

Committee: Development	Date: 14 November 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/12/01677
Site:	78 Virginia Road, E2 7NQ
Development:	Erection of a three storey extension to the front of the existing dwelling.
Decision:	REFUSE PLANNING PERMISSION (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.2 The appeal property is a 3 storey dwelling house which forms a terrace of properties of similar design – but with some set back to reflect the road

alignment. The main issue in this case was the effect of the proposed extension on the character and appearance of the surrounding area.

- 3.3 The proposed development would have meant that the property would have extended a further 0.9 metres towards the road and the eaves would have been lower than other houses in the street. The Planning Inspector concluded that this would have resulted in a very awkward relationship between this and the neighbouring houses, which would have considerably disrupted the appearance and rhythm of the terrace.
- 3.4 Whilst the Planning Inspector acknowledged that the space created would provide further accommodation for a growing family, he did not feel that this would have outweighed the harm caused.
- 3.5 The appeal was DISMISSED.

Application No:	PA/11/03154
Site:	419-437 Hackney Road E2 8PP
Development:	Erection of a fourth, fifth and sixth floor extension to existing hotel to facilitate 28 hotel apartments and associated servicing.
Council Decision:	REFUSE PLANNING PERMISSION (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED

- 3.6 The existing hotel is part 4, part 5 storeys in height and the proposal would have added to the height of the existing hotel. The Inspector felt that the main issues were the effect of the proposal on the general surroundings of the area and the setting of the adjacent Hackney Road Conservation Area and the Grade II listed building (2 Pritchards Close).
- 3.7 The Planning Inspector noted that the site's immediate context reflects a diverse character and variations in building styles, ages and heights. He felt that the existing building on the site is substantial (even by the standard of the existing four storey buildings in the vicinity). He found some of the elements acceptable – with some possibly leading to improvements to the existing building (especially the proposed rationalisation of the roof-line).
- 3.8 That said, he was concerned about the effect of the additional two storeys proposed for the south east corner of the site which would have added to the already monolithic appearance of the building. He concluded that this part of the building would have related poorly to the buildings on Pritchards Close, given the scale and height of buildings within that street. He did not feel that there was sufficient design quality to justify this increased level of prominence at this street corner.
- 3.9 Finally, whilst he recognised the economic benefits of increasing hotel capacity, he did not feel that this would have outweighed the harm caused, in terms of visual impact. The appeal was DISMISSED.

Application No:	A) PA/11/03593, B) PA/12/1036, C) PA/12/1021
Site:	52 Twelvetreets Crescent London E3

Development:	3GT Appeal A) and B) demolition of existing dwelling and the erection of a new 5 bed house Appeal C) temporary planning permission for a storage container and site office (3 years)
Decision:	REFUSE PLANNING PERMISSION (delegated decision)
Appeal Method: Inspector's Decision	WRITTEN REPRESENTATIONS Appeals DISMISSED

- 3.10 The appeal site is a narrow embankment area, immediately to the south of Twelvetrees Crescent, immediately to the north of Bow Lock School (which is currently under construction). The main issues common to all three appeals included the effect that the proposed development would have had on the character and appearance of the area, on the setting of the listed Twelvetrees Crescent bridge and the Limehouse Cut Conservation Area. The other issue (relating to Appeals A and B only) was whether occupiers of the new dwelling would be subject to undue levels of overlooking from the adjacent school.
- 3.11 In terms of Appeal C, the Planning Inspector considered that the site office and container was visually unacceptable in relation to the bridge and damaging to the streetscene. He stated however that if used as a site office in connection with the construction of a new dwelling they would be acceptable – but relied heavily on the suitability of the development the subject of Appeals A and B.
- 3.12 The Inspector had some sympathy with the Council's complaints about the quality of the information submitted alongside the applications, with the drawings being more akin to a concept study than what is accepted practice as part of a full application submission.
- 3.13 The Planning Inspector concluded that with the height, extent of site coverage and positioning close to the three boundaries of the site, the building would have featured prominently in the urban and waterside landscape. She concluded that the development would have represented a harsh and dominant addition to the streetscene, at odds with the waterscape defining the conservation area. She also felt that the development would have overwhelmed the listed bridge, to the detriment of views of the historic structure and its setting. She also concluded, that the extent of built development and external works required would have been disproportionate to the size of site on which the scheme would have been accommodated She felt that neither the industrial landscape nearby, nor the flats at Malting Close justified a house of the scale and height proposed..
- 3.14 She added that the Malting Close flats (up to 8 storeys) and the nearby school building are commensurate with the land on which they are sited. In view of the concerns over the proposed residential development, the Planning Inspector concluded that there was no justification for allowing the storage container or site office to remain on site.
- 3.15 In terms of overlooking, the Inspector was not concerned that there would be undue overlooking between the proposed house and the neighbouring school.
- 3.16 All appeals were DISMISSED.

