

TITLE OF REPORT: Planning Appeals

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

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/17/00654/HHA - 257 Coatsworth Road, Bensham, Gateshead NE8 4LJ
Rear Extension
This application was a delegated decision refused on 17 November 2017.

Appeal Decisions

3. There has been **one** new appeal decision received 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 application was a committee decision refused on 5 June 2017.
Appeal allowed 16 March 2018.

Details of the decisions 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

Appeal Decision

Site visit made on 6 February 2018

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th March 2018

Appeal Ref: APP/H4505/W/17/3184195

4 Coalburns Cottages, Greenside, Ryton, NE40 4JL

- 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 Robert Carroll against the decision of Gateshead Council.
 - The application Ref: DC/16/01261/FUL, dated 24 November 2016, was refused by notice dated 5 June 2017.
 - The development proposed is demolition of the existing garage followed by erection of a new dormer bungalow with four parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing garage followed by erection of a new dormer bungalow with four parking spaces at 4 Coalburns Cottages, Greenside, Ryton, NE40 4JL in accordance with the terms of the application, Ref: DC/16/01261/FUL, dated 24 November 2016, subject to the conditions in the attached schedule.

Procedural matter

2. The decision notice issued by the Council refers to Policy ENV37 of the Gateshead Unitary Development Plan 2007 (UDP). As part of their appeal submission the Council have clarified that this Policy was not saved and was replaced by the Core Strategy and Urban Core Plan for Newcastle and Gateshead 2015 (CSUCP). I have, therefore, dealt with the appeal on the basis that the operative policies are CSUCP Policy CS19 and Saved Policy ENV38 of the UDP.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies; and
 - The effect of the proposed development on the living conditions of the occupiers of number 5 Coalburns Cottages, with particular regard to outlook and overbearing.

Reasons

Whether the development is inappropriate development in the Green Belt

4. The settlement of Coalburns is within the Green Belt and is washed over by the Green Belt designation. Policy CS19 of the CSUCP seeks to protect the Green Belt in accordance with National Policy. Saved Policy ENV38 of the UDP specifically addresses washed over settlements in the Green Belt and allows for infilling development within the defined envelopes of a number of named settlements, including Coalburns. The settlement envelope for Coalburns is identified on a plan within the UDP.
5. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out that, subject to a number of exceptions, the construction of new buildings is inappropriate in the Green Belt. One such exception is for limited infilling in villages.
6. The Council consider that Coalburns is not a village and therefore the exception in Paragraph 89 does not apply. The terms "village" and "infilling" are not defined in either the Framework or the UDP. These are a matter of planning judgement and whilst I accept that the inclusion of a site within a defined boundary is not necessarily determinative, it is nonetheless a relevant consideration. There is some debate in the evidence and representations regarding whether Coalburns is a village or a hamlet. However, both these terms are relatively loosely defined in most sources and there is not an objective or quantitative frame of reference against which to determine whether a settlement is a village or a hamlet.
7. Coalburns comprises of 17 properties, including three farm houses, and a public house, loosely grouped together along Lead Road and Kyo Lane with an area of public open space at the junction of these roads. I saw when I visited the site that this area of open space and its relationship with the public house to the west and Coalburns Cottages to the east creates a focal point to the settlement that ties together the dwellings to the west and the slightly more dispersed development to the west. In addition to the public house, I also saw that there is a florist and nursery business operating from a premises on Kyo Lane on the edge of the settlement.
8. As well as the scale and form of the settlement itself, it is of relevance that Coalburns is identified in Policy ENV38 the UDP as a Green Belt Settlement where infilling will be allowed and that a settlement envelope is identified for it. Although this policy pre-dates the Framework and was drawn up under a different policy regime¹, the previous national policy contained essentially similar exception criteria to those set out in Paragraph 89 of the Framework, and advised that in the case of washed over villages the local plan may need to define infill boundaries to avoid dispute over whether particular sites are covered by infill policies. Although this previous guidance is no longer an extant national policy, in order to properly and consistently apply the UDP policy, it is necessary to understand the background to it. From this, it is clear to me that Policy ENV38 regards Coalburns as a village.
9. From the physical form of the settlement and from the policy context, I am therefore satisfied that Coalburns is a village for the purposes of the exceptions

¹ Planning Policy Guidance 2: Green Belts

in the Framework and for the application of CSUCP Policy CS19 and Saved Policy ENV38 of the UDP.

