Report to Planning applications committee Item

09 May 2018

Report of Head of planning service

Subject Performance of the development management service;

progress on appeals against planning decisions and

updates on planning enforcement cases

# **Purpose**

This report updates members on the performance of development management service; progress on appeals against planning decisions and progress on planning enforcement action.

#### Recommendation

To note the report.

# Corporate and service priorities

The report helps to meet the corporate priorities a safe clean and low carbon city, a prosperous and vibrant city, a fair city and a health city with good housing.

# **Financial implications**

There are no direct financial implications arising from this report.

Ward/s: All wards

Cabinet member: Councillor Stonard

# **Contact officers**

Graham Nelson, Head of planning services 01603 212530

Mark Brown, Development Manager (Outer) 01603 212542

David Parkin, Development Manager (Inner) 01603 212505

# **Background documents**

None

# Report

# **Background**

- On 31 July 2008 the planning applications committee considered a report regarding the improved working of the committee which included a number of suggested changes to the way it operates. In particular it suggested performance of the development management service be reported to the committee and that feedback from members of the committee be obtained.
- 2. The committee has also asked to be informed on the outcome of appeals against planning decisions and enforcement action.
- 3. The last performance report was presented to committee on 08 November 2018.

# Performance of the development management service

- 4. The cabinet considers quarterly reports which measure the council's key performance targets against the council's corporate plan priorities. The scrutiny committee considers the council's performance data regularly throughout the year and will identify any areas of concern for review.
- 5. This report will only highlight trends or issues that should be brought to the attention of the planning applications committee for information.
- 6. In quarter three of 2018-19, 166 applications out of 181 were dealt with by officers (a delegation rate of 92 per cent) and 15 applications were dealt with by committee.
- 7. For quarter four 2018-19, 172 applications out of 191 were dealt with by officers (a delegation rate of 90 per cent) and 19 applications were dealt with by committee.
- 8. For the 2018-19 year in total the delegation rate was 90%, this compares to a delegation rate of 91.4% in 2017-18, 86.4% in 2016-17 and 90.6% in 2015-16.

### **Appeals**

- 9. There are currently 19 pending planning appeals as listed within the appendix to this report.
- 10. Since the last performance report 6 appeals have been dismissed and two cancelled. No appeals have been allowed. An appeal has been cancelled at 18 The Crescent due to it not being submitted within the time limit. An appeal has also been cancelled at Bowthorpe Road Methodist Church, however a fresh appeal is now valid. The Bowthorpe Road Methodist Church appeal related to an enforcement notice which sought alterations to the roof of a newly constructed Church Hall. In validating the appeal the inspectorate advised that the notice should also include at least an option to demolish the Church Hall and therefore following the receipt of legal advise the original notice was withdrawn and a new notice served which provided the owner with an option to either alter the roof of the Church Hall or demolish the Church Hall. The newly issued notice has been appealed and is currently pending a start date from the planning inspectorate.

11. A brief summary of the appeals which have been dismissed is provided below:

# a) St Peters Methodist Church, Park Lane – Demolition of modern extensions and conversion to provide 20 residential units (class C3) – Committee refusal

This case was refused due to the lack of an appropriate contribution towards affordable housing and therefore affordable housing viability was the main issue in this case. However the inspector also considered in detail other matters raised by third parties including neighbour amenity, flood risk, the loss of a community use, impact on the conservation area, parking and highway safety.

A detailed overview of the decision was provided to committee on 14 March 2019 when it considered an officer report for an identical scheme on the site. Only a brief summary of the decision is provided here and more detail can be found at paragraphs 80-99 of that report. The appeal was dismissed on the basis that an appropriate legal agreement had not been provided to secure the affordable housing contribution. However, the inspector agreed that the final affordable housing commuted sum offered by the appellants was a reasonable figure. That figure was increased during the course of the appeal following submissions by officers. Due to late submissions by the appellant during the appeal the Council won an award of partial costs.

# b) Car Park Rear of Premier Inn, Duke Street – Redevelopment of car park site to provide student accommodation – Committee refusal

The application was refused at committee for 3 reasons:-

- 1. The proposal would be harmful to the character of the conservation area;
- 2. It would impact upon the users of the Jane Austen College, with particular reference to light and outlook; and
- 3. The effect of the appeal scheme on the living conditions of the occupants of Dukes Palace Wharf, with particular reference to daylight.

