

Committee: Development	Date: 22 August 2012	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/11/02150

Site:

745 Roman Road E2 0HU

Conversion of existing building to provide 4x1 bed flats along with the erection of a mansard roof extension.

Decision:

**REFUSE PLANNING PERMISSION
(delegated decision)**

Appeal Method:

WRITTEN REPRESENTATIONS

Inspector's Decision

DISMISSED

- 3.2 The appeal property is a three storey plus basement building which forms part of a terrace of similar properties, located within the Globe Road Conservation

Area. The Planning Inspector agreed with the Council's view that the proposed roof extension would have preserved the character and appearance of the conservation area and considered the main issues to be

- Whether the proposed flats would provide acceptable living conditions
- The affect of the proposal on overall housing supply
- Whether the proposal provided adequate cycle storage

- 3.3 On the first issue, whilst the Inspector acknowledged that the flats might be occupied by single persons, he was very concerned about the quality of the space provided and that occupation by two people would have made the flats even more cramped.
- 3.4 In terms of housing supply, the Inspector was concerned that the proposal only provided for 1 bed units and he did not accept the appellants argument the property was not suited to family occupation.
- 3.5 Finally, based on the poor level of information provided by the appellant, the Inspector was not satisfied that there was adequate space for cycle storage.
- 3.6 The appeal was DISMISSED. This is a worthwhile outcome in that it post dates the introduction of the National Planning Policy Framework and gives an indication of Inspector's willingness to take fully account of local circumstances and policy when that policy is up to date and suitably relevant.

Application No:	PA/11/02677
Site:	110 Whitechapel Road E1 1JE
Site:	Proposed variation of condition controlling hours of use of a restaurant.
Council Decision:	REFUSE PLANNING PERMISSION (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.6 This appeal is a 4 storey terraced property situated on the south side of Whitechapel Road, within the Whitechapel Market Conservation Area. The current condition imposed limits hours of use up until 23.00 hours on any day and the appellant applied to vary the hours until 01.30 hours on Fridays and Saturdays and until 00.30 hours on Sunday through to Thursday
- 3.7 The argument in this case revolved around consistency of approach (in terms of hours of use along this part of Whitechapel Road) and the Planning Inspector recognised that the Council was trying to strike a suitable balance between allowing beneficial commercial uses of premises whilst protecting the amenity and conditions of residents living nearby. The Inspector was content that the previously imposed condition met the balance requirement and did not give the appellant any scope to operate later into the evening and into the early morning on a trial period. He felt that local residents deserved some peace and quiet once local traffic died down later in the evening.
- 3.8 The appeal was DISMISSED. This again is a worthwhile decision and shows that the Council's approach, in terms of hours of use, even in town centres where a mix of commercial and residential uses predominate, is a recognised

as a suitable approach in planning terms.

Application No:	PA/11/03756
Site:	R/O 2-5 Hadrian Close, Old Ford, Bow E3
Development:	Display of a single internally illuminated advert panel
Decision:	REFUSE ADVERTISEMENT CONSENT (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

3.9 The main issue in this case was the impact of the proposed advertisement on the character and appearance of the area. The proposed advert would have been positioned on the outside bend on the busy East Cross Route. Whilst the Inspector accepted that the area was predominantly commercial in character, he noted that there were residential uses to the west. He concluded that the proposed advertisement would have been inappropriately intrusive and would have not "added appropriate colure and interest to a drab area" as suggested by the appellat

3.10 The appeal was DISMISSED.

Application No:	PA/11/02645
Site:	83-89 Mile End Road E1 4UJ
Development:	Installation of an externally illuminated fascia sign and an externally illuminated projecting sign with trough lighting.
Council Decision:	REFUSE (delegated decision)
Appeal Method:	WRITTEN REPRSENTAIONS
Inspector's Decision	DISMISSED

3.11 This property (known as Wickham House) is located within the Stepney Green Conservation Area and the main issue in this case was whether the proposed adverts would have preserved or enhanced the character and appearance of the conservation area.

