

**TITLE OF REPORT:** Planning Appeals

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

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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 have been **four** new appeal decisions received since the last Committee:

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, amended plans received 08.09.18)  
This application was a committee decision refused on 17 October 2018  
Appeal dismissed 18 February 2019

DC/18/00579/FUL - Riding Chase, Garesfield Lane, Winlaton  
Removal of Condition 2 of Application Reference Number CA39327 to allow removal of agricultural occupancy restriction.  
This application was a delegated decision granted on 1 August 2018  
Appeal dismissed 19 February 2019

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)  
This application was a committee decision refused on 28 September 2018  
Appeal dismissed 18 February 2019

DC/18/00964/FUL - Hollinhill Lane/High Thornley, Rowlands Gill  
Temporary siting of equestrian worker's caravan  
This application was a delegated decision refused on 13 November 2018  
Appeal dismissed 18 February 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



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## Appeal Decision

Site visit made on 5 February 2019

by **John Dowsett MA DipURP DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 February 2019

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**Appeal Ref: APP/H4505/D/18/3216576**

**6 Coalway Lane, Whickham NE16 4BX**

- 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 Paul Churnside against the decision of Gateshead Council.
  - The application Ref: DC/18/00542/HHA, dated 30 May 2018, was refused by notice dated 17 October 2018.
  - The development proposed is a first floor side extension and canopy to create covered car port, and Juliet balcony to rear.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The planning application form describes the proposed development as a 'Bedroom extension', whilst the decision notice issued by the Council describes it as a 'First floor side extension and canopy to create covered car port, and Juliet balcony to rear'. This latter description more accurately sets out the development proposed and I note that the appellant has also adopted this form of words on the appeal form. I have, therefore, also used this for the purposes of the appeal.

### Main Issues

3. The main issues in this appeal are:
  - The effect of the proposed development on the living conditions of the occupiers of numbers 13 and 15 Church Rise, and number 4 Coalway Lane; and
  - The effect of the proposed development on the character and appearance of the area.

### Reasons

#### *Living conditions of neighbouring occupiers*

4. Taken together, Policy CS14 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2015 (CSUCP), and Saved Policy DC2 of the Gateshead Unitary Development Plan 2010 (UDP) expect new development to prevent negative impacts on residential amenity, and safeguard the enjoyment of light and privacy for existing residential properties. The National

Planning Policy Framework (the Framework) also expects new development to provide a high standard of amenity for existing and future users. More detailed guidance on the design of house extensions is given in the Gateshead Council Household Alterations and Extensions Supplementary Planning Document 2011 (the SPD).

5. Due to the relative positions between the appeal building and the neighbouring property at 4 Coalway Lane, the proposed new dormer on the roof slope of the appeal building would be set back from the rear wall of number 4. As a result there would be no opportunity for direct views into the windows at the rear of the neighbouring property. However, I saw when I visited the site that, due to the change of level between the two houses, with number 4 sitting higher than the appeal building, the new dormer would be set just slightly above the level of the rear garden of number 4 and only offset from the boundary by a very short distance. It would, therefore, be clearly visible above the boundary fence between the houses. As a result of the height of the proposed dormer and its position, very close to the common boundary, this would appear as an overly dominant feature when viewed from the garden of the neighbouring house.
6. Notwithstanding that the French window in the proposed dormer is to be fitted with opaque glazing, it is clear from the design and the inclusion of a safety railing that it is intended that this is to be opened to provide ventilation or light. As a result of the relative heights and the proximity to the boundary, this element of the proposed extension would, in my view, be unacceptably oppressive to the occupiers of number 4 and restrict the enjoyment and privacy of the rear garden area, particularly during warmer weather when the occupants would be using the garden area more and it is more likely that the French window would be open. The proposed development would, therefore, cause harm to the living condition of the occupiers of number 4 Coalway Lane.
7. The appeal building backs onto properties in Church Rise with number 13 being directly behind and number 15 to the south east, and at a slightly higher level. It is common ground that the separation distance between the new dormer element of the proposed extension and the original rear wall of number 15 Church Rise meets, or exceeds, the 21 metres separation distance set out in the SPD. It is also not in dispute that the separation distance to the original rear wall of number 13 Church Rise would be approximately 20.2 metres. This would be only marginally lower than the separation distance set out in the SPD. The SPD is guidance rather than being a prescriptive document and the shortfall is not great. Both the appeal building and number 13 Church Rise have been previously extended by way of a dormer to the rear roof slope. Whilst the distance between these dormers exceeds 21 metres, there is nonetheless a degree of mutual overlooking between the properties at first floor level. Whilst there would be a slight shortfall in separation between the proposed new additional dormer and the property to the rear, the degree of extra overlooking that may result would not be significant. I am also mindful that it is proposed that the French window that is to be installed in the proposed new dormer would be fitted with opaque glazing, which would prevent overlooking when the French window is closed.
8. I consequently find that the appeal proposal would have a neutral effect on the living conditions of the occupiers of numbers 13 and 15 Church Rise. However, this does not outweigh, or overcome, the other harm that I have found to number 4 Coalway Lane.

