



B O S T O N

B O R O U G H C O U N C I L

REPORT TO:	Planning Committee
DATE:	12 February 2019
SUBJECT:	Receipt of Appeal Decisions
PORTFOLIO HOLDER:	Councillor Michael Cooper
REPORT AUTHOR:	Growth Manager
EXEMPT REPORT?	No

SUMMARY

The purpose of this report is to advise members of the receipt of appeal decision in respect of:

- **Location:** 76 Spilsby Road, Boston, PE21 9NS

Proposal: Erection of a balcony and first floor door entrance

Planning Decision: Delegated

Reason(s) for Refusal:

1. The retrospective balcony/raised platform, external staircase and screens by reason of their siting, design, general appearance and proximity to adjacent dwelling houses would result in substantial demonstrable harm and would adversely affect the amenities of nearby residential occupiers by reason of loss of privacy through overlooking, result in loss of outlook and natural light and the artificial screens detract from visual amenity and as such conflict with saved Policy G1 of the adopted Boston Local Plan and the aims and objectives of the National Planning Policy Framework.

Appeal Decision: Dismissed

A copy of the Inspector's decision is attached to this report.

RECOMMENDATION

The Committee are asked to note this report.

REASONS FOR RECOMMENDATION

To address the Service Plan 2018/19.

1.0 INTRODUCTION

- 1.1 It is established practice that all appeal decisions are reported to Planning Committee as part of performance monitoring and to consider if any particular decisions raise issues which might influence practice or future decision making.
- 1.2 All applicants have a right of appeal against the decision of the planning authority, over a refusal, an approval with conditions (if the conditions are unacceptable to the applicant) and in cases of 'non-determination' where the authority has not issued a decision within the prescribed 8 or 13-week period without an agreed 'extension of time'. This right of appeal applies to all categories and types of applications – including Enforcement and other Notices where there are defined categories or grounds of appeal which any **appellant has to follow**.

2.0 APPEAL DECISIONS

76 Spisby Road, Boston, PE21 9NS

- 2.1 The Inspector considered that there were two issues:
- the effect of the development on the living conditions of the occupiers of neighbouring properties with particular reference to privacy, natural light and outlook; and,
 - the effect of the scheme on the special interest and significance of the listed building, and the wider conservation area.
- 2.2 Living Condition of Occupiers of Neighbouring Properties - The Inspector noted the property is an end of terrace 2 storey dwelling with a rear balcony which adjoins the neighbouring property at first floor. The balcony is largely screened on 3 sides and has a staircase extending from first to ground floor at its western side, furthest from where it is attached to the dwelling. There is a 'decorative screen' in front of the neighbour's (number 74) first floor shower room window. This window is also obscured glazed, but the Inspector considered that these measures are sufficient to conceal views of the shower cubicle.
- 2.3 In addition, due to the depth of the balcony, approximately 1.4 metres is in close proximity to number 74's side kitchen/diner window. The Inspector considers regular use of the balcony would have a harmful effect on occupiers of number 74's living conditions. Overall the Inspector did not consider there would be harm in terms of outlook or natural light but would in terms of living conditions.
- 2.4 Effect on the special interest and significance of the listed building, and the wider conservation area - The Inspector considered the special interest and significance of the group listing lies primarily in the attractive front elevations. The balcony was considered to be well-designed free-standing structure. As such, there was minimal disruption to the historic fabric and the development preserves the special interest and heritage significance of the Grade II listed building.

2.5 On this basis, the Inspector dismissed the appeal, refusing planning permission.

2.0 CONCLUSION

- 3.1 For the year to date, of the 7 appeal decisions, 1 was withdrawn by the appellant, 2 allowed and 4 dismissed. Therefore, the Planning Inspectorate determined 6 appeals and the Council has been successful in 67% of the cases, i.e. against the Council 33%. This compares unfavourably to the local Performance Indicator which tolerates 1 out of 5 going against the Council (20%).
- 3.2 The Ministry of Housing, Communities and Local Government (MHCLG) monitors authorities in relation to the number of major and non-major applications overturned (i.e. allowed) at appeal. The threshold is for fewer than 20% of all major applications determined overturned at appeal over a rolling two-year period (i.e. the total number of major decisions divided by the total number overturned). For authorities who exceed this target, they will be classed as 'poorly performing' and applications for major developments may be made by developers directly to the Planning Inspectorate. MHCLG are no longer publishing these statistics with the last set of figures dating back to the end of June 2018. However, of the 78 decisions made, only 1 major application had been overturned. This represents 1.3%. The Council is therefore well within the statutory target.
- 3.3 The Government is also monitoring the threshold for quality of decisions for non-major applications, the threshold for which is 10%. Like the major threshold this is the total number of non-major applications overturned at appeal compared to the total number of non-major decisions made. The statistics collated by MHCLG also only go up to the end of June 2018, show a total of 610 applications having been determined of which 5 were allowed. The percentage is therefore 0.8%. No further non-major appeals have been allowed in the intervening period. The Council is therefore significantly within government's target and not at risk of being classed as poorly performing.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

None

ANY OTHER IMPLICATIONS

None

CONSULTATION Portfolio Holder: Councillor Michael Cooper

APPENDICES

- Appendix 1: Appeal decision 76 Spisby Road, Boston, PE21 9NS

BACKGROUND PAPERS

Background papers used in the production of this report are listed below: -

Document title

Appeal file and application file.

- 76 Spisby Road, Boston, PE21
9NS – B/17/0422

Where the document can be viewed

Development Management