3.12 The Inspector recognised that Wickham House is a unique, prominent and attractive building and that there are listed buildings present on the opposite side of Mile End Road. She felt that the size, material and fluorescent illumination with the extent of projection of the facia sign were unsympathetic to the age and design of Wickham House and detrimental to the character and appearance of the conservation area. She also felt that the signage would have unbalanced the appearance of the building as a whole and would have lent the ground floor facade an incongruous appearance.

3.13 The appeal was DISMISSED.

Application No:	PA/11/01678
Site:	123 Commercial Road E1 1RD
Development:	Conversion of first and second floor into self contained flats together with mansard roofs over 123 and 125 Commercial Road.

Decision:	APPEAL AGAINST NON DETERMINATION (Delegated Decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	SPLIT DECISION (Part ALLOWED - Part DISMISSED)

- 3.14 This appeal was made against the failure of the Council to determine the application within the required period. Whilst the Council was generally satisfied with the proposed conversion of the property, it was the proposed mansard extensions that were more on an issue for your officers. The property is located within the Myrdle Street Conservation Area.
- 3.15 The Inspector concluded that the mansard roof, which was proposed to straddle both 123 and 125 Commercial Road, would have failed to recognise the distinction between both these properties. He felt that the new roof would have significantly altered the architectural appearance of the property and would have overwhelmed the parapets of the buildings, seriously damaging their contribution to the character and appearance of the conservation area. He recognised the need for additional housing units, but did not feel that this outweighed the harm that would have been caused by the proposed mansard roof extensions.
- 3.16 The Inspector was satisfied on the planning merits of the conversion of the existing first and second floors as two self contained flats.
- 3.17 The appeal was part DISMISSED, part ALLOWED. Whilst local planning authorities can only produce "SPLIT" decisions in the case of applications for advertisement consent, the Planning Inspectorate is able to take such decisions in all cases. Whilst the Inspector considered the proposed conversion to be acceptable, it was always the form, design and principle of the proposed mansard roof extensions that were of concern to the Council.

Application No:	PA/11/02466
Site:	527 Roman Road, E3 5EL
Development:	Retention of double glazed uPVC windows
Council Decision:	REFUSE (Delegated Decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.18 This appeal related to four first floor windows on the front elevation of the appeal property, located within the Roman Road Market Conservation Area. The main issue was whether the replacement windows were harmful to the character and appearance of the conservation area.
- 3.19 The Inspector recognised that the appeal property commands a prominent position within the street and positively continues to the overall character and appearance of the conservation area. The Inspector felt that the use of uPVC in itself has a detrimental effect on the overall appearance of the building and the conservation area character.
- 3.20 The appeal was DISMISSED. The Council's Planning Enforcement Team will now seek to have the uPVC windows removed, with appropriate timber windows re-instated.

Application No:	PA/11/02255
Site:	61 Johnson Street E1 0AQ
Development:	Demolition of two storey end of terraced house and erection of new 5 storey development to provide 8 residential units.
Council Decision:	REFUSE (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

3.21 The main issues in this case were as follows:

- The impact of the development on the character and appearance of the area;
- Impact of the development on the amenity of neighbouring residential occupiers (privacy, daylight and outlook);
- The quality of living conditions for future occupiers of the development
- Sustainability policy compliance
- Impact of the development on the ability to operate the adjacent railway safely and efficiently

3.22 Whilst the Inspector acknowledged that there were taller buildings further south along Johnson Street, he felt that the existing terrace of housing in the vicinity of the appeal site provided a pleasing and intimate character. He was concerned that the proposed development would have significantly increased the height and bulk of the development and the sense of intimacy would have been lost he also conclude that the proposed 5 storey building would have created an abrupt jump in scale at both ends of the remaining terrace

3.23 He was also concerned about the proposed roof terrace, balconies and windows which would have overlooked Coburg Dwellings on Hardinge Street at a distance of some 12 metres. Given the overall height of the proposed development and the proximity and orientation of the proposed building, he was very concerned about the loss of daylight to the neighbouring properties along with an overbearing relationship, resulting in loss of outlook and privacy.

