

<p>Report of: Director of Planning and Strategic Transport</p> <p>Author: Pete Smith</p>	<p>Title: Planning Appeals</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>18/02735/FUL</i>
<i>Site:</i>	<i>104 Galpins Road, CR7 8ED</i>
<i>Proposed Development:</i>	<i>Erection of a two-storey house</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>Vicki Bates</i>
<i>Ward</i>	<i>West Thornton</i>

- 2.2 The main issues in this case were the effect of the development on the character and appearance of the immediate area and the quality of accommodation provided (in terms of overall living space).
- 2.3 The appeal property is situated at the junction of Galpins Road and Namton Drive and consists of a hipped roof property with a long garden. The front door to the property is onto Namton Drive and is generally a mirror image of the property on the opposite side of the junction. The proposal sought planning permission for a house within the back garden.
- 2.4 The Planning Inspector felt that the design, scale and proportions of the

proposed house was out of character with the area (with the property being situated on the back edge of Namton Drive pavement). He was concerned that the property would have been largely single aspect facing north and concluded that the asymmetrical proportions would have been harmful to the character and appearance of the area – made worse by the failure to provide a proper front entrance onto Namton Drive and an uncharacteristically small retained garden for the host property.

- 2.5 The overall floorspace fell below the required standards set out in the Nationally Described Guidelines (for a two-storey – two-bedroom house) and he concluded therefore that the scheme would have provided cramped accommodation. He was also concerned about the outlook from some of the rooms onto the cycle and refuse store and in close proximity to the flank elevation of the neighbouring property in Namton Drive
- 2.6 The appeal was DISMISSED. This is a very interesting and useful decision. Whilst the scheme allowed for adequate amenity space for the host property (half the garden plot) accommodating a house of the remaining area was too challenging on this somewhat narrow site.

Application No:	18/03748/FUL
Site:	47 Craignish Avenue, Norbury, SW16 4RW
Proposed Development:	Alterations and extensions in connection with the conversion of the property into 2 self-contained flats
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Jan Slominski
Ward	Norbury and Pollards Hill

- 2.7 The main planning issues in this case involved the loss of a small family house and the quality of accommodation available for the flat proposed at first and second floor (in terms of availability of private amenity space).
- 2.8 This property had previously been extended in the form of a loft conversion (with rear dormer) and the notwithstanding this, the Planning Inspector accepted the need to retain 3-bed houses (as originally built) – even though the overall floorspace (as extended) was in excess of 130 square metres.
- 2.9 He also accepted that the scheme fell-foul of the requirement for all units to have access to private amenity space – even though the property backed onto Norbury Hall Park. He therefore concluded that the scheme would have provided poor quality accommodation for future occupiers. Another useful decision – supporting the adopted conversions policy.

Application No:	18/02020/FUL
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Site:	580-582 Wickham Road, CR0 8DN
Proposed Development:	Retention of glazed frontage/extension
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Tim Edwards
Ward	Shirley South

2.10 This involves a glazed canopy/extension to a restaurant which fronts onto Wickham Road. Works were carried out without the required planning permission and this application and subsequent appeal arose out of planning enforcement investigations and action. The main issue was the extent to which this further extension respected the character and appearance of the area.

2.11 The Planning Inspector recognised that there had been a previous (allowed) appeal for a relatively modest extension (now implemented) and was concerned that the current structure covered the whole of the front forecourt – which was considered to be detrimental to the street-scene. He concluded that the structure represents a discordance and incongruous feature.

2.12 The appeal was DISMISSED and we now need to progress matters to have the structure removed.

Application No:	18/01828/FUL
Site:	102 Foxley Lane, Purley, CR8 3NB
Proposed Development:	Redevelopment of house plot involving the erection of a 3-storey building comprising 6x2 bed and 3x3 bed flats with access for 9 cars
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED (Partial Award of Costs against the Council)
Case Officer	Gina Betts
Ward	Purley and Woodcote

2.13 The main issues in this case included the extent to which the development potential of this site (alongside the neighbouring site at 104 Foxley Lane) had been optimised (including the delivery of affordable housing) and the effect of the development on the living conditions of neighbouring residential occupiers at 100 Foxley Lane.