9. I conclude that that the proposed development would cause harm to the living conditions of the occupiers of number 4 Coalway Lane. It would be contrary to the relevant requirements of CSUCP Policy CS14 and Saved Policy DC2 of the UDP, and would be inconsistent with the requirements of the SPD and the Framework.

*Character and appearance*

10. The appeal building is located on a quiet street in a predominantly residential area. The east side of Coalway Lane is comprised of brick built bungalows which are linked to their neighbours by a single garage that is set back from the frontage of the properties, creating an appearance of detached buildings. This style of building is repeated to the east in Church Rise. The bungalows are set at a slight angle to the highway, creating a staggered frontage that accentuates the gaps between the buildings. Whilst there have been some alterations to the bungalows, this side of the street exhibits a relatively uniform character, reinforced by the regular gaps between the buildings. The street drops steeply from south to north, which further emphasises the gaps between the properties and makes these an important part of the character of the street.
11. The west side of Coalway Lane has three pairs of two storey semi-detached flats and two garage courts that are accessed from it. Deans Close and Abbots Way to the west are also comprised of similar two storey semi-detached buildings. At each end of the perimeter block formed by Coalway Lane and Church Rise are a pair of semi-detached bungalows. To the north, Coalway Lane and Wordsworth Avenue consist of two storey and single storey, semi-detached, properties.
12. Policy CS15 of the CSUCP and Saved Policy ENV3 of the UDP seek to ensure that new development responds positively to local distinctiveness and character. Policy ENV3 also expects that the relationship between buildings and the spaces around, and between, them must be handled in a sensitive manner. The SPD advises that extensions to the side of a property should be designed to maintain the character of the existing property and the street scene. Whilst the SPD recognises that there may be greater flexibility to extend a detached property, it also states that the scale of any extension proposed will need to be judged in relation to the individual home and the surrounding environment.
13. The proposed extension would be above the garage of the appeal building and would also be projected forward at first floor level, creating a void beneath containing the main entrance to the house. It would span the whole gap between the appeal building and its neighbour at number 4 Coalway Lane, butting up to the gable wall of this property. Whilst the extension would be set back from the main front wall of the house, the first floor element would project notably further forward than the garages to the other houses on this side of the street.
14. As the bungalows are set at an angle to the highway, the extended ridgeline and front roof plane abutting the gable of the neighbouring house would be apparent in views up the street from the north. I also saw when I visited the site that the ridgeline of the main roof of the appeal building has previously been raised to accommodate the existing rear dormer, which reduces the perceived height difference between it and number 4.

15. The combination of infilling the gap between the properties and the overhanging first floor element of the extension, a feature which is not present elsewhere in the street or surrounding area, would be inconsistent with the existing street scene, and harmful to its otherwise uniform appearance. I have had regard to the appellant's point that the garage of number 8 Coalway Lane has had a pitched roof added. However, I saw on my site visit that this is a significantly lower and smaller addition to the property, and I do not consider that it is comparable to the appeal proposal.
16. I also saw that the property at number 2 Church Rise, which was originally of a similar design to the appeal building, has been extended in a manner which links it to the neighbouring bungalow. I do not know the circumstances that lead to this being accepted, nonetheless, the inconsistent appearance of this in relation to other houses in the area adds to my concerns regarding the appeal proposal.
17. I therefore conclude that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Policy CS15 of the CSUCP, Saved Policy ENV3 of the UDP or the guidance in the SPD.