3.24 For similar reasons as outlined above, the Inspector was far from satisfied that the future residents of the development would enjoy adequate living conditions (especially privacy) he was also concerned about overall flat sizes and concluded that the development would have resulted in cramped forms of living accommodation. He was also concerned about the lack of evidence submitted to satisfy him that the close proximity to the elevation DLR tracks would have been acceptable and could have been suitably mitigated through the use of conditions.

3.25 In terms of sustainability and the relationship between the property and the DLR, the Planning Inspector did not have sufficient information for the appellant to determine whether the development was satisfactory in relation to policy requirements and objections received. He therefore had no basis to confirm that the development was not contrary to relevant policies.

3.26 The appeal was comprehensively DISMISSED.

Application No:	PA/11/02684
Site:	Site to the NE junction of Corbet Place and Hanbury Street, E1 6QL
Development:	Change of Use from warehouse to bar/restaurant and retention of existing premises as a bar/restaurant
Council Decision:	REFUSE (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	ALLOWED

- 3.27 By way of background, planning permission (2 years temporary) was granted back on November 2004, which had since expired. The Planning Inspector therefore determined that application as a proposed change of use, notwithstanding that the effects of the use were known – as the bar use had continued without the necessary planning permission.
- 3.28 Crucially, the Planning Inspector concluded that as the emerging Development Management DPD had still to be properly examined and in particular, the policy which allocates percentages to A3, A4 and A5 uses, he place limited weight on these emerging policies. The Inspector acknowledged that a balance needed to be struck between the importance of the Spitalfields evening economy and the impact of this activity on the amenities of residential occupiers in the vicinity of the site. The Inspector concluded that any antisocial behaviour within the area cannot be attributed to the appeal site alone and he referred to an email from the local police which stated that the site was not a venue that often comes up on their radar. He also noted that Corbet Place was not a late night venue – with the premises closing at 23.00 and that the position of Corbet place within the Truman Brewery complex may well limit its direct impact on local residents
- 3.29 The Inspector acknowledged the Council's concerns over percentages and the cumulative impact of further A3, A4 and A5 uses in the area. He argued that if these emerging policies were adopted, the number of such uses could be controlled following assessment of their individual merits. He noted the previous planning permission for the use and the continuation of the use over a number of years without objections.
- 3.30 Conditions imposed sought to control hours of use – up until 23.00 hours, restricted music and amplified music so as to be audible from the nearest residential properties and restricted the use of the open area to the south for sitting out, drinking or dining.
- 3.31 The appeal was ALLOWED. Whilst this decision is somewhat disappointing – the Planning Inspector looked specifically at the merits of this individual proposal and the history of the use of the site since the November 2004 planning permission. The issue will be further clarified following the Examination in Public into the emerging Managing Development Development Plan Document which is due to take place in September 2012.

Application No:	ENF/10/00513
Site:	124-126 Brick Lane E1 6RU
Development:	Appeal against enforcement action – erection of a ground floor extension.
Council Decision:	AUTHORISE ENFORCEMENT ACTION (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS

Inspector's Decision**DISMISSED (Enforcement Action UPHELD)**

3.32 The property is included in the Brick Lane and Fournier Street Conservation Area. The Inspector was concerned that the extension the subject of the enforcement action could be visible from Hanbury Street. The extension consists of a raised deck which is enclosed by a back wall of the main restaurant on one side with crude plastic sheeting. He was satisfied that the extension strikes a discordant note as it is a totally inharmonious addition to the main building, failing to preserve the character of the conservation area and the building itself. The Inspector was also satisfied that the period the Council required the structure to be removed (1 Month) was acceptable.

