

Report to	Planning applications committee 08 November 2018	Item
Report of	Head of planning services	6
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, sustainable and inclusive growth

Contact officers

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Background documents

None

Report

Background

1. 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 12 July 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. For the first quarter of 2018-19, 162 applications out of 178 were dealt with by officers (a delegation rate of 91 per cent) and 16 applications were dealt with by committee.
7. In quarter two 2018-19, 174 applications out of 195 were dealt with by officers (a delegation rate of 89 per cent) and 21 applications were dealt with by committee.
8. The above 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 15 pending planning appeals as listed within the appendix to this report.
10. Two appeals have been allowed, reference details for which are appended to this report. A brief summary of each is provided below:

(a) 39 Prince of Wales Road – Change of use of second floor from B1 Office to C3, a 2 bedroom flat – Delegated refusal

The proposal related to the change of use of the top floor of 39 Prince of Wales Road from B1 to C3. The site is situated within the late night activity zone and the lower floors of the property are operated as a table dancing club. The application was proposed on the basis that it would only be occupied by an individual associated with the club below. The application was refused on policy grounds given its location in the late night activity zone and given that there was no functional link to the club (the flat had separate access) suggesting that it could be occupied independently.

The case was also refused on the basis of a lack of external space and lack of refuse and cycle storage. The inspector was content that noise disturbance could be adequately mitigated via noise mitigation measures and considered that the flat would be acceptable subject to a condition limiting its occupation to persons employed by the business below. The inspector also considered that the yard associated with the club could be used for cycle and refuse storage. Conditions were also imposed requiring a compliance report for noise mitigation measures and for provision of refuse and cycle storage.

(b) Land off Mountergate – Continued use of land for a short/medium stay car park for a period of one year – Delegated refusal

The appeal relates to the continued use of land and buildings for 126 car parking spaces off Mountergate for a period of one year. The site had two previous consents for, each for a year that had both lapsed. The site forms part of an allocation in the Local Plan (CC4) for mixed use development.

The application that was appealed was refused on the grounds that the continued use as a car park, by providing an income stream, was preventing the site from being developed in accordance with the adopted allocation.

The Inspector found that redevelopment of the site in accordance with the allocation was viable, even with the income generated by the car park. He concluded that, on the basis of the information before him, it was not the car park that was a barrier to development but the complications around the site ownership, which involved a freeholder and a long leaseholder from whom the appellant leased the site for use as the car park. Under these circumstances, he concluded that it would be appropriate to grant another temporary consent. In doing so, he attached weight to the benefit of having the site in a productive use rather than vacant. He also noted that the lease as a car park was on a short term basis, which could be easily terminated in the event that proposals for comprehensive redevelopment came forward.

11. Three appeals have been dismissed, reference details for which are appended to this report. A brief summary of each is provided below:

(a) 9 Bracondale – Construction of a 3 storey apartment building and associated works – Delegated refusal

The appeal site relates to land that was previously garden land to 9 Bracondale. The land was divided off from the property under a previous permission, which allowed a new dwelling to be constructed.

The Inspector identified two main issues with the proposal:-

- Whether the proposed development would preserve or enhance the character or appearance of the Norwich City Centre Conservation Area and the setting of the Bracondale Conservation Area and nearby non-designated heritage assets; and

- The effect of the proposed development on the living conditions of the occupiers of nearby dwellings with particular reference to outlook and/or privacy.

On the first point, the Inspector concluded that the new building would be appreciably higher than no. 9; bulkier and reflect different design principles. It would also occupy a substantial part of the grounds. He found that the new building would harm the setting of no.9 through the significant erosion of the open character of the site and through visual completion due to its scale and design. He arrived at a similar conclusion regarding the neighbouring property of Southgate House. However, he did not agree that the proposal caused harm to vistas along Southgate Lane from Bracondale.

On the second point, the Inspector agreed that a cart shed forming part of the scheme would give rise to unacceptable living conditions for the occupants of Southgate House because it would adversely affect outlook. He did not agree that there would be any loss of privacy to either Southgate House or to other properties in Southgate Lane.

In coming to his conclusions, the Inspector took into consideration that the council has, in his words, a modest shortfall in housing land supply. He therefore applied the 'tilted balance' in paragraph 11 of the NPPF but in doing so he attached 'great weight' to the harm caused to the conservation area and concluded that the appeal should be dismissed.

