



PLANNING AND DEVELOPMENT COMMITTEE AGENDA

Wednesday, 6 September 2023 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 9 th August 2023 (copy previously circulated).
3	Declarations of Interest Members to declare interests in any agenda items
4	Planning Applications (Pages 3 - 4) Report of Service Director Climate Change, Compliance, Planning and Transport
4i	No.1 - 1 Long Bank, DH3 1PX (Pages 5 - 24)
4ii	No.2 - Quarryfield Road Car Park, Quarryfield Road Gateshead (Pages 25 - 34)
4iii	No.3 - The Apartment Company North East, Sunderland Road, NE10 9LR (Pages 35 - 42)
5	Enforcement Team Activity (Pages 43 - 44) Report of the Service Director, Climate Change, Compliance, Planning & Transport
7	Enforcement Action (Pages 45 - 52) Report of the Service Director, Climate Change, Compliance, Planning & Transport
8	Planning Enforcement Action (Pages 53 - 56) Report of the Service Director, Climate Change, Compliance, Planning & Transport

9 Planning Appeals (Pages 57 - 70)

Report of the Service Director, Climate Change, Compliance, Planning & Transport

10 Planning Obligations (Pages 71 - 72)

Report of the Service Director, Climate Change, Compliance, Planning & Transport



PLANNING AND DEVELOPMENT
COMMITTEE
6 September 2023

TITLE OF REPORT: Planning applications for consideration

REPORT OF: Anneliese Hutchinson, Service Director,
Climate Change, Compliance, Planning and
Transport

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.

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Committee Report

Application No:	DC/23/00138/FUL
Case Officer	Mark O'Sullivan
Date Application Valid	20 April 2023
Applicant	Mr Jacob Mains
Site:	1 Long Bank Birtley DH3 1PX
Ward:	Lamesley
Proposal:	Erection of detached house with integral garage and four bedrooms (amended 30/05/23).
Recommendation:	GRANT
Application Type	Full Application

1.0 The Application:

1.1 DESCRIPTION OF SITE

The application relates to the side garden of no.1 Long Bank (a residential bungalow) located to the northeast of Newcastle Road (the A167) in Birtley. The site forms a triangular parcel of enclosed private garden some 411m² in area extending from the south of the dwelling, bordered by residential property to the east (North Dene) and south (Aged Miners Homes on Newcastle Bank). An unclassified lane bypasses the front (south) of the site, separating it from the rear of the Aged Miners bungalows.

1.2 DESCRIPTION OF APPLICATION

The application proposes the construction of 1no. detached 4-bed dwellinghouse with integral garage. The proposed dwelling would be of 2 storey scale with a principal elevation facing southwest towards the adjacent lane. It would be constructed at a lower ground level to its immediate neighbour ensuring the resulting ridge height is more or less equal to that of no.1 adjacent. Site access would be achieved from the adjacent lane via a new opening in the existing boundary wall/hedgerow which currently encloses the private garden of no.1.

1.3 No.1 Long Bank to the north would be entirely segregated from the site, with existing private amenity space secured to its north, east and west and separate access taken directly from Long Bank to its west. Meanwhile, the proposed dwelling would benefit from its own private amenity space extending to its south.

1.4 The new dwelling would occupy a maximum footprint of 10.6m x 10.2m, with eaves height of 5.1m and 8.7m to ridge. On its northern side where adjacent to no.1 Long Bank, a 3m wide integral garage with a dormer bedroom above would be constructed with a reduced eaves height of 2.7m and ridge of 6.5m.

1.5 The proposed dwelling would be of brick and tile construction, with UPVC windows (all details to be agreed).

1.6 RELEVANT PLANNING HISTORY

There is no planning history relevant to the application site.

2.0 Consultation Responses:

The Coal Authority Raise no objections subject to the imposition of conditions.

3.0 Representations:

3.1 A site notice to publicise works was posted adjacent to the site and all immediately adjoining properties notified in writing. Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015.

3.2 An objection was received from Cllr Gallagher requesting the application be determined by the Planning Committee and raising concerns in relation to the following:

- Detrimental impact on the character of the area resulting from building a 2-storey dwelling house amongst bungalows.
- Loss of garden space resulting from division of the existing garden, resulting in the loss of valued and important green space.
- Loss of trees and hedgerow.
- Detrimental effect on the living conditions of neighbouring residents resulting from the overbearing nature of the development, overshadowing and loss of privacy.
- Detrimental impact of the proposed vehicle access onto a narrow road, creating access issues for residents living opposite.
- Safety concerns for residents living in the bungalows directly opposite in terms of the volume and speed of traffic using this narrow road.

3.3 8no. letters of objection have been received including a signed petition containing 10no. names of persons who reside within the Joseph Hopper Aged Miners Homes to the south of the site. A summary of the key areas of concern raised are as follows:

- Proposals would be contrary to the Council's 2030 vision statement which seeks to encourage a greener Gateshead.
- Inappropriate access to the site - Vehicles attempting to access the plot will struggle to turn into the site from the adjacent narrow road, which is

used as a rat run, and in an area where roads are already clogged with parked vehicles;

- Insufficient car parking serving the new dwelling;
- Loss of light/overshadowing to neighbouring property;
- Loss of privacy to neighbouring property;
- Detrimental impact on character of street scene resulting from constructing a 2 storey development within an area of bungalows;
- Overbearing impact of the development;
- Overdevelopment of a constrained, irregular site;
- Noise impacts on neighbouring residents;
- Adverse impact on residents living in the adjacent Aged Miners homes to the south;
- Lack of representation from empty properties in the area;
- Creation of precedent for similar garden development elsewhere;

3.4 No comments have been received from Lamesley Parish Council.

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS1 Spatial Strategy for Sustainable Growth

CS10 Delivering New Homes

CS11 Providing a range and choice of housing

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS17 Flood Risk and Waste Management

CS18 Green Infrastructure/Natural Environment

MSGP8 Digital Infrastructure

MSGP12 Housing Space Standards

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP18 Noise

MSGP20 Land Contamination/Stability

MSGP24 Design Quality

MSGP29 Flood Risk Management

MSGP30 Water Quality/River Environments

MSGP36 Woodland, Trees and Hedgerows

MSGP37 Biodiversity and Geodiversity

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 development, design, residential amenity, highway safety and parking, heritage impacts, ecology, landscape impacts, ground conditions and flood risk/drainage.
- 5.2 **ENVIRONMENTAL IMPACT ASSESSMENT**
The development does not fall within the criteria listed in schedule 1 and 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, as such an Environmental Impact Assessment is not required in relation to this application.
- 5.3 **HOUSING POLICY**
Proposals concern the erection of 1no. detached dwelling on garden land within an established residential setting. The site is located within the Birtley settlement on unallocated land. Policies CS1 and CS10 of the Core Strategy Urban Core Plan (CSUCP) seek to create and sustain communities through the development of 30,000 new homes in the plan period to 2030. This is planned to be achieved through a focus of development in existing built-up areas and sustaining villages through provision of housing. The provision of new homes within an established settlement on unallocated land would provide a small contribution to meeting these housing needs within the current plan period where the latest results of the Housing Delivery Test (HDT) show that 87% of homes required are being delivered in the Borough.

- 5.4 Policy CS11 indicates that 60% of new private housing across the plan area and within the plan period will be required to be of 3 or more bedrooms, contributing towards a range and choice of housing. Proposals would satisfy these policy requirements with a 4-bed dwelling proposed.
- 5.5 Policy CS11 also seeks to encourage the provision of Lifetime Homes and Wheelchair-Accessible Homes. Whilst there is no explicit requirement for such provision in the case of 1no. additional dwelling, officers welcome the applicant's confirmation that the dwelling would be accessible to wheelchairs.
- 5.6 Policy CS11(4) requires adequate space inside and outside the home to meet the needs of residents. Policy MSGP12 sets out that new homes should be built in accordance with the Nationally Described Space Standards (NDSS). The proposed dwelling would be NDSS compliant and provide for a reasonable level of private amenity space within its wider curtilage without significantly impacting the existing curtilage of the adjacent bungalow to the north.
- 5.7 The application is for fewer than 10no. dwellings, and as such, the requirements of policy MSGP40 (Providing and enhancing open space, sports and recreation facilities) do not apply in this case. Furthermore, with proposals for fewer than 15no. dwellings, there is no policy requirement to provide affordable homes under policy CS11. There would therefore be no objections in-principle to the proposals subject to the relevant material planning considerations.
- 5.8 DESIGN
The proposed dwelling would be of 2 storey scale containing 4no. bedrooms. As explained, the dwelling would be constructed at a lower ground level ensuring it is of equal ridge height to no.1 Long Bank to its north. Furthermore, the northern section of the dwelling where closest to no.1 Long Bank would be of single storey height with living space within the roof. The proposed dwelling would be constructed from facing brickwork walls, tiled pitched roofs and external UPVC fenestration. Final details of all materials and finishes are to be controlled by condition (Condition 3).
- 5.9 The proposed 2 storey dwelling would sit amongst a mix of house types in the surrounding street scene, albeit largely screened from view from the A167 carriageway to the southwest by the intervening terrace of bungalows (the Aged Miners Homes) along its frontage. Although concerns have been raised that the proposed 2 storey scale would not fit so well with neighbouring bungalow development to the south and north west, the site does sit adjacent to two storey development to the east on North Dene, as well as there being two storey dwellings on Long Bank itself, and the site may be viewed within this context. The lower finished floor level, when compared to no.1, and reduced garage height with dormer above would also further reduce the overall massing of the development, providing a stepped appearance from adjacent single storey development to two storey development to the east.

- 5.10 In terms of development density, the proposed development is reflective in scale and form of the surrounding street scene comprising a mix of detached, semi-detached and terraced dwellings. The proposed dwelling would sit comfortably within its plot offering sufficient private amenity space to its south, whilst maintaining an acceptable separation from no.1 Long Bank to the north.
- 5.11 Boundary treatment would comprise 1.2m high hedge and post/rail fencing along the site frontage, with close boarded 1.8m fencing along the eastern boundary. Boundary treatment to the north would comprise a brick retaining wall addressing the change in ground levels, with a 1.2m high fence above. All enclosures would be seen to sympathise with the residential character of the area.
- 5.12 The design and quality of the proposed scheme is acceptable urban design within an area characterised by a mix of development types/form. Officers consider the application site is capable of accommodating a development of the scale and density proposed. Subject to control over materials and finishes (Conditions 3 and 4). The proposal would comply with the aims and requirements of the NPPF and policies CS15 and MSGP24 of the Gateshead Local Plan.
- 5.13 **RESIDENTIAL AMENITY**
The proposed dwelling would occupy existing garden land to the south of no.1 Long Bank. Topographical information confirms the proposed dwelling to be constructed at a lower finished floor level to no.1, thereby reducing its overall scale and massing when viewed in context from the adjacent street scene.
- 5.14 The proposed dwelling would provide for sufficient internal living space in accordance with NDSS requirements. Given the availability of garden land presently serving no.1, the proposed subdivision of its wider curtilage would retain sufficient private amenity space serving no.1, albeit to the north, east and west, with the proposed dwelling to also benefit from ample private amenity space to its south.
- 5.15 Submitted plans confirm a separation of between 4m and 6m would be provided between 2no. existing, secondary ground floor windows in the south facing elevation of no.1 and the blank northern elevation of the proposed dwelling which would be positioned at a lower ground level. This would ensure that the side facing windows of no.1 overlook the blank first floor elevation of the proposed dwelling. Furthermore, with the existing dwelling of single storey height, the proposed dwelling would be designed to ensure that its northern elevation would comprise a single storey garage with dormer within the roof space, comparable in height to that of its immediate neighbour to the north. The main two storey element of the proposed dwelling would be positioned a further 3m away from this northern elevation ensuring acceptable septation is achieved.
- 5.16 To the northeast (rear), proposed ground floor windows serving a kitchen and first floor en-suite would face towards no's 7 and 9 North Dene (approximately 16m away at a higher ground level). Intervening private garden land bordered

by domestic enclosures (1.8m high close boarded fence above a retaining brick wall) would separate these plots and serve as an acceptable screen at the ground level. Furthermore, given the positioning of the new dwelling within its plot, these rear facing windows would face directly towards the gap in-between numbers 7 and 9 North Dene.

