

TITLE OF REPORT: Planning Appeals

REPORT OF: Anneliese Hutchinson, Service Director, Development,
Transport and Public Protection

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/18/00486/FUL - Site At Rear Of Garage And Substation Adj Meadow View,
Woodside, Ryton
Erection of two bedroom dormer sustainable eco home.
This application was a delegated decision refused on 10 July 2018.

Appeal Decisions

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

DC/18/00064/HHA - 8 Woodbine Terrace, Bensham, Gateshead NE8 1RU
Erection of two storey extension and single storey extension to rear of terraced
property (as amended 22.03.2018)
This application was a committee decision refused on 19 April 2018
Appeal dismissed 23 January 2019

DC/18/00069/LBC - 8 Woodbine Terrace, Bensham, Gateshead NE8 1RU
LISTED BUILDING CONSENT: Erection of two storey rear extension, single storey
rear extension and internal alterations (as amended 22.03.2018)
This application was a committee decision refused on 19 April 2018
Appeal dismissed 23 January 2019

DC/18/00230/HHA - 14 Saltwell View, Bensham, Gateshead NE8 4JS
Replace timber framed sliding sash windows with white grain uPVC in ground floor
and 1st floor bay windows, 1st floor window above front door, and front dormer
window (description amended 30.05.18)
This application was a delegated decision refused on 9 July 2018
Appeal dismissed 30 January 2019

Details of the decision 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 Decisions

Site visit made on 7 January 2019

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 January 2019

Appeal A – Appeal Ref: APP/H4505/D/18/3206809 8 Woodbine Terrace, Bensham, Gateshead NE8 1RU

- 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 Jack Loe against the decision of Gateshead Council.
 - The application Ref DC/18/00064/HHA, dated 24 January 2018, was refused by notice dated 19 April 2018.
 - The development proposed is described as 'erection of two storey extension and single storey extension to rear of terraced property (as amended 22.03.2018)'.
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Appeal B – Appeal Ref: APP/H4505/Y/18/3206812 8 Woodbine Terrace, Bensham, Gateshead NE8 1RU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Jack Loe against the decision of Gateshead Council.
 - The application Ref DC/18/00069/LBC, dated 24 January 2018, was refused by notice dated 19 April 2018.
 - The works proposed are described as 'erection of two storey rear extension, single storey rear extension and internal alterations (as amended 22.03.18)'.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The applications originally proposed the erection of two storey and single storey rear extensions, dormer window to the rear and internal alterations at ground floor. Following discussions, the scheme was amended to reduce the scale of extensions proposed, and to delete the proposed rear dormer window. I have dealt with the appeal on the basis of these amendments, and have accordingly used the descriptions given on the decision notices.
4. As both appeals concern the same scheme, I have dealt with them together in my reasoning below, in the interests of simplicity and conciseness.

Main Issues

5. The main issues are:
 - The effect of the proposal on the special interest of 8 Woodbine Terrace which is listed grade II, and whether the character and appearance of

the Coatsworth Conservation Area would be preserved or enhanced, and;

- The effect of the development on the living conditions of neighbouring occupiers, with particular regard to outlook, provision of light, and privacy.

