

**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 have been **four** new appeals lodged since the last committee:

DC/16/01261/FUL - Coalburns Cottages, 4 Coalburns Cottages, Greenside, Ryton NE40 4JL

Demolition of existing garage followed by erection of new dormer bungalow with four parking spaces (as amended 16.05.2017)

This was a committee decision refused on 5 June 2017.

DC/16/01319/FUL - Former Bling Bling Car Wash, Durham Road, Birtley DH3 1LS

Erection of building to provide a shop and car valeting area on ground floor with storage above; Use of forecourt for parking and as a car wash.

This was a committee decision refused on 31 March 2017.

DC/17/00156/COU - Site Of Scottish Motor Auctions Group, Shadon Way, Birtley DH3 2SA

Change of use from unused land to a hardstanding parking area with drive through route and enclosure by means of a new perimeter security fence.

This was a committee decision refused on 18 July 2017.

DC/17/00252/HHA - 37 Cromwell Ford Way, Blaydon On Tyne NE21 4FH

Garage door to front and construction of wall to rear with timber doorset to the rear (retrospective).

This was a delegated decision refused on 17 May 2017.

### **Appeal Decisions**

3. There have been **two** new appeal decisions received 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 dismissed on 19 October 2017.

DC/17/00047/HHA - 25 Neville Crescent, Birtley, Chester Le Street, DH3 1NF  
Single storey side extension. As amended 06.03.17.  
This was a delegated decision refused on 28 April 2017.  
Appeal dismissed on 12 October 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 19 September 2017

by **Graeme Robbie BA(Hons) BPI MRTPI**

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

Decision date: 19 October 2017

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**Appeal Ref: APP/H4505/W/17/3178144**

**30a Broom Lane, Wickham NE16 4QP**

- 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 D Spinks against the decision of Gateshead Council.
  - The application Ref DC/16/01162/FUL, dated 29 October 2016, was refused by notice dated 20 December 2016.
  - The development proposed is a new three bedroom house with associated off street parking.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I note that the initial planning application form and the Council's subsequent decision notice refer to the appellant's name as 'Mr D Spinxs'. However, subsequent documents provide confirmation of the correct spelling of the appellant's name and I have adopted that spelling here.
3. The appellant has referred to a recently approved proposal<sup>1</sup> to re-develop the existing property at No 30a to create an additional dwelling, the details<sup>2</sup> of which I have subsequently been provided with. I return to this matter below.

### Main Issues

4. The main issues are the effect of the proposed development on:
  - The character and appearance of the surrounding area; and
  - The living conditions of existing occupiers of neighbouring properties and future occupiers of the proposed dwelling, with particular regard to outlook and privacy.

### Reasons

#### *Character and appearance*

5. Broom Lane is a pleasant, tree-lined road in a residential setting that lies towards the edge of an 'area of important character' as identified in 'The Gateshead Placemaking Guide' Supplementary Planning Document (SPD). To the north of the appeal site, on the eastern side of Broom Lane, lie modest semi-detached dwellings. To the west, situated within well stocked and

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<sup>1</sup> DC/17/00324/FUL

<sup>2</sup> Application form, decision notice, officer report and plans and elevations

maturely landscaped gardens lie larger detached dwellings. Together with the broad swathe of open green space and mature trees that lie between Broom Lane and Broom Green / Southfield Green, the area around the appeal site on Broom Lane has a pleasingly verdant, sylvan and spacious setting. The SPD's description of the Broom Lane area of Whickham is, I find, accurate in this respect.