- 5.17 The proposed side (southeastern) elevation of the dwelling would face out towards the private garden space, again suitably enclosed by proposed boundary treatment, with no directly overlooking properties in this direction.
- 5.18 To the front (southwest), the proposed lounge and first floor bedrooms (3no.) would face towards the rear of Aged Miners bungalows fronting Newcastle Bank. Given the oblique siting of the proposed dwelling, sited behind the boundary hedgerow/post and rail fencing forming the southwestern site boundary, and intervening road, these windows would not directly overlook the single rear facing window of the opposing miner's bungalows in close proximity. Officers note that the rear elevation of the opposing aged miner's bungalow is predominantly blank, albeit for 1no. small, obscurely glazed window which serves a WC/bathroom space.
- 5.19 In response to concerns raised over loss of light and overshadowing of neighbouring property; on North Dene, the applicant has submitted a 'new development overshadowing analysis', prepared by T20 Engineers. This assessment utilised both architectural and topographical surveys of the site, concluding that there would be minimal impact in relation to overshadowing of existing buildings surrounding the site, from the proposed development.
- 5.20 It is considered that the proposed dwelling would achieve appropriate separation from neighbouring properties which would not result in a significant loss of light, loss of privacy, loss of outlook, overshadowing or overbearing impact. To ensure extra control in this regard, it is recommended that conditions be imposed requiring final details of boundary treatments be submitted for consideration, and implementation of the approved scheme (Conditions 5 and 6). Furthermore, that domestic Permitted Development Rights are removed so as to control any future development at the site within close proximity to neighbours (Condition 7).
- 5.21 In terms of noise and impacts of the construction phase on neighbours, it is recommended that conditions be imposed restricting hours of construction, and also a Construction Management Plan (CMP) be submitted for consideration, and implementation of the approved scheme (Conditions 8 - 10). It is also recommended that a condition be imposed requiring all windows serving bathrooms, WCs and en-suites to be obscurely glazed in the interests of privacy (Condition 11).
- 5.22 Subject to the above conditions, the proposal would comply with the aims and requirements of Paragraph 130 of the NPPF and policies CS14, MSGP17 and MSGP18 of the Gateshead Local Plan.

5.23 HIGHWAY SAFETY AND PARKING

Paragraph 109 of the NPPF states 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.

- 5.24 A number of objections have been received in relation to the suitability of the adjacent lane in serving an additional dwelling, existing highway safety/traffic concerns over the use of this lane and resulting vehicle parking and pedestrian safety concerns.
- 5.25 As explained, the proposed development would be accessed via a new vehicular and pedestrian access crossing onto the adjacent lane located to the rear of the Aged Miners Homes, through an approximate 6m section of the existing boundary hedgerow which presently encloses no.1 Long Bank. This would be a separate access to that serving no.1 which would continue to be accessed via Long Bank to the west.
- 5.26 The proposed driveway which would serve the development would link directly onto a road which has a 20mph speed limit, and where a 2.4m x 25m visibility splay is therefore required. The height of the surrounding hedges may limit the required visibility and would therefore need to be reduced in height where encroaching within the required splay. Such detail can be controlled under Condition 24. Submitted plans indicate a 2.4m x 25m visibility splay can be achieved on this lane, with sufficient space on the proposed driveway for parked vehicles without overhanging the carriageway, (including additional off-street garage space - as indicated on plans). Plans do not detail an access gate across the drive, which, if installed, would not allow for access without encroaching over the carriageway or restricting internal driveway movements.
- 5.27 Although the driveway is not perpendicular to the access, there would be no significant highways concerns which could justify a refusal in this instance with vehicle tracking details provided to demonstrate that a safe access/egress arrangement is achievable, and a satisfactory drive length is shown.
- 5.28 Submitted plans also detail on-site EV charging provision (details of which can be controlled by condition), and secure weatherproof cycle storage (to the rear of the site). Details of the cycle storage have been submitted with no objections raised.
- 5.29 Finally, details of refuse collection have been provided. It is confirmed that refuse lorries already access the rear of the miners' cottages opposite the site entrance, with the proposed dwelling to act as an additional stop on the existing route. Submitted plans detail ample storage space within the plot for bins with easy access to wheel them out for collection.

- 5.30 Pedestrian access to the site along the 1m footpath is substandard, however it is accepted that this an existing route for pedestrian access to adjacent properties. Submitted plans include a crossing point for pedestrians leaving the proposed property linking the pedestrian access gate, across a short, paved section adjacent to the driveway, and across the lane to the existing footpath directly opposite. This footpath is located within the acceptable visibility splay ensuring pedestrians maintain sufficient visibility when crossing the road.
- 5.31 With regards the parking of vehicles on the adjacent lane, close to the proposed site access, the applicant is advised that the Highways Authority will not be placing restrictions on parking along the adjacent road in future as a result of potential difficulties manoeuvring out of the proposal site. The applicant is aware that they are using this access at the risk of on-street parking limiting their accessibility to and from the site.
- 5.32 Subject to the above, it is considered that the proposals would not have a direct adverse impact on the adopted highway, nor would it adversely impact upon highway safety. Sufficient off-street parking can be achieved and safe access/egress from the site attainable without impacting pedestrian or highway safety. Proposals would satisfy the provisions of the NPPF and policies CS13 and MSGP15 of the Gateshead Local Plan.
- 5.33 HERITAGE IMPACTS
The application site is not located within a Conservation Area or within close proximity to a Listed Building. Archaeology officers have assessed the application site against the Historic Environment Record and historic maps. The site was agricultural land until the 20th century when it was developed for housing. Although the Bowes Railway (Scheduled Monument 1003723) runs approximately 150m north of the site, officers consider that proposals would have no adverse impact on heritage assets, and no archaeological work is required.
- 5.34 ECOLOGY
The application site is not located within or immediately adjacent to a designated nature conservation site or Wildlife Corridor, and no direct or indirect significant adverse impacts on such features is anticipated. The site comprises a private residential garden and habitats within the site include modified grassland, garden planting, shrubs and trees unlikely to support protected/priority species. Notwithstanding this, habitats within the site are likely to provide nesting opportunities for common and widespread nesting birds where construction activities may have the potential to impact upon nesting birds, should works be undertaken in the breeding bird season (March to August inclusive). It is therefore recommended a condition be added to any permission ensuring details of integrated bird nesting features (Conditions 14 and 15). Subject to the above, and an informative regarding nesting birds, it is considered that the proposed development can be achieved within acceptable ecological limits and in accordance with national and policies CS18, MSGP36 and MSGP37 of the Gateshead Local Plan.

5.35 LANDSCAPE IMPACTS

The site is located within a residential setting and is framed by an established hedgerow of approximately 50m length along its southwestern boundary with the adjacent lane. There are no TPO's on the site and plans confirm that there would be no trees affected by the proposals. The proposed site access to the northern extent of the plot would involve the removal of a length of this hedgerow (approximately 6m) to achieve the proposed site access, including a further area to be reduced in height to no higher than 600mm necessary to achieve the necessary highway visibility. Although the loss of a small section of the hedge is regrettable, this is not a protected hedge, with the length of hedgerow to be removed relatively minor in the context of its full length to be retained. No landscape objections are raised in this regard.

5.36 Within the site, undeveloped land would be utilised as private enclosed garden land. To ensure that a well laid out planting scheme is achieved in the interests of the visual amenity, and in accordance with Policies CS18 and MSGP36 of the Gateshead Local Plan, landscape details are to be controlled by condition. These details shall include confirmation of all hard and soft landscaping and details of the extent of hedgerow removal and any mitigatory planting within the site (Conditions 12 and 13). Subject to the above, no objections are raised with proposals to satisfy the provisions of Policies CS15, MSGP24 and MSGP36.

5.37 GROUND CONDITIONS

The application site falls within the defined Development High Risk Area. Coal Authority records indicate that the site is likely to have been subject to unrecorded historic coal mining at shallow depth associated with a thick coal seam which outcropped across the site, which may have been worked in the past. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases.

5.38 The planning application is supported by a Phase 1 Desk Study (March 2023), prepared by Solmek Ltd, which concludes that there is a potential risk to the development from past coal mining activity. The report recommends that intrusive site investigations are carried out on site in order to establish the exact situation in respect of coal mining legacy issues. The findings of the intrusive site investigations should also inform any remedial measures which may be required. In the event of approval, the Coal Authority recommend the imposition of conditions to this effect.

5.39 The site has also been assessed and inspected as part of the Council's Contaminated Land Strategy and is situated on potentially contaminated land based on previous historic use. Asbestos may also be present on the site from previous/existing building materials used on-site. Officers concur with the findings of the aforementioned Phase 1 desk study report which recommends further ground investigation measures to be undertaken and implemented by the applicant. Given the site history and potential land contamination risk, any future development will require an intrusive site investigation to be undertaken with a Phase II Detailed Risk Assessment, and if proven to be required a Remediation Strategy and Remediation Verification Reports. In addition, a

Gas Monitoring Risk Assessment will need to be undertaken by the developer of the area to assess the risk from potential land gas risk on the site if redevelopment is planned.

- 5.40 Subject to the imposition of conditions (16-22), the proposal would comply with the aims and requirements of policies CS14 and MSGP20 of the Gateshead Local Plan.

5.41 FLOOD RISK AND DRAINAGE

The site is located within a Flood Zone 1 risk area, at low risk of flooding, with no concerns raised. The proposal would comply with the aims and requirements of the NPPF and policies CS17, MSGP29 and MSGP30 of the Gateshead Local Plan.

5.42 DIGITAL INFRASTRUCTURE

MSGP8 states that 'The necessary physical infrastructure to enable access to information and digital communication networks will be integrated into all appropriate new developments.' The supporting text clarifies that all proposals for new dwellings and new business premises will be required to demonstrate that engagement has taken place with more than one digital infrastructure provider to explore how digital communication networks can be integrated into the development. The application site is located within an established residential setting. In the absence of this information as part of the application, it is recommended that a relevant condition be imposed to satisfy this policy requirement (Condition 23).

5.43 OTHER MATTERS

- 5.44 Proposals would be contrary to the Council's 2030 vision statement which seeks to encourage a greener Gateshead.

The proposed development has been considered against all relevant material planning considerations and planning policy tests. It is considered that the proposed development is acceptable in principle and subject to relevant conditions, in terms of visual and residential amenity, highway safety and parking, ground conditions and ecology, would comply with the aims and objectives of the NPPF, and the Gateshead Local Plan.

- 5.45 Loss of garden space - dividing up an existing garden resulting in loss of valued and important green space.

Proposals would involve the subdivision of private residential curtilage. The land in question does not form valued open or public amenity space, nor would there result policy conflict with this approach. There would be no objection to the principle of infill residential development within an established residential setting (outside of a Conservation Area), and it has been demonstrated that the site can support such development without resulting in overdevelopment or an incongruous development form.

- 5.46 COMMUNITY INFRASTRUCTURE LEVY (CIL)

On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This proposal has been assessed against the Council's CIL charging schedule and the development is CIL chargeable development as it is housing related. The site is in residential CIL Zone C, which has a charge of £0 per sqm.

6.0 CONCLUSION

6.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council has an up-to-date development plan comprising the Core Strategy and Urban Core Plan and Making Spaces for Growing Places. Taking all the relevant issues into account, it is considered that the proposed development is acceptable in principle and subject to relevant conditions, in terms of design and residential amenity, highway safety and parking, heritage impacts, ecology, landscape impacts, ground conditions and flood risk/drainage, would comply with the aims and objectives of the NPPF, and relevant planning policies. It is recommended that planning permission be granted, subject to the following conditions.

