

## **REPORT OF THE DEVELOPMENT & BUILDING CONTROL MANAGER**

- ITEM 1**      District Matters Recommended Approval
- ITEM 2**      Appeals List
- ITEM 3**      Notification of Appeal Decision

**COPIES OF ALL PLANS, ELEVATIONS AND SUPPORTING DOCUMENTATION  
CAN BE VIEWED IN THE PLANNING SERVICES DIVISION PRIOR TO THE  
COMMITTEE MEETING**

**COPIES OF PLANS AND ELEVATIONS FOR APPLICATIONS WHERE THE  
APPLICANT / OBJECTORS / SUPPORTERS WISH TO SPEAK OR FOR OTHER  
MAJOR APPLICATIONS WILL BE DISPLAYED IN THE COUNCIL CHAMBER PRIOR  
TO AND DURING THE COMMITTEE**

**ITEM 1****District Matters Recommended Approval**

**1.**

**Reference: 08/00467/VAR**

**Proposal** Variation of condition 6 of planning approval 08/00131/COU to allow opening hours of Monday to Wednesday 09:00 - midnight and Thursday to Saturday (including Bank Holidays) from 09:00 - 03:30 and Sunday 09.00 - 01.00 (previously restricted to 09:00 - 23:30 on all days) (amended description 2/12/08).

**Location** 183 Front Street Chester-le-Street Durham DH3 3AX

**Applicant** Mr A. Ali

---

**Application Summary**

**Ward:** Chester Central

**Case Officer:** Lisa Morina, Assistant Planning Officer

**Contact Details:** 0191 387 2146

[lisamorina@chester-le-street.gov.uk](mailto:lisamorina@chester-le-street.gov.uk)

**Summary of recommendation:** The variation of condition proposed is considered to be appropriate as it would provide for a form of development which is considered to be acceptable in terms of impact on the amenities of surrounding residential occupiers.

---

**The Proposal**

This report relates to an application which seeks approval for the variation of a condition attached to a previous planning approval 08/00131/COU to allow an extension of opening hours.

The premises comprises a Hot Food Takeaway which has been operating since June 2008. The previous use was as a restaurant. The site lies within the town centre of Chester-le-Street, in the secondary frontage.

## Site History

08/00131/COU - Change of use of ground floor premises from restaurant to hot food take-away (use class A5) including erection of single-storey extension at rear to provide enlarged kitchen area and change of use of first floor premises to residential flat (Use Class C3) (amended description 28.3.08) (amended plans received 24.4.08 to provide larger extension at rear and 9.5.08 to provide amended shop front). Approved 20/5/08.

99/00020/COU - Change of use from accountancy office (B1) to premises for sale of hot and cold food (A3). Approved 24/3/99.

84/00254/COU - Change of use from shop to offices. Approved 15/6/84.

74/00437/FUL - Redevelopment of car showroom and offices and two shops to new multi storey office block. Approved 28/10/74.

## **Consultation Responses**

Neighbours have been notified through direct notification and the display of a site notice. To date one petition containing 78 names and one letter of objection have been received with the following concerns raised:

- The noise will be unbearable with car doors and raised voices
- The extended hours will attract drunks and out of control youths
- There will be an increase in brawls and other incidents
- How will people who live in flats in the vicinity get to sleep

Regeneration Team - No comments

Environmental Health Team - No objections.

Durham County Council Highways Department - No highway objection raised.

Durham Constabulary - No concerns.

## **Relevant Planning Policies and Considerations**

This application must be considered against the requirements of Policy R19 of the Chester-le-Street Local Plan, which relates to applications relating to A3 uses (now A4 and A5 uses as revised by the Use Classes Order 2005) including public houses, restaurants hot food takeaways etc.

Policy R19 advises that in principle food and drink outlets are considered to be appropriate within the wider town centre providing certain criteria can be met including that there should be no detrimental impact on the amenity of occupants of residential property from noise, fumes, smell, lighting, activity levels or hours of operation.