**Conclusion**

18. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

*John Dowsett*

INSPECTOR



## Appeal Decision

Site visit made on 5 February 2019

by **John Dowsett MA DipURP DipUD MRTPI**

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

**Decision date: 19 February 2019**

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**Appeal Ref: APP/H4505/D/18/3214040**

**Riding Chase, Garesfield Lane, Winlaton, Blaydon NE21 6LA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Douglas McCutcheon against the decision of Gateshead Council.
  - The application Ref: DC/18/00579/FUL, dated 7 June 2018, was approved on 1 August 2018 and planning permission was granted subject to a condition.
  - The development permitted is the erection of a detached bungalow at Normans Riding, Winlaton.
  - The condition in dispute is No 1 which states that: The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in agriculture or in forestry, or in an industry mainly dependent upon agriculture, or a widow or widower of such a person, and to any resident dependants.
  - The reason given for the condition is: To ensure adequate provision of accommodation for agricultural/forestry workers, to promote sustainable development in rural areas, and to enhance/maintain the vitality of rural communities, in accordance with policy CS19 of the Core Strategy and Urban Core Plan and the National Planning Policy Framework.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. Planning application reference DC/18/00579/FUL submitted by the appellant sought to remove condition 2 attached to planning permission reference CA39327, which was approved on 2 November 1966. This planning permission was for the construction of a detached bungalow and was granted subject to an agricultural occupancy condition. The Council resolved that it did not consider that the condition should be removed. However, it also concluded that the wording of the condition, which restricted occupancy of the dwelling to persons employed in agriculture or forestry or in an industry mainly dependent on agriculture and forestry did not reflect more recent advice on such conditions that they should also cover persons who are temporarily unemployed, or who from old age or illness are no longer able to work. Consequently, the Council granted planning permission subject to a new condition reading: "The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in agriculture or in forestry, or in an industry mainly dependent upon agriculture, or a widow or widower of such a person, and to any resident dependants".
3. The appeal form submitted by the appellant states that the appeal has been made against the refusal of the Council to grant planning permission to vary or remove a condition. The application to remove the condition was made under

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<https://www.gov.uk/planning-inspectorate>



Section 73 of the Town and Country Planning Act 1990 seeking to develop land without compliance with conditions previously attached. The Council have, however, issued a decision notice which grants planning permission subject to a new, differently worded, condition.

4. Consequently, it is not possible to determine the appeal on the basis that it is against the refusal of the planning application. However, as a new planning permission has been created by planning permission reference DC/18/00579/FUL, it is possible to determine the appeal on the basis of that it is made against the granting of this planning permission subject to a condition.
5. Planning permission reference DC/18/00579/FUL describes the proposal as "Removal of Condition 2 of Application Reference Number CA39327 to allow removal of agricultural occupancy restriction". Whilst this is what the planning application sought, the effect of the decision is to create a new planning permission for the original development. I have therefore used the description of the development from planning permission reference CA39327, namely the erection of a detached bungalow, for the purposes of the appeal.
6. The views of the parties were sought with regard to the matters set out above. Although no responses were received, as neither party objected to this approach being taken when given the opportunity, I have taken this as agreement. I do not consider that dealing with the appeal in this manner would prejudice the interests of either party and have, therefore, determined the appeal on this basis.

#### **Main Issue**

7. The main issue in this appeal is whether the condition is necessary in order to ensure the adequate provision of accommodation for agricultural/forestry workers in the area.

#### **Reasons**

8. The dwelling now known as Riding Chase was granted planning permission in 1966 subject to an agricultural occupancy condition. From the evidence, the bungalow was occupied in association with a poultry farm that was operating on adjoining land. The poultry farm has now ceased operation and the land it occupied subsequently sold to another party.
9. The National Planning Policy Framework sets out that a planning condition must be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In this case the principal question is whether the agricultural occupancy condition is still necessary to ensure that there is adequate provision of accommodation for agricultural/forestry workers in the area.
10. The Council advise that in order to determine whether there is a demand for accommodation for rural workers a property would normally be marketed as such for a period of at least 12 months. This has not occurred in this case. The appellant has submitted copies of letters from the Forestry Commission and from three local farms, dated May and June 2018, which state that none of these currently have workers seeking accommodation.
11. Whilst this is evidence that there is perhaps a low demand for rural workers accommodation in the area, there is no evidence before me regarding the

numbers of agricultural operations within reasonable travelling distance of the appeal site or of other rural enterprises in the area that may require accommodation for workers near their operation. Consequently, this evidence alone does not demonstrate that, on the balance of probability, there is no requirement for rural workers accommodation in the area.