7.0 Recommendation:

GRANT permission subject to the following condition(s) and that the Service Director of Climate Change, Compliance, Planning and Transport be authorised to add, vary and amend the planning conditions as necessary:

1

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

357 LP	Location Plan
357 SV	Street View
357 HD	Highways details
357 PSPc	Proposed Site Plan
357 05	Proposed Plans
357 06	Proposed Elevations
DTP/3707923/ATR001	Proposed site layout swept path analysis
large car	
Cycle Store Plans	Received 14 August 2023

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

Prior to the commencement of the development hereby approved details of all materials and external finishes shall be submitted to and approved in writing by the Local Planning Authority.

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the street scene, in accordance with the NPPF and policies CS14, CS15, MSGP17 and MSGP24 of the Gateshead Local Plan.

4

The materials and external finishes approved under condition 3 shall be implemented in full accordance with the approved details

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the street scene, in accordance with the NPPF and policies CS14, CS15, MSGP17 and MSGP24 of the Gateshead Local Plan.

5

The dwelling hereby approved shall not be occupied until final details of the appearance and siting of boundary treatments have been submitted to and approved in writing by the Local Planning Authority.

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the existing street scene in accordance with the NPPF and policies CS15 and MSGP24 of the Gateshead Local Plan.

6

The boundary treatment details approved under condition 5 shall be implemented in accordance with the approved details before the

dwelling hereby approved is occupied and retained as such for the lifetime of the development.

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the existing street scene in accordance with the NPPF and policies CS15 and MSGP24 of the Gateshead Local Plan.

7

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting, substituting, amending, extending, consolidating replacing or modifying that Order), no enlargements, additions, incidental buildings, within Part 1, Classes A, B and E of Schedule 1 shall be erected/installed on the land, except in the event that a further planning permission is expressly granted for that development.

Reason

To ensure the scheme would not have an unacceptable impact on the highway safety and visual and residential amenity, in accordance with the NPPF and policies CS14, CS15, MSGP15, MSGP17 and MSGP24 of the Local Plan.

8

Unless otherwise approved in writing by the Local Planning Authority, all external works and ancillary operations in connection with the construction of the development, including deliveries to the site, shall be carried out only between 0800 hours and 1800 hours on Mondays to Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.

Reason

To safeguard the amenities of nearby residents and in accordance with the NPPF and policies CS14, MSGP17 and MSGP18 of the Gateshead Local Plan.

9

No development hereby approved shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall provide for:

- (a) Hours of site operation
- (b) The parking of vehicles of site operatives and visitors
- (c) Storage of plant and materials used in constructing the development
- (d) Wheel washing facilities

(e) Measures to control the emission of dust and dirt during construction

(f) Measures to control noise and vibration during construction

(g) A waste management plan for recycling/disposing of waste resulting from construction works.

Reason

In order to avoid nuisance to adjacent uses during the construction phase of the development, and to ensure safe works near to a busy highway network in accordance with the NPPF and policies CS13, CS14, MSGP15 and MSGP18 of the Gateshead Local Plan.

Pre-commencement reason

To ensure that construction details can be approved prior to on-site works thereby avoiding any abortive work and preventing harm to nearby sensitive receptors due to uncontrolled construction and harm to highway safety which could otherwise occur.

10

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

Reason

To safeguard the amenities of nearby residents and in accordance with the NPPF and policies CS14, MSGP17 and MSGP18 of the Gateshead Local Plan.

11

All windows serving bathrooms, en-suites and WCs shall be glazed with obscure glass at a level three or greater (in accordance with the levels set by Pilkington). The obscure glazing shall be installed prior to occupation of the respective dwellings hereby approved and retained thereafter.

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the street scene, and to ensure the proposal would provide an appropriate level of privacy for future occupiers, in accordance with the NPPF and policies CS14, CS15, MSGP17 and MSGP24 of the Gateshead Local Plan.

12

The dwelling hereby approved shall not be occupied until a fully detailed scheme for the hard and soft landscaping of the site has been submitted to and approved in writing by the Local Planning Authority.

The landscaping scheme shall include details of hard landscaping, all existing trees and hedges to be retained and planting plans.

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 CS18 and MSGP36 of the Gateshead Local Plan.

13

The details approved under condition 12 shall be implemented in accordance with the approved timescales and details.

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 CS18 and MSGP36 of the Gateshead Local Plan.

14

Notwithstanding the submitted information, no development above first floor level shall take place until full details including the specification and precise location (as identified on a plan and elevation drawing of the property) of the integrated bird nesting features (minimum 1no.) have been submitted to and approved in writing by the Local Planning Authority.

Reason

To provide appropriate compensation/enhancement measures for nesting birds in accordance with the NPPF and policies CS18 and MSGP37 of the Gateshead Local Plan.

15

The bird nesting features approved under condition 14 shall be provided in full and retained for the life of the development strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason

To provide appropriate compensation/enhancement measures for nesting birds in accordance with the NPPF and policies CS18 and MSGP37 of the Gateshead Local Plan.

16

No development shall commence until;

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have

been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason

To ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

Reason for prior to commencement condition

The undertaking of remedial measures, prior to the commencement of development, is considered to be necessary. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

17

Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason

To ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

18

No development shall commence until a Phase II Detailed Risk Assessment (to assess potential contamination at the site) has been submitted to and approved in writing by the Local Planning Authority. Where required, the Assessment shall include measures and timescales for Remediation, Monitoring and Verification Reports.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with CS14 and MSGP20 of the Gateshead Local Plan.

Reason for prior to commencement condition

The site investigation and assessment of the risks of the site must be undertaken before the development commences in order to ensure that

an appropriate remediation scheme suitable for the sensitive end use is identified and approved prior to commencement of the development, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, from the beginning of the works.

19

Where required, the remediation and monitoring measures approved under Condition 18 shall be implemented in accordance with the details and timescales approved and in full accordance with the approved details.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with CS14 and MSGP20 of the Gateshead Local Plan.

20

If any areas of odorous, abnormally coloured or suspected contaminated ground are encountered during development works, then operations shall cease, and the exposed material shall be chemically tested. The works shall not continue until a Risk Assessment and, if required, remediation and monitoring measures have been and submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with CS14 and MSGP20 of the Gateshead Local Plan.

21

The remediation and monitoring measures approved under condition 19 shall be implemented in accordance with the approved details prior to any further works (other than those required for remediation) and maintained for the life of the development.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with CS14 and MSGP20 of the Gateshead Local Plan.

22

Where remediation is required (under conditions 18-21) following completion of the approved remediation and monitoring measures, use of the development hereby approved shall not commence 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. Where this is carried out in phases, use of the buildings, structures or plant within the relevant phase shall not commence until a verification report that demonstrates the effectiveness of the remediation carried out for that phase has been submitted to and approved in writing by the Local Planning Authority. The Verification report(s) shall also include cross sectional diagrams of the foundations and details of the approved gas protection measures, details of integrity testing of gas membranes and any test certificates produced.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with CS14 and MSGP20 of the Gateshead Local Plan.

23

The dwelling hereby approved shall not be occupied until a statement explaining the outcome of engagement with more than one digital infrastructure provider to explore how digital communication networks can be integrated into the development has been submitted to and approved in writing by the Local Planning Authority.

Reason

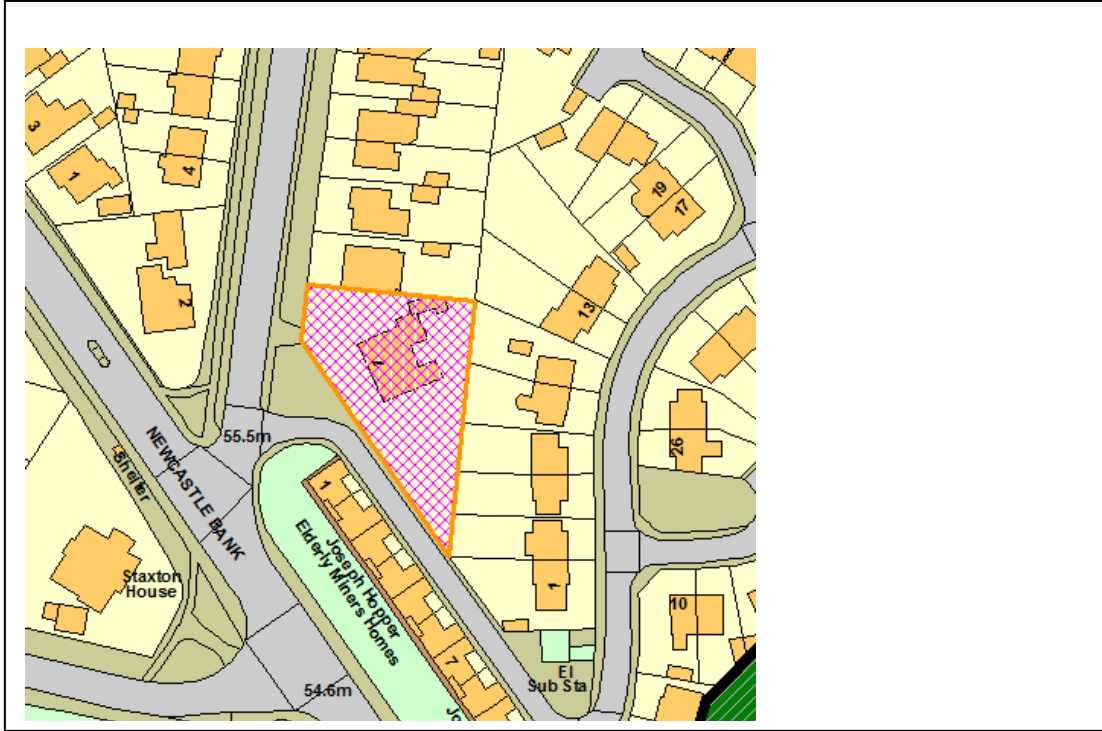
To ensure necessary physical infrastructure to enable access to information and digital communication networks at the new development, in accordance with the NPPF and policy MSGP8 of the Gateshead Local Plan.

24

Prior to first use of the approved vehicular site access, a 2.4m x 25m visibility splay shall be achieved in both directions as detailed on approved plan ref: 357 PSPc. If the adjacent hedgerow falling within the applicant's ownership obstructs this visibility splay, any planting which encroaches the splay shall be reduced in height to a maximum 600mm above ground level. The approved site visibility splay shall be maintained throughout the lifetime of the development.

Reason

To ensure the scheme would not have an unacceptable impact on highway safety, in accordance with the NPPF and policies CS13 and MSGP15 of the Gateshead Local Plan.



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Committee Report

Application No:	DC/23/00408/FUL
Case Officer	Mark O'Sullivan
Date Application Valid	12 May 2023
Applicant	Gateshead Council
Site:	Quarryfield Road Car Park Quarryfield Road Gateshead
Ward:	Bridges
Proposal:	Continued use as car park providing 555 parking bays with 22 disabled parking bays on the site of Quarryfield Road.
Recommendation:	GRANT TEMPORARY PERMISSION
Application Type	Full Application

1.0 The Application**1.1 DESCRIPTION OF SITE**

The application relates to the existing Quarryfield Road car park (a 14Ha hardstand site) located on the western edge of the Baltic Quarter as designated in the Core Strategy and Urban Core Plan (CSUCP) policy QB3(5). The site is enclosed by low level birds mouth fencing and bounded by Quarryfield Road to the west and Abbots Hill serving adjacent office buildings in the Baltic Quarter to the north. To the west beyond Quarryfield Road is a multi-storey car park serving the adjacent Gateshead College, with the District Energy Centre to the southwest. Undeveloped scrubland containing a SuDS drainage pond and landscaping borders the site to the east.

1.2 DESCRIPTION OF APPLICATION

In June 2018 retrospective planning permission was granted for the formation of a 555 space temporary car park for a 5-year period (planning ref: DC/18/00165/FUL). Justification was provided at the time, citing increased parking demand in this location resulting from the Great Exhibition of the North and other surrounding development on the Baltic Quarter, as well as from a number of car parking spaces being lost at Mill Road and South Shore Road throughout the Exhibition. In addition, it was anticipated that future Quay's development would necessitate additional parking in the area.

