

## PLANNING COMMITTEE AGENDA

6<sup>th</sup> November 2019

### Part 8 Other Planning Matters

### Item 8.2

<b>Report of:</b> Head of Development Management  <b>Author:</b> Pete Smith	<b>Title:</b> Planning Appeal Decisions (October 2019)
---	---

#### 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.

<b><i>Application No:</i></b>	<b><i>19/00917/FUL</i></b>
<b><i>Site:</i></b>	<b><i>1 Mulgrave Road, CR0 1BL</i></b>
<b><i>Proposed Development:</i></b>	<b><i>Erection of a roof extension to provide a self-contained one bedroom flat and the erection of a ground floor rear extension to Flat 2</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>Part ALLOWED, Part DISMISSED (Split Decision)</i></b>
<b><i>Case Officer</i></b>	<b><i>Victoria Bates</i></b>
<b><i>Ward</i></b>	<b><i>Fairfield</i></b>

- 2.2 The main issue in this case was the effect of the proposed development on the character and appearance of the Chatsworth Road Conservation Area and on a protected Beech tree.
- 2.3 The appeal premise is one half of a semi-detached pair of properties and

the Chatsworth Road Conservation Area Character Appraisal treats the property as a positive contributor to character. The Planning Inspector noted that the property had been previously extended (at side and rear) and converted into flats although he appreciated that the extensions were subservient to the main dwelling. He concluded that the roof extension would have appeared as a disproportionate and dominant addition which would have unbalanced the pair of semi-detached properties. He concluded that whilst the harm would have been less than substantial, it would have represented an erosion of conservation area character.

- 2.4 He was less concerned about the proposed ground floor extension and whilst he noted that the ground floor extension would encroach into the tree protection area (by 3.5%) he was satisfied with suitable tree pruning and construction methodology, the tree would be suitably protected – with future pruning being able to be controlled by the local planning authority in the future.
- 2.5 The Planning Inspector gave a SPLIT DECISION by granting planning permission for the ground floor extension and refusing the more intrusive roof extension works. Whilst planning permission was refused on grounds of the impact of the ground floor extension of the protected tree, this remains a positive outcome and (arguably) the most harmful element of the proposals was DISMISSED.

<b>Application No:</b>	<b>19/00802/FUL</b>
<b>Site:</b>	<b>14 Cavendish Road, Croydon CR0 3LB</b>
<b>Proposed Development:</b>	<b>Erection of a 2-bedroom house</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>Chris Grace</b>
<b>Ward</b>	<b>Fairfield</b>

- 2.6 The main issues in this case was the effect of the development on the living conditions of existing and future residents along with the character and appearance of the area.
- 2.7 The application site formed part of a wider area (some of which was under construction - following on from prior approval for the conversion of former commercial buildings to 16 flats) and the proposal involved a two-storey house with an amenity space at first floor level. The Planning Inspector concluded that the proposal would have been surrounded by development of greater height and therefore would have been subsumed, with future residents experiencing an unacceptable sense of enclosure and an overly cramped environment
- 2.8 He was also concerned that the front elevation would have looked directly onto the three storey flats opposite – both of which included windows to habitable rooms with inadequate distances between habitable room

windows. He also concluded that the flank elevation of the proposed development would have been overly close to other windows, leading to an increased sense of enclosure and loss of light and outlook. He was less concerned with the overall unit size, which would have been 7 square metres below minimum standards.

2.9 The appeal was DISMISSED.

<b>Application No:</b>	<b>18/01148/LE</b>
<b>Site:</b>	<b>254 Holmesdale Road, SE25 6HX</b>
<b>Proposed Development:</b>	<b>Certificate of Lawful Development for use of property as 2 flats (Existing Use)</b>
<b>Decision:</b>	<b>REFUSAL OF CERTIFICATE</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector's Decision</b>	<b>DISMISSED</b>
<b>Case Officer</b>	<b>Chris Grace</b>
<b>Ward</b>	<b>South Norwood</b>

2.10 The appellant tried to prove (on the balance of probability) that the use of the property as two flats had been in place continuously over a period of 4 years (rendering such a use as lawful). However, the appellant had failed to fully recognise that back in 2008 a planning enforcement notice had been served on the property against the use of the property as two flats – which required the use to cease, with all internal doors to be removed.