The appeal was dismissed on all counts.

### Impact on Conservation Area

The Inspector noted that the proposed building would be taller than all the surrounding buildings, including Dukes Palace Wharf on the opposite side of the river. The tallest part of the building would have the appearance of a tower block in views from along Duke Street, which would be out of character with the horizontal emphasis of buildings elsewhere along the river. He did note that parts of the building would be articulated and set back from the river but that the building's height, in combination with its width, would still create a dominant and discordant 'canyoning' effect along the river when viewed in combination with the monolithic Dukes Palace Wharf.

The Inspector commented that the design of the building had some merit but that this did not out-weigh the key constraint – namely, it's height. He also noted that the scheme would deliver some benefits in terms of delivering student accommodation, re-generating the site, screening the Premier Inn building and delivering a part of the river side walk. However, the Inspector concluded that some of these could be

delivered by a smaller building and consequently they did not outweigh the harm caused to the Conservation Area.

# Impact on Jane Austen College

The Inspector concluded that the 6 storey eastern elevation of the building would be too close to the boundary with the play area and would be over-bearing and dominant, severely diminishing the quality of the play area. The building would also result in direct loss of sun-light, that would aggravate the impact upon the play area. Coupled with the loss of light to classrooms, the inspector concluded that the scheme would cumulatively undermine the reasonable expectations of the users of the school to have sufficient to access to sun and daylight inside and outside the building and to an adequate outlook.

## Impact on Dukes Palace Wharf

The Inspector accepted that the rooms in Dukes Palace Wharf already have a restricted outlook and are unable to receive direct sunlight as they are single aspect and north facing. The proposal would result in 16 windows experiencing a notable reduction in sunlight. Notwithstanding that levels of daylight received by some of these windows is already below BRE guidelines, the Inspector concluded that this would only serve to compound the impact upon the amenity of residents. He concluded that, on balance, the scheme would have a detrimental impact upon the living conditions of some of the occupants of Dukes Palace Wharf.

c) 159 Drayton Road – Appeal against Enforcement Notice dated 26 March 2018 for the erection of an outbuilding within the front garden facilitated by the erection of a retaining wall and infilling of the garden without planning permission – committee decision.

This was an appeal against an enforcement notice which sought to regularise a retaining structure and outbuilding which had been erected at the front of the property without consent. The notice required the removal of the retaining structure and outbuilding and associated materials from site. The appeal was made on ground a) – that permission ought to be granted for the extension. The inspector considered that the terrace made a strong contribution to the character of the area and that the raised garden area was a decidedly unfamiliar feature in the local street scene. The inspector considered that the outbuilding whilst of limited size was extremely prominent due to its elevated position and proximity to the boundary and that it would materially harm the character and appearance of the property and the street scene. The inspector also found that the outbuilding would result in a degree of harm to the amenities of neighbouring properties due to loss of outlook and light.

d) 10 Ruskin Road – Appeal against Enforcement Notice dated 8 February 2018 for the erection of a first floor extension above the garage at 10 Ruskin Road without planning permission – committee decision.

Appeal against an enforcement notice which sought to regularise a first-floor extension which had been erected without consent. The notice required the removal of the first-floor extension and associated materials from site. The appeal was made on grounds a) – that permission ought to be granted for the extension and f) – that

the requirements of the notice exceed what is necessary. The inspector considered that the first-floor extension above the garage to the front and side of the dwelling would harm the character of the area. The inspector made some minor changes to the notice to make clear that the requirement of the notice was to reinstate the single storey pitched roof extension which existed before the unauthorised development took place.

# e) 54 West End Street – First floor extension with external alterations – Delegated refusal

Appeal against the refusal of consent for an extension to a first floor flat. The main issues for the appeal were the quality of internal amenity space for future occupiers of the flat and the effect of the proposal on the character of the surrounding area. In relation to the first issue, the inspector noted that the National Described Space Standards (NDSS) did not strictly apply to extensions but the inspector appears to have agreed that they could be used as a guide. The inspector agreed that all but one bedroom would meet the NDSS standards but considered that the proposals would result in a poor standard of accommodation for future occupiers due to the unusual shape of rooms. This would result in cramped accommodation which would be compounded by limited communal areas for occupiers of up to six bedrooms. The appeal was considered on the basis that the future use was as a flat but the inspector noted the intention was to use the flat in the future as a small HMO. This did not however change the decision. In relation to the second issue the inspector considered that the flat roof in combination with the substantial depth of rearward extension would lead to the proposal appearing bulky, dominant and overbearing. The resultant effect would be an incongruous feature that would be significantly at odds with the character and appearance of the neighbouring properties on West End Street and Nelson Street.

