

Committee: Development	Date: 24 August 2011	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal Case Officer: Pete Smith	Title: Planning Appeals
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1. PURPOSE

- 1.1 This report provides details of town planning appeal outcomes and the range of planning considerations that are being taken into account by the Planning Inspectors, appointed by the Secretary of State for Communities and Local Government. It also provides information of appeals recently received by the Council, including the methods by which the cases are likely to be determined by the Planning Inspectorate.
- 1.2 The report covers all planning appeals, irrespective of whether the related planning application was determined by Development Committee, Strategic Development Committee or by officers under delegated powers. It is also considered appropriate that Members are advised of any appeal outcomes following the service of enforcement notices.
- 1.3 A record of appeal outcomes will also be helpful when compiling future Annual Monitoring Reports.

2. RECOMMENDATION

- 2.1 That Committee notes the details and outcomes of the appeals as outlined below.

3. APPEAL DECISIONS

- 3.1 The following appeal decisions have been received by the Council during the reporting period.

Application No:	PA/10/01376
Site:	81 Watney Street, London E1
Development:	Change of use to cafe/restaurant (Class A3) and the installation of a kitchen extract system with flue terminating at the rear.
Decision:	REFUSE (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.2 The main issue in this case was the impact of the proposal on the living conditions of local residents (in terms of odour emissions).

- 3.3 The appeal premises is situated adjacent to Shadwell DLR station and the Planning Inspector referred to advice issued by the Council's Environmental health section which states that a full height flue discharging odours at high level is the only acceptable method to avoid odours affecting residential properties above. The Inspector accepted this approach – and accepted that alternative high level ducting would ensure that air is expelled at high level, away from residential properties above.
- 3.4 He considered imposing conditions to require high level ducting but considered that to matter was so fundamental to the success or otherwise of the development that it would not be appropriate to seek to control the ventilation equipment by condition.
- 3.5 The appeal was DISMISSED.

Application No:	PA/10/02813
Site:	7 Teesdale Close, London E2
Site:	Demolition of existing house and the erection of a 5 storey plus basement building to provide 1x1 bed flat in basement, 4x2 bed flats on ground, second, third and fourth floors.
Council Decision:	REFUSE (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.6 The main issue in this case was whether the proposed 5 storey building would have preserved or enhanced the character and appearance of the Hackney Road Conservation Area.
- 3.7 The Council had previously granted planning permission for a flatted development and in effect, this appeal related to a scheme which involved an additional floor, so as to provide a two bedroom unit on the top floor, rather than a studio flat (as previously approved).
- 3.8 Whilst the Planning Inspector accepted that whilst the additional floor had been designed to blend in with the appearance of the existing structure, with similar cladding, he concluded that the resultant block would appear overly tall in relation to the narrow width of the plot. He felt that the additional floor would have created an oddly proportioned building and would have increased its bulk and visual appearance and would have eroded much of the existing structures. He was not satisfied that the development would have preserved or enhanced the character and appearance of the conservation area.
- 3.9 The appeal was DISMISSED.

Application No:	PA/10/01611
Site:	566-568 Mile End Road, London E3
Development:	Change of use to hot food take-away with rear high level ducting.
Decision:	REFUSE (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	ALLOWED

- 3.10 The main issues in this case were the impact of the change of use on the retail

function of the locality and the effect of the ventilation system on nearby residential properties.

- 3.11 The appeal premises comprises a small lock up unit located adjacent to Mile End Underground station and on the first issue, the Inspector concluded that the premises were unlikely to be attractive to an A1 retail use, given its limited frontage and overall size. He also noted that there was a late opening general store next door which he felt provided every-day needs for the local community. He saw no benefit to the retail function of the locality to retain the subject property bin retail use.
- 3.12 The application that was determined by the Council included insufficient details to allow proper consideration of the merits of the proposed ventilation system. Whilst the Inspector agreed that the details were limited, he concluded that the matter could be dealt with through the imposition of a suitably worded condition.
- 3.13 He also commented on The NHS Trust's comments on healthy eating lifestyles and the proliferation of fast food outlets. The Council provided evidence that there were 17 A3/A5 units within 400 metres of the appeal premises. He noted that the appeal premises previously was used as a cafe which was able to sell food and drink and that there is not mechanism for me to control the type of food served in the cafe/restaurant. Whilst he fully supported the Council's objective to promote healthy lifestyles, he concluded that there was little evidence to suggest that the use would detract from the ability of persons using the facility to adopt a healthy lifestyle.
- 3.14 The appeal was ALLOWED

