

Committee: Development	Date: 10 th February 2011	Classification: Unrestricted	Agenda Item Number: 8.2
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Report of: Director of Development and Renewal Case Officer: Pete Smith/Ila Robertson	Title: Planning Appeals
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1. PURPOSE

- 1.1 This report provides details of town planning appeals outcomes and the range of planning considerations that are being taken into 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.
- 1.4 For the purposes of this item, the reporting period is December 2010 – January 2011. In the future, this report will be presented on a regular monthly basis and as appropriate will also be referred onto the Strategic Development Committee, especially where appeals relate to applications determined by that Committee
- 1.5 In future reports, we aim to provide Members with details of the overall costs associated with the appeal process. Work is underway to determine these costs. Reports will also highlight instances of appeal costs awarded against or in favour of the Council.

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/10/00243
Site:	Land at the junction with The Highway and Ensign Street
Development:	Display of 3 advertising poster hoardings and screen fencing
Council Decision:	REFUSE (delegated decision)
Appeal Method:	HEARING
Inspector's Decision	DISMISSED

- 3.2 The advertisement application the subject of the appeal initially proposed three hoardings, but as part of the appeal process, the appellant proposed a condition limiting the display of two of the posters for two years and the third for 3 months (to tie in with the present temporary uses of the site by UK Power Networks in connection with nearby tunnelling works).
- 3.3 The main issue in relation to the appeal was the effect of the proposal on the character of the area and nearby conservation area. The Inspector noted that The Highway at this point appears mostly commercial in nature and features substantial and large scale development interspersed with a number of more open areas which gives the area and expansive feel.
- 3.4 He concluded that the advertisements in place and those proposed would be overlarge and collectively, the advertisement display would appear cluttered and overcrowded which would not be mitigated by the suggested landscaping. He considered that the presence of either combination of hoarding is, or would be, materially detrimental to the character and appearance of the area and the neighbouring conservation area. He also concluded that the advertisement display has some detrimental effect on the setting of the Grade II listed building to the north east.
- 3.5 The appeal was DISMISSED. Planning Enforcement are working to have the advertisements removed.

Application No:	PA/09/02430
Site:	15-17 Leman Street and 1A Buckle Street, E1
Development:	Redevelopment of site comprising the construction of a 23 storey hotel including ancillary café, bar and restaurant with associated servicing and access
Council Decision:	REFUSE (delegated decision)
Appeal Method:	Public Inquiry
Inspector's Decision	DISMISSED

- 3.6 The main issues in this appeal were as follows:
- Whether the height, scale, massing and design would be harmful to the area's character;
 - Whether the development would cause harm to the residential amenities of occupiers of City Reach (privacy and outlook)
 - Whether the development would preserve the appropriate setting of neighbouring listed buildings and conservation areas
 - Whether vehicular access and servicing would interfere with the safe and

free movement of traffic on adjacent highways

- 3.7 The Inspector noted that the building the subject of the appeal would be seen in close association with the development proposed on the vacant Aldgate Union site to the north, where planning permission had previously been granted for an office and retail development of between 4 and 21 storeys. In view of other planning permission granted, the Inspector concluded that the development, by reason of its height, would not appear out of keeping with the areas character. However, he was concerned about the architectural detailing of the lower levels of the building, its sheer monumentality and its failure to engage with the public realm. As a consequence, he concluded that the building would appear out of scale with its surroundings. However, he was more comfortable about the proposed mass of the building which he felt was capable of making an original and pleasing contribution to the development of Aldgate.
- 3.8 As regards residential amenity, the Inspector was satisfied that the views of north facing residential windows would not be reduced by any amount that would create oppressive conditions and that residents would not have experienced a loss of privacy – (subject to the imposition of conditions).
- 3.9 The Inspector was satisfied that the development would not have harmed the setting of neighbouring listed buildings or the character and appearance of the Whitechapel High Street Conservation Area.
- 3.10 Finally, The Inspector found the proposal lacking in terms of the provision of adequate servicing and its failure to provide for the safe use by pedestrians in Buckle Street. However, in view of the close proximity of the site to public transport, he found no need for specific provision to be made for guests arriving by coach or taxi.
- 3.11 The appeal was DISMISSED
- 3.12 During the proceedings, the public inquiry had to be adjourned (following realisation that the inquiry arrangements had not been properly issued to interested persons). The Inspector allowed the application for an award of costs (albeit a partial award) to cover the appellant's costs in attending the resumed inquiry – once interested parties had been duly notified. In the event, no third parties expressed an interest to attend the inquiry.

Application No:	PA/10/00428
Site:	170, Commercial Road, E1
Development:	Certificate of lawful use (retail use on ground floor and the conversion of the first to third floors as a self contained flat)
Council Decision:	REFUSE (delegated decision)
Appeal Method:	Written Reps
Inspector's Decision	ALLOWED

- 3.13 This appeal related to the interpretation of the General Permitted Development Order and whether the proposed development required a planning application. The Inspector concluded that the use proposed was a mixed use of a shop with residential over and that the proposed use is considered lawful.
- 3.14 The appeal was ALLOWED.

