

**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 **no** new appeals lodged since the last committee.

### **Appeal Decisions**

3. There have been **four** new appeal decisions received since the last Committee:

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).  
This was a committee decision refused on 20 April 2017.  
Appeal allowed on 14 December 2017.

DC/17/00163/HHA - 8 Dockendale Lane, Whickham NE16 4EN  
Garage conversion and extension at the front of the property.  
This was a delegated decision refused on 13 July 2017.  
Appeal dismissed on 3 January 2018.

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 allowed on 19 December 2017.

DC/17/00563/FUL - Land At Ellison Terrace, Greenside, Ryton NE40 4BL  
Construction of three terraced houses with parking area.  
This was a committee decision refused on 20 July 2017.  
Appeal allowed on 14 December 2017.

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

### **Appeal Costs**

4. There have been **no** appeal cost decision(s).

### **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**

## **APPENDIX 1**

### **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

## Appeal Decision

Site visit made on 21 November 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 14<sup>th</sup> December 2017

### Appeal Ref: APP/H4505/W/17/3181897 Land at Ellison Terrace, Greenside

- 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 ISM Properties Ltd against the decision of Gateshead Council.
- The application Ref DC/16/01182/FUL, dated 7 November 2016, was refused by notice dated 20 April 2017.
- The development proposed is the construction of 3 houses.

### Decision

1. The appeal is allowed and planning permission is granted for the construction of 3 houses at Land at Ellison Terrace, Greenside in accordance with the terms of the application, Ref DC/16/01182/FUL, dated 7 November 2016, subject to the conditions set out in the Schedule to this decision.

### Preliminary Matters

2. The proposal was amended following submission to the Council but prior to its determination. I am satisfied that all relevant parties have been made aware of the amendments and would not be prejudiced. Therefore, I have determined the appeal on the basis of the amended proposal.
3. I have also dealt with another appeal (APP/H4505/W/17/3181898) on this site. That appeal is the subject of a separate decision.

### Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the Greenside Area of Special Character.

### Reasons

5. The appeal site is located on Rockwood Hill Road between the two storey terraced houses of Ellison Terrace and the two storey detached property of Ivy House. The site is presently vacant and somewhat overgrown, containing as it does a dilapidated stone barn and concrete garage with low level stone walls to the front.
6. It is located in a predominately residential area within the village of Greenside, which is identified within the Gateshead Placemaking Guide Supplementary Planning Document 2012 (GPSPD) as an Area of Special Character (ASC) where positive and unique characteristics should be retained, enhanced and protected. The GPSPD indicates that ACS's in rural villages are characterised

- by predominately two storey buildings with a smaller footprint and limited height, whilst taller buildings are restricted to churches and older properties.
7. Opposite the site are pairs of two storey semi-detached houses with hipped roofs. Those properties are elevated above street level. To the west of those is a short terrace of four, two storey dwellings. There is a, therefore, a general character of two storey houses in the area with a wide variation in style and appearance. Nevertheless, there is consistency in the linear pattern of development here. On the appeal site side of the road, most dwellings are sited either close to the footway or set back not more than 4-5m from it. In addition, the roofline of both sides of the road broadly replicates the rather steep topography.
  8. It is proposed to develop a terrace of three dwellings on the appeal site. The Council considers the dwellings would be too high relative to existing dwellings in the area. The closest property on Ellison Terrace has a ridge height of around 8.8m whilst Ivy House has a ridge height of around 8.1m. In contrast, the proposed dwellings would have a ridge height of around 10m with a step down of around 0.3m between each to reflect the topography. The proposed dwellings would therefore be clearly higher than the properties either side.
  9. However, the dwellings would be sited around 19-20m from Ellison Terrace and around 13.4m from Ivy House. Due to the separation and topography, the greater height of the proposed dwellings would not be significantly apparent within the street scene, particularly when viewed from certain vantage points to the east and west. Indeed, the proposed height step down of around 2.5m between the appeal site and Ellison Terrace would be consistent with other properties in the area. Moreover, the fact that the dwellings would not be the same height as neighbouring properties need not necessarily equate to harm. In my view, the extent of the increase in height would not be so significant that the proposed dwellings would appear as dominant or obtrusive features.
  10. Whilst the dwellings would have some semblance of townhouses due to the depth of the roof and the use of rooflights to the front, the proposed dormers would be located on the rear roof slope and would not be widely perceptible within the street scene. Furthermore, although the stone used in other nearby dwellings would not be incorporated into the scheme, the design of the dwellings would be broadly consistent with the terraced properties of Ellison Terrace through the use of similar materials and fenestration, including stone cills and heads. Likewise the narrow width would result in a pronounced vertical emphasis, reflecting that of neighbouring properties.
  11. Furthermore, whilst I note the Council's concerns regarding the proximity of the dwellings to the footpath, they would be set back around 0.4m to 1m from the front boundary of the site. That would broadly reflect the approximate 1m set back of Ellison Terrace. I note that the proposal would not replicate the 4m set back of Ivy House or indeed the larger setbacks of the houses opposite. However, notwithstanding the gap to Ellison Terrace, given the design and siting of the proposed dwellings, they would in my view be read more as a continuation of the terraced, linear built form of Ellison Terrace than they would in the context of Ivy House or the properties opposite.
  12. As a result, I find the proposed dwellings would not appear as dominant or obtrusive features within the street scene. Indeed, I find the scale, massing, design, appearance and siting of the dwellings would make a positive

