due to the length of the property's garden. The front elevation of the proposed dwelling is 48 metres from the rear elevation of 25 Cornmoor Road.
- 5.40 It is considered these separation distances, combined with the orientation of the dwelling ensure that no significant impact would be suffered by neighbouring occupiers.
- 5.41 Further, it is considered that the proposed garage, access and landscaping would have a minimal impact on amenity owing to the minor nature of the operations.
- 5.42 It is not considered that the proposal would have an adverse impact on the amenity of nearby residents and as a result it would comply with the aims and objectives of the NPPF, saved policy DC2 of the Council's UDP and policy CS14 of the CSUCP.

5.43 HIGHWAY SAFETY

The existing access to the side of 25 Cornmoor Road at its narrowest is 2.44m and at the widest point is 2.85m wide. The drive is bounded by the gable end of the existing dwelling and cannot be widened at this point. The access is not wide enough to accommodate heavy plant and a concern has been raised by neighbours in respect of construction traffic not being able to access the development site with the resultant storage of materials on the footpath on Cornmoor Road. An area for storage of materials could be secured by a planning condition, if the application was approved and if material was stored on the highway this matter could be dealt with through other legislation.

5.44 However, it is proposed to widen the drive to 3.7 metres beyond the existing dwelling. This will include demolition of the existing single storey garage, provision of a replacement single garage and a turning head. This access is also to be used to access the new proposed dwelling.

5.45 The car parking for the existing dwelling and the proposed development is acceptable and the garages can also accommodate the cycle parking requirements.

5.46 Regarding refuse collection, as the new dwelling would be 79m from the public highway, a storage collection area would be necessary. This could be secured by a planning condition.

5.47 ECOLOGY

In considering the above application in regard to ecological impact regard is offered to the NPPF, Policy CS18 of the CSUCP and saved UDP Policies DC1, ENV46 and ENV47.

5.48 Paragraph 118 of the NPPF sets out the ecology 'mitigation hierarchy' as follows;

- Avoidance - can significant harm to wildlife species and habitats be avoided for example through locating on an alternative site with less harmful impacts?
- Mitigation - where significant harm cannot be wholly or partially avoided, can it be minimised by design or by the use of effective mitigation measures that can be secured by, for example, conditions or planning obligations?
- Compensation - where, despite whatever mitigation would be effective, there would still be significant residual harm, as a last resort, can this be properly compensated for by measures to provide for an equivalent value of biodiversity?

5.49 In the absence of an ecological survey, assessment and mitigation report, it is not possible to make a full assessment as to the likely impacts of the development on biodiversity (having specific regard to nationally protected species).

5.50 On the basis of the above, it is considered that it cannot be concluded that the proposed development complies with the National Planning Policy Framework, saved policies DC1, ENV46 and ENV47 of the Council's Unitary Development

Plan and Policy CS18 of the Council's Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

5.51 LAND CONDITIONS

5.52 Contaminated Land

As the applicant proposes a sensitive end use on the site, a Preliminary Risk Assessment (PRA) was submitted with the application. The historical use of the land was for agricultural purposes prior to residential development on the site and that the site is not within an area identified as potentially contaminated, the Local Planning Authority is satisfied that no further investigation would be required prior to the commencement of development. It is not considered necessary to condition further investigative works beyond those that would be required under the Building Control regime. The development complies with policy CS15 of the CSUCP and policy ENV54 of the UDP.

5.53 Land Stability

The application site falls within the defined Development High Risk Area and therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. As a result, the applicant has submitted a Coal Mining Risk Assessment, which has been assessed by the Coal Authority.

5.54 The Coal Authority is satisfied with the broad conclusions of the report, informed by the site investigation works; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, The Coal Authority does not object to the proposed application, however were members minded to grant planning permission it is recommended that a condition be attached that requires site investigation works to be undertaken.

5.55 The proposed development is therefore considered to be in accordance with the NPPF and policy DC1 of the UDP.

5.56 PLAY AND OPEN SPACE

The NPPG (Paragraph: 031 Reference ID: 23b-031-20160519) is clear that tariff style contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm.

5.57 While it cannot be concluded that the proposed development would comply with saved Policies CFR20, CFR28, CFR29 and CFR30 of the UDP it is considered that it is not possible to require any contribution for either play or open space provision in this case, based on the above assessment.

5.58 COMMUNITY INFRASTRUCTURE LEVY (CIL)

On 1st January 2017 Gateshead Council became a CIL Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is CIL chargeable development as it is housing

related. The development is located within a Charging Zone with a levy of £30 per square metre for this type of development.

5.59 OTHER MATTERS

Objections also raised the issue of Flood Risk and drainage. The site lies within flood zone 1, an area at least risk of flooding. The surface water is proposed to be disposed of to the mains sewer. The development would increase the area of hard surfacing within the site, however it is considered that this would not lead to a significant increase in surface water and the disposal of water into the mains sewer is considered appropriate.

5.60 It is considered that all other material planning considerations have been addressed within the main body of the report.

