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| <p><b>Report of:</b><br/>Head of Development Management</p> <p><b>Author:</b> Pete Smith</p> | <p><b>Title:</b> Planning Appeal Decisions (February 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.

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| <b><i>Application No:</i></b>       | <b><i>18/04481/FUL</i></b>  |
| <b><i>Site:</i></b>                 | <b><i>1A Northwood Road, Thornton Heath, CR7 8HU</i></b>  |
| <b><i>Proposed Development:</i></b> | <b><i>Change of use of betting office to 2x1 bed flats along with a first floor extension to create 2x3 bed flats</i></b> |
| <b><i>Decision:</i></b>             | <b><i>REFUSE PLANNING PERMISSION</i></b>  |
| <b><i>Appeal Method:</i></b>        | <b><i>WRITTEN REPRESENTATIONS</i></b>   |
| <b><i>Inspector’s Decision</i></b>  | <b><i>DISMISSED</i></b>   |
| <b><i>Case Officer</i></b>          | <b><i>Robert Lester</i></b>   |
| <b><i>Ward</i></b>                  | <b><i>Norbury Park</i></b>  |

- 2.2 The main issue in this case was the effect of the first-floor rear extension on the character and appearance of the area and its impact on the living conditions of immediate neighbours (outlook and enclosure).
- 2.3 The appeal property is located close to the junction of Northwood Road and Green Lane and comprises a single storey flat roofed building (currently in use as a William Hill bookmakers). Whilst being single storey,

the Planning Inspector found that the property was quite prominent when viewed from Northwood Road – set forward of neighbouring retail premises. She felt that the size and mass of the first-floor extension would have accentuated the inconsistency of the existing building, would have increased its prominence and would have had an awkward relationship with neighbouring gable ends. She also was concerned about the loss of gaps between properties and the glimpses through the rear of properties over the existing flat roof.

2.4 She also found that the first floor extension, which would have extended (almost) the full length of the plot, would have introduced significant built form adjacent to the boundary which would have substantially increased the existing sense of enclosure and would have resulted in a loss of amenity to the ground floor flat (3 Northwood Road). Whilst windows were shown to be obscure glazed, she also concluded that the scheme would have given an impression that the garden would have been overlooked.

2.5 The appeal was DISMISSED.

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| <b>Application No:</b>       | <b>18/00369/LE</b>  |
| <b>Site:</b>                 | <b>Rear garden flat at 76 Green Lane,<br/>Thornton Heath, CR7 8BE</b> |
| <b>Proposed Development:</b> | <b>Certificate of Lawful Use – Self<br/>Contained Flat</b>            |
| <b>Decision:</b>             | <b>REFUSE CERTIFICATE</b>   |
| <b>Appeal Method:</b>        | <b>WRITTEN REPRESENTATIONS</b>  |
| <b>Inspector's Decision</b>  | <b>DISMISSED</b>  |
| <b>Case Officer</b>          | <b>Victoria Bates</b>   |
| <b>Ward</b>                  | <b>Norbury Park</b>   |

2.6 The issues in this case was the length of time the use had been operating as a single dwelling; legislation states that if such a use has continued for in excessive of 4 years (on the balance of probability) it would be considered lawful.

2.7 In this case, the appellant was unable to submit sufficient evidence to prove continued 4-year use as a single dwelling. The application form advised that the use had begun in December 2017; less than 4 years ago. The Planning Inspector did not feel that an earlier tenancy agreement (back in 2014) provided sufficient evidence to prove earlier (continuous) use.

2.8 The appeal was DISMISSED and the planning enforcement team are now re-engaging with the owner with a view to secure the cessation of the use.

