

**TITLE OF REPORT:** Planning Appeals

**REPORT OF:** Paul Dowling, Strategic Director, Communities and  
Environment

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### **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 has been **one** new appeal lodged since the last committee:

DC/16/01162/FUL - 30A Broom Lane, Whickham, NE16 4QP  
Erection of three bedroom house with associated off street parking.  
This was a delegated decision refused on 20 December 2016.

### **Appeal Decisions**

3. There has been **one** new appeal decision received since the last Committee:

DC/17/00001/COU - 3/5 Beaconsfield Avenue, Gateshead, NE9 5XT  
Change of use of ground floor from residential to Use Class A1 (as expansion of existing adjoining shop); relocation of dwelling entrance to rear; and residential loft conversion with hip to gable extension and new velux windows.  
This was a delegated decision refused on 27 February 2017.  
Appeal allowed on 4 August 2017.

Details of the decision can be found in **Appendix 2**

### **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



The Planning Inspectorate

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## Appeal Decision

Site visit made on 20 June 2017

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4<sup>th</sup> August 2017

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**Appeal Ref: APP/H4505/W/17/3171999**

**Number 3 and Number 5 Beaconsfield Avenue, Low Fell,  
Gateshead NE9 5XT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Steve Morris against the decision of Gateshead Council.
  - The application Ref: DC/17/00001/COU, dated 3 January 2017, was refused by notice dated 27 February 2017.
  - The development proposed is the change of use of ground floor from residential to Use Class A1 (as expansion of existing adjoining shop); relocation of dwelling entrance to rear; and residential loft conversion with hip to gable extension and new velux windows.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of ground floor from residential to Use Class A1 (as expansion of existing adjoining shop); relocation of dwelling entrance to rear; and residential loft conversion with hip to gable extension and new velux windows at Number 3 and Number 5 Beaconsfield Avenue, Low Fell, Gateshead NE9 5XT in accordance with the terms of the application, Ref: DC/17/00001/COU, dated 3 January 2017, subject to the conditions in the attached schedule.

### Main Issues

2. The main issues in this appeal are:
  - The effect of the proposed development on the character and appearance of the Low Fell Conservation Area;
  - The effect of the proposed development on the character and appearance of the existing building;
  - The effect of the proposed development on the living conditions of the occupiers of neighbouring residential properties, with particular regard to overlooking and privacy; and
  - Whether the proposed development would provide suitable living conditions for the future occupiers of the flat, with particular regard to means of access.

### Reasons

*Character and appearance of the Low Fell Conservation Area*

3. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in making decisions on planning applications and appeals within a

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Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area. Paragraph 132 of the National Planning Policy Framework (the Framework) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation.

4. The Low Fell Conservation Area covers a large area. The part where the appeal building is located is primarily residential in character with commercial premises located further to west on Kells Lane. In the vicinity of the appeal building the houses are predominantly in terraced form, with some detached and semi-detached properties. Beaconsfield Avenue consists of a two storey, late Nineteenth or early Twentieth century, terrace to the south side. The north side, where the appeal building is located, consists of a short, two storey, terrace that contains the appeal building, with the remainder being more recent, two storey, semi-detached houses.
5. Due to the steeply sloping nature of the street, the roofscape is prominent, both in views up and down the street. The appeal proposal would result in the current hipped roof on the appeal building converted to a gable end to facilitate the conversion of the roof space to habitable accommodation. The Council suggest that the terrace which the appeal building is part of is distinctive and significant as it was designed with hipped roofs on the end, and those terraces that have gabled ends generally run the full length of the street. Whilst this may be the case, when I visited the site I saw that in the immediately surrounding area there are also a number of full street terraces that terminate with a hip at one end and a gable at the other.
6. In addition, the terrace containing the appeal building appears to have been truncated at some point in the past, and the later semi-detached houses constructed in place of the original buildings. Whilst the building at the end of the terrace, number 15, has a hipped roof, from the different coloured brickwork and bonding pattern, the lack of stone detailing, and different fenestration, this appears to be a later addition. There is no evidence of the earlier configuration of terrace, before the construction of the semi-detached houses, which would suggest that it was originally constructed with a hipped roof at each end.
7. Within the surrounding area neither hipped ends nor gable ends are predominant. This variety of roof forms is part of the established character of the area. Whilst the roof form of the appeal building would be changed, within the context of the varied and interesting roofscape of the area, it would not be incongruous.
8. Although the resulting gable may be wider than the gables on some other buildings in the surrounding area, it would not be any wider than the existing side wall of the building. During my site visit I saw that other buildings within the surrounding area have windows within the gable end, and that number 2 Melrose Avenue has a similar paired window in the upper part of the gable. As such the proposed alterations would have a similar character to others in the area.
9. The built form of the surroundings is such that whilst, the new gable end could be seen in context with gable end of the terrace on the opposite side of Beaconsfield Terrace, and that of 2 Melrose Avenue, it is also apparent that the appeal building has a different character to these due to the shop front that