In determining this application the main issue to be considered is the impact the proposal will have on the amenity of surrounding residential occupiers. Issues with regards to fumes, smell and lighting were considered under the previous application for the change

of use of this property. Therefore, in this instance it is considered that the main issue to address is whether the increased operational hours will provide for an increased level of noise.

The application site is situated along the Front Street within close proximity to other town centre uses including take-away uses and pubs/clubs. Given that no objections have been received from the relevant consultees (Environmental Health and the Police) and after investigation into various opening hours granted for nearby properties through the Licensing Act, it is considered that the variation of the opening hours proposed is appropriate. This is on the basis that other neighbouring uses within the immediate locality are open to similar times. Some surrounding pubs/clubs have opening hours until 3am with another take-away shop opposite having consent to open until 3.30am.

In the nearby vicinity of the Front Street there are 4 residential properties which are situated between the host property and the other pubs/clubs and takeaways which have approved late opening hours. The closest residential properties are a block of flats sited around 30m away. Although objections have been raised with regards to noise and disturbance issues, it is not considered that the proposal would have a serious adverse impact on the amenity of nearby residents. This view is supported by the fact that no objections have been raised from both the Environmental Health Section and Durham Constabulary with regards to noise/disturbance issues. It is also considered that given the nature of the location of the premises, being within a town centre containing a high volume of late night uses, that residents who elect to live within the area must expect a higher degree of noise than if they were to live in a purely residential area.

### **Conclusion**

Taking all relevant issues into account it is considered that the variation of condition proposed should be approved in this instance as it is not considered to have a negative impact on the residential amenity of neighbouring properties and is therefore, considered to accord with the aims of policy R19 of the Chester-le-Street District Council Local Plan.

