

<p>Report of: Head of Development Management</p> <p>Author: Pete Smith</p>	<p>Title: Planning Appeal Decisions (August 2019)</p>
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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 Housing, Communities and Local Government.
- 1.2 The report covers all planning appeals, irrespective of whether the related planning application was determined by Planning Committee, Planning Sub Committee or by officers under delegated powers. It also advises on appeal outcomes following the service of a planning enforcement notice.
- 1.3 A record of appeal outcomes will also be helpful when compiling future Annual Monitoring Reports.

2. APPEAL DECISIONS

- 2.1 The following appeal decisions have been received by the Council during the reporting period.

<i>Application Nos:</i>	<i>18/05485/FUL</i>
<i>Site:</i>	<i>24 Coulsdon Court Road, CR5 2LL</i>
<i>Proposed Development:</i>	<i>Redevelopment of site comprising 9 residential units (8x2 bed flats and 1x6 bed house)</i>
<i>Decision:</i>	<i>REFUSE PLANNING PERMISSION</i>
<i>Appeal Method:</i>	<i>WRITTEN REPRESENTATIONS</i>
<i>Inspector's Decision</i>	<i>ALLOWED</i>
<i>Case Officer</i>	<i>Louise Tucker</i>
<i>Ward</i>	<i>Coulsdon East</i>

- 2.2 The main issues in this case were as follows:

- The mix of accommodation provided and whether there was capacity to deliver in excess of 10 units of accommodation – thereby triggering affordable housing
- The effect of the development on the character and appearance of the area (particularly in relation to the proposed frontage property and the proposed access to the rear part of the site)

- 2.3 The appeal site is a detached two storey dwelling set within a relatively large garden and the proposal sought planning permission for a 6 bedroom house fronting onto Couldson Court Road, with two blocks of 4x2 bed flats to the rear, accessed via a route through the site. The Council was concerned that the site of the proposed 6-bedroom house could have easily accommodated a higher number of units – which would have taken the unit number above 10 units, thereby triggering affordable housing requirements. There was concern that the scheme failed to maximise the full potential of the site to deliver more units (including affordable housing).
- 2.4 The Planning Inspector made reference to the Council’s Strategic Housing Market Assessment which recognised that whilst the highest requirement was for 3-bedroom units, there was also a need for larger sized units (with the proposed 6-bedroom house falling within this category). He saw no justification to require smaller units to be delivered under these circumstances and concluded that it would have been unlikely that the site could have accommodated more built form without harming the character and appearance of the area (especially with the on-site tree constraints).
- 2.5 As regards character and appearance, he was not too concerned about the relationship between the proposed access route (through to the rear part of the site) and the frontage property. He was satisfied that the majority of properties within Couldson Court Road fill their plots, leaving little separation, with many properties having full width hard standings. He therefore concluded that subject to a robust landscaping condition, the landscaping setting to the front of the 6-bed house (the balance between hard and soft landscaping) would have been acceptable and would have respected the street-scene.
- 2.6 He also referred to the many objections and he commented that no evidence had been submitted (by any party) stating that the principle of flatted development would not have been acceptable. He also felt that the siting and massing of buildings (in relation to neighbouring properties) was acceptable in terms of outlook and privacy and re-affirmed that the presence of restrictive covenant was not a planning consideration.
- 2.7 The appeal was ALLOWED

<i>Application No:</i>	<i>18/04489/FUL</i>
<i>Site:</i>	<i>34 Donald Road, Croydon, CR0 3EP</i>
<i>Proposed Development:</i>	<i>Erection of rear dormer – compliance with Condition 1 requiring the extension to be completed in accordance with approved drawings</i>
<i>Decision:</i>	<i>PLANNING PERMISSION GRANTED SUBJECT TO THE IMPOSED CONDITION</i>

Appeal Method:
Inspector's Decision
Case Officer
Ward

WRITTEN REPRESENTATIONS
DISMISSED
Victoria Bates
West Thornton

- 2.8 Planning permission had been granted for a rear roof extension and as standard, the planning permission required the scheme (through the use of a planning condition) to be built in accordance with specific plans submitted.
- 2.9 Following on from the planning permission, the Council adopted its Suburban Design Guide which modified some of the guidance which focussed on rear roof extensions; the applicant wished to depart from the development covered by the approved drawings.
- 2.10 Whilst the Planning Inspector acknowledged that guidance had been modified, he was unclear about what had been previously approved and the extent to which the applicant wished to modify the extension. He was also critical of the appellant – who also failed to submit copies of the Suburban Design Guide to justify the proposed changes to the scheme.
- 2.11 A somewhat strange appeal which was DISMISSED.

