

Report of: Head of Development Management Author: Pete Smith	Title: Planning Appeal Decisions (November 2019)
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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>19/01162/FUL</i>
<i>Site:</i>	<i>10 April Court, 107 Northwood Road, Thornton Heath, CR7 8HW</i>
<i>Proposed Development:</i>	<i>Demolition of existing single storey building and erection of 3x2 storey houses with three off-street car parking spaces</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>George Clarke</i>
<i>Ward</i>	<i>Norbury Park</i>

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

- The effect of the development on the character and appearance of the area and the impact of the development on the amenities of 9 April Court in terms of outlook and light
- The quality of accommodation for future occupiers of the development

- in terms of the availability of private amenity space
 - Flood risk considerations and the ease by which the site could be accessed by refuse and emergency services
- 2.3 The site is an “L” shaped back-land site accommodating a single storey flat roofed residential building, accessed via an under-croft from Northwood Road (with a constrained 2.5 metre height clearance). By contrast, the proposal would have introduced three, two storey pitched roof houses, located close to neighbouring boundaries. The Planning Inspector felt that the scheme would have resulted in an overly cramped and over-dominant form of development that would not have integrated well into the established pattern of development found in the area.
- 2.4 She also found that the excessive amount of glazing and the zinc clad pitched roofs would not have respected the architectural characteristics of the area.
- 2.5 In terms of neighbour impact, she was concerned about the effect of the two-storey building on the neighbouring bungalow – with a private amenity space immediately adjacent to the proposed flank elevation of the end house. She concluded that the scale and mass of this end wall would have caused unacceptable harm to this neighbouring property in terms of outlook and light.
- 2.6 Whilst the scheme would have met minimum private open space requirements, she was concerned about the depth of the spaces provided, which would have provided sufficient space to be of any use.
- 2.7 On the other issues – she agreed with the Council that no mitigation or investigation of flood risk had been evidenced as part of the planning application and whilst she accepted the Council’s arguments around the difficulties associated with refuse collection via the existing under-croft, she commented that she was unable to comment on ease of access for emergency vehicles – as there was no policy link in the development plan.
- 2.8 The appeal was DISMISSED.

<i>Application No:</i>	<i>19/01272/FUL</i>
<i>Site:</i>	<i>14B Selhurst Road, SE25 5QF</i>
<i>Proposed Development:</i>	<i>Erection of a single storey 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>Russell Smith</i>
<i>Ward</i>	<i>Selhurst</i>

- 2.9 The main issues in this case was the effect of the development on the character and appearance of the area, the impact on the living conditions of the neighbouring occupier at 12 Selhurst Road and the quality of

accommodation for future occupiers in terms of privacy and outlook.

- 2.10 The appeal property is a 1 bed flat – split over two floors which is accessed via a service road off Gloucester Road to the east. The neighbouring property at 12 Selhurst Road has been extended along the full length of the rear garden – well beyond the established rear building line.
- 2.11 The proposal would have meant that the rear part of the appeal property would have been extended 10 metres into the rear and notwithstanding its limited visibility from neighbouring public areas, the Planning Inspector concluded that the extension would not have appeared as a subservient addition to the property. Whilst she accepted that it would have been similar to the extension at 12 Selhurst Road, it would have presented a similarly incongruous addition to the terrace, inconsistent with the development pattern of the area.
- 2.12 In terms of neighbour impact, she concluded that the level of windows contained within the flank elevation of the proposed extension would have resulted in mutual overlooking between the proposed extension and the neighbouring property at 12 Selhurst Road. She also felt that the massing would have resulted in loss of outlook and that the extension would have downgraded light from entering the appeal property from the south.
- 2.13 The appeal was DISMISSED.

Application No:	19/01136/GPDO
Site:	198 London Road, Croydon, CR0 2TE
Proposed Development:	Application for Prior Approval – office to residential in the form of 2 self-contained flats
Decision:	REFUSE PRIOR APPROVAL
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Victoria Bates
Ward	Broad Green

- 2.14 In order for such development to be permitted/able to be considered under prior approval, the property was required to have been used as offices back in 2013 (when the legislation came into being) or prior to that date. The other critical issue was whether the use was as offices rather than any other use.
- 2.15 The issue between the parties was whether there was sufficient evidence that the property had been in use as offices and therefore able to embrace the prior approval regime. The Planning Inspector noted during his site inspection that the property had not been in use for some considerable time. He was far from satisfied that the evidence submitted by the appellants confirmed, on the balance of probability, that the property had been in use as offices and noted that the plans submitted in the support of

the appeal referred to the structures as workshops – which appeared to contradict the evidence submitted.