### **RECOMMENDATION** CONDITIONS:-

Approve

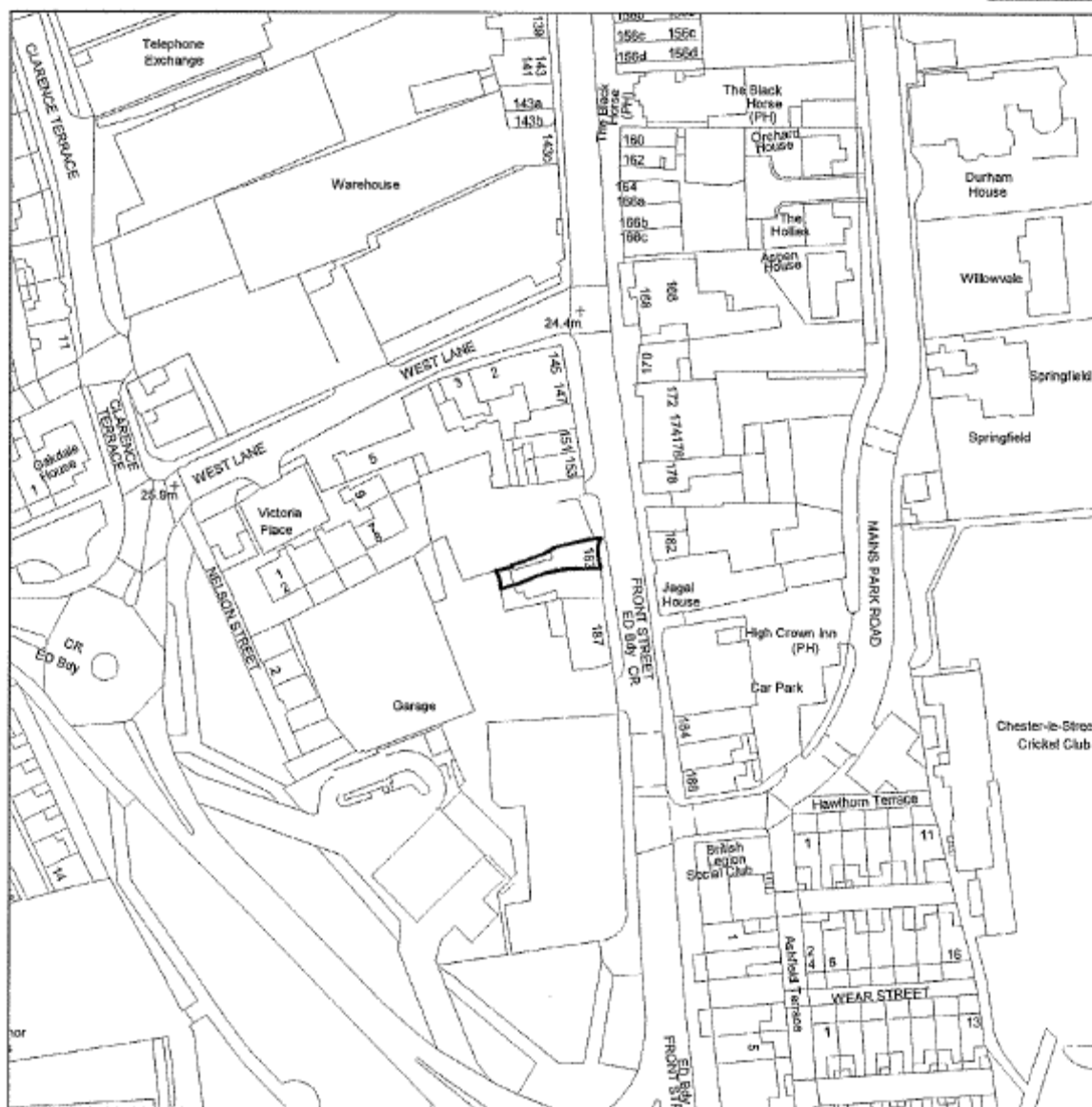
SUBJECT TO THE FOLLOWING

Extra 1.

There are no conditions attached to this application.

# 183 Front Street

Chester-le-Street



## 2.

**Reference: 08/00472/VAR**

**Proposal** Removal of Condition 4 and 6 of previously approved application reference 08/00096/COU to allow design of fence to remain and to remove need for the fence to be set back

**Location** 100 Queen Street Grange Villa Chester-le-Street Durham DH2 3LT

**Applicant** Mr R. Robson

---

### **Application Summary**

**Ward:** Grange Villa and West Pelton

**Case Officer:** Lisa Morina, Assistant Planning Officer

**Contact Details:** 0191 387 2146

[lisamorina@chester-le-street.gov.uk](mailto:lisamorina@chester-le-street.gov.uk)

**Summary of recommendation:** The removal of condition 4 and 6 is considered to be appropriate as, subject to the installation of the proposed landscaping scheme, it would provide for a development which is considered to be acceptable in terms of impact on the streetscene and the host property.

---

### **The Proposal**

This report relates to the proposed removal of two conditions from a previously approved planning application reference 08/00096/COU. Members may recall this previous application was determined at the April 2008 Planning Committee and related to a proposal for the erection of a two storey extension to the side and rear elevations, and enclosure/change of use of land adjacent to side elevation from open amenity space to domestic garden. The two conditions relating to this application are for the removal of condition 4 and 6.

Condition 4 states - "Notwithstanding the details shown on the hereby approved plans and elevations, full details of a revised fence style to the Northern elevation of the site shall be submitted to, and approved in writing by, the Local Planning Authority, within 56 days from the date of approval in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual and residential amenity and in accordance with the provisions of Policy HP16 of the Chester-le-Street District Local Plan"

Condition 6 states -"Notwithstanding the details shown on the hereby approved plans and elevations, the proposed fence line to the Northern elevation of the site is to be set back 2m from the footpath. Full details of which shall be submitted to, and approved in writing by, the Local Planning Authority, within 56days from the date of approval, prior to the commencement of any development on site in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual and residential amenity and in accordance with the provisions of Policy HP16 of the Chester-le-Street District Local Plan"

The property is an end of terrace house situated to the Northern end of Queen Street, Grange Villa, adjacent to public playing fields. The style, design and character of the property is typical of other terraced properties found in and around the village of Grange Villa, although the footprint is quite unique in that it resembles a trapezium shape.

