

Report to:	Planning Committee
Relevant Officer:	Gary Johnston, Head of Development Management
Date of Meeting:	9 June 2015

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):

The Committee is provided with a summary of planning and enforcement appeals, lodged and determined for its information.

4.0 Council Priority:

4.1 Not applicable

5.0 Planning/Enforcement Appeals Determined

5.1 2 BEAUFORT AVENUE, BLACKPOOL (14/0076)

Appeal by Mr. Rochford against the Council's refusal of planning permission for external alterations and erection of part single storey, part three storey side extension and use of premises as altered as three dwellinghouses - **APPEAL DISMISSED.**

The Inspector considered the main issues in this case to be:

- the effect of the proposal on the character and appearance of the host building;
- whether the proposal would provide adequate living conditions for future occupiers of the proposed dwellings with particular regard to internal and external spaces, outlook and access to natural light, and adequate facilities in terms of waste disposal and parking; and
- its effect on the living conditions of the occupiers of Nos. 31 and 31A Red Bank Road with regard to outlook and access to natural light.

Character and appearance

The appeal relates to a large end of terrace building on the prominent corner of Beaufort Avenue and Red Bank Road. The Council did not raise any issues with the appearance of the scheme, except for the siting of a front door on Red Bank Road. A large set of double entrance doors with windows either side sits directly underneath a first floor bay window. This would be replaced with a double window in proportion with the bay window above, and a new door would be inserted between this and the existing bay which wraps around the corner of the building. The Inspector agreed with the Council that the position of the door would be strange in the overall context of this fenestration and would be totally under-scaled in proportion to the bay windows and would therefore appear disjointed and out of context.

For these reasons, he concluded that this element of the scheme would harm the character and appearance of the host building and would conflict with policies LQ2 and LQ14 of the Local Plan (LP).

Living conditions of future occupiers and occupiers of neighbouring dwellings

Planning permission was granted for extensions in 2013 (Ref. 13/0550), similar to the current scheme, except that the current proposed single storey rear extension is longer. The approved scheme also included the use of part of the ground floor as a cafe/tea room, with external seating within the forecourt, and three off-street parking spaces.

In light of the approved use and the three parking spaces included within that scheme, combined with the sustainable location of the site, the Inspector was satisfied that the four private parking included within the scheme before him was satisfactory and would be likely to result in less, rather than more, vehicular traffic movements than the approved use.

The Council raised concern that the length of the single storey extension would unduly compromise the levels of natural light available to the occupiers of Unit 2 along with their outlook. This dwelling would have a kitchen window and a bedroom window to the rear. The outlook from these rooms and the levels of natural light available to them would be mostly affected by the three storey section (as approved), but the Inspector considered that the longer single storey extension would exacerbate the tunnel effect, particularly when viewed from the kitchen.

He felt that the enclosing effect would be even greater when viewed from 31/31A Red Bank Road, which is attached. Several windows are located to the rear elevation and outrigger of this building at ground floor level. He considered that whilst the longer ground floor extension would not have a significant effect on the levels of natural light entering these properties, the outlook from them would be materially and harmfully worse.

With regard to the internal arrangements, the Council expressed concern that the only source of outlook and natural light for the first floor bedroom of Unit 1 would

be via a skylight, however the Inspector considered that this was not uncommon in loft rooms. He also noted that the top single bedroom in Unit 3 had predominantly sloping ceilings, but was satisfied that a reasonable level of headspace would be provided.

The amenity space for the proposed dwellings would be at the front of the building, and would not be private. The Inspector considered that the conversion of an existing building brings its own particular constraints, but the proposed dwellings would be close to areas of public open space. Further, he pointed out that many terraced houses within the local area had limited private amenity spaces and not all occupiers would want or need formal gardens. The Council's SPD indicates that a degree of flexibility can be adopted and he considered that a pragmatic approach should be taken in this particular instance. On this basis, he considered that a lack of useable private amenity space should not, in itself, be fatal to the scheme.

The level of refuse storage provision seemed adequate to the Inspector. Although the occupiers of Unit 3 would have to walk around the building to dispose of refuse, he felt that this was not a significant distance; and it had to be balanced against the visual impact which could be caused by providing a bin store close to the entrance to Unit 3 on the Red Bank Road frontage.

In conclusion, he found that adequate parking and refuse storage would be provided, whilst an absence of any meaningful private amenity space was acceptable in this particular context. Room sizes and arrangements were satisfactory, but the depth of the single storey extension would unacceptably compromise the outlook from the kitchen of Unit 2 and it would have a harmfully greater impact on the occupiers of the ground floor of the adjoining building at 31/31A Red Bank Road, than the approved scheme. In such terms, the proposal conflicted with saved policies BH3, HN5 and LQ14 of the LP.