12. I note that the appellant has not carried out the marketing exercise suggested by the Council as he does not wish to dispose of the property at this time and did not wish to appear deceptive. Whilst this intention is laudable, I would, nonetheless, agree with the Council that the most definitive way of testing demand is for the property to be marketed, with the occupancy condition, to determine what level of interest, if any, there is in such a property.
13. When I visited the site I also saw the nearby housing development at Thornley Woods, which is nearing completion. I accept that this is similarly located to the appeal property and is not subject to occupancy restrictions. However, I have no evidence in respect of the price of these properties, or in relation to the average earnings of rural worker in the area. As a result it has not been demonstrated whether these properties would realistically be affordable to rural workers.
14. The appeal building is located within the Tyne and Wear Green Belt. Policy CS19 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2015 seeks to protect the Green Belt from inappropriate development. As the appeal building exists and has been used as a dwelling since the late 1960's, the removal of the agricultural occupancy condition would not make the dwelling inappropriate development in terms of Green Belt policy, nor would it result in any harm to the Green Belt. In this respect, the removal of the condition would not conflict with Policy CS19 of the Core Strategy and Urban Core Plan.
15. This notwithstanding, planning permission was originally granted for the house in this countryside location as it was required in connection with agricultural operations and an occupancy condition was attached. Planning permission DC/18/00579/FUL updates the original occupancy condition to allow the dwelling to be occupied by rural workers that are between jobs or retired, and by the surviving spouses of such workers. This condition meets the six tests for planning conditions set out in the Framework, although the necessity of the condition is challenged by this appeal.
16. Whilst there is some evidence that there is a low demand for rural workers accommodation in the area, as I have found above, the evidence provided does not demonstrate that on the balance of probability the dwelling is not required as rural workers accommodation.
17. I therefore conclude that the condition is necessary to ensure the adequate provision of accommodation for agricultural/forestry workers in the area.

#### **Conclusion**

18. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*John Dowsett*

INSPECTOR



## Appeal Decision

Site visit made on 5 February 2019

by **John Dowsett MA DipURP DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 February 2019

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**Appeal Ref: APP/H4505/W/18/3214418**

**The Chopwell Public House, Derwent Street, Chopwell, NE17 7HX**

- 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 Excell Property Developments Limited against the decision of Gateshead Council.
  - The application Ref: DC/18/00623/FUL, dated 19 June 2018, was refused by notice dated 28 September 2018.
  - The development proposed is the change of use from public house to assisted living units.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are:
  - Whether the proposed development would provide suitable living conditions for the future occupiers, with particular regard to internal space and access to the building; and
  - The effect of the proposed development on the operation of the highway in the vicinity of the appeal site, with particular regard to car parking.

### Reasons

#### *Living conditions*

3. Policy CS11 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2015 (CSUCP) expects new development to provide adequate space inside and outside the home to meet the needs of residents. Similarly, Saved Policy DC2 of the Gateshead Unitary Development Plan 2007 expects among other matters, that new development ensures a high quality of design and amenity for existing and future residents. CSUCP Policy CS14 seeks to ensure that the wellbeing and health of communities is maintained and improved by, amongst other matters, creating an inclusive built and natural environment. These policies are consistent with the National Planning Policy Framework (the Framework) which expects new development to create places that are safe and inclusive with a high standard of amenity for existing and future occupiers.
  4. The proposed development would result in the creation of 12 one bedroom flats, with a combined living room and kitchen, and a separate shower room.
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The submitted drawings show that these would range in size from 31.3m<sup>2</sup> floor area to 41m<sup>2</sup> floor area.

