

Report to:	PLANNING COMMITTEE
Relevant Officer:	Gary Johnston, Head of Development Management
Date of Meeting:	1 August 2017

PLANNING/ENFORCEMENT APPEALS DETERMINED/LODGED

1.0 Purpose of the report:

- 1.1 The Committee is requested to note the planning and enforcement appeals lodged and determined.

2.0 Recommendation(s):

- 2.1 To note the report.

3.0 Reasons for recommendation(s):

- 3.1 To provide the Committee with a summary of planning appeals for information.

- 3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

- 3.2b Is the recommendation in accordance with the Council's approved budget? Yes

- 3.3 Other alternative options to be considered:

- 3.4 None, the report is for information only.

4.0 Council Priority:

- 4.1 The relevant Council Priority is 'The Economy: maximising growth and opportunity across Blackpool'

5.0 Background Information

5.1 Planning/Enforcement Appeals Determined

5.2 212 DICKSON ROAD, BLACKPOOL, FY1 2JS (15/8186)

- 5.2.1 An appeal by Mr Stephen Snelson against the service of an Enforcement Notice relating to the unauthorised erection of decking, a fence and a shed at first floor level on the flat roof of the outrigger.

5.2.2 The appeal was dismissed.

5.2.3 The Inspector stated that the main issues were the effects of the development on:

- the character and appearance of the area; and
- the living conditions of occupiers of neighbouring properties with reference to any loss of outlook or loss of privacy.

5.2.4 The Inspector stated that the scale, massing and height of the development is appropriate to neighbouring buildings and to its use, considering the width and importance of the street in which it is located. In this respect it complies with Policy CS7 of the Blackpool Local Plan Part 1: Core Strategy 2016 (CS) and Policy LQ4 of the Blackpool Local Plan 2006 (LP). Its design including use of materials is of an acceptably high quality in accordance with the requirements of Policy LQ1 and s7 of the National Planning Policy Framework. However, the development provides a poor outlook to neighbouring properties and has a detrimental effect on the privacy enjoyed by their occupants. The harm caused is substantial and contrary to Policy BH3 which states that development will not be permitted which would, among other matters adversely affect those occupying residential and visitor accommodation by its effect on privacy or outlook or activity associated with its use. It would also be contrary to CS Policy CS7 which would not permit development that causes unacceptable effects by reason of visual intrusion or overlooking.

5.2.5 In conclusion on ground (a), the Inspector stated that the development fails in a fundamental respect to comply with key development plan policies that seek to ensure that development safeguards the living conditions of occupiers of property surrounding it. The harm caused by the overlooking and loss of privacy to nearby neighbours is significant and not overcome by other considerations. So the appeal fails on ground (a) and planning permission was refused on the deemed application.

5.2.6 In relation to the ground (f) appeal (whether steps required exceed what is necessary to remedy injury to amenity caused by the development), the Inspector stated that the Enforcement Notice indicates that its purpose is to remedy the breach of planning control in accordance with s173(4)(a) of the Act by requiring the complete removal of the unauthorised development. No specific alternative lesser steps are put forward that would provide a satisfactory remedy to the breach of planning control. In the circumstances it is necessary and not excessive to require the removal of the decking, fencing and shed, and consequently the appeal on ground (f) did not succeed.

5.2.7 In relation to the ground (g) appeal (time given to comply with the notice is too short) the Inspector noted that the appellant asked for 12 months (the Enforcement Notice stated 3 months). However, as there would not be any complex building operations required to dismantle the development, he considered that three months to comply is adequate within which to arrange for the removal of the decking, fencing and shed.

5.2.8 The Enforcement Notice was upheld, and is due for compliance by 11 October 2017.

5.2.9 A copy of the Inspector's decision dated 11 July 2017 is attached as Appendix 3a.

5.3 21 CRANLEIGH AVENUE, BLACKPOOL, FY2 9LG (16/8054)

5.3.1 An appeal by Ms Elaine Rowland against the service of an Enforcement Notice relating to the unauthorised erection of a rear dormer hung in brown uPVC and the erection of a side dormer hung in uPVC and with an opening window.

5.3.2 The appeal was allowed.

5.3.3 In relation to the ground (c) appeal (matters alleged do not constitute a breach of planning control), the Inspector commented that the Town and Country Planning (General Permitted Development)(England) Order 2015, Schedule 2, Part 1, Class B permits the enlargement of a dwelling-house consisting of additions or alterations to its roof subject to certain conditions. One of those conditions is that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwelling-house. Another is that any window on a wall or roof slope forming a side elevation must be non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

5.3.4 In this case, both dormers are clad in brown uPVC, therefore the materials used to clad the dormers are not similar in appearance to those used in the existing dwelling-house. Furthermore, the window in the side dormer opens and the opening part is not more than 1.7 metres above the floor level and so does not comply with the aforementioned condition. Consequently, for the reasons given, the development was in breach of planning control when the enforcement notice was issued and it remains in breach. Ground (c) therefore fails.

5.3.5 In relation to the ground (a) appeal (planning permission sought for the development as built) the Inspector considered the main issues to be the effect of the development on:

- the character and appearance of the area; and
- the living conditions of neighbouring occupiers in terms of outlook, and the privacy of the occupiers of no. 23 Countess Crescent.

5.3.6 The Inspector pointed out that the surrounding area is residential consisting of a mixture of house types and styles, with the immediate vicinity containing mainly bungalows similar in appearance to the appeal property. There are a number of dormers nearby, clad in a variety of materials including white uPVC and other coloured uPVC. She stated that the rear and side dormer development is proportionate in size to the existing dwelling and its cladding and colouring is not out of keeping with other development in the area. Whilst the side dormer has a partial mono-pitch roof, its design and limited scale do not render this inappropriate. The

rear dormer is barely visible from public vantage points and the modestly sized side dormer is unobtrusive and merges into its surroundings. Consequently, no harm is caused to the character and appearance of the area.

Furthermore, regardless of the property's position at the top of a slight gradient, there is sufficient distance between the development and other dwellings so as not to adversely impact on neighbours' outlook. The small bathroom window to the side dormer opens, and when standing immediately next to this open window there are oblique views downwards towards a habitable room window in the adjacent dwelling at 23 Countess Crescent. However, the extent to which this outlook impacts on the neighbour's privacy is minimal, particularly as the purpose of the window is simply to ventilate the on-suite bathroom which it serves.

The Inspector therefore concluded that the side dormer causes no significant harm to the privacy of the occupiers of 23 Countess Crescent.

5.3.7 Consequently, the appeal succeeds on ground (a), and the Enforcement Notice quashed.

5.3.8 A copy of the Inspector's decision dated 26 June 2017 is attached as Appendix 3b.

5.4 Planning/Enforcement Appeals Lodged

5.4.1 None

5.5 List of Appendices:

5.5.1 Appendix 3a - A copy of the Inspector's decision dated 11 July 2017
Appendix 3b- A copy of the Inspector's decision dated 26 June 2017

6.0 Legal considerations:

6.1 None

7.0 Human Resources considerations:

7.1 None

8.0 Equalities considerations:

8.1 None

9.0 Financial considerations:

9.1 None

10.0 Risk management considerations:

10.1 None

11.0 Ethical considerations:

11.1 None

12.0 Internal/ External Consultation undertaken:

12.1 None

13.0 Background papers:

13.1 None