Other considerations

The proposal would convert the building to dwellings rather than flats, of which there is an oversupply within Blackpool and the Inspector was mindful that it would regenerate a building which required some attention. Nevertheless, these and all other positive aspects of the scheme outlined by the appellant neither altered nor outweighed the failings he identified.

Accordingly, he dismissed the appeal.

5.2 **7-9 General Street, Blackpool, Application ref: 14/0333**

Appeal by Mr Martin Scott Price against the decision of the Council to refuse planning permission for infill of basement area and erection of single storey front extension, erection of three storey rear extensions and use of part of basement as museum and ancillary use of hotel dining room as tea room open to the general public at 7-9 General Street, Blackpool. **Appeal Dismissed and Award of Costs in favour of the Council.**

The Inspector considered the main issue in this case to be the effect of the proposal on the character and appearance of the host building and the street scene.

The appeal relates to a three storey property with feature bay windows either side of its front entrance which is set back from the pavement behind a low wall. Although the buildings either side do not sit behind low walls, they share the same building line, which is a noticeable element of this particular section of the street scene. According to the appellant's figures, the proposed single storey extension would be just under 3 metres deep, projecting forward of the bays either side of the entrance, close to the pavement. Whilst the extension would be symmetrical, it would protrude significantly beyond the established building line, it would engulf the attractive bays and it would appear unduly prominent and completely inconsistent with the siting of the buildings either side. The Inspector was mindful that a colleague Inspector recently considered a broadly similar proposal, which would have projected about half a metre further forward of the bays than the scheme before him, to be visually harmful (Ref. APP/J2373/A/12/2189129). The minor reduction in the level of projection proposed does not alleviate the visual harm which his colleague had identified.

For the above reasons, the Inspector concluded that the proposed single storey front extension would unacceptably harm the character and appearance of the host building and the street scene. In such terms, it conflicts with saved Policies LQ1 and LQ14 of the adopted Blackpool Local Plan.

The Inspector noted that planning permission has been granted for a front porch, but this would be a much more modest structure and it would leave the integrity of the bays intact. He also appreciated there are other forms of development within General Street, but consistent building lines for groups of buildings is a noticeable feature of the street scene.

The Inspector acknowledged the fact the appellant is seeking to enhance a visitor attraction and invest money in a challenging economic climate. Whilst this is to be applauded, he felt that it did not outweigh the harm that he had identified.

Accordingly he dismissed the appeal

The Inspector also awarded costs to the Council because he felt that the appellant had acted unreasonably in pursuing an appeal for a proposal which was only marginally different to a scheme which had previously been refused by the Council and dismissed at appeal.

**5.3 Land adjacent to 82 Common Edge Road (former pigeon fanciers club), Blackpool
Application ref: 14/0240**

Appeal by James Carter Homes against the decision of the Council to refuse planning permission for the Erection of 2 detached dwelling houses with associated access, parking, detached garage and landscaping, following demolition of existing club.

Appeal Dismissed

The Inspector considered the main issues in this case are the effect of the proposed development on the character and appearance of the local area, whether the layout of the proposed dwellings would provide adequate living conditions for their future occupiers with particular regard to privacy, and whether it would prejudice the future development of the adjacent Stanley Conservative Social Club site.

Character and appearance of the area

The Inspector noted that the appeal relates to a deep, rectangular parcel of land with its relatively narrow frontage facing the main thoroughfare of Common Edge Road. The local area is home to a range of dwelling types, with an apartment block immediately to the north and the Stanley Conservative Social Club and associated car park immediately to the south. The site accommodates an unkempt wooden building towards the rear and it currently does not make a positive contribution to the street scene.

He noted that the Council raises no objection to the overall design of the two dwellings proposed, but is not satisfied with the tandem arrangement proposed. The Plot 1 dwelling would sit at the front of the site, towards the northern boundary. Whilst its gable would sit marginally forward of the front elevation of the adjacent apartment block, this projection would not be particularly noticeable within the street scene and it would not look incongruous. The Plot 2 dwelling would sit behind the Plot 1 dwelling, close to the southern boundary, with its reasonably sized private garden running along the northern boundary. The rear dwelling would not be directly behind the front dwelling, but this arrangement would not appear contrived.