1.3 The car park was established as a public pay and display site operated by Gateshead Council and accessed directly from Abbots Hill to the north (linking to Quarryfield Road to the west).

1.4 As part of the approval, Sustainable Urban Drainage was proposed through the creation of a detention basin to the northeast corner of the site.

1.5 With the 5 year temporary consent having recently lapsed, the current application seeks a renewal of temporary consent for a further 5 years. No alterations to the existing car park would result, which would continue to provide 555no. parking bays, including 22no. disabled bays.

1.6 RELEVANT PLANNING HISTORY

A retrospective five year temporary consent was granted on 21 June 2018 for the formation of a 555 space car park to be enclosed by birds' mouth fencing under Planning ref: DC/18/00165/FUL.

2.0 Consultation Responses

No external consultations received.

3.0 Representations

3.1 Site notices to publicise works were posted adjacent to the site and all immediately adjoining properties notified in writing. The application was also advertised in the local press. Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015. No representations were received.

4.0 Policies

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS17 Flood Risk and Waste Management

CS18 Green Infrastructure/Natural Environment

QB3 Quays and Baltic Dev Opportunity Sites

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP18 Noise

MSGP24 Design Quality

MSGP29 Flood Risk Management

MSGP30 Water Quality/River Environments

MSGP37 Biodiversity and Geodiversity

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 proposals, impact on amenity, highway safety, flood risk and ecology.

5.2 ENVIRONMENTAL IMPACT ASSESSMENT

The development does not fall within the criteria listed in schedule 1 and 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, as such an Environmental Impact Assessment is not required in relation to this application.

5.3 PRINCIPLE OF DEVELOPMENT

The 533-space car park was originally granted planning approval for a temporary five-year period on 21 June 2018. At the time it was considered that the space available and proximity of the site to the Quays, and notably the proposed conference centre/arena development to the north would make it an attractive location for temporary car parking. In addition, it was envisaged that car parks would need to be provided on the adjacent Baltic Quarter to serve the needs of the Quarter and the surrounding area. It was accepted at that time that any extension to this temporary permission would require further assessment in the context of the wider development proposals for the area.

5.4 The current application is accompanied by a supporting statement which sets out justification for the extended time period sought for the car park. It is explained how current demand for car parking in the Quays and Baltic Quarter area arises from a number of sources:

- General public using the facilities and attractions in the Quays;
- Businesses operating in the area;
- Gateshead College;
- Local residents; and
- Commuters to Newcastle Quayside/city centre;

5.5 In the short to medium term proposals for new development in the area including a hotel to the immediate north and the nearby conference centre/arena development mean that the Gateshead Quays and Baltic Quarter area is anticipated to undergo major changes. These will compound pressures on car parking in the area as the demand from visitors to the area outstrips available supply. The statement concludes that the number of parking spaces in the area has reduced between 2018 and 2023, with the number of public spaces decreasing from 1,431 to 990. Meanwhile the number of public and private spaces have decreased from 2,405 to 1,964, with demand for spaces increasing between 2018 and 2023. Demand for parking spaces in the area is anticipated to increase in the short term due to

demand from Quays construction workers whilst the existing car park provides spaces for a significant number of permits holders (for Riga tenants) as well as visitors to the area without an obvious alternative location.

- 5.6 The Quays MSCP was designed to accommodate parking demand generated by the Gateshead Quays (Arena and Conference Centre) development (that was granted planning permission by Planning and Development Committee on 12 July 23) and its delivery is linked to that development. Whilst it would also provide capacity to meet general car parking demand in the area, it would not provide significant additional capacity to compensate for the potential loss of spaces at Quarryfield Road Car Park. As various developments come forward, the overall car parking requirements in the area will inevitably change and therefore they are under constant review. The retention of the Quarryfield Road car park for a further 5-year temporary period is therefore considered to provide medium-term flexibility in dealing with parking demand in the area, which could not be met by the remaining parking infrastructure.
- 5.7 The area subject to the application has already operated as a Council car park for five years, prior to which it was a cleared area of undeveloped land allocated for commercial use within the Core Strategy and Urban Core Plan (CSUCP). Based upon the information submitted, officers consider that the retention of a temporary car park in this location for an additional 5 years is acceptable and does not conflict with the relevant paragraphs in the National Planning Policy Framework (NPPF) as well as the aims and objectives of policy QB3(5) of the CSUCP.
- 5.8 AMENITY
Paragraph 130 of the NPPF relates to achieving well-designed places and states planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.
- 5.9 A public car park has operated from this site for five years. Given its temporary nature, the car park has been constructed in such a way to ensure when required, land can be restored fairly easily (i.e., temporary surfacing and boundary fencing). As the car park is proposed to be retained for a further five years (taking consent up to 2028), it is considered reasonable to allow some flexibility in terms of materials and finish. Prior to its creation, the site had been cleared for a number of years and has been previously used as a works compound for the nearby energy centre. Therefore, this temporary construction is not considered to create an issue in terms of visual amenity.
- 5.10 If a further temporary consent is granted, it is anticipated that a more permanent form of development will have been approved in its place and requirements for landscaping etc can be addressed through future applications. If future development has not commenced the surface treatment, fencing, lighting and signage required for the use as a car park can be removed, subject to details submitted via condition (condition 2).

- 5.11 In terms of the amenity of nearby occupiers, the application site stands remote from the nearest residential properties located beyond the A184 (Park Lane) to the south or within the town centre to the west. No objections are received and given site construction works have long since finished, the current impacts relate solely to the coming and going of vehicles using the car park throughout the day. Given the nature of the surrounding area, use of this car park in the evening is infrequent, however this will likely change following completion of the nearby conference centre/arena and adjacent hotel development. Notwithstanding this, it is not considered that any harm to the amenity of neighbouring occupiers would result from the continued use of the car park.
- 5.12 Given the nature of the proposals, character of the area and distance to the nearest sensitive uses, the resulting impact on neighbouring amenities would be minimal. It is considered the development does not conflict with the aims and objectives of MSGP17 and MSGP18, or policies CS14 and CS15 of the CSUCP.
- 5.13 HIGHWAYS
Paragraph 109 of the NPPF states 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.
- 5.14 The car park was originally granted consent to act as a replacement car park for the spaces lost in the Mill Road and South Shore Road car parks during the Great Exhibition of the North. With the total number of spaces lost totalling 380, the car park as approved created an additional 175 spaces. At that time, in terms of traffic generation, given the limited traffic flow on Quarryfield Road, and with an immediate requirement to provide for traffic associated with the Great Exhibition of the North, the risks of significant highway problems were considered to be low.
- 5.15 Since this time, there have been a number of significant planning approvals in the surrounding area, most of which are accompanied by transport assessments, travel plans and some extensive traffic modelling. In addition, recent approvals for hotel development to the north and the Conference Centre/Arena is shortly due to start construction, resulting in increased parking demand in the local area.
- 5.16 Since the car park was created, there have been no recorded Road Traffic Collisions on Quarryfield Road, with no current highway safety issues.
- 5.17 The current application is accompanied by a detailed transport statement which sets out justification for the retention of the car park for an additional 5 years. No objections are raised with respect the content of this statement and officers consider that in highway terms the temporary proposals remain acceptable. Although there would be some impacts on the local highway network with this proposal becoming an attractor of traffic, there are no

significant/severe issues envisaged with its continued use in terms of NPPF. It is considered that the current proposals would not have a direct adverse impact on the adopted highway over and above the existing arrangement, nor would it adversely impact upon highway safety. Proposals would satisfy the provisions of the NPPF and policies CS13 and MSGP15 of the Gateshead Local Plan.

5.18 DRAINAGE

The application site is located in a Flood Zone 1 area and is not identified as being at a high risk of surface water flooding. However, given the size of the site, it is a major application and therefore the use of a Sustainable Urban Drainage System (SuDS) is a material planning consideration. The original temporary consent detailed the creation of a large detention basin to the northeast corner of the site as part of a SuDS and this has been created. This along with infiltration through the porous surface material was expected to ensure the surface run off is maintained at an appropriate Greenfield rate.

5.19 With regards the current submission, a Drainage Statement is provided (14 August 2023) detailing the drainage works which have been implemented. It is explained that the original drainage scheme for the car park proved to be unsatisfactory and relied upon 2 separate surface water discharge mechanisms (sub-grade permeability and positive drainage to the nearby pond). The subgrade porosity proved insufficient and there was no piped overflow connection from the pond. This caused overtopping of the pond during storm events.

5.20 Subsequent steps have therefore been put in place to address this. As an addendum to the nearby Link Road contract, a new connection from the pond to the public sewer network was designed and approved by Northumbrian Water. This created the required piped overflow from the pond, allowing the drainage from the car park to operate in a satisfactory way. During periods of light rainfall, the majority of the surface water run-off is dealt with by the permeable surfacing. During more significant rainfall events the surface water run-off is directed to the pond where the flows are attenuated before being discharged at a controlled rate to the public sewer. It is explained how the downstream sewer connection provides ample capacity. Meanwhile the overflow connects to the drainage on the new Quays Boulevard link road which discharges via the new surface water system into the Tyne.

5.21 The Drainage Statement explains how the drainage system has been operating successfully during the recent period of sustained rainfall and the new outlet from the pond and secondary overflow outlet have ensured that there are no uncontrolled overland flows from the car park.

5.22 Based on the updated information provided, officers consider that there would be scope to recondition the current temporary approval requiring all details of the 'as built' drainage scheme to be submitted to and approved in writing by the Local Planning Authority within 3 months of permission, should permission be granted. It is considered that this is necessary so as to ensure appropriate drainage of the site in preventing the risk of flooding in

accordance with the NPPF and relevant local planning policy. Subject to the above, proposals would satisfy the provisions of CS17, MSGP29 and MSGP30 of the Gateshead Local Plan.

5.23 ECOLOGY

The previous 2018 consent acknowledged that the development of the car park, SuDS basin and relocation of excavated material resulted in the direct loss of UK and local BAP priority habitat (Open Mosaic Habitat on Previously Developed Land) including the loss of fauna, including statutorily protected and priority species. At that time, it was acknowledged that in accordance with relevant National and Local planning policies, appropriate mitigation and/or compensation should be provided to address the impacts of development.

5.24 In the context of the current application, relevant National and Local Planning Policy (NPPF, MSGP37, CS18) requires development to demonstrate the provision of net gains in biodiversity as well as minimising adverse impacts on biodiversity. An opportunity has arisen to reassess the biodiversity impacts of the proposals under relevant policy framework, whilst acknowledging that only a further 5 year temporary consent is sought.

5.25 Officers consider that such requirements may be dealt with via the application of appropriately worded condition relating to the provision of a proportionate level of ecological compensation/enhancement. It is considered reasonable to establish a trigger of 6 months for the submission of this information which would comprise a scheme for the offsetting of biodiversity impacts at the site, including the impacts of operation of the site as a car park over the preceding years (condition 5). Such a condition would supersede condition 5 of the 2018 consent which is now outdated based upon an old policy framework and ensure the delivery of an acceptable scheme for ecological compensation and enhancement.

5.26 Subject to the above, current proposals would satisfy the provisions of the NPPF and policies CS18 and MSGP37 of the Gateshead Local Plan.

5.27 COMMUNITY INFRASTRUCTURE LEVY (CIL)

On 01 January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This proposal has been assessed against the Council's CIL charging schedule and is not considered to be CIL chargeable development.

6.0 CONCLUSION

6.1 Taking all relevant issues into account it is recommended that in accordance with relevant local and national planning policy, temporary planning permission is granted for an additional 5 years. The application is considered in respect of the principle of development, the impact on amenity, highway safety, drainage and ecology.