3.33 The appeal was DISMISSED and the Enforcement Notice UPHELD.

Application No:	ENF/10/00787
Site:	2 Midlothian Road E3 4SE
Development:	Appeal against Enforcement Action in respect of a rear and side extension
Council Decision:	INSTIGATE ENFORCMENT ACTION (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED (Enforcement Action UPHELD)

3.34 The main issue in this case was whether the extensions were visually appropriate taking account of the character and appearance of the existing building and the designation of the site as Metropolitan Open Land.

3.35 The Inspector noted that the rear and side extensions of the property are partly supported by wooden posts along with rather flimsy wooden panelling, glazed sections and open sections. He concluded that in view of its poor design, height and materials, the extension is a markedly unsympathetic and at odds with the character and appearance of the existing building. He was also concerned that there were clear views of the structure when approaching from the north and from the paths leading through Mile End Park. He also concluded that the development has a harmful effect to the character of the immediate surroundings and to the location of the site on Metropolitan Open Land.

3.36 The appeal was DISMISSED and the Enforcement Notice UPHELD.

Application No:	PA/11/03394
Site:	197 East India Dock Road E14 0ED
Development:	variation of condition in respect of hour of use – allowing opening until 02.00.
Council Decision:	REFUSE – (Delegated Decision)
Appeal Method:	WRITTEN REPRESENTATION
Inspector's Decision	DISMISSED

3.37 THE Council had previously granted temporary planning permission to vary the hours of use of this establishment (back in January 2011) (allowing opening until 01.00 hours on Friday and Saturday nights and midnight – Sunday to Thursday). The application the subject of the appeal was to allow opening until 02.00 hours, seven days a week – in line with a recently approved Premises

Licence application. The main issue associated with this appeal was the impact of early morning opening on the amenities of neighbouring residential occupiers.

3.38 The appeal premises is currently in use as a restaurant and hot food take-away use, situated on the north side of East India Dock Road – on the fringe of the Crisp Street District Centre. The Planning Inspector was concerned about noise associated with the use, especially when background noise levels reduce after 23.00. he noted also that other restaurants and take-aways in the immediate vicinity advertise to close around 23.00 and 22.20 hours. He was concerned that noise from customers themselves in the street and from their associated transport would be likely to create unacceptable levels of noise and disturbance during the proposed extended hours of operation.

3.39 The Inspector noted the decision of the Council in terms of the Premises Licence (which granted a licence into the early hours) but the Planning Inspector acknowledge that this decision was made under different legislation and attached limited weight to this matter as a material consideration. During the appeal process, the appellant requested consideration of a further temporary planning permission or reduced hours. In both situations, the Planning Inspector considered that the originally imposed condition (up until midnight) should be maintained.

3.40 The appeal was therefore DISMISSED.

Application No:	PA/11/02790
Site:	Flamingo House, 163 Gosset Street, London E2 6NR
Development:	Erection of 4 dormer windows and a roof extension to create an additional habitable room to top floor flat.
Council Decision:	REFUSE – (Delegated Decision)
Appeal Method:	WRITTEN REPRESENTATION
Inspector's Decision	DISMISSED

3.41 The main issue in this case was the impact of the proposed development on the character and appearance of the property and the streetscene.

3.42 The appeal property is a two storey detached building situated at the junction of Gosset Street and Warner Place. There is a wide variation in the design of the dwellings including temporary appearance of the adjoin terrace. The Planning Inspector was concerned that the proposed development would have comprised alterations to the roof which would have increased its height, size and bulk and would have resulted in a roof that would have been disproportionate to the scale and character of the remainder of the property. He did not feel that the double level of dormer windows would have been characteristic of other buildings within the surrounding area.

3.43 The appeal was DISMISSED

Application No:	PA/11/03814
Site:	A12 – East Cross Route/Wick lane Road Bridge, London E3 2SD
Development:	Display of a LED landscape display unit (18mx4m).