He noted that the Council points to the fact that the dwellings within the immediate vicinity along Common Edge Road front the highway. Whilst this may be so, there are a variety of building styles and furthermore, there are examples of 'backland' developments within the nearby Bennetts Lane, which is part of the local urban grain. The proposed development would deliver a dwelling to the frontage of the site, broadly consistent with the arrangement of the nearby dwellings and the dwelling to the rear would sit discreetly, served by a narrow driveway, which would sit comfortably alongside the frontage dwelling.

For these reasons, he was satisfied that the development proposed would not harm the character and appearance of the surrounding area. In such terms, he felt that there is no conflict with saved Policies LQ1 and LQ2 of the adopted Blackpool Local Plan (LP).

Living conditions

He commented that the nearest part of the front elevation of the Plot 2 dwelling would sit about 6.5 metres behind the rear garden of the Plot 1 dwelling according to the undisputed figures provided by the Council. Accordingly, there would be limited separation between the windows serving the front bedrooms of the Plot 2 dwelling and the rear garden of the front dwelling. This would result in unacceptable levels of overlooking and the effect would be unduly invasive for future occupiers of this property. He was not satisfied that this harm could be overcome by landscaping or other forms of boundary treatment given the shallow nature of this garden, and it would not be appropriate to install obscured glazing within the front bedroom windows of the Plot 2 dwelling because the outlook from them would be unacceptably compromised.

He appreciated that the other nearby backland developments may cause overlooking issues for nearby residents. He said 'I do not know the precise planning circumstances behind them; I understand that none arise from recent planning permissions. In any event, I have considered the appeal proposal on its individual merits and against the most up to date development plan policy.'

He therefore concluded that the proposed layout would not provide adequate levels of privacy for future occupiers of the Plot 1 dwelling. He felt that this failure is contrary to saved Policy BH3 of the Local Plan.

Future redevelopment of the Conservative Club

He commented that the proposed dwellings would sit in tandem, but their front elevations would face the highway. The Council suggests that this arrangement would prejudice the future redevelopment of the adjacent site, which is currently home to the Conservative Club.

He commented -firstly, no firm plans for this site are before me and therefore future residential redevelopment is by no means certain and secondly, the side elevations of the proposed dwellings would sit parallel to the side boundary of the adjacent land. He appreciated that the Council's argument that the Plot 2 dwelling could overlook any dwelling built along the frontage of this site close to the northern boundary in the same manner as it would overlook the Plot 1 dwelling. Nonetheless, this may not necessarily be the only acceptable layout for the future redevelopment of this site.

In light of the above, he was satisfied that the arrangement of the proposed dwellings need not unduly compromise the future redevelopment of the adjacent Conservative Club site. In this particular respect, he felt that there is no conflict with the development plan policies referred to above.

Other considerations

The appellant argued that the development would improve the appearance of the appeal site, but so too could the erection of a single dwelling, or indeed, a pair of semi-detached dwellings as suggested by the Council. It is also advanced that the development would make a contribution to resolving a current shortfall in the 5 year supply of housing sites within the Borough. The National Planning Policy Framework (NPPF) indicates that where local planning authorities cannot demonstrate a 5 year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up-to date and housing applications should be considered in the context of the presumption in favour of sustainable development. He commented that there is some dispute as to whether such a shortfall actually exists, but the contribution which the proposed development would make in such terms is negligible in any event.

Further, whilst this previously developed site enjoys a sustainable location, the NPPF explains that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Given his findings relating to the matter of privacy, he commented that it follows that the proposal does not amount to good design. It therefore does not amount to sustainable development in the wider sense of the definition outlined by the NPPF.

In light of the above factors, and having considered all other matters raised, the Inspector dismissed the appeal.

5.4 Larkfield, St Nicholas Road, Blackpool. Application ref 14/0783

Appeal by Mrs Jenny Taylor against the refusal of planning permission for a single storey side extension including extension to first floor roof terrace. **Appeal dismissed.**

This application was refused under delegated powers on the basis that the proposed extension, would result in a property significantly larger than the original and which has already been extended. In particular it would further transgress the 35 per cent increase in footprint permitted by Policy NE3 of the Blackpool Local Plan and would result in a dwelling which cumulatively would be disproportionately larger than the

original dwelling and would be very conspicuous in this rural setting as part of the Marton Moss Countryside Area

The Inspector visited the site and stated that the existing additions significantly exceed the 35 per cent maximum endorsed by saved Policy NE3 of the Local Plan for extensions to dwellings within the Marton Moss Countryside Area.