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| <b>Application No:</b>       | <b>19/02620/FUL</b>   |
| <b>Site:</b>                 | <b>232 Brigstock Road, Thornton<br/>Heath, CR7 7JD</b>                      |
| <b>Proposed Development:</b> | <b>Erection of a second-floor roof<br/>extension in connection with its</b> |

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| <b>Decision:</b>            | <b>use as a 2 bedroom</b>         |
| <b>Appeal Method:</b>       | <b>REFUSE PLANNING PERMISSION</b> |
| <b>Inspector's Decision</b> | <b>WRITTEN REPRESENTATIONS</b>    |
| <b>Case Officer</b>         | <b>DISMISSED</b>                  |
| <b>Ward</b>                 | <b>Victoria Bates</b>             |
|                             | <b>Bensham Manor</b>              |

- 2.9 At the time of the Inspectors site visit, the roof extension was already underway, with a new doorway inserted. The issues in this case focussed on the effect of the roof extension on the character and appearance of the area and the quality of residential accommodation provided – with specific reference to the lack of private amenity space for the flat.
- 2.10 The appeal property formed part of a small terrace and sits prominently at the end of the terrace at the junction of Nutfield Road. The proposed flat would have been accessed via an extended external staircase – leading to the private yard. The Planning Inspector was concerned that the roof extension would have resulted in the loss of the characteristic butterfly roof and would have resulted in an over-bulky and incongruous addition to the outrigger. She concluded that the extensions would have been overly prominent from public viewpoints along Nuffield Road and Brigstock Road (albeit to a lesser extent).
- 2.11 He was less concerned about the apparent lack of private amenity space, bearing in mind that there was a small area of communal space available (at the bottom of the external staircase). He accepted that there was little detail as to how this space might be used – especially as it was not maintained as a communal amenity area. That said, he felt that the space could be improved to make it high quality and functional.
- 2.12 The appeal was DISMISSED – on the basis of the impact on the character and appearance of the area.

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| <b>Application No:</b>       | <b>19/01442/FUL</b>                       |
| <b>Site:</b>                 | <b>1 The Grange, Firs Road, Kenley</b>    |
|                              | <b>CR8 5LH</b>                            |
| <b>Proposed Development:</b> | <b>Erection of a two-storey extension</b> |
|                              | <b>and conversion of the property to</b>  |
|                              | <b>provide 9 flats (2 and 3 bed)</b>      |
| <b>Decision:</b>             | <b>REFUSE PLANNING PERMISSION</b>         |
| <b>Appeal Method:</b>        | <b>WRITTEN REPRESENTATIONS</b>            |
| <b>Inspector's Decision</b>  | <b>DISMISSED</b>                          |
| <b>Case Officer</b>          | <b>Richard Green</b>                      |
| <b>Ward</b>                  | <b>Kenley</b>                             |

2.12 The main issue in this case was as follows:

- The effect of the development on the character and appearance of the area
- The living conditions of neighbouring occupiers

- The effect on protected species and biodiversity.

- 2.13 The appeal property is a two-storey semi-detached dwelling, sited on a large rectangular plot – and set back from the street. The proposal sought planning permission for a relatively large two storey side extension, ground floor rear extensions and flats within the roof space.
- 2.14 The Planning Inspector felt that the proposed extension would have overly elongated the property, would not have related well to the existing form and appearance and would have weakened its significance. He was concerned that it would not have appeared suitably subordinate – with the extension having the appearance of a separate dwelling. He was particularly concerned about the appearance of the rear elevation which would have consisted of random glazing, roof terraces and various incongruous roof forms.
- 2.15 He also found that the proposed single storey rear extension (on the common boundary with 2 The Grange) would have appeared over-dominant and would have created an increased and unacceptable increase in enclosure.
- 2.16 In terms of protected species, the appellant submitted a Stage 2 habitat survey as part of the appeal – which dealt with the issues as no such documentation had been submitted with the application. He therefore felt that the issues had been satisfactorily resolved and concluded that habitat protection could have been managed through the use of a planning condition (assuming planning permission was forthcoming).
- 2.17 The appeal was DISMISSED.