Application No:	PA/10/02753
Site:	29 Norman Grove, London E3
Development:	Erection of a second floor roof extension (mansard roof with dormers).
Council Decision:	REFUSE (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.15 The main issue in this case was whether the proposed extension would have preserved or enhanced the character and appearance of the Medway Conservation Area.
- 3.16 The Inspector noted that the conservation character comprised straight streets lined with well proportioned terrace houses. Whilst he noted some variation in design, he concluded that on the whole there was some uniformity in terms of shallow pitched roofs behind parapets
- 3.17 The Inspector concluded that whilst the extension would have been similar to others that had previously been undertaken in the street, he was concerned that its size would make a prominent feature. The appeal property is located in part of the street where no similar extensions have been undertaken and he was satisfied that there was clear uniformity close to the appeal property.
- 3.18 He was concerned that the proposed extension would have protruded upwards out of an un-extended stretch of dwellings and would have been all the more obtrusive for that.

3.19 The appeal was DISMISSED.

Application No:	ENF/07/00349
Site:	Basement and Ground Floor of 2 Fashion Street, London E1
Development:	Appeal against an enforcement notice in respect of the use of the land as a mini-cab control office and the unauthorised advert display
Decision:	INSTIGATE ENFORCMENT ACTION (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED AND ENFORCEMENT ACTION UPHELD

3.19 The appeal premises lie within the Fournier Street and Brick Lane Conservation Area and the use is located within the basement and ground floor of the modern four story end of terrace property.

3.20 The appeal focussed on whether a change of use had in fact taken place, as the Council had previously granted planning permission for the use of the premises as a chauffeuring and private hire control office (under Class B1) whereas the appeal property was being used as a taxi hire business (which was not included within the B1 use class. The Inspector was therefore satisfied that a change of use had taken place and that the use was unlawful.

3.21 In terms of the planning merits of the unauthorised use, the main issues were as follows

1. The effect of the use on the amenities of those persons living and working in the area (in terms of noise and disturbance);
2. The impact on the highway conditions affecting Fashion Street;
3. The impact on the character and appearance of the immediate street scene and the Fournier Street and Brick Lane Conservation Area.

3.22 On the first issue, The Inspector considered that the use attracts customers late into the evening and early morning (including those who have visited local restaurants and other establishments) which leads to disturbance to residential occupiers at the eastern end of the street. He also concluded that it was unlikely that sufficient control could be exercised before customers are dispatched in minicabs to ensure that disturbance is minimised

3.23 In terms of highway safety, the Inspector found that the parking of mini cabs and the picking up of customers is likely to interrupt the free flow of traffic close to the junction of Commercial Road, which is a Red Route.

3.24 Finally, the Inspector found that the advertisement was garish and unsympathetic to the architectural quality of both the building and the overall street scene. In summary, he considered that the signage harmed both the character and appearance of the property and its surroundings. He was less concerned about the impact on wider conservation area character, as other illuminated signs can be found in the wider conservation area.

