



## ***PLANNING AND DEVELOPMENT COMMITTEE AGENDA***

**Wednesday, 6 December 2023 at 10.00 am in the Bridges Room - Civic Centre**

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From the Chief Executive, Sheena Ramsey

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Item	Business
<b>1</b>	<b>Apologies for Absence</b>
<b>3</b>	<b>Declarations of Interest</b>  Members to declare interests in any agenda items
<b>4</b>	<b>Planning Applications (Pages 3 - 4)</b>  Report of the Strategic Director, Climate Change, Compliance, Planning & Transport.
<b>4i</b>	<b>No.1 - Site 18 - 19, Whinfield Way, Highfield, Rowlands Gill, Gateshead, NE39 1EH (Pages 5 - 26)</b>
<b>4ii</b>	<b>No.2 - 305 Durham Road, Gateshead, NE9 5AH (Pages 27 - 38)</b>
<b>4iii</b>	<b>No.3 - The Runhead, Holburn Lane, Ryton, NE40 3HJ (Pages 39 - 50)</b>
<b>6</b>	<b>Enforcement Team Activity (Pages 51 - 52)</b>  Report of the Strategic Director, Climate Change, Compliance, Planning & Transport
<b>7</b>	<b>Enforcement Action (Pages 53 - 60)</b>  Report of the Strategic Direct, Climate Change, Compliance, Planning & Transport
<b>8</b>	<b>Planning Enforcement Appeals (Pages 61 - 64)</b>  Report of Strategic Director, Climate Change, Compliance, Planning & Transport
<b>9</b>	<b>Planning Appeals (Pages 65 - 84)</b>  Report of the Strategic Director, Climate Change, Compliance, Planning & Transport
<b>10</b>	<b>Planning Obligations (Pages 85 - 88)</b>  Report of Strategic Director, Climate Change, Compliance, Planning & Transport





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PLANNING AND DEVELOPMENT  
COMMITTEE  
**6 December 2023**

**TITLE OF REPORT:** Planning applications for consideration

**REPORT OF:** Anneliese Hutchinson, Service Director,  
Climate Change, Compliance, Planning and  
Transport

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### **Purpose of the Report**

1. The Committee is requested to consider the attached schedule of miscellaneous planning applications, which are presented as follows:-

#### **PART ONE:**

Planning Applications  
Applications for Express Consent under the Advertisement  
Regulations  
Proposals for the Council's own development  
Proposals for the development of land vested in the Council  
Proposals upon which the Council's observations are sought  
Any other items of planning control

#### **PART TWO: FOR INFORMATION ONLY**

Applications determined in accordance with the powers  
delegated under Part 3, Schedule 2 (delegations to managers),  
of the Council Constitution.

### **Recommendations**

2. Recommendations are specified in the schedule.

The Human Rights Implications of the recommendations have been considered. Unless specified there are no implications that outweigh the material planning considerations.

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**Committee Report**

<b>Application No:</b>	<b>DC/22/01038/FUL</b>
<b>Case Officer</b>	<b>Mark O’Sullivan</b>
<b>Date Application Valid</b>	<b>08 November 2022</b>
<b>Applicant</b>	<b>Mr Stephen Whale Toward</b>
<b>Site:</b>	<b>Site 18 - 19, Whinfield Way, Highfield, Rowlands Gill, Gateshead, NE39 1EH</b>
<b>Ward:</b>	<b>Chopwell And Rowlands Gill</b>
<b>Proposal:</b>	<b>Change of use of land to storage and distribution (Use Class B8), erection of perimeter fence and gates and erection of storage containers and container office including solar panels to roof (amended description 14.11.2022) (additional/amended plans 14.11.2022, 29.12.2022, 24.07.23, 26.07.23, 20.10.23 and 03/11/23)</b>
<b>Recommendation:</b>	<b>GRANT</b>
<b>Application Type</b>	<b>Change of Use</b>

**1.0 The Application**

**1.1 DESCRIPTION OF SITE**

The application relates to an area of vacant hardstand and scrubland (some 0.25Ha) known as Plots 18-19 Whinfield Way, located on the Whinfield Industrial Estate and Local Employment Area (an allocated employment site under MSGP1.23).

1.2 The site is presently Council owned, albeit an agreement to lease the land to the applicant has been made, subject to first securing planning permission.

1.3 The site is generally level and finished with an unbound surface. To the north is a large industrial unit forming plot 20 Whinfield Way. There is an established tree belt and scrubland wrapping around the east of the site from north to south.

1.4 Public footpath (Blaydon no.088) is located within the trees to the east of the site, with residential properties on Orchard Road and Orchard Avenue beyond where land levels drop with distance from the site.

1.5 Beyond landscaping to the south is a telecoms mast and the Thomas Armstrong (Concrete Blocks) Ltd site, extends to the west of the site beyond Whinfield Way. Site access is gained from Whinfield Way to the southwestern corner of the plot.

**1.6 DESCRIPTION OF APPLICATION**

Planning permission is sought for the change of use of the land to accommodate a storage and distribution facility falling within the B8 use classification.

- 1.7 Specifically the applicant confirms the site would be used for the storage and distribution of TRAD DECK decking equipment. TRAD DECK is described as a fall prevention work platform for traditional build, timber frame and construction projects, offering the same load capacity as a general purpose scaffold.
- 1.8 For clarity, materials to be stored on the site would not comprise what may be considered as traditional scaffolding poles and associated equipment.
- 1.9 All equipment would be stored within 5no. secure storage containers sited along the western boundary of the site (each measuring 6.1m length x 2.4m width x 2.6m height). These containers would either be blue or green in colour, although once a colour has been decided by the applicant, all containers would be the same. Equipment to be stored would comprise platforms and support legs (of 1.5m or 1.8m height) and associated clamps/brackets. Decking boards can be stacked in piles not in excess of 6ft (no more than 25no. boards), with legs to be stored on stillages.
- 1.10 The applicant further confirms that there would be no external storage of materials, with it noted that more often than not, the site will be empty given materials will be on site. However in-between jobs, when materials are present on site, they will be stored within the containers for security purposes.
- 1.11 10no. parking spaces (each 2.5m x 5.5m) would be provided to the north of these 5no. containers along the western site boundary. To the east of these spaces (adjacent to the northern site boundary) would be 2no. additional containers (of the same scale), providing on-site office accommodation. Solar panels would be installed onto the roof of these 2no. containers. To the east of these 2no. containers would be a secure and weatherproof cycle store.
- 1.12 Proposals would also see the installation of a 2.4m high galvanised steel palisade fence enclosing the perimeter of the site, consistent with the identified red line site boundaries, which would not encroach into the adjacent landscape buffer. A 7m wide inward opening access gate (also 2.4m high) would be located to the southwestern corner of the site in the location of the existing site access.
- 1.13 No excavation of the wider site is proposed, other than for the installation of the perimeter gate and fencing, with no re-surfacing works proposed.



- 1.14 Drainage would be via the natural ground (as is currently the case) with no new water supply proposed.
- 1.15 In supporting information the applicant confirms job creation resulting from the development, with an estimated 2/3 new roles in the first 12 months of operation.
- 1.16 RELEVANT PLANNING HISTORY

DC/07/01824/FUL - Erection of two-storey industrial unit (use class B8) with office accommodation and associated car parking (revised application) (amended 07/01/2008). Planning permission granted 07.03.2008.

DC/07/00558/FUL - Erection of light industrial unit with associated office accommodation (Site 19) (resubmission of DC/06/01723 revised site boundary). Withdrawn 05.12.2007.

DC/06/01723/FUL - Erection of industrial unit for storage and distribution purposes (use class B8) with associated office accommodation (revised application). Planning permission refused 20.12.2006

DC/06/01494/FUL - Erection of industrial unit with associated office accommodation. Withdrawn 30.10.2006.

1282/98 - Erection of 2m high security fencing in connection with storage of concrete blocks. Temporary permission granted 05.01.1999

961/95 - Erection of fencing around perimeter of site (amended 28/11/95). Planning permission granted 01.12.1995.

1516/89 - Erection of factory unit for production of softwood timber and roof trusses. Planning permission refused 01.02.1990.

## **2.0 Consultation Responses**

The Villa Residents Association - No response received.

## **3.0 Representations**

- 3.1 Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015.
- 3.2 A letter of objection has been received from Councillor Bradford, which is summarised as follows:
- Whilst increased employment opportunities are welcomed, resulting disturbance caused by the use should be minimised

given the proximity to nearby residential properties in a Conservation Area;

- Proposed development would be out of character with the Conservation Area;
- Additional noise and possibility for disturbance during early mornings and late evenings with a lack of clarity over proposed 24hr working;
- Traffic/highways impacts resulting from an increase in traffic using the site including concerns over vehicles ignoring speed bumps on the estate road;
- Lack of clarity over the type of materials to be stored on site which would then be distributed by commercial vehicles and resulting noise;
- Lack of clarity over the status of land between the site and Orchard Road to the east, which provides access to the woods and has previously been used to enable a fire engine to access an incident on Orchard Road;

3.3 In addition, 20no. letters of objection have been received (on behalf of 17no. households) with a summary of the key points raised as follows:

*Design/Visual Amenity/Heritage impacts*

- The proposed development would be out of character with the adjacent woodland, landscape and surrounding area, presenting an overbearing development form;
- Development would be out of character with the Conservation Area;
- The proposed perimeter fence would be ugly;
- Overdevelopment of the site in an area already subject to noise, traffic and the sight of telephone masts. The wider area cannot support this additional development, especially given almost every other unit on the estate is already occupied;

*Arboricultural impact*

- Loss of existing woodland/grassland. These trees were planted as a noise barrier to the adjacent residential area;
- Why can't the development just cover the existing hardstand area?

- Will the developer be required to mitigate for the loss of trees?

*Amenity concerns*

- Loss of a site which currently provides a natural barrier between the blockworks factory and housing;
- Previous development was refused on this site due to proximity to neighbouring properties;
- Impacts of the development on nearby residential properties in terms of additional noise, dust and fumes over and above that already resulting from adjacent industrial site uses. Concern over resulting health issues;
- Concerns over proposed hours of operation (24hour) which could result in disturbance during early mornings/late evenings. This is unfair when other nearby businesses cannot work 24hrs due to local residents;
- Increased litter from site use;
- Concerns over noise during construction works;
- If containers are stacked, people will be able to stand on top and look into nearby properties;
- Loss of privacy to neighbouring properties;
- Loss of natural light resulting from the development;

*Traffic/highways/access concerns*

- The application will increase existing traffic and congestion issues in the area;
- Increasing traffic will be a hazard to pedestrians using the road, including those accessing local schools;
- Inadequate on-site car parking;
- Increase in pollution from increased vehicle usage;
- Issues with HGVs speeding in the area, which will make the surrounding area unsafe;
- Queries regarding frequency of vehicles associated with the use;

- The site has been unused for many years but has found its own use for parking lorries, access by emergency services and water company to nearby land, access to the telephone mast and by users of the adjacent woods, public footpath through the Strother Hills Woods, beehive ovens and Land of Oak and Iron;
- The erection of boundary fencing will reduce the usable width of the adjacent footpath, which is well used;

#### *Ecology*

- Loss of habitat for birds, animals and insects;

#### *Other matters*

- It is understood that the adjacent Armstrong Works are to close in 2 years. If so, what will then happen to this site?
- Storage of steel sheets on the site will impact radio and telecommunications signals to the adjacent residential estate;
- How can the Council lease land prior to an application being submitted?
- Procedural failings relating to lack of public consultation and the fact the majority of affected residents have not been consulted;
- Development would increase potential to attract vandals;
- The proposal needs more discussion, and the scope of development needs to be better understood;
- The Council should be cleaning up and improving the area for wildlife and local people, including planting of trees;
- Proposals would only support a different site use in the future which would be difficult to reverse once planning permission has been granted;
- This is a false proposal. The site is going to be used as a car recycling facility which would have impact on local amenity, the environment and drainage;
- Loss of view from adjacent residential property;
- Devaluation of property;

#### **4.0 Policies**

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
CS6	Employment Land
CS13	Transport
CS14	Wellbeing and Health
CS15	Place Making
CS18	Green infrastructure/natural environment
MSGP1	Employment Land Supply
MSGP3	Other Employment Areas
MSGP15	Transport aspects of design of new development
MSGP17	Residential Amenity
MSGP18	Noise
MSGP20	Land contamination and land instability
MSGP24	Design Quality
MSGP25	Conservation and enhancement of heritage assets
MSGP36	Woodland, Trees and Hedgerows

## **5.0 Assessment of the Proposal**

5.1 The key considerations to be taken into account when assessing this planning application are the principle of the development, design/visual amenity/heritage impacts, residential amenity, transport, ecology, arboricultural impact and ground conditions.

### **5.2 ENVIRONMENTAL IMPACT ASSESSMENT**

The development does not fall within the criteria listed in schedule 1 and 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, as such an Environmental Impact Assessment is not required in relation to this application.

### **5.3 THE PRINCIPLE OF THE DEVELOPMENT**

The application site falls within a wider employment land designation under Local Plan policy MSGP1.23. This designation supports former B1 b/c (now Use Class E), B2 or B8 uses. The site also falls within the Whinfield Local Employment Area as allocated by Local Plan policy

MSGP3.10, where the above uses are supported. The application proposes that the site be used for a B8 storage and distribution use. As such, the proposed use as a storage and distribution facility for materials used in relation to safety decking equipment as specified by the applicant is considered acceptable in accordance with the NPPF and policies CS6, MSGP1 and MSGP3 of the Local Plan for Gateshead.

#### 5.4 DESIGN/VISUAL AMENITY/HERITAGE IMPACTS

The application seeks the change of use of the site together with limited operational development comprising the siting of 7no. containers and installation of 2.4m high perimeter fencing and vehicular access gates. Submitted plans also indicate the installation of cycle storage facilities.

5.5 Although local objection cites concern over the impact of the development on the character of the area, officers show regard for the context of the site on an allocated employment site within an established industrial setting which extends to the north, south and west. Officers consider that the proposed development would be commensurate with the overall scale, character and appearance of its immediate surroundings and would be acceptable in terms of design and impact upon visual amenity. The site is not located within a Conservation Area, rather an industrial setting, with the existing and established woodland to the east of the site providing a natural buffer and clear demarcation between the wider employment area and more sensitive residential uses beyond.

5.6 The nearest Conservation Area (Rowlands Gill) is located some 20m to the east beyond the tree belt which falls outside of the application site and would not be affected by the proposed development or site use. There is a notable difference between the character of the application site and its immediate setting, and land to the east within the Conservation Area boundary. Given the nature of the development proposed, it is not considered that the proposed use of the site would result in harm to the character or setting of the nearby Conservation Area beyond the trees which would remain unaffected.

5.7 Meanwhile the site would be enclosed by new 2.4m high perimeter fencing (galvanised steel palisade design) which would not appear incongruous within the wider industrial setting, particularly noting the design of existing security fencing around the adjacent industrial premises to the immediate west.

5.8 Given the current vacant status of the site, its existing hardstand appearance and the nature of the works proposed, it is not considered that proposals would amount to overdevelopment of the site or the wider employment area, or indeed amount to an overbearing development form. Storage containers would not be double stacked in height, minimising their overall massing (a detail controlled by

condition), with all materials to be stored within the containers. There would be no external storage of materials other than in instances where they await loading into containers, and officers are advised by the applicant that in these instances, all 'support legs' will be stored horizontally within stillages, and platforms piled in stacks no more than 6ft in height (or 25no. platforms high). Again, such storage control will ensure no storage at height minimising visual impact.