2.14 By way of background, the appellant had previously been granted planning permission (at 104 Foxley Lane) to redevelop this adjacent site in the form of 9 self-contained flats (September 2017) and soon after, secured an option to purchase 102 Foxley Lane. He then entered into pre-application discussions to link the two sites together and proposed the

redevelopment/amalgamation of both sites in the form of 24 flats (which would have triggered an affordable housing requirement). In view of this pre-application proposition, officers were of the view that affordable housing was potentially deliverable (following the apparent amalgamation of the site). Soon after the appellant received the pre-application advice, he decided to dispose of 104 Foxley Lane to another party (which is now being built out by this other party) and officers were concerned that the ownership links had been inappropriately severed in order to circumvent the delivery of affordable housing across both sites.

2.15 102 Foxley Lane is a large plot set slightly at an angle to 100 Foxley Lane which means that 100 Foxley Lane is angled away from the predominant rear building line of the appeal property. The Planning Inspector reviewed the timeline which detailed the purchase/option/disposal decisions taken by the appellant and reviewed the pre-application response offered by the local planning authority in respect of the 24-unit scheme. He was satisfied that at the time the planning application for 102 Foxley Lane had been submitted, the appellant had no interest in 104 Foxley Lane and had no ability/intention to develop both sites concurrently (as one scheme). Moreover, he noted that the pre-application response placed some doubt over the ability of the scheme to deliver 24 units and the acceptability of all units being contained in one building (when the character of Foxley Lane is made up of large buildings set in generous plots). With this being the case, he concluded that there was no case to require the delivery of some affordable housing. He was satisfied that 102 and 104 Foxley Lane were separate development sites, irrespective of the appellant's interest in both sites (albeit at different times) and subject to consideration of other policies, he accepted that the potential of the site was being suitably optimised.

2.16 In terms of the impact of the development on the immediate neighbour at 100 Foxley Lane, he was concerned about the extent to which the development projected further into the rear garden (compared to the existing property) and even though the neighbouring property is angled away from the property boundary with the 45 degree angle being met, he agreed with the Council that the impact of the development on outlook and enclosure would have been visually dominant and overly intrusive (at very close distance to the boundary with the neighbouring property). He was also concerned about potential overlooking, with windows to habitable rooms situated so close to the boundary.

2.17 The appeal was therefore DISMISSED although the Planning Inspector awarded a partial AWARD OF COSTS in favour of the appellant. He felt that the Council had been unreasonable in challenging the appellant and his ability to deliver affordable housing (in view of the ownership timelines in relation to both sites and the capacity of both sites to deliver 24 flats in one building - delivered across an amalgamated site). That said, this is a worthwhile decision and one presumes that scheme of reduced scale might come forward in the near future.

Application No: 18/02521/FUL
Site: 107A Spa Hill, SE19 3TT
Proposed Development: Erection of a rear dormer extension
Decision: REFUSE PLANNING PERMISSION
Appeal Method: WRITTEN REPRESENTATIONS
Inspector's Decision: DISMISSED
Case Officer: Diana Phiri Witty
Ward: Thornton Heath

2.18 The main issue in this case was the effect of the roof extension on the character and appearance of the host property and the immediate surroundings. This property is in use as two flats and therefore the extensions did not benefit from permitted development. The scheme not only proposed a full width dormer, but also an extension over part of the existing two storey rear outrigger.

2.19 The Planning Inspector concluded that the combined dormers would have significantly conflicted with the former SPD2 Guidance and would not have respected the prevailing scale and height of other buildings. He was concerned that the combined dormers would have dominated the form and appearance of the original building. He recognised that the works could have been undertaken as permitted development (had the property been used as a single-family dwelling) but this did not affect his decision to DISMISS the appeal.

Application No: 17/04487/FUL
Site: Flat 2, 54 Bensham Lane, CR0 2RR
Proposed Development: Conversion of existing flat into 2x1 bed flats with roof extensions
Decision: REFUSE PLANNING PERMISSION
Appeal Method: WRITTEN REPRESENTATIONS
Inspector's Decision: DISMISSED
Case Officer: Katy Marks
Ward: Broad Green

2.20 Works had been undertaken in respect of roof extensions to this flat (including a rear roof extension and extension over the rear outrigger). Subsequent to this, the first floor (and newly created second floor) had been converted to provide 2 self-contained 1 bed flats without the necessary planning permission. This application sought to regularize the use and the extensions previously undertaken property. The main issues in this case included the loss of the former family flat and the form of the roof extensions in terms of the character and appearance of the host property and the immediate surroundings.

