

Committee: Development Committee	Date: 5 April 2012	Classification: Unrestricted	Agenda Item Number: 8.2
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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/11/01363
Site:	28 Invicta Close E3 3RZ
Development:	Proposed single storey rear extension.
Decision:	REFUSE PLANNING PERMISSION (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	ALLOWED

- 3.2 The main issues in this case were as follows:

- Whether the extension would provide satisfactory living conditions

- The impact of the extension on the character and appearance of the area

- 3.3 Whilst the Planning Inspector accepted that the proposed extension would have significantly reduced the size of the existing constrained paved garden, he acknowledged that the retained space would have still provided useable outdoor amenity space suitable for sitting out. He also noted that a park was situated close by which provides alternative space (including well overlooked play space). The Inspector also accepted that there was a fall back position – in terms of what could be undertaken within the garden area under permitted development.
- 3.4 In terms of the character and appearance of the area, the Planning Inspector was satisfied that the contemporary design would not be out of keeping with the area and would only have limited prominence when viewed from certain public viewpoints and would not be incongruous or overly dominant..
- 3.5 The appeal was ALLOWED subject to standard conditions.

Application No:	PA/11/01708
Site:	71A Fairfield Road E3 2QA
Site:	Retention and alteration of façade and internal configuration of 8 flats of an existing 3 storey, part 5 storey building to rectify variations for m the original consent
Council Decision:	REFUSE PLANNING PERMISSION (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.6 Members will recall that this scheme has been subject to previous appeals following the failure of the developer to implement a previous grant of planning permission in accordance with approved drawings. The main issues raised in the previous appeal related to the effect of the development on the character of the area, the effect on the living conditions of neighbouring occupiers and whether the proposal provide adequate living conditions for future occupiers. The application the subject of the current appeal related to internal re-configuration of a number of flats (rather than any change in the bulk and scale of the development or the design and layout of the communal amenity space).
- 3.7 The changes to the scheme resulted in a proposed change in the mix of accommodation (providing 5x2 bed and 3x1 bed units and the Planning Inspector agreed with the Council that units suitable sized for families should be provided. He also noted that the largest 2 bed unit would be poorly accessed and would not have had access to its own private amenity space.
- 3.8 The Planning Inspector was also concerned that the proposed flat sizes fail to comply with guidelines and was not persuaded that the level of communal and private amenity space proposed would result in development which would result in sustainable living conditions and similarly, he concluded that the design of one of the units (utilising cedar louvers to limit overlooking) would have provided a restricted outlook from what would have been habitable rooms. He was far from satisfied that this would have provided for reasonable living conditions.

- 3.9 The appeal was DISMISSED and further liaison with the developer is now underway.

Application No: ENF/11/00253
Site: 110-116 Pennington Street E1W 2BB
Development: Unauthorised change of use to a shisha smoking lounge
Decision: INSTIGATE ENFORCEMENT ACTION (delegated decision)
Appeal Method: HEARING
Inspector's Decision: DISMISSED

- 3.10 This appeal related to an enforcement notice served in respect of the use which required the use to cease and to remove all the materials from the premises. The operator appealed against Ground b (that the property was not being used as a shisha lounge) and Ground c (that there was no breach of planning control).

- 3.11 On the first point, the Planning Inspector referred to evidence submitted to the Council which indicate that the use was probably occurring before August 2011, when the enforcement notice was issued. He was therefore satisfied that on the balance of probability, that the change of use alleged in the notice occurred as a matter of fact.

- 3.12 On the second point, evidence confirmed that the previous lawful use of the property as a motor vehicle assembly plant and there was no evidence that planning permission for a shisha lounge had been granted previously. There has been a previous grant of planning permission for a wine bar and club (back in 1999) but there is no evidence to confirm that the shisha lounge related to that previous grant of planning permission.

- 3.13 The appeal was DISMISSED.

Application No: PA/09/2966 and ENF/11/00034
Site: Seth Court, 23 Parmiter Street, E2 9EX
Development: Appeals against enforcement notices served in respect of the unauthorised development (5 storey building comprising 98 studio units) and refusal to discharge conditions associated with a previous grant of planning permission.
Council Decision: REFUSE and INSTIGATE ENFORCEMENT ACTION (delegated decision)
Appeal Method: HEARING
Inspector's Decision: DISMISSED

- 3.14 The Inspector was not satisfied with modifying the previous planning permission through the submission of conditions (pursuant to the previous grant of planning permission) and in any case, the Planning Inspector concluded that the material submitted were unsatisfactory, in so far as they harmonies with or complement the approved design of Block D.