- 5.9 No objections are raised over the installation of solar panels onto the roof of the office containers, promoting sustainable energy use at the site.
- 5.10 The proposed development therefore accords with the NPPF and policies CS15 and MSGP24 of the Local Plan for Gateshead. Furthermore, given the separation distance to the Conservation Area and the character of the existing site which would remain well screened from the Conservation Area and its setting, there would be no perceived harm, satisfying Local Plan Policies CS15, MSGP24 and MSGP25.
- 5.11 **RESIDENTIAL AMENITY**  
Paragraph 130 of the NPPF requires that planning policies and decisions should ensure that development will achieve a high standard of amenity for existing and future users. This is reflected in Gateshead local plan policy CS14 which requires that the wellbeing and health of communities will be maintained and improved by preventing negative impacts on residential amenity.
- 5.12 The application site is located in close proximity to existing industrial type uses (of much larger scale) to the immediate north, south and west, with residential properties in excess of 45m to the east of the site on Orchard Road, Orchard Avenue and Low West Avenue. Those nearest properties are presented gable on towards the site. The application site is located within a designated employment area and despite its presently vacant status, the purpose of the site is not to act as a buffer between the estate and residential properties to the east, with the adjacent woodland more akin to performing this function.
- 5.13 Given the scale and nature of the operational development proposed, the presence of intervening woodland, and distance from residential properties, officers consider that the development would not create any unacceptable loss of light, overshadowing, overbearing impact, loss of privacy or overlooking issues. As explained, containers would not be stacked on top of each other (a detail which can be controlled by condition), ensuring they remain at ground level, avoiding any potential loss of light/overshadowing and privacy issues. There would be no outdoor storage of materials and the existing woodland would remain unaffected, thereby remaining taller in height than the development proposed.

- 5.14 Furthermore, the very nature of the proposals would not give rise to significant site construction activity, with the perceived impact on nearby sensitive uses arising from site construction considered to be minimal.
- 5.15 In terms of site activity, local concerns are raised over the perceived impacts of the development in terms of additional noise, dust and fumes over and above that already resulting from adjacent industrial site uses. Again, the proposed site use must be carefully considered. Specifically, the fact that this is a relatively small site which would accommodate a number of storage containers used to store equipment which would be taken off site for use for extensive periods of time. By its very nature, there would be little activity at the site other than the loading and unloading of equipment on an infrequent basis.
- 5.16 The applicant has detailed the types of material to be stored within the containers and officers consider this would be less noisy when loading and unloading. A condition is imposed restricting the use of the site to ensure that should the nature of the materials to be stored change, that a Noise Impact Assessment would be required to be submitted to the LPA.
- 5.17 In the interests of protecting nearby residential amenities, the applicant has also met with the Council's EHO to discuss the hours of the operation of the site. A further condition is imposed to ensure the site is not operational, including deliveries and any loading and unloading of materials, prior to 0800am Monday - Saturday (with no site activity on Sundays). This condition would not prevent site owners or staff from entering the site prior to this time e.g., accessing the office or preparing to start work. The applicant is agreeable to such control which is also consistent with adjacent site uses.
- 5.18 Day to day, the largest vehicle expected at the site would be a long wheel based transit van, with infrequent visits from a 7.5 tonne container lorry (only required when delivering new/replacement containers to the site). There may be up to 8no. members of staff on site at any one time, although normally there would only be 2no. members of staff on site in the office during operational hours. Overall, it is anticipated that there would be 8-10 vehicle trips in and out of the site each day. There would be no other site activity aside of the movement of vehicles attending the site to pick up/drop off the equipment or activity within the proposed site office area.
- 5.19 Subject to the above, whilst acknowledging the nature of adjacent industrial uses and activities, it is not considered that such activity would be so significant so as to detrimentally impact nearby residential properties in terms of noise impacts, with the limited use of the site unlikely to give rise to significant fumes or dust impacts. It is also deemed necessary to request a noise management plan which sets out expected site management procedures which avoids unnecessary



noise emissions from idling engines and unnecessary site noise. Subject to the above considerations, the proposal would not result in significant harm to adjacent sensitive receptors, satisfying the provisions of policies CS14, MSGP17 and MSGP18 of the Gateshead Local Plan.

#### 5.20 TRANSPORT

Paragraph 111 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.21 The application site would be accessed via an inward opening gated arrangement positioned into the southwest corner of the perimeter fencing enclosing the site from Whinfield Way adjacent. The submitted site plan details 10no. parking spaces to be located along the western boundary of the site (2.5m x 5.5m), and the siting of a secure and weatherproof cycle store adjacent to the 2no. office containers. Based upon the expected on-site staff numbers (up to 8no. members of staff on site at any one time, including 2no. members of staff on site in the office during operational hours), it is considered that 10no. spaces off-street would accommodate this demand and avoid pressure to park on the adjacent estate roads.

5.22 Tracking details have been submitted for the types of vehicles expected to use the site. The submitted tracking details for a transit van (the most common vehicle type to access the site) are considered acceptable. With regards larger vehicles, the tracking details provided aren't ideal, particularly in terms of the lack of two-way traffic at the site access for larger vehicles, and their ability to manoeuvre within the site. For the purposes of setting up and decommissioning the site and the expected low frequency of such larger vehicles accessing the site, no highways objections are raised. However, it is considered necessary to limit the scale of vehicles accessing the site on a normal operational day by condition in the interests of highway safety. Without such a condition, the site remains open to the possibility of continuous use by HGV's and other large vehicles which would be unacceptable in terms of highway safety.

5.23 A number of objections have been received from local residents and the local member over the highway safety impacts of the proposals. It is demonstrated that the site can support the types of vehicles associated with its intended use without increasing pressure to park or manoeuvre on the adjacent highway. Further it is accepted that the adjacent carriageway is located within a designated employment area, serving adjacent industrial uses. There is no reason to assume that the use of this site for the purposes specified would give rise to pedestrian safety concerns for those using the estate roads to access nearby schools or see an unacceptable increase in pollution given the low level of vehicle movements associated with the proposed site activity.

- 5.24 Furthermore, the installation of security fencing around the site would not impact the width of the adjacent footpath, and the fact the site may be currently used for parking in relation to the adjacent woodland and neighbouring uses is immaterial to the current application.
- 5.25 Finally, issues relating to speeding of vehicles through the estate cannot be attributed to the current proposals given the proposed use is still to be implemented.
- 5.26 No transport objections are raised, and proposals would satisfy the provisions of the NPPF and policies CS13 and MSGP15 of the Gateshead Local Plan. It is considered that the proposal would not have any direct impact on the adopted highway, nor would it adversely impact upon highway safety.
- 5.27 **ECOLOGY AND BIODIVERSITY**  
The proposed development site is not located within or immediately adjacent to a designated nature conservation site or Wildlife Corridor, and no significant adverse impacts on such features are anticipated. The application is supported by an updated Ecological Impact Assessment (EclA) and BNG small sites metric. A survey of the site for dingy skipper butterfly (S41 NERC Species of principal importance) has also been undertaken. The results of the survey confirm the likely absence of the species within the site and officers are further satisfied that any potential residual adverse impacts on statutorily protected and priority species (e.g. breeding birds, hedgehog and foraging / commuting bats) and retained habitats immediately outwith the red line boundary of the site can be reduced to an acceptable level through the implementation of appropriate avoidance/mitigation measures, secured via suitably worded planning condition(s).
- 5.28 Local Plan policy MSGP37 and Para. 174 (d) of the NPPF require that new development provides a net gain to biodiversity. The Government's emerging Environment Bill proposes to set a requirement for all new developments to achieve a 10% biodiversity net gain (BNG) using Defra's Biodiversity Metric calculator tool to inform off-site requirements, however as this is currently a draft Bill only and not currently an Act of Parliament, these requirements cannot be enforced at this time and only a net gain is required to be delivered in accordance with the above policies.
- 5.29 =In order to be policy complaint, it is concluded that the development must provide a suitable biodiversity offset. Should this result in the creation and/or enhancement of suitable habitat on land outside the red line boundary, 0.0657 habitat units must be delivered, equating to a payment of £985.50, to provide for off-site biodiversity enhancement. Given the site is Council owned, it is considered reasonable to condition any approval to secure a scheme of ecological mitigation which may consider on-site mitigation, off-site mitigation, or at the very

least a payment (as above). The applicant has agreed to the specified payment should no other means of mitigation be demonstrated as suitable. Conditions to agree management, annual maintenance and monitoring of the BNG and ensure its retention for at least 30 years are also appropriate to ensure long term benefits are delivered. This will ensure an appropriate level of biodiversity net gain is delivered in the long term as part of the development.

5.30 Subject to the above, officers consider the proposals would not have a significant adverse impact on ecology and biodiversity, in accordance with policy MSGP37 and paragraphs 174(d) and 180(a) of Part 15 of the NPPF.

#### 5.31 ARBORICULTURAL IMPACT

A number of objections have been received citing concern over the loss of trees within the landscaped belt to the immediate east of the site. This natural buffer presently serves as an important separation between the employment/industrial area to the west, and the adjacent residential area to the east. As detailed on submitted plans, no works would encroach into this woodland with the red line site boundary set away from the landscaped edge of the site. Any works outside of the red line site boundary are not permitted. Furthermore, no trees are proposed to be removed or affected by the development, with the only groundworks proposed being the drilling of holes for the installation of the palisade fencing, which would be set far enough away from the tree belt. With no resulting harm to existing landscaping surrounding the site, proposals would satisfy the provisions of policies CS18 and MSGP36 of the Gateshead Local Plan.

#### 5.32 GROUND CONDITIONS

The application site has been assessed as being situated on potentially contaminated land given its siting to the south of a former coke works and the fact it has historically been part of an alloy works and chemical works. It is therefore possible that the site may be affected by ground contamination from historic industrial uses and imported materials. The application does not propose any breaking of ground other than drilling of holes for the installation of the proposed fence posts, and therefore a Preliminary Risk Assessment (PRA) and Phase II site investigations are not required. Notwithstanding this, Contaminated Land officers request the submission of a method statement and risk assessment (RAMS) from the appointed fencing contractor to ensure that any soil arisings generated from the fencing works be placed directly into a skip and removed from the site by a regulated Waste Operator. Subject to the above, proposals would satisfy the provisions of Policies CS14, MSGP20 and Part 15 of the NPPF.

#### 5.33 OTHER MATTERS

A number of objections received relate to the impacts from existing adjacent industrial uses on nearby residential properties and not

necessarily the proposed development/use. Such matters cannot be considered in the context of the current application.

- 5.34 Likewise, the potential closure of the nearby Armstrong Works and unclear future of this adjacent site, the desire for the Council to make improvements in the area, loss of view and devaluation of property are not material considerations and cannot be taken into account in the determination of this current application. Furthermore, little weight can be given to current or indeed historic site uses, particularly given the current status of the land as an allocated employment site within an industrial area.
- 5.35 There is no evidence to suggest that the proposed development would attract vandalism, or that the development will impact radio and telecommunications signals to nearby dwellings, particularly given the nature of the proposals. Furthermore, that any litter associated with the site use would unlikely blow beyond the site boundaries given the newly installed perimeter fencing.
- 5.36 Matters pertaining to the lease of the site or whether the Council should be instead cleaning up the site and improving the area for wildlife and local people are separate to the planning application process.
- 5.37 Suggestions that the site may eventually be turned into something else, set a precedent to a different site use, or become a car recycling facility are not material to the consideration of this application. The application is determined as submitted, with proposals clear in that they relate to the siting of 7no. containers in relation to a Class B8 storage and distribution use. Any other future use would likely be subject to separate planning consent and necessary local advertisement. There is no suggestion that future development is proposed, and each application must be considered on its own merits.
- 5.38 Officers are satisfied that sufficient information has been submitted to enable the application to be determined in its current form, with the application having been advertised appropriately in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015, as is evident by the level of comments received.
- 5.39 It is considered that all other material planning considerations have been addressed within the main body of the officer's report.
- 5.40 **COMMUNITY INFRASTRUCTURE LEVY (CIL)**  
On 01 January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is not CIL chargeable development as it is not for qualifying retail or housing related.

## **6.0 CONCLUSION**

6.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council has an up-to-date development plan comprising the Core Strategy and Urban Core Plan and Making Spaces for Growing Places. Taking all the relevant issues into account, it is considered that the proposed development is acceptable in principle and subject to relevant conditions, in terms of design/visual amenity/heritage impacts, residential amenity, transport, ecology, arboricultural impact and ground conditions would comply with the aims and objectives of the NPPF, and relevant planning policies. It is recommended that planning permission be granted, subject to the following conditions.

## **7.0 Recommendation**

GRANT permission subject to the following condition(s) and that the Service Director of Climate Change, Compliance, Planning and Transport be authorised to add, vary and amend the planning conditions as necessary:

1.

The development shall be carried out in complete accordance with the approved plan(s) as detailed below:

- THD22-123 01 revP3 Location Plan
- THD22-123 03 revP7 Proposed Block Plan
- 087S22G1M Container spec
- JAM78S30 585-610/GR Solar Panel Specification
- PALI-KIT-0004 - 2.4m high palisade dig in fencing kit triple pointed w pale revA, sheet 1 of 6
- 2.4m w palisade pales actual height 2350mm revA, sheet 2 of 6
- Rails for w palisade fencing 2.75m wide revA, Sheet 3 of 6
- PALI-BAY-0004 - 2.4m high dig in palisade post - AL 3125mm revA, sheet 4 of 6
- Palisade fencing 90v corner post detail revA, sheet 5 of 6
- Palisade fencing end post detail revA, sheet 6 of 6
- PALI-KIT-1566 - 2.4m x 7.0m wide triple pointed double leaf dig in palisade gate kit revA sheet 1 of 6
- PALI-KIT-1566 - 2.4m X 7.0m wide triple pointed double leaf dig in palisade gate kit revA, sheet 2 of 6
- PALI-POS-0024 -2.4m high dig in palisade hinge gate post 150x150 box section revA, sheet 3 of 6
- PALI-KIT-2566 - 2.4m X 7.0m wide triple pointed double leaf bolt down palisade gate kit revA, sheet 4 of 6
- PALI-KIT-2566 - 2.4m X 7.0m wide triple pointed double leaf bolt down palisade gate kit revA, sheet 5 of 6
- PALI-POS-1024-2.4m high bolt down palisade hinge gate post 150x150 box section revA, sheet 6 of 6

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2.

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

3.

There shall be no stacking of storage containers on the site at any time.

Reason

In the interests of visual and residential amenity in accordance with policies CS15, MSGP17 and MSGP24 on the Gateshead Local Plan.

4.

Site activity and deliveries to and from the site shall be restricted to the following hours only:

- 0800 – 1800 Mondays to Fridays;
- 0800 – 1200 Saturdays;
- No times on Sundays or bank holidays

This condition does not prevent staff from entering the site outside of these hours or using the site office.

Reason

To protect residential amenity in accordance with Policy MSGP17 of the Gateshead Local Plan.

5.

Prior to the commencement of use of the development hereby approved, a Construction and Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason

To protect residential amenity in accordance with Policy MSGP17 of the Gateshead Local Plan.

6.  
All future site operations shall strictly adhere to the approved Construction and Noise Management Plan approved under condition 5 at all times.

Reason

To protect residential amenity in accordance with Policy MSGP17 of the Gateshead Local Plan.

7.  
A method statement and risk assessment (RAMS) shall be produced by the appointed fencing contractor and submitted for the written approval of the LPA prior to the installation of the proposed perimeter fencing.

Reason

To minimise the potential harm arising from ground contamination from historic industrial uses and imported materials in accordance with policies CS14 and MSGP20 of the Gateshead Local Plan.

8.  
The approved perimeter fencing shall be installed in strict accordance with the details approved under condition 7.

Reason

To minimise the potential harm arising from ground contamination from historic industrial uses and imported materials in accordance with policies CS14 and MSGP20 of the Gateshead Local Plan.

9.  
Any soil arisings generated from excavations for fence post installation, shall be placed directly into a closable skip and disposed of offsite to landfill by a registered Waste Operator.

Reason

To minimise the potential harm arising from ground contamination from historic industrial uses and imported materials in accordance with policies CS14 and MSGP20 of the Gateshead Local Plan

10.  
Should any obvious contaminated soils, (e.g., asbestos, hydrocarbon contaminated, or discoloured soils), be encountered during fence post installation works, then works shall cease immediately, the LPA informed, and updated RAMS produced for the written approval of the LPA.

Reason

To minimise the potential harm arising from ground contamination from historic industrial uses and imported materials in accordance with policies CS14 and MSGP20 of the Gateshead Local Plan

11.