6.0 CONCLUSION

6.1 Taking all the relevant issues into account, it is recommended that planning permission be refused as it would have a detrimental impact on the Broom Lane/Whaggs Lane Area of Special Character. In addition, insufficient information has been submitted to assess the impact of the proposal in terms of ecological impact.

6.2 The applicant has failed to submit any supporting information that would outweigh officers' concerns. It is considered that the proposed development does not accord with national and local planning policies and as a result it is recommended that planning permission be refused. The recommendation is made taking into account all material planning considerations including the information submitted by the applicant and third parties.

7.0 Recommendation:

That permission be REFUSED for the following reason(s) and that the Service Director of Development, Transport and Public Protection be authorised to vary and amend the refusal reason as necessary:

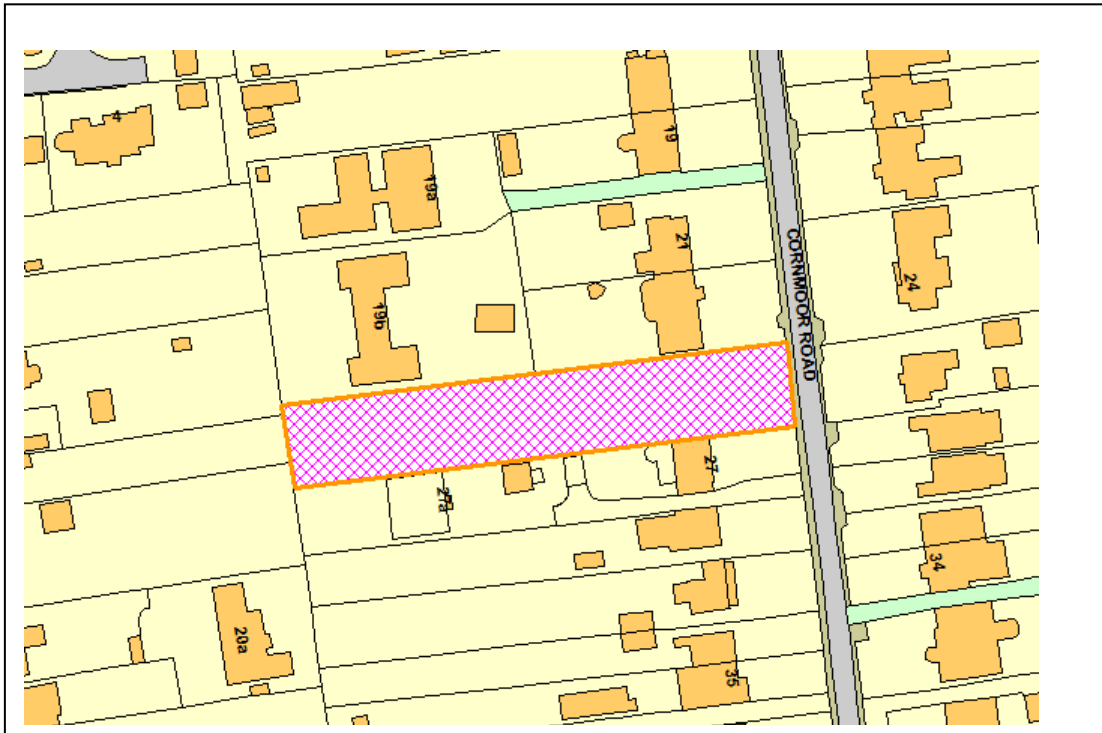
1

The development would result in back land development and the subdivision of the existing plot. This would have a detrimental impact on the area of special character, the development would therefore fail to comply with aims and objectives of the NPPF, saved Policies ENV3 and ENV25 of the Unitary Development Plan, the Gateshead Placemaking SPD and Policy MSGP24 of the emerging Making Spaces for Growing Spaces DPD.

2

Insufficient information in the form of an ecological survey, assessment and mitigation report has been submitted to enable the Council to consider whether the proposed development would have any unacceptable negative impact on nationally protected species, contrary to the National Planning Policy Framework, saved policies DC1, ENV46 and ENV47 of the Council's Unitary Development Plan and Policy CS18

of the Council's Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.



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UPDATE

**REPORT OF THE
SERVICE DIRECTOR, DEVELOPMENT TRANSPORT AND PUBLIC
PROTECTION**

**TO THE PLANNING AND DEVELOPMENT COMMITTEE ON
3 April 2019**

Please note this document should be read in conjunction with the main report of the
Service Director, Development Transport and Public Protection

MINOR UPDATE

Application No:	DC/19/00149/FUL
Site:	25 Cornmoor Road Whickham Newcastle Upon Tyne NE16 4PU
Proposal:	Erection of detached dwellinghouse.
Ward:	Dunston Hill And Whickham East
Recommendation:	Refuse Permission
Application Type	Full Application

Reason for Minor Update

Further representations made

A petition of 30 signatures has been received in objection to the application, the issues raised by the petition are summarised as follows;

- The proposal would result in a loss of amenity;
- The proposed development would result in deliveries along Cornmoor Road and materials being stored on the footpath;
- The proposed development is likely to lead to damage to the public footpath; and
- The proposed development would result in visual impact on the area of special character.