Application No: PA/12/01612
Site: 22 Fournier Street E1 6QE
Development: Retention of existing roof terrace
Council Decision: REFUSE (delegated decision)
Appeal Method: WRITTEN REPRESENTATIONS
Inspector's Decision DISMISSED

- 3.17 Last year the Council granted planning permission for a proposed roof terrace (Development Committee Decision). The proposed development at that time had been amended in an attempt to overcome neighbour concerns in respect of overlooking and loss of privacy. Members concluded that the amendments made rendered the proposed development acceptable. Unfortunately, the applicant elected to carry out the development as originally intended and your officers investigated the breach of planning control and the owner of 22 Fournier Street was encouraged to submit an application for retrospective planning permission. This application was refused by letter dated 20 July 2012.
- 3.18 The Planning Inspector considered the main issue in this case to be the effect of the development on the living conditions of the occupiers of the neighbouring property. He referred to the originally consented scheme and the enlarged roof terrace and the close proximity of the terrace to the neighbouring first floor window. He agreed that the amount of privacy that the occupiers of the property can reasonably expect to enjoy was significantly compromised. He did not agree that the plants and steel planters would have provided a sufficiently permanent means of protecting privacy in the future.
- 3.19 The appeal was DISMISSED. This matter has now been re-directed back to Planning Enforcement with a view to instigating planning enforcement proceedings.

Application No: PA/11/03813
Site: Blackwall Tunnel Northern Approach adjacent to the exit to the A13, E14 9PP
Development: Display of a free standing single sided portrait digital display unit.
Decision: REFUSED (Delegated Decision)
Appeal Method: WRITTEN REPRESENTATIONS
Inspector's Decision DISMISSED

- 3.20 The main issue in this case was whether the location and form of the sign was acceptable in terms of highway safety. The Planning Inspector was concerned that the sign would be directed towards south bound traffic entering the tunnel. He noted that at this location, drivers are required to take more care and be able to concentrate on road conditions ahead and he concluded that the distraction of the advertisement would compromise highway safety.
- 3.21 The appeal was DISMISSED.

Application No: PA/11/01424
Site: 370 Bethnal Green Road E2 0AH
Development: Erection of a three storey extension comprising 1x1 bed flat and a 1x2 bed maisonette
Council Decision: REFUSE (Delegated Decision)

**Appeal Method:
Inspector's Decision**

**WRITTEN REPRESENTATIONS
DISMISSED**

- 3.22 This case followed on from previous planning enforcement investigation back in 2007. Planning permission was granted for a three storey extension to this property, although the works undertaken were not in accordance with the previously approved drawings. The application the subject of this appeal was to regularise works undertaken on site.
- 3.23 The main issue in this case was whether the design of the extension as built was acceptable in terms of the character of the property and the wider street scene. The Inspector noted that the terrace (within which the appeal property forms part) makes a positive contribution to the townscape. Whilst the Planning Inspector was generally content with the height and bulk of the extension (as built) she was concerned about the prominence of the roof dormers which project well above the parapet compared to the adjoin terrace, She was also concerned about the window openings at second and third floor levels which do not match first floor windows (appearing small and squat in relation to the height of the building). She found that these details were unacceptable and DISMISSED the appeal on this basis.
- 3.24 This case will now be re-directed back to the Planning Enforcement Team to instigate planning enforcement proceedings.

Application Nos:

PA/11/003311

PA/11/03313

PA/11/03226

Site:

Elys Yard/Trumans Brewery, 61 Brick Lane, E1 6QL

Developments:

Change of use of various parts of the Trumans Brewery

Council Decision:

REFUSE (Development Committee Decision)

Appeal Method:

WRITTEN REPRESENTATIONS

Inspector's Decision

ALLOWED

- 3.25 In all the cases, the main issue was the effect of the proposed changes of use on the living conditions of the occupiers of nearby dwellings, with particular regard to noise and disturbance.
- 3.26 The Planning Inspector afforded only limited weight to the emerging Development Management DPD, which seeks to limit the number of A3-A5 uses (no more than 25%). He referred to the Council's (and residents) concerns about noise nuisance from people moving through the area and the associated nuisance caused. He did not feel that the further uses proposed would worsen the existing situation, which he stressed the Council has powers at its disposal to address. Whilst he had some sympathy with the residents, he felt that the appeal schemes represented a small change in the overall entertainment offer and was not convinced that the proposed restaurants/seating areas would have had an appreciable effect on the footfall of surrounding streets.
- 3.27 All three appeals were ALLOWED. The Development Management DPD Examination in Public Inspectors Report is due on the 30th November and it will be interesting to see whether he is in agreement within the Council's approach in terms of limiting the percentage of A3-A5 uses within a particular area. If the

policy is retained as drafted, the weight to be afforded to such a policy in the future will be greater. The outcome of these appeals is disappointing and highlights the difficulty of arguing against incremental increase in certain uses in an area already characterised by a vibrant night-time economy. The situation might become clearer – once the Examination in Public Inspector’s Report has been released.