No vegetation clearance works shall be undertaken unless outside the bird nesting season (March to August inclusive). Where this is not possible, a nesting bird checking survey must be undertaken immediately prior (i.e., no more than 48hrs.) to the undertaking of any such works to confirm the presence/absence of nesting birds. Where the presence of nesting birds is confirmed, the nest(s) must remain intact and undisturbed through the provision of a suitably sized buffer/exclusion zone. All survey work and, where required, the establishment of a suitably sized buffer/exclusion zone must be undertaken/determined by a suitably qualified and experienced ecologist in accordance with the appropriate good practice guidelines and industry standards.

Reason

To avoid/minimise adverse impacts on nesting birds in accordance with NPPF and policies CS18 and MSGP37 of the Gateshead Local Plan.

12.

No development, other than the approved vegetation clearance works, shall be undertaken prior to the installation of protective fencing preventing encroachment (including temporary) into areas of existing habitat to be retained within and immediately outwith the red line boundary of the site.

Reason

To avoid/mitigate adverse impacts on retained habitats in accordance with NPPF and policies CS18 and MSGP37 of the Gateshead Local Plan.

13.

Notwithstanding the submitted information, no development shall be undertaken on site until details of the boundary treatments, including any internal fencing required to protect areas of retained/created habitat, have been submitted to and approved in writing by the LPA. The submitted details shall including the following:

- Suitably scaled plan showing the precise position of such features;
- Detailed specification showing dimensions, materials and construction method including the disposal of any arisings;
- Timetable for implementation;

Reason

To avoid adverse impacts on retained/created habitats in accordance with NPPF and policies CS18 and MSGP37 of the Gateshead Local Plan.



14.

The boundary treatments, including internal fencing, shall be installed in accordance with the details/timetable approved under condition 13 and thereafter be maintained for the life of the development.

Reason

To avoid adverse impacts on retained/created habitats in accordance with NPPF and policies CS18 and MSGP37 of the Gateshead Local Plan.

15.

Notwithstanding the approved plans, prior to the commencement of development, details of a biodiversity net gain compensation scheme, including the mechanism(s) for delivery of on and off site measures, which delivers a biodiversity net gain, as demonstrated through application of the Defra metric 3.1, to be delivered on suitable land, and including timescales for delivery, shall be submitted to and approved in writing by the Local Planning Authority.

Reason

To ensure the development achieves measurable biodiversity net gain and improves the local and natural environment in accordance with policies CS18, MSGP36 and MSGP37 of the Local Plan for Gateshead and Part 15 of the NPPF.

16.

The biodiversity net gain compensation scheme approved under condition 15 shall be implemented in full accordance with the approved measures and timescales and maintained thereafter for a minimum of 30 years.

Reason

To ensure the development achieves measurable biodiversity net gain and improves the local and natural environment in accordance with policies CS18, MSGP36 and MSGP37 of the Local Plan for Gateshead and Part 15 of the NPPF.

17.

The development hereby approved shall not be brought into operation until a concise 30-year management plan detailing the maintenance measures to be undertaken in relation to the retained/created habitats on site shall be submitted to and approved in writing by the LPA. The submitted management plan shall include the following:

- Suitably scaled plan identifying onsite retained/created habitats;
- Brief description of retained/created habitats including their conservation value;
- Aims and objectives of management plan;
- List/description of maintenance operations, including timings;
- Maintenance programme capable of being rolled forward every 5 yrs;

- Arrangements for identifying, agreeing and implementing changes to the management plan, including any requirement for remedial measures;
- Persons responsible for ensuring delivery;

Reason

To ensure the value/function of the retained/created habitats on site is adequately maintained in accordance with NPPF and policies CS18 and MSGP37 of the Gateshead Local Plan.

18.

The habitat management plan approved under condition 17 shall be implemented in full for a minimum 30 years.

Reason

To ensure the value/function of the retained/created habitats on site is adequately maintained in accordance with NPPF and policies CS18 and MSGP37 of the Gateshead Local Plan.

19.

Prior to the installation of any security lighting on or around the site, lighting details, positioning and specifications shall be submitted to and approved in writing by the Local Planning Authority.

Reason

To protect residential amenity in accordance with Policy MSGP17 of the Gateshead Local Plan.

20.

Security lighting approved under condition 17 shall be installed only in full accordance with the approved details.

Reason

To protect residential amenity in accordance with Policy MSGP17 of the Gateshead Local Plan.

21.

Once operational, no vehicles larger than transit vans shall access the site at any time.

Reason

In the interests of highway safety given the lack of two-way traffic at the site access for larger vehicles, and their ability to manoeuvre within the site safely in accordance with policies CS13 and MSGP15 of the Gateshead Local Plan

22.

There shall be no outdoor storage of materials at any time.

Reason

In the interests of visual and residential amenity in accordance with policies CS15, MSGP17 and MSGP24 on the Gateshead Local Plan.

23.

The approval hereby granted relates solely to the purposes applied for (B8 use class) and for the storage and distribution of materials as specified in the application for the lifetime of the development, unless a Noise Impact Assessment is otherwise submitted to and approved in writing by the LPA.

Reason

To protect residential amenity in accordance with Policy MSGP17 of the Gateshead Local Plan.



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**Committee Report**

<b>Application No:</b>	<b>DC/23/00739/HHA</b>
<b>Case Officer</b>	<b>Andrew Holmes</b>
<b>Date Application Valid</b>	<b>18 August 2023</b>
<b>Applicant</b>	<b>Mrs Sharon Fearby</b>
<b>Site:</b>	<b>305 Durham Road Gateshead NE9 5AH</b>
<b>Ward:</b>	<b>Low Fell</b>
<b>Proposal:</b>	<b>Retrospective application for detached garage to include loft living space and associated works (amended plans received 16.11.2023)</b>
<b>Recommendation:</b>	<b>GRANT</b>
<b>Application Type</b>	<b>Householder Application</b>

**1.0 The Application:**

**1.1 DESCRIPTION OF SITE**

1.2 The application site is a corner property at 305 Durham Road. The property is located at the junction of Durham Road and Valley Drive. The immediate area is characterised by well-proportioned semi-detached dwellings with vegetation and trees giving a pleasant suburban character to the area.

1.3 At the front of the dwelling there is a garden which wraps around the north and west side of the property. The northern and western boundaries are made up of an approximately 2.3 metre tall hedge planted behind a low red brick wall. There are timber access gates from Valley Drive and an existing dropped kerb which provides access to the driveway which is located at the north eastern part of the site. The host dwelling is semi detached with 307 Durham Road, with an approximately 2.48-metre-high fence separating the properties at the rear. An approximately 1.8 metre high fence forms the eastern boundary with 4 Valley Drive, and an approximately 2.4 metre high fence forms the eastern boundary with 4 Clifton Gardens.

1.4 The site is located in the Deckham/North Low Fell area of Special Character and is outside of any Article 4 areas and the Low Fell Conservation Area which is located on the opposite side of Durham Road.

**1.5 DESCRIPTION OF THE APPLICATION**

1.6 This application proposes the retention of an outbuilding to the rear / side garden of 305 Durham Road. This is a retrospective application as the outbuilding has been built differently to that which was granted planning permission under application reference DC/21/00459/HHA.

- 1.7 The proposed building is largely similar to the approved scheme in terms of layout and footprint but has been constructed 350mm higher than the approved scheme. In addition, the eaves level is higher in places, increasing the wall height and changing the pitch of the roof from what was approved. Additional rooflights and windows have also been installed.
- 1.8 The proposed outbuilding has been built 8.79m back from the highway at Valley Drive. The resulting space to the front of the outbuilding provides a driveway. The outbuilding has been built to a width of 7.26 metres, a depth 11.4 metres, height to eaves of 2.88 metres at the northern side of the building, an eaves height of 3.37 metres to the rest of the outbuilding and a height to ridge of 5.69 metres.
- 1.9 The ground floor of the outbuilding is served by two timber garage doors which would provide access to a large garage at the ground floor level. At the first floor level the outbuilding would have a loft living space, which would accommodate a living area, a bedroom and bathroom / ensuite. The loft living space would be occupied ancillary to the main use of the dwelling house. The external access stairs have not yet been installed, but the intention would be that this loft living space would be accessed from an external staircase which would be sited at the southern façade of the outbuilding and would be accessed from a door at first floor level. Planning application DC/21/00459/HHA granted the siting of an external staircase on the southern elevation of the outbuilding, with a first floor door providing access to the loft living space. The amended plan received on 16.11.2023 show a staircase at the same location as the one approved in 2021, with the platform heights for the two landing areas at the same height as the approved staircase. However, the proposed staircase would now have an 180 millimetres step up into loft living space.
- 1.10 The outbuilding abuts the boundaries with 4 Valley Drive and 2 Clifton Gardens to the east. The outbuilding is be sited 5.95 metres from the southern boundary with the neighbour at 307 Durham Road. The proposed staircase which would access the loft living space of the outbuilding would abut the boundary with 4 Clifton Gardens and would be sited 3.89 metres from the southern boundary with 307 Durham Road.
- 1.11 This planning application seeks consent for the scale and design of the building (as described above at 1.7) which has been constructed on site. Amended plans have also been received. If planning permission is granted, these are further physical alterations that would be made to the outbuilding:
- The wooden cladding of the building is to be painted a reddish / brown
  - The staircase has been altered with the two landing areas now being at the same height as the staircase approved under application DC/21/00459/HHA
  - The door on the southern elevation which would provide access to the loft living space would be a solid door with no windows.

#### 1.11 RELEVANT PLANNING HISTORY

- 1.12 DC/21/00459/HHA - Detached double garage to rear, redeveloped to extend and include loft living space. (Amended description and plans rec'd 01.06.21). GRANT - 03.08.2021
- 1.13 DC/23/00523/HNMA - With reference to the North and West Elevation, would like to include Ground floor additional window - Near garage door entrance - homeowner garden facing: Size 2500 x 1000 Ground floor door access - Near window homeowner facing for access: Size 2070 x 9010. APPLICATION RETURNED - 13.07.2023

## **2.0 Consultation Responses:**

None.

## **3.0 Representations:**

- 3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015. Following the receipt of amended plans on 16.11.2023 neighbours have been re-notified.
- 3.2 Following the first round of publicity, 4 letters of objection had been received as well as a petition submitted by the applicant which contains 6 comments of "no objection". There have been no representations received in response to the amended plans.
- 3.3 The 4 objections received regarding the originally submitted application from local residents are made on the following grounds:
- Concern with the size of the entrance door on the south elevation which harms neighbouring privacy to garden and windows
  - Outbuilding more like a two storey building than a garage with a roof space
  - Concerns with the consultation on the original planning application in 2021
  - Comments of "no objection" are from properties not affected by the doorway on the southern elevation
  - Stairs and access from southern elevation would be harmful to privacy and would affect the use of gardens
  - Concern with the impact that the development would have on property values
  - Development would have to comply with local building regulations and planning policy
  - Request to move the stairs to another side of the building, or to internalise them
  - Concerns with the height of the outbuilding
  - Not in keeping with the character of the area
  - The access door on the southern elevation harms privacy to rear garden and bedroom
  - Concern in relation to the door installed on the southern elevation being uPVC and not a solid wood door as approved under the previous planning application DC21/00459/HHA.

3.4 6 people have signed a petition of no objection, including Councillor Duggan. The other 5 signatures are from local residents.

#### 4.0 **Policies:**

HAESPD Householder Alterations- Extensions SPD

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP

MSGP24 Design Quality

#### 5.0 **Assessment of the Proposal:**

5.1 The main planning issues are considered to be the impact of the proposal on the character of and appearance area of special character, the impact on the living conditions of occupiers of adjacent properties and if the proposal raises any highway safety issues.

#### 5.2 IMPACT ON THE CHARACTER AND APPEARANCE OF THE AREA

5.3 The site is located within an Area of Special Character. Gateshead's Placemaking SPD contains further information and describes the sub area Deckham/ north Low Fell as follows: "The large 1920s/30s houses and their gardens between Ashtrees Gardens and Durham Road are distinctive and particularly worthy of protection. A combination of features contributes to the special character, including individual house designs and relatively large gardens containing mature trees". To support the conservation of the area, the SPD design guidance section suggests that inappropriate boundary treatments and front extensions which would damage the consistency of character of pedestrian streets should be discouraged, and that new development should have regard to the existing character and materials of the various distinct parts of the area.

5.4 The proposed development is located within the residential garden of 305 Durham Road, which is a well-proportioned semi-detached dwelling sited at



the corner of Durham Road and Valley Drive. The site is a corner plot, with mature hedge planting to part of its northern boundary and western boundary. This hedge is of approximately 2.3 metres in height. At the eastern side and southern sides of the site are fenced boundaries. The fence between the host dwelling at 4 Valley Drive has an approximate height of 1.8 metres, the fence between the host dwelling and the neighbour at 307 Durham Road has an approximate height of 2.48 metres and a height.

- 5.5 The proposed outbuilding replaces a smaller pitched roof garage at the site. This had an overall foot print of 33.19 square meters and had a height of 3.5 metres. Permission was not required for the demolition of that garage.
- 5.6 The proposed outbuilding is sited 8.79 metres from the northern boundary of the plot with Valley Drive. From Valley Drive, apart from the height of the outbuilding, the development is similar in appearance and materials to the one approved under planning application DC/21/00459/HHA. The only notable difference from this public viewpoint is the addition of two rooflights to the front roof slope of the development.
- 5.7 The western façade of the outbuilding would also be partially visible from Valley Drive and as you turn onto Durham Road. Again, this is similar in appearance to the building approved under planning application reference DC/21/00459/HHA with the notable difference being the building submitted as part of this planning application is 0.35 metres taller at ridge height as has an eaves height 0.95 metres to the southern projection. A double window is also present on the western façade which differs from the approved plans.
- 5.8 Overall, the building is visible within the street scene from Durham Road and Valley Drive. It is noted that there is a level change between Durham Road and Valley Drive with Valley Drive rising upward to the north east from Durham Road. The outbuilding would be viewed alongside the height and mass of the host dwelling at 305 Durham Road which has a height of 8.41 metres, and with the neighbouring dwelling at 4 Valley Drive. That neighbouring dwelling, which is of approximately the same height as the host dwelling, is sited at a higher land level to the application site.
- 5.9 Considering the height difference and land level difference between the outbuilding and neighbouring dwellings, it is not considered that the height of the proposal would be visually dominant or harmful at this location. From Durham Road, the western façade of the outbuilding currently appears more prominent given the grey timber cladding. However, amendments have been agreed to the colour of the cladding to make it a reddish / brown which could be controlled by condition should permission be granted. Amended plans have also been submitted to highlight this change.
- 5.10 Taking into account the Placemaking SPD and the design guidance suggestions for the Deckham / north Low Fell sub area (as outlined at 5.3), it is considered that the development would not break any building lines or remove spaciousness from the corner plot due to its set back from the highway, would be of a design and material palette to complement the character of the sub area.