5. None of the policies cited in the reason for refusal contain specific internal space standards for new dwellings, nor are these set out in the Framework. Similarly, there is no evidence that the Council have adopted the provisions of the Technical housing standards – nationally described space standard. As such this latter document cannot carry significant weight in the determination of the appeal, and the principal matter is whether the proposed flats would provide adequate space for the day to day living requirements of the future occupants.
6. All of the flats that would be created by the proposal would be very small with the majority, 8 out of 12, providing less than 35m<sup>2</sup> floorspace, which includes some relatively large areas of passageways. Whilst I accept that the internal layouts shown on the submitted drawings are indicative it is, nonetheless, evident that the small size and the configuration of the living areas and bedrooms would give rise to arrangements of furniture and fittings that are sub-optimal and would provide only limited circulation space around the small number of items of furniture shown. In addition flats 1, 2 and 8 have no built in storage space for items not in everyday use such as domestic appliances or suitcases.
7. As such, the accommodation proposed would, in my view, be so restricted as to appear oppressively constrained in the majority of the flats. Although I note that the appellant state that the scheme has been specifically tailored to meet the requirements of needs of residents that are elderly, or who have intellectual or physical disabilities, there is no substantive evidence of how it would do so, or that the proposed flats are capable of adaptation to meet changing requirements of the residents.
8. Consequently, I find that the proposed development would not provide adequate internal space to meet the needs of the future residents. As such it would be contrary to CSUCP Policy CS11 and UDP Saved Policy DC2 of the UDP.
9. Three of the proposed flats (units 2, 4, and 6) would have direct access to the footway outside the building whilst the remaining three ground floor flats would be accessed from an enclosed yard at the rear of the building. The upper floor flats would also be accessed by way of a stairwell accessed from the rear yard area. I note that the proposal involves the retention of an existing stairwell accessed from a door on the north elevation of the building, however, the evidence is unclear as to whether this is intended to be used as a principal access, or whether it is intended to be used as a fire escape stair. This notwithstanding, all the supporting documentation refers to the stairwell accessed from the rear yard as the main stairwell.
10. The rear yard area to the building is enclosed by a high brick wall and it is proposed that this would be accessed either through a new gateway in the north wall or via what is shown as an existing gateway from an adjoining yard area in the west wall. The unnamed road that runs to the north of the building and becomes the back lane to the buildings to the north of it, whilst having footways, is unlit for most of its length. Although the road to the south of the building does have street lighting, access to the rear of the appeal building would be through a further yard area that would only be partially covered by the closest streetlight. The supporting drawings and information with the

proposal do not include any details of lighting to be installed either on the building or in the rear yard area. As it currently stands, neither route to reach the proposed main stairwell in the rear yard of the building would be particularly attractive during the hours of darkness. Aside from the more obvious potential fear of crime, unlit routes would also increase the risk of falls either caused by uneven surfaces or other concealed hazards. As such the proposal would not meet the requirements of CSUCP Policy CS14 to create an inclusive built environment.

11. These matters could, however, be addressed by a suitably worded condition that required a lighting scheme to be submitted for approval and implemented before the building was occupied, which would meet the requirements of Policy CS14. The fact that there would be two entrance points to the rear yard is not, of itself, sufficient reason to withhold planning permission. Nevertheless, neither of these matters outweighs my finding that the proposed development would not provide adequate internal space to meet the needs of the future residents.
12. I therefore conclude that the proposed development would not provide suitable living conditions for the future occupiers, with particular regard to internal space. It would be contrary to the relevant requirements of the CSUCP Policy CS11 and Saved Policy DC2 of the UDP. It would also be inconsistent with the requirement of the Framework that seeks to ensure that new development high standard of amenity for existing and future occupiers.

