

<p>Report of: Head of Development Management</p> <p>Author: Pete Smith</p>	<p>Title: Planning Appeal Decisions (January 2020)</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 No:</i>	<i>18/03087/HSE</i>
<i>Site:</i>	<i>91 Hartland Way, CR0 8RJ</i>
<i>Proposed Development:</i>	<i>Erection of a wrap-around first-floor side and rear extension</i>
<i>Decision:</i>	<i>REFUSE PLANNING PERMISSION</i>
<i>Appeal Method:</i>	<i>WRITTEN REPRESENTATIONS</i>
<i>Inspector’s Decision</i>	<i>DISMISSED</i>
<i>Case Officer</i>	<i>Emil Ancewicz</i>
<i>Ward</i>	<i>Shirley South</i>

- 2.2 The main issue in this case was the effect of the first-floor flat roofed extension on the character and appearance of the surrounding area.
- 2.3 The Planning Inspector was concerned about the size of the proposed extension – on top of the existing flat roofed garage and ground floor rear extension. He concluded that the extension would have had an over-bulky appearance, in view of its scale and flat roofed design which would have poorly integrated with the existing building. He also felt that it would have been incongruous in relation to the Hartland Road street-scene.

2.4 The appeal was therefore DISMISSED.

Application No:	19/03603/HSE
Site:	52 Brook Road, Thornton Heath, CR7 7RB
Proposed Development:	Conversion of dwelling house to provide 2 self-contained flats
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Chris Grace
Ward	Bensham Manor

2.5 The main issues with this case were the principle of the loss of a small family house and whether the proposals would have provided a good standard accommodation for future occupiers (in terms of access to private amenity space).

2.6 At the time of the appeal site visit, the house had been stripped out internally and whilst the Planning Inspector was uncertain as to whether the original building was less than 130 square metres, he was satisfied that the conversion would have ended up in the loss of a three-bedroom dwelling, which would not have maintained existing supply of small family accommodation.

2.7 He was less concerned about the scheme's failure to deliver garden access for the upper floor flat – with that flat being oversized. He also saw no need to provide children's play facilities, in view of the lack of family accommodation proposed. That said, he remained concerned about the loss of family accommodation and DISMISSED the appeal on this basis alone.

Application No:	19/01451/HSE
Site:	18 Oaks Road, CR0 5HL
Proposed Development:	Erection of a two-storey side extension and a single-storey side extension
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Sam Dixon
Ward	Shirley South

2.8 This house is located within the Green Belt and the issues in this case focussed on the following:

- The appropriateness of the development within the Green Belt
- The effect of the development on openness of the Green Belt and the character and appearance of the area
- Whether any benefits outweighed the harm caused

- 2.9 The house is a large two storey property, situated within the Green Belt with an adjoining golf course to the rear. The Planning Inspector concluded that the two extensions (taken together) would have substantially exceeded the floorspace threshold outlined in CLP 2018 and would have entailed a disproportionate addition to a building within the Green Belt.
- 2.10 He also concluded that the scale of extensions would have resulted in a loss of openness, both spatially and visually. He felt that the scheme would have substantially infilled the spatial gaps between properties which he also felt was an integral part of the area's character. He also felt that the extensions would have been out of character with the host property, resulting in a building that would have appeared overly-stretched.
- 2.11 He saw little merit in the proposal to justify very special circumstances which needed to be significant to outweigh the harm caused to the Green Belt. The appeal was therefore DISMISSED.

Application No:	18/06057/FUL
Site:	91 High Street, Thornton Heath, CR7 8RY
Proposed Development:	Change of use of ground floor shop to a gaming centre (sui generis).
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	HEARING
Case Officer	James Udall
Ward	Thornton Heath

- 2.12 The main issue in this case was as follows:

- The effect of the development on the vitality and viability of the High Street
- The effect of the development on the living conditions of neighbouring residents
- Effect of the shop front alterations on the character and appearance of the host property

- 2.13 The unit is located within a secondary shopping frontage and a gaming centre does not fall within the range of uses that would normally have been acceptable within such areas. However, the Planning Inspector was satisfied that the property (which had been vacant for some considerable time) had been marketed sufficiently (since 2017). He was also concerned about the appearance of the property which he concluded was detrimental to the character of the area appearance of the area, with the incoming use contributing to vitality and viability. He acknowledged that the unit had been actively marketing in and around Thornton Heath but to no effect.

- 2.14 The appeal also focussed on the effect of the development on the living conditions of neighbours and mostly around the hours of use and the links

between the planning and licencing regimes. The appellant submitted three hours-of-use options (suggested planning conditions) and submitted evidence as to the likely occupation of the unit during the evening and into the early hours. He accepted that the level of noise likely to be generated by the use would have been low, although he recognised that there would be a regular flow of customers which would have had the potential to generate some noise which he felt could cause some inconvenience. In allowing the appeal, he ended up imposing a planning condition limiting the hours of use to 0700-00.00 Monday to Saturday and 0700-2300 Sundays and Bank Holidays.

2.15 As regards the shopfront works, there was much debate about the illumination of the shop front and the extent to which it would have jarred with views of the Thornton Heath clock-tower, which is recognised as an important local landmark. He accepted that a brightly illuminated shop front would have been incongruous and in view of this, he imposed a planning condition requiring details of the extent and form of the shop front illumination.

