

<b>Committee:</b> Development	<b>Date:</b> 14 December 2011	<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.

<b>Application No:</b>	<b>PA/10/02722 and PA/10/02723</b>
<b>Site:</b>	<b>Units 116 and Units 110, 120, and 122 Cavell Street, London, E1 2JA</b>
<b>Development:</b>	<b>Formalisation of a change of use to non residential institution (Use Class D1) – as a college.</b>
<b>Decision:</b>	<b>REFUSE (delegated decision)</b>
<b>Appeal Method:</b>	<b>HEARING</b>
<b>Inspector's Decision</b>	<b>ALLOWED (with conditions)</b>

- 3.2 The background to these cases was that the appellant had changed the use of

various parts of these units to educational use without the necessary planning permissions and these applications were submitted in an attempt to regularise the situation. The previous use of the accommodation would have been a mixture of B1 uses.

- 3.3 The primary issue for consideration in this appeal was whether the proposed loss of the existing employment floorspace was justified.
- 3.4 The Planning Inspector recognised that the accommodation, whilst not ideal for B1 Use could be of sufficient worth to provide local businesses to set up small and medium enterprises to the benefit of local people and the local economy. He acknowledged the Council's evidence that SMEs make a significant contribution to the local economy with 70% of Class B1 accommodation employing fewer than 10 people. He concluded that the loss of this floorspace could seriously undermine the relevant policies to the disadvantage of local economy
- 3.5 He recognised that the college use generated some employment (37 or so full time equivalent jobs) and during the Hearing there was much debate about likely job densities between B1 uses and educational uses. The Inspector referred to recent Ministerial Statements "Planning for Growth" which suggests that educational uses can form part of the growth agenda and he specifically referred to students (both from abroad and from the UK) as being an important stimulant to the local economy.
- 3.6 In terms of assessing the loss, the Inspector recognised the policy requirement to properly market the existing property for a reasonable period of time to determine the level of demand for existing B1 floorspace and he acknowledged that no marketing had been carried out prior to the occupation of the educational use. He commended the Council's approach which he considered rightly focused on the protection to foster current and potential employment, but was sufficiently flexible to manage changes to surplus office accommodation. He was satisfied that there were no convincing reasons why a full marketing of the property should not have taken place prior to the commencement of the educational use.
- 3.7 He was keen to minimise disruption to staff and students and to allow the current use to continue for a temporary period whilst marketing of the units takes place. The Planning Inspector also suggested that a temporary planning permission would also give the operator (in tandem) time to look for suitable alternative premises.
- 3.8 Whilst the Council's position was supported by the Planning Inspector, it is disappointing that he imposed conditions in an attempt to deal with the lack of marketing evidence – requiring the operator to carry this out retrospectively. The problem with this approach will be that it is difficult to market the site for SME uses whilst the property is in an alternative use (potentially up until 2014).

**Application No:**

**PA/11/00432**

**Site:**

**Unit 6 Bow Exchange, 5 Yeo Street,  
London E3 3QP**

**Site:**

**Appeal against the refusal of a Lawful  
Development Certificate in respect of  
an existing educational use.**

**Council Decision:**

**REFUSE (delegated decision)**

**Appeal Method:**  
**Inspector's Decision**

**WRITTEN REPRESENTATIONS**  
**DISMISSED**

3.9 The main issue in this case was whether sufficient evidence had been submitted by the appellant to confirm that the use had been in continual existence for a period in excess of 10 years. Without going into the detail of the case, the Inspector was far from satisfied with the evidence submitted and agreed with the Council that a Certificate to render the use lawful could not be issued. The appeal was DISMISSED.

3.10 The only option open to the operator is to apply for planning permission (retrospectively) in the normal way. Planning Enforcement are involved in this case and if a planning application is not submitted in the near future, it would be open to the Council to instigate planning enforcement proceedings, if it is considered expedient to do so.

**Application No:**

**PA/11/00282**

**Site:**

**218 Old Ford Road, London E2 9PT**

**Development:**

**Erection of a roof extension to form a new 2 bedroom flat.**

**Decision:**

**REFUSE (delegated decision)**

**Appeal Method:**

**WRITTEN REPRESENTATIONS**

**Inspector's Decision**

**DISMISSED**

3.11 The main issues in this case was the impact of the development on the character and appearance of the Victoria Park Conservation Area.