- 5.11 As such, when viewed in context with the surrounding dwelling and garages, such as the one at the side of 4 Valley Drive, it is considered that, once re-coloured, the proposed outbuilding would assimilate into its setting and the impact of the scale of the proposal would be appropriate.
- 5.12 Considering the above, and subject to the repainting of the outbuilding, it is considered that the proposed outbuilding is of scale, mass, design and siting to not harm the character of the street scene or the host dwelling and the application complies with Policies CS15, MSGP23 and MSGP 24, the NPPG and NPPF.
- 5.13 IMPACT ON RESIDENTIAL AMENITY
- 5.14 The outbuilding is sited approximately 50 metres from the neighbouring dwelling to the north at 303 Durham Road. At this distance the proposed outbuilding would not result in any harm to the outlook, light or privacy of that neighbour.
- 5.15 The outbuilding would be sited approximately 50 metres from the neighbouring dwelling to the west at Brantome. At this distance the proposed outbuilding would not result in any harm to the outlook, light or privacy of that neighbour.
- 5.16 To the north east of the siting of the outbuilding is the neighbouring dwelling at 4 Valley Drive. That neighbour has a garage which is sited 8.32 metres from the front corner of the outbuilding and would be approximately 9.6 metres from a side facing habitable room window at the neighbouring property. At this distance it is considered that the proposed outbuilding would not harm the light, outlook and privacy of that room which is also served by a rear south east facing window which would be unaffected by the development.
- 5.17 The outbuilding would be sited 14.86 metres from the rear of 2 Clifton Gardens. There is a level change between the two dwellings, with the neighbours at 2 Clifton Gardens at a higher land level than the proposed outbuilding. Considering the distance between the rear habitable part that neighbouring dwelling and the level changes, it is considered that the proposed development would not harm the light, outlook or privacy of those neighbours.
- 5.18 The proposed development would shadow part of that garden towards the end of the day given that is to the west of the neighbour. However significant parts of garden would not be affected, and it is considered that the development would not result in harm to the outlook or use of the garden space.
- 5.19 The stepped access to the loft living space would be partly visible from the rear of 2 Clifton Gardens but would be sited off centre from vistas from habitable rooms and would be screened by the building itself, and established shrubbery and trees. Considering this, it is considered that the proposed stair access to the loft living space would not harm the light, outlook or privacy of that neighbour.
- 5.20 From the adjacent 4 Clifton Gardens the massing and bulk of the outbuilding is sited to the north west. The staircase at the southern façade, which would

provide access to the loft living space, would abut the boundary with 4 Clifton Gardens and is in the same location as the staircase originally approved in 2021. That staircase would have had two platform areas, one lower one directly adjacent to the boundary with 4 Clifton Gardens, and then the first floor platform which provides access to the doorway of the loft living space. Due to the increase in the height of the first-floor doorway into the loft living space by 250 millimetres, the plans originally submitted for consideration as part of this application showed a lower landing 0.63 metres higher than originally approved in 2021, and an upper landing area 0.44 metres higher. There were concerns with the impact that the increased height of the landing areas, in particularly the lower platform adjacent to the boundary with that neighbour, would have on the privacy of that neighbour.

- 5.21 Amendments have been made to the proposed staircase. The result of these amendments is that the proposed platforms for the staircase are now at the same height as the landings approved under the planning approval from 2021, with a step up of approximately 180 millimetres from the upper landing area into the loft living space.
- 5.22 The proposed staircase would be approximately 14.5 metres from the nearest rear ground floor habitable windows of that neighbour, who have a raised deck / veranda to the rear of their dwelling which projects approximately 5.6 metres rear of their dwelling.
- 5.23 The 2021 planning application did approve at the southern facade as well as a staircase at a similar siting to the one proposed as part of this application. The increase in height of the eaves and first floor level of the loft living space has resulted in the doorway threshold into the loft living space being 250 millimetres higher than the doorway approved through the 2021 planning application. However, the staircase would have the same lower and upper landing heights as the staircase approved at the same location in the 2021 planning application. This would mean that there would not be any additional overlooking from the staircase than the staircase that was approved in 2021. On balance, taking account of the distance between the siting of the staircase and the habitable space at 4 Clifton Gardens, users of the staircase would not harmfully overlook that neighbour. The staircase would be sited adjacent to the boundary. At this point the boundary fence between the dwellings has a height of 2.4 metres.
- 5.24 The Householder Alterations and Extensions SPD outlines the following in relation to the design of outbuildings "Not have an adverse impact on the amenity of the surrounding properties in terms of noise and disturbance created through access or overlooking and/ or overshadowing of an existing property". Taking account of the distance between the staircase and the habitable space, it is not considered that the proposed staircase would lead to noise and disturbance created through the use of the stair, and would not significantly impact on privacy and overlooking. The set back of the upper landing area is approximately 2.5 metres from the boundary. At this distance and considering the relationship with the existing fencing, the users of the landing would not harmfully overlook the garden of the neighbours. The distance between the lower landing area and the top of the fence is approximately 1 metre. At the same level as the previously

approved lower platform from 2021, it is not considered that this would lead to a significant degree of overlooking to harm the neighbours' privacy. This is considered to be compliant with the Householder Alterations and Extensions SPD, as well as Policy CS14 of the Core Strategy and MSGP17 of Making Spaces for Growing Places.

- 5.25 The outbuilding would be sited 7.58 metres from the rear conservatory / extension which has been erected at 307 Durham Road. This conservatory provides the main outlook and light in the kitchen / diner at the rear of that dwelling with a secondary window sited further from the boundary which also serves this habitable space. The conservatory has a solid wall construction on the north side, with glazing on the eastern side, and a transparent glazed roof. The glazed roof of the neighbouring conservatory allows partial views of the southern façade of the outbuilding, the access door and staircase. On balance, whilst the increased the height of the ridge and eaves of the building has increased in height from the originally approved submission in 2021, given that the outbuilding is to the north of no. 307, it is not considered that the proposed outbuilding would result in a harmful loss of light to that neighbour. The increased height of the doorway threshold would be more prominent than originally approved but the installation of a solid, rather than a glazed door, as shown on the amended plans, would ensure that there would not be any direct overlooking from the loft living space to that neighbour.
- 5.26 It is however, acknowledged that external lighting might be required, to provide security for the outbuilding and ensure the safe use of the stairs in times of low natural light. It is therefore recommended that a condition is imposed to require that any external lights on, or for the outbuilding are installed in such a way and/or measures taken to prevent light spillage beyond the site boundary.
- 5.27 On balance, and subject to the conditions outlined above, it is considered that the proposed development would have an acceptable impact on the light, outlook and privacy of neighbours to comply with the guidance set out in the Householder Alterations and Extensions SPD, as well as Policy CS14 of the Core Strategy and MSGP17 of Making Spaces for Growing Places.
- 5.28 TRANSPORT
- 5.29 The proposal would result in the over provision of parking based on the Council's parking standards. However, this has historically been the case at this property and this proposal would not worsen this situation. As such, the proposal is considered acceptable from a transport point of view and accords with the aims and objectives of the NPPF and policies CS13 and MSGP15 of the Council's Local Plan.
- 5.30 OTHER ISSUES
- 5.31 Other issues have been raised in comments from local residents, such as impact on property values. However, these are not considered to be material planning considerations.

5.32 CIL

5.33 On 01 January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule. The site is located within Residential Zone C. The charge for new residential floorspace with Zone C is £0.

## **6.0 CONCLUSION**

6.1 Taking all the relevant issues into account, including all the comments made in support and objection to the proposal, it is considered on balance that the proposed outbuilding would have an acceptable impact on the visual amenity of the area, and on the light, outlook and privacy of neighbours. The development is considered to comply with the NPPF, policies CS14, CS15 of the Core Strategy and Urban Core Plan and MSCP15, MSGP17 and MSGP23, MSGP24 of the Local Plan for Gateshead, the Householder Alterations and Extension Supplementary Planning Document (HAESPD) and Placemaking (SPD).

## **7.0 Recommendation:**

That permission be GRANTED subject to the following condition(s) and that the Service Director of Climate Change, Compliance, Planning and Transport be authorised to add, vary and amend the planning conditions as necessary

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -  
BC\_00\_03 Rev.5 Proposed Site Plan  
BC\_00\_05 Rev. 5 Proposed Roof Plan  
BC\_00\_06 Rev.7 Proposed South and East Elevations  
BC\_00\_06 Rev.7 Proposed North and West Elevations

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

3

The development hereby permitted shall be constructed entirely of the materials detailed on:

BC\_00\_03 Rev.5 Proposed Site Plan

BC\_00\_05 Rev. 5 Proposed Roof Plan

BC\_00\_06 Rev.7 Proposed South and East Elevations

BC\_00\_06 Rev.7 Proposed North and West Elevations

For the avoidance of doubt, the door to be installed at first floor level on the south elevation shall be of solid construction, without incorporating any glazing.

Reason

To ensure that the external appearance of the development is of an appropriate design and quality and in the interests of residential amenity in accordance with the NPPF and policies CS15, MSGP17 and MSGP24 of the Local Plan for Gateshead.

4

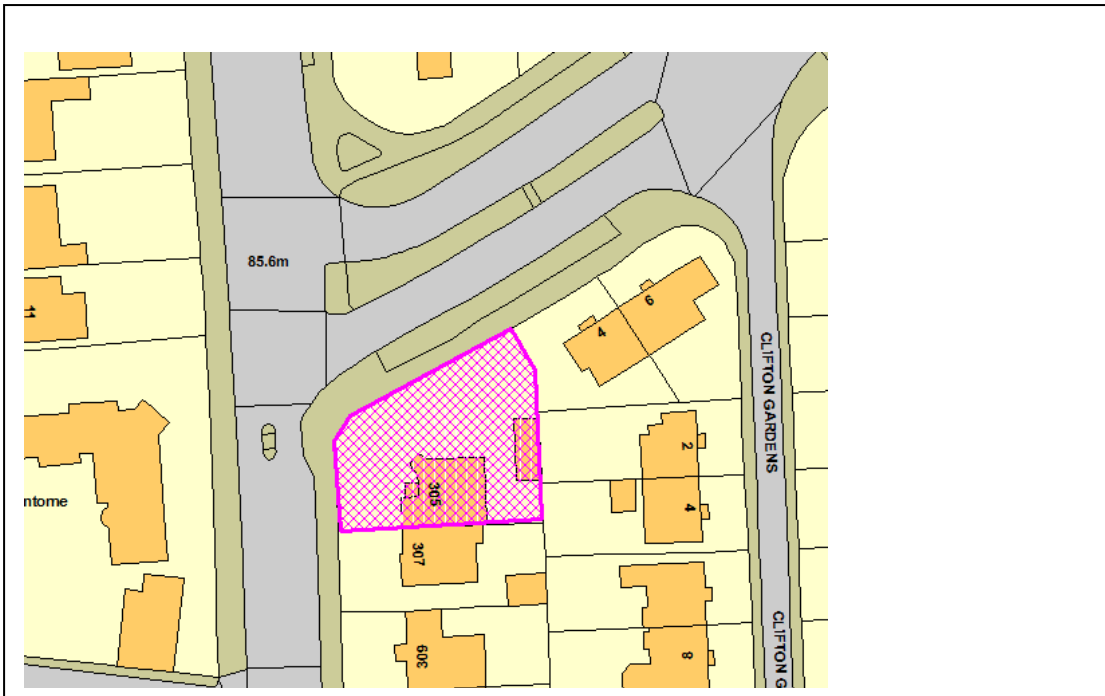
Notwithstanding the information on the submitted plans, details of the paint colour to be used for the painting of the cladding of the building shall be submitted and approved in writing by Local Planning Authority before the painting is carried out. Thereafter, the development shall be delivered in accordance with the approved details.

Reason: To safeguard the visual amenity of the area, in accordance with Policy CS15 of the Core Strategy, MSGP24 of Making Spaces for Growing Places and NPPF.

5

No external lighting shall be fixed to, or installed in order to illuminate the outbuilding, without measures being taken to prevent light spillage beyond the site boundary. All such external lighting shall be retained in a way that prevents light spillage beyond the site boundary.

Reason: To safeguard the residential amenity of neighbouring properties, in accordance with Policy CS15 of the Core Strategy, MSGP17 of Making Spaces for Growing Places and NPPF.



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REPORT NO 3

**Committee Report**

<b>Application No:</b>	<b>DC/23/00757/FUL</b>
<b>Case Officer</b>	<b>Josh Kenolty</b>
<b>Date Application Valid</b>	<b>13 September 2023</b>
<b>Applicant</b>	<b>Malhotra Group Plc</b>
<b>Site:</b>	<b>The Runhead Holburn Lane Ryton NE40 3HJ</b>
<b>Ward:</b>	<b>Ryton Crookhill and Stella</b>
<b>Proposal:</b>	<b>Extension of current temporary approval (ref. DC/22/00182/FUL) for 1 year for the retention of Tipi within the beer garden, 1no. timber clad container and associated decked area.</b>
<b>Recommendation:</b>	<b>Grant Temporary Permission</b>
<b>Application Type</b>	<b>Full Application</b>

**1. The Application:**

**1.1 DESCRIPTION OF THE SITE**

The application site is broadly triangular in shape. The Runhead public house building occupies much of the site and is predominantly single-storey, with a two-storey element. In terms of external finish, white render has been used across the external elevations, along with roof tiles for the roof at single-storey level and a light green pitched roof to complete the two-storey building. A car park and servicing area make up the northern portion of the site. External seating for patrons is found along the west and south elevations of the premises.

1.2 Vehicular access into the site is from Holburn Lane which runs along the eastern boundary. Along the southern boundary of the site runs the B6317. Immediately adjacent to the western boundary are the rear gardens of residential properties along The Meadows. To the north, the gable elevations of properties along Holburn Lane bound the site.

**1.3 DESCRIPTION OF APPLICATION**

A temporary planning consent was granted by Planning Committee in August 2022 for the retention of a tipi, including a timber decked area, within the external drinking area to the west of the pub building and the continued siting of a timber clad container. The permission was implemented, and this application seeks to retain the development on a further 12-month temporary basis. No changes are proposed to the layout, as approved.

1.4 The tipi is a light beige/brown canvas construction and has two peaks with a maximum height of approximately 7.4m, which tapers down to a

central covered area. The tipi is approximately 22.3m long. Within the tipi is a seating area for patrons of the pub and a bar. The capacity of the tipi is 50 people. The timber decked area around the tipi measures to approximately 18cm in height.

1.5 The associated container is sited against the southern boundary of the site. The container is clad in timber and is approximately 2.6m in height, 2.4m deep and 12.1m in length. In terms of external finish, the container would be clad in timber. It is used primarily for the storage of garden furniture and goods used within the tipi.

#### 1.6 PLANNING HISTORY

Planning permission was granted for a 12-month temporary consent by Planning Committee in August 2022 under application reference DC/22/00182/FUL for the retention of the tipi within the beer garden, including 1no. timber clad container and associated decked area. The application included amended details of external lighting and the heating method for the tipi, in order to better protect residential amenity.

1.7 Prior to this, planning permission was previously granted for a 12-month temporary consent by Planning Committee in April 2021, under application reference: DC/21/00069/FUL, for the proposed erection of a tipi within the beer garden of the public house, the installation of 1no. timber clad container, and an associated decked area. As detailed within the minutes of the committee meeting, The Vice Chair requested that if a future application is made to renew this temporary consent, that it would be determined by Planning and Development Committee and not under powers delegated to officers. This was agreed by Members.

1.8 Planning permission was granted on a 12-month temporary basis by Planning Committee in December 2020, under application reference: DC/20/00161/FUL, for the same development, comprising the proposed erection of a tipi within the beer garden of the public house, the installation of 1no. timber clad container, and an associated decked area. However, due to Covid-19 restrictions in place around this time, the permission was never fully implemented.

## 2. Consultation Responses

Northumbria Police: No comments received.

## 3. Representations

3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015, which included the display of a site notice.

3.2 A representation of objection to the application has been made by Ward Councillor Buckley, which raises the following matters:

- It is highly unusual for a planning application to be granted repeated temporary permissions. I see no reason why this should be an exception.
- The rationale behind these tipis being installed was the COVID pandemic, all legal restrictions have now been removed so this justification no longer exists.
- The pub already generates significant noise, these tipis are adding to this nuisance and impacting on residents enjoyment of their properties.
- The tipis are having a visual impact on the environment, they are by their nature temporary structures and are beginning to look tired and past their best.