Deliveries and storage of materials on the highway (outwith the application site) cannot be controlled by the planning permission; these matters would need to be addressed via separate highway legislation.

It is considered that all other matters have been addressed within the main agenda report.

SEE MAIN AGENDA FOR OFFICERS REPORT.

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REPORT OF THE STRATEGIC DIRECTOR COMMUNITIES AND ENVIRONMENT

TO THE PLANNING AND DEVELOPMENT COMMITTEE ON 3 APRIL 2019:

PART TWO: THE FOLLOWING APPLICATIONS, DETERMINED SINCE THE LAST COMMITTEE MEETING IN ACCORDANCE WITH THE POWERS DELEGATED UNDER PART 3, SCHEDULE 2 (DELEGATIONS TO MANAGERS) OF THE COUNCIL CONSTITUTION, ARE LISTED FOR INFORMATION ONLY.

Application ref.	Nature of proposed development	Location of proposed development	Decision	Ward
DC/18/00569/COU	Change of use and extension of vacant stone building to create a vehicle workshop (inc MOT Bay) use class B2	Stone Farm, Penshaw View,	Refused;	Birtley
DC/18/00841/COU	Demolition of single storey toilet block and change of ground floor from public house (A4 use) to a three bedroom apartment and erection of a five bed roomed two-storey dwelling in south side of carpark (amended 22/02/19 and 26/02/19).	Quarrymans Arms, Tanfield Place,	Granted;	Lamesley
DC/18/00885/HHA	Porch to front (east) elevation	2 Albert Street, Victoria Garesfield,	Granted;	Chopwell And Rowlands Gill
DC/18/01009/FUL	Construction of gas powered standby generation plant (as amended 11.01.2019)	Land On North Side Of , Lead Road (Penny Hill),	Temporary permission granted;	Crawcrook And Greenside

DC/18/01028/FUL	Erection of three-storey two bedroom detached house including boundary walls (additional information received 05.02.2019)	Land Adjacent To 48 Collingdon Road, Rowlands Gill,	Granted;	Winlaton And High Spen
DC/18/01051/FUL	Construction of extension and covered area for deliveries.	Templeman Trading Ltd, Y473,	Granted;	Lobley Hill And Bensham
DC/18/01067/HHA	Demolish existing conservatory and detached garage, and proposed two storey rear extension	45 Spinneyside Gardens, Dunston Hill,	Refused;	Dunston Hill And Whickham East
DC/18/01153/HHA	Demolition of existing detached garage and rear conservatory. Two storey side and rear extension with internal alteration. Amendments to front entrance porch (amended plans received 15.01.19)	Park House , Strathmore Road,	Refused;	Chopwell And Rowlands Gill
DC/18/01196/HHA	Retrospective replacement of timber framed windows with uPVC Eco Slide Sash units in ground floor and 1st floor bay windows, and 1st floor window above front door. Proposed replacement of timber framed window with UPVC Eco Slide Sash units in second floor, front dormer	9 Saltwell View, Bensham,	Granted;	Saltwell
DC/18/01241/HHA	Remove section of wall to extend driveway and replace brick pillar	9 East View, Rowlands Gill,	Granted;	Chopwell And Rowlands Gill

DC/18/01247/COU	Change of use from Sui Generis to three A1 (retail) ground floor units and three C3 (dwellings) first floor apartments, including demolition of existing rear outhouse and store to accommodate three designated parking bays and communal bin store (description amended 21.01.2019) (additional information received 12.03.2019)	Former Ryton Hotel, Lane Head,	Granted;	Ryton Crookhill And Stella
DC/18/01249/FUL	Erection of two storey rear extension (amended 01/03/19).	Deneholme Dental Practice, Deneholme,	Granted;	Birtley
DC/18/01252/FUL	Variation of conditions 2 and 3 of DC/18/00561/FUL to allow changes to reflect alterations to shop facade, roof and internal layout and drawings.	Swallow Service Station , Old Durham Road,	Granted;	Bridges
DC/18/01275/FUL	Installation of new ground and wall mounted air conditioning condensing units, one stand alone gas generator, two 2.1m high galvanised steel mesh enclosures and a smoking shelter (description amended 31.01.2019).	Fifth Avenue Plaza, West Wing , Queensway,	Granted;	Lobley Hill And Bensham
DC/18/01276/FUL	Hay Barn with open front	Horsegate Farm , Horsegate Bank,	Granted;	Chopwell And Rowlands Gill

DC/18/01282/HHA	Two storey extension to side of house	2 Goodwood Avenue, Gateshead,	Refused;	Lobley Hill And Bensham
DC/18/01114/HHA	Single storey rear extension (as amended 17/12/19)	89 The Drive, Whickham,	Granted;	Dunston Hill And Whickham East
DC/18/01300/HHA	Proposed two storey extension to side and rear of property, including internal refurbishment and alterations. Demolition of existing garage and proposed new garage.	56 Whaggs Lane, Whickham,	Granted;	Dunston Hill And Whickham East
DC/19/00010/FUL	Proposed mixed residential development comprising of the partial demolition of the existing hotel with alterations and extensions forming one dwelling. Alterations and extensions to redundant outbuilding forming a dwelling and erection of one new build dwelling (amended and additional information received 01/03/19).	Ryton Park Country House Hotel, Holburn Lane,	Granted;	Ryton Crookhill And Stella