3.12 The Planning Inspector found the terrace (within with the appeal property forms part) to be attractive and whilst there were certain differences in architectural detailing, the terrace had a strong element of conformity. He concluded that the proposed extension would upset the rhythm and general conformity of the terrace and found that the extension would clearly have been out of keeping with its neighbours. He also considered that the additional floor (especially when viewed from the rear, would have been oppressive for neighbours, resulting in an unacceptable feeling of increased enclosure

3.13 The appeal was DISMISSED.

**Application No:**

**PA/11/01182**

**Site:**

**12 Greatorex Street, London E1 5NF**

**Development:**

**Appeal against refusal of planning permission to discharge a planning condition relating to details of bicycle storage.**

**Council Decision:**

**REFUSE (delegated decision)**

**Appeal Method:**

**WRITTEN REPRESENTATIONS**

**Inspector's Decision**

**ALLOWED (Costs awarded against the Council)**

3.14 In this case, the Council had previously refused planning permission to discharge a planning condition relating to bicycle storage. The Council's stated approach to bicycle storage requires the provision of "Sheffield Stands" and this application proposed an alternative approach not supported by Council guidance. The issue was therefore whether the alternative approach was acceptable.

- 3.15 The reason why the Council seeks the provision of “Sheffield Stands” is that the provision proposed by the appellant would not have been suited to those who are mobility impaired. The Council raised concern that these racks would remain unused (especially with the difficulty in getting a bicycle in place and secure it to the rack).
- 3.16 The Inspector concluded in this case that as the space is very limited, the appellant was correct in identifying alternative methods of providing bicycle storage facilities and that the Council had been too inflexible to require the standard “Sheffield Stand” approach.
- 3.17 The appeal was ALLOWED.
- 3.18 In terms of the cost award, the Planning Inspector concluded that the Council had been unreasonable in refusing planning permission for the alternative bicycle storage arrangement. He concluded that the Council had been too inflexible and whilst he acknowledged that promotion of “Sheffield Stands” was a reasonable starting point, the approach to be adopted needed to take into account the limitations of the site. The Council’s preference for a particular approach to bicycle storage did not per se, justify refusal of an alternative approach.
- 3.19 This outcome indicates the need to be flexible when dealing with detailed proposals, especially when alternative approaches may be possible, albeit not ideal in terms of the Council’s detailed guidelines.

<b>Application No:</b>	<b>PA/11/01527</b>
<b>Site:</b>	<b>117-119 Devons Road, E3 3QX</b>
<b>Development:</b>	<b>Part demolition, part redevelopment of site to provide second floor accommodation as two residential units, a ground floor extension to existing tyre shop and the provision of additional tyre storage.</b>
<b>Decision:</b>	<b>REFUSE (delegated decision)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector’s Decision</b>	<b>DISMISSED</b>

- 3.20 The main issue with this appeal was the impact of the proposed extension on the Devons Road street scene. The proposed extension across the Victorian period unit and a later addition would have been in the form of a mansard type roof, set back by about 1 metre from the front wall. The Inspector considered that the existing relationship was uncomfortable and crucially, he concluded that the mansard across both properties would have drawn attention to the current mismatch. He felt that the roof extension would have been seen as an unsympathetic and obtrusive addition to a terrace that has already suffered from an insensitive horizontal extension
- 3.21 The appeal was DISMISSED.

<b>Application No:</b>	<b>PA/11/01451</b>
<b>Site:</b>	<b>97-99 Whitechapel High Street, London, E1 7RA</b>
<b>Development:</b>	<b>Appeal against a condition to limit the</b>

**Council Decision:** period of advertisement consent with the sign being removed after the period.  
**Appeal Method:** REFUSE (Delegated decision)  
**Inspector's Decision:** WRITTEN REPRESENTATIONS ALLOWED

3.22 The issue was whether the condition which limited the period of advertisement consent was necessary, reasonable and relevant to advertisement control.

3.23 The Planning Inspector noted that the site is unkempt and vacant and acknowledged that the approved advertisement consent would screen the site from Whitechapel High Street. He also recognised that the Council might want to re-appraise the merits of the advertisement, but concluded that it would still have the ability to consider the amenity and public safety impacts and to challenge the retention of the advertisement at a later date without the need for a further condition.