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| <b><i>Application No:</i></b>       | <b><i>19/01772/LP</i></b>  |
| <b><i>Site:</i></b>                 | <b><i>18 Coniston Road, Croydon, CR0 6LN</i></b>   |
| <b><i>Proposed Development:</i></b> | <b><i>Certificate of Lawful Development for rear roof extensions (L shaped dormer)</i></b> |
| <b><i>Decision:</i></b>             | <b><i>REFUSE CERTIFICATE</i></b>   |
| <b><i>Appeal Method:</i></b>        | <b><i>WRITTEN REPRESENTATIONS</i></b>  |
| <b><i>Inspector's Decision</i></b>  | <b><i>ALLOWED</i></b>  |
| <b><i>Case Officer</i></b>          | <b><i>Russell Smith</i></b>  |
| <b><i>Ward</i></b>                  | <b><i>Addiscombe East</i></b>  |

- 2.18 This appeal focussed on the interpretation of permitted development requirements in respect of roof extensions and the extent to which extensions should be set back from an existing eaves line.
- 2.19 The General Permitted Development Order states that the edge of an enlargement closest to the eaves of the original roof should be (as far as is practicable) no less than 0.2 metres from the eaves. The appellant argued that it was not practical to set the roof off the eaves of the rear

outrigger by 0.2 metres and the Planning Inspector accepted this reasoning (especially as the local planning authority had not challenged the suggested impracticality).

2.20 The appeal was ALLOWED.

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| <b>Application No:</b>       | <b>19/02650/HSE</b>                             |
| <b>Site:</b>                 | <b>5 Onslow Gardens, Croydon CR0 3NN</b>        |
| <b>Proposed Development:</b> | <b>Erection of a first-floor rear extension</b> |
| <b>Decision:</b>             | <b>REFUSE PLANNING PERMISSION</b>               |
| <b>Appeal Method:</b>        | <b>WRITTEN REPRESENTATIONS</b>                  |
| <b>Inspector's Decision</b>  | <b>DISMISSED</b>                                |
| <b>Case Officer</b>          | <b>Sera Elobisi</b>                             |
| <b>Ward</b>                  | <b>Broad Green</b>                              |

2.21 The main issue in this case was the extent to which the proposed development affected the living conditions of 7 Onslow Road.

2.22 The appeal property is a two-storey end of terrace property; previously extended at ground and first floor and the proposal sought planning permission for a further first floor extension (adjacent to the existing first floor rear addition) up to the boundary with 7 Onslow Road.

2.23 The Planning Inspector was concerned about the effect of this further extension on the amenities of the immediate neighbours (in terms of loss of outlook) and even though the appellant had proposed obscure glazing to a proposed wrap-around window, he felt that the proposal would have created a sense of overlooking.

2.24 The appeal was DISMISSED.

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| <b>Application No:</b>       | <b>18/04133/FUL</b>   |
| <b>Site:</b>                 | <b>112A Brigstock Road, CR7 7JB<br/>Onslow Gardens, Croydon CR0 3NN</b> |
| <b>Proposed Development:</b> | <b>Erection of a 1 bed flat next to existing property</b>               |
| <b>Decision:</b>             | <b>REFUSE PLANNING PERMISSION</b>                                       |
| <b>Appeal Method:</b>        | <b>WRITTEN REPRESENTATIONS</b>  |
| <b>Inspector's Decision</b>  | <b>DISMISSED</b>  |
| <b>Case Officer</b>          | <b>James Udall</b>  |
| <b>Ward</b>                  | <b>Bensham Manor</b>  |

2.25 The main issues in this case involved the following:

- The effect of the proposed development on the character and appearance of the area – specifically in relation to trees
- Flood risk

- The quality of accommodation
- The effect of the development on the amenities of neighbouring occupiers.

2.26 The appeal site is located close to the edge of Thornton Heath District Centre – immediately adjacent to Norbury Brook with its landscaped setting. The Planning Inspector was concerned that the proposed development would have significantly denuded the verdant character of the brook which provides some relief within an urban area. He also concluded that the additional built mass would have visually jarred with the core of the host property, would have appeared out of proportion and would have distracted from the current symmetrical proportions of the property. He was also concerned about the extensive array of windows proposed across the rear elevation of the building which he concluded would have also detracted from the character of the host building.