3.3 A further 4 representations of objection have been received (two of which are from the occupiers of the same property) which raise the following matters:

- The Beer Garden alone generates high levels of noise, often until closing time . Does this not run counter to the to the noise control plan the Runhead should be monitoring?
- Noise nuisance generated
- Added noise and traffic from the tipis spoil enjoyment of garden and house
- Extra noise generated before during and after an event, preparation noise, excessive noise sometimes during event then the subsequent car park noise etc.
- Very noisy compressor for hours every day for a week jet washing these
- Eyesore
- The tipis and the awful garden sheds they have for people to sit in and drink don't fit in with the local environment which is a residential area

#### **4. Policies**

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP18 Noise

MSGP24 Design Quality

**5. Assessment of the proposal**

- 5.1 The key issues to be assessed in the determination of this planning application are considered to be visual amenity and residential amenity impacts, and highway safety.
- 5.2 VISUAL AMENITY  
Dwellinghouses Local Plan Policy MSGP24 (Design Quality) makes clear that the design quality of proposals will be assessed with regard to the following criteria:
- a) The proposal's compatibility with local character including relationship to existing townscape and frontages, scale, height, massing, proportions and form;
  - b) Layout and access;
  - c) Space between buildings and relationship to the public realm;
  - d) Detailing and materials, and;
  - e) The use of a high-quality landscaping scheme, structural landscaping and boundary treatment to enhance the setting of any development.
- 5.3 The tipi is set within the curtilage of the pub. In terms of the design of the tipi, it comprises fabric stretched over a frame to create two peaks which resemble a pyramid shape, along with a central covered area which is lower in height. The open face of the tipi fronts the side elevation of the pub. Internally, it benefits from a bar, as well as furniture for patrons.
- 5.4 A hedge runs along the southern boundary of the pub site, whilst the south-west and western boundary is characterised by mature tree coverage. As a result, the tipi benefits from screening which reduces its prominence, but is still visible from the public road.
- 5.5 In terms of materials and appearance, the tipi canvas is a light beige/brown colour, which is considered to be sympathetic to the tree coverage on site and the white render used to finish the two-storey element of the pub building. Seen within the context of the larger pub building, and taking into account the existing commercial use of the site, it is not considered that it appears out of character within its surroundings.
- 5.6 The associated storage container is sited against the southern boundary of the site. The container is approximately 2.6m in height and benefits from screening by the hedge which runs along the southern boundary. Notwithstanding the screening, the container is clad in timber which is considered to both soften its appearance and complement the tree coverage on site.
- 5.7 With regards to the timber decking, due to its position and low height, it is not widely visible from outside of the site. This is also taking into account the level of screening provided by the hedgerow along the

southern boundary, the tree line along the western boundary, and the massing of the existing pub to the east. As such, the decking is considered to be acceptable in terms of visual amenity impact.

- 5.8 Taking the above into account, Officers consider that the development complies with the aims and objectives of the NPPF and policies CS15 and MSGP24 of the Local Plan for Gateshead.
- 5.9 **RESIDENTIAL AMENITY**  
Policy MSGP 17 (Residential amenity) of the Local Plan makes clear that development will be required to provide a high-quality environment and a good standard of amenity for existing and future occupants of land and buildings. In connection with this, Policy MSGP 18 (Noise) advises that noise-sensitive development will be assessed for its compatibility with existing land uses and activities.
- 5.10 Objections received in relation to this application raise concerns with regard to increased noise and disturbance resulting from the activities of patrons, music being played, events being held and the method of cleaning the tipi. Concerns have also been raised in relation to privacy loss and general amenity impacts.
- 5.11 As constructed, the tipi is located between 4-5m from the western boundary of the site. The rear elevations of nearest properties along The Meadows are located a further 10-15m back from this boundary. The entrance to the tipi faces the pub rather than these dwellings, with the fabric canopy of the tipi also tapering down towards the western boundary, providing some reduction in noise for residents.
- 5.12 In terms of the external decked area, based on its limited height above ground level and position within the site, it has not resulted in an unacceptable loss of privacy for the occupiers of the nearest residential dwellings, or provided increased opportunities for overlooking.
- 5.13 With regards to the method of heating the tipis, internal patio style heaters were installed under the previous temporary permission (as shown on the submitted site plan), which are silent in operation. Officers are satisfied that this method of heating is acceptable and limits the level of noise generated by the development. A planning condition is proposed restricting the method of heating to that shown on the submitted plans.
- 5.14 Amended plans were submitted as part of the previous planning application reducing the amount of festoon lighting used in connection with the tipi, with the lighting reduced to the area between the tipi and the side elevation of the pub building. Officers considered that this new layout satisfactorily reduces the impact of the external lighting of the development on the occupiers of neighbouring dwellings.
- 5.15 A planning condition is proposed which seeks to maintain this lighting layout for the duration of the development, in the interests of protecting

the nearest residential properties through glare or light spillage from the operation of the tipi.

- 5.16 Furthermore, in the interests of preserving the amenity of neighbouring residents from unacceptable noise and disturbance (particularly during quieter early morning or evening times), a condition is recommended to prevent the tipi being used by the public between the hours of 22:00 and 08:00; and a condition is proposed requiring the development to be managed in full accordance with the Noise Management Plan submitted to accompany this planning application.
- 5.17 Having regard to the proximity of the closest residential dwellings to the site, a condition is recommended preventing any live entertainment, or amplified sound system or similar equipment being installed or used within the tipi (or associated container) at any time, in order to protect the amenity of occupiers from unacceptable levels of noise or disturbance.
- 5.18 While the issue of the jet washers used for the cleaning the tipis was reviewed by Officers, it is not something that is carried out frequently or excessively noisy enough to warrant the refusal of the application on noise grounds. Similar cleaning activities could be carried out within the curtilage of the pub site without restriction.
- 5.19 It is noted that no complaints have been received by Gateshead Council's Environmental Protection Team over the previous 12 months about any of the noise issues raised by objectors to this application. Furthermore, no complaints have been logged with the Council's Planning Enforcement Team in relation to the operation of the site over the previous 12 months.
- 5.20 Under section 72 of the Town and Country Planning Act 1990 the Local Planning Authority may grant planning permission for a specified temporary period only. The Government's National Planning Practice Guidance (NPPG) makes clear that circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area. The NPPG does advise that it will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale).
- 5.21 Justification for the further temporary consent has been provided by the agent for the application. It is stated by the agent that the tipis add a degree of diversity to the venue and the provisions that are offered, which assists in ensuring the viable operation of the business, especially when the current economic situation is challenging, in particular for the Food & Beverage industry.
- 5.22 It is acknowledged that this would represent the fourth 12-month temporary consent granted for the development. However, the initial 12-

month permission granted in December 2020 was never implemented due to covid-19 restrictions in place around this time.

- 5.23 Similarly, the 12-month extension granted in April 2021 still remained subject to Covid restrictions in place at that time. At the Planning Committee to approve this application, it was also agreed by members that any future application to extend the time limit of the permission, should be determined by Planning Committee.
- 5.24 The subsequent application to extend the time limit for the development, granted by Planning Committee in August 2022, included changes to the lighting layout and the method of heating the tipi. These changes were made in order to address impacts on local residents and prevent harm to their amenity through reducing light spillage and noise generation from the ongoing use of the structure by patrons.
- 5.25 As such, this has been the first full year of the operation of the tipi following these improvements being granted temporary permission. The applicant is seeking a further 12-month temporary permission on this basis.
- 5.26 Taking into account the changing circumstances at the site including previous covid-19 restrictions, as well as the current economic climate and the need to ensure the viable operation of the business, it is considered be reasonable and justifiable to grant a further temporary 1-year permission in this instance.
- 5.27 Subject to the imposition of the above conditions to limit the operation of the tipi, including the imposition of a 12-month temporary consent, it is considered that the development is acceptable in terms of its impact upon residential amenity, and would accord with the aims and objectives of the NPPF and policies CS14, MSGP17 and MSGP18 of the Local Plan for Gateshead.
- 5.28 **HIGHWAY CAPACITY AND ROAD SAFETY**  
Local Plan Policy MSGP15 of the Local Plan states that development will be required to not have an unacceptable impact on the safe operation of the transport network, or a severe residual cumulative impact on the efficient operation of the road network, or levels of congestion.
- 5.29 The application proposes no changes to the existing access or parking layout of the pub, while no change is proposed to waste storage arrangements at the site.
- 5.30 As detailed within the submitted Noise Management Plan, the capacity of the tipi is limited to 50 patrons. However, it is considered that the development would not result in an additional 50 trips to the pub at any one time, as it could reasonably be assumed that some existing customers of the pub use the tipi.

- 5.31 Furthermore, the application site is considered to be within a sustainable area, approximately 350m from Ryton local centre to the west, and close to a large residential catchment area where it could also be assumed that patrons of the pub could walk to. Bus stops are also located in proximity of the site.
- 5.32 Notwithstanding the above, concerns have been raised by local residents regarding traffic and parking impacts on the surrounding streets, as a result of customers using the Runhead. Officers have liaised with the council's Network Management Team and they have not been made aware of any car parking related issues over the previous 12 months, specifically as a result of the tipi.
- 5.33 It is therefore considered that a temporary 12-month permission would be acceptable, as the operation of the tipi has not resulted in an unacceptable impact on highway capacity or highway safety, complying with the NPPF and policies CS13 and MSGP15 of the Local Plan for Gateshead.

## **6. CONCLUSION**

- 6.1 Taking all the relevant issues into account, it is therefore recommended that planning permission be granted on a temporary 12-month basis, subject to suitable conditions. It is considered that the development complies with national and local planning policies and the recommendation is made taking into account all material planning considerations including the information submitted by the applicant and third parties.

## **7. Recommendation**

That permission be granted subject to the following condition(s) and that the Strategic Director of Climate Change, Compliance, Planning and Transport be authorised to add, vary and amend the planning conditions as necessary:

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below -

- Drawing Number 100 Site Location Plan
- Drawing Number 102/P6 Proposed Site Plan
- Drawing Number 300/P5 Proposed Elevations

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.



#### Reason

In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

The consent hereby granted shall be for a limited period only of 1 year from the date of the decision. On the expiration of this period, the use of the tipi and container shall cease. The tipi, container and decking shall be removed and the site returned to its former condition within three months of the date of expiry.

#### Reason

The development is not considered to be suitable for a permanent permission and to ensure that site is restored to its former condition in the interests of residential and visual amenity in accordance with NPPF and policies CS14, CS15, MSGP18 and MSGP24 of the Local Plan for Gateshead.

3

The development hereby approved shall be managed in complete accordance with the submitted Noise Management Plan 'Document reference number: NMP01/8673.1F Revision: F', dated: 1 August 2022.

If at any time the Noise Management Plan cannot be complied with, the use of the whole development hereby approved shall cease immediately, and the use shall not recommence until compliance with the Noise Management Plan is possible.

#### Reason

To ensure that measures and operating policies are in place to protect the residential amenity of nearby properties in accordance with the NPPF and policies CS14, MSGP17 and MSGP18 of the Local Plan for Gateshead.

4

The development hereby approved shall not be used by the public between the hours of 22:00 and 08:00.

#### Reason

To ensure that the use would not result in an unacceptable level of noise/disturbance to neighbouring properties, in accordance with NPPF and policies CS14, MSGP17 and MSGP18 of the Local Plan for Gateshead.

5

The method of heating the tipi and container shall be restricted to the internal silent operation patio heaters only as detailed on the approved plan reference 'Drawing Number 102/P6 Proposed Site Plan', and fully maintained as such for the duration of the development.

Reason

To ensure that the use would not result in an unacceptable level of noise/disturbance to neighbouring properties, in accordance with NPPF and policies CS14, MSGP17 and MSGP18 of the Local Plan for Gateshead.

6

The external lighting layout related to the use of the tipi and container, including illumination of the route to and from the tipi and/or container, security and decorative lighting (except for any lights to be installed inside the tipi and container), shall be fully maintained in accordance with the layout as detailed on the approved plan 'Drawing Number 102/P6 Proposed Site Plan' for the duration of the development.

Reason

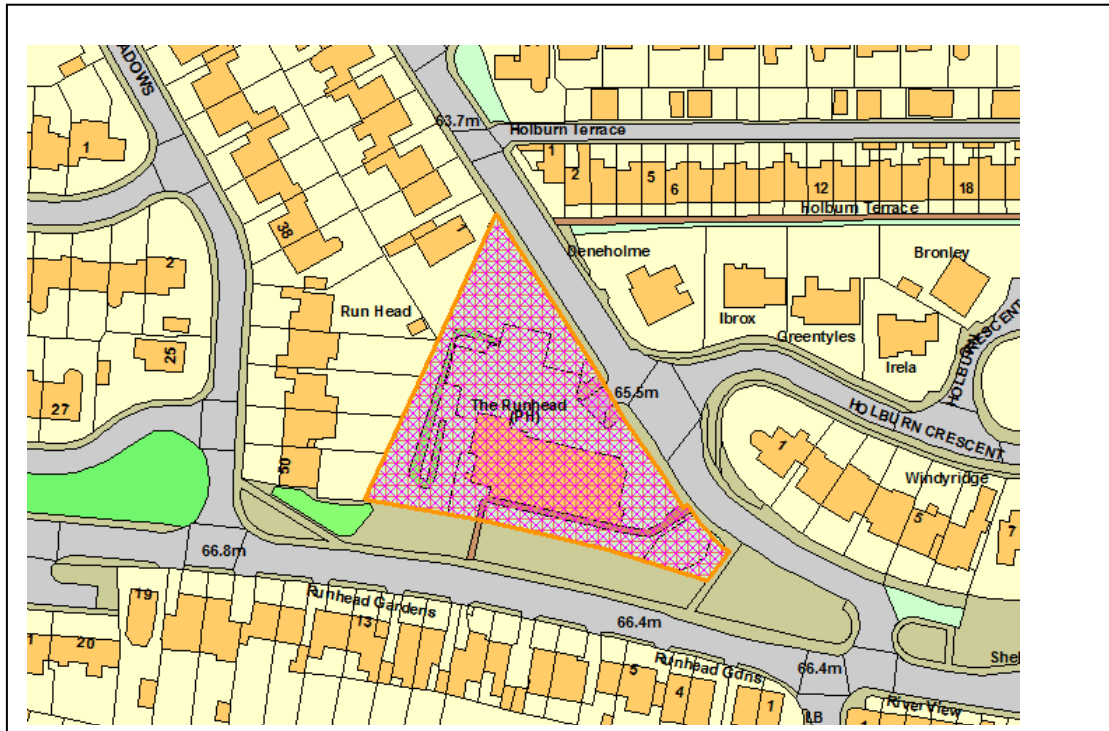
In the interest of residential amenity to accord with the NPPF and policies CS14 and MSGP17 of the Local Plan for Gateshead.

7

No live entertainment, amplified sound system or similar equipment associated with the development hereby approved shall be installed or used within the tipi or container at any time.

Reason

To ensure that the use would not result in an unacceptable level of noise/disturbance to neighbouring properties, in accordance with NPPF and policies CS14, MSGP17 and MSGP18 of the Local Plan for Gateshead.



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## REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

06<sup>th</sup> December 2023

**TITLE OF REPORT:** Enforcement Team Activity

**REPORT OF:** Anneliese Hutchinson, Service Director – Climate Change, Compliance, Planning and Transport

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### Purpose of the Report

- To advise the Committee of the activity of the Enforcement Team since the last Committee meeting.

### Background

- The Enforcement team deal with proactive and reactive investigations in relation to Planning, Highway and Waste related matters.

### Recommendations

- It is recommended that the Committee note the report.

Within the date range commencing 19.10.2023 and ending 21.11.2023 the enforcement team has received 135 new service requests. The enforcement team currently has 634 cases under investigation.

TYPE OF SERVICE REQUEST	NEW SERVICE REQUESTS RECEIVED	CASES ALLOCATED TO OFFICER	CASES RESOLVED	UNDER INVESTIGATION	PENDING PROSECUTIONS	FPN ISSUED	CAUTION ISSUED	REFERAL TO OTHER AGENCY
Planning	19	19	49	245	0			
Empty/vacant properties & sites	18	18	8	126	0			
Highways	26	19	44	152	0			
Abandoned vehicles	46	46	54	6	0			

<b>Waste investigations</b>	26	19	71	105	2	3	1	1
<b>TOTALS</b>	<b>135</b>	<b>121</b>	<b>226</b>	<b>634</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>1</b>

**COURT HEARINGS**

No court hearings have occurred in this period.



**REPORT TO PLANNING AND DEVELOPMENT  
COMMITTEE**

**06<sup>th</sup> December 2023**

**TITLE OF REPORT:** Enforcement Action

**REPORT OF:** Anneliese Hutchinson, Service Director – Climate Change, Compliance, Planning and Transport

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**Purpose of the Report**

1. To advise the Committee of the progress of enforcement action previously authorised by the Committee.

**Background**

2. The properties, which are the subject of enforcement action and their current status, are set out in Appendix 2.

**Recommendations**

3. It is recommended that the Committee note the report.

**1. FINANCIAL IMPLICATIONS**

Nil.

**2. RISK MANAGEMENT IMPLICATIONS**

Nil.

**3. HUMAN RESOURCES IMPLICATIONS**

Nil.

**4. EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**5. CRIME AND DISORDER IMPLICATIONS**

Nil.

**6. SUSTAINABILITY IMPLICATIONS**

Nil.