3.24 The appeal was ALLOWED.

**Application No:** PA/10/02229  
**Site:** 254 Hackney Road London, E2 7SJ  
**Development:** First floor conservatory in connection with the use of the first floor as a restaurant (linked to the existing ground floor restaurant use) with also a proposed awning to Horatio Street.  
**Council Decision:** REFUSE (delegated decision)  
**Appeal Method:** WRITTEN REPRESENTATIONS  
**Inspector's Decision:** DISMISSED

3.25 The main issue in this case was the impact of the proposals when viewed alongside the desire to preserve or enhance the character and appearance of the conservation area. The property has a single storey projection (fronting Hackney Road) and the proposal involved the erection of a conservatory on top of this flat roof

3.26 The Planning Inspector considered that the single storey forward projection to the street was an important part of the character of the conservation area and would have formed a particularly prominent addition to the building. The Inspector was less concerned about the principle of the first floor restaurant use, as noise transmission could be controlled through the use of conditions. He was more concerned about the proposed awning, which lacked detail. He was not prepared to accept the principle of the awning without proper detail having been submitted.

3.27 The appeal was DISMISSED.

**Application No:** PA/11/00491  
**Site:** 246 Bow Road, London E3 3AP  
**Development:** Change of use from D1 to a mix of D1 and A5 uses with the installation of an extract duct to the side elevation  
**Council Decision:** REFUSE (delegated decision)  
**Appeal Method:** WRITTEN REPRESENTATIONS

**Inspector's Decision****DISMISSED**

- 3.28 The main issue in this case was the impact of the proposed extract duct on the street scene and the living conditions of neighbouring residents.
- 3.29 This building is a two storey property, currently in use as the Bow Muslim Cultural Centre, close to the junction of the A12 and Bow Road (A11). The Inspector noted that the site is located in an urbanised area, with the scale of its surroundings diminishing the presence of the building.
- 3.30 The Planning Inspector was satisfied that the proposed flue would have been only visible from limited locations and concluded that the impact on the street scheme would have been negligible. He was also satisfied that with the distance from neighbouring windows, local residents would not have experienced a loss of outlook. He also concluded that potential noise nuisance could be controlled through the use of conditions.
- 3.31 The appeal was therefore ALLOWED

<b>Application No:</b>	<b>PA/11/00148</b>
<b>Site:</b>	<b>127-129 Roman Road, London, E2 0QN</b>
<b>Development:</b>	<b>Retention of a single storey storage building.</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>

- 3.32 The primary issue in this case was the impact of the development on the character and appearance of the Globe Road Conservation Area. The storage building is constructed using uPVC and plastic cladding (off white colour) and the Inspector considered these materials to be striking and unwelcome. He also concluded that the size of the building, extending full width across the appeal site draws attention to the incongruous nature of the development
- 3.33 The appeal was DISMISSED and the Council's Planning Enforcement team are now taking steps to ensure that the structure is removed.

<b>Application No:</b>	<b>PA/11/00149</b>
<b>Site:</b>	<b>145 Three Colts Street, London, E14 8AP</b>
<b>Development:</b>	<b>The construction of a 6m x 6m x2.4 metre high smoking shelter to the rear of the property</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>

- 3.34 The main issue in this case was the impact of the development on the character and appearance of the Narrow Street Conservation Area.
- 3.35 The appeal premises is "The Canopy" which is a former public house which lies to the periphery of the conservation area, close to the river frontage. The Inspector concluded that the proposed structure, with a modern construction and glazing panes would have borne little relationship to the existing building in

terms of design and materials

- 3.36 The Inspector was also concerned about the size of the structure and the likelihood of greater intensity of use into the evening, which he concluded was detrimental to the amenities of neighbours through additional noise nuisance during unsociable hours
- 3.37 The appeal was DISMISSED and the Council's Planning Enforcement team are now taking steps to remove the offending structures for the rear yard area.

<b>Application No:</b>	<b>PA/11/01469</b>
<b>Site:</b>	<b>189 – 193 Whitechapel Road, London E1 1DN</b>
<b>Development:</b>	<b>Continued display of temporary advertisement.</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>

- 3.38 The main issue in this case was whether the hoarding respects the character and appearance of the Whitechapel Market Conservation Area. The hoarding is located across the frontage of a vacant site between 2 and 4 storey buildings
- 3.39 The Planning Inspector made specific reference to the historic buildings found within Whitechapel Road. He found the advertisement hoarding to be particularly visible and dominant and concluded that in view of its size and prominence, the hoarding appeared as an incongruous and intrusive feature in relation to neighbouring buildings and the conservation area
- 3.40 The appeal was DISMISSED and the Council's Planning Enforcement team are now taking steps to seek to remove the offending hoarding.

