

Report to:	Planning Committee
Relevant Officer:	Gary Johnston, Head of Development Management
Date of Meeting	22 February 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

5.2 151 Reads Avenue, Blackpool, FY1 4HZ. (Ref: 15/8411)

5.2.1 An appeal by Mr Khan against the service of an Enforcement Notice relating to an unauthorised material change of use of the ground floor to 2 no. flats (front/rear divide). The appeal, written representations, was under; ground (a) permission should be granted for the development, ground (f) that the steps required by the Notice are excessive and ground (g) that the time given to comply with the Notice is too short. **Appeal dismissed.**

5.2.2 The appeal property is a three-storey, detached building that falls within the Defined Inner Area as designated by saved policies in the Blackpool Local Plan 2001-16, as well as the Raikes Conservation Area. The immediate surrounding area is predominantly residential and a significant number of properties have been subdivided.

5.2.3 **Ground (a) (permission should be granted for the development)**

The Inspector noted that the resulting flats provide a poor standard of living conditions in that the units are very small and cramped with contrived layouts and limited outlook onto neighbouring walls/gables/fences. One flat receives little natural light due its poor window arrangement, whilst the other (a bedsit) lacks privacy due its living/bed space and kitchen backing directly onto the communal rear yard. The Inspector also stated that the flats (both single occupancy) failed to meet the housing mix for the inner area.

5.2.4 The Inspector concluded that the development is harmful due to its resultant poor living conditions and although in isolation the effects of the development might be small, the cumulative impact of granting small changes would result in incremental intensification, which would be detrimental to the area's character and undermine the Council's housing policy.

5.2.5 As such, the development is not in accordance with saved Policies BH1, BH3, HN5 and HN6 of the Blackpool Local Plan, nor Policies CS12 and CS13 of the Core Strategy. Furthermore, the development is not compliant with the National Planning Policy Framework

5.2.6 **Ground (f) (that the steps required by the Notice are excessive)**

The Inspector observed that the layout and size of the flats were significantly different to what had permission in 2003 and that the Notice can only remedy the current breach of planning control by ceasing the use of both flats, removing the identified dividing wall, and taking out the itemised fixtures and fittings detailed in

the Notice (i.e. additional kitchens, bathroom etc.). As such the steps required were not considered to be excessive.

5.2.7 Ground (g) (that the time given to comply with the Notice is too short)

The Appellant requested 12 months to carry out the works listed in the Notice, whilst the Council was of the opinion that three months was sufficient. The Inspector noted that whilst this might be sufficient to carry out the works, it might not be enough time for tenants to find new accommodation (one of the flats was occupied at the time of the appeal site visit). As such, the Inspector varied the Notice to allow six months for the works to be completed.

5.2.8 Compliance with the Enforcement Notice is due by 2 August 2017. Failure to comply is likely to result in the pursuit of Proceeds of Crime. On a slightly separate note, the Planning Enforcement Team is still pursuing an issue relating to the professional conduct and standards of the owner's chartered agent (Inspire Planning Solutions).

5.2.9 A copy of the Inspector's decision dated 2 February 2017 is attached at Appendix 3a.

5.3 Carandaw Farm, School Road, Blackpool. FY4 5EJ (15/8511)

5.3.1 An appeal by Mrs Julie Lawn against the service of an Enforcement Notice relating to the unauthorised use of the land for the siting of a mobile home / static caravan for residential purposes. **Appeal dismissed.**

5.3.2 Initially, the Inspector stated that as the mobile home was sited on the land, the appeal on ground (b) failed.

5.3.3 The Inspector noted that the Appellant said the mobile home was not for residential purposes, but was used for changing and as a shelter in association with caring for horses and dogs that live on the land – it was effectively, a mess facility, (mess room - a room or building providing meals and recreational facilities for workers). The Inspector noted that the Council state the mobile home is used as a residence, not as a facility ancillary to the livery use of the land. The mobile home has mains water and electricity supplies, and is connected to a septic tank. The internal layout, in what is a large mobile home, had a living area, a kitchen area, two bedrooms and a bathroom – it was modestly furnished.

5.3.4 The Inspector concluded that the Appellant failed to show that there had not been a residential use of the appeal mobile home that brought about a material change of its use to a residential use that required planning permission. The appeal on ground (c) failed.

5.3.5 There were no other grounds of appeal. The case presented by the Appellant suggests she has a home elsewhere, therefore the requirement of the Enforcement

Notice to cease the residential use of the mobile home and remove it from the land within one month does not amount to the loss of her home.

5.3.6 The Enforcement Notice was upheld, and is due for compliance by 1 March 2017.

5.3.7 A copy of the Inspector's decision dated 31 January 2017 is attached at Appendix 3b.

5.4 50 Lyndhurst Avenue, BLACKPOOL. FY4 3AX (15/8398)

5.4.1 An appeal by Mr Paul Whilton against the service of an Enforcement Notice relating to the unauthorised change of use of the pedestrian passageway to form part of residential curtilage at 50 Lyndhurst Avenue and the unauthorised siting of a static caravan within the pre-existing and extended curtilage and use of the said static caravan for residential purposes independent from the main dwelling. **Appeal dismissed.**

5.4.2 The appeal proceeded on ground (b) only; that the breach of planning control has not occurred.

5.4.3 The Inspector noted that the caravan blocks access to the neighbouring properties because it is sited less than a metre from the boundary fence to properties to the south. The Appellant maintains that only the owners of 48 Lyndhurst Avenue are beneficiaries of a deed of conveyance that provides for a right of access over his property. Additionally, a plan submitted with a planning application in 2005 for an extension to the appeal dwelling indicated that an access way about one metre wide would be maintained along the south and west boundaries of the appeal property 'for rear access'. This rear access, given that it was clearly intended to be used by owners of adjoining properties cannot then, or now, be claimed to be part of the curtilage of the dwelling at 50 Lyndhurst Avenue. The static caravan, as a matter of fact, is sited over the access way and has resulted in a change of use of the pedestrian passageway to form part of the residential curtilage at 50 Lyndhurst Avenue and the caravan is sited within the pre-existing and extended curtilage of the property. These elements of the alleged breach of planning control have occurred as a matter of fact.