6. However, I saw at my site visit that the appeal site lies at something of a point of transition from lower density, larger detached and semi-detached houses on Broom Lane and the higher density semi-detached and terraced properties of Broom Green, Southfield Green and Broadpool Green. The appeal site, however, is something of an anomaly. It sits comfortably forward of the semi-detached dwellings further to the north on Broom Lane. Because it is set forward within its generous corner plot it has a large rear garden. As a consequence, it also has a greater stand-off distance to the flank wall of the adjacent property on Lansbury Road than is found at other properties with a similar relationship, such as at the junction of Lansbury Road and Southfield Gardens.
7. Whilst the garden size of No. 30a relative to those around may set it at odds with those properties, it does not follow that it should be deemed out of keeping with the surrounding area. Rather, I find that its relative openness (notwithstanding its substantial boundary hedge) and the visual buffer that it provides between Broom Lane and Lansbury Road contributes positively to the character and appearance of the surrounding area, and reflects the pleasantly verdant setting of Broom Lane and the broad swathe of open land opposite the appeal site.
8. Although the proposed dwelling would occupy almost the entire width of the available plot, its flank elevations would be approximately equidistant from the rear of No. 30a and the side of 1 Lansbury Road. In isolation, spacing around the dwelling would be broadly reflective of the prevailing spacing between the flank walls of dwellings within the block formed by Broom Lane, Lansbury Road and Southfield Gardens.
9. However, to reach such a conclusion would be to ignore the context of setting. In views towards and across the site from Lansbury Road, the limited space around the dwelling would be immediately recognisable. The limited space to the west, between its flank elevation and the rear elevation of No. 30a would be clear to see, as would the closely-sited backdrop of the flank wall of No. 30b. Moreover, the substantial gabled flank elevations of the proposed dwelling would contrast markedly with the prevailing hipped roof form of surrounding dwellings. The additional bulk and massing of these elevations, particularly with regard to its relationship with No. 30a would, in my judgement, serve to compound the scale of the proposal and its proximity to the rear of that property.
10. Thus, I conclude that the proposal would appear cramped within its site and in the context of the surrounding properties. It would also fail to respond positively to the locally distinctive and prevailing style of hipped roof semi-detached dwellings with curved two storey bays that define the immediate character of this part of Broom Lane, Lansbury Road and Southfield Gardens. The proposed fenestration may be simple, the surrounding architecture unexceptional. However, there is a distinct and, I find a pleasingly and broadly

consistent, character and appearance amongst dwellings within this particular block. The proposal would fail to respond positively to that in terms of its scale, space around the dwelling and design. It would therefore be at odds with saved policy ENV3 of the Unitary Development Plan for Gateshead (UDP) and policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle (CSUCP). Together these policies seek to ensure that development contributes to successful place making through high quality design. It would fail to realise these aims, and in so doing, it would also fail to achieve the high quality design sought by the National Planning Policy Framework (the Framework).

11. I note that the appellant is agreeable to the reduction in garden depth and outlook from the rear of No. 30a that would arise as a result of the proposal. I note too, the appellant's 'buyer-beware' argument in respect of future occupiers. However, these factors do not address the effect of the proposal on the character and appearance of the area and do not outweigh the harm that would arise from the proposed development and that I have identified above.

*Living conditions*

12. In my experience there tends inevitably to be a degree of inter-visibility between the rears of properties within residential blocks such as that formed by Broom Lane, Lansbury Road and Southfield Gardens. This often becomes particularly so at the junctions of such blocks.
13. Whilst the current arrangement around Nos. 30a and 30b, and 1 Lansbury Road is no exception, the introduction of an additional dwelling into this context would, in my judgement, harmfully intensify inter-visibility in this location. The area of private amenity space at the rear of the proposed dwelling would be directly overlooked, across a relatively short distance, from upper floor windows at the rear of No. 30a. So too, without any significant need to crane one's neck, from the rear of No. 30b. Similarly, such are the limited distances between the properties, the upper floor windows at the rear of the proposed dwelling would enjoy an elevated position overlooking the rear of No. 30B and its garden area.
14. I have been referred to various separation and stand-off distances between the proposed dwelling and surrounding dwellings. I accept that these are guidelines. However, it is disingenuous to suggest that the proposal would only 'partially' compromise these distance guidelines. The distances shown on the submitted plans would fall significantly below the guideline figures set out in the SPD. Whether these are designed to provide adequate outlook, or to avoid unacceptable overlooking arising from excessively close elevations, the proposal would fall short on both counts.
15. The cramped nature of the development that I have identified above would also therefore manifest itself in the intensified and harmful extent of inter-visibility between the appeal proposal and surrounding properties and their respective private outdoor spaces. This would also be felt in the looming presence of the proposed dwelling's gable elevation close to the rear of No. 30a, and the side of No. 30b from the rear of the proposed dwelling. That a wall or fence would mitigate the height and bulk of the gable and its proximity to the rear of No. 30a or, as the appellant also suggest, otherwise render it as being 'not so abhorrent', are not points with which I agree and they carry little weight.