<b>Application No:</b>	<b>PA/11/00478</b>
<b>Site:</b>	<b>51 Grove Road, London E3 4PE</b>
<b>Development:</b>	<b>Various extensions to the property (involving replacement of existing coach house)</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>

- 3.41 The Inspector noted in this case, the high quality two storey Victorian terraces found in the Clinton Road Conservation Area and considered the main issue to be whether the extensions preserved or enhanced that character. Whilst she accepted that the proposed extensions would have had a similar scale (above ground) to the extension to be removed, she concluded that the extensions would have been of a very different form and appearance to the retained villa property and surrounding buildings.
- 3.42 The appeal was DISMISSED

<b>Application No:</b>	<b>PA/10/02779</b>
<b>Site:</b>	<b>25 St Paul's Way, London E3 4AG</b>
<b>Development:</b>	<b>Redevelopment of former public house with a 10 storey block of flats</b>

	<b>(9x1 bed, 4x2 bed and 5x3 bed) with a roof top garden</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>

3.43 The main issues associated with this appeal were as follows

- The effect of the development on the character and appearance of the area,
- Whether the proposals adequately demonstrate a reduction in CO2 level and
- Whether the proposed development would make adequate provision of affordable housing

3.44 This site has been previously been associated with a grant of planning permission for a six storey building. The Planning Inspector considered that the proposed 10 storey building would have been overly prominent within its setting to the detriment to views towards the site. He also concluded that the proposed development would have had an unacceptable impact on the openness of Metropolitan Open Land. He was also concerned about the choice of materials (terracotta and dark grey coloured cladding).

3.45 The Planning Inspector was not satisfied that the appellant had properly assessed energy emission levels and was not prepared to condition such measures as part of a grant of planning permission.

3.46 Finally, The Planning Inspector was not satisfied that sufficient details had been submitted to confirm that affordable housing would be delivered as part of the proposed development

3.47 The appeal was DISMISSED.

<b>Application No:</b>	<b>PA/11/000762</b>
<b>Site:</b>	<b>Urban bar, 176 Whitechapel Road, London, E1 1BJ</b>
<b>Development:</b>	<b>Display of a 48 sheet advert hoarding</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>

3.48 The main issue in this case was the effect of the hoarding on the visual amenities of the area and the character and appearance of the London Hospital Conservation Area. The planning Inspector concluded that the hoarding (at second floor level) appeared disproportionately large compared to the remainder of the elevation. She was also concerned that the hoarding obscured architectural detailing.

3.49 The appeal was DISMISSED and the Council's Planning Enforcement team are now taking steps to seek to remove the offending hoarding.

<b>Application No:</b>	<b>PA/10/02840</b>
<b>Site:</b>	<b>82-84 Brick Lane, London E1 6RL</b>
<b>Development:</b>	<b>Display of a fascia sign (writing only)</b>



<b>Council Decision:</b>	illuminated)
<b>Appeal Method:</b>	<b>REFUSE – (Delegated Decision)</b>
<b>Inspector’s Decision</b>	<b>WRITTEN REPRESENTATIONS</b>
	<b>ALLOWED</b>

3.50 The issue in this case was the effect of the fascia sign on the character and appearance of the Brick Lane/Fournier Street Conservation Area. The Planning Inspector was satisfied that the fascia sign fits over a fascia board and was not clear as to the Council’s reasons as to why the sign was inappropriate in terms of its size. She did not think that the Council had adequately demonstrated the harm to the conservation area character and the appearance of neighbouring heritage assets

3.51 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:

<b>Application Nos:</b>	<b>PA/11/02094</b>
<b>Sites:</b>	<b>61-67 Cahir Street, E14</b>
<b>Development:</b>	<b>Erection of three storey rear extension, roof extensions and dormers and conversion of the 4 existing town houses to 4x2 bed and 4x3 bed flats</b>
<b>Council Decision:</b>	<b>Refuse (delegated decision)</b>
<b>Start Dates</b>	<b>21 November 2011</b>
<b>Appeal Method</b>	<b>WRITTEN REPRESENTATIONS</b>

4.2 Back in September 2011 the Council was successful on appeal in respect of an alternative proposal for this site. The Council was successful on grounds of the loss of family accommodation and the poor standards of external amenity space to support the proposed units.

