

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 10 June 2009	Classification INFORMATION	Enclosures
	Ward(s) Affected ALL	APPEAL SUMMARY November 2008

1. SUMMARY

Attached for Members' information is a report summarising all Planning Inspectorate appeal decisions received for the month of November 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	May 2009

MONTHLY APPEAL DECISION INFORMATION BULLETIN

SUMMARY INFORMATION FOR THE MONTH OF NOVEMBER 2008

Statistics for all Planning and Enforcement Appeals

Planning (Including Listed Building, Conservation Area Consents and Adverts)		Enforcement	
Number of appeals received:	7	Number of appeals received:	7
Number of appeals withdrawn:	1	Number of appeals withdrawn:	1
Number of appeals decided:	11	Number of appeals decided:	2
• Dismissed	5	• Dismissed	2
• Allowed	6	• Allowed	0
• Split	0	• Split	0
Number of cost applications made	2	Number of cost applications made	1

Best Value Performance Indicator (BVPI) 204 Statistics

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

	BVPI 204 November 2008 (S.78 Determined)	BVPI target 2008/2009	BVPI since 1 st April 2008
Number of Appeals Dismissed	6/9	66.7%	27/44 (61.4%)
Number of Appeals Allowed	3/9	33.3%	17/44 (38.6%)
Number of Appeals with Split Decision	0/9	Forms part of the 'Allowed' statistic above	

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: 45-47 Amhurst Park, London N16 5DL**
Application and Appeal Reference: 2007/2141 and APP/U5360/A/08/2077105

Inspectors Ruling: DISMISSED

Development Description: Construction of eight 1-bed self-contained chalets in rear garden.

Type of Appeal: Written representations

Key Policies/ Material Considerations: UDP Policies EQ1, EQ31, EQ40, HO3 and HO15

Inspector Considerations and Key Issues: Effect of the development on the character and appearance of the area; effect on the living conditions of neighbours; effect on trees and wildlife.

Brief Assessment: The Inspector considered that the existing use at the property was akin to a hostel. He considered that the proposal would result in a cramped layout in the rear garden. However he did not consider that the outlook of neighbours would be harmed given that the chalets were of similar design to ordinary garden sheds. The Inspector was concerned about the noise and disturbance implications of the proposal given its density. The most significant harm the Inspector identified was in relation to the fact that a number of the proposed chalets would impinge on the root zones of some mature trees at the rear of the site. Accordingly the appeal was dismissed.

Implications: No new implications.

- 2 & 3 **Site Address: 492 Kingsland Road, London E8 4AE**
Application and Appeal Reference: Appeal A: 2007/2097 & APP/U5360/A/08/2073854;
Appeal B: 2007/0495/ENF & APP/U5360/C/08/2076006

Inspectors Ruling: BOTH APPEALS DISMISSED

Development Description & Type of Appeal: Appeal A: Written representations planning appeal against the refusal of the Council to grant planning permission for the installation of an Automated Teller Machine (ATM) retention of existing ATM to existing shop front); Appeal B: Written representations enforcement appeal against an enforcement notice served by the Council in relation to the installation of an ATM and surround panel within the existing Shopfront at ground floor level without planning permission.

Key Policies/ Material Considerations: UDP Policy ST8, EQ6, EQ12, EQ14 and EQ32

Inspector Considerations and Key Issues: Impact of proposal on character and appearance of the appeal site and the Kingsland Conservation Area

Brief Assessment: The Inspector set out that this was a very similar proposal at the same site to one that was subject to an earlier appeal in 2007. The Inspector in that earlier decision pointed out although there was a variety of shopfronts along this stretch of Kingsland Road the traditional form was for shopfronts to be glazed across their full width. The Inspector concluded in that earlier decision that the ATM would result in a marked reduction in glazed area and that the proposal would therefore fail to respect the patterns of buildings and would not preserve or enhance the character of the Conservation Area. The current appeal proposal replaced the glazed ATM surround with an opaque surround and the Inspector considered that this would reduce the glazed frontage still further. His conclusion was that the criticisms that applied to the earlier appeal applied with even greater force to the current appeals. Accordingly the appeals were dismissed and the enforcement notice was upheld.