16. The proposal is therefore contrary to the aims and provisions of UDP saved policy DC2. Insofar as saved policy ENV3 requires the spaces around and between buildings to be handled in a sensitive manner, and CSUCP policy CS14 to prevent negative impacts on residential amenity, I find that the proposal would also be contrary to those policies. It would also therefore fail to secure the good standard of amenity for existing and future occupiers that the Framework seeks as a core planning principle.

#### **Other Matters**

17. The Framework states<sup>3</sup> that housing applications should be considered in the context of the presumption in favour of sustainable development<sup>4</sup>. Although the appellants suggest that modest housing schemes 'now have to be approved' where there has been a shortfall in housing supply, no arguments have been advanced to support a claim of any such shortfall. Nor has it been demonstrated that the development plan is either absent, silent or relevant policies out of date. As I have found that the proposal would not accord with the development plan, I give these matters limited weight. The Council accept that the proposal would provide a unit of family accommodation and even if there were to be a shortfall in housing supply generally, or for family homes more specifically, the proposal is only for a single dwelling. These factors are not sufficient therefore to outweigh the harm that I have identified above.
18. I note the reference to the Written Ministerial Statement (WMS) of 23 March 2011. However, the Framework and the Guidance are more up to date statements of Government policy, the CSUCP has been prepared since the publication of the Framework and the Guidance and the saved policies of the UDP referred to above are broadly consistent with the aims of the Framework in seeking to secure high quality design and good standards of amenity. The WMS is not therefore a material consideration to which I can give any significant weight.
19. My attention has also been drawn to a recently approved proposal for the alteration and extension of No 30a to create an additional dwelling. The appellant has stated that it would be his preference to develop both the approved scheme and the scheme currently before me. Whilst I have considered the current appeal on the basis of the proposals before me, and the site and its surroundings as they currently exist, I have noted the content of that approved scheme. However, whilst not decisive, that proposal confirms my concerns regarding the main issues I have set out above and adds weight to my conclusion in respect of the effect of the proposed development upon the character and appearance of the surrounding area and living conditions.

#### **Conclusion**

20. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*Graeme Robbie*

INSPECTOR

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<sup>3</sup> Paragraph 49

<sup>4</sup> Defined at paragraph 14



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## Appeal Decision

Site visit made on 26 September 2017

by **Caroline Jones BA (Hons) DipTP MTP MRTPI**

**Decision date: 12 October 2017**

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**Appeal Ref: APP/H4505/D/17/3178491**

**25 Neville Crescent, Birtley, Tyne and Wear DH3 1NF**

- 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 Tony Rand against the decision of Gateshead Council.
  - The application Ref DC/17/00047/HHA, submitted to the Council on 12 January 2017, was refused by notice dated 28 April 2017.
  - The development proposed is single storey side extension to provide garage and lounge.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the host property and surrounding area.

### Reasons

3. 25 Neville Crescent is an end of terrace two storey red brick property. It sits perpendicular to and forward of the attached terrace with its gable fronting the road. The property lies within a generous plot with a spacious side garden bounding the adjacent footpath, a characteristic which is mirrored by all four properties sitting north and south of the footpath on both sides of Neville Crescent. I noted at my site visit that this pattern of development is repeated elsewhere within the estate. These gaps provide a visual break and welcome relief to the densely developed character of the street scene and positively contribute to the character and appearance of the local area.
4. I agree with the Council that the proposal would constitute a side extension with the principal elevation being that which fronts the road, despite its lesser width. In this regard, the Council's 'Household Alterations and Extensions' Supplementary Planning Document (SPD) states that an extension should be designed to maintain the character of the existing property and street scene and as a general rule be of a size which is no more than 50% of the overall width of the original dwelling in order to ensure that the extension remains subordinate.
5. The proposed extension would be a large structure, measuring some 5 metres in width and 3.8 metres at its highest point terminating just below the sills of the first floor windows. It would occupy almost the full depth of the house. Due to its width, depth and height, the extension would appear



disproportionate in scale to the modest nature of the property and would dominate this elevation. Thus the extension would be a discordant and obtrusive addition to the property.