### Relevant Planning History

Other than the application stated above, the only previous planning history on this site is 07/00376/COU - Erection of two storey extension to side and rear elevations, and enclosure/ change of use of land adjacent to side elevation from open amenity space to domestic garden - Application withdrawn

### Consultation Responses

The planning application was advertised through direct notification to local householders and by the display of a site notice. As a result of this exercise to date, three letters and a 121 named petition have been received in support of Mr Robson's application to allow the conditions to be removed; with the fence to remain as existing and the set back requirement for the fence to be removed, for the following reasons:

- It is an improvement to the streetscene even more so when the proposed planting is added.
- It greatly reduces the amount of balls coming from the football pitch.
- It removes an unsightly piece of land especially with the addition of the proposed hedging.

Three letters of objection have also been received with the following concerns raised:

- The proposal has a detrimental impact on the character of the surrounding area and would have a negative impact on the visual amenity of the streetscene
- The fence causes an obstruction to other residents using the footpath - the proposed planting would cause a further obstruction as it would overhang the footpath with the fence being so close to the footpath.
- The materials, size and scale of the fence are out of keeping with other properties
- A gap should be retained to allow for through growth so that wheelchair and pushchair users are not impeded and people do not have to walk on the road especially from the north footpath into 100 Queen Street.
- Concern that the sewage pipe will be damaged during construction

- This development will undo the work of the Council trying to improve the village.

The Council's Regeneration Team have advised that the proposal may affect sewers.

Durham County Council Highways have not been consulted on the application. However they raised no objections to the previous application.

The Council's Environmental Services Team have confirmed that they have no objections to the proposed landscaping scheme and that it would provide for a suitable dense screen to the existing fence.

## **Relevant Planning Policies and Considerations**

### **Regional Spatial Strategy**

The (RSS) sets out a long-term planning strategy for the spatial development of the North East Region of England. The RSS is part of the statutory Development Plan. The Regional Spatial Strategy was adopted in July 2008.

Policy 8 - Seeks to protect and enhance the environment. This in part should be achieved through promoting high quality design in all development that should be sympathetic to the surrounding area.

### **Chester-le-Street District Local Plan**

Policy HP16 states that proposals for the change of use or enclosure of public open spaces, landscaping and amenity strips of land for private residential purposes should have regard to the following: -

- The effect upon the residential amenity and character of the area and the use and location of the land in question
- The effect upon highway safety
- The design and style of the means of enclosure

In determining this application, the main issues to be considered are whether the proposed removal of the two conditions would have a negative impact on streetscene and the host property as well as the impact the removal of the conditions may have on the amenity of neighbouring residents.

### **Issue of Impact on Streetscene**

#### **Condition 4**

This condition required the installation of a revised fence style in comparison to what had been used on the development (a 1.8 metre palisade fence). The condition was imposed on the grounds that the palisade fence was considered unacceptable on design grounds



for a largely residential area. However the applicant has requested this condition be removed, the effect of which would be to allow the present palisade fence to remain. The applicant's request is largely based on the contended impact that his proposed landscaping scheme would have in softening the impact of the fence. This landscaping scheme has been approved by the Councils Arboricultural Officer. The Arboricultural Officer has confirmed that the installation of this approved scheme (comprising a mix of evergreen tall shrubs) would result in the existing fencing being largely masked.

The applicant also draws attention to the existence of other fences of a similar nature surrounding the football field to the rear of the site.