**7. HUMAN RIGHTS IMPLICATIONS**

The Human Rights Act states a person is entitled to the peaceful enjoyment of his possessions. However, this does not impair the right of the state to enforce such laws, as it deems necessary to control the use of property and land in accordance with the general interest.

**8. WARD IMPLICATIONS**

Birtley, Bridges, Blaydon, Pelaw & Heworth, Chowdene, Crawcrook & Greenside, Ryton, Crookhill and Stella, Chopwell and Rowlands Gill, Wardley & Leam Lane, Windy Nook And Whitehills, Winlaton and High Spen, Whickham North, Whickham South and Sunnyside, Lobley Hill and Bensham. Lamesley, Dunston Hill and Whickham East and Low Fell.

**9. BACKGROUND INFORMATION**

Nil.



## APPENDIX 2

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Case History	Current Update
1.	Blaydon Quarry Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	22 <sup>nd</sup> May 2019	24 <sup>th</sup> May 2019	28 <sup>th</sup> June 2019	28 <sup>th</sup> December 2019	<p>Blaydon Quarry is in breach of several planning conditions. A Notice has been served in relation to condition 23 to require installation of a drainage system. The Council has designed an acceptable scheme to be installed in the interests of surface water drainage and to enable the safe and successful restoration of the site.</p> <p>A site visit was undertaken on the 4<sup>th</sup> June 2019, where drainage works had commenced. Officers are working closely with the Operator of the quarry to ensure compliance.</p> <p>A discharge of condition application has been submitted in relation to condition 23 for the Council to assess.</p> <p>An appeal has been submitted in relation to the enforcement notice.</p> <p>04.05.2023 – Site meeting took place with owner, Environment Agency, Planning, Enforcement and consultant on 03.05.23.</p> <p>Agreed on action that is required by owner to ensure compliance and required timescales.</p> <p>26.07.2023 - Development Management have three outstanding discharge of conditions applications which they are looking to determine week commencing 31st July 2023. Once the applications have been determined we will be in a better position to review what conditions remain outstanding and consider appropriate next steps.</p> <p>18.10.2023 – The three discharge of condition applications to cover the breach of conditions have been determined in the last week, with the majority refused. The new sole director of the company has been notified and provided a copy of the decision notices. Advice is awaited as to how enforcement action will proceed.</p>	<p><b>21.11.2023 – Prior to taking any formal enforcement action, Planning Contravention Notices have been served on several parties to establish their respective interests in the land as there have been many changes in recent years. Once responses are received this will assist in determining the enforcement approach.</b></p> <p><b>Ongoing monitoring in place to ensure the works continue and conditions are met.</b></p>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Case History	Current Update
2.	Blaydon Quarry Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	22 <sup>nd</sup> May 2019	24 <sup>th</sup> May 2019	28 <sup>th</sup> June 2019	28 <sup>th</sup> October 2019	<p>Blaydon Quarry is in breach of several planning conditions. A Notice has been served in relation to condition 24 to require installation of the previously approved drainage system on the southern boundary, in the interests of surface water drainage and to enable the safe and successful restoration of the site.</p> <p>A discharge of condition application has been submitted in relation to condition 24 for the Council to assess.</p> <p>An appeal has been submitted in relation to the enforcement notice.</p> <p>Wardell Armstrong on behalf of the Operator has withdrawn the Enforcement Appeal.</p> <p>February 2023 - Development management have engaged a minerals and landfill specialist consultant to consider the current planning status of this development and determine an appropriate course of action should further enforcement activity be required.</p> <p>04.05.2023 – Site meeting took place with owner, Environment Agency, Planning, Enforcement and consultant on 03.05.23.</p> <p>Agreed on action that is required by owner to ensure compliance and required timescales.</p> <p>18.10.2023 – The three discharge of condition applications to cover the breach of conditions have been determined in the last week, with the majority refused. The new sole director of the company has been notified and provided a copy of the decision notices. Advice is awaited as to how enforcement action will proceed.</p> <p>Ongoing monitoring in place to ensure the works continue and conditions are met.</p>	<p><b>21.11.2023 – Prior to taking any enforcement action, Planning Contravention Notices have been served on several parties to establish their respective interests in the land as there have been many changes in recent years. Once responses are received this will assist in determining the enforcement approach.</b></p> <p><b>Ongoing monitoring in place to ensure the works continue and conditions are met.</b></p>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Case History	Current Update
3.	81 Dunston Road, Gateshead NE11 9EH	Dunston and Teams	Untidy Land	25 <sup>th</sup> July 2019	25 <sup>th</sup> July 2019	22 <sup>nd</sup> August 2019	03 <sup>rd</sup> October 2019	<p>Complaints have been received regarding the condition of the property which is considered to have a detrimental impact on the visual amenity of the area. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the hedge be cut, all boarding removed from windows and the windows and frames made good. It also required that all the guttering and down pipes be re attached to the building.</p> <p>Update 08.02.2023 - Building work has commenced at the rear of the property. Old kitchen has been demolished in preparation for the new development. Gable wall is being repointed.</p> <p>18.10.2023 – Good progress continues with refurbishment of the property. Ongoing monitoring to ensure works continue to a good standard and at reasonable pace.</p>	<b>21.11.2023 – Works are substantially complete on the property to a good standard. Notice deemed to have been complied with and this item will be removed from the next report.</b>
4.	Kwik Save, High Street, Felling	Felling	Building and land in ruinous and dilapidated condition	27 <sup>th</sup> April 2022	27 <sup>th</sup> April 2022	18 <sup>th</sup> May 2022	5 <sup>th</sup> September 2022	<p>Complaints have been received regarding the condition of the property and the adjoining land. The site has been subject to a number of arson attacks, fly tipping and other anti-social behaviour. A Notice has been issued pursuant to section 79 (1) of the Building Act 1984 requiring the recipient to either carry out such works of restoration or carry out demolition and remove the resultant rubbish or other materials from the site as specified in the notice. This has been the subject of an appeal. Work is ongoing with Northumbria Police and Tyne and Wear Fire &amp; Rescue service to expedite a resolution. Construction services have also been requested to provide a method statement and costings for demolition, should the local authority be required to undertake works in default. –</p> <p>Works progressing to determine costs of demolition and consideration being given to issuing community protection warning in conjunction with TWFRS and Northumbria Police</p> <p>Construction services instructed to</p>	<b>21.11.2023 – A meeting took place with OM Properties Ltd on 19.10.2023. The Council made clear its position that the statutory notice had not been complied with to either bring the property back into use or demolish it and that the Council were seeking to demolish the property in default due to the impact on the local community. The owner was of the view that the property was still viable subject to works to bring it back into use. The Council agreed that two weeks would be provided to the owner to demonstrate how this could be achieved and likely timescales. Information has been provided by the owner and the Council has afforded additional time up until 11.12.2023 to provide further supporting information. Meanwhile works are ongoing by the council to progress</b>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Case History	Current Update
								<p>progress to tendering stage for demolition.</p> <p>On 12.05.2023 Representatives of the Council, Northumbria Police and Tyne and Wear Fire and Rescue Service met on site to examine the condition of the building and consider further opportunities to restrict access and minimise the impact of ongoing ASB. Work is ongoing to provide a legal remedy.</p> <p>A community protection warning notice was served on the landowner requiring him to take a number of steps in the interim period to prevent or minimise the opportunities for anti-social behaviour on site. This wasn't complied with and a Community Protection Notice was served. A Direction hearing took place on 20.09.2023 at South Tyneside Magistrates Court with the matter is listed for a full day contested appeal hearing on 23.01.2024 at STMC starting at 10am. Directions have been set as follows:</p> <ul style="list-style-type: none"> <li>• 25.10.2023 exchange documents</li> <li>• 01.12.2023 exchange of statements</li> </ul> <p>OM properties Ltd have asked for a meeting to try and resolve matters. This will take place on 19.10.2023. Further ASB and fires have also occurred on site in recent weeks and the Council, with partners are pursuing all avenues to mitigate the impact of these premises, including expediting demolition.</p>	<b>demolition at the earliest opportunity.</b>
5.	Jack and Jo's Nursery Garden, Middle Hedgefield Farm, Blaydon on Tyne, NE21 4NN	Ryton, Crookhill and Stella	Without planning permission, the erection of a timber building to provide café with associated raised deck, canopy and smoking shelter and the installation of access railings and steps	22 <sup>nd</sup> May 2023	24 <sup>th</sup> May 2023	28 <sup>th</sup> June 2023	28 <sup>th</sup> October 2023 - removal of all structures  28 <sup>th</sup> November 2023 - removal of all resultant debris	<p>Complaints were received regarding the erection of an unauthorised building for use as a café.</p> <p>A retrospective planning application was submitted. It was refused on 28.2.22.</p> <p>An appeal was submitted to the Planning Inspectorate in relation to the planning refusal. The appeal was dismissed.</p> <p>An amended scheme/application was submitted to the Council on 14.10.22 and refused by Committee on 17.5.23.</p> <p>As two applications have been refused and giving weight to the appeal dismissed by the Planning Inspectorate it was</p>	<b>21.11.2023 - No further information has yet been provided by the planning inspectorate.</b>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Case History	Current Update
								<p>considered expedient to take enforcement action and an Enforcement Notice has been served.</p> <p>The notice requires the removal of the unauthorised structures (café building, raised deck, smoking shelter, canopy and steps).</p> <p>18.10.2023 – Appeal has been lodged with the planning inspectorate. Start date of the appeal process is 17.07.2023 and is to be heard by way of written representations. Closing date for representations of 28.08.2023. which has now passed. Notice is suspended until the outcome of the appeal is determined.</p>	
6.	31 Cromer Avenue Gateshead NE9 6UL	Chowdene	Untidy Land	31 <sup>st</sup> May 2023	31 <sup>st</sup> May 2023	31 <sup>st</sup> May 2023	<p>28<sup>th</sup> June 2023 – cut back all weeds, brambles, bushes, shrubs and long grass.</p> <p>12<sup>th</sup> July 2023 – Remove all resultant rubbish and debris</p>	<p>Complaints have been received regarding the condition of the rear garden of the property. The property has been vacant for several years. The owner has failed to take reasonable steps to maintain the vegetation within the premises in such a manner to prevent detriment to the amenity of the area and the quality of life of others in the locality. Notices have been issued pursuant to section 43 of the Anti Social Behaviour, Crime and Policing Act 2014 on the landowner requiring certain steps to be taken to prevent nuisance or detriment to the amenity of others.</p>	<b>21.11.2023 – The recipient of the notice has not appealed to the Magistrates Court and is therefore in contravention of the notice. Legal advice is being obtained which is still awaited as to further enforcement options available including prosecution and work in default. Ongoing monitoring in place but no compliance as yet.</b>
7.	Caspian Kebab The Cottage 18 Talbot Terrace Chester Le Street DH3 2PQ	Birtley	Without planning permission, the erection of structure comprising of a metal framework and slate tiled monopitch canopy	25 <sup>th</sup> November 2023	16 <sup>th</sup> November 2023	21 <sup>st</sup> December 2023	21 <sup>st</sup> April 2024	<p>The Council received a report that a metal structure had been erected in front of the premises. A retrospective application was secured, however planning permission was refused. A subsequent appeal was dismissed by the Planning Inspectorate and the Enforcement Notice has now been served requiring the removal of the unauthorised structure comprising of a metal framework and slate tiled monopitch canopy.</p>	

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**REPORT TO PLANNING AND  
DEVELOPMENT COMMITTEE**

**06<sup>th</sup> December 2023**

**TITLE OF REPORT: Planning Enforcement Appeals**

**REPORT OF: Anneliese Hutchinson, Service Director - Climate  
Change, Compliance, Planning and Transport**

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**Purpose of the Report**

1. To advise the Committee of new appeals against enforcement action received and to report the decisions of the Planning Inspectorate received during the report period.

**New Appeals**

2. There have been **no new** appeals received since an update was last provided to committee.

**Appeal Decisions**

3. There have been **no** appeal decisions received since the last Committee.
4. Details of outstanding appeals can be found in **Appendix 2**

**Recommendations**

5. It is recommended that the Committee note the report.

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**CONTACT: Elaine Rudman extension 3911**

**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 enforcement appeal regime is outside of the Council's control being administered by the Planning Inspectorate.

**WARD IMPLICATIONS –**

Ryton, Crookhill and Stella  
Felling

**BACKGROUND INFORMATION**

Appeal Decision



**Outstanding Enforcement Appeal Cases**

Further details have been provided by the planning inspectorate with regard to the following appeal, since committee were last updated.

APPELLANT	REASON FOR NOTICE	HOW APPEAL IS TO BE CONSIDERED
<p>Jack and Jo's Nursery Garden, Middle Hedgefield Farm, Blaydon on Tyne, NE21 4NN</p>	<p>Without planning permission, the erection of a timber building to provide café with associated raised deck, canopy and smoking shelter and the installation of access railings and steps</p>	<p>The appeal(s) will proceed on ground(s) (a), (f) as set out at Section 174(2) of the 1990 Act.</p> <p>The planning inspectorate has confirmed the start date of the appeal as 17 July 2023. The appeal is to be heard through the written representation's procedure.</p> <p>The appeal reference is APP/H4505/C/23/3324826. Any representations are to be received by the planning inspector no later than <b>28 August 2023</b>. Guidance on making representations can be found in the following link <a href="https://www.gov.uk/guidance/taking-part-in-a-planning-listed-building-or-enforcement-appeal">Taking part in a planning, listed building or enforcement appeal - GOV.UK (www.gov.uk)</a></p>
<p>OM Properties Investment Company Limited, The Pantiles, Gartree Road, Oadby, Leicester, LE2 2FB</p>	<p>Community Protection Notice Served under the provisions of the Anti-social Behaviour Crime and Policing Act 2014 to prevent the detrimental effect the conduct of the owner is having on the quality of life of those in the locality in relation to the lack of management of the former Kwik Save premises and adjoining land at 57 High Street, Felling, Tyne and Wear, NE10 9LU. The building has been significantly fire damaged, is subject to regular arson attempts, unauthorised</p>	<p>Appeal has been lodged with Gateshead Magistrates Court. Directions Hearing took place on 20.09.2023 at South Tyneside Magistrates Court. Matter is listed for a full day contested appeal hearing on 23.01.2024 at STMC starting at 10am. Directions have been set as follows:</p> <ul style="list-style-type: none"> <li>• 25.10.2023 exchange documents</li> <li>• 01.12.2023 exchange of statements</li> </ul>

	<p>access, anti-social behaviour and is in a dangerous condition. The adjoining land is used for fly tipping regularly. The building and the site impacts significantly upon policing, fire service and local authority resources as well as neighbouring/adjoining businesses and local residents.</p>	
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**REPORT TO PLANNING AND  
DEVELOPMENT COMMITTEE  
6 December 2023**

**TITLE OF REPORT:** Planning Appeals

**REPORT OF:** Anneliese Hutchinson, Service Director, Climate Change, Compliance, Planning and Transport

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

DC/23/00684/ADV - Land At Askew Road, Gateshead NE8 2TD  
Proposed installation of freestanding, illuminated 48-sheet digital display screen.  
This was a delegated decision refused on 27 September 2023.

DC/23/00687/HHA73 - 21 Church Rise, Newcastle Upon Tyne NE16 4BU  
Proposed extension and new roof to existing outbuilding and conversion to home office/ temporary accommodation. Replace existing shed roof with a new timber roof with a rubber roof membrane.  
This was a delegated decision refused on 6 October 2023.

**Appeal Decisions**

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

DC/22/01226/FUL - Land To The Rear Of 2 Ashfield Road, Newcastle Upon Tyne, NE16 4PL  
Erection of Dutch Bungalow on land to the rear of 2 Ashfield Road with access from Whaggs Lane.  
This was a delegated decision refused on 27 April 2023  
Appeal allowed 18 October 2023

DC/22/01392/CDPA - The Glasses Factory, 32 Wesley Court, Blaydon, NE21 5BT  
DETERMINATION OF PRIOR APPROVAL: Conversion of first floor commercial unit to create 4 flats - mix of 1 and 2 bed.  
This was a delegated decision refused on 14 April 2023  
Appeal dismissed 12 October 2023

DC/23/00148/ODPA - Shoefayre Ltd, 4 Wesley Court, Blaydon, NE21 5BT  
DETERMINATION OF PRIOR APPROVAL: Conversion of vacant first floor Class E premises to C3 residential (2no. 1 bedroom flats).  
This was a delegated decision refused on 14 April 2023

Appeal dismissed 12 October 2023

DC/23/00149/ODPA - Hutchinsons Fruit And Veg Shop, 13 - 14 Wesley Court,  
Blaydon, NE21 5BT

DETERMINATION OF PRIOR APPROVAL: Conversion of vacant first floor Class E  
premises to C3 residential (3no. 1 bedroom flats).