Council Decision:
Appeal Method:
Inspector's Decision

REFUSE – (Delegated Decision)
HEARING
DISMISSED

3.44 The main issue in this was the impact of the proposed display on the character and appearance of the area. The site of the proposed advertisement was the Wick lane road bridge and would have faced north bound traveller on the A12. The Planning Inspector noted that the bridge, as currently viewed, welcomes open vistas into the distance and was concerned that the proposed advert would have closed off a significant proportion of the views and would have unduly enclosed the bridge and would have had an overwhelming impact on pedestrians and other road users. In conjunction with the other two existing hoarding, close to the A12 slip road, he concluded that the proposed sign would have had a cluttering effect on the streetscene and on views beyond of the Olympic stadium.

3.45 For these reasons, the appeal was DISMISSED.

Application No:
Site:

PA/12/00035

Development:

**Pavement, corner of Mansell Road
and Whitechapel High Street E1 8DX
Display of a tri-sided portrait digital
advertisement display unit.**

Council Decision:
Appeal Method:
Inspector's Decision

REFUSE – (Delegated Decision)
HEARING
DISMISSED

3.46 The main issue in this was the impact of the proposed display on the character and appearance of the area. The appeal site is located within a commercial area of the Borough adjacent to a crossroads and the boundary of the City of London and the proposed advert would have been displayed at the corner of the pavement close to the back edge of the carriageway.

3.47 The Planning Inspector noted that there were a number of existing hoardings in the area but acknowledged that they were all flush with the front elevations of neighbouring buildings and were not overly prominent. He was concern that the proposed sign would be totally out of proportion with existing street furniture elements ad was also convened that the location of the sign would have overwhelmed pedestrians and concluded that the display would have dominated the streetscene and would have obscured views of the nearby listed building at 46-47 Aldgate High Street and would have had a significant adverse impact on its setting. He also concluded that the proposed sign would undermine the objectives of High Street 2012 and the Aldgate Masterplan.

3.48 The appeal was DISMISSED.

Application No:
Site:
Development:

PA/11/01436/01437

**160 Commercial Road E1 1NL
Demolition of existing building and
replacement with a four storey
building plus basement to provide
two retail units (Use Class A1) and
there residential units (2x2 bed and
1x1 bed).**

Council Decision:

REFUSE – (Delegated Decision)

**Appeal Method:
Inspector's Decision**

**WRITTEN REPRESENTATIONS
DISMISSED**

- 3.49 The main issue in this case was whether the demolition of the existing building and the proposed replacement would have preserved or enhanced the character and appearance of the Myrdle Street Conservation Area and whether the proposed development would have made adequate provision for the storage of refuse prior to collection.
- 3.50 The Planning Inspector noted that the existing building to be demolished, whilst have been altered in the past, retained many of its original feature which had been previously highlighted as having historic interest. Within the varied context of the conservation area character, the Planning Inspector concluded that the appeal premises makes a positive contribution to and blends in with the character and appearance of the conservation area. He concluded that the complete demolition of the non-designated heritage asset would amount to substantial harm to the conservation area. The Planning Inspector was far from convinced that demolition was the only viable option.
- 3.51 In terms of the replacement building, the Inspector was not satisfied that the replacement building would have sat comfortably with the design of neighbouring buildings. The different floor to ceiling heights would have prevented any visual association between the storeys, proportions and window arrangements. He concluded that the replacement building would have appeared incongruous and would not have reinforced local character. He concluded that the character and elevational design of the replacement building would have failed to respect, preserve or enhance the character and appearance of the conservation area and the immediate streetscene.
- 3.52 In terms of refuse storage, the Planning Inspector felt that proper refuse storage arrangements should have reasonably been incorporated into a new build scheme. He therefore agreed with the Council that the refuse storage arrangements would have been inadequate.
- 3.53 The appeal was comprehensively DISMISSED.

