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| Committee: Development | Date: 16 January 2013 | 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.

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| Application No: | PA/12/00460 |
| Site: | 10 Heneage Street, London E1 5LJ. |
| Proposed Development | Proposed fascia sign, projecting box sign and writing on shop front |
| Decision | REFUSE ADVERTISEMENT CONSENT (delegated decision) |
| Appeal Method: | HEARING |
| Inspector's Decision | DISMISSED |

- 3.2 These advertisements had already been installed and the Planning Inspector dealt with them retrospectively. The main issues related to the effect of the adverts on the amenity of the area and pedestrian safety

- 3.3 The appeal site is located on the edge of the Brick Lane/Fournier Street Conservation Area with properties on the opposite side of the street within the conservation area. The Planning Inspector was concerned that the existing sign obscured important architectural features and was overly prominent in the Heneage Street street scene. He also felt that the projecting box sign interrupted the rhythm of the street and obstructed the view of the attractive Phillip House gate. He concluded that the signs detract for the character and appearance of the conservation area. He also commented on the appearance of the glazed shop front, which he felt also detracted from the character and appearance of the conservation area.
- 3.4 The appeal was DISMISSED and the case has been referred back to Planning Enforcement to seek the removal of the advertisements and the glazed shop front.

Application No: PA/12/026543
Site: 267 East India Dock Road, E14 0EG
Site: Display of a wall mounted internally illuminated advert hoarding on east facing wall.
Decision: REFUSE ADVERTISEMENT CONSENT (delegated decision)
Appeal Method: WRITTEN REPRESENTATIONS
Inspector's Decision DISMISSED

- 3.5 267 East India Dock Road is a lengthy 4-5 storey building situated on the north side of the road. It has a large and conspicuous east facing wall close to the junction with the Blackwall Tunnel Approach. The Council had previously refused advertisement consent for a similar advertisement in 2010, which was subsequently dismissed on appeal.
- 3.6 The appellant had put up an argument that the advertising revenue would provide an income to enable the partially constructed building to be completed. The Inspector did not agree that this was a valid reason for granting advertisement consent. He saw no reason to depart from the previous decision to refuse advertisement consent and the subsequent appeal and concluded that the proposed sign would have appeared incongruous and discordant and would have been an obtrusive feature, harmful to the street scene, the building and the immediate area.
- 3.7 The appeal was DISMISSED.

Application No: PA/11/02169
Site: 68-70 Manilla Street E14 8LG
Development: Change of use from light industrial use to use of a car park for 30 vehicles, utilising existing site entrances.
Decision: REFUSE PLANNING PERMISSION (delegated decision)
Appeal Method: WRITTEN REPRESENTATIONS
Inspector's Decision DISMISSED

- 3.8 The use of this site as a car park had been taking place since around 2009 and

as such, the Planning Inspector dealt with the application retrospectively in order to regularise the use. The main issues were considered to be whether the use of the site for car parking was conducive to sustainable development.

- 3.9 The Planning Inspector recognised that the continued use of the site/buildings for car parking would be in conflict with the development plan which encourages greater use of public transport and discourages use of private transport. He considered these policies to be entirely appropriate. He also agreed that the use of random sites for car parking would undermine the overall policy position to encourage use of public transport.
- 3.10 The appeal was DISMISSED and the case has now been referred back to Planning Enforcement to further progress planning enforcement proceedings.

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| Application No: | PA/12/01042 |
| Site: | 31 Fairfield Road E3 2QA |
| Development: | Erection of a first floor rear extension and replacement of windows (front elevation) to uPVC sash windows to match the style of 33 Fairfield Road. |
| Decision: | REFUSE PLANNING PERMISSION (delegated decision) |
| Appeal Method: | WRITTEN REPRESENTATIONS |
| Inspector's Decision | DISMISSED |

- 3.11 The main issues in this case were firstly, the effect of the proposal on the character and appearance of the host building and the Fairfield Road Conservation Area and secondly, the effect of the extension of the amenities of the occupiers of 29 and 33 Fairfield Road.
- 3.12 The appeal property forms part of a row of terraced properties of uniform design, identified as being locally listed. The Inspector concluded that the proposed height and depth of the proposed rear extension (linked to an existing two storey addition) would have dominated the rear elevation of the building and would not have resulted in a subservient addition to the dwelling.
- 3.13 He noted that the remainder of the terrace more or less retained its original character at first floor level and he was not persuaded that the presence of an extension at 33 Fairfield Road created a precedent that should be followed. As regards the proposed changes to windows, whilst the Planning Inspector accepted that the existing windows were not in keeping with the character of the conservation area, he was not satisfied with the use of uPVC, as it would not reflected the traditional materials used elsewhere in the vicinity.
- 3.14 In terms of living conditions of neighbouring properties, the Planning Inspector was less concerned, as views and outlook would have still been possible across the top of the proposed extension. However, he remained concerned that the proposed extension would have harmed the character and appearance of the Fairfield Road Conservation Area.
- 3.15 The appeal was DISMISSED.