Application No:	PA/12/00338
Site:	Land at Tomlins Terrace, junction with Rhodeswell Road, E14 7TN
Development:	Erection of a telecommunications mast/pole (14.8 metres in height)
Council Decision:	REFUSE (delegated decision)
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector’s Decision	ALLOWED

3.28 The main issue in this appeal was the effect of the proposed apparatus on the appearance of the area. The Inspector noted that the proposed pole would be partially screened by neighbouring trees and was satisfied that the other items of street furniture, along with the adjacent bridge structure would have provided a substantial backdrop to any views of the proposal. He was also satisfied that the footway would have continued to be wide enough for pedestrians to pass safely.

3.29 The appeal was ALLOWED

Application No:	PA/11/00163
Site:	38-40 Trinity Square, London EC3N 4DJ
Development:	Erection of a 9 storey hotel with ancillary facilities along with a pedestrian walkway alongside the Roman wall and the creation of a lift overrun and step free access to Tower Hill tube station.
Council Decision:	REFUSE PLANNING PERMISSION (Strategic Development Committee)
Appeal Method:	PUBLIC INQUIRY
Inspector’s Decision	ALLOWED

3.30 This case was refused by the Strategic Development Committee earlier this year on three grounds:

- Design and massing and the effect of the development on the character and appearance of the Tower Conservation Area and neighbouring conservation areas, adjacent listed buildings and the Tower of London World Heritage site.
- The effect of the proposed development on protected/safeguarded views (from the south side of the River Thames)
- The effect of the development on pedestrian safety in and around Trinity Square, with the development relying on on-street servicing.

3.31 Prior to finalising the Council’s Statement of Case, officers, in consultation with the Chair of the Strategic Development Committee, confirmed to the Planning

Inspectorate and all other parties involved in the appeal, that the Council did not intend to present evidence to on the second and third reasons for refusal, instead concentrating on the first reason. The Grange Hotel (one of the objectors to the scheme) was accepted as a formal Rule 6 Party and they presented evidence to cover the two other reasons for refusal. As a consequence, the Planning Inspector considered evidence covering all three reasons for refusal although significantly, he did not consider the highway issues as being a main consideration in this case.

3.32 He considered the main issues to be

- The effect of the development on the Tower of London World Heritage Site and its setting
- Whether the proposed demolition and the development preserved or enhanced the character and appearance of the Tower Conservation area and adjacent conservation area
- The effect of the proposed development on the architectural character and historic interest of adjacent listed buildings and their settings (particularly 41-43 Trinity Square).

3.33 Dealing with the first issue, the Planning Inspector felt that the appreciation of the World Heritage Site needs to be seen in the context of what already exists. Seen from the opposite side of the River, the Tower is flanked by new development of mainly commercial space including the existing Grange Hotel. He was content that the proposed hotel would be significantly lower than the existing Grange Hotel and he felt that the proposed building would obscure some of the conspicuous right white cladding of that building. He was satisfied that the proposed building would not contradict or interfere with the townscape ensemble of the Tower of London and he felt the screening of the Grange hotel would enhance the setting of the Tower of London.

3.34 In terms of its relationship when viewed from the north side of the River Thames, he was satisfied that the proposed development would appear similar to other recent schemes of very contemporary modern design and he was satisfied that the 7/8 storey building would not challenge the dominance of the White Tower, in view of intervening distances. He concluded that the proposed development would not have harmed the Outstanding Universal Value, authenticity, integrity or significance of the Tower. The views of the proposed building would always be in the context of other more intrusive and taller buildings behind.

