

Committee: Development	Date: 8 February 2012	Classification: Unrestricted	Agenda Item Number: 8.1
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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:	ENF/10/00368
Site:	Land at Moo Grill, 4 Cobb Street, E1 7LB
Development:	Unauthorised use of ground and first floor as a restaurant and bar, along with the installation of an unauthorised canopy and new shop front.
Decision:	INSTIGATE ENFORCMENT ACTION (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.2 This particular property had previously been used as a restaurant on ground floor with use of the first floor as ancillary storage and the second and third floors as staff accommodation, following a previous grant of planning permission in 1983 (LBTH Ref PA/83/00960). The Council had argued that the use of the ground and first floor as a restaurant and bar went beyond this previous grant of planning permission and in so doing, was causing nuisance to neighbouring residential occupiers. The appellant argued that the 1983 planning permission allowed the use of the whole building for A3 purposes and that the bar was incidental to the restaurant use.
- 3.3 The appellant appealed on the basis that there was no material change of use and that the current use operated in accordance with the 1983 planning permission. He also appealed on the basis that the use and the works are acceptable in any case.
- 3.4 On the first issue, the Planning Inspector did not agree with the appellant that the ground floor as a bar and the first floor as a restaurant operated in accordance with the previous planning permission. He was satisfied that the ground and first floors were being used as a mixed restaurant and bar use. He also referred to a condition imposed on the 1983 planning permission which required the first floor to be used only for storage in connection with the ground floor restaurant use and whilst he confirmed that the imposed condition could have been more clearly worded, he was satisfied as to its intention to maintain the use of the first floor for storage purposes only, ancillary to the ground floor restaurant use. He was therefore satisfied that there had been a breach of planning control.
- 3.5 As regards the planning merits of the issues raised by the enforcement notice, the Planning Inspector concluded that the use of both floors as a restaurant/bar was causing noise and disturbance to local residents. The main issue for the Planning Inspector was whether use of the first floor as a restaurant was acceptable in itself. The first floor is particularly small and as long there is no separate bar use, he was satisfied that the use of the first floor for restaurant use only, especially if sound insulation is imposed.
- 3.6 As regards the shop front (which has opening windows within it) the Planning Inspector was similarly concerned about the inability of the shop front to reduce noise breakout, especially the impact of loud music from the premises. He therefore accepted the shop front whilst requiring that the opening windows are fixed shut. Hours of use conditions were also imposed (0800-2300 hours) each day
- 3.7 The appeal was ALLOWED and the Enforcement Notice UPHELD (but with amendments to the Enforcement Notice). In short, the enforcement was allowed but on the basis that the use was restricted to restaurant use only rather than mixed bar/restaurant use, but the use was controlled through the use of conditions restricting the use of opening windows, requiring sound insulation to the first floor and hours of use limitations.

Application No:

ENF/09/00507

Site:

572-574 Roman Road, London E3 5ES

Site:

Unauthorised shop front

Council Decision:

**INSTIGATE ENFORCMENT ACTION
(delegated decision)**

**Appeal Method:
Inspector's Decision**

**WRITTEN REPRESENTATIONS
ALLOWED (with enforcement notice
amended)**

- 3.8 This property is the Iceland store in Roman Road (the former "Woolworths") and the Council had previously refused planning permission for the replacement shop front back in 2009 and was successful in defending its position on appeal). There was concern that the shop front and associated security shutter arrangements failed to preserve or enhance the character and appearance of the Roman Road Conservation Area.
- 3.9 Iceland appealed against the enforcement notice on two grounds; that the requirements of the notice went beyond what was reasonable to secure compliance and that the period for compliance (6 months) was too short a period. Iceland requested 12 months to comply. It is significant that Iceland did not appeal on the basis that that the retained shop front and associated shutters was acceptable.
- 3.10 The Planning Inspector agreed that the Council went beyond what was reasonable and modified the requirements of the enforcement notice, requiring the "reinstatement of the previous "Woolworths" shop front". He also accepted that the period for compliance (6 months) was too short a period. However, we compromised on the time period (9 months).
- 3.11 Whilst the appeal was ALLOWED, the enforcement notice remains in force and your officers are currently discussing options with Iceland, with a few to negotiating an alternative shop front design for the store, assuming that Iceland do not want to re-instate the former "Woolworths" shop front.

Application No:

**ENF/11/00052, PA/11/01156 and
PA11/01162**

Site:

341-343 Roman Road, E3 5QR

Development:

**Unauthorised aluminium shop front
and fascia sign**

Decision:

**INSTIGATE ENFORCEMENT
ACTION/REFUSE PLANNING
PERMISSION AND ADVERTISEMENT
CONSENT (delegated decisions)**

Appeal Method:

WRITTEN REPRESENTATIONS

Inspector's Decision

DISMISSED

- 3.13 These appeals related to a refusal of planning permission and advertisement consent and subsequent enforcement action in respect of an unauthorised shop front and fascia sign.
- 3.14 The Planning Inspector agreed with the Council that the aluminium shop front is devoid of features that would help to enhance the appearance of the building. He noted the level of enforcement action being undertaken in the Roman Road area and recent emphasis being placed on improving the appearance of shop fronts and he concluded that the development adversely affects the character and appearance of the Driffield Road Conservation Area. He also agreed with the Council that 3 months would be sufficient time for the appellant to design and alternative shop front and apply for planning permission.
- 3.15 As regards the fascia sign, the Planning Inspector concluded that the sign is

visually inappropriate in respect of the property. He felt that it dominates the streetscene and utilises materials that do not accord with the character of the building. He concluded that the sign fails to preserve or enhance the character and appearance of the conservation area

3.16 Both appeals were DISMISSED and the Enforcement Notice UPHELD

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:	PA/11/02677
Sites:	110 Whitechapel Road E1 1JE
Development	Variation of condition in relation to hours of use of restaurant (until 00.30 hours Sunday Monday to Thursday and 01.30 hours Friday and Saturday)
Start Dates	11 January 2012
Appeal Method	WRITTEN REPRESENTATION

4.2 The Council refused planning permission on the grounds of impact of extended noise on the amenities of neighbouring occupiers, in terms of additional noise nuisance and comings and goings outside sociable hours.

Application No:	PA/11/02255
Sites:	61 Johnson Street E1 0AQ
Development:	Demolition of existing two storey three-bed property and the erection of a new five storey residential development to provide eight residential units (1 x 3 bed, 3 x 2 bed, 2 x 1 bed and 2 x studio flats).
Council Decision:	Refuse (delegated decision)
Start Date	9 January 2012
Appeal Method	WRITTEN REPRESENTATIONS

4.3 This application for planning permission was refused on grounds of inappropriate design, impact on the amenities of neighbouring occupiers in terms of privacy loss, increased enclosure, poor standards of amenities for future occupiers and poor relationship with adjacent railway infrastructure.

Application No:	PA/11/02684
Site:	Junction of Corbet Place and Hanbury Place, London E1 4TT
Development:	Change of use of warehouse to restaurant (retrospective application)
Council Decision:	Refuse (delegated decision)
Start Date	20 December 2011
Appeal Method	WRITTEN REPRESENTATIONS

4.4 The Council refused planning permission for this proposed change of use on grounds that the change of use to restaurant activity results in an over-concentration of restaurants in and around Brick Lane with associated noise nuisance late into the evening, detrimental to the amenities of neighbouring residential occupiers. A further reason for refusal related to lack of adequate

refuse storage arrangements.