10. The appeal site lies entirely within the settlement envelope shown in the plan which accompanies Policy ENV38. Although it is on the edge of the defined area, I saw when I visited the site that it is in use as a domestic garden area and is bounded on all but one side by other garden areas and by the access road for Coalburns Cottages which are also included within the defined village envelope. The boundaries of these domestic gardens form a distinct edge to the settlement, separating it from the agricultural field to the north. Development on the appeal site would, consequently, represent infilling within the village in accordance with Saved Policy ENV38.
11. I conclude that the proposed development would not be inappropriate development within the Green Belt. It would comply with the relevant requirements of CSUCP CS19, Saved Policy ENV38 of the UDP, and the Framework, which seek to prevent inappropriate development on Green Belt land.

Living conditions of the occupiers of number 5 Coalburns Cottages

12. Policy DC2 of the UDP expects, among other matters, that new development safeguards the enjoyment of light and privacy for existing residential properties, and ensures a high quality of design and amenity for existing and future residents. This is consistent with the policies in the Framework.
13. Number 5 Coalburns Cottages is located at the end of the short terrace of houses, opposite the access point to the appeal site. During my site visit I was able to access this house and view the appeal site from the ground floor windows of the principal living accommodation. The existing garage on the site is visible through the windows on the east elevation of number 5, nevertheless, this structure does not appear unduly overbearing due to its single storey nature.
14. The proposed new dwelling would be located approximately 1.2 metres from the common boundary between the appeal site and the garden of number 5 Coalburns Cottages, and approximately 9 metres from the existing house. Whilst the siting of the new dwelling in relation to the common boundary is similar to that of the existing garage, the proposed new dwelling is set further north into the appeal site than this structure. The principal living accommodation of number 5 Coalburns Cottages has windows on both the east and north elevations. The proposed new dwelling would be both higher and longer than the existing structure, nonetheless, as a result of its orientation relative to number 5 and its position on the site, the new dwelling would be visible in oblique views from the ground floor windows of number 5, rather than being positioned directly in front of either of them.
15. Although it would be a larger structure, the new dwelling would be positioned further away from the neighbouring house than the existing garage. Consequently, there would still be largely unobstructed views to the north and the outlook to the east would remain broadly similar to the current situation. Although the outlook from the principal living accommodation of number 5 would be altered, the effect of this alteration would not be so significant as to amount to harm. Due to the proposed siting of the new dwelling to the north of the end wall of number 5, and the distance between the existing and

proposed buildings, the new dwelling would not appear excessively overbearing or dominant from within the existing house.

16. The Council have not raised any concerns in respect of loss of privacy or with regard to sunlight or daylight. From what I have read and from what I saw when I visited the site, I have no reason to reach a different conclusion.
17. I therefore find that the proposed development would not cause harm to the living conditions of the occupiers of number 5 Coalburns Cottages, with particular regard to outlook and overbearing. It would comply with the relevant requirements of Policy DC2 of the UDP.

Other matters

18. Coalburns has a varied architectural character. Whilst Coalburns Cottages and the Fox and Hounds public house are older buildings, the majority of the remainder are of more recent date. The village as a whole has an informal layout and is not within a conservation area or an area that is subject to a specific landscape designation other than its Green Belt status. The proposed new dwelling takes some of its design cues from the surrounding buildings in terms of the roof form, use of dormer windows and materials and, as such, would not appear out of place or incongruous alongside the existing built form.
19. There is provision within the appeal site to park four vehicles, two for the new dwelling and two for the existing house at 4 Coalburns. I have had regard to the points that have been raised in respect of manoeuvring from the appeal site and the width of the road which provides access to it. I saw when I visited the site that some of the other garden areas to the east of the access road contain driveways and garages which must also require manoeuvring on the access road. I accept that it may not always be possible for a vehicle to turn within the appeal site and join the carriageway in forward gear, however, the width of the carriageway is such that a vehicle could turn within it, albeit requiring a number of manoeuvres. I do not consider that this would prove so inconvenient that drivers would resort to reversing the length of the access road and attempt to join the main road in reverse gear. There is no substantive evidence that would indicate that access to and from the site would be impractical or unsafe, and I note that there have been no objections raised by the Highway Authority.
20. Whilst the appeal site forms part of a wildlife corridor, I have no evidence before me that would indicate that the proposal would compromise the free movement of species or the integrity of the wildlife corridor.