He stated “Whilst the appeal dwelling sits within a large plot, the proposed single storey side extension would be a significant addition in its own right. Together with the earlier extensions, the footprint of the resultant dwelling would be 175 per cent greater than that of the original according to the Council’s uncontested figures. This exceeds the guideline outlined above by a huge margin and the proposed extension, when considered alongside the earlier additions, would result in a much larger dwelling than the original. In addition, the proposed extension would be wide with an extensive flat roof which, even accounting for the existing large box dormers, would not respond well to the traditional hipped roof of the main body of the host dwelling”.

These factors led him to conclude that the proposed extension, particularly when considered alongside the previous additions, would be overly large and disproportionate to the size of the original dwelling. Further, its extensive flat roof would be out of character with the dwelling as it stands today. It would also increase the spread of built development, which would increase the overall prominence of the dwelling and detract from its semi-rural setting.

The Inspector appreciated that the applicant wanted to provide additional accommodation for her family; however, this does not outweigh the harm he identified above.

He concluded that for the above reasons, the appeal should be dismissed.

5.5 **Ralmar, Sandy Lane, Blackpool Application Ref 13/0098**

Appeal by Mr. Powell against the Council’s refusal of planning permission for external alterations and use of stables as single private dwelling house - **Appeal dismissed.**

The Inspector considered the main issue to be whether the proposed development would represent sustainable development, having particular regard to national and local policies and the effects on the character and appearance of the area and on highway safety.

Policy context

The development plan for the area includes the saved policies in the adopted Blackpool Local Plan 2001/2016 (LP). The National Planning Policy Framework (NPPF) indicates that weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (para 215). The Blackpool Local

Plan Part 1: Core Strategy (CS) was published in June 2014 and submitted in December 2014. These events post-date the Council's decision on the application and the previous, now quashed, appeal decision relating to it. They therefore represent a material change in circumstances since then.

The NPPF states that decision-takers may give weight (unless other material considerations indicate otherwise) to relevant policies in emerging plans. This weight is dependent on the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework.

The emerging CS has been the subject of consultations and submitted for examination. No representations at consultation stage justified modifications to the policies relevant to this proposal prior to submission (other than minor changes to improve clarity), but there has yet been no independent finding on the soundness of the Strategy.

The stated purpose of LP policy NE2 (Countryside Areas) is 'to retain the existing rural character and prevent urban expansion'. The supporting text further indicates that the designation of Countryside Areas in conjunction with the Green Belts defines the limit of urban development. Although it provides for dwellings in limited defined circumstances, these are expressed as exceptions to the general restriction of development in the designated areas. For these reasons, in respect of the latter part of the purposes it constitutes a policy for the supply of housing in the terms of para 49 of the NPPF.

At the time of the determination of the application and of the original appeal decision the Council could not demonstrate a 5-year supply of deliverable housing sites against a housing target derived from the Regional Spatial Strategy (RSS). However, following revocation of the RSS, there is now a 5-year supply plus a 20 per cent buffer proposed in CS policy CS2. The evidence underpinning the assessment of housing land supply against the CS2 requirement has yet to be tested in independent examination and the figures might change by the time the CS is adopted. Accordingly, at this stage the Inspector attached only limited weight to this policy, and the 5-year supply assessment. Either way, he stated that the contribution of the single dwelling proposed here to the housing land supply would be minimal.

For the above reasons the Inspector considered that in this respect LP policy NE2 is out of date and hence carries limited weight. In any event, para 49 of the NPPF requires this proposal to be considered in the context of the presumption in favour of sustainable development and NPPF para 14 sets out what this means for decision-taking.

However, the other stated purpose of policy LP policy NE2, which is in essence carried forward into CS policy CS26 (Marton Moss), is retention of the existing rural character of the defined Countryside Areas. This is fully consistent with a core principle set out in NPPF para 17 that planning should 'take account of the different roles and character of different areas, promoting the vitality of our main urban area...recognising the intrinsic character and beauty of the countryside...' Ministers have recently reiterated that the impact of development on the landscape can be an important material consideration outside nationally designated areas. The Inspector considered that the granting of other planning permissions in this area, in other circumstances, does not negate the purpose of the policies or justify further development that would conflict with them. Accordingly this purpose of policy NE2 still stands and the Inspector gave substantial weight to it in this respect. In the absence of unresolved significant objections to it, he also gave significant weight to policy CS26.

Sustainability

The site is within an area designated through policy NE2 as the Marton Moss Countryside Area. The policy states within this designated area new development, including the change of use of existing buildings will not be permitted except for agricultural or horticultural purposes or for outdoor recreational uses appropriate to a rural area. These elements are broadly carried forward into policy CS26.

