

<b>Committee:</b> Development	<b>Date:</b> 8 March 2012	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal  <b>Case Officer:</b> Pete Smith	<b>Title:</b> 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/11/01038**

**Site:**

**71 Columbia Road, London E2 7RG**

**Development:**

**Removal of existing timber sash windows fronting Ezra Street and their replacement with two bi-folding doors to match similar doors fronting Columbia Road.**

**Decision:**

**REFUSE PLANNING PERMISSION  
(delegated decision)**

**Appeal Method:**

**WRITTEN REPRESENTATIONS**

**Inspector's Decision**

**DISMISSED**

- 3.2 The main issues in this case were the effect of the proposed development on the character and appearance of the Jesus Hospital Conservation Area and the effect of the proposed folding doors on pedestrian flows in Ezra Street.
- 3.3 The appeal premises is a shop which sells plants and whilst the Planning Inspector acknowledged that redevelopment had taken place in the vicinity, the part of the conservation within which the appeal premises is located retained its pattern of traditional streets and terraces. He was satisfied that the loss of the traditional timber sash windows and the introduction of the folding doors would have disrupted the pattern of fenestration on the Ezra Street elevation. He concluded that this change would have eroded the Ezra Street frontage as a counter-point to the shop front elevation to Columbia Road.
- 3.4 As regards the impact of the development on pedestrian movement, he was concerned with the impact of the opening on the safety of highway users. The pavement in the vicinity of the unit is narrow and he concluded that the movements in and out of the shop and customers stopping to look at items displayed within the premises would have caused obstruction to pedestrian movements on this side of Ezra Street.
- 3.5 The appeal was DISMISSED.

<b>Application No:</b>	<b>PA/11/00971</b>
<b>Site:</b>	<b>161 Bethnal Green Road E2 7DG</b>
<b>Site:</b>	<b>Change of use from A1 – A5 (hot food take-away)</b>
<b>Council Decision:</b>	<b>REFUSE PLANNING PERMISSION (delegated decision)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector's Decision</b>	<b>DISMISSED</b>

- 3.6 This appeal related to the ground floor unit of a recently constructed four story building, situated on the north side of Bethnal Green Road, at its junction with Shacklewell Street (within the Redchurch Street Conservation Area).
- 3.7 There were four main issues in this case:
1. Whether the proposed change of use would have lead to an overconcentration of restaurants, bars and hot food take-away premises;
  2. The impact of the proposed ducting arrangements on the character and appearance of the building/area;
  3. Neighbour amenity considerations (noise and disturbance);
  4. The adequacy of servicing arrangements.
- 3.8 The Planning Inspector was not persuaded that there the proposed change of use would have resulted in an overconcentration, with such uses remaining in the minority. On the related issue of seeking to adopt a healthy lifestyle,, he concluded that there was no compelling evidence before me to demonstrate that there is a firm link between the ability of residents to adopt a healthy lifestyle and the proposed land use. He considered that these issues come down to personal choice.
- 3.9 The Inspector was more concerned about the visual impact of the proposed extract duct (which was proposed to be attached to the building's western elevation. He concluded that the duct would have been a large and utilitarian

structure which would have appeared unduly intrusive on the plain flank elevation. He considered that the duct would have failed to preserve the character and appearance of the conservation area.

- 3.10 An integral part of the proposed take-away use was the use of home delivery (by mopeds) and the Planning Inspector was concerned about the likely noise disturbance associated with such an activity of the residential amenities of neighbours. As regards servicing, the Planning Inspector was satisfied that this aspect of the proposal could have been adequately conditioned.
- 3.11 Whilst the Planning Inspector was not convinced that the proposed A5 use would have resulted in an over-concentration of A3, A4 and A5 units, he was satisfied that the proposed use would have resulted in a loss of amenity to neighbours, with the proposed duct being overly intrusive. The appeal was DISMISSED.

<b>Application No:</b>	<b>PA/11/01121 and PA/11/02736</b>
<b>Site:</b>	<b>Land bounded by Whitechapel High Street, Commercial Road, Leman Street and Buckle Street, London E1 7PJ</b>
<b>Development:</b>	<b>Display of 6 free standing advertisement hoardings</b>
<b>Decision:</b>	<b>REFUSE ADVERTISEMENT CONSENT (delegated decision)</b>
<b>Appeal Method:</b>	<b>HEARING</b>
<b>Inspector's Decision</b>	<b>DISMISSED</b>

- 3.12 These two appeals are similar – the only being that the second appeal contained a display of a mural on the fencing, erected around the whole of the site. The issue in both cases was the impact of the advertisements on the amenity of the area, including the effect on the conservation area.
- 3.13 The Planning Inspector concluded that the advertisement, when seen within the visual context of others results in the impression of advertisement clutter, whereby a number of large and prominent signs are on display, which has a harmful effect on amenity and the Whitechapel High Street Conservation Area. He was particularly concerned that the advertisements were displayed in an elevated position, above the general ground floor commercial activity which adds to the overall prominence. He was also not convinced with the appellant's arguments that the signs would screen an undeveloped site – as the existing fencing already provides adequate screening

- 3.14 Both appeals were DISMISSED.

