

<b>Committee:</b> Development	<b>Date:</b> 11 April 2013	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b> 8.1
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<b>Report of:</b> Corporate 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.

<b>Application No:</b>	<b>PA/12/02723</b>
<b>Site:</b>	<b>16 Milligan Street, London E14 8AU</b>
<b>Proposed Development:</b>	<b>Erection of a single storey and two storey rear extensions with remodelling existing floors to single dwelling.</b>
<b>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>

- 3.2 This appeal property is a two storey end of terrace property, located in the Narrow Street Conservation Area and a crucial aspect of the appeal consideration was that the rear of the property is visible from Three Colt Street. The main issues in this appeal were the impact of the proposed extensions on

the character and appearance of the conservation area as well as on the amenities of the neighbour residential occupier of 14 Milligan Street (particularly in relation to visual impact).

3.3 The Planning Inspector concluded that in view of the scale and bulk of the extensions, the proposed development would have represented an incongruous addition, out of keeping with the unified form of the terrace. He felt that the extensions would not have preserved the character and appearance of the conservation area. He also concluded that the neighbouring occupiers would have experienced an increased sense of enclosure, especially when enjoying their rear garden.

3.4 The appeal was DISMISSED.

<b>Application No:</b>	<b>PA/12/02726</b>
<b>Site:</b>	<b>1 Pump House Mews, Hopper Street, London E1</b>
<b>Site:</b>	<b>Erection of a second floor extension to a single dwelling house.</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>

3.5 The main issues in this case were the impact of the development on the living conditions of residential properties on either side of the appeal premises (fronting Lemman Street and Hooper Street).

3.6 The Planning Inspector was concerned that in view of the height, bulk and design of the proposed additional storey, the proposed development would have dominated the outlook from neighbouring habitable rooms.

3.7 The appeal was DISMISSED.

<b>Application No:</b>	<b>PA/12/01208</b>
<b>Site:</b>	<b>127 Lemman Street, London E1</b>
<b>Site:</b>	<b>Change of Use form A2 use to restaurant (Class A3).</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>

3.8 The appeal premise is ground floor and basement accommodation, located at the base of a three storey terrace building and within an existing commercial parade. The Planning Inspector noted that out of the 13 commercial units in the terrace, 5 operated as cooked food outlets (Class A3). The main issue were therefore as follows

- Overconcentration of restaurant use – contrary to development plan policies
- The impact of the proposed development on the character of the area
- The impact of the proposed use of the amenities of neighbouring residential occupiers

- The impact of the development on the potential for smell nuisance
- 3.9 The Planning Inspector noted that a number of properties within the parade had residential accommodation above and whilst he acknowledged that the site is included within the identified Central Activities Zone and that Policy DM1 of the MD DPD encourages such uses, he also referred to the need to avoid overconcentration. He concluded that there was already an over-concentration and felt that further restaurant activity would add to the concentration of such uses. He also concluded that adding further restaurant activity in an area already experiencing over-concentration of such uses would not be in keeping with the general thrust of the Core Strategy Policy SP03 in supporting healthy lifestyles.
- 3.10 In terms of character and appearance, the Planning Inspector concluded that whilst the proposed galvanised flue would have presented a stark and utilitarian appearance and would have been a very prominent feature in relation to the rear elevation, he acknowledged that it was similar to other flues in the immediate vicinity and did not feel that it would have been detrimental to the prevailing residential character.
- 3.11 In terms of the living conditions of neighbouring residential occupiers, in terms of the potential noise and vibration caused by the ventilation system and the noise generated by users of the restaurant, the Planning Inspector concluded that these noise issues could be controlled through the use of conditions.
- 3.12 Finally, the Planning Inspector was concerned that there appeared to be no facilities for the on site storage of refuse and he was far from clear whether the imposition of condition could have resolve this problem.
- 3.13 The appeal was DISMISSED.
- 3.14 This is a worthwhile decision in terms of the overconcentration of A3/A5 units and the application of policy contained in the MD DPD.