contribution to the established character and identity of the area, would respond positively to the distinctiveness of the ASC and would not constitute overdevelopment of the site.

13. I conclude, therefore, that the proposal would not have a harmful effect on the character and appearance of the area with particular regard to the Greenside Area of Special Character. Consequently, the proposal would comply with Policy CS15 of the Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030 (2015) which states that development will be required to respond positively to local distinctiveness and character. It would also accord with Saved Policy ENV3 of the Gateshead Unitary Development Plan (2007) which states that the design, density and scale of new development should make a positive contribution to the established character and identity of its locality, whilst all development will be expected to recognise established design principles such as scale, massing, height and materials.

#### **Other Matters**

14. The proposal would provide one off-street parking space for each dwelling. I note the concerns of Councillors and local residents in respect of the proposed parking arrangements. However, no substantive evidence has been provided which demonstrates that there are existing on-street parking problems. Indeed, whilst only a snapshot, my own observations were that on-street parking levels were not unduly high, with several available spaces and a number of properties with driveways and other forms of off-street parking. Furthermore, the traffic volumes I observed were not so significant that the level of additional on-street parking that would likely arise from the development would be harmful to highway safety. In the absence of any substantive, contrary evidence, I have no reason to believe my observations were not representative of regular traffic conditions in the area and thus, that the proposal would have a harmful impact on highway safety.
15. I have also had regard to the concerns of local residents in respect of the effect of the proposal on the privacy of neighbours. Whilst windows are proposed in the flank walls at either end of the terrace, the windows would serve staircases and a ground floor bathroom. The plans show the bathroom windows would be obscurely glazed. Given the non-habitable nature of those windows and the separation distance to the closest windows in the closest neighbouring properties, I am satisfied the proposal would not result in an undue loss of privacy for neighbouring occupiers.
16. The proposal is supported by a Bat Survey Report. Although dated 2014, I have no substantive evidence to suggest that the findings of the report are no longer relevant or in any way inaccurate. The report concludes that the existing building on the site has medium potential to contain roosting bats whilst the surrounding habitat offers good foraging potential. The proposal therefore incorporates bat roost features whilst nesting provision for house sparrows would also be provided. I consider these measures to be reasonable and necessary and can therefore be secured by condition.
17. Concerns have also been raised by neighbouring residents in respect of the retention of access to their boundaries. However, any legal rights which may exist in that respect are a separate matter and are, as such, a consideration to which I can afford no more than very little weight



