

**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 **three** new appeals lodged since the last committee:

DC/17/01087/FUL – Woodlands, Birtley Lane, Birtley DH3 2LR

The felling of 5 Tree Preservation Order (TPO) trees and the replacement with 7 new trees and the erection of a Use Class C3 detached dwelling-house, with three bedrooms and two floors (one within pitched roof void) on existing rear garden lands, with associated new access, hardstandings and car parking spaces (as resubmission and re-siting of DC/16/1289/FUL).

This application was a delegated decision refused on 1 February 2018

DC/17/01153/HHA - 65 King Oswald Drive, Stella, Blaydon NE21 4FD

Retrospective dropped kerb and provision of new path and parking space to front of property to provide disabled access.

This application was a delegated decision refused on 26 January 2018.

DC/18/00105/FUL - Smileys Car Wash, Nobles MOT Centre, Sunderland Road, Gateshead NE10 0NR

VARIATION OF CONDITION 2 (Hours of Operation) of permission

DC/12/00577/COU to allow opening Mon - Sat 08:00 -18:00 and Sunday 09:00 - 18:00 (currently limited to between 0900 and 1800 Monday to Saturday and between 0900 and 1600 on Sundays and Public Holidays).

This application was a delegated decision granted on 29 March 2018

### **Appeal Decisions**

3. There has been **one** new appeal decision received 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 dismissed 25 June 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

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## Appeal Decision

Site visit made on 19 June 2018

by **Michael Moffoot DipTP MRTPI DipMgt**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2018

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**Appeal Ref: APP/H4505/D/18/3194587**

**257 Coatsworth Road, Bensham, Gateshead NE8 4LJ**

- 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 Joseph Ludzker against the decision of Gateshead Council.
  - The application Ref: DC/17/00654/HHA, dated 23 May 2017, was refused by notice dated 17 November 2017.
  - The development proposed is 'home improvements and extension'.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. There is no dispute between the parties as to the acceptability of the proposed ground floor rear extension to form a succah. I am satisfied that this aspect of the proposal would cause no material harm and would not conflict with any development plan policies I have been referred to. I shall therefore confine my detailed considerations to the proposed kitchen extension and additional bedroom to the rear of the property.

### Main Issues

3. The main issues in this case are:
  - (i) the effect of the proposed development on the character and appearance of the area; and
  - (ii) the effect of the proposal on the living conditions of the occupiers of No 255 Coatsworth Road, with particular reference to outlook and daylight and sunlight.

### Reasons

#### *Character and appearance*

4. The appeal site comprises a substantial end-of-terrace residential property of brick construction under a slate roof and includes a three-storey offshoot, a flat-roofed garage, a small yard and a large box dormer to the rear elevation. The proposal includes a ground floor extension to form a succah and, over part of the existing garage, a two-storey extension to the offshoot to provide additional kitchen and bedroom accommodation.

5. In order to respect and enhance the appearance of the street scene, Supplementary Planning Document: *Household Alterations and Extensions* ('the SPD') aims to encourage good design by concentrating on issues of scale, height, massing, layout and parking. It states that two-storey rear extensions will not normally be permitted unless it can be demonstrated through careful design that there will be no detrimental effect on the street scene. These objectives accord with those parts of Policy CS15 of the Core Strategy<sup>1</sup> and saved Policy ENV3 of the UDP<sup>2</sup> which require high quality and sustainable design that responds to local distinctiveness and makes a positive contribution to the established character and identity of its locality in terms of, amongst other things, scale, massing and height.
6. The site is in a predominantly residential part of Bensham characterised by extensive terraces of large family dwellings arranged in a distinctive grid-plan which imparts a pleasing uniformity and visual 'rhythm'. Within this context the proposed two-storey extension would be a significant addition to the dwelling. It would extend the existing rear offshoot up to the boundary with the back lane and vertically to form a substantial, three-storey, flat-roofed wing. In doing so, it would be wholly out of keeping with the form and proportions of the host building, undermine the architectural rhythm of the terrace and dominate the street scene on this prominent corner site.
7. For these reasons, the proposal would seriously harm the character and appearance of the area contrary to Policy CS15 of the Core Strategy and UDP saved Policy ENV3. It would also conflict with the environmental role of the *National Planning Policy Framework* ('the Framework') which requires that the planning system protects and enhances the built environment.