DC/19/00004/HHA	The removal and disposal of the existing concrete plinths, steps and ramp from front and rear doors of domestic residence followed by the supply and installation of 2No modular metal mesh access ramps to allow disabled access to and from property. New paving laid to widen existing pathway where specified.	95 Dorset Avenue, Barley Mow,	Granted;	Birtley
DC/19/00007/HHA	Demolish existing shed and construction of detached garden room	12 Dene Avenue, Rowlands Gill Central,	Granted;	Chopwell And Rowlands Gill
DC/19/00008/HHA	Loft conversion with dormers, demolition of existing side extension to be replaced with 1no. two storey extension and 1no. extension to rear of existing house.	25 Cornmoor Road, Whickham,	Granted;	Dunston Hill And Whickham East
DC/19/00014/ADV	Display of various illuminated and non illuminated replacement supermarket signs	Morrisons, Blaydon,	Temporary permission granted;	Blaydon
DC/19/00017/FUL	Infilling of existing undercroft	The Cedars Academy , Ivy Lane,	Granted;	Chowdene
DC/19/00023/HHA	Single storey rear extension to end of terrace house.	84 Church Road, Low Fell,	Granted;	Low Fell

DC/19/00025/ADV	Display of two internally illuminated fascia signs on front elevation reading, 'SMT'	Volvo Construction Equipment , Portobello Road,	Temporary permission granted;	Birtley
DC/19/00027/FUL	Erection of extension to the rear of 50, 52 and 54 Bewick Road following demolition of offshots within rear yards of no. 54 and 52 Bewick Road, as well as demolition of existing single storey classroom building within the yard of no. 50 Bewick Road.	Gateshead Jewish Teachers Training College, 50, 52 And 54 Bewick Road,	Granted;	Bridges
DC/19/00052/HHA	Single storey rear extension	11 Barry Street, Gateshead,	Granted;	Saltwell
DC/19/00038/HHA	The supply and installation of a modular metal mesh access ramp to allow disabled access to and from rear door of domestic residence. Works to include the removal and disposal of the existing brick storage area plus the disposal of the existing unsuitable modular ramping currently in place.	34 Falla Park Crescent, Felling Central,	Granted;	Felling
DC/19/00074/HHA	Demolition of existing brick outhouses and proposed 2 storey side extension	6 Whitburn Gardens, Gateshead,	Granted;	High Fell

DC/19/00046/FUL	Replacement of existing windows, alterations to window positions, removal of one chimney and replacement of existing roof (retrospective)(resubmission).	The Hadrian Border Brewery , Hills Street,	Granted;	Bridges
DC/19/00040/HHA	New porch and canopy to front of dwelling, block paved driveway and footpath crossing for vehicle	7 Athlone Place, Birtley,	Granted;	Birtley
DC/19/00081/HHA	Proposed rear single storey extension	6 Southfield Gardens, Whickham,	Granted;	Dunston Hill And Whickham East
DC/19/00051/HHA	Single storey rear extension	17 Elsdon Gardens, Dunston,	Granted;	Dunston And Teams
DC/19/00054/ADV	Display of internally illuminated wall mounted sign with 'Parker' logo on elevation facing Durham Road. Refurbishment of 1no. existing freestanding Totem sign at vehicular entrance with new up-lighting and 2no. wall mounted signs to central soft landscaped raised bed planter at frontage to Durham Road with new 'Parker' Logo with replacement up-lighting.	Domnick Hunter Parker Hannifin , Durham Road,	Temporary permission granted;	Birtley
DC/19/00064/TPO	Tree works at 28 Woodlands Park Drive	28 Woodlands Park Drive, Blaydon On Tyne,	Granted;	Blaydon

DC/19/00062/HHA	Construction of single storey kitchen extension at rear of property.	10 Cooperative Terrace, High Spen,	Granted;	Winlaton And High Spen
DC/19/00067/HHA	Single storey front and side extension	20 Valley View, Rowlands Gill Central,	Granted;	Chopwell And Rowlands Gill
DC/19/00076/TPO	Tree works at Willow Cottage	Willow Cottage, Whitewell Lane,	Granted;	Ryton Crookhill And Stella
DC/19/00077/ADV	Display of fascia sign and one roadside totem sign, both internally illuminated	Escott Signs Ltd, S378,	Temporary permission granted;	Lamesley
DC/19/00094/HHA	Proposed front porch, garage conversion with new pitched roof over	4 Springsyde Close, Whickham,	Granted;	Whickham South And Sunnyside
DC/19/00095/HHA	Front porch extension, New pitched roof over existing garage and extension to rear	9 The Springs, Birtley,	Granted;	Birtley
DC/19/00072/FUL	Installation of two electric vehicle charging stations and associated equipment within two existing parking spaces	Allison Court , Marconi Way,	Granted;	Whickham North
DC/19/00073/HHA	Second storey extension to side of property	18 Eskdale Gardens, Lyndhurst,	Granted;	Chowdene