### **Conditions**

18. In addition to the standard time limit, a condition relating to the approved plans is necessary to provide certainty. I have imposed a condition requiring the development to be constructed in accordance with the materials shown on the approved plans. Nevertheless, I agree with the Council that the provision of red brick and natural slate roof tiles are necessary to protect the character and appearance of the area and I have therefore imposed a requirement for samples of the materials to be submitted to and agreed by the Council. I also agree a condition requiring 100mm reveals on all openings is necessary to reflect the character of the surrounding area.
19. A condition relating to contamination is necessary to ensure the development would not pose an unacceptable risk to surrounding receptors. Similarly, given the legacy of coal mining in the area, it is necessary to impose a condition requiring site investigations to be undertaken to ensure that any potential land stability issues can be properly mitigated.
20. A condition relating to working hours is necessary to protect the living conditions of neighbouring residents with regard to noise and disturbance. To ensure the development does not increase the risk of flooding or result in harm to the water environment, a condition relating to foul and surface water is necessary.
21. A condition to ensure the installation of bat roosting features and nesting provision is necessary in the interests of ecology and biodiversity. To protect the character and appearance of the area, a condition is necessary for details relating to the front boundary wall to be agreed. Finally, a condition to ensure that the windows shown to be obscured on the approved plans are installed with obscure glazing to protect the living conditions of neighbouring residents.

### **Conclusion**

22. For the reasons given above I conclude that the appeal should be allowed.

*Jason Whitfield*

**INSPECTOR**

#### SCHEDULE

- 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: 15034 OS, 15034 P-01; 15034 P-02; 15034-P10 Rev B; 15034 P-11; 15034 P-12 Rev C; and, 15034 P-13.
- 3) No development shall commence until details of the materials to be used in the construction of the external walls and roof coverings of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. All other external surfaces of the development hereby permitted shall be constructed in accordance with the materials shown on plan no. 15034 P12-Rev C.
- 4) All openings in the dwellings hereby permitted shall be set back from the external face of the wall by at least 100mm and retained as such for the lifetime of the development hereby permitted.
- 5) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale and a scheme of monitoring, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 6) No development shall commence until a report of intrusive site investigations in relation to coal mining legacy, including the results of gas monitoring and, where required, measures and timescales for remediation, monitoring and verification reports, has been submitted to and agreed in writing by the local planning authority. The remediation and monitoring measures shall be implemented in accordance with the approved details and timescales, and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 7) All external works and ancillary operations in connection with the construction of the development hereby permitted, including deliveries to



the site, shall be carried out only between 0800 and 1700 Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays.

- 8) No development shall commence until a detailed scheme for the disposal of foul and surface water from the development hereby permitted has been submitted to and approved in writing by the local planning authority. The schemes shall be fully implemented in accordance with the approved details before first occupation of the development and retained as such for the lifetime of the development.
- 9) The bat roost features and nesting provision for house sparrows shown on approved plan 15034 P-12 Rev C shall be implemented before first occupation of the development hereby permitted and retained in accordance with the approved details for the lifetime of the development.
- 10) No works to the existing northern boundary wall shall commence until final details of the appearance, including materials, of the northern boundary treatment, which shall be not more than 1m above ground level, have been submitted to and approved in writing by the local planning authority. Thereafter the boundary treatment shall be constructed in accordance with the approved details before first occupation of the development and retained in accordance with the approved details of the lifetime of the development.
- 11) The development hereby permitted shall not be occupied until all windows serving bathrooms, en-suites and WCs have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.



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## Appeal Decision

Site visit made on 19 December 2017

by **Helen Cassini BSc(Hons) DipTP MRTPI**

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

Decision date: 03 January 2018

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**Appeal Ref: APP/H4505/D/17/3183711**

**8 Dockendale Lane, Whickham, NE16 4EN**

- 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 Thomas Wright against the decision of Gateshead Council.
  - The application Ref: DC/17/00163/HHA, dated 16 February 2017, was refused by notice dated 13 July 2017.
  - The development proposed is a garage conversion and extension to front of property to create more living space and porch entrance.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues of the appeal are the effect of the proposal on:
  - (i) the character and appearance of the surrounding area, having particular regard to the Whickham Conservation Area; and
  - (ii) the living conditions of the neighbouring occupants at 6 Dockendale Lane, with particular regard to the potential for an overbearing impact.