2.21 The Planning Inspector agreed with the Council that the conversion would have resulted in the loss of family accommodation. He was also concerned about the appearance of the roof extensions which were clearly visible and obtrusive, when viewed from Francis Road. He concluded that the extensions were totally out of character with the immediate surroundings,

totally out of proportion and incongruous to the host property.

- 2.22 The appeal was DISMISSED and we now need to make progress in terms of resolving the on-going breach of planning control – in terms of the extensions and the unauthorised conversion of the property.

Application No:	18/01726/FUL
Site:	46A Maberley Road, Upper Norwood, SE19 2JA
Proposed Development:	Alterations to existing flat (roof alterations/extensions) and formation of roof terrace on existing roof
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Wayne Spencer
Ward	Crystal Palace and Upper Norwood

- 2.23 The main issue in this case was the effect of the alterations and extensions on the character and appearance of the host property and the surrounding area along with the impact of the roof terrace on the immediate occupier at 44 and 46 Maberley Road.

- 2.24 The appeal property is an upper floor flat and the scheme included the installation of rooflights, a rear dormer extension and the formation of a roof terrace. The Planning Inspector was concerned about the degree of alteration to the roof scape. Whilst he was generally comfortable with the size of the proposed rear dormer, he was concerned about the number, proportion and location of the proposed roof lights which he felt would have had an incongruous and uncharacteristic appearance. He was also concerned about the appearance of the proposed roof terrace, in view of the existing gap between appeal property and the neighbouring property. The gap (in his opinion) would have provided a clear view of the roof terrace and concluded that the terrace (with glass balustrade) would have contrasted unfavourably with the uniformity of the appearance of the property and neighbouring properties.

- 2.25 In terms of impact on neighbouring amenities, he was concerned about the degree of overlooking from the high-level roof terrace (over 44 Maberley Road). The appeal was DISMISSED.

Application No:	18/00258/ADV
Site:	28 High Street, Thornton Heath, CR7 8LE
Proposed Development:	Display of a pavement display board
Decision:	REFUSE ADVERTISEMENT
	CONSENT
Appeal Method:	WRITTEN REPRESENTATIONS

Inspector's Decision
Case Officer
Ward

ALLOWED
Wayne Spencer
Thornton Heath

- 2.26 The main issue in this case was the effect of the proposed advertisement on the character and appearance of the area. The proposed sign was a free standing A0 sign – located on the forecourt of the restaurant/takeaway trading at 28 High Street.
- 2.27 The Planning Inspector concluded that a further sign displayed in the area would not be uncharacteristic of this commercial area. He was satisfied that the proposed sign would have remained subordinate to the shopfront itself and he noted that there were other examples of similar signs. He also recognised that the pavements were relatively wide and concluded that the additional sign would not have led to further visual clutter. He was also satisfied that with the width of pavement, pedestrian movement would not have been overly hindered.
- 2.28 The appeal was ALLOWED.

Application No:	18/00722/FUL
Site:	30 High Street, Thornton Heath, CR7 8LE
Proposed Development:	Erection of a 3-storey building – to be used for business purposes
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Chris Grace
Ward	Thornton Heath

- 2.29 The appeal site is the rear part of a site which currently accommodates a three-storey property that fronts onto the High Street. The scheme proposed a three-storey free standing building within the rear yard area (partially sunk into the ground to appear as two-storey when viewed from neighbouring gardens). The main issues in this case included the effect of the proposed development on the character and appearance of the area and its impact on the amenities of immediate neighbours in terms of outlook, light and privacy.
- 2.30 The Planning Inspector was concerned that the proposed development would have been full width and sited right up to neighbouring property boundaries with limited separation in relation to the host property and neighbouring gardens. He concluded that the scheme would have been overly cramped and would have led to the various ramifications associated with overdevelopment.
- 2.31 He was also concerned with the impact of the development on the amenities of neighbouring residential occupiers with the building being sited on the rear garden boundary of 1, Decimus Close (which has a

relatively short garden). He concluded that this would have resulted in a harmful loss of outlook and sunlight/light, especially into the late afternoon and evening. He was similarly concerned about loss of outlook for the host property and privacy loss to the communal garden to The Retreat (with proposed balcony and windows overlooking this space).