This was a delegated decision refused on 14 April 2023

Appeal dismissed 12 October 2023

### **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 2.

**BACKGROUND INFORMATION**

Start letters and decision letters from the Planning Inspectorate



## 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/22/01187/FUL	Jack And Jo's Nursery Garden Middle Hedgefield Farm Stella Road Ryton Gateshead NE21 4NN	Retention of timber café building (retrospective) incorporating external alterations to building and removal of canopy to west elevation, raised deck to front (north) elevation and smoking shelter to east elevation. Alterations to car parking, erection of gate to control use of eastern access and new landscaping (resubmission of DC/21/00916/FUL) (additional information submitted 15.05.2023 and 16.05.2023).	Written	Appeal in Progress
DC/22/01226/FUL	Land To The Rear Of 2 Ashfield Road Newcastle Upon Tyne NE16 4PL	Erection of Dutch Bungalow on land to the rear of 2 Ashfield Road with access from Whaggs Lane.	Written	Appeal allowed
DC/22/01392/CDPA	The Glasses Factory, 32 Wesley Court, Blaydon, NE21 5BT	<b>DETERMINATION OF PRIOR APPROVAL:</b> Conversion of first floor commercial unit to create 4 flats - mix of 1 and 2 bed.	Written	Appeal dismissed

DC/22/01393/FUL	Jack And Jo's Nursery Garden Middle Hedgefield Farm Stella Road Ryton NE21 4NN	Provision of car park to north west of site (retrospective application).	Written	Appeal in Progress
DC/23/00116/ADV	Land At Durham Road Chester Le Street DH3 2QX	Display of 2no freestanding internally illuminated digital advertisements (additional information received 04.04.2023).	Written	Appeal in Progress
<b>DC/23/00148/ODPA</b>	<b>Shoefayre Ltd 4 Wesley Court Blaydon NE21 5BT</b>	<b>DETERMINATION OF PRIOR APPROVAL: Conversion of vacant first floor Class E premises to C3 residential (2no. 1 bedroom flats).</b>	<b>Written</b>	<b>Appeal dismissed</b>
DC/23/00149/ODPA	Hutchinsons Fruit And Veg Shop 13 - 14 Wesley Court Blaydon NE21 5BT	<b>DETERMINATION OF PRIOR APPROVAL: Conversion of vacant first floor Class E premises to C3 residential (3no. 1 bedroom flats).</b>	Written	Appeal dismissed
DC/23/00684/ADV	Land At Askew Road Gateshead NE8 2TD	Proposed installation of freestanding, illuminated 48-sheet digital display screen.	Written	Appeal in Progress
DC/23/00687/HHA73	21 Church Rise Newcastle Upon Tyne NE16 4BU	Proposed extension and new roof to existing outbuilding and conversion to home office/ temporary accommodation. Replace existing shed roof with a new timber roof with a rubber roof membrane.	Written	Appeal in Progress





## Appeal Decision

Site visit made on 5 September 2023

**by N Teasdale BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18<sup>th</sup> October 2023**

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### **Appeal Ref: APP/H4505/W/23/3324153**

#### **Land to the rear of 2 Ashfield Road, Newcastle Upon Tyne NE16 4PL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
  - The appeal is made by Mr Neville Rodgers against the decision of Gateshead Metropolitan Borough Council.
  - The application Ref DC/22/01226/FUL, dated 14 October 2022, was refused by notice dated 27 April 2023.
  - The development proposed is construction of Dutch bungalow on land to the rear of 2 Ashfield Road with access from Whaggs Lane.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for construction of Dutch bungalow on land to the rear of 2 Ashfield Road with access from Whaggs Lane on land to the rear of 2 Ashfield Road, Newcastle Upon Tyne NE16 4PL in accordance with the terms of the application, Ref DC/22/01226/FUL, dated 14 October 2022, subject to the conditions set out on the attached schedule.

### **Procedural Matters**

2. The address in the above banner heading has been taken from the decision notice as this accurately describes the location of development.
3. The appellant has submitted a Highways Statement and Swept Path Analysis drawing as part of their appeal statement. Such details do not change the overall scheme and my acceptance of this is not therefore considered prejudicial to any party and the Council has also had the opportunity to comment on such details. I have therefore taken these details into account in reaching my decision.

### **Main Issues**

4. The main issues of the appeal are the effect of the proposed development on;
  - The character and appearance of the site and surrounding area;
  - The living conditions of neighbouring properties with particular regard to outlook, privacy and daylight/sunlight; and
  - Highway/pedestrian safety.

## Reasons

### *Character and appearance*

5. The appeal site relates to a reasonably sized and deep parcel of land located to the rear of No. 2 Ashfield Road with access taken from Whaggs Lane to the west. The site is set back from Whaggs Lane behind a substation and row of residential properties that front onto Whaggs Lane. The site has a sloping topography from south to north, and the majority of the site cannot be seen from the main road as it is tucked away behind the substation and row of residential properties. Further, it is well screened on all sides by hedging, trees, and other boundary treatment.
6. The surrounding properties vary in size from detached bungalows to two storey properties that are set back from the main road and footpath with garden areas/parking to the front and long gardens to the rear. I observed onsite that the land whilst detached from any residential property, still reflects the general size and layout of the surrounding plots, and is well maintained.
7. Policy MSGP23 of the Site Allocations and Development Management Policies Making Spaces for Growing Places Local Plan Document for Gateshead, 2021 (MSGP) relates to Areas of Special Character and it is undisputed that the site is located within the Broom Lane / Whaggs Lane Area of Special Character. Policy MSGP23 explains that a high level of importance must be given to the design of development within, or affecting the setting of Areas of Special Character and that development will maintain or enhance the character of the area and inappropriate development will be resisted.
8. The Gateshead Council Placemaking Supplementary Planning Document, Areas of Special Character and Routeways and Gateways, 2022 (SPD) provides design guidance on how to address development in such areas. It sets out that the main characteristics of this particular area are low density houses and bungalows on deep plots, behind a building line set well back from the roads, which are often fronted by hedges; dense coverage of mature trees; and long, well-established gardens. The guidance amongst other matters, resists backland development within the gardens to protect the character and setting of existing buildings and resists infill development which would detract from the setting of existing buildings and character of the locality.
9. The proposed development seeks to construct a detached Dutch bungalow on the site and whilst the sites overall use/function as a garden area is disputed, its location to the rear of No. 2 Ashfield Road and behind the substation and a row of other properties that front Whaggs Lane, could be described as backland/infill development.
10. As referred to above, the surrounding properties vary in size but generally comprise of relatively low-density housing, of a variety of designs. Whilst the proposed bungalow would sit further back into the site from its neighbours that front onto Whaggs Lane, it would comprise a bungalow of a similar footprint, scale and size to others in the area and would sit comfortably into the site, leaving sufficient space between its boundaries and neighbouring properties. The proposed materials would also ensure that the overall appearance would be in keeping with surrounding properties.

11. Additionally, the site is visually contained and views into the site are restricted when viewed from the main road given the setback nature, position of surrounding properties and existing landscaping that exists which further restrict views. On this basis, the proposed bungalow would have very limited impact upon the street-scene. Whilst it would be visible from the rear of neighbouring properties that surround the site, its overall size, layout and form would not be so dissimilar to other plots and properties in the area and thus the positive and main characteristics of the area would largely be maintained.
12. I accept that Areas of Special Character are of limited extent covering only 2.2% of the Borough and I note comments made in relation to the strengthening of policy overtime. However, development not so dissimilar to others in the area on this particular site that is set back and well screened from public vantage points, would not have a materially significant effect on the overall character of the area. It would therefore not conflict with the overall aim of the SPD which seeks to protect the character and setting of existing buildings and character of the locality.
13. For the above reasons, I conclude that the proposed development would not be harmful to the character and appearance of the site and surrounding area and would comply with Policies MSGP23 and MSGP24 of the MSGP which together, amongst other matters, requires development to maintain or enhance the character of the area. For the same reasons, the proposed development would comply with the aspirations of the National Planning Policy Framework (the Framework) relating to achieving well designed places and the aspirations of the SPD.

#### *Living conditions*

14. As referred to above, the proposed bungalow would sit further back into the site from its neighbours that front onto Whaggs Lane. However, with this exception, it would be relatively reflective of the positioning and size of other dwellings in this part of the street including its overall relationship to the site boundaries to the north and south. I am aware of the Council's concerns regarding the height of the proposed bungalow and separation distance from the adjacent properties particularly No. 76 Whaggs Lane which is located to the southwest of the site. However, the relationship that exists and positioning of the adjacent properties means that whilst the proposed bungalow would be visible from the rear elevation of adjacent properties, this would be at an angle where most of the views from the properties and their associated gardens are away from the appeal site and thus outlook would largely be retained. Additionally, the existing landscaping that exists and is indicated to be retained would further restrict views and I am therefore content that the proposed development would not appear as an overbearing addition or of a size and scale to severely restrict outlook for occupiers of adjacent properties.
15. The proposed bungalow includes large, glazed elements to the front, west facing elevation. However, the proposed glazing at ground floor level would be screened by existing landscaping which would restrict views and the glazing at first floor level would be low within the elevation given the dormer nature of the property where views would also be restricted albeit to a lesser extent. Given the relationship that exists and positioning of adjacent properties, there would not be any direct and open views from this particular elevation in any

case as such views would be angled away from the adjacent properties. On this basis, there would not be an undue loss of privacy for adjacent occupiers.

16. I note a third-party comment regarding the potential removal of the boundary hedging to the north which separates the site including its access from No. 74 Whaggs Lane. However, there is no indication that this hedge would be removed to facilitate the development and thus would not result in any adverse impacts having regard to privacy.
17. In terms of daylight/sunlight, I am content that the proposed development would not result in any unacceptable harm given the overall positioning and distance between properties along with the limited height and width of the proposed development. Consequently, I consider that overall, existing occupiers would not be unduly harmed by daylight and sunlight.
18. For the above reasons, I conclude that the proposed development would not have an unacceptable impact on the living conditions of neighbouring properties with particular regard to outlook, privacy and daylight/sunlight. It would therefore comply with Policy MSGP17 of the MSGP which amongst other matters, requires development to safeguard the enjoyment of light, outlook and privacy. For the same reasons, the proposed development would also comply with the aspirations of the Framework which amongst other matters, ensures that development creates places with a high standard of amenity for existing and future users.

#### *Highway/pedestrian safety*

19. Having regard to the additional information provided by the appellant in the form of a Highways Statement and Swept Path Analysis drawing, the Council's transport team has since acknowledged that some of the highway issues have been addressed, such as providing a drawing that can be scaled from, tracking to demonstrate that a driver would be able to turn within the curtilage of the site and enter Whaggs Lane in a forward gear as well as emergency access to the site. Based on the evidence before me and my own observations on site, I am also satisfied that sufficient information has been provided in relation to these matters and I do not find it necessary to consider such matters further.
20. The additional information also shows the required car parking space dimensions and cycle parking provision which is acceptable, and the Council do not appear to dispute this based on the additional information provided. I am aware of the Council's comments in relation to electric vehicle charging points and whilst the appellant has confirmed that such provision would be made, this matter is covered by building regulations in any case and I therefore do not need to consider this matter further.
21. The existing access serving the site is relatively narrow, formed by two brick pillars and a gated entrance which leads directly onto the footpath that runs across the front of the site. It is also bound to the north and south by hedging/other boundary treatment. Consequently, views upon exiting the site are restricted. However, the majority of existing properties along Whaggs Lane are served by driveways leading onto the main road and also cross the footpath to the front. As such, pedestrians are likely to proceed with caution in such a setting and are already familiar with the existing access point even if it is not used for vehicles, it still has a gated entrance and has the appearance of a vehicle entrance like others in the area and is not uncommon in this setting.

Additionally, the footpath is wide along this stretch and I observed that given the presence of other nearby entrances, pedestrian movements tended to be at the far end of the footpath away from the point of access which reduces any potential conflict with moving vehicles.

22. Vehicle movements upon exiting the driveway are also likely to be at very low speed given the nature and site constraints. Generated trips associated with one bungalow would also be limited and thus unlikely to result in a significant number of comings and goings as to adversely impact the safety of drivers and pedestrians. I acknowledge the appellant's commitment to widen the existing access and provide an improved pedestrian visibility in either direction by removing the pillars in addition to the hedge along the southern boundary. Whilst the required 2x2 metre pedestrian visibility splay has not been provided, such measures would increase the overall visibility at the site.
23. The officer's report explains that a vehicle dropped crossing would not be provided without the required visibility splay. Whilst noted, this would not change my findings on the impact of highway/pedestrian safety.
24. Refuse would be stored to the west of the proposed bungalow at a location closest to the access lane as possible without causing obstruction. This location is a very short distance from Whaggs Lane where bins could easily be wheeled out for collection. It would also not be so dissimilar to the arrangements that exist for other properties along this row which are all set back from the main road.
25. My site visit appeared to be on refuse collection day which was useful to understand the current arrangements that exist in connection with other properties in the area. Bins were stored on the footpath along Whaggs Lane but these were either stored in a location closest to the property they served or at the far side of the footpath closest to the main road. Despite there being no allocated place to leave a refuse bin on collection day near the adopted highway, this is not an uncommon arrangement for bin collections in residential settings and the location of bins did not appear to obstruct either the footpath or the main road. As referred to above, the footpath is wide in this location where the size and scale of a bin would not cause obstruction and the separation distance from properties means that bins are adequately spaced from one another and thus further reducing any obstruction even if left out all day. Whilst I cannot control situations where individuals may choose to place bins further into the footpath, I am content that the proposed arrangements would not be substantially different to that of the existing situation or lead to a harmful impact in relation to highway safety.
26. For the above reasons, I conclude that the proposed development would not harm highway/pedestrian safety. As such, it would accord with Policy CS13 of the Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2010-2030, 2015 and Policy MSGP15 of the MSGP which together, amongst other matters, requires development to not have an unacceptable impact on the safe operation of the transport network. For the same reasons, the proposed development would also accord with the aspirations of the Framework relating to promoting sustainable transport.

### **Other Matters**

27. I acknowledge the planning history associated with the site and that the Council previously granted consent for the erection of a detached bungalow amongst other works under reference DC/07/01424/FUL. I also recognise that the proposed bungalow may be of a larger scale, mass, and form to that previously approved. However, it is undisputed that this consent has expired, and I have determined the current appeal based on its own merits and evidence in front of me. This has therefore not affected my findings on the main issues.
28. I appreciate the concerns regarding future construction noise/activity associated with the proposed development as well as subsidence in the area. However, any construction activity associated with the development could be controlled by a suitably worded planning condition which I have applied. Conditions have also been applied in relation to ground conditions to ensure the safety and stability of the development.
29. Financial matters relating to the diversion and relocation of a wastewater pipe has not affected my findings in relation to the main issues.

### **Conditions**

30. I have considered the Council's suggested planning conditions in their consultee responses and in light of the Framework and Planning Practice Guidance. As a result, I have amended these where necessary for clarity. The standard time for commencement of development is necessary as well as a plans condition in the interests of certainty. A condition relating to materials is necessary in the interests of the satisfactory appearance of the development. A condition relating to a Construction Method Statement is necessary in the interests of highway safety and amenity. I have attached a condition requiring the window at first floor level on the south elevation to be fitted with obscured glazing which is necessary in the interest of residential amenity of neighbouring occupiers. A scheme of hard and soft landscaping is also necessary in the interests of residential and visual amenity. Conditions relating to ground conditions and coal mining legacy are necessary to ensure the safety and stability of the development. I have also attached a condition relating to ground levels given the sloping nature of the site to ensure a satisfactory form of development is achieved.