### Reasons

#### *Conservation Area*

3. The appeal site is at the end of a terrace of 4 dwellings. The land notably slopes down from west to east and as such, the appeal site is on a lower level than the highway. All 4 dwellings within the terrace have average sized outdoor amenity space to the front and all dwellings have laid this space to paving.
4. The dwellings within the terrace have a relatively deep band of vertical tiles which separates the windows at the first floor from the ground floor. In addition, they also all have an integral garage at the front, with a flat roofed canopy over the front entrance door. These features give the terrace a sense of symmetry and uniformity when viewed from the wider street scene.
5. The appeal site is located within the Whickham Conservation Area (the Conservation Area). The Conservation Area is mainly linear and has a relatively loose and informal pattern of development. It is split into two main areas; the village core and the Dunston Hill hospital and rural fringe. The village core depicts a sense of unity, with a number of terraces and small

informal groups of dwellings being evident. The loose and informal pattern of development in this area results in a general feeling of spaciousness. The Dunston Hill hospital and rural fringe area is marked by the tree-lined highway and open fields to the south, which gives this section of the Conservation Area a rural feel.

6. Given the location within the Conservation Area, in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), there is a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. This is also reflected in the approach set out within the National Planning Policy Framework (the Framework), which advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
7. The proposed development would consist of a single storey extension at the front of the dwelling which would span the whole width of the front elevation. In contrast to the neighbouring dwellings, the proposal would include two ground floor bay windows and a centrally located porch, which would have a modest gable roof. It is noted that it is proposed to utilise roof tiles which would match the existing roof and it would also have matching brick work.
8. Paragraph 8.1 of the Gateshead Council Local Development Framework Supplementary Planning Document: Household Alterations and Extensions 2012 (the SPD) states that extensions should avoid creating an imbalanced appearance. Despite the proposed use of sympathetic materials, due to the scale of the extension, it would appear as an alien and unduly prominent feature. In addition, as the neighbouring dwellings have not been extended, the proposal would also damage the symmetry of the terrace. In particular, the location of the central porch and the removal of the vertical tiling would significantly impair the existing visual balance provided by the terrace. Accordingly, the loss of the integral garage and flat roof canopy would diminish the distinctive architectural style of the appeal site.
9. Paragraph 134 of the Framework advises that any harm to a designated heritage asset, which is less than substantial, must be weighed against the public benefit of the proposal. The harm identified is limited to the visual effects arising from scale and design of the proposal. This would result in less than substantial harm to the Conservation Area. Whilst the extension would be of benefit to the appellant insofar as it would provide additional living space, no public benefit is identified. The harm identified would therefore not be outweighed by any public benefits.
10. Accordingly, the proposal would fail to preserve or enhance the character or appearance of the Conservation Area, and would therefore be contrary to the requirements of the Act. Consequently, conflict exists with Policy CS15 of the Gateshead Council and Newcastle City Council Planning for the Future, Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2010-2030 (the CS), saved Policies ENV 3, 7 and 9 of the Gateshead Unitary Development Plan 2007 (the UDP) and guidance contained within the SPD. When taken together these policies and guidance seek, amongst other things, to ensure that development is to a high standard of design and preserves or enhances the character or appearance of conservation areas.

11. In addition, given the importance of the heritage asset, the scheme would be contrary to one of the core planning principles of the Framework that requires the conservation of heritage assets.

*Living Conditions*

12. Paragraph 8.2 of the SPD states that front extensions should be set-in a minimum of 460 millimetres from a shared boundary and the effect on neighbouring dwellings should be taken into consideration.
13. The proposed extension would abut the shared boundary and would fail to comply with guidance within the SPD. Moreover, given the forward projection of approximately 1.5 metres, it is considered that the extension would appear overly dominant and over bearing in relation to the neighbouring ground floor habitable room at No 6.
14. From observations made during the site visit, it was noted that the neighbouring dwelling at 6 Dockendale Lane has a mature shrub adjacent to the shared boundary and close to the ground floor habitable room. This shrub would screen some of the proposed extension from view when the neighbouring occupiers were in the ground floor room adjacent to the boundary. However, it is not considered that the vegetation is of such a significant scale as to provide sufficient screening of the proposal as to mitigate the level of harm identified.
15. In assessing the scheme against the existing and proposed site circumstances, it is considered that the proposal would harm the living conditions of the neighbouring occupiers at No 6 by virtue of an overbearing effect. The proposal therefore fails to comply with the protection of residential amenity objectives of Policy CS14 of the CS, Policy DC2 of the UDP and the SPD. The proposal would also run contrary to one of the Framework's core planning principles of seeking to secure a good standard of amenity for all existing occupants of land and buildings.