# f) 9 Upton Close - Two story side, front and rear extensions - Delegated refusal

The application was refused due to the impact on the amenities of number 7 Upton Close. However due to public representations relating to the appearance of the extensions the inspector considered that the impact of the extensions on the character and appearance of the area should also be a main issue in the appeal. Whilst officers had concerns over the appearance of the extensions due to the mixed nature of properties in the area it was not made a ground for refusal. The inspector however considered that properties in the area generally had spacious gaps between properties at first floor level and that the extension would erode the gap between number 7 and 9 Upton Close to the detriment of the area. The inspector considered that the result of the extensions would be a dominant building harmfully out of proportion with those around it and that the use of white render in a street scene largely characterised by brick would further draw the eye to the structure and increase its visual prominence, which is already high given its location on a bend in the road. The appeal was therefore dismissed based on the impact of the extensions on the character of the area. On the matter of neighbour amenity the inspector did not consider on balance that the impact on number 7 Upton close would be overly overbearing, albeit the report appears to underestimate the extent of built form along the boundary. Nevertheless the appeal was dismissed.

#### **Enforcement action**

- 12. All items that have been referred to committee or where committee has required enforcement action to take place, since April 2013 are listed in appendix 2 with an updated on the current status. Items are removed once resolved and the resolution has been reported to committee.
- 13. At the committee meeting of 11 October 2018 members approved a revised scheme of delegation which provided delegated powers for the issue of enforcement notices. Going forward therefore enforcement notices which have been issued will be included on the table so that members are aware of action which has been taken.

# Appendix 1 – Current Appeal Cases and Decisions

Application Ref.	PINS Ref.	Address	g Appeals and Recent Appe Proposal	Type of Appeal	Start Date	Decisio n	Decisio n Level	Officer
17/00022/REF Application No. 15/01928/F	APP/G2625/ W/17/319073 9	St. Peters Methodist Church Park Lane	Demolition of modern extensions and conversion to provide 20 residential units (class C3).	Hearing	20/03/2018	Dismissed	Committe e	Mark Brown
18/00006/REF Application No. 17/01136/L	APP/G2625/Y /18/3197928	18 The Crescent	Roller shutter doors in garage doorway and re-forming car port roof.	Written Reps	19/02/2019	Pending	Delegated	Maria Hammond
18/00008/REF Application No. 17/01135/F	APP/G2625/D /18/3198007	18 The Crescent	Roller shutter doors in garage doorway and re-forming car port roof.	Cancelled - ap	peal invalid no in time	t submitted	Delegated	Maria Hammond
18/00009/ENFPLA Application No. 17/00078/ENF	APP/G2625/C /18/3197471	10 Ruskin Road	Enforcement appeal relating to first floor extension	Written Reps	16/07/2018	Dismissed	Committe e	Rob Webb
18/00012/ENFPLA Application No. 17/00118/ENF	APP/G2625/C /18/3200317	159 Drayton Road	Enforcement appeal against raising of front garden and new shed to frontage	Written Reps	16/07/2018	Dismissed	Committe e	Stephen Polley
18/00016/COND Application No. 17/01180/F	APP/G2625/ W/18/320474 5	171 Newmarket Road	Construction of detached two-storey dwelling – appeal against condition on consent	Written Reps	15/10/2018	Dismissed	Committe e	Stephen Polley
18/00015/REF App no 17/01078/F	APP/G2625/ W/18/320409 5	Car park rear of Premier Inn	Redevelopment of car park site to provide student accommodation.	Written Reps	15/10/2018	Dismissed	Committe e	David Parkin
18/00018/REF App no 18/00102/F	APP/G2625/ W/18/320740 8	9 Normans Buildings	Demolition of existing building and erection of a two storey building comprising 4 No. apartments.	Written Reps	19/02/2019	Pending	Delegated	Joy Brown
18/00019/REF App No 18/00771/F	APP/G2625/ W/18/320758 7	54 West End Street	First floor extension with external alterations.	Written Reps	23/08/2018	Dismissed	Delegated	Stephen Little