<b>Application No:</b>	<b>PA/12/00957</b>
<b>Site:</b>	<b>74 Bow Road, London, E3</b>
<b>Site:</b>	<b>variation of Condition 3 relating to hours of use, to allow the restaurant to operate until 1am (Monday to Saturday) and midnight (Sunday).</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>

- 3.15 The main issue in this case was the impact of the proposed extend hours on the amenities of neighbouring residential occupiers with particular reference to noise and disturbance.
- 3.16 Whilst the Planning Inspector acknowledged that the site was in an area where some noise and disturbance was to be expected, he was concerned that potential customers arriving at the premises late at night (potentially in cars) will be parking in neighbouring residential streets and he was concerned that levels of activity at this time of the night/early morning would have generated noise nuisance. He referred to car doors banging and the general manoeuvring of

vehicles.

3.17 The appeal was DISMISSED.

<b>Application No:</b>	<b>PA/12/00234</b>
<b>Site:</b>	<b>5 Tarling Street, London, E1</b>
<b>Site:</b>	<b>Change of Use of a retail shop unit to a mixed restaurant/takeaway use (Class A3/A5).</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>

3.18 This unit is located within Watney Market District Centre and within a Primary Shopping Frontage. The Planning Inspector referred to Policy DM1 of the MD DPD (Submission Version) and whilst the MD DPD may be subject to further revisions, he afforded the document weight as a material consideration.

3.19 He referred specifically to the requirements of Policy DM12 which states that A3/A5 uses will be acceptable in such centres where they meet criteria (including that there shall be at least two non A3/A4/A5 units between every new A3, A4 or A5 unit). The Planning Inspector noted that this would not have been the situation in respect of this appeal proposal and would have therefore been contrary to this emerging policy.

3.20 As regards the impact of the development on existing residential amenity, the Planning Inspector concluded that a further restaurant/take-away would have created unacceptable noise nuisance. Furthermore he was concerned about smell nuisance from the proposed electrostatic extractor system.

3.21 The appeal was therefore DIMISSED.

<b>Application No:</b>	<b>PA/12/0023</b>
<b>Site:</b>	<b>Ability Place, 37 Millharbour, London, E14</b>
<b>Site:</b>	<b>Two storey extension to existing building to accommodate 7 duplex apartments and private amenity space.</b>
<b>Council Decision:</b>	<b>REFUSE PLANNING PERMISSION (Development Committee)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector's Decision</b>	<b>DISMISSED</b>

3.22 The main issue in this case was whether the proposed development would represent an appropriate design solution which would adequately protect the living conditions of occupiers of nearby dwellings.

3.23 This case was determined by Development Committee a few months ago and as Members may recall, involved the erection of a further two storeys on top of an existing communal roof-top garden and outdoor amenity space (proposed 15<sup>th</sup> and 16<sup>th</sup> floor). The roof-top amenity area comprises an accessible rooftop garden and a "brown roof", designed as a wildlife habitat.

- 3.24 Whilst the Planning Inspector acknowledged that the proposed new roof-top area (on top of the proposed duplex apartments) would have provided a larger area of accessible open space, he was not satisfied that the space would have provided an improved amenity area overall (especially with the loss of the "brown" roofs).
- 3.25 The Planning Inspector also commented on daylighting issues (even though this did not form part of the reason for refusal). Whilst he acknowledged that the adverse impacts in terms of daylight would have been below the limits which, in an urban environment, would have been considered unacceptable, he noted more substantial losses of daylight to some apartments at 13<sup>th</sup> and 14<sup>th</sup> floor levels. He noted the significant number of objections to daylight losses and he concluded that residents residing at higher levels of the Ability Place development should expect to receive good levels of natural daylight. Whilst he acknowledged that anticipated levels of light loss might not alone be a reason for refusal, he concluded that reductions in light (of varying degrees) added weight to the Council's contention that the design of the appeal proposal represented over-development of the site, leading to harm to neighbouring residential occupiers.
- 3.26 Finally, the Planning Inspector was also concerned about the noise and disturbance caused to existing residents during the period of construction. Whilst he acknowledged that conditions could have been imposed to limit noise disturbance, he felt that construction noise, which would have been focussed around the enclosed courtyard, would have resulted in a considerable reduction in the quality of residential amenity. He was far from satisfied that the issue could have been adequately conditioned.
- 3.27 The appeal was DISMISSED.
- 3.28 This is a worthwhile decision and in some areas goes beyond the reasons for refusal. It draws specific attention to how one might wish to consider extensions to existing high density residential buildings, already challenged by outdoor amenity space standards, daylighting issues and nuisance that might be caused as a consequence of major construction in close proximity to existing residents of the block.