2.11 Officers were satisfied that the use had ceased (in May 2009) but the evidence confirmed that the flats had been re-occupied on or before 6 March 2014 (more than 4 years ago). The Planning Inspector referred to case law in confirming that the 4 Year Rule (to confirm the lawfulness of a single dwelling) did not override the requirements of a previous enforcement notice (irrespective of the length of time the breach had taken place). The lawfulness of the two flats was not confirmed and the appeal was DISMISSED.

2.12 This is a worthwhile outcome and officers will now be re-investigating and reviewing the case and (if necessary) ensuring that the enforcement notice is again complied with.

<b>Application No:</b>	<b>19/01531/FUL</b>
<b>Site:</b>	<b>72 Woodside Green, South Norwood, SE25 5EU</b>
<b>Proposed Development:</b>	<b>Erection of a second-floor extension to be used as a 1x2 bed flat</b>
<b>Decision:</b>	<b>REFUSE PLANNING PERMISSION</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector's Decision</b>	<b>ALLOWED</b>
<b>Case Officer</b>	<b>Chris Grace</b>
<b>Ward</b>	<b>Woodside</b>

- 2.13 This property is currently in commercial use (as a curtain and soft furnishing business) and the Council had previously granted prior approval for the conversion of the business to provide 6 flats. The main issue in this case was the effect of the development on the character and appearance of the area, the living conditions of neighbouring occupiers, the adequacy of play space for children and the adequacy of refuse storage.
- 2.14 The appeal site is accessed down the side of 72 Woodside Green and the surrounding buildings are a mixture of 2 and 3 storey properties with the third floor contained within roof spaces with extensions. The proposed second floor extension was shown as being set in from the existing parapet with a small amenity area shown to the front of the structure. The Planning Inspector felt that the proposed extension would have amounted to a modest extension that was easily accommodated into its surroundings. She did not feel that the extension would have appeared out of kilter with the buildings in the vicinity – with neighbouring amenity reasonably respected.
- 2.15 She also did not feel that with the set back and existing parapet height (at almost 1.5 metres) the neighbours would have been significantly overlooked and she concluded that any privacy issues were able to be dealt with through the imposition of conditions. She accepted that the scheme had no children's play space (contrary to policy) which weighed against the proposal although she noted the large tracts of open space in the vicinity (including Woodside Green itself).
- 2.16 She raised some issues with the proposed refuse storage – with limited details indicated – but concluded that the details could be provided and managed through use of planning conditions. With the exception of the lack of children play facilities, she concluded (overall) that the proposal complied with the development plan. The appeal was therefore ALLOWED.

<b>Application No:</b>	<b>19/02836/HSE</b>
<b>Site:</b>	<b>10 Kitchener Road, Thornton Heath, CR7 8QL</b>
<b>Proposed Development:</b>	<b>Erection of a ground 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>Russell Smith</b>
<b>Ward</b>	<b>Thornton Heath</b>

- 2.17 The main issue in this case was the effect of the ground floor extension on the amenities of the immediate neighbour at 12 Kitchener Road – in terms of outlook and increased enclosure.
- 2.18 The appeal premise is a mid-terraced property in use as flats with a two-

storey rear addition, with an existing staggered arrangement with the neighbouring property (12 Kitchener Road). The Planning Inspector was concerned about a further projection of around 3.65 metres alongside the side boundary with this neighbouring property. Whilst he accepted that the extension would have only marginally exceeded the 3.5 metre projection suggested by the Council's SPD, he was concerned with this projection alongside the existing staggered arrangement.

2.19 He concluded that the extension would have resulted in a length of featureless rendered walling on the boundary with the neighbouring property which would have been visually dominant from both ground floor habitable rooms – causing a significant impact in terms of loss of outlook and an increased sense of enclosure

2.20 The appeal was therefore DISMISSED.