Reasons

Listed building and conservation area

6. 8 Woodbine Terrace is a grade II listed building which forms part of a terrace of listed townhouses. The group listing states that the buildings date from 1838 and later, and there is some variation amongst the designs. It appears that the frontage of No 8 was built of brick, and later covered with stone cladding. However, it retains features such as the historic windows openings, rounded door surround, band course, and slate roof.
7. The rear elevation at No 8 is plainer in appearance, and it appears that it was originally flat, although it now has a small lean-to single storey outshot. It presents features such as the historic stone construction, and openings which include a stair window. The small rear plot, with its boundary wall, retains its function as a private outdoor space. The contrast between the public fronts of the buildings, including No 8, and the more private back elevations and plots are important factors illustrating the architectural hierarchy and historic function of these dwellings.
8. Internally, the building largely retains the typical townhouse layout whereby the stairs and hallway to the side provide the main means of circulation, and give access to front and rear rooms on the ground floor, and the rooms upstairs. Despite some changes, the original layout remains clearly legible.
9. No 8 is an attractive example of a modest town dwelling of its period. Although altered, its original form and dimensions, including the rear elevation and historic rear plot, remain apparent. These factors contribute convincingly to the significance of the building.
10. The Coatsworth Conservation Area (CA) is a relatively compact area which principally comprises 10 terraces. These date almost exclusively from the 19th century, and demonstrate a more spacious layout and varied pattern than the grid-iron pattern typical of the late 19th century development that would be built in the vicinity. According to the Council's document entitled 'IPA17: Conservation Area Character Statements, Strategies and Policy Guidelines - Coatsworth Conservation Area' (CACS), this area was originally surrounded by fields, and provided a rural retreat for the shopkeepers and employers of the middle classes.
11. The Council's document entitled 'Coatsworth Conservation Area – Character Appraisal' (the appraisal) states that the vast majority of the housing in the CA is terraced, presenting a formal face to the street and more functional elevations to back lanes, where rear access is provided. The back lanes are therefore an intrinsic element of the grain, layout and function of the residential development of the CA. Their contribution is also highlighted in the CACS, which specifically refers to the local tradition of short back yards with access from a lane at both Woodbine Terrace and Woodbine Place. Although it is the case that many of the rear elevations have been considerably changed,

the appeal site is notable for its lack of substantial alteration at the back. Within this context, the listed building therefore also makes a positive contribution to the significance of the CA.

12. I note the appellant's assertion that it is significant that the list description refers only to the front elevations of the terrace. However, buildings are listed in their entirety. The earlier list descriptions tend to be brief, and it is not uncommon for them to address only features of the front elevations, primarily for identification purposes. They are by no means exhaustive records of the significant features of individual assets. Therefore, no inference may be made by the omission of, for example, descriptions of the interior, or other parts of listed buildings.
13. I have not been given any firm basis on which to conclude that the value of the heritage asset is derived almost exclusively from its front elevation, as the appellant contends. Similarly, although the appraisal tends to focus on the building frontages, it is clear that back lanes fall within the 'main spaces' that contribute to the significance of the CA, and I have no grounds on which to take a different view.
14. It is proposed to add a single storey extension and a two storey extension to the rear of the existing dwelling. The two storey addition would have a lean-to roof, and the single storey element would have a flat roof incorporating a lantern. The extensions would be finished in sympathetic matching brickwork, and existing window would be reused, and the works would be entirely confined to the back of the building.
15. However, the new extensions would be a substantial addition to the volume and footprint of the existing dwelling. They would span the whole width of the house at ground floor level, departing markedly from its original form. The disproportionate scale of the proposal would thus dominate the modest proportions of the original property. The combination of the proposed extensions would obscure most of the original rear elevation, detracting from its historic character. Internally, a new doorway would be formed to serve the proposed bathroom from the existing landing. This would result in the loss of the stair window, which is a typical traditional feature of the listed building.
16. Whilst the mono-pitched roof of the two storey extension would reflect the roof form of the existing lean-to structure, the proposed flat roof and lantern would be at odds with the character and appearance of the existing roof forms at the property. This incongruous structure would be clearly visible from the lane, and would be particularly apparent when lit from within at night. Taken as a whole, the proposals would introduce a disparate variety of forms which would not be in keeping with the traditional and simple character of the existing building.
17. In addition, the proposal would develop most of the rear yard, leaving only a small corner by the back gate intact. The tight grain of the terrace is such that outdoor space to the rear is limited. However, as noted above, these plots contribute to the spatial qualities and historic development of the listed buildings and the CA. The extensions would significantly curtail the yard space, harming its historic layout, and eroding its contribution to the significance of the heritage assets. Although the boundary wall appears not to be original, the proposal to rebuild it to two different heights would further depart from its

characteristic form and appearance. I note that the appraisal states that further alterations to boundary walls should be carefully considered.