2.15 The appeal was DISMISSED.

Application No:	19/01235/FUL
Site:	Farleycroft, 55 Ashburton Road, CR0 6AP
Proposed Development:	Erection of a 1x3 bed flat to the rear of Farleycroft together with refuse and cycle stores and the provision of two car parking spaces.
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Dean Gibson
Ward	Addiscombe East

2.16 Farleycroft is a purpose built 4 storey building (set in reasonably generous grounds) situated on the west side of Ashburton Road and within the East India Conservation Area. Whilst the Planning Inspector agreed that the building itself was a detractor from the character and appearance of the conservation area, he felt that the open space around the building was an important constituent of the site and the conservation area character; especially as the CAAMP recognises the general lack of open space and the positive contribution offered by trees and planting within gardens.

2.17 The scheme proposed the construction of a part single part two storey building (with some excavation below ground) towards the furthest corner, away from the Ashburton Road frontage and the main issue in this case was the effect of the development on the character and appearance of the conservation area.

2.18 He was concerned about the erosion of the landscaped area to the rear of the site, which would have eroded and reduced the landscaped area between the host property and the neighbouring properties (comprising Edgecombe Court) including the removal of trees and hedging and concluded that this would have been harmful to the character and appearance of the area. He also felt that the irregular triangular shaped-plot would have been at odds with the more formal prevailing plot layout.

2.19 He was also concerned that the proposed building would have taken up the vast proportion of the plot (effectively two storeys at the rear) which would have resulted in an overly cramped form of development. Whilst he felt that the finishes of the proposed building would be in character with neighbouring buildings, he was not content with the window positioning and detailing which would not have reflected surrounding forms. He was also not convinced by the use of zinc roof cladding which would have jarred with the more traditional designs found in the area.

2.20 He then considered the harm caused by the development (in conservation era terms) alongside the benefits of the development (accessible location close to local amenities, the new family home proposed and the wider economic and social benefits) but concluded that these benefits would not have outweighed the harm caused to the character and appearance of the conservation area.

2.21 The appeal was therefore DISMISSED.

<i>Application No:</i>	<i>18/03100/LP</i>
<i>Site:</i>	<i>10 Lawrence Road, London SE25 5AA</i>
<i>Proposed Development:</i>	<i>Certificate of Lawful Development – Rear Roof Extension</i>
<i>Decision:</i>	<i>REFUSE CERTIFICATE</i>
<i>Appeal Method:</i>	<i>WRITTEN REPRESENTATIONS</i>
<i>Inspector's Decision</i>	<i>DISMISSED</i>
<i>Case Officer</i>	<i>Joshua Swaby</i>
<i>Ward</i>	<i>South Norwood</i>

2.22 This case focussed on the form of the dwelling (whether detached or terraced) and the extent to which it determined the size of the rear roof extension which could be undertaken under permitted development.

2.23 The property was attached to the neighbouring house (shared a party wall – between garages) and whilst the houses might have appeared detached, the Planning Inspector confirmed that there was some degree of attachment which in effect limited the permitted development allowance.

2.24 The proposed rear roof extension measured just over 44 cubic metres – which exceeded the 40 cubic metre threshold (specified for terraced houses) and he therefore agreed with the Council that planning permission would have been required. The appeal was DISMISSED.

<i>Application No:</i>	<i>18/05222/FUL</i>
<i>Site:</i>	<i>5 Silver Lane, Purley, CR8 3HJ</i>
<i>Proposed Development:</i>	<i>Demolition of existing house and erection of a new 5-bedroom house with garage.</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>Samantha Dixon</i>
<i>Ward</i>	<i>Purley and Woodcote</i>

2.25 The main issue in this case was the effect of the development on the character and appearance of the Webb Estate Conservation Area.

2.26 The appeal property is an original Webb Estate house – designed in an

Arts and Crafts style. The house is sited within spacious grounds and conforms to the design principles of the Webb Estate (having a simple, rectangular footprint with trees effectively screening both sides and rear boundaries). The Planning Inspector disagreed with the appellant and their heritage advisors that the building was unexceptional and of low historic and aesthetic value and concluded that the existing house made a positive contribution to conservation area character.

- 2.27 He therefore concluded that the demolition of the existing house would have caused substantial harm and he was also concerned about the larger and more bulky replacement building – which would have been significantly more dominant. He was also concerned about the required loss of trees to facilitate the wider footprint and he also felt that the rear projections into the rear garden would have constituted an excessive incursion of development into the rear garden. He felt that this would have been in contrast with the simple straight rear elevation which had been designed in deference to the rear landscaped garden
- 2.28 Finally, he raised concerns over the bold and contemporary design of the replacement dwelling, which would have drawn further attention to the building and would have stood out as an anomaly compared to more simplified architectural forms. In short, he concluded that the proposed development would not have embraced the “garden-first” principles. In view of the harm being classed as “substantial” with very limited benefits arising to outweigh the harm, the appeal was DISMISSED.

