

Hackney Neighbourhoods & Regeneration

Graham Loveland, Interim Assistant Director (Regeneration & Planning), 263 Mare Street, Hackney, E8 3HT

REPORT OF ASSISTANT DIRECTOR OF REGENERATION AND PLANNING		
PLANNING SUB-COMMITTEE	Classification INFORMATION	Enclosures
	Ward(s) Affected ALL	APPEAL SUMMARY October 2008
10 June 2009		

1. SUMMARY

Attached for Members' information is a report summarising all Planning Inspectorate appeal decisions received for the month of October 2008.

2. RECOMMENDATION

That the attached schedule be received for Members' information.



Signed..... Date: 1 June 2009

STEVE DOUGLAS

INTERIM CORPORATE DIRECTOR, NEIGHBOURHOODS AND REGENERATION

Report Originating Officer: Franziska Lang (ph: 0208 356 8291)

Background Papers

The following documents have been relied upon in the preparation of this report:

Description of Document	Location	Date
MVM Panorama Planning System and PINS on-line case search	263 Mare Street, E8	October 08

MONTHLY APPEAL DECISION INFORMATION BULLETIN

SUMMARY INFORMATION FOR THE MONTH OF OCTOBER 2008

Statistics for all Planning and Enforcement Appeals

Planning (Including Listed Building, Conservation Area Consents and Adverts)		Enforcement	
Number of appeals received:	5	Number of appeals received:	2
Number of appeals withdrawn:	0	Number of appeals withdrawn:	0
Number of appeals decided:	7	Number of appeals decided:	1
• Dismissed	4	• Dismissed	1
• Allowed	3	• Allowed	0
• Split	0	• Split	0
Number of cost applications made	2	Number of cost applications made	0

Best Value Performance Indicator (BVPI) 204 Statistics

Number of appeals forming BVPI statistic: (Refer to note below for explanation)

	BVPI 204 October 2008 (S.78 Determined)	BVPI target 2008/2009	BVPI since 1 st April 2008
Number of Appeals Dismissed	4/5	62.0%	21/35 (60%)
Number of Appeals Allowed	1/5	38.0%	14/35 (40%)
Number of Appeals with Split Decision	0/5	Forms part of the 'Allowed' statistic above	0

Note:

Planning appeals for the purposes of the BVPI statistic includes appeals on planning applications where the Council has refused planning permission. It does not include planning appeals against conditions or non-determinations. The calculation also excludes all other application types of appeal, e.g. Advertisement Appeals, Enforcement Appeals and Lawful Development Certificate appeals. A partially allowed appeal must be counted as an allowed appeal (Extract from Best Value Performance Indicators by Audit Commission).

1. **Site Address:** 16 Lingwood Road, London E5 9BN
Application and Appeal Reference: 2008/0380 & APP/U5360/A/08/2073123

Inspectors Ruling: DISMISSED

Development Description: Loft conversion

Type of Appeal: Written representations appeal against Council's refusal of planning permission.

Key Policies/ Material Considerations: UDP Policy EQ1

Inspector Considerations and Key Issues: The effect of the proposal on the character and appearance of the dwelling and the surrounding residential area.

Brief Assessment: The Inspector considered that the dormer would have a materially adverse effect on the character and appearance of the dwelling and the surrounding residential area contrary to Policy EQ1.

Implications: No new implications.

2. **Site Address:** 134 Lordship Road, London N16 0QL
Application and Appeal Reference: 2007/2251 & APP/U5360/A/08/2071311

Inspectors Ruling: ALLOWED

Development Description: rear dormer (loft conversion) to existing bedroom within roof space.

Type of Appeal: Written representations appeal against Council's refusal of planning permission.

Key Policies/ Material Considerations: UDP Policy EQ1

Inspector Considerations and Key Issues: The effect of the extension on the character and appearance of the area.

Brief Assessment: Whilst the Inspector agreed with the Council that a dormer should generally not span the full width of a roof and should not extend to the roof ridge, he placed significant weight on the fact that there were dormers similar to that proposed on each of the three dwellings to the north-west and that such features are now a key element of the established character of the rear of the dwellings. The Inspector concluded that the proposed dormer would not look out of place and would not harm the character and appearance of the area.