#### **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><i>Application Nos:</i></b>	<b><i>PA/12/01210/01209</i></b>
<b><i>Sites:</i></b>	<b><i>3-4 Vine Court, London, E1</i></b>
<b><i>Development</i></b>	<b><i>The demolition of remaining warehouse building (light industrial use) and the creation of a part 2 storey part 3 storey (above ground) terrace of 5 houses, including accommodation at lower ground floor.</i></b>
<b><i>Council Decision</i></b>	<b><i>REFUSE (delegated decision)</i></b>
<b><i>Start Dates</i></b>	<b><i>25 February 2013</i></b>
<b><i>Appeal Method</i></b>	<b><i>WRITTEN REPRESENTATION</i></b>

- 4.2 These applications for planning permission and conservation area consent as

refused on grounds of the failure of the proposed development to respect the character and appearance of the Mydle Street Conservation Area, whilst at the same time, provide substandard accommodation for further residential and impacting detrimentally on the amenities of neighbouring residential occupiers through increased sense of enclosure. The case was also refused on grounds of inadequate cycle parking opportunities. The demolition of the warehouse building was considered unacceptable in the absence of an replacement scheme with planning permission.

**Application No:** PA/12/02455  
**Sites:** 50 Coldharbour, London E14  
**Development:** Erection of a 2 storey rear extension and rood extensions  
**Council Decision:** REFUSE (delegated decision)  
**Start Date** 4 March 2013  
**Appeal Method** WRITTEN REPRESENTATIONS

- 4.3 The reason for refusal in this case was related to the failure of the proposed extension (in view of its height and scale) to respect the character and appearance of the Coldharbour Conservation Area and the detrimental impact on neighbouring residential occupiers in terms of daylight and increased enclosure.

**Application No:** ENF/12/00381  
**Sites:** 164 Upper North Street E14  
**Development:** Unauthorised use of property as a shisha smoking lounge  
**Council Decision:** INSTIGATE ENFORCEMENT ACTION (delegated decision)  
**Start Date** No start date  
**Appeal Method** WRITTEN REPRESENTATIONS

- 4.4 This operator has appeal against the notice arguing that there is no breach of planning control, that planning permission should be granted for the uses, that the time set aside to resolve the breach is too short and that the requirements of the notice are excessive. The Notice was served on the grounds that the use of the site as a shisha smoking lounge resulted in a loss of employment/commercial floorspace and was detrimental to the amenities of neighbours and the visual amenities of the area.

**Application No:** PA/12/02010  
**Sites:** Bridge Wharf – Old Ford Road, London  
**Development:** Erection of a 3 storey 4 bed house  
**Council Decision:** REFUSE PLANNING PERMISSION (delegated decision)  
**Start Date** 1<sup>st</sup> March 2013  
**Appeal Method** WRITTEN REPRESENTATIONS

- 4.5 As Members may recall, this site was the subject to a previous appeal which was dismissed by the Planning Inspectorate. This appeal is for a different proposal but raises similar issues. Planning permission was refused under delegated powers on grounds that the proposed development would be out of character with neighbouring buildings and the Victoria Park and Regents Canal Conservation Area and would result in the loss of open space and the harmful reduction of the on-site Willow tree, detrimental to its amenity value, viewed in

the context of existing conservation area character.