6. Whilst I acknowledge that a small gap would be retained to the side of the extension, to my mind this would be insufficient to maintain the open nature of the site. As a consequence, built development would significantly erode the spacious visual break which is an important feature of the street scene.
7. I agree with the appellant that the existing hedge would screen the extension to a degree from the footway. However by virtue of its height, the extension would be clearly visible from the road and from neighbouring properties.
8. I therefore conclude that the proposed extension would have a detrimental impact on the character and appearance of the host property and the surrounding area and find conflict with Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne (2015) and saved Policy ENV3 of the Gateshead Unitary Development Plan (2010) as well as the guidance within the SPD. These seek, amongst other things, development of high quality design that responds positively to local distinctiveness and character and to recognise established design principles such as scale, massing and height.
9. In reaching my decision I have had regard to the numerous alterations and additions to properties in the locality, including those fronting the highway. However, I do not know the circumstances or background which led to their construction which limits the weight that I can attach. In any case each appeal must be considered on its own merits. The appellant submits that garden structures could be constructed under permitted development which would have more of an impact than the proposed extension. However, I have been given no examples of such structures and I must reach a decision on the proposal in front of me. I acknowledge that the extension would be constructed in matching materials and has been set back from the principal elevation with a recessed garage door. I have also taken into consideration the slope of the land. Nonetheless, these matters do not alter my view of the harm that the proposal would have on the character and appearance of the host property and surrounding area.

#### **Conclusion**

10. For the above reasons and taking all other matters into account I conclude that the appeal should be dismissed.

*Caroline Jones*

INSPECTOR

### APPENDIX 3

#### OUTSTANDING APPEALS

Planning Application No	Appeal Site (Ward)	Subject	Appeal Type	Appeal Status
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	<b>30A Broom Lane Whickham NE16 4QP</b>	<b>Erection of three bedroom house with associated off street parking.</b>	Written	<b>Appeal Dismissed</b>
DC/16/01182/FUL	Land At Ellison Terrace Greenside Ryton NE40 4BL	Construction of three houses with parking area (amended 16/02/17 and 08/03/17 and description amended 14.03.2017).	Written	Appeal In Progress
DC/17/00047/HHA	<b>25 Neville Crescent Birtley Chester Le Street DH3 1NF</b>	<b>Single storey side extension. As amended 06.03.17.</b>	Written	<b>Appeal Dismissed</b>
DC/16/01261/FUL	Coalburns Cottages 4 Coalburns Cottages Greenside Ryton NE40 4JL	Demolition of existing garage followed by erection of new dormer bungalow with four parking spaces (as amended 16.05.2017)	Written	Appeal In Progress

<b>DC/16/01319/FUL</b>	<b>Former Bling Bling Car Wash Durham Road Birtley DH3 1LS</b>	<b>Erection of building to provide a shop and car valeting area on ground floor with storage above; Use of forecourt for parking and as a car wash</b>	<b>Written</b>	<b>Appeal In Progress</b>
<b>DC/17/00156/COU</b>	<b>Site Of Scottish Motor Auctions Group Shadon Way Birtley DH3 2SA</b>	<b>Change of use from unused land to a hardstanding parking area with drive through route and enclosure by means of a new perimeter security fence</b>	<b>Written</b>	<b>Appeal In Progress</b>
<b>DC/17/00252/HHA</b>	<b>37 Cromwell Ford Way Blaydon On Tyne NE21 4FH</b>	<b>Garage door to front and construction of wall to rear with timber doorset to the rear (retrospective)</b>	<b>Written</b>	<b>Appeal In Progress</b>