

Report to:	Planning Committee
Relevant Officer:	Gary Johnston, Head of Development Management
Date of Meeting:	8 th March 2016

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:

None, the report is for information only.

4.0 Council Priority:

4.1 Not applicable

5.0 Background Information

5.1 Planning/Enforcement Appeals Determined

5.2 12-26 BACK LORD STREET, BLACKPOOL, FY1 2BG (15/0085)

5.2.1 An Appeal by Mr Stephen Mulberry against the Council's refusal to grant outline

planning permission for residential development of 3 dwellings at 12-26 Back Lord Street. Appeal dismissed.

5.2.2 The Inspector considered the main issues to be:

- The effect of the proposed development on the living conditions of nearby residential occupiers and future occupiers of the dwellings in terms of light, privacy and outlook;
- Whether adequate parking provision would be made to meet the needs of the development;
- Whether the proposal would provide acceptable access for future occupiers.

5.2.3 Living Conditions

The proposed dwellings would be three storeys high and the Inspector considered that the new buildings would appear higher and more overbearing to the occupiers of the existing properties facing onto the proposed dwellings and the houses in High Street in particular would be quite close to the new structures. Because of the height and mass of the new houses and the orientation of the properties, the occupiers of some of the nearby dwellings close to the appeal site would experience an unacceptable loss of light and outlook. With regards to privacy, there would be oblique views from the first and second floor window of the proposed dwellings to the windows of the adjoining houses and vice-versa. Similarly, the gardens of the two end houses would be overlooked from the surrounding dwellings. There is generally a certain amount of inter-visibility between properties in close knit urban situations such as this. However, in this case it would be at close quarters such that he felt there would be an unacceptable sense of being overlooked for both existing residents and future occupiers of the new houses. He concluded that the proposed development would offer unsatisfactory living conditions for existing and future occupiers in terms of light, outlook and privacy.

5.2.4 Parking

Overall, he considered that the level of parking proposed would be acceptable to serve the needs of the proposed development.

5.2.5 Access for Future Occupiers

From the representations it was evident to the Inspector that the gates are closed at night for security. Also they are not electronically operated and the appellant has no control over them. He considered that the current arrangement would be unsatisfactory as the only means of access to the proposed houses as it would be difficult for visitors or delivery personnel to get access to the dwellings, especially during the evenings, and access could also be difficult for disabled people and young

children.

5.2.6 The Inspector accepted that the gates were put in because of persistent issues of crime and disorder (the Police Architectural Liaison Officer provided some figures to support this). Nearby residents were concerned about increased crime if the gates were to be removed or left open at night. The Council stated that Under the Clean Neighbourhood and Environment Act, a local authority is restricted from pursuing a gating order where a property's primary means of access is through a gated alley and the gates would have to be removed if houses were developed in the street. The Inspector had nothing before him to show that this would not be so and considered that the likely increase in crime as a result would be to the detriment of the amenity of both the nearby residents and the future occupiers. He concluded that the proposed development would not provide safe and convenient access for future occupiers.

5.3 **LAND AT FERNBANK, DIVISION LANE, BLACKPOOL, FY4 5DZ (14/0866)**

5.3.1 An Appeal by Mr Phil Hough against the refusal of planning permission for the use of disused storage building as a single dwelling on land adjacent to Fernbank, Division Lane. Appeal dismissed.

5.3.2 An application for costs was made by Mr Phil Hough against the Council. This application is the subject of a separate decision.

The Inspector considered the main issues to be:

- Whether the residential use would constitute sustainable development in the context of local and national planning policies; and,
- The effects of the appeal scheme on the character and appearance of the area.

5.3.3 Residential use

As the proposed dwelling would not be attached to any existing or proposed agricultural or horticultural uses, he considered it would be at variance with both Policies NE2 and CS26. Whilst the appeal site is in a location that is not particularly accessible by means other than the private car, he did not feel that it was an isolated location and so did not consider it an exception in terms of paragraph 55 of the NPPF regarding policies on isolated dwellings.

5.3.4 Moreover, it was unclear whether the building has ever actually been in an authorised use for it to be redundant from, as the building only had permission for

stables; but both internally and externally, it had the character of a residential structure. He was not persuaded, in any event, that any of the exceptions in paragraph 55 would apply even if he was to consider it an isolated site within the countryside.

- 5.3.5 He also considered the wider rural policies in the NPPF in paragraph 28. However, there was no evidence submitted by the appellant to show how a proposal of this scale would have a significantly beneficial effect on the rural economy, tourism or services, which would outweigh the conflicts with the development plan.
- 5.3.6 On the principle of residential use, he concluded that the appeal scheme's minimal effects in terms of the rural economy; the site's limited accessibility indicative of a low level of environmental and social sustainability; and its variance with Policies NE2 and CS26 meant that the proposal would not constitute sustainable development and thus would be at odds with the objectives of local and national planning policy.