7.0 Recommendation

That temporary permission be GRANTED subject to the following condition(s) and that the Service Director of Climate Change, Compliance, Planning and Transport be authorised to add, vary and amend the planning conditions as necessary:

1

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

TS-0417-000 Site boundary

TS-0417-001 General arrangement

TS-03-04 Fencing wood birds mouth fencing

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

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 permission hereby granted shall be for a limited period only of 5 year(s) from the date of this decision notice and prior to the expiry of the temporary permission a restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all of the following:

- a) Restoration of the site including the removal of all temporary surface treatment, fencing, lighting and infrastructure; and
- b) Removal of the vehicular access and restoration of that land

The approved restoration scheme shall be completed to the satisfaction of the Local Planning Authority within six months of its approval.

Reason

To enable the Local Planning Authority to ensure that site is fully restored to its former condition in the interests of visual amenity and to re provide the temporarily lost recreation land in accordance with policies CS15 and MSGP24 of the Gateshead Local Plan.

3

Within three months of this decision, final details of the surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:

a - A drainage statement setting out details of the design storm period and intensity; approach to modelling and a summary of results including modelling for climate change; conformity to the DEFRA Non-Statutory Standards for SuDS; confirmation of exceedance flow management to demonstrate that surrounding property is free from risk from runoff from this site; and confirmation of drain down time for the basin.

b - A plan of proposed finished levels to demonstrate flow and exceedance routes.

c - the final specification of permeable pavement to demonstrate mitigation of pollution via filtering through the pavement construction.

d - copy of full drainage model results and an electronic copy of the model;

e - a management and maintenance plan for the lifetime of the development, including specification and schedule of maintenance; confirmation from maintenance operative that basin is acceptable to maintain; confirmation of maintenance access.

Reason

To ensure appropriate drainage so as to prevent the risk of flooding in accordance with the NPPF and Policies CS17, MSGP29 and MSGP30 of the Gateshead Local Plan.

4

The drainage details shall be implemented and maintained in accordance with the details approved under condition 3.

Reason

To ensure appropriate drainage so as to prevent the risk of flooding in accordance with the NPPF and Policies CS17, MSGP29 and MSGP30 of the Gateshead Local Plan.

5

Notwithstanding the approved plans, within six months of the date of this decision, details of a biodiversity net gain compensation scheme, including the mechanism(s) for delivery of on and/or off site measures, which delivers a biodiversity net gain, as demonstrated through application of the Defra metric 3.1, to be delivered on suitable land, and including timescales for delivery, shall be submitted to and approved in writing by the Local Planning Authority.

Reason

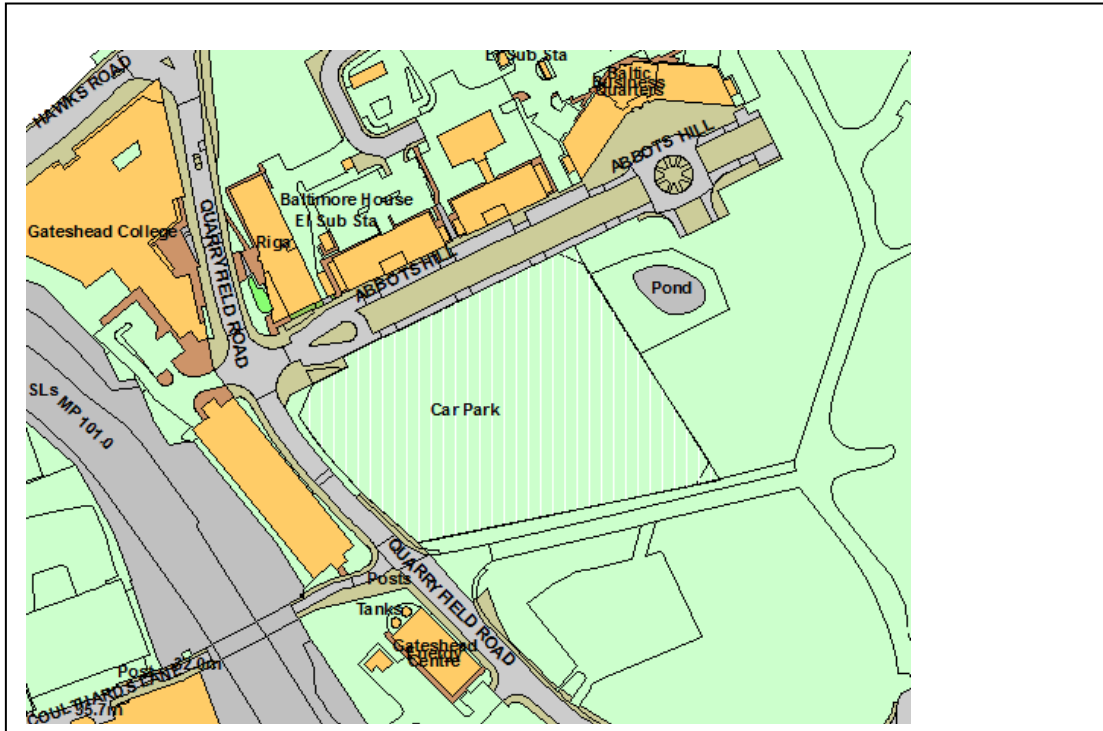
To ensure the development achieves measurable biodiversity net gain and improves the local and natural environment in accordance with policies CS18, MSGP36 and MSGP37 of the Local Plan for Gateshead and Part 15 of the NPPF.

6

The biodiversity net gain compensation scheme approved under condition 5 shall be implemented in full accordance with the approved measures and timescales and maintained thereafter for a minimum of 30 years.

Reason

To ensure the development achieves measurable biodiversity net gain and improves the local and natural environment in accordance with policies CS18, MSGP36 and MSGP37 of the Local Plan for Gateshead and Part 15 of the NPPF.



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Committee Report

Application No:	DC/23/00502/FUL
Case Officer	David Morton
Date Application Valid	10 July 2023
Applicant	Mr Ayaz Akram
Site:	The Apartment Company North East The Hall Sunderland Road Gateshead NE10 9LR
Ward:	Felling
Proposal:	Proposed change of use from apart hotel/serviced apartments to residential flats (use class C3).
Recommendation:	GRANT
Application Type	Full Application

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

The application site, known as The Hall, (formerly Felling Town Hall) is a Grade II listed, two-storey building located on the southern side of Sunderland Road. Currently, the building comprises 15 separate units: 14 are utilised as aparthotel units, while one functions as a flat.

1.2 The site features two vehicle access points onto Sunderland Road - one at the northeast corner and another at the northwest corner. Adjacent to the building, there's a hardstanding area used for car parking, enclosed by a stone wall and metal railings along the Sunderland Road frontage.

1.3 Positioned within a mixed area, the site is bordered by housing and a school to the north, a park to the east, a bowling green to the south, and a church hall to the west.

1.4 DESCRIPTION OF APPLICATION

This planning application seeks to convert the building's current aparthotel function into individual C3 apartments. This change would lead to a total of 15 residential units, although only 14 will be created, given one of the units is currently lawfully in use as an individual residential unit.

1.5 No modifications to the building, whether internal or external, are being proposed.

1.6 The applicant has submitted several documents in support of the application, including:

- An Affordable Housing Statement;
- A Design and Access Statement;

- A Heritage Statement; and
- A Planning Statement.

1.7 RELEVANT PLANNING HISTORY

The relevant planning history is summarised as follows;

- 623/93
Listed Building Consent to change the use of the building from offices to residential care home involving internal alterations, installation of ramped access at front entrance and fire escape at the rear. APPROVED August 1993.
- 626/93
Planning permission to change the use of the building from offices to residential care home. APPROVED August 1993.
- 155/94
Planning permission to change the use of the building from offices to student halls of residence. APPROVED April 1994.
- 238/94
Listed Building Consent to change the use of the building from offices to student halls of residence. APPROVED October 1994.
- 812/00
Planning permission to change the use of the building from student halls of residence to hostel. APPROVED October 2000.
- DC/16/00113/FUL
Change of use from hostel (consisting of 23 individual bedrooms with shared facilities and 3 flats) into 16 flats (C3 Residential Use). APPROVED June 2016.
- DC/16/00411/LBC
LISTED BUILDING CONSENT: Change of use from hostel (consisting of 3 no. flats) into 16 no. flats. APPROVED October 2016.
- DC/16/00576/FUL
Planning permission to change to use of the building from hostel to aparthotel (C1) (Retrospective). APPROVED November 2016.

2.0 Consultation Responses:

T&W Fire	No objection.
Northumbria Police	No objection, however concerns raised around parking levels. The comment is made specifically in regard to the low levels of on street parking in the area.

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 one objection has been received, the letter is summarised as follows;

- The change of use of aparthotel has resulted in anti-social behaviour;

- The parking scheme on York Terrace has failed; and
- The increase in accommodation will be result in additional parking issues.

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS11 Providing a range and choice of housing

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

MSGP12 Housing Space Standards

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP25 Conservation/Enhancement Heritage Assets

MSGP26 Heritage at Risk

5.0 Assessment:

5.1 The main planning issues are considered to be the acceptability of C3 residential use (flats) at this site, the impact on highway safety and parking demand in the area and the impact on the living conditions of surrounding residents.

5.2 PRINCIPLE OF THE DEVELOPMENT

The site is not allocated for any specific purpose in the Local Plan for Gateshead and is therefore to be determined on the basis of its own merits.

5.3 Range and Choice of Housing

Local Plan policy CS11(1) requires that a minimum of 60% of new private housing across the plan area is suitable and attractive for families (i.e., homes with three or more bedrooms). The proposal would result in the create of one three-bedroomed unit, seven two-bedroomed units and six one-bedroomed units.

5.4 The proposed development would therefore do little to help meet the above target. However, it is acknowledged that the target is Plan-wide and for the duration of the Plan period and is not a requirement for every site. The applicant has suggested that the amendment to the internal layout to accommodate

larger units would lead to significant alteration to the historic fabric of the building. Therefore, the layout is considered to be appropriate for this building.

5.5 Space standards

Policy CS11(4) of the Local Plan requires adequate space inside and outside of the home to meet the needs of residents and Policy MSGP12 also sets out that new homes should be built in accordance with the Nationally Described Space Standards (NDSS). The applicant has submitted a floor space assessment, this indicated that only three out of the 14 flats would achieve NDSS in regard to internal floor area.

5.6 The applicant justifies this non-compliance by highlighting the importance of maintaining the building's original structural integrity and character, considering its spatial divisions, historical features, and wall alignments. They argue that the building previously operated as successful apartments without compromising its historic value or the amenity of occupiers. Officers consider that while the development could not be considered to comply with MSGP12, the historical significance of the application site should outweigh compliance with NDSS in this instance.

5.7 Affordable Housing

Policy CS11 of the CSUCP requires 15% affordable housing for developments creating 15 or more dwellings. As the conversion only adds 14 new units due to an existing flat, it's deemed that affordable housing isn't necessary here, complying with policy CS11 of the Local Plan.

5.8 DESIGN / HERITAGE ISSUES

The proposal doesn't involve any external changes to the building, however, the application does propose the introduction of cycle storage facilities. Cycle storage is like to take the form of sheds located to the eastern side of the building, the final appearance of which can be controlled by planning condition. As a result, it is considered that the proposal would not impact on the appearance and/or historic fabric of the listed building. The development complies with the requirements of the NPPF and policies CS15 and MSGP24, MSGP25 and MSGP26 of the Local Plan for Gateshead.

5.9 RESIDENTIAL AMENITY ISSUES

The intended use of the building as 15 self-contained units is not expected to cause significant noise or disturbance. Additionally, this use, involving 15 flats, is seen as less intensive compared to its previous function as an aparthotel, given the more long-term occupancy.

5.10 The closest residential properties are on York Terrace, situated to the northeast across Sunderland Road. The separation distances between the proposal site and these properties are sufficient to prevent any issues of overlooking.