DC/19/00082/COU	Change of use of storage area (Sui Generis) to retail (Class A1) and/or food and drink (Class A3)	Storage Area Between 56 And 57 , Cameron Walk,	Granted;	Whickham North
DC/19/00102/FUL	Removal of five manual external steel shutters on the facade of building followed by replacement with electronic steel shutters (including external shutter housing units) (revised application).	The Sound Room, Redheugh Studios,	Granted;	Lobley Hill And Bensham
DC/19/00112/HHA	Proposed single storey extension on the South East elevation	51 Malone Gardens, Birtley,	Granted;	Lamesley
DC/19/00107/HHA	First floor side extension above existing	5 Weymouth Gardens, Gateshead,	Granted;	Chowdene
DC/19/00110/ADV	A PVC banner that is fixed to a wooden structure reading 'Outstanding'	Gateshead Stadium, Gateshead College Academy For Sport , Neilson Road,	Temporary permission granted;	Felling
DC/19/00042/HHA	Demolition of existing detached garage, Single storey side extension and landscape alterations	2 Warburton Crescent, Gateshead,	Granted;	Deckham

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TITLE OF REPORT: Enforcement Team Activity

REPORT OF: Anneliese Hutchinson, Service Director, Development, Transport and Public Protection

Purpose of the Report

1. To advise the Committee of the activity of the Enforcement Team since the last Committee meeting.

Background

2. The Enforcement team deal with proactive and reactive investigations in relation to Planning, Highway and Waste related matters.

Recommendations

3. It is recommended that the Committee note the report.

Within the date range commencing 28.02.19 and ending 20.03.19, the enforcement team has received **86** new service requests:

Type of complaint	Cases under investigation	New complaints received	Cases allocated to officer	Cases resolved	Pending prosecutions
PLANNING	388	25	11	32	1
HIGHWAYS	222	14	6	18	0
WASTE	527	47	38	36	42
TOTALS	1137	86	55	86	43

COURT HEARINGS

The Enforcement Team attended **thirteen** Court Hearings, **seven** of which were finalised, resulting in **£3350** fines and **£1890** costs

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**REPORT TO PLANNING AND
DEVELOPMENT COMMITTEE**

3rd April 2019

TITLE OF REPORT: Enforcement Action

**REPORT OF: Anneliese Hutchinson, Service Director,
Development, Transport and Public Protection**

Purpose of the Report

1. To advise the Committee of the progress of enforcement action previously authorised by the Committee.

Background

2. The properties, which are the subject of enforcement action and their current status, are set out in Appendix 2.

Recommendations

3. It is recommended that the Committee note the report.

1. FINANCIAL IMPLICATIONS

Nil.

2. RISK MANAGEMENT IMPLICATIONS

Nil.

3. HUMAN RESOURCES IMPLICATIONS

Nil.

4. EQUALITY AND DIVERSITY IMPLICATIONS

Nil

5. CRIME AND DISORDER IMPLICATIONS

Nil.

6. SUSTAINABILITY IMPLICATIONS

Nil.

7. HUMAN RIGHTS IMPLICATIONS

The Human Rights Act states a person is entitled to the peaceful enjoyment of his possessions. However this does not impair the right of the state to enforce such laws, as it deems necessary to control the use of property and land in accordance with the general interest.

8. WARD IMPLICATIONS

Birtley, Bridges, Blaydon, Pelaw & Heworth, Chowdene, Crawcrook & Greenside, Ryton, Crookhill and Stella, Chopwell and Rowlands Gill, Wardley & Leam Lane, Windy Nook And Whitehills, Winlaton and High Spen, Whickham North, Whickham South and Sunnyside, Lobley Hill and Bensham. Lamesley, Dunston Hill and Whickham East and Low Fell.

9. BACKGROUND INFORMATION

Nil.