*Highways and parking*

13. Whilst the planning application form states that the appeal proposal will provide three car parking spaces, these are shown on the proposed site plan to be on an area of land that is outside the site boundary is indicated on the submitted location plan. The Council state that this land is part of the highway and this is not disputed by the appellant. In the appellant's Final Comments it is acknowledged that this area is publically available parking. Consequently, the proposal would not provide any dedicated car parking for residents, their visitors or staff employed to provide support to the residents.
14. Whilst both SCUCP Policy CS13 and the Framework encourage the use of alternative means of transport to the private car, neither contains any reference to the level of car parking provision that should be provided in association with particular types of development. Neither party has provided any substantive evidence in respect of parking demand in the area, nor has either party indicated what future level of parking demand may be generated by the proposed use.
15. Whilst the appellant suggests that the occupiers of the building are unlikely to have their own car, no mechanism is proposed that would prevent this and it is by no means a certainty. In addition visiting friends, relatives and support staff would wish to park nearby and although there are relatively frequent bus services that stop in the vicinity of the appeal building, which may reduce car dependence, it is nonetheless likely that there will be car parking demand generated by the proposed. However, due to the more specialised use of the proposed dwellings, this would be less than standard market housing.
16. Derwent Street is a busy main road through the village and is subject to a no waiting restriction to the south of the appeal building. Unrestricted on-street

parking is available on the area of highway that runs parallel to Derwent Street, passing in front of the appeal building, on the unnamed streets to the north and south of the building, and on South Road opposite the building. I saw when I visited the site that whilst there was some short term parking by customers to the Co-op supermarket opposite and the corner shop to the south, this was not in great numbers and the turn-over of parking spaces was relatively fast. Even taking this into account there were still a large amount of parking opportunities nearby.

17. I recognise that the demand for on-street parking will change at different times of the day and may be greater in the evenings, particularly due to the layout of the housing area to the east of the appeal site where the terraced properties have their principal entrance facing pedestrianised area and vehicular access is via a narrow back lane. Nonetheless, from what I have read and from what I saw when I visited the site, I am satisfied that any additional parking requirement could be accommodated in the vicinity of the appeal building.
18. I conclude that the proposed development would not cause harm to the operation of the highway in the vicinity of the appeal site, with particular regard to car parking. It would not conflict with the relevant requirements of SCUCP Policy CS13 and the Framework which seek to minimise car trips and locate new development where the use of sustainable transport can be maximised.

#### **Other matters**

19. Whilst the proposed development would bring a prominent building in a main road location back into use, which would be a benefit to the area in terms of its appearance, this should not be at the expense of the living conditions of the future occupiers.
20. CSUCP Policy CS11 is supportive of widening the choice of suitable accommodation for elderly people and those with physical or intellectual disabilities, particularly through the provision of bungalows, sheltered accommodation and extra care accommodation. However, no substantive evidence has been provided that would indicate that there is a need for the type of flatted accommodation proposed in this location and, again, this should not be at the expense of the living conditions of the future occupiers.

#### **Conclusion**

21. I have found that the proposed development would not provide suitable living conditions for the future residents of the flats and would be contrary to Policy SC14 of the CSUCPP and Saved Policy DC2 of the UDP. Although I have found that safe access could be provided and that any additional parking demand could be accommodated in the vicinity of the appeal building, neither of these points would justify the provision of accommodation with an unsuitable level of internal space.
22. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*John Dowsett*

INSPECTOR



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## Appeal Decision

Site visit made on 5 February 2019

by **John Dowsett MA DipURP DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 February 2019

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**Appeal Ref: APP/H4505/W/18/3216434**

**Hollinhill Lane, High Thornley, Rowlands Gill, Gateshead NE39 1BG**

- 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 Shaun Quinn against the decision of Gateshead Council.
  - The application Ref: DC/18/00964/FUL, dated 18 September 2018, was refused by notice dated 13 November 2018.
  - The development proposed is a temporary equestrian workers caravan at equestrian stud enterprise.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The appeal site is identified on the planning application form by way of a grid reference and is further described as Hollinhill Lane, Rowlands Gill. The decision notice issued by the Council gives the address as Hollinhill Lane, High Thornley, Rowlands Gill. This more clearly identifies the site and I note that it has also been used by the appellant on the appeal form. I have, therefore, also used this form of the address for the purposes of the appeal.

### 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;
  - The effect of the development on the openness of the Green Belt; and
  - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations and that amounts to the very special circumstances necessary to justify the development.

### Reasons

4. The appeal site is part of an area of land to the east of Hollinhill Lane that currently contains an L shaped block of stables. It is not in dispute that the appeal site is located in the countryside and is within the designated Green Belt.

5. Policy CS19 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2010-2030, adopted in March 2015 (CSUCP) sets out that the Green Belt will be protected in accordance with national policy in order to prevent the merging of settlements, safeguard the countryside from encroachment, check unrestricted urban sprawl and assist in urban regeneration.