wraps around the corner. As a result of the slope of the street any symmetry in the terrace is also less noticeable, particularly due to the appeal building being set forward of the remainder of the terrace.

10. The proposal would result in the removal of two chimney stacks on the building. The appellant suggests that these could be removed or reduced in height under permitted development rights. Whilst this may or may not be the case, I have to consider the scheme as a whole. The Council suggest that, in particular the chimney stack on the rear roof slope is prominent and the best preserved example of a type that is characteristic in the area. I also note that the Gateshead Household Alterations and Extensions Supplementary Planning Document 2011 (SPD) states that the removal or shortening of a chimney stack, or loss of pots, can have a negative impact on the appearance of a property, and on the rest of the street.
11. I saw when I visited that site that there are other examples of similar chimney stacks nearby but, whilst this one is visible from Harcourt Street and in some short range views from Beaconsfield Avenue, it did not strike me as being significantly more prominent or better preserved than other chimney stacks. The Low Fell Conservation Area Character Statement does not make particular mention of chimneys of this form being especially significant. Whilst the removal of the chimney stacks would alter the appearance of the general roofscape, within the overall context of the surroundings, I consider that any effect of this would be slight.
12. Within Beaconsfield Avenue, numerous properties have had roof lights installed. Although in general there is only a single roof light, these are predominantly quite large and many project above the plane of the roof slope. Whilst the appeal proposal would see two roof lights installed on the front roof slope and three on the rear, these are modest in size and similar in proportion to older roof lights that I saw on other properties. As a result I consider that any effect of this aspect of the proposal would be negligible.
13. I note that the appeal building is not identified in the Conservation Area Character Statement as a key building. Overall, the proposal would not alter the understanding of the appeal building as a purpose built shop, or, due to the small scale of the proposal and the extent of the conservation area, negatively impact on the architectural and historic interest of the conservation area.
14. Taken as a whole, I find that the effect of the appeal proposal on the character and appearance of the Low Fell Conservation Area would be neutral and, as such, would not cause harm. This would comply with the relevant requirements of Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2015 (CSUCP) and Saved Policies ENV7 and ENV9 of the Gateshead Unitary Development Plan 2007 (UDP), which seek to ensure that the character and appearance of heritage assets are conserved or enhanced.

*Character and appearance of existing building*

15. The appeal building appears to be a purpose built shop and flat. It is brick built, with stone string courses and quoins, stone window heads and sills, and stone mullions where there are paired windows. None of these architectural features would be lost as result of the alteration to the roof, and the window form incorporating a central stone mullion would be replicated in the new paired window in gable.



16. I saw when I visited the site that in nearby buildings, gable elevations often contain multiple windows and windows in the upper part of the gables. The new window, whilst it is paired, is not as tall as those on the floors below which reflects its upper floor location. There is no evident hierarchy of windows in the building or in the adjoining terrace. In all cases, the windows on the ground and first floor are of a similar height and there are paired windows on both the ground and first floor of the appeal building.
17. Roof lights are common in the street with many being of a larger type that does not reflect the smaller roof lights, with a central glazing bar, typical of those used on older buildings. This latter style of roof light is proposed on the appeal building. Although there are more of these, they would not over-dominate the roof because of their limited size. The roof would retain same pitch as the existing roof.
18. Whilst the proposal would result in the loss of the chimneys on the building, there is no substantive evidence that there is any particular architectural or historic interest attached to these chimney stacks. Although the ridge of the roof would be lengthened, due to the stepped nature of ridgelines in the street resulting in short runs of buildings with ridges set at the same height, this would not be especially noticeable. As the new gable end would be neither wider than the existing elevation of the building, nor higher than the ridge of the roof, it is difficult to see in what way it could be considered out of proportion with the existing building.
19. Overall, the character and appearance of the building as a purpose built shop and flat would not be materially altered. Whilst the conversion to a gable would alter the massing of the building it would not increase overall height or footprint and there is no compelling evidence that demonstrates that this proposed change would be harmful.
20. I conclude that the proposed development would not cause harm to the character and appearance of the existing building. It would comply with the relevant requirements of Policy CS15 of the CSUCP and Saved Policy ENV3 of the UDP which seek to ensure that new development is of a high standard of design that has regard to its context.