Conditions

21. I have had regard to the list of conditions that has been suggested by the Council. In order to provide certainty in respect of what has been granted planning permission, I have attached a condition that specifies the approved drawings.
22. The planning officer's report states that the appeal site is located within an area that is identified as being at high risk from hazards associated with past coal mining activity. For this reason it is necessary to attach a condition requiring that an intrusive investigation be carried out to determine if there are any land stability issues or potential gas emissions resulting from these mining activities. I have combined the implementation clause into this condition. Due

to the nature of the works required, it is necessary that this condition be pre-commencement.

23. The Council have suggested five conditions in relation to potential land contamination. Due to the small scale of the development and lack of substantive evidence that the site is contaminated it is not necessary to have 5 detailed conditions in respect of this. Nonetheless, on the grounds that there has been previous mining activity in the area, a precautionary approach suggests such a condition is necessary. I have therefore attached a simplified condition that addresses the same issues as those suggested by the Council. Due to the nature of the works required, it is also necessary that this condition be pre-commencement.
24. The planning application does not include full details of the proposed materials for the development. In order to ensure that the proposed development is in keeping with the appearance of the existing buildings in the surrounding area, it is necessary to attach a condition requiring details of the proposed materials to be submitted for approval.
25. The appeal site is in the near vicinity of other residential properties and, consequently, it is necessary to restrict the hours that construction related activities can be carried out on the site in order to ensure that disturbance to existing residents is minimised during the construction period.
26. Due to the nature of the access road and the proposal resulting in the loss of the garage for existing house at 4 Coalburns Cottages, a condition to require the provision of parking facilities for this property is necessary.

Conclusion

27. For the above reasons and having regard to all other relevant matters raised, I conclude that the appeal should be allowed subject to the conditions discussed above.

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: 16060/OS/01; 16060/P02 Rev D; 16060.P03 Rev A; and 16060.P05 Rev A.

- 3) The development hereby approved shall not commence until a report of intrusive site investigations in relation to the coal mining legacy, including the results of any gas monitoring and where required, measures and timescales for remediation, monitoring, and verification reports has been submitted to, and approved in writing by, the local planning authority. Thereafter the approved remediation and monitoring measures shall be implemented in full accordance with the approved timescales and the approved details.
- 4) 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, 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.
- 5) 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 have been submitted to, and approved in writing by, the local planning authority. The relevant works shall thereafter be carried out in accordance with the approved sample details.
- 6) Demolition or construction works shall take place only between 0800 hours and 1700 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) Prior to the first occupation of the dwelling hereby approved, a scheme shall be submitted to and approved in writing by the Local Planning Authority which ensures that two car parking spaces, the associated manoeuvring area and private garden space (as shown on plan number 16060/P02 Rev D) are available for the property known as 4 Coalburns Cottages, Greenside, Ryton, NE40 4JL. Thereafter, the approved scheme shall be implemented on site, prior to first occupation, in accordance with the approved details and kept available for the specified purposes for the lifetime of the development.

APPENDIX 3

OUTSTANDING APPEALS

Planning Application No	Appeal Site (Ward)	Subject	Appeal Type	Appeal Status
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 Allowed
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
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
DC/17/00724/HHA	26 Colegate Leam Lane Estate Felling NE10 8PN	Drop kerb from classified road to allow access to drive	Written	Appeal in Progress

DC/17/00817/ADV	Land At Askew Road West Gateshead	Removal of existing 5no illuminated 48 sheet advertising displays and replacement with 1no 48 sheet digital LED advertisement (amended 24.08.17).	Written	Appeal in Progress
DC/17/00654/HHA	257 Coatsworth Road Bensham Gateshead NE8 4LJ	Rear Extension	Written	Appeal in Progress