APPENDIX 2

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
1.	Land adjacent Ricklees Farm, Spen Lane, High Spen, Gateshead	Winlaton and High Spen	Change of use from agricultural to mixed use for keeping of horses, breaking, dismantling of vehicles, storage and burning of waste and the storage of caravans and vehicle bodies.	25 March 2013	25 March 2013	29 April 2013	29 June 2013	Complaints have been received over a considerable period regarding the inappropriate use of an area of green belt adjacent to B6315 During investigation it was established that the land was being used for a range of inappropriate uses. Despite attempts to negotiate with the land owner to reach a satisfactory conclusion no sustained improvement was secured. Therefore, an enforcement notice has been issued requiring the removal of the inappropriate material from the site together with the cessation of the unauthorised use. No appeal has been received and the notice has taken effect.
2.	Land adjacent Ricklees Farm, Spen Lane, High Spen, Gateshead	Winlaton and High Spen	Erection of a breeze block building	25 March 2013	25 March 2013	29 April 2013	29 June 2013	Complaints have been received over a considerable period regarding the inappropriate use of an area of green belt adjacent to B6315 During investigations, it was established that a building had been erected without consent. The building is considered to be unacceptable and therefore the council have issued an enforcement notice requiring the removal of the unauthorised building No appeal has been received and the notice has taken effect. The new owner of the site has been contacted and works are well underway to tidy the site with the demolition of the breeze block structure taking place in the near future A site visit has been arranged for the week commencing the 29 th October to look at the costs of carrying out work in default.
3.	Land at Woodhouse Lane, Swalwell (Known as South West Farm Site One) Known as South West Farm Site Two)	Swalwell Swalwell	Without planning permission the change of use of the land from agriculture to a mixed use for agriculture, storage of vehicles, agricultural equipment and scrap metal and vehicle dismantling and repair Without planning permission the change of use of the land from agriculture and reception, composting and transfer of green waste to a mixed	11 January 2016 11 January 2016	12 January 2016 12 January 2016	15 February 2016 15 February 2016	14 March and 4 July 2016 14 March and 4 July 2016	Notices were issued in September 2015 in respect of an unauthorised scrap being stored. Due to the scale of the breach of planning control an additional Notice was required in relation to the potential Environmental Impact of the Development. As such the original Notices (which were all being appealed) were withdrawn and further Notices have now been issued including those in respect of the requirement to carry out an Environmental Impact Assessment and provide an Environmental Statement with an subsequent appeals. The Notices requires firstly, the cessation of the unauthorised use and secondly, the removal from the land of the scrap. Both defendants pleaded guilty at Newcastle Crown Court and both received a fine of £750. Each defendant was ordered to pay costs of £422.50 and a victim surcharge of £75. The site has to be cleared in 6 months. The site has recently been revisited and it is likely further action will be required.

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
	(Known as South West Farm Site Three)	Swalwell	use for agriculture and the storage of vehicles, agricultural equipment and parts, repair and restoration of vehicles and machinery and the reception, composting and transfer of green waste. Without planning permission the change of use of the land from agriculture to a mixed use for agriculture and the storage of vehicles, agricultural equipment and scrap metal and vehicle dismantling and repair	11 January 2016	12 January 2016	15 February 2016	14 March and 4 July 2016 29 th Sep 2018	A site visit was undertaken in October where it was evident that the land has not been cleared and additional scrap had been brought on to the site. A further prosecution file is currently with the Council's legal department.
4.	Gleeson's housing site, formally grazing land between Portobello Road Birtley	Birtley	Breach of Planning Conditions	29 th November 2017	29 th November 2017	29 th November 2017	26 th December 2017	Despite communication with the developer, pre-commencement conditions have not been discharged and engineering operations and building operations have commenced on site. Conditions have now been submitted and discharged. The Council are awaiting confirmation from the Developer to confirm when they are due to recommence works on site. A site visit was undertaken on the 26 th September to see if work had recommenced on site. Although there were no builders on site at the time of the visit, it appears that development has recommenced since the Temporary Stop Notice was served as the most recent unit constructed has now had its roof erected. A letter has been sent to the developer, from the Council's Legal Department asking them to consider erecting a secure hoarding to prevent continued visual impact on the amenity of the area and to protect the site from unauthorised access. A written response dated 22 nd November 2018 has been received from Gleesons.
5.A	44 Ponthaugh Rowlands Gill NE39 1AD	Chopwell and Rolwands Gill	Unauthorised change of use	12 th January 2018	12 th January 2018	16 th February 2018	16 th March 2018	Complaints have been received regarding the erection of fencing enclosing public open space and incorporating it into the private garden. An enforcement notice has been issued requiring the use of the land as private garden to cease and the fence removed. The notice has not been fully complied with. Prosecution files are now being prepared.