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Application	DINO Def	Adduss	Beened	Type of	Start	Decisio	Decisio	Otti
Ref.	PINS Ref.	Address	Proposal	Appeal	Date	<u>n</u>	n Level	Officer
18/00021/TA1 App No 18/00836/TPO	APP/TPO/G2 625/6903	18 Brentwood	4x Scots Pine - fell.	Written Reps	16/08/2018	Pending	Delegated	Mark Dunthorne
18/00022/REF App No 17/02024/F	APP/G2625/ W/18/320978 7	Bowthorpe Road Methodist Church	New church hall	Written Reps	Awaiting Start Date	Pending	Committe e	Stephen Polley
18/00024/ENFPLA pp No 18/00016/ENF	APP/G2625/C /18/3209827	Bowthorpe Road Methodist Church	Appeal against Enforcement Notice for the construction of a church hall	withdrawn	- due to notice and reserved f rom PINS on th	ollowing	Committee	Stephen Polley
18/00023/REF App No 18/00172/F	APP/G2625/D /18/3210434	Conifers 9 Upton Close	Two story side, front and rear extensions.	Written Reps	15/10/2018	Dismissed	Delegated	Stephen Polley
18/00026/REF App No 18/00437/F	APP/G2625/ W/18/321100 4	Car Park Adjacent To Sentinel House 37 - 43 Surrey Street	Redevelopment of site to provide 252 student bedroom development with associated access and landscaping.	Written Reps	Awaiting Start Date	Pending	Committe e	Joy Brown
18/00027/REF App No 18/00544/F	APP/G2625/ W/18/321226 4	21 Sotherton Road	Single storey extension with associated alterations to create 7 bed large HMO (Sui Generis).	Written Reps	09/04/2019	Pending	Committe e	Stephen Polley
18/00028/REF App No 18/00521/F	APP/G2625/ W/18/321496 2	Land Adjacent To Former Shoemaker PH Enfield Road	Construction of building containing eighteen student flats with new refuse compound.	Written Reps	09/04/2019	Pending	Delegated	Maria Hammond
18/00030/ENFPLA Enf Ref 15/00046/CONSR V/ENF	APP/G2625/C /18/3217628	13 Magdalen Street	Removal of six number single glazed, vertical sliding sash windows of white painted timber construction and the installation of PVC-u double glazed casement windows	Written Reps	Awaiting Start Date	Pending	Delegated	Samual Walker