Application No:	PA/10/00368
Site:	135 Brick Lane, E1
Development:	Change of use of a lather garment factory to a restaurant/take-away (Class A3 and A5) including re-roofing the rear and extract vents.
Council Decision:	REFUSE (delegated decision)
Appeal Method:	Written Reps
Inspector's Decision	DISMISSED

- 3.15 The main issues with this appeal were the loss of the employment, the impact of the development on the character of Brick Lane and the amenities of neighbours in terms of noise and disturbance.
- 3.16 The Inspector was not satisfied that sufficient evidence had been presented as to the method and intensity of marketing and he felt that the size and shape of the ground floor fitted the description in the policy objective of flexible workspace. He concluded that the loss of the hybrid manufacturing/retail unit would clearly undermine planning policy aims.
- 3.17 As regards residential amenity and area character, the Inspector noted that the northern section of Brick Lane had a distinct character (with a lower level of activity) which he considered was important to retain. He felt the proposed change of use would set an undesirable marker which could begin to erode the fragile structure set by the present development pattern and lead to adverse residential amenity effects.
- 3.18 The appeal was DISMISSED.
- 3.19 This is a very helpful appeal decision in terms of seeking the appropriate balance between night-time economy uses within Brick Lane and the surrounding area and the need to protect neighbouring residential amenity.

Application No:	PA/10/00639
Site:	The Pipeline, 94 Middlesex Street, E1
Development:	variation of hours of use condition attached to planning permission (PA/97/01215) linked to a previous planning permission involving the conversion of the 1st- 4th floors to provide 23 self contained flats and use of ground floor for A3 (restaurant) purposes together with alterations and extensions at first to third floor.
Council Decision:	Non Determination – REFUSE (delegated decision)
Appeal Method:	Written Reps
Inspector's Decision	DISMISSED

- 3.20 This appeal considered the merits of the condition previously imposed, limiting the use of the ground floor restaurant. The main issue was whether the condition was reasonable and necessary to protect the living conditions of neighbouring residents.

- 3.21 The proposed variation sought to extend hours until 0030 hours (Monday to Wednesday, 0130 hours (Thursday to Saturday) and 0030 (Sunday). All these hours refer to the following morning. Whilst the Inspector noted that an alcohol/entertainment licence had been issued in respect of the proposed hours, he concluded that late opening (into the early hours) would lead to noise and disturbance (involving music and late night time comings and goings).
- 3.22 The appeal was DISMISSED. Planning Enforcement are now seeking to enforce the previously imposed conditions.

Application No:	PA/10/00709
Site:	1 Ellesmere Road, E3
Development:	Erection of a first floor extension
Council Decision:	REFUSE (delegated decision)
Appeal Method:	Written Reps
Inspector's Decision	DISMISSED

- 3.23 The main issues with this appeal were the impact of the extension on the living conditions of 3 Ellesmere Road and whether the proposal preserved or enhanced the character or appearance of the conservation area.
- 3.24 The Inspector concluded that the proposed development would have blocked daylight and sunlight from the neighbouring habitable window. As regards conservation area impact, whilst the inspector was comfortable with the scale of the development and conformity with the rear building line, he was critical of the proposed timber cladding of the external facades.
- 3.25 The appeal was DISMISSED.

Application No:	PA/10/00676
Site:	Morrison Flats North, 35A Commercial Road, E1
Development:	Change of use of part of ground floor to retail use, a 4 storey addition and rear extension, alterations to the existing 36 flats and the provision of a further 8 units (with cycle parking, refuse storage and rear servicing)
Council Decision:	REFUSE (delegated decision)
Appeal Method:	Written Reps
Inspector's Decision	ALLOWED

- 3.26 The main issue with this case was the impact of the additional storeys on the design integrity of the host building and on the setting of the site.
- 3.27 Planning permission had been previously granted for an additional two floors (back in 2009). The proposed four additional storeys would have resulted in a 10 storey building. There was a previous request for the building to be listed, which was declined by SoS for Culture Media and Sport – following advice from English Heritage.
- 3.28 The Inspector did not feel that the increase in height (almost doubling the height of the building) would materially harm the building. He also noted that the current proposal would utilise similar materials as the previous approved

(extant) proposal. Overall, he concluded that the design, scale and massing of the proposed additional floors and extensions would not harm the character of the building.

3.29 As regards wider setting of the site, he noted the diversity of building heights and styles and a recently constructed high rise flatted scheme opposite the site. With other taller building nearby, he was comfortable that visually, the building would be acceptable in townscape terms – with notable differences in height in comparison with other adjacent buildings in both Commercial Road and Alder Street.

3.30 The appellants submitted a signed undertaking agreeing to the regulation of car parking pressures (restricting the rights of occupiers of the 8 new flats to apply for a parking permit, other than registered disabled people).