**Other Matters**

16. The current occupiers of 6 Dockendale Lane have not objected to the proposed development. Be that as it may, it is a function of the planning system to secure good living conditions for existing and future occupants of buildings, and in this regard, for the reasons that I have given, the proposal falls short of this goal.
17. The appellant has drawn my attention to a two examples of similar schemes on The Orchard. However, I have little information relating to the particular circumstances of these developments and as such, a comparison is of limited relevance in this instance. Accordingly, I have considered the appeal before me on its individual merits.

**Conclusion**

18. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

*Helen Cassini*

INSPECTOR





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## Appeal Decision

Site visit made on 28 November 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 19<sup>th</sup> December 2017

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**Appeal Ref: APP/H4505/D/17/3178454**

**37 Cromwell Ford Way, Blaydon on Tyne, Tyne and Wear NE21 4FH**

- 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 Derek Robson against the decision of Gateshead Council.
  - The application Ref: DC/17/00252/HHA, dated 24 February 2017, was refused by notice dated 17 May 2017.
  - The development proposed is the installation of a garage door to the front of the carport and construction of a masonry wall with timber doorset to the rear.
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### Decision

1. The appeal is allowed and planning permission is granted for installation of a garage door to the front of the carport and construction of a masonry wall with timber doorset to the rear at 37 Cromwell Ford Way, Blaydon on Tyne, Tyne and Wear NE21 4FH in accordance with the terms of the application, Ref: DC/17/00252/HHA, dated 24 February 2017, subject to the following condition:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Site Location Plan 1:200; Existing Plan of Carport Area 1:100; and Proposed Plan of Carport Area 1:100.

### Procedural matter

2. The development has already been carried out and I was able to view it when I visited the site. The planning application form describes the proposal as retrospective. Section 73A of the Town and Country Planning Act makes allowance for the submission of a planning application for development which has been carried out before the date of the application, and Section 55 of the Act describes development as the carrying out of building operations or the making of material changes of use, as opposed to their retention or continuation. Consequently, I have omitted the word retrospective from the description of the development and have considered that the application on the basis that it is for the installation of a garage door to the front of the original car port and the erection of a wall to the rear.

### Main Issue

3. The main issue in this appeal is the effect of the development on highway safety in the vicinity of the appeal site.

## Reasons

4. Policy CS13 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2015 (CSUCP) seeks to ensure, among other matters, that new development provides for direct, safe, secure and continuous pedestrian and cycling links. In respect of the detailed design of driveways the Gateshead Council Household Alterations and Extensions Supplementary Planning Document 2011 (the SPD) advises that driveways should be a minimum of 5.5 metres in length, or 5 metres if associated with a garage fitted with a roller shutter door.
5. It is not in dispute that, following the installation of the garage door, the original driveway at the appeal building falls short of the required length to allow a vehicle to be parked on it and not overhang the footway.
6. Parking provision at the appeal building was originally provided in the form of a car port. When I visited the site I observed that a number of similar properties nearby still retained this feature. I also saw that a number of other properties on Cromwell Ford Way had garage doors installed to the front of the original car port, in some cases resulting in driveways that were less than 5 metres in length. I do not have any details of the circumstances relating to these and so cannot be certain that they are analogous to the case before me. In any event, I have determined this appeal on its own merits.
7. Although there are footways to both sides of Cromwell Ford Way at its junction with King Oswald Drive, on the side of the street where the appeal property is located the footway terminates just beyond the appeal building. A short distance later the street becomes a shared surface with no footway to either side. Due to the presence of two blocks of three storey flats and their associated parking spaces immediately opposite the appeal building, this section of Cromwell Ford Way will be more heavily trafficked than the shared surface area which serves individual houses, and were the footway to be obstructed, pedestrians would be obliged to step out onto the carriageway, resulting in potential conflicts with vehicles.
8. However, it has been brought to my attention that planning permission has been granted for alterations to the drive and pathway at the appeal property<sup>1</sup> and I saw on my site visit that block paving has been installed to form a hardstanding area which would allow a vehicle to be parked parallel to the front wall of the dwelling. Whilst manoeuvring a vehicle onto and off this hardstanding is likely to be slightly more awkward than parking perpendicular to the carriageway, this arrangement, nonetheless, does allow for a vehicle to be parked off the highway without obstructing the footway at this point. There is no substantive evidence that vehicles accessing or egressing from this area would prejudice highway safety.
9. Although the original driveway at the appeal building no longer complies with the requirements of the SPD with regard to the available length, the SPD seeks this length of driveway to prevent obstruction of the footway. The present parking arrangements at the property would allow a vehicle to be parked without obstructing the footway and the SPD does not require driveways to be perpendicular to the carriageway. Accordingly the development as currently