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| Application No: | PA/12/01700 |
| Site: | 31 Manchester Road, E14 3BG |
| Development: | Roof extension to create an additional |

Decision: bedroom with velux windows.
REFUSE PLANNING PERMISSION
(delegated decision)

Appeal Method: **WRITTEN REPRESENTATIONS**

Inspector's Decision **DISMISSED**

3.16 The main issue in this case was whether the proposed extension would have preserved or enhanced the character and appearance of the Chapel House Conservation Area.

3.17 The appeal premises is an end of terrace property, with the rear elevation visible from Millwall Park. He concluded that the introduction of a dormer would have been obvious when viewed from the Park itself and would have been very noticeable change to the clear lines and profile of the roof to the host dwelling, when viewed from the rear and the Park. He concluded that the proposed dormer would have failed to preserve or enhance the character and appearance of this part of the Chapel House Conservation Area.

3.18 The appeal was DISMISSED.

Application No: *PA/11/03575 Appeal A*
PA/11/03564 Appeal B

Site: 88-90 Commercial Road E1 1NU

Development: Erection of an either five or four storey building comprising retail and office space at ground floor and basement and residential accommodation above (either 3x1, 3x2 and 1x3 bed flats or 3x1, 2x2 and 1x3 bed flats)

Decision: **REFUSE PLANNING PERMISSION**
(delegated decision)

Appeal Method: **WRITTEN REPRESENTATIONS**

Inspector's Decision **Appeal A DISMISSED**
Appeal B ALLOWED

3.19 The main issues in these cases covered firstly, whether the proposals resulted in overdevelopment of the site by reason of the height of the proposed development, bulk and secondly, the extent of the read projection and the effect of the development on the rear of 92 Commercial Road.

3.20 The application site is a dilapidated single storey shop which lies midway along a Victorian terrace of otherwise 3-4 storey properties. The Inspector noted various higher rise developments and some substantial modern buildings (including London Metropolitan University) and concluded that the 5 storey building (Appeal A) would have been of excessive height, compared to the existing townscape context. However, by contrast, he concluded that the proposal the subject of Appeal B (4 storeys) was more acceptable. He felt that the unapologetically contemporary design would have been appropriate, bearing in mind the short extent of the terrace.

3.21 In terms of the impact on the adjacent 92 Commercial Road, he was satisfied with the impact of the schemes on this neighbouring property, but he agreed with the suggested imposition of conditions to provide privacy screens for the proposed balconies.

3.22 Appeal A was DISMISSED and Appeal B was ALLOWED.

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| Application No: | ENF/11/00293 – linked to P/06/00114 |
| Site: | The Grange Hotel, Prescott Street E1 8GP |
| Development: | Appeal Against Enforcement Notice in respect of the failure to carry out the development pursuant to PA/06/00114 in accordance with the approved drawings, specifically the failure to provide a double height off street servicing bay. |
| Decision: | INSTIGATE ENFORCEMENT ACTION (delegated decision) |
| Appeal Method: | PUBLIC INQUIRY |
| Inspector's Decision | Appeal ALLOWED And Enforcement Notice QUASHED |

3.23 This enforcement notice arose out of the failure of the appellant to carry out the development pursuant to planning permission PA/06/00114, in particular the failure to provide the previously approved off street servicing bay. The main issue in this case was whether, in the absence of the goods delivery bay, the arrangements for vehicle servicing, deliveries and associated servicing created obstruction on the highway and whether there was undue noise associated with the deliveries and servicing taking place.

3.24 The Planning Inspector was not convinced, on the evidence submitted by the Council that the current servicing arrangements (mixture of on street and forecourt servicing) were manifestly unsafe. However he concluded that some photographic evidence did raise real concerns about the inappropriate movements that could adversely affect highway safety. However he considered that his concerns were allayed by the limited distance the trollies have to travel. In conclusion, the Inspector felt that in the absence of any material harm to highway safety, it was unnecessary for the previously approved service bay to be constructed as required by the previous planning permission.

3.25 In terms of noise and disturbance, he was satisfied that the on street servicing could take place without undue noise nuisance to neighbouring residents. He felt that the construction of the previously approved bay might have worsened noise and disturbance for residents.