Implications: No new implications.

3. **Site Address:** 3 Hackney Road, London E2 7NX
Application and Appeal Reference: 2007/1778 & APP/U5360/A/08/2071667

Inspectors Ruling: DISMISSED

Development Description: Change of use of ground floor from mini-cab office to mixed use mini-cab office and cold food take away (A1) to be open 24 hours, 7 days per week.

Type of Appeal: Written representations appeal against Council's refusal of planning permission.

Key Policies/ Material Considerations: UDP Policies EQ1 and EQ40.

Inspector Considerations and Key Issues: The effect of the proposal on the living conditions of nearby occupants due to noise and disturbance.

Brief Assessment: The Inspector considered that it is reasonable for the occupants of the appeal building and nearby residents to expect late night external conditions that do not prevent sleep. Whilst a degree of disturbance is understandable in the evening, during the middle of the night and the early hours of the morning, quieter conditions should be the norm. The Inspector held that the addition of a take-away activity would increase movements to and from the site; and could also attract drivers which would therefore generate additional traffic and further disturbance.

Implications: No new implications.

4. **Site Address:** 39 Amhurst Park, London N16 5DL

Application and Appeal Reference: 2007/1753 & APP/U5360/A/08/2070300

Inspectors Ruling: DISMISSED

Development Description: Erection of a 2-storey (basement and ground) three-bedroom house with off-street parking.

Type of Appeal: Written representations appeal against Council's refusal of planning permission.

Key Policies/ Material Considerations: UDP Policies EQ1 and Policy 4B.1 of the London Plan 2008.

Inspector Considerations and Key Issues: The effect of the proposal on the character and appearance of the area.

Brief Assessment: The Inspector found that the proposal would not accord with the character of either the Amhurst Park or Durley Road buildings. He further considered that the proposed dwelling would be an over-development of the site cramped within the street scene and with only a very small garden. The Inspector was not swayed by the needs of the appellant and the local community setting out that these were outweighed by the visual impact of the proposed dwelling.

Implications: No new implications.

5. **Site Address:** 216a- 218a Mare Street, London E8 3RD

Application and Appeal Reference: 2004/0327/ENF & APP/U5360/C/08/2078499

Inspectors Ruling: DISMISSED

Development Description: Without planning permission, the installation of new UPVC windows at first, second and third floor levels on the front elevation of the property.

Type of Appeal: An appeal against the Council's serving of an enforcement notice; appeal made under ground (g) - that the period of compliance set out in the notice is too short.

Key Policies/ Material Considerations: UDP Policies EQ1 and EQ40.

Inspector Considerations and Key Issues: Whether the period of compliance in the notice is reasonable in terms of the steps required to rectify the identified breach of planning control.

Brief Assessment: On the enforcement notice, the Council had imposed a period of two months to remove the UPVC windows. The Inspector accepted the appellant's argument that the works would require the erection of scaffolding and lead in times for the new windows prior to installation. The Inspector therefore varied the notice to allow for a six month period of compliance.

Implications: No new implications.

6. **Site Address:** 242-248 Kingsland Road and 50 Acton Mews, London E8 4DG

Application and Appeal Reference: 2007/2208 & APP/U5360/A/08/2072310

Inspectors Ruling: ALLOWED

Development Description: Demolition of existing buildings and erection of part six/ part seven storey building with basement to provide 2256sqm Use Class B1 floorspace and 58 residential units together with two parking spaces and landscaping.

Type of Appeal: Public inquiry appeal against the Council's failure to give a decision on the application within the prescribed time frames.

Key Policies/ Material Considerations: Circular 05/2005 – Planning Obligations, Circular 11/95 –

Conditions, PPG15 – Planning and the Historic Environment, Policy A4.11 of the London Plan, PPS1, PPS23.

Inspector Considerations and Key Issues: Whether it is possible to determine the appeal planning application without a concurrent application for conservation area consent.