*Whether the development is inappropriate development in the Green Belt*

6. The National Planning Policy Framework sets out at Paragraph 145 that, subject to certain exceptions, the construction of new buildings within the Green Belt is inappropriate development. Among these exceptions are buildings for agriculture and forestry, and the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, provided that these preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The appellant contends that the existing stables at the site, which were granted planning permission in 2016, were considered on the basis that the stables and the land were s appropriate for outdoor sport and recreation, and as such fell within this latter exception. Consequently, it is suggested that the proposed static caravan could be also considered as an exception, in that it is associated with an equestrian enterprise for outdoor recreation.
7. Dwellings for rural workers are primarily intended for residential use. Consequently, they are neither buildings for agriculture or forestry, nor are they appropriate facilities for outdoor sport or outdoor recreation, even though they are intended to support such a use. Unless a proposed rural worker's dwelling specifically falls within one of the exceptions in paragraphs 145 or 146 of the Framework, for example, because it is the re-use of a building, it will be inappropriate development. In addition, the proposal makes clear that it is intended that the dwelling would be used in connection with a horse breeding business, which is neither outdoor sport, nor recreation; nor does it fall within the definition of agriculture in the Town and Country Planning Act 1990.
8. I therefore find that the proposed development would be inappropriate development in the Green Belt.

*The effect of the proposal on the openness of the Green Belt*

9. The countryside around the appeal site comprises mainly of small to medium sized fields in agricultural use, generally separated by hedgerow boundaries. The field pattern is broken up by small groups of trees with some more substantial areas of woodland further away to the north east and south west. There are a few scattered individual and groups of buildings in the near vicinity and further to the south larger settlements. As a result, the countryside has a largely open appearance. The landform is also quite steeply sloping from the south east to north west, rising up from the valley of the river Derwent.
10. Whilst I note that the application sought permission for the proposed static caravan for a temporary period of three years, the static caravan would be relatively large at approximately 15.24 metres long, approximately 6 metres wide, and with an overall height of approximately 3.6 metres. It would be located adjacent to the existing stables and pole barn that are present on the site. The Framework is clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Taken in isolation,



due to its overall size, the proposed static caravan would inevitably result in a reduction in openness of the Green Belt due to the presence of a new structure where previously there was none. This would be harmful to the openness of the Green Belt.

11. I saw when I visited the site that the existing stables are visible from the road from a number of places, particularly when approaching from the south but also from the north. In addition, they are visible from the Public Rights of Way in the vicinity. Taken together with the existing structures on site, the cumulative effect of the proposal would further reduce the openness of the area by increasing the extent of built development and would represent an encroachment onto the countryside. I accept that the proposed static caravan would be clad in materials similar in appearance to the existing stables on the site and that this would reduce the visual prominence of the structure. Nevertheless, this would not wholly militate against the reduction in openness that would result.
12. Although permission is sought at this time for a three year period, the effect on openness would be immediate, starting from the time that the static caravan was bought onto the site and would endure for the duration of its presence. Notwithstanding the temporary nature and reversibility of the development, this does not equate to no harm to openness. However, also due to these factors, the harm to openness would only be moderate.
13. I therefore find that the proposed development would cause harm to the openness of the Green Belt.

*Other considerations*

14. I note that CSUCP Policy CS1 seeks to sustain villages and the rural economy through a balance of housing provision, employment and local services. The Framework also seeks to enable the sustainable growth and expansion of all types of businesses in rural areas. It is not in dispute that the appellant's business is one that is appropriate in a rural area, although there is no compelling evidence before me that it could not be established in an area beyond the Green Belt. Neither Policy CS1, nor the Framework, prioritises the establishment of new rural businesses over policies to protect the Green Belt.
15. The proposed static caravan would result in the appellant having to travel less to work at the site and the operation of the business would make a contribution to the rural economy in terms of employment and local supply chains. However, other employees not resident at the site would still need to travel to the site to work and, due to the rural location of the site, remote from any shops, services and other facilities and with no access to public transport, residents of the site would still need to travel to meet other day to day requirements. Any environmental benefit from reduced travel to work by the appellant would be small. Due to the small scale of the operation the potential benefits to the local economy would also be modest.
16. Whilst I note the appellant's contention that the Green Belt is a barrier to very minor development that supports the rural economy, I do not find it a compelling argument as the Framework is very clear that inappropriate development in the Green Belt should only be approved in very special circumstances. The Framework is also clear that the essential characteristics of Green Belts are their openness and permanence.

