

TITLE OF REPORT: Planning Appeals

REPORT OF: Paul Dowling, Strategic Director, Communities and Environment

Purpose of the Report

1. To advise the Committee of new appeals received and to report the decisions of the Secretary of State received during the report period.

New Appeals

2. There has been **one** new appeal lodged since the last committee:

DC/16/00914/COU - Land At Soka Wine Centre, Devon House, Durham Road, Birtley

Change of use of part of existing car park for staff and part of existing side garden for residential flat to hand car-wash and car valet operation with new dropped-kerb exit point, erection and re-alignment of 1.8m high metal and timber fencing and 4x metal 1.5m high storage boxes

This was a committee decision refused on 26 October 2016

Appeal Decisions

3. There has been one new appeal decision received since the last Committee:

DC/16/00615/FUL - Rockwood Hill Road, Greenside, Ryton
Erection of a two storey detached dwellinghouse.

This was a committee decision refused on 24 August 2016

Appeal dismissed on 17 March 2017.

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



Appeal Decision

Site visit made on 27 February 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 17th March 2017

Appeal Ref: APP/H4505/W/16/3165316

Land at Rockwood Hill Road, Greenside, Ryton NE40 4AX

Grid Ref Easting: 413705, Grid Ref Northing: 562033

- 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 Mannion against the decision of Gateshead Council.
- The application Ref DC/16/00615/FUL, dated 22 June 2016, was refused by notice dated 24 August 2016.
- The development proposed is erection of a two storey, detached dwellinghouse.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development upon the provision of allotment land.

Reasons

3. The appeal site is located south of Rockwood Hill Road. There is no dispute between the parties that the site, together with the adjoining land to the south, is identified as allotment land under saved Policy CFR27 of the Gateshead Unitary Development Plan (UDP) and designated as such on the proposals map.
4. As set out in paragraph 196 of the National Planning Policy Framework (the Framework), the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise¹.
5. Policy CFR27 of the UDP states that the loss of allotments by, among other things, built development, will not be permitted unless an appropriate advance replacement site is made available, or there is a surplus of provision at a particular location. The policy goes on to state that, in the case of surplus provision, the site (either in whole or in part) will be safeguarded against built development if its conversion to recreational public open space would contribute to remedying deficiencies in provision. Despite the age of this policy it remains consistent with the aims of the Framework in respect of promoting healthy communities and as such I have accorded it full weight.

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

6. Annex 2 of the Framework defines open space as all open space of public value which offer important opportunities for sport and recreation and can act as a visual amenity. Allotment land is open space of public value and therefore falls within this definition. Paragraph 74 of the Framework makes clear that open space should not be built on unless it is surplus to requirements or would be replaced by equivalent or better provision.
7. The proposed development of a detached dwelling on the appeal site would result in the loss of allotment land. It is not proposed that the allotment land would be replaced by equivalent or better provision in a suitable location, and there is no substantive evidence before me which demonstrates the allotment land is surplus to requirements. Moreover, even if it could be demonstrated that the appeal site was surplus to requirements as allotment land, the Council submits that the site is located within a residential neighbourhood that is deficient in open space. No evidence has been put forward to demonstrate that the site would not be capable of conversion to recreational public open space and thus contribute to remedying deficiencies in provision in the area.
8. I note that the appeal site and land to the south is not shown on the submitted Title Plan or extracts from the Council's Keys to the Past and DEFRA mapping. However, neither this nor the apparent absence of any restrictive covenant alters the development plan land allocation. The private ownership of the appeal site would not prevent it from being used as an allotment. Whilst the site is not currently in use as an allotment and is somewhat overgrown, I see no good reason why the land could not be brought back into allotment use.
9. For the reasons given, I conclude that the appeal proposal would have a harmful effect upon the provision of allotment land. As such, it would be contrary to the aims of UDP Policy CFR27 and paragraph 74 of the Framework which seek to prevent the net loss of open space which is not surplus to requirements in order to promote healthy communities.

Conclusion

10. I have had regard to the benefits of providing an additional dwellinghouse and creating temporary employment during the construction phase. However, the harm I have identified in relation to the main issue outweighs these benefits. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

C L Humphrey

INSPECTOR

APPENDIX 3

OUTSTANDING APPEALS

Planning Application No	Appeal Site (Ward)	Subject	Appeal Type	Appeal Status
DC/16/00615/FUL	Rockwood Hill Road Greenside Ryton NE40 4BL	Erection of a two storey detached dwellinghouse.	Written	Appeal Dismissed
DC/15/00804/FUL	Land At Portobello Road Birtley	Erection of 60 x two-storey dwellings with associated works (additional information received 22/09/15, 25/09/15, 26/11/15, 02/12/15, 07/12/15, 15/12/15, and 15/04/16 and 08/03/16 and amended 26/11/15, 02/12/15, 18/02/16, 22/02/16, 06/04/16, 07/04/16 and 18/04/16).	Hearing	Appeal In Progress
DC/16/00914/COU	Land At Soka Wine Centre Devon House Durham Road Birtley	Change of use of part of existing car park for staff and part of existing side garden for residential flat to hand car-wash and car valet operation with new dropped-kerb exit point, erection and re-alignment of 1.8m high metal and timber fencing and 4x metal 1.5m high storage boxes	Written	Appeal In Progress