18. Drawing the above factors together, the extensions overall would result in a significant diminution of the character of the existing building and would harm its significance. I therefore conclude that the works and development would unacceptably fail to preserve the architectural or historic character of the listed building.
19. By harming the listed building, the proposal would also fail to preserve or enhance the character or appearance of the CA, albeit that the impact within the CA would be relatively localised. My attention has been drawn to examples of other extensions in the vicinity of the appeal site. However, I am unaware of the planning history of these properties, or the context in which these developments were found to be acceptable. Therefore, the presence of these structures would not justify the harm I have identified.
20. Accordingly, the works and development would conflict with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight. In addition, the scheme would fail to comply with Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne (CS), insofar as it seeks to ensure the conservation and enhancement of the historic environment, Policy ENV11 of the Unitary Development Plan (UDP), which seeks to preserve or enhance the special architectural and historic interest of listed buildings, and UDP Policy ENV7, which seeks to preserve or enhance conservation areas.
21. Although serious, the harm to the heritage assets in this case would be less than substantial, within the meaning of the term in paragraph 195 of the National Planning Policy Framework (NPPF). Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
22. The single storey extension is designed in the form of a Succah, which would be used for the week long Jewish festival of Sukkot. The proposals would maximise the usable space within the building. However, these would be private benefits. Although the scheme would have some benefit to the local economy in terms of jobs and materials, this contribution would be marginal.
23. I therefore find that insufficient public benefits have been identified that would outweigh the harm I have identified to the heritage assets. The scheme therefore conflicts with the NPPF, which directs, at paragraph 193, that great weight should be given to the assets' conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.

Living conditions – Appeal A only

24. The Council's second reason for refusal relates to the effect of the proposed two storey extension on the living conditions of residents at 7 Woodbine Terrace, which adjoins the appeal site. There would be no new openings on

the proposed side elevation facing No 7, and so there would be no material impact on the privacy of the neighbours.

25. However, the new extension would be close to an existing first floor rear bedroom window at No 7. The planning officer's report confirms that the extension would not encroach upon the 45 degree angle taken from this window. As a result, I am satisfied that adequate levels of daylight and outlook would be provided by the scheme, and so no material harm would arise to the living conditions of the occupants of No 7. The proposal would thus comply with CS Policy CS14, insofar as it seeks to prevent negative impacts on residential amenity, and UDP Policy DC2, which also relates to residential amenity.

Other matters

26. I note that the applications to which these appeals relate were referred to be determined by committee, and the committee then determined the applications contrary to officer recommendation. However, these circumstances have not had a bearing on my consideration of the appeals. Moreover, each case is to be determined on its individual merits, and on the basis of the available evidence. I have had regard to the representations that have been received in support of the proposal, but these have not led me to a different conclusion.

Conclusion

27. I have found that the development would preserve the living conditions of neighbouring residents. However, for the reasons above, I conclude that the harm to the heritage assets would be unacceptable, and contrary to the development plan as a whole, and so both appeals should be dismissed.

Elaine Gray

INSPECTOR



Appeal Decision

Site visit made on 19 December 2018

by **M Brooker DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 January 2019

Appeal Ref: APP/H4505/D/18/3212656

14 Saltwell View, Bensham, Gateshead NE8 4JS

- 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 & Mrs Robinson against the decision of Gateshead Council.
 - The application Ref DC/18/00230/HHA, dated 19 February 2018, was refused by notice dated 9 July 2018.
 - The development proposed is described as "replacement sliding sash windows".
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the Saltwell Conservation Area (SCA).

Reasons

3. The appeal property is a mid-terraced dwelling located on Saltwell View within the SCA. The front of the appeal property faces out across Saltwell View towards parkland. The SCA is residential in character, largely comprising period terraced houses.
4. Many houses in the area appear to have been altered and some changes appear more sympathetic to host properties than others. I note that the area has been served with Article 4 Directions, with the aim of controlling alterations to safeguard character, in particular from the cumulative effect that relatively minor works can have on the SCA.
5. The windows subject of this appeal are all those in the front elevation of the appeal property, the windows face directly onto the main road and parkland. The front garden is open and therefore the windows are clearly visible from the street.
6. At my site visit I noted that a number of properties near to the appeal site have double glazed windows of various styles, some more sympathetic and in keeping with the traditional wooden sash windows than others. I have been provided with evidence that some of these benefit from consent.
7. The Council and the appellants make reference to the appeal decision and subsequently approved amended application in respect of replacement UPVC windows at 21 Saltwell View. The appellants state that the windows proposed here are the same as those approved at No 21. However, the details submitted

with the appeal are very limited and do not show the proposed window frames with the existing apertures of the front elevation of the building in sufficient detail to persuade me that the proposed windows would be acceptable and would not harm the character and appearance of the SCA.

