

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/18/00081/HHA - 16 Cowen Gardens, Allerdene, Gateshead, NE9 7TY
Two storey side and front extension, rear ballustrade to first floor rear window and
new boundary fencing and gates (revised application)
This application was a delegated decision refused on 29 March 2018.

Appeal Decisions

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

DC/17/00724/HHA - 26 Colegate, Leam Lane Estate, Felling, NE10 8PN
Drop kerb from classified road to allow access to drive
This application was a delegated decision refused on 23 October 2017.
Appeal dismissed 25 April 2018.

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).
This application was a delegated decision refused on 13 October 2017.
Appeal allowed 25 April 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

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 17 April 2018

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

an Inspector appointed by the Secretary of State

Decision date: 25th April 2018

Appeal Ref: APP/H4505/D/17/3189318

26 Colegate, Leam Lane Estate, Felling NE10 8PN

- 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 Steven Graham against the decision of Gateshead Council.
 - The application Ref DC/17/00724/HHA, dated 23 June 2017, was refused by notice dated 23 October 2017.
 - The development proposed is a vehicle crossing to allow access to hardstanding drive on property from a classified road.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the adjacent street tree.

Reasons

3. The character and appearance of this part of Colegate is in part derived from the regularly spaced mature trees within the highway verge. The trees form a distinctive feature within the street scene and make a positive contribution to the character and appearance of the road.
4. One of the street trees lies immediately to the front of the appeal property close to the position of the proposed crossover. The crown spread of this tree extends over the area in which works would take place and at my site visit I saw that the roots of the tree lie very close to the surface.
5. The appellant states that the risk to the tree is low. However, there is no compelling evidence before me, such as an arboricultural report, to support this contention or to demonstrate that the loss of any roots would not adversely affect the long-term health of this tree. I cannot therefore be certain that the proposed crossover would not prejudice the long term health and retention of this tree. The loss of this tree would have a detrimental impact on the character and appearance of the area.
6. The appellant has drawn my attention to a number of locations where highway crossovers or tarmacking close to trees does not appear to have damaged the health of the tree. However, I have not been provided with the background or circumstances that led to such development and cannot be sure whether these

were approved on the basis of technical advice to demonstrate that there would be no adverse impact on the trees or were constructed using specific techniques to mitigate any potential harm. In any event, the depth and spread of roots are specific to each individual tree and the presence of the other crossovers does not justify the appeal proposal.

7. I note that the proposal would be of benefit to the appellant in facilitating off street parking and that it would reduce on street parking. However, these matters do not outweigh the harm that I have identified.
8. In the absence of any technical evidence to the contrary, I conclude that there is an unacceptable risk that the proposed development would prejudice the long-term retention of this tree to the detriment of the character and appearance of the area. The proposed development therefore conflicts with Policies ENV3 and ENV44 of the Gateshead Unitary Development Plan and Policies CS15 and CS18 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne (2015). Together these seek, amongst other things, that development makes a positive contribution to the established character and identity of its locality, that trees should be protected and that works that will damage or lead to the loss of trees which contribute to the amenity of an area will not normally be permitted.
9. For the reasons given above and taking all matters into account, I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR



Appeal Decision

Site visit made on 17 April 2018

by Caroline Jones BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th April 2018

Appeal Ref: APP/H4505/Z/17/3191150

Land at Askew Road West, Gateshead, Newcastle upon Tyne NE8 2JX

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Paul O'Sullivan, Insite Poster Properties Ltd against the decision of Gateshead Council.
 - The application Ref DC/17/00817/ADV, dated 21 July 2017, was refused by notice dated 13 October 2017.
 - The advertisement proposed is removal of existing 5no illuminated 48 sheet advertising displays and replacement with 1no 48 sheet digital LED advertisement.
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Decision

1. The appeal is allowed and express consent is granted for the display of the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following *additional* conditions:
 1. No individual advertisement shall be displayed for a duration of less than 10 seconds.
 2. The advertisements on display shall be static. No advertisement display on the LED screen shall contain moving images, animation, intermittent or full motion video image or any images that resemble road signs or traffic signs.
 3. At all times the display shall contain a mechanism that will turn the screen off in the event that the display experiences malfunction or error.
 4. The intensity of the illumination of the display shall not exceed 300cd/m² at any time.

Main Issue

2. The main issue is the effect of the proposed advertisement on the visual amenity of the area.

Reasons

3. The appeal site is located on a prominent corner plot on a busy roundabout close to the A184. The site currently contains 8no illuminated advertising displays which wrap around the north west, south west and southern boundaries of the plot. At present there are 3no 96 sheet displays and 5no 48 sheet displays, all of which are externally illuminated. The proposal comprises the removal of the 5no 48 sheet displays, replacing the display on the southern

boundary with a 48 sheet digital display. The 3no 96 sheet displays would be retained.