5.11 In conclusion, officers are of the opinion that, the proposed development would not negatively affect the living conditions of adjacent residential properties or future occupants. It is therefore considered that the development is acceptable

from a residential amenity point of view and accords with the aims and objectives of the NPPF, and Policies CS14 and MSGP17 of the Local Plan.

5.12 HIGHWAY ISSUES

The concerns raised at pre-application stage have been acknowledged and parking issues have addressed through the planning submission or can be addressed via planning conditions. The current level of parking is accepted for the existing usage, and the anticipated demand won't significantly differ under the proposed residential use. Although there is not sufficient parking to accommodate a parking space for each dwelling, however restrictions on on-street parking along Sunderland Road have already been implemented by the Council, addressing the concerns around overflow parking.

5.13 In the evaluation of the earlier application for Aparthotel use, a Car Parking Management Strategy was requested for implementation through conditions to ensure proper parking utilisation and obstruction prevention. Since a similar strategy isn't included in the current application, it's recommended that this is secured via a planning condition.

5.14 Moreover, while an improved cycle storage solution has been presented in the proposal its form is considered to be inappropriate, as the current proposal provides two spaces per locker meaning that residential units would need to share access to lockers. Consequently, it's advised that the final cycle storage details be submitted for review and approval through planning conditions.

5.15 Additionally, to enhance sustainable transport options and accommodate long-term residents' travel preferences, upgrading the existing eastbound bus stop on Sunderland Road is suggested. This upgrade aims to bolster sustainable travel choices and complement the lower parking availability on-site. A condition is proposed to secure this upgrade before the dwellings are occupied, possibly requiring the applicant to engage in an S278 Agreement with the Highway Authority for its execution.

5.16 The arrangement for three shared large refuse bins displayed in the submitted plans aligns with roadside collection requirements and is acceptable in highway terms.

5.17 The proposed development will not have a material impact upon the operation and safety of the highway network over and above the current use subject to the imposition of conditions pertaining to the submission of a Car Parking Management Strategy ((including EV charging provision) Conditions 3 and 4), cycle parking (Conditions 5 and 6) and an upgraded bus stop (Condition 7 and 8).

5.18 On the basis of the above assessment and subject to conditions the proposal is considered to comply with the NPPF and Policies CS13 and MSGP15 of the Local Plan.

5.19 OTHER MATTERS

It is considered that all materials considerations raised within the objection to the proposal have been addressed within the main body of the report.

6.0 CONCLUSION

6.1 Taking all the relevant issues into account, it is considered that the proposal is on balance acceptable from a planning point of view and that subject to the planning conditions below accords with both national and local planning policies. It is therefore recommended that planning permission be granted.

7.0 Recommendation:

7.1 That permission be GRANTED subject to the following condition(s) and that the Service Director of Climate Change, Compliance, Planning and Transport 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 -

Site Location Plan

ACBP 01 - Existing Site Plan

ACBP 02 - Proposed Site Plan

ACBP 03 - Existing 01

ACBP 04 - Proposed 01

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

A Car Park Management Strategy (CMS) for the site shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any unit hereby approved. The CMS shall detail measures to control the use of the parking bays within the site and to ensure that

the internal access road is unobstructed at all times in order to ensure that all vehicular access and egress from/to Sunderland Road is in forward gear.

Reason

In the interest of highway safety to accord with the NPPF and Policies CS13 and MSGP15 of the Local Plan.

4

The site shall be operated in full accordance with the CMS, approved as part of Condition 3, at all times.

Reason

In the interest of highway safety to accord with the NPPF and Policies CS13 and MSGP15 of the Local Plan.

5

Notwithstanding the submitted details, prior to the first occupation of any unit hereby approved final details of cycle storage for each individual unit, including details of the locking mechanism, anchor point and timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of sustainable development and in order to accord with NPPF, and policies CS13 and MSGP15 of the Local Plan for Gateshead.

6

The cycle storage provision shall be installed in accordance with the details and timetable for implementation approved under Condition 5.

Reason

In the interests of sustainable development and in order to accord with NPPF, and policies CS13 and MSGP15 of the Local Plan for Gateshead.

7

Notwithstanding the submitted details, prior to the first occupation of any unit hereby approved final details of and a timescale for the implementation of the upgrading the existing eastbound bus stop on Sunderland Road shall be submitted to and approved in writing by the Local Planning Authority.

Reason

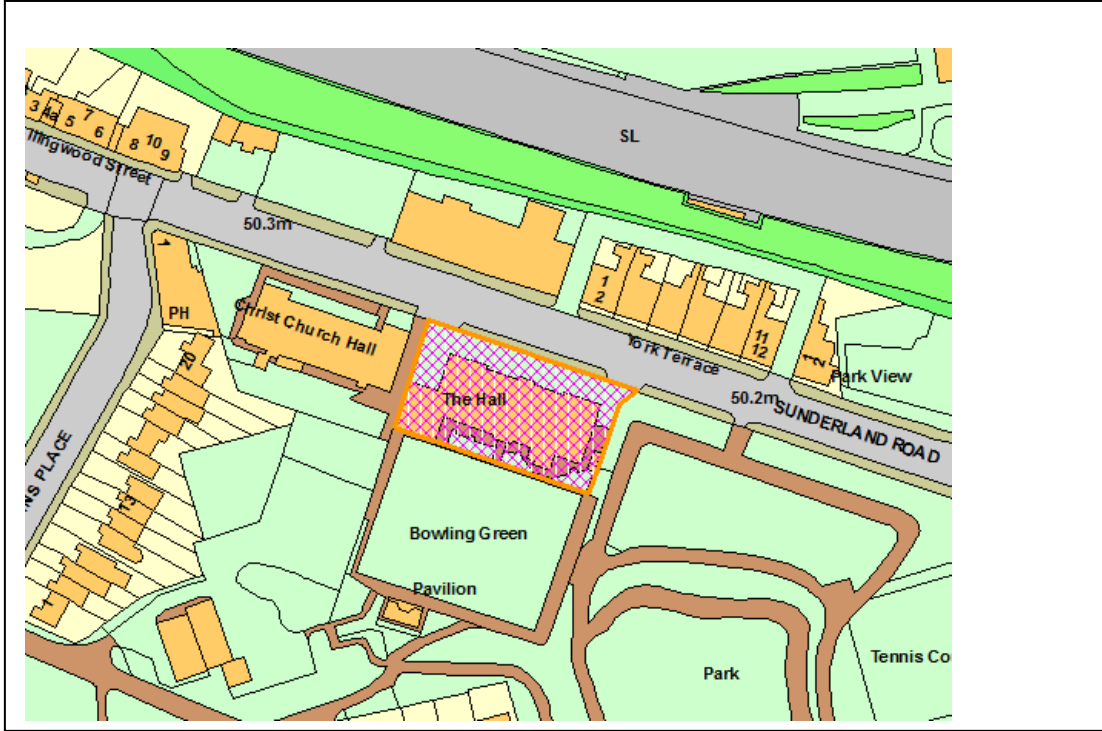
In the interests of sustainable development and in order to accord with NPPF, and policies CS13 and MSGP15 of the Local Plan for Gateshead.

8

The eastbound bus stop on Sunderland Road shall be upgraded in accordance with the details and timescales approved as part of Condition 7.

Reason

In the interests of sustainable development and in order to accord with NPPF, and policies CS13 and MSGP15 of the Local Plan for Gateshead.



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REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

06th September 2023

TITLE OF REPORT: Enforcement Team Activity

REPORT OF: Anneliese Hutchinson, Service Director – Climate Change, Compliance, Planning and Transport

Purpose of the Report

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

Background

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

Recommendations

- It is recommended that the Committee note the report.

Within the date range commencing 26.07.23 and ending 22.08.23 the enforcement team has received 151 new service requests. The enforcement team currently has 670 cases under investigation.

TYPE OF SERVICE REQUEST	NEW SERVICE REQUESTS RECEIVED	CASES ALLOCATED TO OFFICER	CASES RESOLVED	UNDER INVESTIGATION	PENDING PROSECUTIONS
Planning	48	30	29	294	0
Empty/vacant properties & sites	13	13	0	88	0
Highways	21	12	25	154	0
Abandoned vehicles	32	32	38	6	0

Waste investigations	37	37	34	128	2
TOTALS	151	124	126	670	2

COURT HEARINGS
No court hearings have occurred in this period.



**REPORT TO PLANNING AND DEVELOPMENT
COMMITTEE**

06th September 2023

TITLE OF REPORT: Enforcement Action

REPORT OF: Anneliese Hutchinson, Service Director – Climate Change, Compliance, Planning and Transport

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	Case History	Current Update	
Page 47	1.	Blaydon Quarry Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	22 nd May 2019	24 th May 2019	28 th June 2019	28 th December 2019	<p>Blaydon Quarry is in breach of several planning conditions. A Notice has been served in relation to condition 23 to require installation of a drainage system. The Council has designed an acceptable scheme to be installed in the interests of surface water drainage and to enable the safe and successful restoration of the site.</p> <p>A site visit was undertaken on the 4th June 2019, where drainage works had commenced. Officers are working closely with the Operator of the quarry to ensure compliance.</p> <p>A discharge of condition application has been submitted in relation to condition 23 for the Council to assess.</p> <p>An appeal has been submitted in relation to the enforcement notice.</p> <p>04.05.2023 – Site meeting took place with owner, Environment Agency, Planning, Enforcement and consultant on 03.05.23.</p> <p>Agreed on action that is required by owner to ensure compliance and required timescales.</p> <p>26.07.2023 - Development Management have three outstanding discharge of conditions applications which they are looking to determine week commencing 31st July 2023. Once the applications have been determined we will be in a better position to review what conditions remain outstanding and consider appropriate next steps.</p>	<p>24.08.2023 - Development Management have three outstanding discharge of conditions applications which they are looking to determine asap and also seeking advice from consultees on the acceptability of the submitted details to assist in the determination of these applications Once the applications have been determined we will be in a better position to review what conditions remain outstanding and consider appropriate next steps.</p> <p>Ongoing monitoring in place to ensure the works continue and conditions are met.</p>
	2.	Blaydon Quarry Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	22 nd May 2019	24 th May 2019	28 th June 2019	28 th October 2019	<p>Blaydon Quarry is in breach of several planning conditions. A Notice has been served in relation to condition 24 to require installation of the previously approved drainage system on the southern boundary, in the interests of surface water drainage and to enable the safe and successful restoration of the site.</p>	<p>24.08.2023 - Development Management have three outstanding discharge of conditions applications which they are looking to determine asap and also seeking advice from consultees on the acceptability of the 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	Case History	Current Update
								<p>A discharge of condition application has been submitted in relation to condition 24 for the Council to assess.</p> <p>An appeal has been submitted in relation to the enforcement notice.</p> <p>Wardell Armstrong on behalf of the Operator has withdrawn the Enforcement Appeal.</p> <p>February 2023 - Development management have engaged a minerals and landfill specialist consultant to consider the current planning status of this development and determine an appropriate course of action should further enforcement activity be required.</p> <p>04.05.2023 – Site meeting took place with owner, Environment Agency, Planning, Enforcement and consultant on 03.05.23.</p> <p>Agreed on action that is required by owner to ensure compliance and required timescales.</p>	<p>details to assist in the determination of these applications Once the applications have been determined we will be in a better position to review what conditions remain outstanding and consider appropriate next steps.</p> <p>Ongoing monitoring in place to ensure the works continue and conditions are met.</p>
3.	81 Dunston Road, Gateshead NE11 9EH	Dunston and Teams	Untidy Land	25 th July 2019	25 th July 2019	22 nd August 2019	03 rd October 2019	<p>Complaints have been received regarding the condition of the property which is considered to have a detrimental impact on the visual amenity of the area. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the hedge be cut, all boarding removed from windows and the windows and frames made good. It also required that all the guttering and down pipes be re attached to the building.</p> <p>Update 08.02.2023 - Building work has commenced at the rear of the property. Old kitchen has been demolished in preparation for the new development. Gable wall is being repointed.</p>	24.08.2023 – Ongoing monitoring to ensure works continue. Good progress being made with refurbishment of the property.
4.	Dynamix Albany Road Gateshead	Bridges	Unauthorised change of use	13 th October 2020	13 th October 2020	17 th November 2020	18 th May 2021	<p>Complaints have been received regarding the change of use from a vacant warehouse to a mixed use comprising skate park, residential planning unit and storage of building and scrap materials therefore, an Enforcement Notice has</p>	24.08.2023 - Site visited on 02.08.2023 to assess progress. Due to the incredibly wet weather the site operator had experienced significant difficulty making