<b>Application No:</b>	<b>PA/11/01815</b>
<b>Site:</b>	<b>247 Bethnal Green Road, London E2 6AQ</b>
<b>Development:</b>	<b>Display on an internally illuminated poster panel.</b>
<b>Council Decision:</b>	<b>REFUSE (delegated decision)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector's Decision</b>	<b>DISMISSED</b>

- 3.15 The issue in this case was the impact of the proposed advertisement on the

visual amenities of the surrounding area. The advertisement is currently being displayed and is attached to the side of the building at 247 Bethnal Green Road, at its junction with Barnet Road. The Planning Inspector shared the Council's concern about the effect of the advertisement on the visual amenities of the area. He felt that the advertisement was out of scale and was a dominant and discordant feature. He was particularly concerned about the close proximity of the advertisement to first, second and third floor windows of the flats immediately opposite the site. The adverts are illuminated – and he concluded that the level of illumination has a significant impact on the visual amenities of the residents he also concluded that the advertisement detracted from the immediate locality, where tree planting has recently taken place.

3.16 The appeal was DISMISSED.

<b>Application No:</b>	<b>PA/11/01376</b>
<b>Site:</b>	<b>477 The Highway E1W 3HJ</b>
<b>Development:</b>	<b>Display of a 1x48 sheet landscape lightbox (advertisement)</b>
<b>Decision:</b>	<b>REFUSE (Delegated Decision)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATION</b>
<b>Inspector's Decision</b>	<b>DISMISSED</b>

3.17 The issue in this case was the impact of the advertisement on the character and appearance of the area.

3.18 477 The Highway is a cement depot with a tall wall along the frontage with The Highway continuing into Butchers Row. To the west of the site is an eight storey hotel and there are tall buildings on the opposite side of the road. The proposed light box would be set back behind the wall but would have been mounted on a 5.16 metre high monopole. The Inspector noted that a previous proposed 96 sheet advertisement was refused last year.

3.19 The Planning Inspector maintained the position that the proposed advertisement would be a sizable structure with its impact heightened by its elevated position above the boundary wall. Notwithstanding the presence of tall buildings, the Planning Inspector considered that the advertisement would be an intrusive and disruptive element in the streetscene.

3.20 The appeal was DISMISSED.

<b>Application No:</b>	<b>PA/1/00490</b>
<b>Site:</b>	<b>5 Mile End Road E1 4TP</b>
<b>Development:</b>	<b>Change of use from retail to hot food take-away</b>
<b>Decision:</b>	<b>REFUSE (Delegated Decision)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATION</b>
<b>Inspector's Decision</b>	<b>ALLOWED</b>

3.21 The main issues in the case included the following:

- The effect of the proposed use on the level of retail uses in the immediate locality;
- Whether the proposed development would have been consistent with policies for the location of A3-A5 uses.

- 3.22 The appeal premises lies in a parade of commercial premises at the east end of Mile End Road and not included within a designated centre. The Planning Inspector was satisfied that there was a wide range of shops within walking distance from the appeal premises with Whitechapel District Centre located on the opposite side of the nearby junction with Cambridge Heath Road. He was therefore satisfied that there remained adequate shopping facilities to meet local needs within reasonable walking distance from the site. He was therefore satisfied that the loss of a retail unit would not detract from existing retail provision in the locality.
- 3.23 The relevant parade consists of 9 units and the premise is the sole unit in retail use. The proposed change of use would have resulted in 5 of the units being in A3-A5 use. The Planning Inspector was satisfied that as long as hours of use were controlled through the imposition of conditions, the use would not impact detrimentally on the amenities of neighbouring residents. As regards the healthy lifestyle issues, the planning Inspector did not consider the proposed change of use ran counter to Policy SP03 of the Core Strategy – especially in view of variety being available close to Whitechapel District Centre.
- 3.24 In ALLOWING the appeal, the planning inspector imposed a condition requiring the premises to close by 2300 (Monday to Saturday) and 2200 hours on Sunday.