4. NEW APPEALS

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

<i>Application Nos:</i>	<i>PA/11/00354</i>
<i>Sites:</i>	<i>369A Roman Road E3 5QR</i>
<i>Development</i>	<i>Change of use of the ground floor and basement to create 2x1 bed residential units</i>
<i>Start Dates</i>	<i>27 July 2012</i>
<i>Appeal Method</i>	<i>WRITTEN REPRESENTATION</i>

- 4.2 The Council refused planning permission on the grounds of the loss of a commercial use within the Roman Road District Centre which would be detrimental to the vitality and viability of the shopping area. The Council was also concerned about the introduction of lightwells to the proposed basement accommodation which would fail to preserve or enhance the character and appearance of the Driffield Road Conservation Area and was also concerned

about the failure of the proposed development to provide the required levels of external amenity space for future residential occupiers.

Application No: PA/11/03666
Sites: 13 Durham Road E1 0NP
Development: Replacement of all windows front and rear of the property with hardwood double glazing painted white.
Council Decision: Refuse (delegated decision)
Start Date 18 July 2012
Appeal Method WRITTEN REPRESENTATIONS

- 4.3 Listed building consent was refused as the proposed double glazed windows were not considered sympathetic to the special historic character of the building. The windows were not appropriate in terms of detailed design or material and detract from the appearance of the Grade II Listed Building.

Application No: PA/11/03375
Site: Poplar Business Park, 10 Prestons Road
Development Demolition of existing buildings and redevelopment of the site to provide a mixed use scheme of between 3 and 22 storeys comprising 8,104 sq metres business accommodation (Use Class B1), 392 residential units (Use Class C3), associated parking and landscaping.
Council Decision: Refuse (Committee Decision- 12 April 2012)
Start Date 18 July 2012
Appeal Method PUBLIC INQUIRY

- 4.4 The application was refused planning permission by the Council on grounds of inadequate affordable housing provision and overdevelopment through the inability of the development to properly mitigate the impact of the development against on local infrastructure requirements. The appeal is due to be considered by public inquiry – likely to be scheduled around October-November 2012.

Application No: PA/11/02169
Site: 68-70 Manilla Street
Development Change of use from B1(c) light industrial to a car park to provide parking spaces for approximately 30 car parking spaces, utilising existing site entrance.
Council Decision: Refuse (delegated decision)
Start Date 21 June 2012
Appeal Method WRITTEN REPRESENTATIONS

- 4.5 The Council refused planning permission for the proposed use, on the grounds that the proposal would have resulted in an increase in the provision of off street car parking and an increase in car use which is not considered to be a sustainable mode of transport nor would it encourage the use of sustainable modes of transport within the borough.

Application No: PA/12/00643

Site: **267 East India Dock Road E14 0EG**
Development: **Display of a wall mounted internally illuminated advertisement hoarding board on east facing flank wall of building.**
Council Decision: **Refuse (Delegated decision)**
Start Date **8 June 2012**
Appeal Method **WRITTEN REPRESENTATIONS**

- 4.6 This application was refused on grounds that the proposed illuminated advertising panel, by reason of its siting, scale, size, elevated appearance and illuminance would have constituted a visually intrusive, over dominant and discordant feature on the building elevation and the locality, detrimental to the overall character and appearance of the area generally.

Application No: **PA/11/02230**
Site: **6 Durward Street**
Development: **Erection of a single storey extension at roof level of existing building and conversion of the property to provide 3 new residential units comprising 1 x 1 bed and 2 x 2 bed and associated works.**
Council Decision: **Refuse (delegated decision)**
Start Date **21 May 2012**
Appeal Method **WRITTEN REPRESENTATIONS**

- 4.7 This planning application was refused on grounds of inappropriate design of the proposed roof extension which would be harmful to the character and appearance of the Whitechapel Market Conservation Area. Planning permission was also refused as the development would have resulted in the loss of existing communal amenity space available for existing occupiers.