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	Case History	Current Update
								<p>been issued requiring the unauthorised use of the land to cease and all materials and vehicles be removed from the land</p> <p>The occupier of the site has appealed the notice to the planning inspectorate</p> <p>The Appeal has been determined and the Notice has been upheld.</p> <p>Section 330 Notices have been served to determine interests in land by all parties known to be involved with the site. This information will be used as the basis for further enforcement action.</p> <p>Notices have not been responded to and are being pursued.</p> <p>Site visit took place in March with landowner's agent in attendance. No works have been undertaken by the site leaseholder to comply with the notice and further unauthorised uses on site were identified. The landowner has confirmed that use rights were not to extend beyond 31st March 2023. Agreed with the landowner that the unauthorised uses taking place on the land and in the buildings must cease and the site must be fully cleared not later than 31st May 2023. Ongoing monitoring to ensure compliance.</p>	<p>any further progress due to being unable to use mechanised lifting equipment in areas which were waterlogged or covered in standing water. A short extension of time was granted to enable the works to be completed when the weather improved. The site will be revisited in September to check compliance and ongoing monitoring to ensure compliance will continue thereafter.</p>
5.	Dynamix Albany Road Gateshead	Bridges	Untidy Land	27 th August 2021	27 th August 2021	27 th September 2021	27 th December 2021	<p>Complaints have been received regarding the condition of the land. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring all waste be removed from the land, the mounds of rubble be removed to ground level and all the graffiti cleaned from the building.</p> <p>Section 330 Notices have been served to determine interests in land by all parties known to be involved with the site. This information will be used as the basis for further enforcement action.</p> <p>Notices have not been responded to and are being pursued.</p> <p>Site visit took place in March with</p>	<p>24.08.2023 - Site visited on 02.08.2023 to assess progress. Due to the incredibly wet weather the site operator had experienced significant difficulty making any further progress due to being unable to use mechanised lifting equipment in areas which were waterlogged or covered in standing water. A short extension of time was granted to enable the works to be completed when the weather improved. The site will be revisited in September to check compliance and ongoing monitoring to ensure</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	Case History	Current Update
								landowner's agent in attendance. No works have been undertaken by the site leaseholder to comply with the notice and further unauthorised uses on site were identified. The landowner has confirmed that use rights were not to extend beyond 31st March 2023. Agreed with the landowner that the unauthorised uses taking place on the land and in the buildings must cease and the site must be fully cleared not later than 31st May 2023. Ongoing monitoring to ensure compliance.	compliance will continue thereafter.
6.	Kwik Save, High Street, Felling	Felling	Building and land in ruinous and dilapidated condition	27 th April 2022	27 th April 2022	18 th May 2022	5 th September 2022	<p>Complaints have been received regarding the condition of the property and the adjoining land. The site has been subject to a number of arson attacks, fly tipping and other anti-social behaviour. A Notice has been issued pursuant to section 79 (1) of the Building Act 1984 requiring the recipient to either carry out such works of restoration or carry out demolition and remove the resultant rubbish or other materials from the site as specified in the notice. This has been the subject of an appeal. Work is ongoing with Northumbria Police and Tyne and Wear Fire & Rescue service to expedite a resolution. Construction services have also been requested to provide a method statement and costings for demolition, should the local authority be required to undertake works in default. –</p> <p>Works progressing to determine costs of demolition and consideration being given to issuing community protection warning in conjunction with TWFRS and Northumbria Police</p> <p>Construction services instructed to progress to tendering stage for demolition.</p> <p>On 12.05.2023 Representatives of the Council, Northumbria Police and Tyne and Wear Fire and Rescue Service met on site to examine the condition of the building and consider further opportunities to restrict access and minimise the impact of ongoing ASB. Work is ongoing to provide a legal remedy.</p>	24.08.2023 – Work is continuing to progress demolition costs and methodology by construction services. Due to noncompliance with the Community Protection Warning, a formal Community Protection Notice was served on 31 July and was due to take effect 03 August 2023. The notice has subsequently been appealed by the owner and we await an appeal hearing. Monitoring is continuing to ensure compliance, however, reports of ASB continue.

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	Case History	Current Update
								A community protection warning notice was served on the landowner requiring him to take a number of steps in the interim period to prevent or minimise the opportunities for anti-social behaviour on site. This wasn't complied with	
7.	Jack and Jo's Nursery Garden, Middle Hedgefield Farm, Blaydon on Tyne, NE21 4NN	Ryton, Crookhill and Stella	Without planning permission, the erection of a timber building to provide café with associated raised deck, canopy and smoking shelter and the installation of access railings and steps	22 nd May 2023	24 th May 2023	28 th June 2023	28 th October 2023 - removal of all structures 28 th November 2023 - removal of all resultant debris	<p>Complaints were received regarding the erection of an unauthorised building for use as a café.</p> <p>A retrospective planning application was submitted. It was refused on 28.2.22.</p> <p>An appeal was submitted to the Planning Inspectorate in relation to the planning refusal. The appeal was dismissed.</p> <p>An amended scheme/application was submitted to the Council on 14.10.22 and refused by Committee on 17.5.23.</p> <p>As two applications have been refused and giving weight to the appeal dismissed by the Planning Inspectorate it was considered expedient to take enforcement action and an Enforcement Notice has been served.</p> <p>The notice requires the removal of the unauthorised structures (café building, raised deck, smoking shelter, canopy and steps).</p>	24.08.2023 – Appeal has been lodged with the planning inspectorate. Start date of the appeal process is 17.07.2023 and is to be heard by way of written representations. Closing date for representations is 28.08.2023. Notice is suspended until the outcome of the appeal is determined.
8.	31 Cromer Avenue Gateshead NE9 6UL	Chowdene	Untidy Land	31 st May 2023	31 st May 2023	31 st May 2023	28 th June 2023 – cut back all weeds, brambles, bushes, shrubs and long grass. 12 th July 2023 – Remove all resultant rubbish and debris	<p>Complaints have been received regarding the condition of the rear garden of the property. The property has been vacant for several years. The owner has failed to take reasonable steps to maintain the vegetation within the premises in such a manner to prevent detriment to the amenity of the area and the quality of life of others in the locality. Notices have been issued pursuant to section 43 of the Anti Social Behaviour, Crime and Policing Act 2014 on the landowner requiring certain steps to be taken to prevent nuisance or detriment to the amenity of others.</p>	24.08.2023 – The recipient of the notice has not appealed to the Magistrates Court and is therefore in contravention of the notice. Legal advice is being obtained which is still awaited as to further enforcement options available including prosecution and work in default. Ongoing monitoring in place but no compliance as yet.

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REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

09th August 2023

TITLE OF REPORT: Planning Enforcement Appeals

REPORT OF: Anneliese Hutchinson, Service Director - Climate Change, Compliance, Planning and Transport

Purpose of the Report

1. To advise the Committee of new appeals against enforcement action received and to report the decisions of the Planning Inspectorate received during the report period.

New Appeals

2. There has been **one** appeal received since an update was last provided to committee.

APPELLANT	REASON FOR NOTICE	HOW APPEAL IS TO BE CONSIDERED
OM Properties Investment Company Limited, The Pantiles, Gartree Road, Oadby, Leicester, LE2 2FB	Community Protection Notice Served under the provisions of the Anti-social Behaviour Crime and Policing Act 2014 to prevent the detrimental effect the conduct of the owner is having on the quality of life of those in the locality in relation to the lack of management of the former Kwik Save premises and adjoining land at 57 High Street, Felling, Tyne and Wear, NE10 9LU. The building has been significantly fire damaged, is subject to regular arson attempts, unauthorised access, anti-social behaviour and is in a dangerous condition. The adjoining land is used for fly tipping regularly. The building and the site impacts significantly	Appeal has been lodged with Gateshead Magistrates Court and currently awaiting instructions from them.

	upon policing, fire service and local authority resources as well as neighbouring/adjoining businesses and local residents.	
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Appeal Decisions

3. There have been **no** appeal decisions received since the last Committee.
4. Details of outstanding appeals can be found in **Appendix 2**

Recommendations

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

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 enforcement appeal regime is outside of the Council's control being administered by the Planning Inspectorate.

WARD IMPLICATIONS –

Low Fell

BACKGROUND INFORMATION

Appeal Decision

Outstanding Enforcement Appeal Cases

Further details have been provided by the planning inspectorate with regard to the following appeal, since committee were last updated.

APPELLANT	REASON FOR NOTICE	HOW APPEAL IS TO BE CONSIDERED
<p>Jack and Jo's Nursery Garden, Middle Hedgefield Farm, Blaydon on Tyne, NE21 4NN</p>	<p>Without planning permission, the erection of a timber building to provide café with associated raised deck, canopy and smoking shelter and the installation of access railings and steps</p>	<p>The appeal(s) will proceed on ground(s) (a), (f) as set out at Section 174(2) of the 1990 Act.</p> <p>The planning inspectorate has confirmed the start date of the appeal as 17 July 2023. The appeal is to be heard through the written representation's procedure.</p> <p>The appeal reference is APP/H4505/C/23/3324826. Any representations are to be received by the planning inspector no later than 28 August 2023. Guidance on making representations can be found in the following link Taking part in a planning, listed building or enforcement appeal - GOV.UK (www.gov.uk)</p>



REPORT TO PLANNING AND DEVELOPMENT COMMITTEE 6 September 2023

TITLE OF REPORT: Planning Appeals

REPORT OF: Anneliese Hutchinson, Service Director, Climate Change, Compliance, Planning and Transport

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 **two** new appeal decisions received since the last Committee:

DC/22/00635/CPE – Allotment Gardens West Of Pelaw Youth Centre, Shields Road Felling, Gateshead NE10 0YH

CERTIFICATE OF LAWFULNESS FOR EXISTING USE OR DEVELOPMENT: Use of land as private general amenity space (Sui Generis). (Additional information received on 15/07/2022 and 10/08/2022)

This was a delegated decision use considered to be unlawful 11 October 2022
Appeal dismissed 31 July 2023

DC/23/00211/ADV - Land Adjacent Blaydon Railway Staff Social Club, Tyne Street, Blaydon NE21 4JB

Display of 1No freestanding 48-sheet LED advertisement display

This was a delegated decision refused on 2 May 2023
Appeal dismissed 7 August 2023

Appeal Costs

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

Outstanding Appeals

5. Details of outstanding appeals can be found in **Appendix 3**.

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 3

OUTSTANDING APPEALS

Planning Application No	Appeal Site (Ward)	Subject	Appeal Type	Appeal Status
DC/22/00635/CPE	Allotment Gardens West Of Pelaw Youth Centre Shields Road Felling Gateshead NE10 0YH	CERTIFICATE OF LAWFULNESS FOR EXISTING USE OR DEVELOPMENT: Use of land as private general amenity space (Sui Generis). (Additional information received on 15/07/2022 and 10/08/2022)	Written	Appeal dismissed
DC/22/00900/FUL	The Cottage 18 Talbot Terrace Birtley Central Birtley Gateshead DH3 2PQ	Erection of canopy over front entrance and glass balustrade around front boundary to create seating/waiting area, including alterations to stepped frontage (part retrospective).	Written	Appeal in Progress
DC/22/01226/FUL	Land To The Rear Of 2 Ashfield Road Newcastle Upon Tyne NE16 4PL	Erection of Dutch Bungalow on land to the rear of 2 Ashfield Road with access from Whaggs Lane.	Written	Appeal in Progress
DC/22/01392/CDPA	The Glasses Factory, 32 Wesley Court, Blaydon, NE21 5BT	DETERMINATION OF PRIOR APPROVAL: Conversion of first floor commercial unit to create 4 flats - mix of 1 and 2 bed.	Written	Appeal in Progress
DC/23/00148/ODPA	Shoefayre Ltd 4 Wesley Court Blaydon NE21 5BT	DETERMINATION OF PRIOR APPROVAL: Conversion of vacant first floor Class E premises to C3 residential (2no. 1 bedroom flats).	Written	Appeal in Progress