In assessing this issue it is considered, having regard to the accepted screening that the approved landscaping scheme will generate, it is considered that the current fence style would not have a negative impact on the visual amenity of the streetscene. Although the fence is not of a similar nature to other surrounding residential properties, it is in keeping with some fencing within the wider area as stated above. Accordingly it is considered that the character of the streetscene will not be harmed if the condition was to be removed. This is on the understanding that the landscaping scheme as approved was to remain in place in perpetuity. As Members will note from the recommendation below it is proposed that this be made a condition of approval.

#### Condition 6

This condition required the setting back of the fence to a position 2 metres back from the adjacent footpath. The reason for the condition was to safeguard the visual amenity of the area by preventing an unduly 'enclosed feeling' arising in the event of the palisade fence remaining in the erected position (500 mm off the footpath). The applicant has advised that if the set back was to be made, then this would infringe on the area in which the extension is proposed to be built and furthermore would remove the availability of the off-street parking space at the rear of the site.

In assessing this element of the proposal, and having regard to the softening impact the agreed landscaping scheme will have (as discussed above) it is considered that the current position of the fence will not lead such a negative impact on the visual amenity of the streetscene, or users of the footpath, as originally considered.

#### Residential Amenity

The proposed change of use of the amenity land including the erection of the fence will not give rise to any adverse impact on residential amenity. This view is formed on the grounds that the strip of land in question is not of high amenity value, and also on the ground that it will not lead to any form of overlooking into neighbouring residential property. It is considered therefore, that the style of the fence to remain and the removal of the set back would not have a negative impact on the residential amenity of the neighbouring properties.

### Other Issues Raised

Objectors have raised concerns with regards to the need to walk on the roadway due to the position of the fence. The proposal is not on highway land therefore, regardless of whether the fence is in existence or not, this arrangement would have been in place prior to the installation of the fence.

Objectors have also raised concern over the potential for through growth of the hedge causing an obstruction to the adjacent footpath. However it is the applicant's responsibility to maintain the hedge which is to be planted and has already been approved through the discharge of condition procedure relating to the landscaping scheme as discussed above. Durham County Council as Local Highway Authority also have powers to request work to be carried out to any item which could be considered an obstruction on the Highway. Accordingly if the approved hedge was to be allowed to extend onto the footpath there would be other powers available to remedy this concern.

Potential damage to a sewer pipe is not a material planning consideration. The applicant will be informed through an informative of any approval that the proposal may affect a public sewer and that Northumbrian Water should be contacted prior to the commencement of any works.

### Conclusion

Taking all relevant issues into account, it is considered that the removal of conditions 4 and 6 of the previously approved application is considered appropriate; having regard to the accepted impact the approved landscaping scheme will have in terms of protecting the visual amenity of the area.