5.4.4 The Inspector further commented that with regard to the allegation that the static caravan has been used for residential purposes independent of the main dwelling, the Appellant has only claimed that the Council admitted in the Magistrates Court on 15 May 2016 "that they are aware and happy that the vehicle is empty and not in usage". But that admission, on the Council's evidence, was by Counsel who had not visited the caravan or site, and can be discounted. The Appellant does not dispute the Council's claim that the caravan has been occupied by the Appellant's parents (although his father has since sadly passed away) and it is the last known use, rather than a lack of use on the date of issue of the notice, that is relevant to consideration

of a ground (b) appeal. On the evidence available the static caravan has been in use for residential purposes independent of the main dwelling. The ground (b) appeal thus fails.

5.4.5 The Enforcement Notice was upheld, and is due for compliance by 16 April 2017.

5.4.6 A copy of the Inspector's decision dated 16 January 2017 is attached at Appendix 3c.

5.5 7 Cookson Street, Blackpool. FY1 3ED (15/8657)

5.5.1 An appeal by Miss Trudy Wheeler against the service of an Enforcement Notice relating to the unauthorised installation of externally mounted roller shutters, housing boxes and associated guides mounted to the Cookson Street and Charles Street elevations.

Appeal dismissed.

5.5.2 The appeal on ground (a) asked that planning permission be granted to retain the Roller shutters. The Inspector stated that the Appellant's concerns about possible vandalism and other security matters were understood. However, in the form they take, the shutters' unhappy appearance that is made worse by their being solid roller shutters with projecting housing boxes, is not acceptable as a permanent feature in the street scene. The Inspector stated that the shutters should be well designed and enhance the character and appearance of the local area. The galvanised steel roller shutters may be a deterrent to those with malevolent intent, but that is at a cost at this fairly prominent site of a somewhat grim and forbidding appearance. The Inspector further commented that the disagreeable feeling engendered particularly by the Charles Street frontage row of shutters is exacerbated by there being no daytime relief of open shutters while the property is unused. The appeal on ground (a) failed, and planning permission was not granted to retain the roller shutters.

5.5.3 The appeal on ground (f) states the notice's requirement is too onerous. The Inspector stated that he considered a solution would be to replace the solid roller shutters with open mesh shutters, such that the windows might be more visible and that possible use of graffiti spray paints might be reduced. However, the Inspector commented that would not improve the appearance of the two doors or where windows are not shop display windows. On balance, the Inspector found that the suggested alterations would make no worthwhile or necessary improvement. The appeal on ground (f) failed.

5.5.4 The appeal on ground (g) succeeded, as the Inspector agreed that the Appellant should be given more time to consider what other security measures might assist.

5.5.5 The Inspector therefore increased the period for compliance to nine months for the Appellant to find a better long term solution and for her to decide on the future of

her property.

5.5.6 The Enforcement Notice was upheld, and is due for compliance by 14 August 2017.

5.5.7 A copy of the Inspector's decision dated 14 November 2016 is attached at Appendix 3d.

5.6 56 Springfield Road, Blackpool FY1 2BA (16/0388)

5.6.1 An appeal by Mr R Lewis against the decision of the Council to refuse planning permission for the formation of a vehicle crossing. **Appeal dismissed.**

5.6.2 The main issues are the effect of the proposal on the character and appearance of the area together with highway and pedestrian safety.

5.6.3 The Inspector concluded that the proposal would be detrimental to both the character and appearance of the area and to highway and pedestrian safety. As such it would not accord with the development plan. In its favour, the scheme would provide a convenient off road parking space for the Appellant. However, on balance, I consider that this benefit would not outweigh the harm identified by the proposal.

5.6.4 A copy of the Inspector's decision dated 6 February 2017 is attached as Appendix 3e.

5.7 Planning/Enforcement Appeals Lodged

5.8 21 Cranleigh Avenue, Blackpool (16/8054)

5.8.1 An appeal has been lodged by Mrs E Rowland against the issue of an Enforcement Notice regarding the erection of a rear dormer hung in brown uPVC and the erection of a side dormer in brown uPVC and with an opening window without planning permission.

5.8.2 212 Dickson Road, Blackpool (15/8186)

5.8.3 An appeal has been lodged by Mr. Stephen Snelson against the issue of an Enforcement Notice regarding the erection of decking, a fence and a shed at first floor level on the flat roof of the outrigger without planning permission

5.9 Does the information submitted include any exempt information? No

5.10 List of Appendices:

5.11 Appendix 3a – A copy of the Planning Inspectorate decision dated 2 February 2017

Appendix 3b – A copy of the Planning Inspectorate decision dated 31 January 2017

Appendix 3c – A copy of the Planning Inspectorate decision dated 16 January 2017

Appendix 3d – A copy of the Planning Inspectorate decision dated 14 November 2016
Appendix 3e – A copy of the Planning Inspectorate decision dated 6 February 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