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
6.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28 th April 2018	<p>Despite communication with the occupiers and owners of the site, conditions relating to planning permission DC/12/01266/MIWAS have not been discharged.</p> <p>Notice served in relation to breach of condition 12 to require submission of a noise monitoring scheme for all restoration activities. A Consultant has been employed by the owner and occupiers of the site to address the issues contained within each of the Notices. The Consultant is currently working with the Council to secure compliance.</p> <p>Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted.</p>
7.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach of condition 13 to require submission of a vibration monitoring scheme for all restoration activities. This condition has not been discharged</p> <p>Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p>
8.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to Breach of condition 14 to require Submission of a scheme for the management and minimisation of dust from restoration activities. This condition has not been discharged</p> <p>Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p>
9.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach of condition 18 to require the Submission of a report to the Council recording the operations carried out on the land during the previous 12 months. This condition has not been discharged</p> <p>Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p>
10.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach condition 23 to require Submission of details of a drainage system to deal with surface water drainage, and implementation of agreed scheme. This condition has not been discharged</p> <p>Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p>
11.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach condition 24 to require submission of a timetable and a maintenance scheme to the Council for the installation and maintenance of the drainage system. This condition has not been discharged</p> <p>Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p>
12.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Notice served in relation to breach of condition 25 to require the Submission of an up to date survey of Cell 2 in relation to clearance heights beneath the electricity power lines. This condition has not been discharged</p> <p>Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted</p>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
13.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Notice served in relation to breach condition 26 to require the submission of details for the illuminate activities on site. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted
14.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Notice served in relation to Breach of condition 27 to require the submission of details as requested in condition 27 of permission DC/12/01266/MIWAS. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted
15.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Notice served in relation to breach of condition 28. To require submission of details for alternative provision for Sand Martin nesting and other bat and bird boxes and a timetable for implementation. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted
16.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Notice served in relation to breach of condition 31. To require the submission of details for reflective road marking scheme adjacent to the site access on Lead Road. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted
17.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Notice served in relation to breach of condition 32 to require the Submission of a timetable for the early restoration of the north east corner of the site. This condition has not been discharged Details for each breach of condition notice were submitted on 15.05.18, Officers are currently reviewing the information submitted
18.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	Complaints have been received that the site has been open outside the approved hours, following further investigation this has been confirmed, therefore a notice has been served in relation to breach of condition 51 to ensure no HGV'S enter of leave the site before 06.30 or after 18.00 hours on Monday to Friday nor after 13.00 hours on Saturdays and no times on Sunday and Bank and Public holidays. A site visit was undertaken on the 20 th June in conjunction with the Environment Agency, to monitor the hours of operation. At the time of the visit no tipping was taking place, however activity on site will continue to be monitored.
19.	25 Sundridge Drive Felling Gateshead NE10 8JF	Wardley And Leam Lane	Unauthorised change of use	10 th August 2018	10 th August 2018	14 th September 2018	12 th October 2018	Complaints have been received regarding the erection of fencing enclosing public open space and incorporating it into the private garden. The loss of open space is unacceptable; therefore an enforcement notice has been issued requiring the use of the land as private garden to cease and the fence removed. An appeal start date has been received
20.	27 Sundridge Drive Felling Gateshead NE10 8JF	Wardley And Leam Lane	Unauthorised change of use	10 th August 2018	10 th August 2018	14 th September 2018	12 th October 2018	Complaints have been received regarding the erection of fencing enclosing public open space. The loss of open space is unacceptable; therefore an enforcement notice has been issued requiring the use of the land as private garden to cease and the fence removed.

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
								An appeal start date has been received
21.	Blaydon and District Club and Institute, Garden Street	Blaydon	Untidy Land	03 rd September 2018	03 rd September 2018	5 th October 2018	30 th November 2018	Complaints have been received regarding the condition of the building and land. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the building to be demolished Given the potential bat roost, Natural England will not issue a licence for the roost to be destroyed until after the hibernation period which is November to March.
22.	Three Ts Bar, Longrigg Gateshead	Whickham North	Untidy Land	05 th September 2018	05 th September 2018	5 th October 2018	30 th November 2018	Complaints have been received regarding the condition of the building and land. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the building to be demolished and a hoarding erected. The owner has been in contact and will submit a scope of works with timescales to make this building safe and in part to be brought back into use, rather than demolish property. Following a site visit on the 19 th November, a scope of works should be submitted by the developer no later than the 30 th November. Quotes however are being sought for the demolition of the property in preparation that the information is not forthcoming. Scaffolding has been erected and works are commencing to bring the building back into use. The windows have been inserted in the rear part of the building and works have commenced on the roof. Officers are visiting the site on the 21.03.19 to confirm that the proposed roof tiles are appropriate, once this is agreed works will commence, it is anticipated that the works to the roof will take approximately 6-8 weeks.
23.	321 And 323 Rectory Road Bensham Gateshead NE8 4RS	Saltwell	Unauthorised change of use	7 th November 2018	7 th November 2018	11 th December 2018	8 th January 2019	Complaints have been received regarding the use of a dwelling as a House of Multiple Occupation (HMO). A previous planning application was refused for the change of use and the subsequent appeal dismissed; therefore, an Enforcement Notice has been issued requiring the use of the property as an HMO to cease. An appeal has been received but no start date has been given yet.
24.	21 Beacon Street Gateshead NE9 5XN	Low Fell	Unauthorised development	07 th January 2019	08 th January 2019	12 th February 2019	12 th March 2019	Complaints have been received regarding the erection of a fence to the front of the property. Planning permission was submitted and subsequently refused as the fence had a detrimental impact on the visual amenity of the area. An Enforcement notice has been served seeking the removal of the fence. An appeal has been received but no start date has been given yet. An email has been received confirming that they intend to now comply with the requirements of the notice.