Costs: The Council made an application costs on the basis that the appellants had ignored the findings of the previous appeal decision as a material consideration. This application was allowed.

Implications: No new implications.

- 4 & 5 **Site Address: 201-203 City Road, London EC1V 1JN**
Application and Appeal Reference: Appeal A: 2008/0990 & APP/U5360/A/08/2079587;

Appeal B: 2008/0987 & APP/U5360/A/08/2079589

Inspectors Ruling: BOTH APPEALS ALLOWED

Development Description & Type of Appeal: Appeal A: Written representations planning appeal against Council's refusal of planning permission for change of use of ground and lower ground floors from B1 office to A3 restaurant; Appeal B: Written representations planning appeal against Council's refusal of planning permission for change of use of ground and lower ground floors from B1 office to D1(a) or (c) health or education.

Key Policies/ Material Considerations: UDP Policies EQ1, London Plan Policies 3B.1 and 3B.2

Inspector Considerations and Key Issues: Whether the proposed developments would harmfully conflict with and undermine the intentions of development plan policy concerning employment.

Brief Assessment: The Inspector did not understand why Policy EQ1 had been referred to in the reason for refusal as this policy relates to environmental quality and would not apply to a proposed change of use. The Inspector could not accord weight to the status of the appeal sites as a designated Defined Employment Area (DEA) as there were no longer any UDP policies which would inhibit changes of use such as the ones suggested. With reference to the quoted London Plan policies, the Inspector noted that these did not seek to retain floorspace exclusively for B1 use. The Council referred to the findings of the Atkins Employment Study in its statement as this recommends that the objectives of DEA's are likely to be carried forward into its Local Development Framework. The Inspector noted that the Atkins report states that 'the employment land policies in the adopted UDP require a significant degree of refinement'. He further noted that the report is simply part of the evidence base for future policy and does not constitute an instrument of policy that has been subject to consultation, scrutiny and formal adoptions. As such it carried limited weight. The Inspector noted that both proposals would in any event create employment and that a degree of diversification of opportunity for enterprise in the locality would seem a positive step. The inspector allowed the appeals subject to conditions.

Implications: No new implications

6. Site Address: 47 Stoke Newington Road, London N16 8BJ

Application and Appeal Reference: 2008/0623 & APP/U5360/A/08/2082050

Inspectors Ruling: ALLOWED

Development Description & Type of Appeal: Hearing planning appeal against the refusal of the Council to grant retrospective express advertisement consent for two 96 sheet 912m x 3m) externally illuminated advertisement display panels and a single 48 sheet (6m x 3m) externally illuminated panel.

Key Policies/ Material Considerations: Advertisement Regulations 2007

Inspector Considerations and Key Issues: Whether the proposal would have an adverse effect on public safety by distracting drivers.

Brief Assessment: As background, the Council had refused the application on the basis of objections received from Transport for London in relation to accident statistics at the intersection of Stoke Newington Road and Arcola Street. The Inspector considered that, although illuminated, the display would be static and that drivers would have adequate time to digest such information as part of their overall forward vision. It is noted that the exact details of TfL's objections, in the form of accident statistics for the Stoke Newington Road and Arcola Street. The Inspector noted that the number and type of accidents at the Arcola Street junction were not dissimilar to accidents further up Stoke Newington Road. Given the extensive sight lines in both directions, as well as a raised table at the junction mouth which slows traffic, the Inspector considered that this intersection was not particularly dangerous. He concluded that the proposal did not pose harm to public safety and therefore allowed the appeal.

Implications: It is noted that planning officers did not question the TfL objection. The appellant critiqued the Council for this. In rebuttal, the Council set out at the hearing that it was relying on the professional opinion of TfL officers; and that Council planning officers were not qualified to verify this information. This point was accepted by the Inspector.