### RECOMMENDATION

Approve

SUBJECT TO THE FOLLOWING

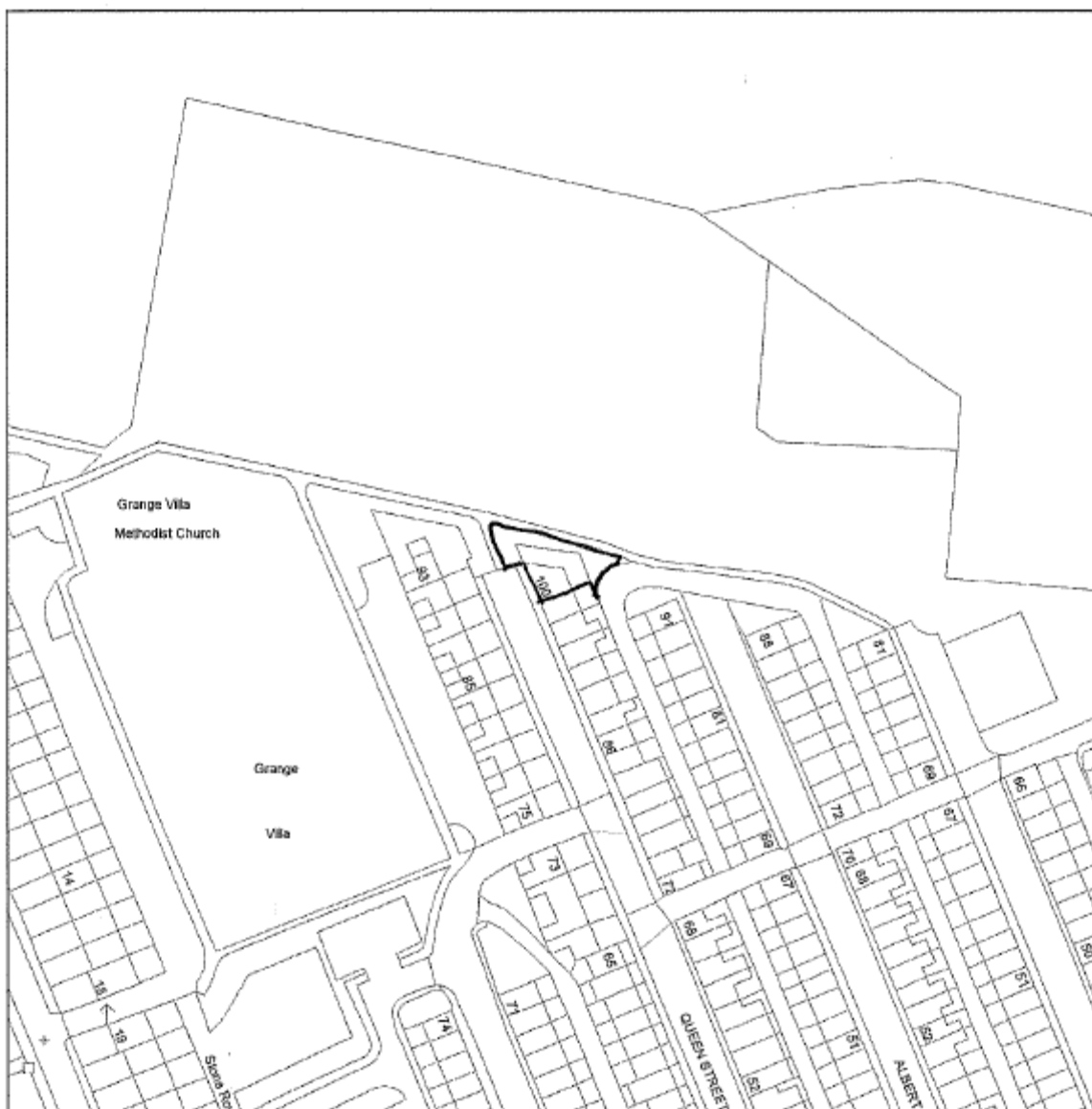
CONDITION:-

Extra 1.

That the approved landscaping scheme under planning application 08/00096/COU is implemented in full within the first available planting season and retained thereafter to the satisfaction of the Local Planning Authority, for the lifetime of the proposed. In the interests of visual amenity and to accord with policy HP 16 of the Chester-le-Street Local Plan.

# 100 Queen Street

Grange Villa





## ITEM 2

### Appeals List



## **Chester-le-Street District Council**

Civic Centre, Newcastle Road, Chester-le-Street, Co. Durham DH3 3UT

Tel: 0191 387 1919 Fax: 0191 387 1583

Directorate of Development Services

**8 January 2009**

### ***List of Planning Appeals and Current Status***

The Planning Applications listed below have been, or are currently, the subject of appeals against the decision reached by the Planning Committee. Planning Appeals are considered by a Planning Inspector from the Planning Inspectorate, a body which is independent of Chester-le-Street District Council.

#### Key to Appeal Type Code

W	-	Written Representations
I	-	Hearing
P	-	Public Inquiry

If you wish to view a copy of an Inspector's decision letter regarding any one of the appeals listed below please contact the Planning Division on 0191 387 2172 or 0191 387 2173 in order to arrange this.