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Application Ref.	PINS Ref.	Address	Proposal	Type of Appeal	Start Date	Decisio n	Decisio n Level	Officer
19/00001/REF App No 18/00112/F	APP/G2625/ W/18/321906 0	Land Between 18 And 20 West Parade	2 No. three bedroom dwellings with new access, parking, amenity spaces and landscaping.	Written Reps	09/04/2019	Pending	Committe e	Katherine Brumpton
19/00002/ENFPLA Enf Ref 18/00052/ENF	APP/G2625/C /19/3219894	2 Quebec Road	Alteration of the flat roofed side extension not in accordance with 17/00095/F.	Written Reps	Awaiting Start Date	Pending	Delegated	Lara Emerson
19/00003/TA1 Ref. 18/01769/TPO		3 The Crescent	Oak (T1): Fell.	Written Reps	Awaiting Start Date	Pending	Delegated	Mark Dunthorne
19/00004/REF App No. 18/01721/F	APP/G2625/ W/19/322303 3	2 Edgeworth Road	Single storey rear extension and change of use from dwellinghouse (Class C3) to 7 bedroom HMO (Sui Generis).	Written Reps	Awaiting Start Date	Pending	Delegated	Charlotte Hounsell
19/00005/REF App No. 18/00979/F	APP/G2625/ W/19/322408 4	22 North Park Avenue	Single storey rear extension and change of use to 7 bed HMO (Sui Generis).	Written Reps	Awaiting Start Date	Pending	Delegated	Stephen Polley
19/00006/REF App No. 18/01478/F	APP/G2625/D /19/3224347	80 Cambridge Street	Single storey extension, 1 No. bay window and loft conversion with dormer windows.	Written Reps	Awaiting Start Date	Pending	Delegated	Stephen Little
19/00007/CALLIN App No. 18/00330/F		Anglia Square	Part Full/Outline application for the comprehensive redevelopment of Anglia Square	Public Inquiry - Called in application	21/03/2019	Pending	Committe e	Tracy Armitage
19/00008/ENFPLA Ref No. 18/00016/ENF	APP/G2625/C /19/3225581	Bowthorpe Road Methodist Church	Appeal against Enforcement Notice for the construction of a church hall	Written Reps	Awaiting Start Date	Pending	Committe e	Stephen Polley
19/00009/ENFPLA Ref No. 19/00034/ENF	APP/G2625/C /19/3225666	4 Fieldview	Appeal against Enforcement Notice for operating as a 7 bed HMO at 4 Fieldview	Written Reps	Awaiting Start Date	Pending	Committe e	Charlotte Hounsell
19/00010/REF App No. 18/01892/F	APP/G2625/ W/19/322621 4	11 Press Lane	First floor front, side and rear extensions and separation of single dwelling into 2 No. dwellings. New wall cladding, doors and windows.	Written Reps	Awaiting Start Date	Pending	Delegated	Charlotte Hounsell
19/00011/ENFPLA Ref No. 18/00052/ENF	APP/G2625/C /19/3219895	2 Quebec Road	Appeal against Enforcement Notice for alteration of the flat roofed side extension not in accordance with planning permission 17/00095/F.	Written Reps	Awaiting Start Date	Pending	Delegated	Lara Emerson

# Appendix 2 – Enforcement Action Update

	Enforcement Action Update on Enforcement Notices								
Case Ref.	Location	Development	Date referred to committee	Current Status	Lead Officer				
13/02087/VC &13/02088/VC	Football ground & adjacent flatted development	River bank, landscaping, street trees, etc	6 March 2014 & 08 December 2016	Revised landscaping proposals and timeframes for provision were agreed at the committee meeting of 08 December 2016. The decision has not yet been issued due to difficulties in agreeing wording of the Section 106 agreement. Despite the above the first phase of landscaping works along Geoffrey Watling Way have been undertaken. A revised schedule for the completion of the works is being agreed.	Tracy Armitage				
15/00167/ENF	55 Cunningham Road	Change of use from C3/C4 to large HMO	12 January 2017	Case closed following a site visit which identified compliance with the notice (formerly subject to an appeal which was dismissed).	Lara Emerson				
17/00078/ENF	10 Ruskin Road	First floor extension and creation of large HMO	13 July 2017	The notice has been served and came into effect on 08 March 2018 with a six month compliance period. An appeal against the notice has now been dismissed. The six months will now run from the date of the appeal decision and therefore compliance is required by 11 May 2019. The majority of works required for compliance are now complete.	Rob Webb				
17/00028/ENF	2 Field View	Change of use from C3/C4 to large HMO and change of use of garage to independent office unit	13 July 2017	Planning consent has now been granted for the house as an HMO and the use of the garage has ceased.	Rob Webb				
17/00076/ENF	1A Midland Street	Erection of two fabrication units and associated works	10 August 2017	The enforcement notice was appealed. By negotiation, an extension to the compliance period was agreed until the end of October. The spray booths have been removed through the implementation of an earlier consent. DP visiting site to check progress.	David Parkin				