Brief Assessment: This was a case where the Council decided not to determine a planning application as it was not accompanied by a concurrent application for conservation area consent. The latter was required to permit demolition of the existing buildings at the appeal site, which lies within a conservation area. The Inspector acknowledged that PPG15 states that it is 'generally preferable' if related applications for planning permission and conservation area consent are considered concurrently. However, even if a conservation area consent application had not been submitted with the planning application, it would not follow that the grant of planning permission meant that buildings could be demolished. Several other matters were discussed at the inquiry, including suitable planning obligations and conditions.

Implications: No new implications.

Costs application: Costs applications were made by both parties. The application by the Council failed, whereas the application by the appellants was allowed in part.

7. **Site Address:** 53b Carysfort Road, London N16 9AD

Application and Appeal Reference: 2007/1638 & APP/U5360/A/08/2068801

Inspectors Ruling: ALLOWED

Development Description: Conversion and alterations to existing building to create 290sqm of commercial floorspace (Use Class B1) and 9 self-contained flats (3 x one-bedroom, 3 x two-bedroom, 2 x three-bedroom and 1 x four-bedroom).

Type of Appeal: Hearing appeal against the Council's failure to give a decision on the application within the prescribed time frames.

Key Policies/ Material Considerations: London plan Policy 3B.1, SPD – Planning Contributions, UDP Policy EQ1, PPG13.

Inspector Considerations and Key Issues: The effect of the proposal on the provision of employment floorspace in the borough and on the living conditions of adjoining occupiers in Red Square and Indigo Mews with regard to overlooking.

Brief Assessment: The Inspector considered that there was a significant fall-back position in that the appeal premises were part of a permission given in 1999 for 114 new live work units that are now known as Red Square. That part of the permission relating to the appeal premises (8 live/work units) was not implemented, although the remainder was and the permission had therefore been given effect to. The proposal now at appeal involved the addition of a further storey. The employment space proposed would represent less than 30% of the entire floor area, whereas in the fallback position it would have amounted to 5% of the floor area. However the Inspector found that there was no policy base for the use of a ratio. The Inspector also took note that the provision of B1 floorspace in the fallback proposal was unenforceable as the 'work' area within each unit had not been defined on the approved plans for the 1999 permission. Accordingly the concluded that the appeal proposal was preferable in ensuring the relevant policy objectives were achieved. The inspector further concluded that the objections raised by neighbours in regard to overlooking and access/traffic issues were unfounded.

Implications: The fallback position in this case was a strong argument however it appears that the Council did not take full account of this.

Costs applications: The appellants applied for and were granted a partial award of costs on the basis that the Council had failed to take proper account of the fallback position as a material consideration.

8. **Site Address:** 168 & 170 Osbaldeston Road, London N16 6NJ

Application and Appeal Reference: 2007/2739 & APP/U5360/A/08/2072123

Inspectors Ruling: DISMISSED

Development Description: No 168 – Enlarging ground floor rear extension; erection of a first floor and second floor rear extension including a rear roof dormer; roof lights to front and rear roof slopes. No 170 – Erection of a ground, first and second floor rear extension including rear roof dormer; roof lights to front and rear roof slopes.

Type of Appeal: Hearing appeal against the Council's refusal of planning permission.

Key Policies/ Material Considerations: London Plan Policy 3A.17, PPS3, UDP Policy EQ1,

Inspector Considerations and Key Issues: Whether any harm to the subject properties, by reason of the bulk and scale of the extensions, is justified by the housing needs of the appellants.

Brief Assessment: The Inspector took into account the provisions of the London Plan and PPS3 which require the Council to take into account the diverse population needs of the borough when deciding individual planning applications. However, this needed to be balanced against other applicable policies such as UDP Policy EQ1. A decisive finding of the Inspector was that the proposal would not affect the street scene and that the alterations and extensions would be confined to the rear of the property. In addition, the rear of the properties had already seen some unsympathetic alterations, so the appellant argued that the proposal would result in an approved appearance. The Inspector negated the contention by the Council that the needs of the occupiers might be transitory, whereas the proposed works would become a permanent feature in the surrounding area. The Inspector concluded that this was a case where the needs of the appellants should be afforded considerable weight as there was no material harm in planning terms. However, the appeal was dismissed as, due to a number of inaccuracies, the proposed plans turned out to be unworkable.

Implications: No new implications.