

**TITLE OF REPORT:** Planning Appeals

**REPORT OF:** Anneliese Hutchinson, 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 has been **one** new appeal decision received since the last Committee:

DC/18/00244/ADV - 592-596 Durham Road, Gateshead NE9 6HX  
Display of 1 x 48 sheet LED advertisement with changeable content on gable elevation.

This application was a delegated decision refused on 19 April 2018.  
Appeal dismissed 16 October 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 2 October 2018

**by Elaine Worthington BA (Hons) MTP MUED MRTPI**

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

Decision date: 16 October 2018

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**Appeal Ref: APP/H4505/Z/18/3202633**

**592-596 Durham Road, Gateshead, NE9 6HX**

- 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 Alan Mottershead against the decision of Gateshead Council.
  - The application Ref DC/18/00244/ADV, dated 14 March 2018, was refused by notice dated 19 April 2018.
  - The advertisement proposed is a 1 x 48 sheet LED advertisement with changeable content.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018 and replaced the version published in 2012. None of the revisions to the Framework materially affect the issues in this appeal. However, for clarity, references made to the Framework in this decision are to the 2018 version.

### Main Issue

3. The main issue is the effect of the proposed advertisement on the character and appearance of the host building and the surrounding area, and whether it would preserve or enhance the character or appearance of the Low Fell Conservation Area.

### Reasons

4. The appeal property is a two storey brick building with an ornate frontage at upper floor level and shop units at ground floor level. It is the former Co-op building and is identified by the Council as a Building of Local Interest. It is also within the Low Fell Conservation Area which covers much of this suburb of Gateshead including the shopping area and principal public buildings along Durham Road. It is diverse in character and appearance but includes a number of early nineteenth century vernacular buildings and Victorian terraces and villas. The appeal property along with the other traditional buildings in this part of Durham Road makes a positive contribution to the street scene and plays a role in defining the character of the area, which is part of the Conservation Area's significance as a heritage asset.

5. The regulations require that advertisements are subject to control only in the interests of amenity and public safety (taking account of cumulative impacts). The National Planning Practice Guidance notes that amenity is not defined in the Regulations, except in so far as to specify that it includes aural and visual amenity and that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural or similar interest.
6. Whilst it was not in place at the time of my visit, I understand that the south facing flank wall of the appeal property has been used to display an internally illuminated 48 sheet advertisement hoarding at first floor level. The appellant and the Council are agreed that this has been in place for over 10 years and has deemed consent. The proposal would see that hoarding's replacement with a LED display of the same proportions (it would be 6 metres off the ground, 3.05 metres high by 6.10 metres wide and made of brushed steel/aluminium).
7. I am mindful that the advertisement with deemed consent is itself a substantial feature on the appeal property and in the street scene. It is large in size and positioned at first floor level on the appeal property's flank elevation which has a decorative roof line and is of a relatively modest two storey scale. Despite the shop windows and signage at ground floor level along with the fire escape and satellite dishes on that elevation, the existing hoarding somewhat dominates the appearance of the host property. It is also exposed in views by the setback position of the adjacent tyre workshop and so is seen in long uninterrupted views on approach along Durham Road from the south. Thus, it already stands out as an obvious and eye catching feature in the street scene.
8. The surrounding area is mixed in character and there are some commercial properties and signage in the immediate vicinity of the site including those at ground floor level at the appeal property, the adjoining tyre workshop and the medical centre opposite. However, there are no other gable end hoardings nearby and only one other in the wider district centre of Low Fell further to the north. The commercial uses close to the appeal site are relatively low key and generally maintain a two or three storey scale with an absence of advertisements at first floor level. In this overall context, I agree with the Council that the existing hoarding fails to respect the architectural features of the host building and is visually intrusive in the street scene.
9. Although the images on the proposed display would be changeable, it would only show sequential static poster images rather than moving images, animation or apparently moving images. Each advertisement would be displayed for a minimum of 15 seconds and the transition to the next advert would appear instantaneous. The digital display would be controlled remotely by software which would automatically adjust brightness levels to track the light level changes in the environment. Maximum brightness levels would be 660 candelas per square metre during the day, dropping to 300 candelas per square metre during hours of darkness. Furthermore, the display would be fitted with a safety feature that would turn it off in the unlikely event of a malfunction or error. I also note the appellant's view that the proposal would be slimmer than the existing advertisement and look more in keeping with the more modern buildings nearby.

10. Nevertheless, even taking all these matters into account, it seems to me that by its digital nature the proposed advertisement would be considerably more prominent than the existing hoarding. Whilst the appellant argues that its brightness of illumination would be in line with that of the existing advertisement, in contrast to that hoarding, the proposed display would introduce a digital screen that would display changing images. In my view these factors would inevitably increase its visibility and conspicuousness. They would mean that the proposal would be materially different to the existing situation to the extent that it would add unduly to the already unsatisfactory visual impact of the existing hoarding. This being so, even taking into account the existing advertisement at the site, the proposal would stand out as an unsympathetic and intrusive addition to the host property and the surrounding area.
11. For these reasons, the proposed advertisement would fail to be in keeping with, and detract from, both the appearance of the host building (a non-designated heritage asset), and the historic character of the area, which are both of significance to the area's heritage. Paragraph 192 of the Framework indicates that the desirability of sustaining and enhancing the significance of heritage assets should be taken into account in determining planning applications. Paragraph 197 is also clear that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. Whilst the proposal would lead to less than substantial harm to the significance of the Conservation Area, the harm caused would nevertheless be material. Paragraph 132 of the Framework further advises that the quality and character of places can suffer when advertisements are poorly sited and designed.
12. I therefore conclude on the main issue that the proposed advertisement would have a harmful effect on the character and appearance of the host building and the surrounding area and would fail to preserve or enhance the character and appearance of the Low Fell Conservation Area.

*Other matters*

13. The appellant considers that the proposal would have environmental and other benefits since it would not require regular visits by service personnel to change its content and the LED lighting is significantly more energy efficient than the existing display. However, since the Regulations require advertisements to be controlled only in the interests of amenity and public safety, these matters have no bearing on my consideration of this appeal.
14. The appellant refers to another example of an LED screen allowed on appeal next to a listed building. However, I am not aware of the full circumstances that led to that decision and so cannot be sure that they are the same as in the case before me. I confirm in any event, that I have considered the appeal proposal on its own individual merits.

**Conclusion**

15. For these reasons, I conclude that the appeal should be dismissed.

*Elaine Worthington*

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/17/01293/ADV	Intu Metrocentre Whickham Gateshead NE11 9YG	Display of 22.25m high internally illuminated LED feature display sign (additional info received 06/03/2018 and 10/04/2018).	Written	Appeal in Progress
DC/17/01358/OUT	Former Monkridge Gardens Residents Association And Lands At 21 And 23 And Land South Of 9-23 Monkridge Gardens, Gateshead Dunston Hill NE11 9XE	Outline planning permission with all matters reserved for the clearance, lowering and levelling of site and the erection of up to 10 dwelling-houses, with new shared-surfaced vehicular and pedestrian access	Written	Appeal in Progress
DC/18/00244/ADV	<b>592-596 Durham Road Gateshead NE9 6HX</b>	<b>Display of 1 x 48 sheet LED advertisement with changeable content on gable elevation.</b>	Written	<b>Appeal Dismissed</b>
DC/18/00440/TPO	9 Axwell Park Road Axwell Park Blaydon NE21 5NR	Felling of one Sycamore tree in garden of 9 Axwell Park Road.	Written	Appeal in Progress