2.27 He was also concerned that flood risk information was lacking to justify development on such a sensitive site – and he acknowledged that no sequential test had been submitted to determine whether there were more preferable sites available for development. He was not satisfied that flood resilience measures had been properly considered by the appellant.

2.28 He was also concerned about the lack of detail submitted in terms of overall floor to ceiling heights – with the NDSS requiring a minimum height of 2.3 metres across 75% of the floor area.

2.29 Whilst he was less concerned about the effect of the proposed extension on the living conditions of other flats within the property, he DISMISSED the appeal for the reasons outlined above.

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| <b><i>Application No:</i></b>       | <b><i>19/02847/ADV</i></b>                               |
| <b><i>Site:</i></b>                 | <b><i>80 North End, CR0 1UJ</i></b>                      |
| <b><i>Proposed Development:</i></b> | <b><i>Display of an advert “A” board on pavement</i></b> |
| <b><i>Decision:</i></b>             | <b><i>REFUSE ADVERTISEMENT<br/>CONSENT</i></b>           |
| <b><i>Appeal Method:</i></b>        | <b><i>WRITTEN REPRESENTATIONS</i></b>                    |
| <b><i>Inspector’s Decision</i></b>  | <b><i>DISMISSED</i></b>                                  |
| <b><i>Case Officer</i></b>          | <b><i>Victoria Bates</i></b>                             |
| <b><i>Ward</i></b>                  | <b><i>Fairfield</i></b>                                  |

2.30 The main issue in this case was the effect of the A board on the amenities of the immediate area. The property is situated within the Central Croydon Conservation Area and whilst the Planning Inspector appreciated that the street was occupied by trees and other elements of street furniture, he noted that the street was generally uncluttered. He concluded that the A board would have added to visual clutter and would have detracted from the various heritage elements found within the street. He was satisfied that the location of the A board would not have impeded pedestrian movements in the vicinity of the site. Whilst he recognised the appellant’s

desire to advertise his business – which operates at first floor level, he did not feel that this was sufficient to outweigh the harm in terms of additional clutter in the street.

2.31 The appeal was DISMISSED along with the associated application for costs (against the Council).

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| <b>Application No:</b>       | <b>19/00770/FUL</b>  |
| <b>Site:</b>                 | <b>82-84 High Street, South Norwood<br/>SE25 6YZ</b>   |
| <b>Proposed Development:</b> | <b>Erection of a rear extension and<br/>conversion of part of ground floor<br/>and basement as a self-contained<br/>flat</b> |
| <b>Decision:</b>             | <b>REFUSE PLANNING PERMISSION</b>  |
| <b>Appeal Method:</b>        | <b>WRITTEN REPRESENTATIONS</b>   |
| <b>Inspector's Decision</b>  | <b>DISMISSED</b>   |
| <b>Case Officer</b>          | <b>James Udall</b>   |
| <b>Ward</b>                  | <b>South Norwood</b>   |

2.32 This appeal related to a three-storey property situated on the south side of the High Street; within the South Norwood Conservation Area and the local shopping area. The ground floor and basement was formally occupied as a bank and the proposed development involved the erection of a small rear extension and the conversion of part of the ground floor and basement as a two bed self-contained unit.

2.33 The main issues were as follows:

- The effect of the partial loss of commercial accommodation on the vitality and viability of the local area
- Whether the proposed conversion provided suitable accommodation (light and private amenity space)
- The adequacy of refuse storage arrangements

2.34 The appeal premises lies within the primary shopping area of the District Centre and even though a large proportion of ground floor accommodation would be retained and available for an alternative "A" user, the Planning Inspector still felt that the scheme would have resulted in a significant loss of commercial floorspace (especially with the total loss of basement accommodation) which would have made it very difficult for a future retail operator to trade successfully.

2.35 In terms of living conditions, he was concerned about light penetration into the two basement bedrooms – which would have failed the BRE guidelines (albeit marginally). He was also not satisfied that the development would have provided external space for the future occupiers.