(b) Car park adjacent to Sentinel House, Surrey Street – Redevelopment of the site for the erection of 285 student bedroom development – Committee refusal

The Inspector identified two main issues:-

- The effect of the proposed development on the living conditions of the occupiers of Carlton Terrace and whether the future occupiers of Sentinel House and the proposed student accommodation would be likely to experience acceptable living conditions, with particular reference to outlook, any loss of light and /or privacy; and
- Whether the proposed development would preserve or enhance the character or appearance of the Norwich City Centre Conservation Area and its effect on the setting of nearby listed buildings and non-designated heritage assets.

In considering the first issue in relation to Carlton Terrace, the inspector commented as follows:

- (i) Outlook from the properties would change and the sense of enclosure would increase but the open car park to the rear of the terrace and given the height of the new building and the degree of separation, the relationship with Carlton Terrace would not be over-bearing;

- (ii) The distances between the new building and Carlton Terrace and the use of angled windows in the new build would not give rise to loss of privacy either directly from the student units or from the roof top terraces;
- (iii) The proposed development would reduce the daylight and or sunlight for a number of rooms in Carlton Terrace below the levels set out in the BRE Guidelines. The greatest effect would be upon the canopied windows and I have regard to the very low VSC % that they presently have. Other than for W1 and W2, the change in respect of the other rooms affected would be marginal. On the balance of evidence, the Inspector concluded that the living conditions of the occupiers of Carlton Terrace would not be unacceptably compromised by the appeal scheme.

The inspector made the following comments about the impact of the scheme upon the future residents of the flats in Sentinel House:-

- (i) Future residents of Sentinel House would experience poor outlook from the windows facing the appeal site due to the proximity and height of the new building; and
- (ii) Some of the windows in the new building facing Sentinel House would use privacy screens. These screens would themselves result in unacceptable living conditions for the students who occupied the affected rooms.

On the second point, the inspector concluded that the proposal would preserve the character of the conservation area. In coming to this conclusion, he observed that the area is dominated by a number of tall buildings dating from the 20th Century. He noted that:

“The proposed development has been designed so as to step up towards Sentinel House when viewed both along Queens Road and from Surrey Street and consequently, I do not find it out of scale with the neighbouring buildings, either in terms of its height or mass. Furthermore, I do not find it unacceptable that the appeal scheme takes some reference from the neighbouring tall buildings in terms of height, given their prominence in this part of the city. In addition, its design is significantly different and it would not have the monolithic appearance of Sentinel House and Norfolk Tower through the combination of the differences in height and use of materials. Given the careful attention given to its design, in terms of its scale, materials proposed and articulation it would not be an over dominant feature in the streetscape and would not harm the appearance of this part of the Conservation Area”.

In applying the planning balance to this decision, the inspector dismissed the appeal but only on the basis that the scheme would result in unacceptable living conditions for future residents of the flats in Sentinel House and for those living in the new building, due to the height and proximity of the scheme and Sentinel House.

(c) Garage to rear of 474 Earlham Road – Introduction of sink etc to create stand-alone dwelling – Delegated refusal

The appeal relates to a garage which had been converted to a separate dwelling. Enforcement action was taken against this and subsequently the applicants applied for consent to convert the garage to a dwelling. Consent was refused in January 2018 for the following reasons:

- the poor amenity of the proposed dwelling;
- impact on the amenity of the host dwelling; and
- impact on the character of the area.

The inspector agreed that the unit would be below internal space standards and would have a poor outlook from its main living area. The inspector considered that the proposals would result in an unacceptable loss of external amenity space for the host dwelling and would result in loss of privacy to the host dwelling. Finally the inspector also agreed that a new dwelling in this location would conflict with the character of the area. The inspector dismissed the appeal concluding that the harm identified would outweigh the benefits of providing a new dwelling in this location.

12. Two appeals have been issued with ‘split’ decisions; i.e. part of the development has been allowed and part has been refused. It should be noted that the power to issue split decisions is reserved for the Inspectorate only; councils must determine applications as a whole.
13. Reference details are appended to this report and a brief summary of each is provided below:

(a) The Boardroom, Bethel Hospital, Bethel Street - repair works to gable wall, west wall, attic floor & cornice. Reinstatement of former door opening into the Boardroom ante-room – Delegated refusal

The appeal was against refusal to grant listed building consent for the works described above.

The inspector allowed the appeal in relation to the repair works to the gable wall, finding that the information submitted in support was acceptable subject to a condition to secure full details for the works.

He dismissed the appeal regarding the opening of the door, finding that the appellants’ evidence was not conclusive in terms of any historic evidence for a door. He found the evidence in the Conservation Management Plan prepared by the council to be more compelling in support of the council’s case that there had never been a door in the location concerned.