17. Paragraph 79 of the Framework expects planning decisions to avoid the development of isolated homes in the countryside unless, among other matters, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The appeal site is not within a settlement or existing group of houses and in this respect the proposed static caravan would represent an isolated dwelling in the countryside.
18. The Framework does not define what may constitute an essential need in the context of Paragraph 79. The appellant has produced an assessment of functional and financial needs based on Annex A of the now superseded Planning Policy Statement Note 7 - Sustainable Development in Rural Areas (PPS7). Whilst the assessment contains some useful information in respect of the appellant's proposed horse breeding business, PPS7 is no longer current national policy and the key test is whether there is an essential need for a worker to live permanently at or near the place of work.
19. I have had regard to the comments of appellant's veterinary surgeon that attendance during the night is sometimes necessary and that a permanent presence of a worker on the site would lead to improved welfare of the horses. However, I also note that no alternative arrangements have been explored or considered, other than a dwelling on site, and that the business has only recently been established. Only limited financial information has been provided which largely comprises expectations, rather than having a factual basis such as comparisons with other similar scale breeding establishments. Similarly, no estimates have been provided in respect of costs labour/wages for the three to four workers the business is expected to require, or for other expenses such as building maintenance, utilities, feed, rates, and veterinary charges. On the basis of the evidence provided, I do not find that it has been demonstrated at this time that the business would endure or be profitable in the long term.
20. Whilst it would no doubt be more convenient for the appellant to live at the site and there would be some advantages in terms of animal welfare, the evidence that is before me is not persuasive that there is an essential need for there to be a permanent presence on the site in order for the business to operate or develop.

*Do very special circumstances exist?*

21. The proposed development is inappropriate development in the Green Belt which is by definition harmful. Added to this is the harm that the proposed development would cause to the openness of the Green Belt. Substantial weight must be given to any harm to the Green Belt, whether by reason of inappropriateness or for other reasons.
22. I have not found that there is an essential need for a rural worker to live permanently at the site and whilst the operation of the business would contribute to the rural economy in the area, this contribution would be modest and can only be given moderate weight in favour of the proposal.
23. These other considerations do not clearly outweigh the harm that would be caused to the Green belt by the proposed development. They cannot, therefore, amount to the very special circumstances necessary to justify inappropriate development in the Green Belt.

24. I therefore conclude that the proposed development would be inappropriate development on the Green Belt, would cause harm to the openness of the Green Belt, and that no very special circumstances exist that would warrant granting planning permission. The proposed development would conflict with CSUCP Policy CS19 and the requirements of the Framework which seek to protect the Green Belt from inappropriate development.

**Conclusion**

25. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*John Dowsett*

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/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
<b>DC/18/00542/HHA</b>	<b>6 Coalway Lane Whickham NE16 4BX</b>	<b>First floor side extension and canopy to create covered car port, and Juliet balcony to rear (description amended 27.06.18, amended plans received 08.09.18)</b>	<b>Written</b>	<b>Appeal Dismissed</b>
DC/18/00579/FUL	<b>Riding Chase Garesfield Lane Winlaton Blaydon</b>	<b>Removal of Condition 2 of Application Reference Number CA39327 to allow removal of agricultural occupancy restriction.</b>	<b>Written</b>	<b>Appeal Dismissed</b>
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	<b>The Chopwell Derwent Street Chopwell NE17 7AA</b>	<b>Change of use from public house to twelve assisted living units (use class C3) (description amended 07/09/18)</b>	<b>Written</b>	<b>Appeal Dismissed</b>

DC/18/00964/FUL	Hollinhill Lane/High Thornley Rowlands Gill	Temporary siting of equestrian worker's caravan	Written	Appeal Dismissed
DC/18/00958/TPO	Woodlands Derwent Avenue Rowlands Gill NE39 1BZ	Tree works at Woodlands, Derwent Avenue, Rowlands Gill	Written	Appeal in Progress