DC/23/00157/FUL	Site West Of Worley Avenue / South Of Earls Drive Earls Drive (Opposite Numbers 50- 60) Low Fell Gateshead Borough NE9 6AA	Use as residential amenity and garden land with construction of a driveway and a single residential outbuilding / garage for the storage of vehicles and residential paraphernalia, with the felling of 8 trees, the replacement planting of 8 trees and new boundary hedgerow.	Written	Appeal in Progress
DC/23/00211/ADV	Land Adjacent Blaydon Railway Staff Social Club, Tyne Street, Blaydon, NE21 4JB	Display of 1No freestanding 48-sheet advertisement display	Written	Appeal dismissed
DC/23/00331/HHA	12 Long Bank Gateshead NE9 7HE	Retrospective planning permission to Remove and replace rear garden boundary 15-metre-long, 1.5-metre-high timber fence with an incorporated double gate and posts with a 15- metre-long timber fence, at 1.8 metre high, with an incorporated single gate and posts.	Written	Appeal in Progress

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Appeal Decision

Site visit made on 18 July 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2023

Appeal Ref: APP/H4505/Z/23/3321727

Land adjacent Blaydon Railway Staff Social Club, Tyne Street, Blaydon NE21 4JB

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Warren Milroy (Vivid Outdoor Media Solutions (B) Limited against the decision of Gateshead Metropolitan Borough Council.
 - The application Ref DC/23/00211/ADV, dated 28 February 2023, was refused by notice dated 2 May 2023.
 - The advertisement proposed is a freestanding 48-sheet LED advertisement display.
-

Decision

1. The appeal is dismissed.

Main Issue

2. Regulations to control advertisements may be exercised only in the interests of visual amenity and public safety. The assessment regarding public safety is not disputed and the main issue is therefore the effect of the proposed advertisement on visual amenity.

Reasons

3. The appeal site is located in a prominent position within the forecourt of Blaydon Staffs Social Club. The site comprises the existing building with an area of hardstanding to the front which is enclosed by a low-level brick wall which separates the site from the adjacent footpath and main road. There are other boundary treatments enclosing the sides of the premises including a relatively tall stone wall to the west and east. The site is readily visible from a number of public viewpoints particularly on approaches from the west.
4. The surrounding area is largely characterised by commercial uses and there is an overbridge, highways infrastructure, telecommunications, railway and other commercial buildings located within close proximity of the site. Whilst there are other advertisements/street furniture nearby including the petrol filling station located further west, such features are generally related to the use of the premises on which they are sited. I noted on my site visit those advertisements in the vicinity are largely non illuminated and are of a smaller scale which do not appear out of keeping when viewed against the context of their associated site.
5. The proposed advertisement would be positioned within the forecourt of an existing commercial building which is single storey and would be positioned against the existing stone boundary wall that runs to the east of the site. The proposed development would introduce a free-standing structure of a

significant height and width which would unacceptably tower above the existing building onsite as well as the existing stone boundary wall despite it being relatively tall. Consequently, the proposed advertisement would appear as a visually prominent and obtrusive feature. There is a ramp and bridge structure as well as other notable structures such as telecommunications located to the east of the site and despite providing a backdrop, the advertisement would be seen more in conjunction with the more modest building onsite and boundary treatments which acts to increase its overall effect where it would appear out of proportion.

6. Additionally, the proposed advertisement would be internally illuminated which despite its slim display, would increase its overall visual prominence in this location. This, along with its associated static but sequential images would be overtly more modern in its form and technology than other surrounding advertisements and thus would be at odds with other advertisements and general character of the area. I note comments made regarding high levels of lighting in the area and that the illumination would be adjusted by light sensors to make the image visible but not overly bright as well as according with the guidance set out by the Institute of Lighting Practitioners. I also note the appellant's suggested conditions regarding the illumination, display and frequency/method of change of the display. However, this would not reduce the advertisements physical visual prominence in this location as it would still be excessive in terms of overall width and height where the eye would be unacceptably drawn to its presence.
7. The advertisement seeks to attract attention of those approaching from the west of the site. The reverse of the sign would therefore be blank but would still be seen above the boundary walling on approaches from the east including the entrance to the bridge. This would result in a large blank metal screen being visible which would detract from the visual amenity of the area. I am not persuaded that views of the rear of the display would be compromised by the ramp and elevated walkway structure.
8. I appreciate that such advertisements can be acceptable in commercial areas where there are large buildings and main highways and are increasingly commonplace across urban areas of the country. It is also not disputed that the advertisement comprises a common and standard size for roadside advertisements. The appeal site is not within the Conservation Area, Green Belt or close to any known heritage assets as well as not comprising valuable green space nor facing towards residential properties or being harmful to residential amenity. I also acknowledge the claims made regarding the lack of other similar advertisements of this type in the immediate vicinity and street clutter. However, the proposals would still be overly prominent in this specific location taking into account the general characteristics of the locality.
9. I acknowledge the appellant's statement that this proposal is part of the commitment to high quality digital advertising to meet the advertisement needs of modern businesses and I have had regard to the claims made regarding manual billposting. However, this would not outweigh the harm identified.
10. I conclude that the proposed advertisement would harm the visual amenity of the site and surrounding area. It would therefore be contrary to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and

the guidance in the National Planning Policy Framework which together, amongst other matters, explains that the quality and character of places can suffer when advertisements are poorly sited and designed and that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

Other Matters

11. The proposed advertisement would be let out or rented to local businesses and advertisers and would be located close to the town centre making it suitable for promoting attractions, destinations as well as local businesses and leisure/arts activities. It would also be used for public information campaigns or emergency messages. However, as the appeal proposals relate to advertisement consent only, the regulations require that I exercise my powers only with regard to amenity and public safety although the latter is not a consideration for me in this instance. In any event, such matters would not outweigh the harm I have identified.
12. The proposed development was originally recommended for approval before being refused and whilst I appreciate frustrations in this regard, it would not change my findings on the main issue as I have determined the appeal based on its own merits and the evidence in front of me.

Conclusion

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

N Teasdale

INSPECTOR

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Appeal Decision

Site visit made on 27 June 2023

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/H4505/X/22/3311077

Allotment Gardens West of Pelaw Youth Centre, Shields Road, Felling, Gateshead NE10 0YH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Ahmed against the decision of Gateshead Council.
 - The application Ref DC/22/00635/CPE, dated 25 May 2022, was refused by notice dated 11 October 2022.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is "Private general amenity land use".
-

Decision

1. The appeal is dismissed.

Reasons

2. Uses and operations are lawful at any time if no enforcement action may be taken in respect of them, whether because they did not involve development, require planning permission or because the time for enforcement action has expired (s191(2)).
3. There is a further proviso that the development must not contravene the requirements of any enforcement notice then in force. I have not been told that there was any extant enforcement notice relating to the property at the time of this application.
4. In this case the appellant is relying on the argument that the use of the land would be immune from enforcement action due to the passage of time. In order to succeed on this ground, in accordance with Section 171B(3) of the Act, it is necessary to demonstrate, on the balance of probability, the use of the appeal site as described has continued for a period of ten years or more prior to the date of the application, therefore since at least 25 May 2012, so as to be immune from enforcement. The onus rests with the appellant to demonstrate their case on the balance of probability.
5. For the avoidance of doubt the planning merits of the case, including in the context of any previous use of the site, have no influence on the outcome of an application of this type.

6. The site comprises an irregularly shaped area, the main part of which is situated between Shields Road to the north and the railway line to the south. From my visit it was evident that the site was significantly overgrown with dense vegetation, thus impeding accessibility across the land. A small number of dilapidated buildings remained on the site together with the occasional amorphous remains of various materials and structures. These may have been vestiges of a previous use of the site for allotment purposes, though it would be difficult to interpret this past use from the present condition of the land.
7. The Council says that it has viewed various satellite and Google Streetview images of the site taken between 2008 and 2022, showing the site laid out as allotments with associated structures. It was cited in the officer report that the Council considered allotment use to have taken place on the land within the last 10 years. However, the aforementioned images have not been provided as evidence.
8. Notwithstanding this, it is unclear from the information provided by the appellant that if not for allotment purposes how in practical terms the site has actually been used more recently. It is referred to by the appellant as private general amenity land and undeveloped outdoor space, however this is an unsatisfactory vague description, which does not explain the use with the necessary precision. Furthermore, I agree with the Council that ownership of the land is not directly relevant to its function, and does not necessarily assist the appellant's case. There has been no clarification and supporting evidence provided of how the site has actually been used in practical terms; whether that use extended over the entire site; with what frequency and over what duration to demonstrate continuous use for the requisite immunity period. The lack of evidence of any practical use for allotment purposes at present does not bolster the appellant's case.
9. The appellant has provided 22 copies of standard prepared statements, signed by local residents and businesses. These statements refer to allotment use not being seen on the site for over ten years; also to the land being in private ownership and used as general amenity land. Although the statements purport to be sworn statutory declarations, they do not appear to be so, not appearing to have been witnessed and countersigned by a person of appropriate professional standing.
10. I therefore afford these documents limited weight given that there can be no sanction, such as a fine or jail term, if found to be untruthful. However even if the declarations submitted had been properly sworn, they would still not provide the detail that would overcome the aforementioned ambiguity. Furthermore, although the statements refer to allotment use not being seen, it is unclear how frequently the respondents observed the appeal site, the extent of the site that was visible to them, and therefore the context in which these conclusions have been reached.
11. Historic ordnance survey plans submitted by the appellant indicate that the site has been free from built development over the period 1919 – 1984. However, I do not agree with the appellant that this must mean the land was in recreational use, and even if the land was historically associated with the adjacent former church, the historic plans do not otherwise assist in resolving the aforementioned ambiguity. I note also that the date when the use begun is recorded on the application form as 20 May 2022. Whilst this may be an error

- and is not determinative, it does at least add to the ambiguity in terms of continuity of use. Notwithstanding this point, contrary to the appellant's claim, for the reasons set out above continuous use of the land as 'private general amenity land' has, on the balance of probability, not been demonstrated.
12. In addition, drawing the above considerations together, and in the apparent absence of a definitive record of allotment land in the Borough, I am not persuaded that the previous allotment use of the land ended outside the ten-year period prior to the application.
 13. The appellant has referred to various case law / appeal decisions, which make reference to the relative value of allotment land and the likelihood of it being re-established. They also say that the Council has a surplus of open space, within the Pelaw and Heworth Ward, when measured against its standards. However, these considerations relate to the planning merits or otherwise of retaining land in allotment use. As such they have no bearing on the question of the lawful use of the land.
 14. I am mindful that planning practice guidance states "In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability." Given the appellant's lack of evidence concerning details of the actual, practical use and continuity of the use, on the balance of probability, the appellant's case is not sufficiently precise and unambiguous. It therefore falls significantly short of being able to meet the requisite test for lawfulness.
 15. Therefore, for the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of "Private general amenity land use" at Allotment Gardens West of Pelaw Youth Centre, Shields Road, Felling, Gateshead NE10 0YH was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

R Merrett

INSPECTOR

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REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

6 September 2023

TITLE OF REPORT: Planning Obligations

REPORT OF: Anneliese Hutchinson, Service Director, Climate Change, Compliance, Planning and Transport

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 there have been **no** new planning obligations.
4. 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 6 September 2023.

Recommendations

4. 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