3.25 The appeal was DISMISSED and the enforcement notice UPHELD.

Application No:	PA/09/02378/02377
Site:	36 Alie Street, London, E1
Development:	Appeal against refusal of planning permission and listed building consent involving the use of the property as offices (ground floor and basement) and the conversion of the first second and third floor into 1x3 bed and 2x1 bed flats
Council Decision:	REFUSE (delegated)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.26 The appeal premise is a three storey property with dormer windows (Grade II listed building). The main issues in this case included the effect of the proposed internal alterations on the listed fabric of the building and whether the introduction of residential accommodation would compromise the Council's aim to encourage employment.
- 3.27 In terms of the listed building issues, the Planning Inspector was not satisfied that sufficient information had been supplied to give confidence that the proposals would have preserved the listed building. He concluded that the appeal should not succeed until such time as satisfactory details had been submitted.
- 3.28 In terms of the loss of employment, the Planning Inspector was clear that the appellant had been unable to comply with policy requirements – which indicates that evidence must be produced to show that the existing office space had been vacant and marketed for re-use or redevelopment.
- 3.29 The appeal was DISMISSED

Application No:	PA/10/01561
Site:	11 Gibraltar Walk E2 7LH
Development:	Retention of a single dwelling together with alterations to external elevations.
Council Decision:	REFUSE (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.30 Planning permission had previously been granted for use of the property as a live work unit and this appeal related to the use of the whole property for residential purposes with external alterations. The main issue in this case was the effect of the proposed development on the availability of employment floorspace.
- 3.31 The Inspector referred to previous appeals and specifically that previous Inspectors were satisfied that the employment elements should be retained – as part of the live work use. He concluded that live work accommodation can make a useful contribution to the range and mix of employment floorspace, particularly for small enterprises and that the use reflects the mixed use character of the surrounding area.
- 3.32 the appeal was DISMISSED.

Application No:	ENF/10/00315
Site:	54 Westferry Road, London E14 8LW
Development:	Appeal against an Enforcement Notice in relation to an unauthorised ground floor extension
Council Decision:	REFUSE (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.33 The appellant appealed against Ground "a" – that planning permission for the development (the subject of the breach) should be granted and Ground "f" – that the requirements of the Notice are excessive. The unauthorised extension had been previously been constructed in the rear yard of the property (ground floor shop with a self contained flat above).
- 3.34 The main issues in this case included the visual impact of the extension in terms of design, bulk, scale or materials and whether there had been a loss of amenity space for occupants of the building.
- 3.35 The Planning Inspector was concerned about the quality of the extension with unpainted render, plastic fascia boards and steel plated doors. He felt that a smaller extension would be acceptable, but her concluded that a smaller extension could not be secured through partial demolition. He was also concerned about the reduction in available amenity space for the uses of the residential part of the property.
- 3.36 The appeal was DISMISSED and the enforcement notice UPHELD.

Application Nos:	PA/10/02560
	PA/10/02566
	PA/10/02566
	PA/10/02564
	PA/10/02565
	PA/10/02561
	PA/10/02569
	PA/10/02560
	PA/10/02557
	PA/10/02563
	PA/10/02570
	PA/10/02567
	PA/10/02517
	PA/10/02568
	PA/10/02572
Sites:	Outside St James Court, 331 Bethnal Green Road E2;
	Near Hutton House, Bethnal Green Road, E2 0AA
	Adjacent to 406 Bethnal Green Road, E2 0AH
	Outside the Marquis of Cornwall PH 304 Bethnal Green Road E2
	Adjacent to 264 Bethnal Green Road E2;
	Outside 220 Bethnal Green Road, E2
	Adjacent to Tarrant House, 9 Roman Road London E2;

Corner of Knottisford Street and Morpeth Street;
Outside Bevin House, Morpeth Street London E2;
Near 141 Roman Road (opposite Morpeth Street E2)
Outside Moore House, Roman Road E2;
Docklands Sailing Centre, 235A Westferry Road E14;
Opposite Glengarnock Avenue, Manchester Road E14;
Westferry Road and Arhheim Wharf, E14;
South east junction of The Highway and Wapping Lane e1
HEARING)
All cases DISMISSED