2.36 The applicant advised that refuse bins would be left on the pavement on day of collection and would be stored within the unit. The Inspector was

far from convinced how this might work in practice and was not satisfied that evidence had been submitted to prove that there was sufficient space within the unit to store refuse. Moreover, he was not satisfied that refuse storage and collection had been treated as an integral element of the development and was not prepared to leave details to be approved by way of a planning condition. He was also concerned about the lack of cycle parking details – with the only store (at basement level) being allocated for some form of refuse storage.

- 2.37 Whilst he concluded that the extension would have had a neutral effect on the character and appearance of the conservation area, the appeal was DISMISSED for the reasons outlined above.

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| <b>Application No:</b>       | <b>19/00460/FUL</b>   |
| <b>Site:</b>                 | <b>286 Lower Addiscombe Road, CR0 7AE</b>                             |
| <b>Proposed Development:</b> | <b>Change of use of shop to a nail and beauty salon (sui generis)</b> |
| <b>Decision:</b>             | <b>REFUSE PLANNING PERMISSION</b>                                     |
| <b>Appeal Method:</b>        | <b>WRITTEN REPRESENTATIONS</b>  |
| <b>Inspector's Decision</b>  | <b>DISMISSED</b>  |
| <b>Case Officer</b>          | <b>George Clarke</b>  |
| <b>Ward</b>                  | <b>Addiscombe East</b>  |

- 2.38 The main issue in this case was the effect of the proposed change of use of the vitality and viability of the secondary retail frontage within the primary shopping area of Lower Addiscombe Road.

- 2.39 The Planning Inspector strictly applied the planning policy in that the incoming use resulted in the loss of an A Class use within the main retail frontage – with the proposed nail bar not related to an expansion of an existing community use.

- 2.40 The appeal was therefore DISMISSED.

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| <b>Application No:</b>       | <b>19/03464/HSE</b>   |
| <b>Site:</b>                 | <b>9 Haling Park Gardens, CR2 6NP</b>   |
| <b>Proposed Development:</b> | <b>Reconfiguration of the main roof to provide additional accommodation with a part first floor side extension and part two storey side extension</b> |
| <b>Decision:</b>             | <b>APPEAL AGAINST NON DETERMINATION (REFUSAL)</b>   |
| <b>Appeal Method:</b>        | <b>WRITTEN REPRESENTATIONS</b>  |
| <b>Inspector's Decision</b>  | <b>ALLOWED</b>  |
| <b>Case Officer</b>          | <b>Joe Sales</b>  |
| <b>Ward</b>                  | <b>Waddon</b>   |

- 2.41 The main issues in this case were the extent to which the proposed development respected the character and appearance of the area and the



extent to which it respected the amenities of the neighbouring property at 10 Hayling Park Gardens (outlook and light). The property is currently a chalet type property (with side dormers) and the scheme in effect sought planning permission for a full first floor – with a two storey side extension proposed in place of the existing garage.

2.42 The proposed two storey side extension was proposed to occupy the footprint of the existing garage – meaning that its footprint would have been set back from the existing front building line. The Planning Inspector was comfortable with the set back (in accordance with the SPD) and also felt that the height was acceptable – in relation to existing ridge heights. He concluded that the extension would have appeared suitably subservient.

2.43 Whilst he appreciated the Council's point that the width of the overall property would have been substantially increased, he was satisfied that this would not have been overly problematic, in view of the property being set well back from the street frontage. Overall, he did not feel that the scheme would have harmed the character and appearance of the area.

2.44 With the unusual siting of buildings around the cul-de-sac, the appeal property appears to the rear of 10 Hayling Park Gardens and the Council was concerned about the increased scale of development and any detrimental effect on the outlook enjoyed by this neighbouring property. He was not convinced by these arguments and concluded that outlook and light would be suitably respected.