(b) 1 Hanover Court - Removal of existing conservatory and erection of single storey side extension – Part Allowed / Part Dismissed

The proposal sought the removal of a conservatory and replacement with a flat roof single storey extension fronting towards Hanover Road. The application was refused

on design grounds given the height of the extension and the site being higher than Hanover Road it was considered that the extension would appear incongruous, dominant and out of character within the street scene. The proposal also included a screen fence to sit above the boundary wall which sought to screen the extension from the street. The inspector considered that the extension would not be seen in true elevation and would be largely screened by existing trees behind the boundary wall, subject to a condition for the retention of the trees the inspector considered that the extension would be acceptable. In relation to the screen fence the inspector considered that this would be alien in the street scene and dismissed this element of the appeal.

Enforcement action

14. 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.
15. On 11 October 2018, this committee approved a revised scheme of delegation which provided delegated powers for the issue of enforcement notices. In future all enforcement cases where a notice has been served will be included in the table so that members are aware of action that has been taken.

Appendix 1 – Current Appeal Cases and Decisions

Pending Planning Appeals and Recent Appeal Decisions								
Application Ref.	PINS Ref.	Address	Proposal	Type of Appeal	Start Date	Decision	Decision Level	Officer
18/00005/REF Application No. 17/01643/F	App/G2625/W/18/3196441	Sovereign Motor Company Mountergate	Continued use of site to provide short/medium stay public car park for a period of one year.	Written Reps	06/06/2018	Allowed	Delegated	Lara Emerson
18/00010/REF Application No. 17/01328/F	APP/G2625/W/18/319927 1	39 Prince Of Wales Road	Change of use of second floor to two bedroom flat (Class C3).	Written Reps	06/06/2018	Allowed	Committee	Lara Emerson
18/00002/REF Application No. 17/01731/F	APP/G2625/W/18/319470 8	474B Earlham Road	Conversion of garage accommodation to dwelling.	Written Reps	01/06/2018	Dismissed	Delegated	Charlotte Hounsell
18/00011/REF	APP/G2625/W/18/319989 2	Car Park Adj. Sentinal House Surrey St.	Redevelopment of site to provide 285 student bedroom development with associated access and landscaping	Written Reps	06/06/2018	Dismissed	Committee	Joy Brown
18/00014/REF	APP/G2625/W/18/320223 0	9 Bracondale	Construction of three-storey apartment block to provide 3 apartments and associated external works.	Written Reps	06/06/2018	Dismissed	Delegated	Katherine Brumpton
17/00013/REF Application No. 16/01925/L	APP/G2625/Y/17/3181822	Bethel Hospital	Repair works to gable wall, west wall, attic floor and cornice and reinstatement of former door opening into the Boardroom ante-room.	Written Reps	12/02/2018	Part Allowed / Part Dismissed	Delegated	David Parkin
18/00017/REF App no 18/00233/F	APP/G2625/D/18/3205108	1 Hanover Court	Removal of existing conservatory and erection of single storey side extension.	Written Reps	20/08/2018	Part Allowed / Part Dismissed	Delegated	Lara Emerson
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	Pending	Committee	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	Awaiting Start Date	Pending	Delegated	Maria Hammond

Pending Planning Appeals and Recent Appeal Decisions

Application Ref.	PINS Ref.	Address	Proposal	Type of Appeal	Start Date	Decision	Decision Level	Officer
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.	Written Reps	Awaiting Start Date	Pending	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	Pending	Committee	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	Pending	Committee	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	Pending	Committee	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	Awaiting Start Date	Pending	Committee	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	Awaiting Start Date	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	Pending	Delegated	Stephen Little
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	Committee	Stephen Polley

Pending Planning Appeals and Recent Appeal Decisions

Application Ref.	PINS Ref.	Address	Proposal	Type of Appeal	Start Date	Decision	Decision Level	Officer
18/00024/ENFPLA pp No 18/00016/ENF	APP/G2625/C /18/3209827	Bowthorpe Road Methodist Church	Appeal against Enforcement Notice Reference 18/00016/ENF for the construction of a church hall at Bowthorpe Road Methodist Church Bowthorpe Road without planning consent.	Written Reps	Awaiting Start Date	Pending	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. Changes to fenestration. Changes to roof form. Changes to boundary wall and driveway arrangements.	Written Reps	15/10/2018	Pending	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	Committee	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	Awaiting Start Date	Pending	Committee	Stephen Polley