2.32 The appellant has a right of access to the rear of High Street properties which would have been the pedestrian access onto the site. He was concerned as to the state of this access (including parked vehicles which obstructed pedestrian access). He was not convinced (based on the evidence submitted) that an appropriate form of access could be achieved which he felt weighed further against the proposed development.

2.33 The appeal was comprehensively DISMISSED.

Application No:	18/02898/FUL
Site:	19 Central Hill, Upper Norwood, SE19 1BG
Proposed Development:	Change of use of former community support office (<i>sui generis</i>) to use as a day nursery with insertion of new windows
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Wayne Spencer
Ward	Crystal Palace and Upper Norwood

2.34 This is the site of the former community police office in Crystal Palace and the proposal involved its conversion to a day nursery with external alterations (through the installation of side and rear windows - to light the proposed classroom spaces). The main issues in this case included the following:

- the principle of day nursery uses in this location;
- the suitability of the alterations in the context of the character and appearance of the Upper Norwood Conservation Area;
- the effect of the development on highway safety and the availability of suitable refuse storage arrangements for the proposed use.

2.35 Whilst the Planning Inspector accepted that a day nursery was a form of community use, he noted that a day nursery use is not a use included in the list of suitable uses considered acceptable within a secondary retail frontage (Table 5.3 of CLP). He also accepted the Council's evidence that there was already sufficient day nursery provision in and around Upper Norwood.

2.36 He also agreed with the Council that the installation of the proposed windows would have compromised the side elevation of the existing property (which is relatively exposed within the street scene). He

concluded that the design of the proposed windows would have been relatively crude and incongruous. The appellant proposed the deletion of these windows as part of the appeal process (which might well have overcome this reason for refusal) although the Planning Inspector was concerned that this would have left the proposed classrooms with no natural light.

2.37 The use had no off-street car parking available to support the use and whilst he accepted that the site was situated in an area well located in terms of public transport with many parents likely to be local to the site, he was concerned about safe drop off and pick up, with the parking to the rear of the site not forming part of the proposed day nursery demise. He concluded that parking in the vicinity would have resulted in obstruction and highway safety concerns. That said, he was less concerned about the availability of adequate refuse storage arrangements with a future user being able to use existing facilities (previous used by the community police office).

2.38 The appeal was DISMISSED.

Application No:	18/03223/FUL
Site:	461 Brighton Road, CR2 6EW
Proposed Development:	Erection of two side dormers and the use of the ground floor as a herbal medical clinic (Retrospective)
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	PART ALLOWED/PART DISMISSED
Case Officer	Justine Aldersey
Ward	Purley Oakes and Riddlesdown

3.39 These works had already been undertaken – with the change of use of the ground floor as a herbal medical centre and the erection of two large side dormers (to this strong gabled ended property). The scheme was refused planning permission on grounds of the form, scale and overall design of the dormers, rather than the principle of the medical use. The main issue was therefore limited to the appearance of the side dormers and the extent to which they respected the appearance of the property and the immediate surroundings.

3.40 The Planning Inspector agreed with the Council that the dormers are overly large and harmful to the character and appearance of the host property and the local street-scene, with the dormers being strongly visible from Brighton Road making the original house somewhat “top heavy”. He was content with principle of the health-related use, but that was not an issue of concern for the Council in any case.

3.41 Unlike a local planning authority, Planning Inspectors can pick and choose

between elements of a proposal (in terms of acceptability) and in this case he reached a split decision with the principle of the use being acceptable (but not the dormers). Therefore, the appeal was PART ALLOWED/PART DISMISSED which was a good outcome. Work will now be further progressed to deal with the on-going breach of planning control.

Application No: 18/00081/FUL
Site: 1 The Vale, Coulsdon, CR5 2AU
Proposed Development: Alterations to elevations and subdivision of existing detached property to provide two self-contained residential units with the formation of a new car parking space
Decision: REFUSE PLANNING PERMISSION
Appeal Method: WRITTEN REPRESENTATIONS
Inspector's Decision: DISMISSED
Case Officer: Dan Hyde
Ward: Coulsdon Town

3.42 The main issue in the case was the proposed quality of accommodation and the extent to which the proposed units complied with the Nationally Described Space Standards (NDSS).