3.26 Overall, the Inspector QUASHED the Enforcement Notice, ALLOWED the appeal and GRANTED planning permission for the hotel as built. However, he imposed conditions requiring the submission of a servicing and delivery plan to include various servicing requirements (hours of delivery, location of deliveries on and off street, the size of vehicles using these areas, marshalling arrangements etc.).

3.27 The appellant applied for costs and was partially successful in that the enforcement notice referred to the failure to provide a car lift into the basement and the Council's case also revolved round the failure to provide cycle parking in the basement. The costs related to the time unnecessarily spent by the appellants in the appeal process in considering matters associate with the car lift, the basement car park and cycle parking provision.

3.28 This is a disappointing outcome but not unexpected decision. The main benefit of the action is that the Grange Hotel is now required to submit and agree a servicing and delivery strategy for the hotel. This would otherwise not have been required or forthcoming. It indicates the issues and the degree harm that need to be witnessed in relation to on street servicing. In areas such as the City Fringe where there are site constraints, it might be difficult to provide off street servicing. In such cases, on street servicing with a clearly defined and controlled servicing management plan, might be the only solution but clearly, each case would still need to be determined on its own merits

4. NEW APPEALS

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

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| Application No: | PA/12/00951 |
| Sites: | 82-102 Hanbury Street E1 |
| Development | Erection of a five storey building with ground and first floor business accommodation with 9 flats above (1x1 bed, 5x2 bed and 3x3 bed) |
| Council Decision | REFUSE (delegated decision) |
| Start Date | 11 December 2012 |
| Appeal Method | WRITTEN REPRESENTATION |

4.2 This development was refused planning permission of scale and bulk of development (with particular reference to the mansard roof element, failing to preserve the character and appearance of the Brick Lane and Fournier Street Conservation Area). The development was also found to be unacceptable in view of the schemes failure to provide adequate amenity space for the majority of the residential units proposed.

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| Application No: | PA/12/02469 |
| Sites: | 73 Driffield Road E3 5EN |
| Development | Erection of a first floor rear extension |
| Council Decision | REFUSE (delegated decision) |
| Start Date | 10 December 2012 (appeal received) |
| Appeal Method | WRITTEN REPRESENTATION |

4.3 Planning permission was refused in this case on grounds that the proposed first floor rear extension would have resulted in an unacceptable addition to the terrace and would have been out of keeping with the appearance of the existing building and terrace in terms of design, scale, use of materials and height, failing to preserve or enhance the character and appearance of the Driffield Road Conservation Area. There was also concern about the scale and depth of the first floor extension which was considered to be overbearing, detrimental to neighbouring residential amenity

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| Application No: | PA/12/01614 |
| Sites: | 132 Commercial Road E1 1NL |
| Development | Retention of shop front and roller shutters and retained white render to all facades |
| Council Decision | REFUSAL OF PLANNING PERMISSION |

Start Date (delegated decision)
4 December 2012
Appeal Method **WRITTEN REPRESENTATION**

- 4.3 This application was refused on grounds of the detrimental impact of the external alterations (including the retained shop front) on the character of the area, bearing in mind that the property is located in a prominent location.

Application No: **PA/12/01650**
Sites: **69 Driffield Road E3 5NE**
Development **Erection of new rear extension to the existing kitchen, new terrace enclosed by 1.8m high brick wall at the rear of the ground floor reception along with external alterations and the erection of a new two storey rear outbuilding with a linked glazed passage to the rear of the existing house and conversion of the existing dwelling house and new outbuilding into 1 x 2-bedroom self-contained maisonette on the ground and first floor of the dwelling house and 1 x 3-bedroom self-contained unit in the proposed new outbuilding and basement of the dwelling house.**

Council Decision **REFUSAL (delegated decision)**
Start Date **3 December 2012**
Appeal Method **WRITTEN REPRESENTATION**

- 4.4 This planning permission was refused on grounds that the proposed two-storey outbuilding would be detrimental to the amenities of the neighbouring occupiers by reason of obtrusive appearance, increased activity, noise and loss of privacy caused by overlooking from habitable room windows. Furthermore, there was concern that the proposed development would constitute an overdevelopment of the site by virtue of providing poor quality accommodation and amenity space for its future occupiers. There was also concern would also have adverse impact on the amenities of its neighbouring occupiers and result in an unacceptable addition to the terrace and would be out of keeping with the appearance of the existing building and terrace. Finally, it was considered that the proposal would be unsympathetic to the predominant character of the dwelling house and would fail to either preserve or enhance the character and appearance of the Driffield Road Conservation Area.