*Living conditions*

8. One of the core principles of the Framework requires that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
9. The SPD does not normally permit two-storey rear extensions unless it can be demonstrated through careful design that there will be no unacceptable reduction in daylight and sunlight and no visual intrusion. To avoid an overbearing visual impact on adjacent properties it advocates that such extensions should not project beyond a 45° line extending from the centre of a neighbour's ground floor habitable room window. Although the proposed extension would effectively be three storeys in height (rather than two) and the neighbouring window is at first floor level, I consider it appropriate to apply the SPD guidance in this case.
10. No 255 has a first floor succah infill extension at the back of the property which is almost flush with the rear of the existing outshoot on the appeal site. The proposed extension would project some 4.3m beyond the succah in clear breach of the 45° guideline. It would be an oppressive structure in close proximity to the window serving the succah, which I regard as habitable room. The resultant loss of outlook would unacceptably harm the neighbours' living conditions.

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<sup>1</sup> *Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030* (adopted 2015)

<sup>2</sup> *Gateshead Unitary Development Plan 2007*

11. To prevent excessive loss of daylight or overshadowing the SPD states that, irrespective of the 45° guideline, rear extensions should be a maximum depth of 3m in the case of terraced dwellings. The proposal would breach this depth by some 1.3m, resulting in severe curtailment of daylight and sunlight reaching the succah to the detriment of the occupants' enjoyment of the room.
12. As such, the proposal would materially harm the living conditions of the occupiers of No 255 Coatsworth Road. It would conflict with Policy CS15 of the Core Strategy and saved Policy DC2 of the UDP which, amongst other things, require development proposals to deliver high quality and sustainable design, safeguard light for existing residential properties and ensure a high quality of amenity for existing and future residents.

#### **Other Matters**

13. In coming to these findings I have had regard to the previous permission for extensions to the appeal property. However, they are not on the same scale as the appeal proposal and comparison between the two schemes is therefore of limited relevance to my decision.
14. I have also taken into account the recent permission for rear extensions to No 261 Coatsworth Road drawn to my attention by the appellant. However, the scheme does not, in my view, constitute an example of appropriate development in a residential area in terms of visual impact and neighbours' living conditions. It does not therefore justify the appeal proposal.

#### **Conclusion**

15. For the reasons set out above, I conclude that the proposal is unacceptable and the appeal should fail.

*Michael Moffoot*

Inspector

## APPENDIX 3

### OUTSTANDING APPEALS

<b>Planning Application No</b>	<b>Appeal Site (Ward)</b>	<b>Subject</b>	<b>Appeal Type</b>	<b>Appeal Status</b>
DC/17/00473/HHA	17 Limetrees Gardens Low Fell Gateshead NE9 5BE	First floor extensions to side and rear	Written	Appeal in Progress
<b>DC/17/00654/HHA</b>	<b>257 Coatsworth Road Bensham Gateshead NE8 4LJ</b>	<b>Rear Extension</b>	<b>Written</b>	<b>Appeal Dismissed</b>
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/17/01142/ADV	Land At Abbotsford Road Felling	Proposed siting of internally illuminated digital hoarding display.	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

<b>DC/17/01087/FUL</b>	<b>Woodlands Birtley Lane Birtley DH3 2LR</b>	<b>The felling of 5 Tree Preservation Order (TPO) trees and the replacement with 7 new trees and the erection of a Use Class C3 detached dwelling-house, with three bedrooms and two floors (one within pitched roof void) on existing rear garden lands, with associated new access, hardstandings and car parking spaces (as resubmission and re-siting of DC/16/1289/FUL)</b>	<b>Written</b>	<b>Appeal in Progress</b>
<b>DC/17/01153/HHA</b>	<b>65 King Oswald Drive Stella Blaydon NE21 4FD</b>	<b>Retrospective dropped kerb and provision of new path and parking space to front of property to provide disabled access.</b>	<b>Written</b>	<b>Appeal in Progress</b>
<b>DC/18/00105/FUL</b>	<b>Smileys Car Wash Nobles MOT Centre Sunderland Road Gateshead</b>		<b>Written</b>	<b>Appeal in Progress</b>