*Living conditions of neighbouring occupiers*

21. The Council officer's report and the decision notice refer to conflict with CSUCP Policy CS14 with respect to this issue. The text of Policy CS14 that I have been supplied with relates to various criteria to be met by proposals to accommodate gypsies, travellers and travelling showpeople. As this does not seem to be directly relevant to the appeal proposal, it is reasonable to assume that it may be a typing error. Policy CS15, referred to elsewhere in the decision notice, does seek to ensure that new development avoids negative impacts on residential amenity and I have considered the issue on this basis.
22. It is common ground between the parties that the proposal would not have an adverse effect on neighbouring properties in terms of overshadowing or loss of light. The Council's principal concern is in respect of overlooking of the neighbouring properties at 8 Harcourt Park and 2 Melrose Avenue.
23. As a consequence of its corner location, the appeal building in effect has two principal elevations, one of which faces the rear of the houses to the west at

numbers 7 and 8 Harcourt Park. These houses have a number of windows on their rear elevations. The Council state that the separation between the appeal building and these houses is 18.5 metres and this is not disputed by the appellant. Although a separation distance of 21 metres between main front or rear elevations is widely used as a general rule, none of the Policies referred to in the reason for refusal make reference to specific required separation distances.

24. The proposed development would not bring any part of the appeal building closer to the houses on Harcourt Park than it is at present, and there are currently two first floor windows on the appeal building that look towards these houses. The appellant has also stated that he would be willing install opaque glazing in this new window. This could be achieved by way of an appropriately worded planning condition. Although it would be in a more elevated position, if opaque glazing were to be installed, the additional window within the new gable would not materially alter the situation with regard to overlooking from that which currently exists.
25. Number 2 Melrose Avenue has no first floor windows on the main rear wall and the ground floor windows are enclosed within a rear yard area. This is presently partly overlooked from an existing bedroom window to the rear of appeal building. This situation would not change as a result of the appeal proposal. Whilst there is no information regarding the height above floor level of the proposed roof lights, the lowest part of these aligns with a point approximately mid-way on the upper pane of the proposed new gable window.
26. It seems to me that this being so, unless the level of the head and sill of this window are particularly low, and there is nothing on the submitted drawings that would indicate that this is the case, the lowest part of the proposed roof lights would be at around or slightly above normal eye level. Consequently any downward views from the roof lights in the rear bedroom would be very restricted. This would not result in a situation that is significantly worse than which exists at present.
27. I therefore find that the proposed development would not cause harm to the living conditions of the occupiers of nearby residential properties. It would comply with the relevant requirements of Saved Policy DC2 of the UDP and CSUCP Policy CS15 which seek to ensure that new development does not cause harm to the living conditions of the occupiers of neighbouring properties through loss of light or loss of privacy.

*Living conditions of the future occupiers*

28. It is not suggested that the internal space within the altered flat would be substandard. Access to it would be through the existing rear yard area as opposed to the present entrance door which opens directly to the street. Although the access to the rear yard would be from the back lane, the gates are close to the main footway on Harcourt Street and there is a narrower footway adjacent to the carriageway of the back lane. There is street lighting present and whilst the back lane is used for car parking, it is not heavily trafficked.
29. The Council have suggested that this arrangement would be confusing for visitors and deliveries, however, this is not an insurmountable difficulty and, of itself, would not warrant refusing planning permission. Whilst it may be slightly

less convenient than the present side access door, I am satisfied that this arrangement would form a suitable access to the upstairs flat.