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
25.	114 Coatsworth Road Bensham Gateshead Tyne And Wear NE8 1QQ	Saltwell	Untidy Land	18 th January 2019	18 th January 2019	21 st February 2019	11 th July 2019	Complaints have been received regarding the condition of the property within the Coatsworth Road Conservation Area. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the building be demolished and necessary support provided to the adjacent buildings to ensure they are wind and watertight. Following demolition, the land needs to be levelled, graded and compacted to match the contours of the surrounding land.
26.	2 Wythburn Place Gateshead NE9 6YT	High Fell	Unauthorised development	12 th February 2019	12 th February 2019	19 th March 2019	19 th July 2019	Complaints had been received regarding the erection of an extension to the property, the extension has a detrimental impact on the visual amenity of the area and thus an enforcement notice has been served seeking the extension be demolished and remove in its entirety.
27.	Brockburn 32A Barlow Lane Winlaton Blaydon On Tyne	Winlaton and High Spen	Unauthorised change of use	06th March 2019	06th March 2019	10th April 2019	5th June 2019	Complaints have been received regarding the unauthorised use of a dwelling to a mixed-use house and dog boarding business. Retrospective planning permission was submitted and subsequently refused as the use resulted in harm to the living conditions of the neighbouring residents. An enforcement notice has been served requiring the mixed use of the property cease.



**REPORT TO PLANNING AND
DEVELOPMENT COMMITTEE
3 April 2019**

TITLE OF REPORT: Planning Appeals

REPORT OF: Anneliese Hutchinson, Service Director, Development,
Transport and Public Protection

Purpose of the Report

1. To advise the Committee of new appeals received and to report the decisions of the Secretary of State received during the report period.

New Appeals

2. There have been **no** new appeals lodged since the last committee.

Appeal Decisions

3. There have been **no** new appeal decisions received since the last Committee.

Appeal Costs

4. There have been **no** appeal cost decisions.

Outstanding Appeals

5. Details of outstanding appeals can be found in **Appendix 2**.

Recommendation

6. It is recommended that the Committee note the report

Contact: Emma Lucas Ext: 3747

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Nil

HUMAN RESOURCES IMPLICATIONS

Nil

EQUALITY AND DIVERSITY IMPLICATIONS

Nil

CRIME AND DISORDER IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

HUMAN RIGHTS IMPLICATIONS

The subject matter of the report touches upon two human rights issues:

The right of an individual to a fair trial; and
The right to peaceful enjoyment of property

As far as the first issue is concerned the planning appeal regime is outside of the Council's control being administered by the First Secretary of State. The Committee will have addressed the second issue as part of the development control process.

WARD IMPLICATIONS

Various wards have decisions affecting them in Appendix 3.

BACKGROUND INFORMATION

Start letters and decision letters from the Planning Inspectorate

APPENDIX 2

OUTSTANDING APPEALS

Planning Application No	Appeal Site (Ward)	Subject	Appeal Type	Appeal Status
DC/18/00440/TPO	9 Axwell Park Road Axwell Park Blaydon NE21 5NR	Felling of one Sycamore tree in garden of 9 Axwell Park Road.	Written	Appeal in Progress
DC/18/00486/FUL	Site At Rear Of Garage And Substation Adj Meadow View, Woodside, Ryton	Erection of two bedroom dormer sustainable eco home	Written	Appeal in Progress
DC/18/00614/COU	Land Adjacent Rose Cottage High Street Wrekenton Gateshead NE9 7JS	Change of use from former petrol filling station to hand car wash and car valeting facility (Sui Generis Use)	Written	Appeal in Progress
DC/18/00958/TPO	Woodlands Derwent Avenue Rowlands Gill NE39 1BZ	Tree works at Woodlands, Derwent Avenue, Rowlands Gill	Written	Appeal in Progress

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REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

3 April 2019

TITLE OF REPORT: Planning Obligations

REPORT OF: Anneliese Hutchinson, Service Director, Development, Transport and Public Protection

Purpose of the Report

1. To advise the Committee of the completion of Planning Obligations which have previously been authorised.

Background

2. To comply with the report of the District Auditor "Probity in Planning" it was agreed that a progress report should be put before the Committee to enable the provision of planning obligations to be monitored more closely.
3. Since the last Committee meeting there have been **no** new planning obligations.
4. Since the last Committee there have been **no** new payments received in respect of planning obligations.
5. Details of all the planning obligations with outstanding covenants on behalf of developers and those currently being monitored, can be found at Appendix 2 on the Planning Obligations report on the online papers for Planning and Development Committee for 3 April 2019.

Recommendations

6. It is recommended that the Committee note the report.

Contact: Emma Lucas Ext: 3747

1. FINANCIAL IMPLICATIONS

Some Section 106 Agreements require a financial payment when a certain trigger is reached and there is a duty on the Council to utilise the financial payments for the purposes stated and within the timescale stated in the agreement.

2. RISK MANAGEMENT IMPLICATIONS

Nil

3. HUMAN RESOURCES IMPLICATIONS

Nil

4. EQUALITY AND DIVERSITY IMPLICATIONS

Nil

5. CRIME AND DISORDER IMPLICATIONS

Nil

6. SUSTAINABILITY IMPLICATIONS

Nil

7. HUMAN RIGHTS IMPLICATIONS

Nil

8. WARD IMPLICATIONS

Monitoring: Various wards

9. BACKGROUND INFORMATION

The completed Planning Obligations