Case Ref.	Location	Development	Date referred to committee	Current Status	Lead Officer
17/00157/ENF	5 Nutfield Close	Subdivision of dwelling to create four residential units	12 October 2017 & 12 April 2018	The enforcement notice was served on 11 December 2017.  At the meeting on 12 April 2018 members resolved to withdraw the above notice and issue a revised notice requiring the implementation of revised approval for two residential units on the site (permitted via reference 18/00005/F). The former notice was withdrawn and new notice service on 22 May. The notice required the property to change into two dwellings by 22 February 2019. The latest discussions with the owners indicate that they may now wish to convert the unit back to a single dwelling.	Stephen Polley
17/00118/ENF	159 Drayton Road	Front retaining wall, engineering works and outbuilding to the front of the dwelling.	08 March 2018	The enforcement notice came into effect on 24 April 2018 with a six month compliance period. An appeal against the notice has now been dismissed. The six months will now run from the date of the appeal decision and therefore compliance is required by 06 November 2019. The notice has now been complied with.	Stephen Polley
17/00131/ENF	2 Mornington Road Erection of wooden garage/garden room structure.	Erection of wooden garage/garden room structure.	08 March 2018	The notice has now been complied with.	Stephen Polley
17/00186/ENF	111 Earlham Road	Erection of fence and shed in front garden.	12 April 2018	The enforcement notice has been served and has a compliance period of 07 December 2018. The notice has been complied with.	Charlotte Hounsell
15/00046/ CONSRV/ENF	13 Magdalen Street	Removal of timber sash windows and installation of uPVC windows.	12 April 2018	A planning contravention notice has been served to ascertain relevant parties on whom to serve the notice. A response is required by 03 July 2018. An enforcement notice was subsequently served. The compliance period has expired and the situation is being monitored. Notice appealed. Awaiting start date.	Samuel Walker
17/00068/ENF	1 Magdalen Street	Exterior painted dark grey.	12 July 2018	A listed building enforcement notice has been served. The notice has come into effect – the compliance period ends on 8th May 2019.	Lara Emerson
18/00003/ENF	Land at Holt Road, Norwich	Siting of residential caravan.	09 August 2018 & 11 October 2018	There have been a number of meetings on site and the enforcement notice has been drafted but not to date served. The situation on site is rapidly changing and officers have been pressing the perpetrator to resolve the issues albeit with limited success. It may be be neccesary to report the	Rob Webb

Case Ref.	Location	Development	Date referred to committee	Current Status	Lead Officer	
				case back to members at a future meeting.		
15/00046/ CONSRV/ENF	13 Magdalen Street	Unauthorised replacement of 4 timber windows to front elevation and 2 timber framed windows to rear elevation with PVC	12 April 2018	Notice served 19th November 2018 and subsequently appealed. Awaiting start date.	Samuel Walker	
17/00068/ENF	1 Magdalen Street	Painting of listed building without consent	12 July 2018	Enforcement notice served 12 July 2018 and appealed. Appeal withdrawn 22nd August 2018 after compliance period extended to 8th May 2019. Correspondence with the owner indicates that the notice will be complied with. An application has been made for the scaffolding to facilitate the re-painting.	Lara Emerson	
17/00151/ENF	137 Unthank Road	Construction of building not in accordance with approved plans and precommencement conditions that have not been discharged.	13 September 2018	The enforcement notice has been served on 19 November 2018 and has been complied with. Officers are in discussion with the applicant in relation to the landscaping arrangements on the site.	Charlotte Hounsell	
16/00167/ENF	Café Britannia, Britannia Road	Without planning permission the change of use of the land to café (A3), shop (A1) and function rooms (D1).	13 September 2018	Officers are working with the owners to agree the details of the new access to the café before issuing the notice.	Rob Webb	
18/00080/ENF	15 Suckling Avenue	Construction of bike shed/shed in front garden.	11 October 2018	The shed has now been removed.	Stephen Little	
18/00052/ENF	2 Quebec Road	Development not in accordance with planning permission 17/00095/F.	08 November 2018	Notice issued requiring compliance with approved plans.  Notice takes effect on 08 January with 180 day compliance period. Notice appealed via written representation route.  Start date announced.	Lara Emerson	

Enforcement Action Update on Enforcement Notices								
Case Ref.	Location	Development	Date referred to committee	Current Status	Lead Officer			
18/00026/ENF	113 Trinity Street	Demolition of wall fronting highway to form off-street parking area.	14 June 2018	Notice requiring the wall to be reconstructed has been complied with.	Lara Emerson			
18/00016/ENF	Bowthorpe Road Methodist Church	Erection of church hall without consent (not in accordance with approved plans)	12 July 2018	Notice served requiring alteration to the roof. This notice has been appealed.	Stephen Polley			
19/00034/ENF	4 Fieldview	Operating as a 7 bedroom HMO without consent.	10 January 2019	Notice served requiring use to revert to C3/C4 by mid- August	Charlotte Hounsell			