3.41 The property is a two storey detached property with a ground floor rear extension and the proposal sought planning permission to convert the property into two duplex units. In both cases, the Planning Inspector was concerned that the proposed units would not have been in accordance with the NDSS. She was also concerned that the side garden would have been shared as a communal area (or divided up) which would not have provided quality amenity space for the proposed units.

3.42 The appeal was therefore DISMISSED.

Application No: 18/00242/FUL
Site: Connaught Towers, 682-684 London Road, CR7 7HU
Proposed Development: Erection of a roof extension to accommodate 5 studio apartments
Decision: REFUSE PLANNING PERMISSION
Appeal Method: WRITTEN REPRESENTATIONS
Inspector's Decision: ALLOWED
Case Officer: Chris Grace
Ward: West Thornton

2.43 The main issues in this case were as follows:

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

- occupiers in terms of outlook
 - The quality of accommodation proposed for future occupiers and concerns over the over-provision of non-family accommodation.
- 2.44 This scheme proposed a further floor of accommodation to this existing four storey block of flats. The Planning Inspector was comfortable with the further storey of accommodation, in view of the varied building heights along London Road, with the proposed extension being set back, utilising differing materials to the main brick façade of the remaining elements of the building.
- 2.45 She was also comfortable with the effect of the development on neighbouring properties – which were sited some distance away and orientated away from the appeal site. Moreover, whilst she noted that the proposed units would not have been accompanied by external amenity space, she was satisfied that adequate communal space was available for future residents – located at the base of the block of apartments.
- 2.46 Finally, whilst she recognised that there was a 30% strategic target for family homes, she recognised that the number of units was below the 10 unit threshold – which meant that the delivery of family units as part of this particular proposal was not required (by policy).
- 2.47 The appeal was therefore ALLOWED.

<i>Application No:</i>	<i>17/05718/FUL</i>
<i>Site:</i>	<i>2A Green Lane Gardens, Thornton Heath, CR7 8HP</i>
<i>Proposed Development:</i>	<i>Erection of a 4 bedroom house</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>Wayne Spencer</i>
<i>Ward</i>	<i>Norbury Park</i>

- 2.48 The main issue in this case was the effect of the proposed development on the character and appearance of the area. The three bed house had previously been granted planning permission, although the applicant had failed to carry out the development in accordance with approved drawings, electing instead to modify the roof form (to provide space to provide additional accommodation in the roof space).
- 2.49 Whilst the Planning Inspector accepted that the dwelling (as built) reflected the line and ridge height of the neighbouring property, she concluded that the roof was overly complex and contrived, out of character with the traditional roof forms found in neighbouring properties. She concluded that the composite form of the roof, with flat roofed elements was incongruous – which resulted in an overall poor quality of design.
- 2.50 The appeal was DISMISSED and we are now in the process of seeking to

deal with the on-going breach of planning control.

Application No:	18/022443/HSE
Site:	33 Kensington Avenue, Thornton Heath, CR7 8BT
Proposed Development:	Alterations and extensions to the rear roof to form a second floor and the conversion of the property to provide 2x2 bedroom units
Decision:	REFUSE PLANNING PERMISSION
Appeal Method:	WRITTEN REPRESENTATIONS
Inspector's Decision	DISMISSED
Case Officer	Sera Elobisi
Ward	Norbury Park

- 2.51 The main issues in this case included the effect of the development on the character and appearance of the immediate area, the quality of accommodation proposed in terms of compliance with the Nationally Described Space Standards (NDSS), the effect of the development on the amenities of neighbouring occupiers and the principle of the loss of a family house.
- 2.55 In terms of the appearance of the further extension (following previous extensions undertaken to the property - either through prior approval, planning permission or permitted development) the Planning Inspector concluded that a further extension at second floor level (linked to the rear dormer extension) would have resulted in an over-bulky addition to the rear which would have detracted from the somewhat modest character of the host dwelling. She was also concerned that the further extension would have had an over-bearing impact on the amenities of neighbouring occupiers.
- 2.56 The proposed flats would not have complied with the NDSS (which she agreed should be given full weight, bearing in mind that they had been recognised and endorsed by Local Plan policy). She was less concerned about the loss of family accommodation, as one of the units would have been suitably sized to be occupied by a family. The appeal was DISMISSED. We now need to determine what has been erected on site and whether the structures accord with previous planning permissions and prior approvals. We also need to establish the current use of the property, as no planning permission appears to have been granted in respect of the use of the property as flats.