Appeal Method
Inspector's Decision

- 3.37 These appeals related to 15 advertisement sites across the Borough – involving the display of a non-illuminated, anti graffiti plastic laminate poster panel on doors of telecommunications cabinets. Whilst it is clear that the Planning Inspector dealt with each case on its merits, for the purpose of this report, all 15 cases will be grouped together (as there were common themes)
- 3.38 The main issue in all cases was the impact of the proposed advertisement on the visual amenities of the area and whether the display would contribute to an undesirable impression of visual clutter, detrimental to the street scene. He agreed with the Council's view that the existing cabinets are relatively plain with a sober dark painted finish which is relatively unassertive and unobtrusive. He accepted that its unobtrusiveness makes the cabinets tolerable items in the street scene.
- 3.39 He agreed that the proposed advertisement would attract attention and would be there to be seen by passers by and would not (unlike the cabinet itself) perform any utility function. He found that the Council's approach to the advertisement was well grounded and strongly backed by its tidier streets initiative. He concluded that the advertisement would be very similar to a fly poster. He concluded that the adverts added to current visual clutter and would further harm the street scene.
- 3.40 All appeals were DISMISSED
- 3.41 These are significant appeal decisions and are a clear indication that such advertisement displays should not be entertained. It is understood that similar pressures are being placed on other London Boroughs and these appeal decisions will be distributed across London.

4. NEW APPEALS

- 4.1 The following appeals have been lodged with the Secretary of State following a decision by the local planning authority:

Application No:
Sites:
Development

PA/11/00878
27A Mile End Road
use of ground floor as either A1, A2, A3
or B1 purposes and conversion of upper

floors as 5 1 bed flats and 2x2 bed flats with a first and second floor rear extensions

Start Dates

1 August 2011

Appeal Method

WRITTEN REPRESENTATION

- 4.2 The Council refused planning permission on the grounds of over concentration of A3 uses and the inappropriateness of the proposed ducting arrangement in terms of visual amenity, character and appearance of the conservation area and potential smell nuisance.

Application No:

ENF/11/00010

Site:

27-29 Westferry Road E14

Development:

Appeal against enforcement notice in respect of an unauthorised change of use of a vacant site to a bus car park.

Council Decision:

Instigate Enforcement Action (delegated decision)

Start Date

20 July 2011

Appeal Method

WRITTEN REPRESENTATIONS

- 4.3 This enforcement action followed the refusal of planning permission for a temporary use of the site for coach parking. Planning permission was refused on grounds of highway and pedestrian safety and residential amenity concerns.

Application No:

PA/11/00491

Site:

246 Bow Road, London E3

Development:

use of part of the property for a mix of D1 and A5 purposes with alterations to the front elevation and the installation of a rear extract system.

Council Decision:

Refuse (delegated decision)

Start Date

4 August 2011

Appeal Method

WRITTEN REPRESENTATIONS

- 4.4 The Council refused planning permission for this proposed development on grounds of the inappropriate design of the proposed ducting arrangements and the potential for smell nuisance caused as a consequence of kitchen extraction.

Application No:

PA/11/00613

Site:

31 Manchester Grove, E14

Development:

Erection of first floor rear and side extension

Council Decision:

Refuse (delegated decision)

Start Date

1 August 2011

Appeal Method

WRITTEN REPRESENTATIONS

- 4.5 This application was refused by the Council on grounds of scale and bulk of extension which would have lead to an obtrusive and un-neighbourly addition which would have adversely affected neighbours. The application was also refused on design grounds and the failure of the development to preserve or enhance the character and appearance of the Chapel House Conservation Area.

Application No: PA/11/01182
Site: 12 Greatorex Street
Development: Approval of details (cycle parking)
Council Decision: Refuse (
Start Date 19 July 2011
Appeal Method WRITTEN REPRESENTATIONS

- 4.6 This approval of details indicated a form of cycle parking that is not recognised by the Council as a suitable design (with the facility being attached to the wall rather than to the ground (Sheffield Stands)

Application No: PA/11/00762
Site: 176 Whitechapel Road E1
Development: Retention of a poster panel sign with internal illumination (at second floor level)
Council Decision: Refuse (delegated decision)
Start Date 18 July 2011
Appeal Method WRITTEN REPRESENTATIONS

- 4.7 This advertisement was on grounds of visual intrusion detracting from the appearance of the host building. Furthermore, the advertisement was considered to be detrimental to the setting of the Grade II listed Royal London Hospital and the character and appearance of the London Hospital Conservation Area.