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<sup>1</sup> Planning permission reference DC/16/00271/HHA



implemented does not offend the requirements of the SPD and does not conflict with CSUCP Policy CS13.

10. I therefore conclude that the development does not cause harm to highway safety in the vicinity of the appeal site. It complies with the relevant requirements of CSUCP Policy CS13 and the SPD, which seek to ensure that direct, safe, secure and continuous pedestrian and cycling links are provided within developments, and that vehicles can be parked off the highway without obstructing the footway.

#### **Conditions**

11. As the development has been carried out it is not necessary to impose a condition requiring the development to be commenced within a particular time period. In order to provide certainty regarding what has been granted planning permission, I have attached a condition specifying the approved drawings.
12. The Council have not suggested that any further conditions are necessary and on the basis of the evidence before me I have no reason to disagree with this.
13. The appellant has suggested that they would accept a condition requiring that vehicles only be parked on the hardstanding area parallel to the house frontage. However, such a condition would require intensive monitoring to ensure compliance and it would, consequently, not be practical to enforce this.

#### **Conclusion**

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

*John Dowsett*

INSPECTOR



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## Appeal Decision

Site visit made on 21 November 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 14<sup>th</sup> December 2017

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**Appeal Ref: APP/H4505/W/17/3181898**

**Land at Ellison Terrace, Greenside**

- 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 ISM Properties Ltd against the decision of Gateshead Council.
  - The application Ref DC/17/00563/FUL, dated 22 May 2017, was refused by notice dated 20 July 2017.
  - The development proposed is the construction of 3 terraced houses.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of 3 terraced houses at Land at Ellison Terrace, Greenside in accordance with the terms of the application, Ref DC/17/00563/FUL, dated 22 May 2017, subject to the conditions set out in the Schedule to this decision.

### Preliminary Matter

2. I have also dealt with another appeal (APP/H4505/W/17/3181897) on this site. That appeal is the subject of a separate decision.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the effect on the Greenside Area of Special Character.

### Reasons

4. The appeal site is located on Rockwood Hill Road between the two storey terraced houses of Ellison Terrace and the two storey detached property of Ivy House. The site is presently vacant and somewhat overgrown, containing as it does a dilapidated stone barn and concrete garage with low level stone walls to the front.
5. It is located in a predominately residential area within the village of Greenside, which is identified within the Gateshead Placemaking Guide Supplementary Planning Document 2012 (GPSPD) as an Area of Special Character (ASC) where positive and unique characteristics should be retained, enhanced and protected. The GPSPD indicates that ACS's in rural villages are characterised by predominately two storey buildings with a smaller footprint and limited height, whilst taller buildings are restricted to churches and older properties.
6. Opposite the site are pairs of two storey semi-detached houses with hipped roofs. Those properties are elevated above street level. To the west of those

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<https://www.gov.uk/planning-inspectorate>

is a short terrace of four, two storey dwellings. There is a, therefore, a general character of two storey houses in the area with a wide variation in style and appearance. Nevertheless, there is consistency in the linear pattern of development here. On the appeal site side of the road, most dwellings are sited either close to the footway or set back not more than 4-5m from it. In addition, the roofline of both sides of the road broadly replicates the rather steep topography.