5.3.7 Character and appearance

The Inspector considered that the development would introduce a scale of domestic use that would be wholly unusual in the immediate surrounding area, which is characterised by larger dwellings in generous plots and would constitute an incongruous feature in the immediate surroundings. He felt that its character would change from that of an ancillary building serving an equestrian use, to a small dwelling in a plot size unlike any other in the immediate surroundings, with its attendant domestic paraphernalia. He considered that the orientation and relationship with its surrounding buildings would be incongruous and unsympathetic to the wider character of the area, and would constitute the ad hoc and sporadic residential development that local policies seek to control. The proposal would thus be harmful to the wider character of the area.

5.4 LAND BOUNDED BY FISHERS LANE, COMMON EDGE ROAD AND ECCLESGATE ROAD, BLACKPOOL (14/0723)

- 5.4.1 An Appeal by Newfield Construction Ltd against the refusal of planning permission for residential development of eight detached and semi-detached dwellings and associated infrastructure on land adjoining Fishers Lane and Common Edge Road. Appeal dismissed.
- 5.4.2 An application for costs was made by Newfield Construction Ltd against the Council. This application is the subject of a separate decision.
- 5.4.3 The Inspector considered the main issues to be:
- The effect of the proposed development on the setting of the listed buildings

at 1 and 2 Fishers Lane and whether the proposal would harmfully affect the structural integrity of those buildings;

- The effect of the proposal on the character and appearance of the surrounding area;
- Whether the proposed development would have any impact on flooding;
- The planning balance.

5.4.4 Impact on listed buildings and their setting

The Inspector considered that the appeal scheme would introduce a suburban form of development on this open land in front of the cottages and would erode some of the significance imparted by the link between the cottages and their original purpose in farming the land. He felt that the introduction of new two storey houses in close proximity would harm the significance of the link between buildings and land in a way which would cause harm to the setting of the buildings. However, he felt that the harm was not substantial as some open land would be retained and some views towards the cottages would still be possible from the south.

5.4.5 Nonetheless, he found the suburban two storey nature of the proposed development would be at odds with the single storey simplicity of the cottages. The interrelationship would be uncomfortable and, in his judgement, too close to be successful. The facing gables of the semi detached houses would interfere with the open aspect of the cottages in a way which would reduce the significance of the relationship between the cottages and the Moss.

5.4.6 Overall he considered that the proposal would impart less than substantial harm to the setting of the listed buildings in that it would interfere with the relationship between the cottages and the remnant of the Moss to the south, thereby reducing the significance of that relationship. Although the level of harm would not fall into the category of substantial it would still be considerable. This level of harm must carry substantial importance and weight.

5.4.7 He also noted the concerns expressed in relation to the possibility of harm being caused by the installation of pile foundations, any vibration or ground disturbance. However he was satisfied that the expert reports gave sufficient comfort to reach a conclusion that this is an unlikely eventuality.

5.4.8 Character and Appearance

The Inspector found that the appeal site was within an area of transition between purely urban form (to the west) and the increasing openness of the Moss (to the east). In the context of the sporadic development nearby, the small housing estates to north and west, and the generally urban feel adjacent to Common Edge Road, he felt that some development of the appeal site would not be incongruous. The land

beyond and further into the Moss would be unaffected and would retain the character of the Moss. Views towards the Moss are already restricted and the development would make little difference in that respect. He considered that there would be no more than a slight to moderate impact on the existing character of the area and a similar magnitude of visual impact and was satisfied that, taken on its own, the proposed development would not be unacceptably harmful to the character and appearance of the area and the retained open space would be a beneficial feature of the development. In reaching this conclusion, he considered it separately and in isolation from his conclusions on the setting of the listed buildings.

5.4.9 Flooding

Whilst he paid due respect to the local knowledge of Councillors and local residents, there were no objections from the relevant authorities to the proposal on the basis that it had been agreed that a drainage scheme could be designed to adequately serve the development. He was satisfied that it would be possible to avoid any unacceptable flooding issues as a result of this development.

5.4.10 The Planning Balance/Conclusion

The Inspector found harm to the setting of listed buildings and this matter carries considerable importance and weight even though the harm would be less than substantial. His duty under S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 required him to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. The NPPF makes it clear that great weight should attach to the conservation of a heritage asset and that significance can be harmed through alteration or destruction of the asset or its setting. Any harm or loss should require clear and convincing justification.

5.4.11 The NPPF makes clear that sustainable development has three strands. There is no real dispute about the economic and social strands in this case – the proposal would provide some economic benefit and the benefit of new housing. However, he could not find that the development would meet the terms of the environmental strand. The harm to the setting of the listed buildings precludes such a finding. He concluded therefore, that the proposal did not benefit from being sustainable development in NPPF terms. Taking the case in the round, whilst he was satisfied that the lack of harm to the character and appearance of the area, and the reassurance on technical matters such as flooding, foundation piling and traffic is important, in his judgement the great weight attaching to the harm to the setting of the listed buildings is not outweighed by the merits or benefits of this proposal.

6.0 Planning/Enforcement Appeals Lodged

6.1 15 KING STREET, BLACKPOOL, FY1 3EJ (15/0345)

6.2 An appeal has been submitted by Mr F Omasan against the Council's refusal of planning permission for the use of first floor of premises as a restaurant/bar within Use Class A3.

5.4 Does the information submitted include any exempt information? No

5.5 List of Appendices:

5.6 None

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