3.31 The appeal was ALLOWED

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/03290
Site:	375 Cable Street E1
Development:	Change of Use form A1 (Retail) to A5 (hot food takeaway) with ventilation duct
Council Decision:	Refuse
Officer Recommendation	Grant (subject to conditions)
Start Date	1 December 2010
Appeal Method	Written Representations

4.2 This appeal was received early in December 2010 and in view of the level of interest associated with the proposed change of use and the issues associated with the case, officers requested that the case be heard by way of a Hearing, rather than written representations. However, by letter dated 25 January, the Planning Inspectorate advised that the case will continue to be processed under written representation procedure.

Application Nos:	PA/03290/10/01605/01603/01604
Sites:	Adj to 340 Bethnal Green Road, 267-269 Bethnal Green Road and 465 Bethnal Green Road, E2
Development:	Display of non illuminated advertisements (laminated stickers) on existing telecommunications cabinets
Council Decision:	Refuse (delegated decision)
Start Date	7 December 2010
Appeal Method	Hearing

4.3 These three appeals all related to the display of advertisement on telecommunications equipment cabins in Bethnal Green Road. Whilst the cases were due to be considered by written representations, the Planning Inspectorate has agreed to deal with them all at one Hearing. The Council has received a large number of these application types (advertisements displayed on equipment cabins) the majority which have been refused advertisement

consent.

Application Nos: PA/10/01850/01849
Site: Dockmasters House, 1 Hertsmere Road E14 8JJ
Development: Creation of a nightwatchman's flat at the rear of the side alley adjoining the main building through the erection of a side extension (Appeal against refusal of planning permission and listed building consent)
Council Decision: Refuse (delegated decision)
Start Date: 8 December 2010
Appeal Method: Written Representations

- 4.4 The reasons for refusal related to the unacceptability of the extension in terms of design, mass, scale and use of materials resulting in the loss of existing historic fabric. It was further considered that the extension would not have achieved the architectural symmetry considered desirable for the preservation of the character and proportions of the existing building. The Council's statement has recently been dispatched.

Application No: PA/10/01503
Site: 145 Three Colt Street
Development: Retention of a outdoor canopy area to the rear of the property
Council Decision: Refuse (delegated decision)
Start Date: 4 January 2011
Appeal Method: Written Representations

- 4.5 This appeal is linked to an earlier on going planning enforcement appeal to remove the canopy structures and to cease the unauthorised use of the property as a shisha bar. It is likely that all three appeals will be determined together.

Application Nos: PA/10/01890/01887
Site: Platinum Court, 3 Cephass Avenue
Developments: Retention of building as 18 student rooms (sui generis)
Retention of building as 3x1 bed, 4x2 bed and 2x3 bed flats
Council Decision: Refuse (delegated decision)
Start Date: 24 December 2010
5 January 2011
Appeal Method: Hearing

- 4.6 Planning permission was granted back in 2007 for a 5 storey building to be used as 7 flats. The development was not completed in accordance with approved drawings and planning enforcement proceedings are underway (including the service of an enforcement notice). These two applications sought to retain the building and use the accommodation as either student accommodation (18 student lets) or as 9 self contained flats. In both cases, planning permission was refused on grounds of the impact of the completed scheme on the character and appearance of the St Peters Conservation Area with excessive depth of development, height scale and outlook. It is likely that

these two appeals will be linked to the earlier on-going enforcement appeal.

Application No: PA/09/01380
Site: 600 Roman Road E3 2RW
Development: Appeal against conditions attached to planning permission requiring the recording of historic building details and historic analysis (Condition 4) and requirements to require the development to be car free (Condition 6).
Council Decision: Conditions imposed (delegated decision)
Start Date: 5 January 2011
Appeal Method: Written Representations

- 4.7 Conditions were imposed on a previous grant of planning permission in respect of the refurbishment and extensions to provide a financial and professional services use on ground floor and 2x2 bed units above. The conditions were attached to the planning permission and the appellant feels that in this particular case, the planning conditions are not necessary and do not meet the tests that apply to the use of planning conditions.

Application No: ENF/10/254
Site: 11 Gibraltar Walk
Development: Appeal against enforcement notice in respect of the unauthorised use of the property as a live/work unit.
Council Decision: Instigate enforcement action (delegated decision)
Start Date: 20 January 2011
Appeal Method: Written Representations

- 4.8 Properties in Gibraltar Walk are in lawful business use and the appeal property is being used primarily for residential purposes/live-work without the benefit of planning permission. The enforcement notice requires the reversion back to business use.

Application No: PA/10/00684
Site: 1 Sly Street E1
Development: Change of use of commercial unit to a live work unit.
Council Decision: Refuse (delegated decision)
Start Date: 2 December 2010
Appeal Method: Written Representations

- 4.9 Planning permission was refused on the basis that there was insufficient evidence that the office space is surplus to requirements. The application was refused also on the grounds that the proposed live/work unit would provide a poor standard of amenity with general lack of external amenity space and unacceptable levels of daylight and sunlight conditions.