



<b>REPORT OF:</b>	<b>THE DIRECTOR OF PLANNING &amp; PROSPERITY</b>
<b>TO:</b>	<b>PLANNING AND HIGHWAYS COMMITTEE</b>
<b>ON:</b>	<b>19 JANUARY 2017</b>
<b>ORIGINATING SECTION:</b>	<b>PLANNING SERVICE</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>
<b>COUNCILLORS:</b>	<b>ALL</b>

**TITLE OF REPORT:**

**Planning Appeal Outcomes and Performance**

**1. PURPOSE OF THE REPORT**

- 1.1 To inform Members that of the outcomes of recent planning or enforcement appeal decisions.

**2. BACKGROUND**

- 2.1 The performance of local planning authorities in determining applications is measured by the speed with which applications are dealt with and the quality of decisions made by local planning authorities measured by the proportion of decisions on applications that are subsequently overturned at appeal.
- 2.2 Data showing the performance of local planning authorities against the speed and quality measures are published by the Department for Communities and Local Government on a quarterly basis.
- 2.3 There is no current target, but going forward, i.e. applicable from the 2018 designation round, should more than 10% of an authority's total number of decisions on applications made during the assessment period be overturned at appeal, the authority may be placed in special measures.

**3. RATIONALE**

- 3.1 During the last two months, the Council has received 8 appeal decisions, 7 of which have been dismissed. Table 1 details each address.
- 3.2 This performance is good indicator of the quality of decision making at Blackburn with Darwen, demonstrating that we are making good decisions.

- 3.3 Notable decisions include 2 and 4 Clarence Street. These were appeals against Enforcement Notices for the unauthorised change of use of the property into 2 x one bedroom flats. The Inspector noted that the flats provided an internal space of 32.5 square metres and 33 square metres, which caused harm to living conditions due to inadequate internal living space. As such, the development was considered inappropriate for the characteristics and context of the site in conflict with the aims and objectives of Local Plan Part 2 Policy 18 (and thereby LP Policy 19). Additionally, access to the rear yard for occupiers of the first floor flats is via the internal stairs, the public footpath, and along the side access way. The Inspector did not agree that the yard is directly or easily accessible for first floor occupiers. Given the number of users from the four flats, together with poor accessibility for occupiers of the first floor flats, the relatively small size of the shared yard, and lack of privacy, he considered that the development failed to provide a reasonable level of useable outdoor amenity space for each of the flats. The combined shared use of the yard erodes the individual amenity of others and would conflict with Local Plan Part 2 Policy 19 (i).
- 3.4 Atlas Mill planning and enforcement appeal face similar issues. The Inspector concluded that the internal space was substandard, potential to cause loss of privacy, and insufficient amenity space; resulting in the overdevelopment of the property because of its intensified residential use.
- 3.5 These decisions are a material consideration when determining applications for conversions to flats.
- 3.6 The appeal decision for 4 Vicarage Drive, Darwen is against the decision to refuse a roof lift. The Inspector concluded that increasing the ridge height of No. 4 would seriously disrupt this positive design feature and it would fail to reflect the pattern of development along the Drive. It would also detract from the harmonious visual symmetry that exists between the group of 3 similar dwellings of which No. 4 forms part. For these reasons, the development proposed would significantly detract from the visual appearance of the dwelling itself and it would be harmful to the established character of the area.
- 3.7 19-21 Harwood Gate was allowed on appeal, an application for sub-division of property into 2no. separate dwellings with associated extensions. The application was refused by the Council due to substandard separation distances. Unfortunately, the Inspector chose to ignore the Council's separation distances and allow a distance to some 8m, concluding that the proposed extensions would not harm the living conditions of the occupiers of neighbouring dwellings. The Council would normally requires 21m between facing habitable room windows. However, she concluded that the proposed bedroom window would be in addition to an existing one and therefore, if the new one were to be obscure glazed the extension would not cause additional overlooking to this property. Furthermore, the conservatory at No 31 is screened from the rear elevation of the appeal property by a large shed. In addition, the appeal house is built on much lower ground than No 31 which would substantially mitigate the effect of the extension upon this neighbouring property.

3.8 This decision is disappointing, and the Council would still maintain that there is a significant impact between the dwellings, however, the Inspectors decision is final and the assessment is noted.

**Table 1 - Appeal Decisions December 2016 - January 2017**

10/16/0274	5 Mosedale Blackburn	Dismissed	Delegated
10/16/0314	19-21 Harwood Gate, Blackburn	Allowed	Delegated
ENF	2 Clarence Street, Darwen	Dismissed	Enforcement
ENF	4 Clarence Street, Darwen	Dismissed	Enforcement
10/16/0832	4 Vicarage Drive, Darwen	Dismissed	Delegated
10/16/0501	322 Preston New Road, Blackburn	Dismissed	Delegated
10/15/1483	Atlas Mill, Atlas Rd, Darwen	Dismissed	Delegated
ENF	Atlas Mill, Atlas Rd, Darwen	Dismissed	Enforcement

#### **4. POLICY IMPLICATIONS**

4.1 Noted in the application of policies to planning applications with similar material issues.

#### **5. FINANCIAL IMPLICATIONS**

5.1 None.

#### **6. LEGAL IMPLICATIONS**

6.1 None.

#### **7. RESOURCE IMPLICATIONS**

7.1 None.

#### **8. EQUALITY IMPLICATIONS**

8.1 None.

#### **9. CONSULTATIONS**

9.1 None.

#### **10. RECOMMENDATION**

10. That the Committee note the report.

Contact Officer: Kate McDonald, Team Leader (Planning Implementation)

Date: 10 January 2017