2.45 The appeal was ALLOWED.

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| <b><i>Application No:</i></b>       | <b><i>19/03030/FUL</i></b>   |
| <b><i>Site:</i></b>                 | <b><i>461 Brighton Road, CR2 6EW</i></b>   |
| <b><i>Proposed Development:</i></b> | <b><i>Retention and alterations to side dormers to reduce their overall size</i></b> |
| <b><i>Decision:</i></b>             | <b><i>REFUSE PLANNING PERMISSION</i></b>   |
| <b><i>Appeal Method:</i></b>        | <b><i>WRITTEN REPRESENTATIONS</i></b>  |
| <b><i>Inspector's Decision</i></b>  | <b><i>DISMISSED</i></b>  |
| <b><i>Case Officer</i></b>          | <b><i>Ryan McMinn</i></b>  |
| <b><i>Ward</i></b>                  | <b><i>Purley Oakes and Riddlesdown</i></b>   |

2.46 This is the second appeal on this site – following on from the erection of side dormers to this property without the necessary planning permission. The main issue in this case was the effect of the proposed dormers (albeit reduced in size) on the character and appearance of the immediate area.

2.47 He concluded that the reduction in the size of the dormers would not have overcome the issues raised by the previous Planning Inspector. The appeal was therefore DISMISSED and officers continue to engage with the developer to resolve the on-going breach of planning control.

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| <b><i>Application No:</i></b> | <b><i>19/01147/HSE</i></b> |
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| <b>Site:</b>                 | <b>132 Brancaster Lane CR8 1HH</b>   |
| <b>Proposed Development:</b> | <b>Erection of a side extension and new raised roof with side gables and dormers</b> |
| <b>Decision:</b>             | <b>REFUSE PLANNING PERMISSION</b>  |
| <b>Appeal Method:</b>        | <b>WRITTEN REPRESENTATIONS</b>   |
| <b>Inspector's Decision</b>  | <b>DISMISSED</b>   |
| <b>Case Officer</b>          | <b>Samantha Dixon</b>  |
| <b>Ward</b>                  | <b>Purley Oakes and Riddlesdown</b>  |

2.48 This property is an existing bungalow (with existing accommodation in the roof space) and the scheme proposed the increase in height of ridge and eaves, along with a further side extension with side dormers. The main issues in this case focussed on the effect of the development on the character and appearance of the area and the impact on immediate neighbour amenity.

2.49 The Planning Inspector was concerned about the proposed gable feature and the position and size of the proposed side dormers which would have resulted in a cluttered roof profile. He was also concerned that the proposed side dormers would have overlooked immediate neighbours and gardens. Whilst the appellant advised that the windows could have been obscure glazed, the Planning Inspector was concerned that this would have not provided a high standard of accommodation within the roofspace.

2.50 The appeal was DISMISSED.

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| <b>Application No:</b>       | <b>19/03078/HSE</b>  |
| <b>Site:</b>                 | <b>22 Pollards Hill West, Norbury, SW16</b>  |
| <b>Proposed Development:</b> | <b>Erection of a two storey side and rear extension and single storey side and rear extension alongside alterations to the existing garage</b> |
| <b>Decision:</b>             | <b>REFUSE PLANNING PERMISSION</b>  |
| <b>Appeal Method:</b>        | <b>WRITTEN REPRESENTATIONS</b>   |
| <b>Inspector's Decision</b>  | <b>DISMISSED</b>   |
| <b>Case Officer</b>          | <b>Russell Smith</b>   |
| <b>Ward</b>                  | <b>Norbury and Pollards Hill</b>   |

2.51 The main issues in this case focussed on the effect of the development on the character and appearance of the area and the impact on immediate neighbour amenity.

2.52 The scheme proposed the formation of a gable end to the two storey extension (replacing an existing hipped roof arrangement) which he concluded would have not respected the predominant hipped roof appearance of neighbouring properties and the immediate area. He concluded that the overall appearance would have appeared incongruous

in the context of its surroundings.

2.53 With the neighbouring property set at a lower level with side facing windows to habitable rooms, he was also concerned that the proposed works would have resulted in a significant loss of outlook from these rooms.

2.54 The appeal was DISMISSED.