4.3 The Council has recently refused an alternative form of development on similar grounds – loss of family sized units and lack of amenity space for proposed family units. The appellant has requested that the appeal be heard by way of a Hearing, although officers have requested that the Planning Inspectorate deal with the appeal by way of written representations

<b>Application No:</b>	<b>PA/11/02094</b>
<b>Sites:</b>	<b>596 Roman Road, London, E3 2RW</b>
<b>Development:</b>	<b>Erection of a rear extension at first floor level, a new second floor and mansard roof extension in connection with the use of the property as a retail shop at 6 residential units (3x1 bed, 2x2 bed and 1x3 bed) bed flats.</b>
<b>Council Decision:</b>	<b>Refuse (delegated decision)</b>
<b>Start Date</b>	<b>1 April 2011</b>
<b>Appeal Method</b>	<b>WRITTEN REPRESENTATIONS</b>

4.4 Planning permission was refused in the case on grounds of loss of retail

floorspace within a core shopping area, the design of the proposed extensions failing to preserve or enhance the character and appearance of the Roman Road Market Conservation Area and on grounds of poor residential floorspace standards, poor internal layout and lack of amenity space.

**Application No:** PA/11/01708  
**Site:** 71A Fairfield Road, London  
**Development:** External alterations in connection with the conversion of property into 8 flats (3x1 bed and 5x2 bed)  
**Council Decision:** Refuse (delegated decision)  
**Start Date:** 2 November 2011  
**Appeal Method:** WRITTEN REPRESENTATION

- 4.5 This site has had an extensive planning history – with previous enforcement action and a previous appeal (with a previous case for retention and alteration of the property and use as 8 flats). The scheme the subject of this appeal does not satisfactorily address the Planning Inspector's previous concerns. Planning permission for this revised scheme was refused on grounds of lack of family units and the adequacy of internal space and lack of outlook to some of the units, resulting in a poor standard of accommodation.

**Application No:** PA/11/00641  
**Site:** 88 Waterman Way, London E1W 2QW  
**Development:** Erection of a proposed side and rear extension and new basement accommodation  
**Council Decision:** Refuse (delegated decision)  
**Start Date:** 11 November 2011  
**Appeal Method:** WRITTEN REPRESENTATIONS

- 4.6 Planning permission was refused in this case on grounds excessive scale bulk and mass of extension, upsetting the symmetry of the existing terrace. The refusal also referred to the loss of garden amenity space, with the remaining garden space being inadequate for the needs to existing occupants of the property. There was also concern about the impact of the development in terms of outlook and an increased sense of enclosure

**Application No:** PA/11/02013  
**Site:** Flat 5, Arcadia Court, 45 Old Castle Street, London E1 7NY  
**Development:** Installation of uPVC window frames  
**Council Decision:** Refuse (Delegated Decision)  
**Start Date:** 16 March 2011  
**Appeal Method:** WRITTEN REPRESENTATIONS

- 4.7 Planning permission was refused in this case on grounds that the replacement windows fail to preserve or enhance the character and appearance of the Wentworth Street Conservation Area.

**Application No:** PA/11/01506  
**Site:** 408 Hackney Road, London,, E2 7AP  
**Development:** Refurbishment and re-development of vacant public house comprising the erection of a part three part five

**storey building to provide a nine flats (2 studio/bedsit; 3x2 bed and 3x4 bedrooms) plus conversion and creation of 145.4 square meters of office floor space.**

**Council Decision:**

**Refuse (delegated decision)**

**Start Date**

**4 November 2011**

**Appeal Method**

**WRITTEN REPRESENTATIONS**

- 4.8 This application was refused on ground of poor design, failing to respect the architectural detailing of the host building and failing to preserve or enhance the character and appearance of the Hackney Road Conservation Area. Further reasons for refusal related to inadequate refuse storage arrangements and loss of amenity to a neighbouring property.

**Application No:**

**PA/11/01890**

**Site:**

**24 Marshfield Street, London E14 3HQ**

**Development:**

**Retention and alteration of the existing full-width single storey rear extension with new rendered facade.**

**Council Decision:**

**Refuse (delegated decision)**

**Start Date**

**14 November 2011**

**Appeal Method**

**WRITTEN REPRESENTATIONS**

- 4.9 This application was refused on grounds of inappropriate design and amenity impacts to the neighbouring 23 Marshfield Street through loss of light and outlook as well as increased enclosure.

**Application No:**

**PA/11/02150**

**Site:**

**45 Roman Road, London, E2 0HU**

**Development:**

**Conversion of existing building into four residential flats (for single persons 4x1 bed) and erection of new mansard roof.**

**Council Decision:**

**Refuse (delegated decision)**

**Start Date**

**11 November 2011**

**Appeal Method**

**WRITTEN REPRESENTATIONS**

- 4.10 The reason for refusal related to the loss of an existing family sized unit and the failure to provide a suitable mix of accommodation, with heavy reliance on non family occupation. Further reasons for refusal related to poor standard of accommodation (especially flat sizes) and inadequate cycle storage facilities.