<b>Application No:</b>	<b>ENF/10/00808</b>
<b>Site:</b>	<b>Great Eastern Public House, 1 Glenaffric Avenue, E14 3BW</b>
<b>Development:</b>	<b>Unauthorised change of use of 1<sup>st</sup> and 2<sup>nd</sup> floors as a backpackers' hostel</b>
<b>Decision:</b>	<b>REFUSE and Instigate ENFORCEMENT ACTION (Development Committee)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATION</b>
<b>Inspector's Decision</b>	<b>ALLOWED</b>

- 3.25 The main issues in the case were as follows:
- Whether the property was appropriately located for visitors having regard to its location outside a designated town centre and the general level of public transport accessibility;
  - Whether the proposal results in overdevelopment of the site
  - The effect of the development on the living conditions of neighbouring residents in respect of noise and disturbance
  - Whether the proposal makes adequate provision for waste and recyclables storage.
- 3.26 Whilst the Planning Inspector acknowledged that the site was not included in a designated centre, it is located close to Manchester Road, local shops, bus routes and within walking distance of the Island Gardens DLR station. He concluded that the transport options available were adequate for visitors, both those wishing to access the appeal site and those wishing to visit tourist attractions therefrom.
- 3.27 As regards the standard of accommodation, he was satisfied that the intensity

of the use – with 60 bed spaces provided in 2 double bunks and 18 triple bunks spread through 8 dormitories to be satisfactory and did not result in overdevelopment of the site.

3.28 Subject to the imposition of planning conditions, the Planning Inspector was satisfied that the use would not unacceptably increase levels of noise from within the building. He was also satisfied that the proposed use would be unlikely to generate significant traffic from visiting the site. It was accepted by all parties that previous concerns over refuse storage had now been resolved.

3.29 The appeal was ALLOWED and the Enforcement Notice OVERTURNED

3.30 Conditions were imposed relating to the production and implementation of a travel plan and a restriction on the number of occupiers (60 persons) and obscure glazing all windows to a height of 1.5 metres an all bathrooms and WC windows.

#### **4. NEW APPEALS**

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

<b>Application No:</b>	<b>PA/11/03394</b>
<b>Sites:</b>	<b>197 East India Dock Road, E14 0ED</b>
<b>Development</b>	<b>Variation of condition 4 (opening hours) of planning permission PL/95/148 dated 17/05/1996 to allow opening hours on Monday to Sunday from 11.00am to 2.00am.</b>
<b>Council Decision</b>	<b>Refuse (delegated decision)</b>
<b>Start Dates</b>	<b>20 February 2012</b>
<b>Appeal Method</b>	<b>WRITTEN REPRESENTATION</b>

4.2 The Council refused planning permission on the grounds of impact on later opening hours on the amenities of neighbouring residents – with potential for noise and disturbance associated with the take-away use opening later into the evening and into the dearly hours of the following day.

<b>Application No:</b>	<b>PA/11/03756</b>
<b>Sites:</b>	<b>Site at rear of 3-5 Hadrian Close, London E3</b>
<b>Development:</b>	<b>Display of an internally illuminated advertisement panel measuring 4.5metres x 18.25metres x 0.5metres</b>
<b>Council Decision:</b>	<b>Refuse (delegated decision)</b>
<b>Start Date</b>	<b>13 February 2012</b>
<b>Appeal Method</b>	<b>WRITTEN REPRESENTATIONS</b>

4.3 Advertisement consent was refused on grounds that the internally illuminated hoarding panel, by reason of its size, prominent elevated location, design and appearance would constitute a visually obtrusive, over dominant and discordant feature, detrimental to the overall character and appearance of the surrounding area.

<b>Application No:</b>	<b>PA/11/03671</b>
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**Site:** *Blackwall Tunnel Northern Approach –  
Corner of Lochnagar Street*  
**Development:** *Display of a 48 sheet illuminated  
advertisement display.*  
**Council Decision:** *Refuse (delegated decision)*  
**Start Date** *1<sup>st</sup> February 2012*  
**Appeal Method** *WRITTEN REPRESENTATIONS*

- 4.4 Advertisement consent was refused on grounds that the internally illuminated hoarding panel, by reason of its size, prominent elevated location, design and appearance would constitute a visually obtrusive, over dominant and discordant feature, detrimental to the overall character and appearance of the surrounding area. There was also concern about the impact of the advertisement on highway safety.

**Application Nos:** *PA/11/01437/01436*  
**Site:** *160 Commercial Road, E1 1NL*  
**Development:** *Demolition of the existing buildings and  
replacement with a four storey building  
plus basement to provide 2 retail units  
(Use Class A1) and three residential flats  
(2 x 2 bed units and 1 x 1 bed).*  
**Council Decision:** *Refuse (delegated decision)*  
**Start Date** *21 February 2012*  
**Appeal Method** *WRITTEN REPRESENTATIONS*

- 4.5 Planning permission and conservation area consent was refused on grounds of the loss of the existing building which contributes positively to the character and appearance of the Myrdle Street Conservation Area, the failure of the proposed replacement to preserve or enhance conservation area character and appearance and the failure of the scheme to provide adequate refuse storage facilities.