### **Conclusion**

31. For the above reasons and having had regard to the development plan as a whole, the appeal should be allowed subject to conditions.

*N Teasdale*

INSPECTOR



## **SCHEDULE OF CONDITIONS**

- 1) The development must be begun within three years from the date of this permission.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Site and Roof Plan as Existing and Proposed; Plans as Proposed - Site Plan 1:100 (with the exception of car parking which is shown on the Swept Path Analysis Drawing); Plans as Proposed - Ground Floor Plan 1:50; Plans as Proposed - First Floor Plan 1:50; Plans as Proposed - West elevation 1:50; Plans as Proposed - North elevation 1:50; Plans as Proposed - East elevation 1:50; Plans as Proposed -South elevation 1:50; Plans as Proposed - Section A-A, Section B-B, Section C-C - 1:50; Plans as Proposed - Section D-D -1:50; Plans as Proposed - Section E-E 1:50; Swept Path Analysis Drawing No. JP01.
  - 3) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
  - 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
    - the parking of vehicles of site operatives and visitors;
    - loading and unloading of plant and materials;
    - storage of plant and materials used in constructing the development;
    - measures to control the emission of dust and dirt during construction;
    - a scheme for recycling/disposing of waste resulting from construction works;
    - delivery and construction working hours.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) The building hereby permitted shall not be occupied until the window at first floor level on the south elevation has been fitted with obscured glazing, and no part of that window in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
  - 6) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority.
  - 7) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land

Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 7 days of the report being completed and approved in writing by the local planning authority.

8) No development shall commence until;

a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

9) Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

10) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

*End of schedule*





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## Appeal Decisions

Site visit made on 5 September 2023

**by K L Robbie BA (Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

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### **Appeal A Ref: APP/H4505/W/23/3322845**

#### **32 Wesley Court, Blaydon Central, Blaydon, Gateshead NE21 5BT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3 (1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
  - The appeal is made by Watson of Praxis against the decision of Gateshead Metropolitan Borough Council.
  - The application Ref DC/22/01392/CDPA, dated 23 December 2022, was refused by notice dated 14 April 2023.
  - The development proposed is the conversion of first floor commercial unit to create 4 flats - mix of 1 & 2 bed.
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### **Appeal B Ref: APP/H4505/W/23/3322854**

#### **4 Wesley Court, Blaydon Central, Blaydon, Gateshead NE21 5BT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3 (1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
  - The appeal is made by Mr Nigel Watson of Praxis Real Estate Management Ltd against the decision of Gateshead Metropolitan Borough Council.
  - The application Ref DC/23/00148/ODPA, dated 15 February 2023, was refused by notice dated 14 April 2023.
  - The development proposed is the conversion of vacant First Floor Class E premises to C3 residential (2no. 1 bedroom flats). No change to ground floor.
- 

### **Appeal C Ref: APP/H4505/W/23/3322876**

#### **13-14 Wesley Court, Blaydon Central, Blaydon, Gateshead NE21 5BT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3 (1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
  - The appeal is made by Mr Nigel Watson of Praxis Real Estate Management Ltd against the decision of Gateshead Metropolitan Borough Council.
  - The application Ref DC/23/00149/ODPA, dated 15 February 2023, was refused by notice dated 14 April 2023.
  - The development proposed is the conversion of vacant First Floor Class E premises to C3 residential (3no. 1 bedroom flats). No change to ground floor.
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## Decisions

1. Appeals A, B and C are dismissed.

## Procedural Matters

2. The appellants name and company in Appeal A differs slightly from those in Appeals B and C. I am satisfied that the appellant is the same person, representing the same company for all three appeals, and I have determined them accordingly.

3. The Local Planning Authority have confirmed that they no longer wish to defend refusal reason 2 relating to flood risk for Appeal A. I have determined the appeals accordingly.
4. As set out there are three appeals located within the Blaydon Shopping Centre. All three proposals involve the conversion of upper floors into residential accommodation. I have considered each proposal on its individual merit. However, as the main issues for all three appeals, except for Appeal A with respect to flood risk are the same, to avoid duplication, I have dealt with the schemes together, except where indicated.

### **Preliminary Matter**

5. Article 3(1) and Schedule 2, Part 3, Class MA, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) provides for a permitted development right for the change of use of a building falling within use class E (Commercial, Business and Service) to class C3 (dwellinghouses). This is subject to limitations and conditions, as set out in subsequent paragraphs of Class MA. The GPDO is clear that a "*local planning authority may refuse an application where in the opinion of the authority..... the developer has provided insufficient information for the authority to establish whether the proposed development complies with any conditions*"<sup>1</sup>.

### **Main Issues**

6. The main issue for all three appeals is whether the proposed development would comply with the limitations and conditions of the permitted development right relating to:
  - (i) the transport impact of the development taking particular account of safe access to the site in accordance with the provisions of Class MA Condition MA.2(2)(a);
  - (ii) the impact of noise from commercial premises on the intended occupiers of the development in accordance with Class MA Condition MA.2(2)(d) of the GPDO; and
  - (iii) the provision of adequate natural light in all habitable rooms in accordance with the provisions of Class MA Condition MA.2(2)(f) and Paragraph W.(2A) of the GPDO.
7. For Appeals B and C an additional main issue is whether the proposed development would comply with the limitations and conditions relating to flood risk in relation to the building in accordance with the provisions of Class MA Condition MA.2(2)(c) of the GPDO.

### **Reasons**

8. The appeal sites are all located within the upper floor of a purpose-built shopping centre which consists of two blocks of commercial premises at ground floor with a pedestrian walkway running through its centre and service areas to the rear on either side. Planning permission has been applied for separately for alterations to the premises including the insertion of doors and windows at first

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<sup>1</sup> Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Paragraph W.(3)(b)

floor level and a balustrade and raised roof to a stair well<sup>2</sup>. I have no evidence before me in relation to the outcome of this application.

### Transport

#### *Appeal A*

9. Pedestrian access would be via a door in the front elevation of the building within the parade of shop units. This is only clearly apparent from the appellant's appeal statement which highlights the access door on the front elevation. It is, however, not clear that this is proposed from the plans submitted, and upon which the local planning authority was required to use to determine the application. Whilst access from within the parade of commercial units would not pose a threat to pedestrian safety, access to the rear into the service yard is also evident from the plans. On my site visit I observed HGVs and commercial vehicles within this area. The enclosed nature of the service yard requires vehicles to reverse to make deliveries to commercial units or turn to leave. On this basis, the proposal would introduce a conflict between residential occupiers and commercial users of this space which does not exist at present.
10. No dedicated car parking provision is associated with the proposal. The appellant states that the proposal would be car-free, and no parking permits would be issued to occupiers of the units. However, I have no mechanism in the form of a legal agreement before me to secure this. In the absence of such, I cannot be certain that the development would be car-free.
11. It is not clear from the application plans where the cycle storage illustrated in elevation would be located and also where and how refuse would be stored and collected. All these matters are required to be clearly set out so that the local planning authority can be certain that the proposal would not lead to adverse transport impacts and that the site can be safely accessed by all modes of transport including walking.
12. In the absence of clarity on the pedestrian access, cycle parking and refuse storage to Appeal A the proposal conflicts with Class MA Condition M.2(1)(a). I therefore conclude that the transport impacts of the development particularly in relation to safe site access would be unacceptable.

#### *Appeals B and C*

13. Pedestrian access to premises for Appeals B and C would be via the service yard to the rear of the shopping centre. The service yard is accessed directly from a slip road off Blaydon Highway, a busy dual carriageway serving the local area.
14. The appellant acknowledges that there are risks associated with the proposed access. Pedestrians would be expected to access the premises from the east across a large junction splay, then alongside a landscaped area before crossing the service yard. On my site visit the route was blocked by parked vehicles and large vehicles were both stationary and moving within the service yard. Whilst I appreciate that the numbers of HGVs using this area may currently be relatively low, this may not always be the case. Nevertheless, pedestrians would not be expected by drivers of commercial vehicles to be encountered

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<sup>2</sup> Local Authority reference DC/22/01391/FUL

within a commercial service yard in any event. I also note that no footway is provided into service yard from the bus station to the west where occupiers of the dwellings might reasonably be expected to access the building from.

15. The appellant states that an elevated walkway along the rear elevation of the building could also be used to provide safe access to the building. However, this is not level, with a series of steps up and down along its length. Moreover, it provides service access and loading facilities for several commercial premises which would create a potential conflict between pedestrians accessing residential units and commercial activities taking place in connection with the shopping centre units.
16. No vehicular access or car parking is proposed. It is unclear as to where occupiers of the units would park. No suggestion has been made that the proposals would be car-free. Even if that were the case, I have no mechanism before me by which this could be secured.
17. Consequently, I conclude that the transport impacts of the development particularly in relation to safe site access in relation Appeals B and C would be unacceptable. The proposal therefore conflicts with Class MA. Condition M.2(1)(a).

#### Noise

18. A Noise Impact Assessment (NIA) with Appeal A demonstrates that background noise during the day and into the evening is high, the principal contributors being traffic on local roads, including a bus stop, pedestrians using the Blaydon Shopping Centre walkway and also service yard activity. NIA monitoring points were located on the facades of the building relating to Appeal A. No NIA for Appeals B and C is before me, and no monitoring points have been undertaken which would be representative of these appeal sites. I note that best practice in relation to weather conditions has not been followed in the NIA. Furthermore, anomalies in the results are also not explained. These factors therefore cast doubt upon the findings of the assessment.
19. Whilst the NIA recognises that service yard activity would be a source of noise, no demonstration has been robustly made as to its impact of these sources on future occupiers of the dwellings. Furthermore, extraction and air conditioning units are located on the rear of the building for Appeal A and air conditioning units were evident on the rear elevation of the building for Appeals B and C. No reference is made to noise from plant and equipment in the NIA. I therefore cannot be certain that the living conditions of future occupiers would not be adversely affected as a result.
20. For the above reasons, it has not been robustly and compellingly demonstrated that there would not be adverse impacts from noise from commercial premises on the intended occupiers of the proposals. The proposals would therefore conflict with condition MA.2(2)(d) of Schedule 2, Part 3, Class MA.

#### Adequate Natural Light

21. The term 'habitable rooms' is defined in Part 3, paragraph X of the GPDO as meaning '*any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms*'.

22. Condition MA.2(2)(f) of Class MA requires the provision of adequate natural light in all habitable rooms of the dwellinghouses. As shown on the existing drawings, existing openings would be insufficient to meet this requirement. Given that Class MA does not permit building operations to facilitate the change of use, the appellant states that he has submitted a planning application for a significant number of new windows to be installed in each of the appeal properties.
23. Whilst it is evident that all the habitable rooms would be provided with windows subject to the grant of separate planning permission, I have no substantive evidence before me that these would provide adequate natural light into the rooms. Furthermore, I have not been provided with any legal mechanism to link the planning permission to the appeal proposals to ensure that the necessary building operations are carried out prior to the occupation of the properties as dwellings. Moreover, I have not been provided with evidence that planning permission is in place. In this instance, I do not consider a planning condition for this purpose to be appropriate as it would be unable to satisfy the reasonable and precise elements of the tests set out in paragraph 56 of the National Planning Policy Framework.
24. For these reasons, I conclude that the proposals would not provide adequate natural light in all habitable rooms of the dwellinghouses and would therefore not accord with condition MA.2(2)(f) of Schedule 2, Part 3, Class MA.

*For Appeals B & C only - Flood Risk*

25. The appeal premises are located within Flood Zone 1. However, the area to the rear of the premises is at high risk from surface water flooding. Although the dwellings themselves, being at the upper floors of the building would not be at risk, access to and from them during times of flood may be problematic. The appellant states that the elevated walkway along the rear of the building could provide safe access for residents in times of flood. However, access to the walkway is gained from the area liable to flooding and as previously set out it would not be a satisfactory route to the building in any event.
26. Given the potential conflict and impediments outlined above, I am not satisfied that occupiers of the proposed dwellings would be adequately protected from the risks of flooding. Conflict therefore arises with Condition M.2(1)(c) of Schedule 2, Part 3, Class MA.

**Other Matters**

27. I acknowledge that the appeal premises are located in an area well served for shops and services and are easily accessible by a range of modes of public transport. The sites are on the Council's brownfield register and would provide homes in an area of housing need. The appeal sites are also not located in a conservation area or within any other designation. These are not factors which are not relevant in the determination of appeals for prior approval required by permitted development rights set out in the GPDO and do not diminish the harm that I have found on the main issues.
28. I also note that positive comments regarding residential development within the locality have been made by another department of the Council. However, I am mindful that pre-application discussions are informal and not binding on

any future decision the local planning authority may make once a proposal has been subject to the formal planning process.

29. Reference has been made to another residential scheme in Blaydon. I do not have the details of this scheme before me. I do not know its status with regard to planning permission and therefore cannot draw any direct comparison with the proposals that would weigh in their favour. In any event I have determined the appeals with specific reference to the requirements of Class MA of the GPDO.
30. I note comments that the appellant has made with regard to the Council's handling of the applications. This is not a matter which I can take into account in a Section 78 planning appeal and does not alter my findings for which I have had regard to the requirements of the permitted development right only.

### **Conclusion**

31. For the reasons set out above, I conclude that Appeals A, B and C should all be dismissed.

*KL Robbie*

INSPECTOR



REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

6 December 2023

TITLE OF REPORT: Planning Obligations

REPORT OF: Anneliese Hutchinson, Service Director, Climate Change, Compliance, Planning and Transport

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**Purpose of the Report**

1. To advise the Committee of the completion of Planning Obligations which have previously been authorised.

**Background**

2. To comply with the report of the District Auditor "Probity in Planning" it was agreed that a progress report should be put before the Committee to enable the provision of planning obligations to be monitored more closely.
3. Since the last Committee there have been **four** new planning obligations:

DC/20/01095/FUL - To pay the off-site biodiversity contribution on or before the commencement of the development - £14,700.00

Land At Station Road/Reay Street, Bill Quay, Gateshead, NE10 0UA

Construction of 3no. dwellinghouses (description amended 07.01.21, 19.11.21 and 21.10.2022, amended plans received 04.11.21, 23.04.22 and 11.10.2022 and additional information received 18.01.22)

DC/21/00371/FUL - To pay the Sustainable Transport Contribution to the Council on or before the Commencement Date together with any indexation due to the Council - £17,025.00

6 Saltmeadows Road, Gateshead, NE8 3AH

Subdivision of former vehicle workshop building to five workshops. (amended description, information and plans received 19.10.22 and 15.11.22)

DC/21/00964/FUL - To pay the Sustainable Transport Contribution to the Council on or before the Commencement date together with any indexation due to the Council - £90,425.00

Site Of Sterling House, South Shore Road, Gateshead

VARIATION OF CONDITION: Condition 1 (Approved in accordance with plans) of planning application DC/10/00385/FUL

DC/21/01494/FUL – To pay the single tern raft contribution on or before commencement of development (£18,742.00)

Land South Of Chain Bridge Road, Blaydon, NE21 5SS

Erection of a building for employment uses (Use Classes Use Classes E(g) (ii) and E(g) (iii), B2 and B8), together with associated car parking and landscaping works (amended plans/additional information received 03/03/22, 12/04/22, 30/05/22 and 29/06/22).

4. Details of all the planning obligations with outstanding covenants on behalf of developers and those currently being monitored, can be found at Appendix 2 on the Planning Obligations report on the online papers for Planning and Development Committee for 6 December 2023.

**Recommendations**

5. It is recommended that the Committee note the report.



**1. FINANCIAL IMPLICATIONS**

Some Section 106 Agreements require a financial payment when a certain trigger is reached and there is a duty on the Council to utilise the financial payments for the purposes stated and within the timescale stated in the agreement.

**2. RISK MANAGEMENT IMPLICATIONS**

Nil

**3. HUMAN RESOURCES IMPLICATIONS**

Nil

**4. EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**5. CRIME AND DISORDER IMPLICATIONS**

Nil

**6. SUSTAINABILITY IMPLICATIONS**

Nil

**7. HUMAN RIGHTS IMPLICATIONS**

Nil

**8. WARD IMPLICATIONS**

Monitoring: Various wards

**9. BACKGROUND INFORMATION**

The completed Planning Obligations

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