30. The proposed development would, therefore, provide suitable living conditions for the future occupiers. It would comply with the relevant requirements of Policy CS15 of the CSUCP and Saved Policy ENV3 of the UDP which seek to ensure that new development provides a suitable living environment and makes a positive contribution to the established character and identity of its locality.

#### **Other matters**

31. The roads in the vicinity of the appeal site are relatively wide and not heavily trafficked. At time of my site visit the available on-street parking was quite well used but parking spaces were available. There is no evidence that a small increase in the retail area of the retail premises would give rise to a significant increase in traffic, or that any additional parking that may be generated could not be accommodated in the area. Due to the predominantly residential nature of the area there may be a higher parking demand in the evenings, however, this does not lead me to a different conclusion.

#### **Conditions**

32. I have had regard to the list of conditions suggested by the Council. In order to provide certainty as to what has been granted planning permission I have attached a condition specifying the approved drawings. Due to the age of the building and its location within a conservation area, in order to ensure that the new works are consistent with the original building and its surroundings it is necessary for samples of the proposed materials to be approved prior to being used. I have combined this with another of the suggested conditions to incorporate an implementation clause.
33. In order to ensure that there is no overlooking of the rear of the neighbouring properties at number 7 and 8 Harcourt Park, it is necessary to require that opaque glazing is fitted and retained in the proposed new gable window. It is necessary to include a condition requiring approval of a detailed specification for any new windows due to the limited detail provided in the application and the location within a conservation area. For the same reason it is also necessary to require details of the proposed new roof windows. I have amended the wording of the Council's suggested condition in respect of these to make it more precise and require a specification to be approved. As the appeal building is located in a predominantly residential area it is also necessary to restrict the times that building work can be carried out in order to minimise noise and disturbance to adjacent residents.

#### **Conclusion**

34. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

*John Dowsett*

INSPECTOR



### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan and Drawing No. AD-16-25 – Proposed Alterations.
- 3) Notwithstanding the approved plans, no external materials for the development hereby approved shall be used on site until samples of all materials, colours and finishes to be used on all external surfaces, including boundary treatments, have been made available for inspection on site and subsequently approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out using the approved external materials.
- 4) The approved window on the west facing elevation shall be obscurely glazed at a level three or greater (in accordance with the levels set by Pilkington). The glazing shall be installed prior to the residential accommodation being occupied and shall be permanently retained as such thereafter.
- 5) No additional window openings shall be created nor any alterations to the existing windows be carried out until detailed specifications, cross-sectional drawings and large scale plans (at a scale of 1:2 for cross-sections and 1:10 or 1:20 for elevation plans) of the proposed windows including replacement glazing have been submitted to, and approved in writing by the Local Planning Authority. The details shall clearly show the profile, section and joinery details of the proposed window frames and glazing. Thereafter the works shall be implemented in accordance with the approved details.
- 6) No works shall be carried out to the roof of the building until precise details of the design of the proposed roof lights shown on drawing number AD-16-25 have been submitted to, and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and the roof lights shall be fitted flush with the roof covering and shall not stand proud of the roof plane.
- 7) All external works and ancillary operations in connection with the implementation of the development, including deliveries to the site, shall be carried out only between 0800 hours and 1700 hours on Mondays to Fridays, 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.

## APPENDIX 3

### OUTSTANDING APPEALS

<b>Planning Application No</b>	<b>Appeal Site (Ward)</b>	<b>Subject</b>	<b>Appeal Type</b>	<b>Appeal Status</b>
DC/14/01160/FUL	Land At Wellington Road Cross Lane Gateshead	Erection of a car supermarket consisting of a concourse building with an adjoining workshop and associated vehicle storage, vehicle display and car parking areas (additional info received 07/01/15 and 30/05/16 and amended plans received 15/01/15, 30/05/16 and 01/08/16).	Written	Appeal In Progress
DC/16/01162/FUL	30A Broom Lane Whickham NE16 4QP	Erection of three bedroom house with associated off street parking.	Written	Appeal In Progress
DC/17/00001/COU	3/5 Beaconsfield Avenue Gateshead NE9 5XT	Change of use of ground floor from residential to Use Class A1 (as expansion of existing adjoining shop); relocation of dwelling entrance to rear; and residential loft conversion with hip to gable extension and new velux windows	Written	Appeal Allowed