Application No:	16/00146/C
Site:	Sterling House, 3 Gladstone Road, CR0 2BQ
Proposed Development:	Appeal against enforcement notice in respect of the use of a former warehouse as a place of worship
Decision:	INSTIGATE ENFORCEMENT ACTION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	ALLOWED AND NOTICE QUASHED
Case Officer	Rob Snodin
Ward	Selhurst

- 2.29 Back in 2016 the Council was successful in defending its refusal of planning permission for the continued use of the above property as a place of worship and as might well be expected, the Council then progressed with the service of an enforcement notice to cease the unauthorised use. This appeal was made against the enforcement notice and the only ground of appeal related to the merits of the continued use of the property as a place of worship.
- 2.30 The property is included within a Tier 2 Employment Area and the Planning Inspector noted that in certain circumstances, current

employment policy allows for D1 uses in such areas (subject to compliance with certain conditions). He highlighted a subtle change in policy emphasis (since the 2016 appeal) which allows D1 uses – without needing to re-provide employment floorspace on the same site. He also noted that the current policy allows for flexible approaches where industrial areas transition towards neighbouring residential areas. He also highlighted that the use had been in place for over 10 years with no evidence of harm being caused.

2.31 He concluded that any harm associated with the loss of employment floorspace was outweighed by the benefits of the community activities taken place on the site.

2.32 The appeal was ALLOWED and the enforcement notice QUASHED. This is a disappointing decision, bearing in mind the likely increase in demand for industrial floorspace in the short to medium term – especially linked to the upgrade plans for the Brighton Main Line.

Application No:	18/04920/FUL
Site:	R/O 3 Central Parade, Croydon, CR0 0JB
Proposed Development:	Use of the yard at the rear of the shop as a car wash
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Justine Aldersey
Ward	New Addington South

2.33 The main issues in this case was the effect of the proposed development on the free flow of traffic, the impact of the car wash on the amenities of neighbouring occupiers and drainage issues.

2.34 The site was a rear yard to the rear of 3 Central Parade, accessed via the rear service road off Salcot Crescent. The Planning Inspector noted that there were parked cars at the entrance to the service access which would have resulted in vehicles backing up across the entrance into the lane. He concluded that the use would have been problematic (in terms of the comings and goings of cars waiting to be cleaned and the high level of pedestrian and vehicular activity taking place in the area). He was not convinced that an “appointment only” arrangement would have worked – and in any case, no details of how this might have operated were submitted by the appellant.

2.35 He was also concerned about the noise associated with the proposed activity to the rear of the shops, which tended to be quieter – compared to activity taking place in Central Parade, with the potential for revving engines, the opening and closing of car doors, music and voices and the noise of the car wash activity more generally. He concluded that the use would have been harmful to the amenities of neighbouring residential

occupiers. He also felt that the application failed to properly consider drainage issues. He was far from convinced with how the broken surface of the service yard or the rear lane would have facilitated the effective management of surface water discharge

2.36 The appeal was DISMISSED.

Application No:	18/04630/FUL
Site:	R/O 47 Portland Road SE25 4UF
Proposed Development:	Demolition of repair garage and erection of a two storey, 2 bed dwelling with garage car parking
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Victoria Bates
Ward	South Norwood

2.37 This single storey repair garage is situated to the rear of 47 Portland Road, fronting onto Coventry Road and within the South Norwood Conservation Area. The main issues in this case were as follows

- The loss of employment floorspace – without proper evidence having been submitted in respect of demand
- The impact of the development on the character and appearance of the conservation area
- The effects on the immediate neighbour at 1 Coventry Road
- Lack of cycle parking and the adequacy of refuse storage.

2.38 The site is classified as a Tier 4 Employment site and the Planning Inspector agreed with the Council that insufficient evidence had been submitted to substantiate the appellant's claims that the site was no longer needed for employment purposes.

2.39 She reviewed the various constituent parts of the South Norwood Conservation Area Character Appraisal and specifically the locally listed buildings at 1 and 2 Coventry Road and the flint-faced cottage to the rear of the site and concluded that the proposed two storey building would not have reflected the immediate character of the area – being somewhat crudely designed; being positioned at immediate back edge of pavement with no front garden set back.

2.40 She was less concerned about the effects of the development on the immediate neighbours and felt that cycle parking could have been conditioned (the plans as submitted failed to provide space for cycle parking). As regards refuse storage, the area was proposed to be set into the building frontage with no screening and she concluded that the arrangements would have added visual domestic clutter to the street-scene, again harmful to the character and appearance of the conservation area.

2.41 The appeal was DISMISSED.