7. It is proposed develop the appeal site for a terrace of three dwellings. The Council considers the dwellings would constitute overdevelopment of the site and would be too high relative to existing dwellings in the area. However, the dwellings would be around 8.7m in height at the western end of the terrace, and around 8.9m high at the eastern end. This would be similar to properties on Ellison Terrace which are around 8.8m high, whilst Ivy House is around 8.1m high. The eaves of the dwellings would also be a similar height to those of Ellison Terrace, with the slightly higher ridge height reflecting the incline of the road. Moreover, the ridge height at the western end of the terrace would be at a similar level to Ivy House.
8. Whilst the dwellings would have some semblance of townhouses due to the depth of the roof and the use of rooflights to the front, the proposed dormers would be located on the rear roof slope and would not be widely perceptible within the street scene. Furthermore, although the stone used in other nearby dwellings would not be incorporated into the scheme, the design of the dwellings would be broadly consistent with the terraced properties of Ellison Terrace through the use of similar materials and fenestration, including stone cills and heads. Likewise the narrow width would result in a pronounced vertical emphasis, replicating that of neighbouring properties.
9. Furthermore, whilst I note the Council's concerns regarding the proximity of the dwellings to the footpath, they would be set back around 1.8m to 2.4m from the front boundary of the site. That would broadly reflect the approximate 1m set back of Ellison Terrace. I note that the proposal would not reflect the 4m set back of Ivy House or indeed the larger setbacks of the houses opposite. However, notwithstanding the gap to Ellison Terrace, given the design and siting of the proposed dwellings, they would in my view be read more as a continuation of the terraced, linear built form of Ellison Terrace than they would in the context of Ivy House or the properties opposite.
10. As a result, I find the proposed dwellings would not appear as dominant or obtrusive features within the street scene. Indeed, I find the scale, massing, design, appearance and siting of the dwellings would make a positive contribution to the established character and identity of the area, would respond positively to the distinctiveness of the ASC and would not constitute overdevelopment of the site.
11. I conclude, therefore, that the proposal would not have a harmful effect on the character and appearance of the area. Consequently, the proposal would comply with Policy CS15 of the Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030 (2015) which states that development will be required to respond positively to local distinctiveness and character. It would also accord with Saved Policy ENV3 of the Gateshead Unitary Development Plan (2007) which states that the design, density and scale of new development should make a positive contribution to

the established character and identity of its locality, whilst all development will be expected to recognise established design principles such as scale, massing, height and materials.

#### **Other Matters**

12. The proposal would provide one off-street parking space for each dwelling. I note the concerns of Councillors and local residents in respect of the proposed parking arrangements. However, no substantive evidence has been provided which demonstrates that there are existing on-street parking problems. Indeed, whilst only a snapshot, my own observations were that on-street parking levels were not unduly high, with several available spaces and a number of properties with driveways and other forms of off-street parking. Furthermore, the traffic volumes I observed were not so significant that the level of additional on-street parking that would likely arise from the development would be harmful to highway safety. In the absence of any substantive, contrary evidence, I have no reason to believe my observations were not representative of regular traffic conditions in the area and thus, that the proposal would have a harmful impact on highway safety.
13. I have also had regard to the concerns of local residents in respect of the effect of the proposal on the privacy of neighbours. Whilst windows are proposed in the flank walls at either end of the terrace, the windows would serve staircases and a ground floor bathroom. The plans show the bathroom windows would be obscurely glazed. Given the non-habitable nature of those windows and the separation distance to the closest windows in the closest neighbouring properties, I am satisfied the proposal would not result in an undue loss of privacy for neighbouring occupiers.
14. The proposal is supported by a Bat Survey Report. Although dated 2014, I have no substantive evidence to suggest that the findings of the report are no longer relevant or in any way inaccurate. The report concludes that the existing building on the site has medium potential to contain roosting bats whilst the surrounding habitat offers good foraging potential. The proposal therefore incorporates bat roost features whilst nesting provision for house sparrows would also be provided. I consider these measures to be reasonable and necessary and can therefore be secured by condition.

#### **Conditions**

15. In addition to the standard time limit, a condition relating to the approved plans is necessary to provide certainty. I have imposed a condition requiring the development to be constructed in accordance with the materials shown on the approved plans. Nevertheless, I agree with the Council that the provision of red brick and natural slate roof tiles are necessary to protect the character and appearance of the area and I have therefore imposed a requirement for samples of the materials to be submitted to and agreed by the Council. I also agree a condition requiring 100mm reveals on all openings is necessary to reflect the character of the surrounding area.
16. A condition relating to contamination is necessary to ensure the development would not pose an unacceptable risk to surrounding receptors. Similarly, given the legacy of coal mining in the area, it is necessary to impose a condition requiring site investigations to be undertaken to ensure that any potential land stability issues can be properly mitigated.