4. The surrounding area is mixed in character and the advertisements are a prominent feature in the street scene. The approaches to the roundabout differ in character and as a result the adverts are seen in different contexts depending on their orientation. The approach from the south, Cuthbert Street, has a more spacious and green feel than those from the north, east and west with the hoarding lying adjacent to open space. That said, Cuthbert Street is a busy road with sweeping views of the city of Newcastle upon Tyne across the river. The presence of the A184 is noticeable with the slip road close to the appeal site and street furniture is common place including streetlights, road signs, barriers, a bus shelter and a mobile phone mast.
5. The digital display would be mounted on the southern boundary of the hoarding facing south along Cuthbert Street. The dimensions would be around 6m in width and 3m in height. The illumination brightness of the display would be controlled via a light sensor which monitors ambient light. As proposed, it would be restricted to a maximum brightness of 300cd/m² at night and 600cd/m² during the day in accordance with guidelines by the Institute of Lighting Professionals. The transition between displays would be instantaneous and the display would be fitted with a safety mechanism that would turn the screen off in the event of a malfunction or error.
6. The proposed display would be partially screened from longer range views down Cuthbert Street by the recording studio which lies to the south of the appeal site. From this direction, it would also be viewed in the context of the cityscape and associated lighting as a backdrop. Although in closer views the display would be more prominent, its size and position would be the same as the existing advertisement. Therefore there would be no material change in the appearance of the street scene as a consequence of the proposal. The difference would be the nature of the illumination. However, the appellant states that he is willing to accept a maximum brightness of 300cd/m² during the day which means that the intensity would be no more than the existing sign. Furthermore, the brightness would also be controlled via a light sensor monitoring ambient light levels.
7. These factors lead me to conclude that the proposed advertisement would not appear more prominent or dominant than the existing display. A display of the same size and position but with modernised illumination would have a neutral effect on the character and appearance of the street scene and surrounding area.
8. I have considered the Council's argument that the granting of consent would set a precedent for proposals of a similar nature. However, no directly similar/comparable sites to which this might apply were put forward. Each application and appeal must be determined on its individual merits and a generalised concern of this nature does not justify withholding consent in this case.
9. For the aforementioned reasons, I conclude that the proposal would not cause demonstrable harm to the visual amenity of the surrounding area and I find no conflict with the National Planning Policy Framework in this regard.

Conditions

10. The conditions I have imposed are based on those suggested by the Council albeit with minor variations in wording in the interests of clarity and in line with the Planning Practice Guidance. Those relating to sequencing, the images to be displayed and the malfunction mechanism are necessary to ensure the proposal is designed and operated in a manner that does not cause an undue distraction to drivers. That relating to brightness is necessary in the interests of public safety and to protect the character and appearance of the area. I have amended the wording of this condition so that the intensity of the illumination does not exceed that of the existing at all times.

Conclusion

11. For the reasons given above I conclude that the display of the advertisement would not be detrimental to the interests of amenity.

Caroline Jones

INSPECTOR

APPENDIX 3

OUTSTANDING APPEALS

Planning Application No	Appeal Site (Ward)	Subject	Appeal Type	Appeal Status
DC/17/00473/HHA	17 Limetrees Gardens Low Fell Gateshead NE9 5BE	First floor extensions to side and rear	Written	Appeal in Progress
DC/17/00724/HHA	26 Colegate Leam Lane Estate Felling NE10 8PN	Drop kerb from classified road to allow access to drive	Written	Appeal Dismissed
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 Allowed
DC/17/00654/HHA	257 Coatsworth Road Bensham Gateshead NE8 4LJ	Rear Extension	Written	Appeal in Progress
DC/17/00899/COU	Da Vincis 10 Harraton Terrace Durham Road Birtley	Change of use from A3 (food and drink) to A3/A5 to allow for home delivery (amended 05/09/17).	Written	Appeal in Progress
DC/17/01109/HHA	24 Wilsons Lane Low Fell Gateshead NE9 5EQ	Proposed external rear roof terrace with bi-fold doors.	Written	Appeal in Progress
DC/17/01110/COU	321 And 323 Rectory Road Bensham Gateshead NE8 4RS	Change of use from dwelling (use class C3) to an eight-bedroom house in multiple occupation (HMO) (sui generis use)	Written	Appeal in Progress

DC/18/00081/HHA	16 Cowen Gardens Allerdene Gateshead NE9 7TY	Two storey side and front extension, rear ballustrade to first floor rear window and new boundary fencing and gates (revised application)	Written	Appeal in Progress
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