7. Site Address: 35-39 Stoke Newington High Street, London N16 8DR

Application and Appeal Reference: 2007/2139 & APP/U5360/A/08/2072465

Inspectors Ruling: DISMISSED

Development Description & Type of Appeal: Written representations planning appeal against the Council's refusal to grant planning permission under Section 73 of the Town and Country Planning Act 1990 for the development of land without complying with the conditions subject to which a previous planning permission was granted; specifically Condition 15 of planning permission 2003/0584 which states: *The whole of the car parking accommodation hereby approved shall be provided before the occupation of any of the approved units, and retained permanently for the accommodation of vehicles for purposes incidental to the enjoyment of the residential accommodation.*

Key Policies/ Material Considerations: UDP Policies TR19, London Plan Policy 3C.22

Inspector Considerations and Key Issues: Whether there is a lack of demand for parking facilities from residents of the flats; and whether the proposal would result in the loss of three parking spaces intended for disabled persons; and finally, whether the use of the car parking area by local commercial and residential properties would create an intensification of the use of the access to the detriment of occupiers of the upstairs flats.

Brief Assessment: The appellants suggested that although the car parking spaces had been offered for lease to the tenants of the flats at commercially competitive rates none of the tenants took up the offer. However the Council pointed out that 15 of the tenants had obtained parking permits from the Council to park on local highways. The Inspector concluded that this suggested that the problem could have been the cost of the parking spaces rather than a lack of demand. He further considered that leasing the parking spaces to persons not living within the development would cause noise and disturbance to tenants. The Inspector stated that it would be contrary to the objective of local planning policies requiring that schemes take into account local circumstances when determining parking levels, but then to lower the standards at a later date. Accordingly the appeal was dismissed.

Implications: No new implications

8. Site Address: 133 Clissold Crescent, London N16 9AS

Application and Appeal Reference: 2007/2842 & APP/U5360/A/08/2078804

Inspectors Ruling: ALLOWED

Development Description & Type of Appeal: Written representations appeal against the Council's non-determination of a planning application for conversion of property into two self-contained flats (1 x one-bedroom and 1 x three-bedroom); erection of a single storey rear extension; alteration to rear window at first floor level to a french door with Juliette balcony and installation of two roof lights to rear roof.

Key Policies/ Material Considerations: UDP Policies HO12

Inspector Considerations and Key Issues: Whether the proposed developments would provide access to adequate outdoor amenity space

Brief Assessment: The Council's concern was that the occupants of the three-bedroom flat on the first floor should have access to the rear garden area and that the lack of such an amenity would have a detrimental impact upon living conditions. The Inspector considered that the rear garden

was small and would only have limited ability to provide a proper garden and adequate children's play space. However, due to the close proximity of Clissold Park, the Inspector considered that this would not create a significant detriment to living conditions. Accordingly the appeal was allowed.

Implications: No new implications

9. Site Address: 23 Cecilia Road, London E8 2EP

Application and Appeal Reference: 2006/0258/ENF & APP/U5360/C/08/2078074

Inspectors Ruling: DISMISSED

Development Description & Type of Appeal: Written representations enforcement appeal against an enforcement notice served by the Council in relation to the raising of hipped roof end of the property without planning permission.

Key Policies/ Material Considerations: UDP Policy EQ1

Inspector Considerations and Key Issues: The visual impact of raising the hipped roof on the street scene and the character and appearance of the St Marks Conservation Area.

Brief Assessment: The Inspector considered that given the symmetry of roof forms that used to exist at this prominent junction with gable ends to the north and shallow hips to the south, the steepened pitch roof at the appeal property appears seriously out of place and creates a discordant feature in the street scene. Since the enforcement notice was served the St Marks Conservation Area was adopted so the Inspector was bound to consider the impact of the altered roof on the character and appearance of the conservation area. He concluded that it would be harmful. Accordingly the enforcement notice was upheld and the appeal dismissed.