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
06/00563/TPO /	Building Insurers	27 Tudor Road Chester-le-Street Durham DH3 3RY	Proposed felling of birch tree protected by Wearvale Terrace Tree Preservation Order.	W /	E:427520 N:552162	Appeal Withdrawn / 17.10.2008
07/00544/FUL /	Mr & Mrs Cree	3 Kingsmere Chester-le-Street Durham DH3 4DB	Erection of single storey extension at side of dwelling and erection of detached garage in garden area at side/front (amended plans received 18 February 2008).	W / 11.06.2008	E:427309 N:553411	Appeal Dismissed / 26.09.2008
08/00089/FUL /	Mr P. Blaydon	Land at Entrance to Valley View Sacriston Durham	Erection of one detached bungalow and means of access	W / 09.07.2008	E:423797 N:546791	Appeal Dismissed / 26.11.2008
08/00245/FUL /	Mr D. Keith	Grooms Cottage Morton House Fencehouses Houghton-le-Spring DH4 6QA	Proposed increase in height of existing fence to 1.9 metres in height	W / 29.10.2008	E:431511 N:549908	Appeal In Progress /

<b>Application Number / ODPM reference number</b>	<b>Applicant</b>	<b>Appeal Site</b>	<b>Proposal</b>	<b>Appeal Type / Appeal Start Date</b>	<b>OS Grid Reference</b>	<b>Status / Date of Appeal Decision</b>
08/00370/ADV /	J. C Decaux	Chester Le Street Cricket Club Ropery Lane Chester-le-Street Durham DH3 3PF	Erection of advertisement hoarding.	W / 15.12.2008	E:427567 N:550929	Appeal In Progress /
08/00279/HH /	Mrs M. Lonsdale & Mrs J. Weightman	Picktree Manor Picktree Washington Tyne and Wear NE38 9HH	High Hedges Complaint	W / 17.12.2008	E:427955 N:553148	Appeal In Progress /

### **ITEM 3**

### **Notification of Appeal Decision**

**Appeal Ref: APP/G1305/A/08/2079692/WF**

**Description: Erection of one detached bungalow and means of access**

**Location: Land at Entrance to Valley View, Sacriston, Durham.**

**Decision: The Appeal was dismissed**

Notification has recently been received from the Planning Inspectorate of a decision reached in an appeal lodged by Mr P. Blaydon against the Council's decision to refuse planning permission for the erection of one detached bungalow at land at the entrance to the Valley View housing estate in Sacriston.

Members will note that this application was refused in April 2008 under Officer delegated powers with the following two reasons for refusal:

*"The development proposed would result in the loss of a valued green open amenity space, which enhances the character and appearance of the surrounding area and is therefore considered detrimental to the visual amenity contrary to Policies RL3 and HP9 of the Chester-le-Street Local Plan 2003".*

*"The application site is not previously developed land and as such would therefore comprise the use of greenfield land for housing development contrary to Planning Policy Statements 1, and 3 and Policy HP6 of the Chester-le-Street Local Plan".*

The key considerations for the Inspector were the impact on the development plan priorities for new housing development and the effect of the proposal on the character and appearance of the area.

In the following the inspector adequately summarises the key considerations and reasoning behind the decision:

*"I conclude that the proposed development would result in harm to the achievement of the housing objectives of the adopted development plan, and would significantly harm the character and appearance of the area by the loss of an important open amenity space and by the size, scale, mass, form, design, and appearance of the proposed dwelling".*

Accordingly, the appeal was dismissed. A copy of the appeal decision is appended to this report for Member's consideration.



---

**Application Summary**

**Ward:** Sacriston

**Case Officer:** James Taylor, Senior Planning Officer

**Contact Details:** 0191 387 2146

jamestaylor@chester-le-street.gov.uk

---

**Stephen Reed**

**Development and Building Control Manager**

**7 January 2009**

This page is intentionally left blank