17. A condition relating to working hours is necessary to protect the living conditions of neighbouring residents with regard to noise and disturbance. To ensure the development does not increase the risk of flooding or result in harm to the water environment, a condition relating to foul and surface water is necessary.
18. A condition to ensure the installation of bat roosting features and nesting provision is necessary in the interests of ecology and biodiversity. To protect the character and appearance of the area, a condition is necessary for details relating to the front boundary wall to be agreed. Finally, to ensure that the proposal would not result in harmful levels of overlooking for residents of 13 Ellison Terrace, a condition requiring the windows in the east elevation of the terrace to be obscurely glazed is necessary.

### **Conclusion**

19. For the reasons given above I conclude that the appeal should be allowed.

*Jason Whitfield*

**INSPECTOR**



#### SCHEDULE

- 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: 15034 OS, 15034 P-01; 15034 P-02; 15034-P10 Rev D; 15034 P-11 Rev B; 15034 P-12 Rev B; and 15034 P-13 Rev A.
- 3) No development shall commence until details of the materials to be used in the construction of the external walls and roof coverings of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. All other external surfaces of the development hereby permitted shall be constructed in accordance with the materials shown on plan no. 15034 P12-Rev B.
- 4) All openings in the dwellings hereby permitted shall be set back from the external face of the wall by at least 100mm and retained as such for the lifetime of the development hereby permitted.
- 5) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale and a scheme of monitoring, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 6) No development shall commence until a report of intrusive site investigations in relation to coal mining legacy, including the results of gas monitoring and, where required, measures and timescales for remediation, monitoring and verification reports, has been submitted to and agreed in writing by the local planning authority. The remediation and monitoring measures shall be implemented in accordance with the approved details and timescales, and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 7) All external works and ancillary operations in connection with the construction of the development hereby permitted, including deliveries to



the site, shall be carried out only between 0800 and 1700 Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays.

- 8) No development shall commence until a detailed scheme for the disposal of foul and surface water from the development hereby permitted has been submitted to and approved in writing by the local planning authority. The schemes shall be fully implemented in accordance with the approved details before first occupation of the development and retained as such for the lifetime of the development.
- 9) The bat roost features and nesting provision for house sparrows shown on approved plan 15034 P-12 Rev B shall be implemented before first occupation of the development hereby permitted and retained in accordance with the approved details for the lifetime of the development.
- 10) No works to the existing northern boundary wall shall commence until final details of the appearance, including materials, of the northern boundary treatment, which shall be not more than 1m above ground level, have been submitted to and approved in writing by the local planning authority. Thereafter the boundary treatment shall be constructed in accordance with the approved details before first occupation of the development and retained in accordance with the approved details of the lifetime of the development.
- 11) The development hereby permitted shall not be occupied until the windows in the eastern elevation facing Ellison Terrace have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

## 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>
<b>DC/16/01182/FUL</b>	<b>Land At Ellison Terrace Greenside Ryton NE40 4BL</b>	<b>Construction of three houses with parking area (amended 16/02/17 and 08/03/17 and description amended 14.03.2017).</b>	<b>Written</b>	<b>Appeal Allowed</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
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	Written	Appeal In Progress
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	Written	Appeal In Progress
<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 Allowed</b>
<b>DC/17/00163/HHA</b>	<b>8 Dockendale Lane Whickham Whickham NE16 4EN</b>	<b>Garage conversion and extension at the front of the property.</b>	<b>Written</b>	<b>Appeal Dismissed</b>

DC/17/00473/HHA	17 Limetrees Gardens Low Fell Gateshead NE9 5BE	First floor extensions to side and rear	Written	Appeal in Progress
DC/17/00010/FUL	Ogilvie House Princes Park Gateshead NE11 0NF	Erection of 2.4m high mesh fencing around perimeter of site. Proposal includes installation of single automatic roller gate at site entrance, single leaf pedestrian gate to east elevation and single pedestrian gate to west elevation	Written	Appeal in Progress
<b>DC/17/00563/FUL</b>	<b>Land At Ellison Terrace Greenside Ryton NE40 4BL</b>	<b>Construction of three terraced houses with parking area</b>	<b>Written</b>	<b>Appeal Allowed</b>