2.16 Views were expressed during the Hearing about suitability of the use in terms of the negative influence it might have on vulnerable people – also being close to schools and the Thornton Heath Leisure Centre. He was satisfied that the management of the premises (controlled through the licencing regime) would have satisfactorily dealt with these issues.

2.17 The appeal was ALLOWED.

Application No:	18/06176/FUL
Site:	64 Foxley Lane, CR8 3EE
Proposed Development:	Erection of 3x2 storey, 2 bed mews houses to the rear of 64 Foxley Lane
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Hayley Crabb
Ward	Purley and Woodcote

2.18 The main issues in this case were as follows:

- The effect of the development on the character and appearance of the area and the living conditions of the occupiers of neighbouring properties (especially the degree of privacy and level of outdoor amenity space for residents of 64 Foxley Lane - in use as flats)
- The effect of the development on the amenities of future occupiers
- The level of car parking associated with the proposed development
- The suitability of refuse storage arrangements and pedestrian access
- Whether the housing mix was acceptable

2.19 64 Foxley Lane is a semi-detached property situated on the north side of

Foxley Lane and has had a somewhat involved and complex planning history over the years. The existing rear outbuilding (which was extended a few years ago and used for residential purposes without planning permission) has been the subject of previous enforcement action and subsequent prosecution and confiscation proceedings. Officers are still working with the owner of the land to remove unauthorised structures; more recently, parts of the unauthorised extensions have been removed with the enforcement notice incrementally being complied with. Continued pressure is being exerted on the owner of the land to ensure full compliance is being suitably maintained.

- 2.15 These proposed mews houses would have been sited towards the rear part of the garden (which rises front to back and then drops down to a rear access-way). The Planning Inspector noted that the development would have required significant excavation and would have involved the removal of the outbuilding (referred to above). He noted that the mews houses would have almost occupied the full width of the plot and would have taken up most of the existing garden (leaving existing flats with no meaningful amenity space). He felt that this would have been at odds with the prevailing character and established pattern of development. He also concluded that the flat roofed appearance would have been at odds with surrounding character and appearance of surrounding development.
- 2.16 The separation between the existing and proposed properties would have been around 13 metres and he was concerned that this would have resulted in an unacceptable level of overlooking, causing an unacceptable level of intrusion and mutual loss of privacy. He was also concerned about the significant loss of amenity space for existing occupiers (62, 64 and 66 Foxley Lane). Whilst he was not concerned about daylight/sunlight effects, he accepted the Council's arguments levelled at the loss of outlook and visual intrusion.
- 2.17 As regards car parking and highways issues, the development ended up being proposed as "car free", as the applicant could not substantiate a vehicular access right from the north. The PTAL is low and he was far from convinced that future occupiers would not have owned a car and he was far from satisfied that this development would not have unacceptably added to existing on street car parking pressures, adversely affecting the safety of the highway and other highway users. He also agreed with the Council that the single pedestrian access to the houses (up a steep pathway to the side of 64 Foxley Lane) would have been challenging for those future residents with reduced mobility.
- 2.18 Turning to refuse storage and collection, he felt that the arrangements would have been convoluted and inconvenient for future residents – taking bins up a steeply sloping site (over quite a distance).
- 2.19 Finally, he saw no basis to require the delivery of the 30% strategic target for 3 bed homes, bearing in mind that the scheme proposed less than 10 residential units.

2.20 The scheme was comprehensively DISMISSED and officers are now continuing to seek full compliance of the planning enforcement notice.

Application No:	19/00521/FUL
Site:	138 Brigstock Road, Thornton Heath, CR7 7JB
Proposed Development:	Change of use of property (with a hip to gable roof extension and a first-floor side extension and rear basement extension) from 4x2 bed flats to a 13-bed hotel
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Paul Young
Ward	Bensham Manor

2.21 The main issue in this case included the following issues

- The effect of the development on the character and appearance of the area
- The effect on the living conditions of immediate neighbours (overshadowing, outlook, noise and disturbance)
- Highway safety concerns
- Loss of housing

2.22 The appeal property comprises a two-storey detached building with a hipped-roof arrangement and a two-storey flat roofed extension. Whilst the Planning Inspector noted that most of the buildings within Brigstock Road had hipped roofs – he accepted that there was some form of variation which led him to accept the principle of the proposed hip to gable extension. However, he concluded that the proposed side and rear roof extensions would have added significantly to the bulk of the building (doubling its footprint) which would have resulted in an overly dominant bulk towards the rear and a blank elevation to its north eastern side. He also concluded that the rear mansard arrangement would have exacerbated the degree of discordance.

2.23 In terms of neighbour impact, he concluded that in view of the scale of extensions and the likely effect on daylight, sunlight and visual intrusion caused (linked to the additional comings and goings associated with a 13-bed hotel) neighbour amenity would have been harmed. He was also far from satisfied that evidence had been submitted by the appellant to confirm that the proposed development would not have been harmful to highway safety (especially car parking stress) and agreed with the Council that the loss of the 4 flats would have ran contrary of development plan policy.

2.24 The scheme was comprehensively DISMISSED.