8. The appellants acknowledge the limited information submitted and, in such instances, the 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application.
9. I have considered imposing a condition requiring the submission of details of the frames but on the basis of the very limited evidence before me, it has not been demonstrated that that the proposed windows would not be harmful and as such a condition would not be reasonable.
10. Accordingly, in the absence of persuasive evidence to the contrary I find that the style and appearance of the windows would be harmful to the character and appearance of the SCA. For the reasons I have set out I find the proposal to be contrary to Saved Policy ENV7 of the Gateshead Unitary Development Plan and the National Planning Policy Framework (the Framework). These policies, taken together with the provisions of the Framework, seek to ensure that proposals preserve or enhance the character or appearance of, in this instance, the SCA.
11. I am statutorily required¹ to pay special attention to the desirability of preserving or enhancing the character or appearance of the SCA. The Framework advises that where a proposal would cause less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal². Any harm should require clear and convincing justification³.
12. The proposed windows would cause less than substantial harm to the significance of the SCA as a whole as they relate to one property. I have taken into account the benefits that replacement windows can realise in respect of the energy efficiency of the property, reduced heat loss and eliminated draughts. However, whilst there may be some public benefit in improving the housing stock in terms of energy efficiency, that does not overcome the harm that I have identified above, harm that I am required to give great weight to.

Conclusion

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

Mark Brooker

INSPECTOR

¹ Section 72(1) - Planning (Listed Buildings and Conservation Areas) Act 1990

² Paragraph 196 – National Planning Policy Framework

³ Paragraph 193 – National Planning Policy Framework

APPENDIX 3

OUTSTANDING APPEALS

Planning Application No	Appeal Site (Ward)	Subject	Appeal Type	Appeal Status
DC/18/00064/HHA	8 Woodbine Terrace Bensham Gateshead NE8 1RU	Erection of two storey extension and single storey extension to rear of terraced property (as amended 22.03.2018)	Written	Appeal Dismissed
DC/18/00069/LBC	8 Woodbine Terrace Bensham Gateshead NE8 1RU	LISTED BUILDING CONSENT: Erection of two storey rear extension, single storey rear extension and internal alterations (as amended 22.03.2018)	Written	Appeal Dismissed
DC/18/00230/HHA	14 Saltwell View Bensham Gateshead NE8 4JS	Replace timber framed sliding sash windows with white grain uPVC in ground floor and 1st floor bay windows, 1st floor window above front door, and front dormer window (description amended 30.05.18)	Written	Appeal Dismissed
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
DC/18/00486/FUL	Site At Rear Of Garage And Substation Adj Meadow View, Woodside, Ryton	Erection of two bedroom dormer sustainable eco home	Written	Appeal in Progress
DC/18/00542/HHA	6 Coalway Lane Whickham NE16 4BX	First floor side extension and canopy to create covered car port, and Juliet balcony to rear (description amended 27.06.18,	Written	Appeal in Progress

		amended plans received 08.09.18)		
DC/18/00579/FUL	Riding Chase Garesfield Lane Winlaton Blaydon	Removal of Condition 2 of Application Reference Number CA39327 to allow removal of agricultural occupancy restriction.	Written	Appeal in Progress
DC/18/00614/COU	Land Adjacent Rose Cottage High Street Wrekenton Gateshead NE9 7JS	Change of use from former petrol filling station to hand car wash and car valeting facility (Sui Generis Use)	Written	Appeal in Progress
DC/18/00623/FUL	The Chopwell Derwent Street Chopwell NE17 7AA	Change of use from public house to twelve assisted living units (use class C3) (description amended 07/09/18)	Written	Appeal in Progress
DC/18/00964/FUL	Hollinhill Lane/High Thornley Rowlands Gill	Temporary siting of equestrian worker's caravan	Written	Appeal in Progress
DC/18/00958/TPO	Woodlands Derwent Avenue Rowlands Gill NE39 1BZ	Tree works at Woodlands, Derwent Avenue, Rowlands Gill	Written	Appeal in Progress