Appendix 2 – Enforcement Action Update

Enforcement Action Update on Items Previously Referred to Committee					
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
16/00167/ENF	55 Cunningham Road	Change of use from C3/C4 to large HMO	12 January 2017	The enforcement notice has been issued and was subject to a planning appeal, the appeal has now been dismissed (see the planning appeals section of the main report) and compliance is required by November 2018.	Lara Emerson
16/00020/ENF	66 Whistlefish Court	Conversion of garage to a separate unit of residential accommodation (C3) and change of use from C3/C4 to large HMO.	09 February 2017	The notice was served on 03 March 2017 and came into force on 14 April 2017 with a six month compliance period. Property visited Aug 2018, six occupants therefore notice has now been complied with.	Ali Pridmore
16/00020/ENF	67 Whistlefish Court	Conversion of garage to a separate unit of residential accommodation (C3) and change of use from C3/C4 to large HMO.	09 February 2017	The notice was served on 03 March 2017 and came into force on 14 April 2017 with a six month compliance period. Property visited Aug 2018, six occupants therefore notice has now been complied with.	Ali Pridmore
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 been received and is pending.	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	The resolution was to serve an enforcement notice against the use of the garage and against the use of the main dwelling as a large HMO if required. The latest situation is that applications have been received and pending consideration.	Rob Webb

Enforcement Action Update on Items Previously Referred to Committee

Case Ref.	Location	Development	Date referred to committee	Current Status	Lead Officer
17/00112/ENF	2B Lower Goat Lane	Conversion of A1 unit to C4 HMO in breach of condition 2 of 16/00695/U	13 July 2017	The property is no longer a 5 bed unit and has been revised to a 3 bed units with larger communal areas. An application to regularise this is expected shortly, however the smaller units is considered likely to be acceptable and therefore further enforcement action is not considered likely to be expedient.	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.	David Parkin
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 latest discussions with the owners indicate that they may now wish to convert the unit back to a single dwelling.	Stephen Polley
17/00136/ENF	142 Dereham Road	Positioning and use of a hot food takeaway van on forecourt.	12 October 2017	The use of the van has ceased and this remains the case. A planning application for change of use of the shop to A3 was permitted in October. Whilst members authorised enforcement action to secure the removal of the van, members indicated that they did not want to be heavy handed and wished officers to monitor the situation to allow time for the change of use to be implemented and van removed. No notice has therefore been issued to date.	Lydia Tabbron
17/00006/ENF	17-19 Castle Meadow	Basement in residential use.	08 March 2018	The enforcement notice was served on 09 March 2018 with a compliance date of 06 July 2018. The notice has been complied with.	Lara Emerson
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 has been received against the enforcement notice and is pending.	Stephen Polley

Enforcement Action Update on Items Previously Referred to Committee

Case Ref.	Location	Development	Date referred to committee	Current Status	Lead Officer
17/00131/ENF	2 Mornington Road Erection of wooden garage/garden room structure.	Erection of wooden garage/garden room structure.	08 March 2018	Consent was granted in October for a revised structure and enforcement action to secure its provision. The enforcement notice may not be served if the owners progress with revising the structure to comply with the approved plans.	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.	Charlotte Hounsell
15/00046/CON SRV/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.	Samuel Walker
18/00022/ENF	2 Bracondale	Front garden being used as off street parking.	12 April 2018	The fence has been replaced and is no longer being used for parking.	Stephen Little
18/00026/ENF	113 Trinity Street	Demolition of wall fronting highway to form off-street parking area.	14 June 2018	The notice was served and came into effect on 19 July with a 90 day compliance period. The wall has been re-built.	Lara Emerson
18/00087/ENF	114 Trinity Street	Demolition of front boundary wall.	14 June 2018	The wall has been re-built.	Lara Emerson
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 8 th May 2019.	Lara Emerson
18/00003/ENF	Land at Holt Road, Norwich	Siting of residential caravan.	09 August 2018 & 11 October 2018	The enforcement notice is being drafted and will be served shortly.	Rob Webb
17/00151/ENF	137 Unthank Road	Construction of building not in accordance with approved plans and pre-commencement conditions that have not been discharged.	13 September 2018	Officers are in discussion with the owners and their new builders in relation to the works required. It is expected that the notice will be issued within the next fortnight.	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

Enforcement Action Update on Items Previously Referred to Committee

Case Ref.	Location	Development	Date referred to committee	Current Status	Lead Officer
18/00080/ENF	15 Suckling Avenue	Construction of bike shed/shed in front garden.	11 October 2018	We have written to the owners requesting removal by the end of November. The notice will be issued if this does not happen.	Stephen Little