In two other appeal decisions, Inspectors have described this area as 'semi-rural' i.e. not open countryside; and the Inspector shared their views, which are also supported by the Marton Moss Characterisation Study of 2009. The emerging CS recognises that in the Marton Moss area, the land behind the main highway frontages retains 'an essentially rural character, though very different from typical more open countryside'. The appeal site lies well away from the main roads, and the Inspector agreed with that description. It seemed to him, that originally sporadic development has gradually become more consolidated over time by piecemeal developments. However, the overall density remains low and, while the rural character has been compromised, he agreed that the locality of this site cannot be regarded as urban.

Policy CS26 maintains the provisions of policy NE2 for this area, pending 'a neighbourhood planning approach to develop neighbourhood policy which supports the retention and enhancement of the distinctive character, whilst identifying in what circumstances development including residential may be acceptable'. This element reflects the NPPF core principle that 'planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area' (para 17). This process has not been completed here; however, the Inspector considered

that both of these policies are broadly consistent with para. 55 of the NPPF regarding housing in both the open countryside and settlements within rural areas and so carry much weight. It states that to promote sustainable development in such areas, housing should be located where it will enhance or maintain the vitality of rural communities.

The Inspector saw that the range of services and facilities were mostly located in the urban area; and there was no evidence that this site was as accessible by non-car modes as locations within the main built-up area. A submitted 'accessibility questionnaire' suggested that the accessibility here is in the lower part of the 'low' level range. He also saw that the walking routes involved include narrow, partly-made and poorly-lit roads without footways that could not be described as attractive for pedestrians, especially at night. The Inspector saw nothing to suggest that the proposed dwelling would support rural communities. Accordingly he felt that the appeal proposal would not contribute to the economic or social dimensions to sustainable development.

The site is approximately half a hectare in extent, most of which is open. The only structures on it are the appeal building, an unauthorised mobile home, a garage/workshop/store and a polytunnel. The Inspector considered that the existing stable building is of a style more akin to a domestic bungalow than to a typical stable. He recognised that the building would be likely to remain on site (it has planning permission for use as stables/store), but if it were converted to a dwelling its appearance would change (particularly with the addition of a large area of glazing under the front projection and replacement of two stable doors by windows), there would be additional domestic paraphernalia around it, and there might be pressure to extend and/or alter the dwelling subsequently. Although permitted development rights could be restricted through a planning condition, the right to apply for planning permission would remain and could be difficult to resist.

He considered that the effect would be to change the character of the site from still essentially rural to more suburban and to have a similar, though limited, impact on its surroundings. It would also make it more difficult to resist other similar proposals in the locality, the cumulative effect of which would compound the harm in this respect. This development would not preserve the character of the area. The nature of the area might change in due course, but decisions on this should be taken in the context of the development plan and the neighbourhood planning approach outlined in policy CS26 in the light of all relevant factors, rather than through decisions on individual proposals such as this. For these reasons, he considered the development would not support the environmental dimension to sustainable development.

He also considered that the proposed development would conflict with LP policy LQ1 in that it would not make a positive contribution to the quality of the surrounding environment; and with policy LQ2 through its adverse effect on the character and setting of the area. Policies LQ1 and 2 are consistent with the emphasis placed by the NPPF on high quality design and he attached full weight to them.

With regard to the access, Sandy Lane here is a single-track, partly surfaced road without footways. However, the Inspector saw that the site is located near the end of a cul-de-sac which is very lightly trafficked here, and he felt that the proposal would be unlikely to add significantly to this. The access is on the inside of a bend and visibility is poor, but the nature of the road greatly limits traffic speeds. The hedge has already been lowered and there is further scope for improving visibility, at the cost of some loss of rural character, but the Inspector did not consider that there would be material harm to highway safety and so there would be no conflict with LP policy AS1.

Conclusions

The Inspector concluded on the main issue that the proposed change of use would not represent sustainable development; therefore the presumption in favour does not apply. Moreover, it would be contrary to LP and CS and NPPF policies as identified above. He recognised that elements of the policy framework provide some support for it, and that there would be no conflict with LP policy AS1, but he felt that the adverse effects of approving the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

For the reasons given above he concluded that the appeal should be dismissed.

Does the information submitted include any exempt information? No

None

6.0 Planning/Enforcement Appeals lodged

Does the information submitted include any exempt information? No

List of appendices

None

7.0 Legal considerations:

7.1 None

8.0 Human Resources considerations:

8.1 None

9.0 Equalities considerations:

9.1 None

10.0 Financial considerations:

10.1 None

11.0 Risk management considerations:

11.1 None

12.0 Ethical considerations:

12.1 None

13.0 Internal/ External Consultation undertaken:

13.1 None

14.0 Background papers:

14.1 None