3.35 Dealing with the second issue, the Planning Inspector made particular reference to the view of the building when approaching from Coppers Row. Again, he referred to the contrasting Grange Hotel and he was not that concerned about the contrasting height between 41 Trinity Square and the proposed hotel (which would be most apparent from the western footway along Coopers Row). He was satisfied that the proposed building design was well considered which had evolved through time with positive input from heritage/design specialists, English Heritage, Historic Royal Palaces and CABE. He concluded that the proposed hotel would relate satisfactorily to 41 Trinity Square in important respects; the step forward and the rhythm of the fenestration and stone banding. He was satisfied that the development would preserve the character of the Tower Conservation Area. He was also content with the effect of the development on the Trinity Square and Crescent Conservation Areas. He

made particular reference to the appropriate height of building which would not dominate the height of the PLA building and he concluded that the use of Portland Stone horizontal elements would link visually with the entablature of the PLA building and Trinity Square.

- 3.36 On the third issue, the inspector reviewed the effect of the development on the various listed buildings in the vicinity of the site, including the memorials in Trinity Square Gardens and concluded that the architectural and historic interest of listed buildings would be protected as would their settings.
- 3.37 On other matters, the Planning Inspector was content that the principle of a hotel on the site was acceptable and in accordance with policy. Whilst he acknowledged that the level of pedestrian activity was high during certain times of the day, he was content that on street servicing could take place, as long as the timing of serving activity is limited to outside peak pedestrian activity, controlled through a Delivery/Servicing Management Plan. He did not find streets particularly heavily trafficked. Interestingly, the Planning Inspector placed very limited weight on the requirement that bookings from coach parties should be restricted. Finally, he welcomed the station access works and concluded that the existing curve of the platform was not a reason to discourage such improvement. He concluded that this public benefit weighs in favour of the scheme.
- 3.38 The appeal was ALLOWED. This was a very involved public inquiry (which sat for 8 days) with the Council presenting evidence on design/heritage issues, using an independent consultant with expertise in design and heritage matters as well as one of your officers, presenting more general planning evidence. No costs were awarded against the Council, although there were reasonably high costs associated with the Council defending its position at this lengthy and involved planning appeal.

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 No:</i>	<i>PA/11/03824</i>
<i>Sites:</i>	<i>Orchard Wharf, Orchard Place, E14</i>
<i>Development</i>	<i>Erection of a Aggregate Storage Depot and Concrete Batching Plant with ship to shore conveyor.</i>
<i>Council Decision</i>	<i>Refuse (Strategic Development Committee)</i>
<i>Start Dates</i>	<i>29 October 2012</i>
<i>Appeal Method</i>	<i>PUBLIC INQUIRY</i>

- 4.2 This application was refused by the Council (Strategic Development Committee) on grounds of design, scale, and elevational treatment which was considered to be inappropriate for this riverside location. As Members may be aware, part of this site was previously within the administrative boundary of the former London Thames Gateway Development Corporation which had previously granted planning permission for the part of the development within its administrative boundary.

<i>Application No:</i>	<i>PA/12/00957</i>
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Sites: *74 Bow Road E3 4DL*
Development: *Application to vary hours of use on a previous grant of planning permission.*
Council Decision: *Refuse (delegated decision)*
Start Date *24 October 2012*
Appeal Method *WRITTEN REPRESENTATIONS*

- 4.3 This case was refused on grounds of noise nuisance likely to be caused late at night, detrimental to the amenities of neighbouring residential occupiers.

Application No: *PA/12/00049*
Site: *393 Cambridge Heath Road*
Development: *Erection of a new flat at the rear of the building at second floor level.*
Council Decision: *Refuse (delegated decision)*
Start Date *19 October 2012*
Appeal Method *WRITTEN REPRESENTATIONS*

- 4.4 The Council refused planning permission for this proposed development on grounds that the proposed extension would have been unacceptable in terms of its design, striking a discordant note within the street scene and detrimental to the character and appearance of the locally listed building.

Application No: *PA/12/01155*
Site: *94 Commercial Road E1 1NU*
Development: *Erection of a second floor and roof extension and change of use of the upper floors as 3 flats.*
Council Decision: *Refuse (delegated decision)*
Start Date *19 October 2012*
Appeal Method *WRITTEN REPRESENTATIONS*

- 4.5 The reason for refusal pointed to the failure to appropriately design the proposed extensions, leading to the loss of the characteristic butterfly roof form, whilst resulting in loss of natural light to 92 and 96 Commercial Road.

Application No: *PA/12/01700*
Site: *31 Manchester Road E14 3BG*
Development: *Erection of a roof extension to create an additional bedroom*
Council Decision: *Refuse (delegated decision)*
Start Date *4 October 2012*
Appeal Method *WRITTEN REPRESENTATIONS*

- 4.6 This application was refused on grounds of design, with the proposed dormer being intrusive, failing to respect the symmetry of the terrace and the appearance of the host building, failing to preserve or enhance the character and appearance of the Chapel House Conservation Area..