Application No:

18/02855/FUL

Site:

**Gayfere House, Tollers Lane, CR5
1BD**

Proposed Development:

**Redevelopment of the site
involving the erection of 5x5
bedroom dwellings**

Decision:

**PLANNING PERMISSION
REFUSED**

Appeal Method:

WRITTEN REPRESENTATIONS

Inspector's Decision

DISMISSED

Case Officer

Gina Betts

Ward

Old Coulsdon

- 2.12 The main issues in this case included the following:

- The appropriateness of the development within the Green Belt;
- The effect of the development on the openness of the Green Belt – along with the overall character and appearance of the area;
- The effect of the development on biodiversity;
- Whether there are very special circumstances that outweighed the inherent harm caused.

- 2.13 The site is occupied by a single dwelling surrounded by woodland and fields on two sides and by houses and shops – designated as Green Belt. The Planning Inspector concluded that the proposed houses would have occupied a large portion of the site and would not have constituted a small infill of the application site. He was concerned that the development would

have resulted in a significantly greater impact on the openness of the Green Belt and that it would not have fallen within any of the exceptions where development in the Green Belt have been inherently acceptable.

2.14 Linked to the above point, he was also concerned about the extent to which the development would have been in keeping with overall character and appearance – especially as the development would have either lead to the loss of some trees or significantly encroached into root protection areas. With harm being caused to the life expectancy of some of the trees, he felt that character and appearance of the site and its surroundings would have been harmed.

2.15 In terms of biodiversity, he was concerned that the ecological survey undertaken (especially in relation to the presence of bats) had not been properly followed though (with emergence surveys required to be undertaken). Finally, he did not feel there were very special circumstances which outweighed the harm caused and to justify the inappropriate development

2.16 The appeal was DISMISSED.

Application No:	18/05008/FUL
Site:	50-52 Bensham Grove, Thornton Heath, CR7 8DA
Proposed Development:	Redevelopment of the site – erection of 2x3 storey blocks comprising 2x1 bed, 10x2 bed and 8x3 bed flats
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Richard Green
Ward	Thornton Heath

2.17 The main issues in this case were as follows:

- The effect of the development on the living conditions of 48 Bensham Grove and 5 Garratt Close – in respect of privacy
- The quality of the development and the living conditions for future residents (daylight, ventilation, outlook and amenity space provision);
- Lack of affordable housing and residential mix;
- The effect of the development on overall character and appearance.

2.18 The local planning authority had previously conceded (following the submission of further evidence) that appropriate marketing of this former industrial site had taken place. Moreover, the reason for refusal on grounds of flooding fell away, following the LLFA's removal of its objection and agreement to planning conditions.

2.19 The site is located on the eastern side of Bensham Grove and is currently

occupied by a two storey light industrial building with residential accommodation to the rear and side (south)

- 2.20 In terms of living conditions for neighbours, the Planning Inspector was concerned about the close proximity of the rear block (Block B) to the neighbouring property (5 Garratt Close - to the east) and the extent of overlooking of private amenity space and oblique views into rear and front facing windows (which he did not feel was able to be mitigated through the use of planning conditions). He was less concerned about the effect of the development on 48 Bensham Grove – subject to the requirement for privacy screens to balconies.
- 2.21 As regards residential quality considerations, he was concerned about the close relationship between neighbouring boundaries and the development's linear form (with arguably a number of single aspect residential units – relying on fixed shut windows). He concluded that the proposed form of development would have resulted in inadequate daylight, ventilation and outlook. He also objected to the limited amount of dedicated play space for the development.
- 2.22 He was concerned that the affordable housing offer was proposed as exclusively shared ownership – with no rented accommodation. He referred to the Council's viability review which advised that 30% affordable housing could have been provided at a 60-40 mix in accordance with policy and concluded that the appellant had submitted insufficient evidence to counter the Council's argument for a mixed tenure approach. He was also concerned about the scheme's failure to deliver 60% family accommodation (3x4 bed and 2x4 bed units).
- 2.23 Finally, in terms of character and appearance, he broadly accepted the scale and massing of the development - bearing in mind that the Council had previously granted planning permission for a three storey building (albeit containing a place of worship as well as residential). Whilst the local planning authority sited over-development as a reason for refusal, (the scheme was well in excess of the density matrix for PTAL 1b)) he argued that a flexible approach was needed and he was satisfied that the scheme would have made effective use of the site in an urban area.
- 2.24 The appeal was DISMISSED. He balanced the benefits of the scheme against the harm that would have been caused (lack of suitable affordable, harm to neighbours, lack of outlook for future occupiers and lack of adequate on-site children' play). A good outcome – and one hopes that the applicant will come back in with a more considered proposal.