- 3.15 The enforcement notice required the removal of the whole building and the Planning Inspector agreed with the appellant that there was an option to complete the building in accordance with the previously approved plans (in accordance with the planning permission back in 2007. In terms of the period of compliance and the planning Inspector agreed with the Council that a 12 month compliance period was reasonable.
- 3.16 The appeal was Part DISMISSED, part ALLOWED in that he varied the notice in terms of the steps to be required, but did not agree to vary the period within which to comply with the Notice.

Application No:	ENF/10/00411
Site:	land at Ailsa Wharf, Ailsa Street London E14
Development:	Unauthorised use of site for various vehicle related uses (including vehicle breaking place, vehicle parts storage, transport depot and vehicle sales)
Decision:	INSTIGATE ENFORCEMENT ACTION (Delegated Decision)
Appeal Method:	WRITTEN REPRESENTATION
Inspector's Decision	DISMISSED

- 3.17 In this case, the appellant appealed against Ground c (that the use did not involve a breach of planning control). The Planning inspector accepted the argument that the site is being operated as a single planning unit (albeit made up of various constituent parts) and felt that the use referred to in the enforcement notice should be identified as a mixed use
- 3.18 The mixed use of the site does not fall into any use class (as identified by the Use Classes Order) and he noted that the most recent planning permission in respect of the site was in 1959 (for the storage and distribution of petroleum products) and he was satisfied that the current mixed use is materially different from the use for the storage and distribution of petroleum products.
- 3.19 The Planning Inspector also agreed with the Council that the use and the containers on site have given the site an extremely untidy and unattractive appearance and he supported the Council's efforts to improve the appearance of such sites.
- 3.20 The appeal was DISMISSED and the enforcement UPHeld (albeit amended in terms of the details of the breach of planning control).

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/11/03488
Sites:	548 Roman Road E3 5ES
Development:	Retention of single storey extension at rear and installation of air conditioning unit.
Council Decision	Refuse (delegated decision)

Start Dates 20 March 2012
Appeal Method WRITTEN REPRESENTATION

- 4.2 The Council refused planning permission on the grounds of inappropriate design of extension (utilising timber) which was considered to be out of character with the Roman Road Market Conservation Area and the hosts building. Planning permission was also refused on grounds of insufficient sound insulation with a detrimental impact on the living conditions of neighbouring residential occupiers.

Application No: PA/11/01424
Sites: 370 Bethnal Green Road, E2 0AH
Development: Retention of a 3 storey infill extension to provide a 1x1 bed and 1x2 bed flat at 2nd, 3rd and 4th floor levels
Council Decision: Refuse (delegated decision)
Start Date 9 March 2012
Appeal Method WRITTEN REPRESENTATIONS

- 4.3 Planning permission was refused on grounds of design, failing to respect the character of the Bethnal Green Road street scene (with excessive height, design and poor relationship to the existing intact uniform terrace).

Application No: PA/11/02156
Site: 1 Whites Row E1 7NF
Development: Demolition of existing mansard roof addition and the erection of a 3rd and 4th floor extension and the conversion of all upper floors form business use to residential (3x1 bed, 2x2 bed and 2x3 bed flats) with ground floor used for B1 purposes.
Council Decision: Refuse (delegated decision)
Start Date 22 March 2012
Appeal Method WRITTEN REPRESENTATIONS

- 4.4 Planning permission was refused on grounds of design – with the extensions being of inappropriate scale, height, design and massing, failing to preserve or enhance the character and appearance of the Artillery passage Conservation Area. Planning permission was also refused on grounds of non compliance with residential space standards in respect of a number of proposed flats.

Application No: PA/11/03790
Site: 163 Gosset Street E2 6RN
Development: Erection of four dormer windows to top floor flat
Council Decision: Refuse (delegated decision)
Start Date 5 March 2012
Appeal Method WRITTEN REPRESENTATIONS

- 4.5 Planning permission was refused on grounds of design with the proposed dormers being over dominant, detracting from the character and appearance of the host building.

Application No: ENF/09/450

Site:	127-129 Roman Road
Development:	Unauthorised extension of a rear extension
Council Decision:	Instigate Enforcement Action (delegated decision)
Start Date	20 March 2012
Appeal Method	WRITTEN REPRESENTATIONS

- 4.6 Enforcement action was taken on grounds of inappropriate design of the extension which was considered to be out of keeping with the character and appearance of the Globe Road Conservation Area. The enforcement notice requires the removal of the extension.