Implications: No new implications

10. Site Address: 26 Orsman Road, London N1 5QJ

Application and Appeal Reference: 2007/2437 & APP/U5360/A/08/2073199

Inspectors Ruling: ALLOWED

Development Description & Type of Appeal: Public inquiry appeal against the Council's refusal to grant planning permission for demolition of existing structures and erection of a five storey mixed use development to provide 690sm of Class B1 accommodation and 40 residential units.

Key Policies/ Material Considerations: UDP Policies EQ1, E2, E5; London Plan Policy 3B.4

Inspector Considerations and Key Issues: Whether the proposal would result in a net loss of employment floorspace and thereby undermine the protection of employment opportunities in the borough.

Brief Assessment: The site consists of a former haulage yard adjacent to the Regent's Canal with several garage buildings set around an open yard. The Council's argument was that there should be re-provision of the employment space equivalent to the entire existing site including the yard area. Turning to the applicable policy framework, the Inspector noted that the site was within the Kingsland Basin Defined Employment Area and that policies E2 and E5 of the UDP governing employment sites had not been saved. The Council presented the Inspector with the findings of the Atkins Employment Growth Options Study. This recommends that the appeal site be included within a Priority Employment Area. The Inspector noted that as the Atkins report does not constitute policy it carries little weight. The Council further outlined relevant policies of the emerging Local Development Framework including Core Strategy Preferred Policy Options 24 and 25. Again, as the PPO's were not adopted the Inspector could only give them limited weight. The Inspector also considered London Plan policy 3B.4 which sets out policy in relation to industrial locations. In conclusion the Inspector stated that there are no valid local policies which would answer the question of what exactly would constitute sufficient replacement employment floorspace. London Policy 3B.4 was simply a higher level policy that requires Boroughs to produce

their own local policies and did not therefore set detailed standards. As there was no policy that established whether open yards should be included within employment floor space calculations, the Inspector could not rule that the floorspace re-provision was inadequate. Indeed he concluded the scheme would greatly enhance and improve the current site, utilising a brown field site to generate employment and housing, including affordable housing. Accordingly the appeal was allowed subject to a number of conditions.

Costs: The appellant made an application for costs on the basis that the Council's reasons for refusal were imprecise and due to the Council withdrawing a number of the reasons for refusal at a late stage in the appeal proceedings. The application failed.

Implications: This decision highlights the fact that the Council currently has no adopted or saved policies which support the retention of employment floorspace on a 'no net loss' basis. The weight that could be given to the emerging LDF policies at the time of this inquiry was limited.

11. Site Address: Rear of 15-21 Arcola Street, London E8 2DJ

Application and Appeal Reference: 2007/1180 & APP/U5360/A/08/2067580

Inspectors Ruling: DISMISSED

Development Description & Type of Appeal: Hearing planning appeal against the Council's refusal of planning permission for the demolition of a single storey office building and the erection of a four storey live/work development.

Key Policies/ Material Considerations: UDP Policy EQ1; London Plan Policy 3B.1

Inspector Considerations and Key Issues: The effect of the proposal on employment floorspace provision in the borough; as well as the effect of the proposal on the living conditions of neighbours.

Brief Assessment: The Inspector noted that the site was not within a Defined Employment Area but that it was intended to become a Priority Employment Area as part of the proposed Core Strategy. The Inspector further noted that the findings of the Atkins Report regarding matters such as vacancy rates did not seem wholly in line with those of the London Office Policy Review. The Council pointed out the difficulties that can ensue from monitoring live/work units to ensure that the 'work' element of the use is not abandoned. The Inspector acknowledged that there can be difficulties with monitoring live/work units and noted that he had some concerns over the lack of division of the proposed floorspace of the units into living and working areas. However he considered that such concerns could be addressed via conditions, and provided such conditions were enforced the employment floorspace on the site would in fact increase. Accordingly the Inspector concluded that the proposal would not prejudice employment opportunities in the area. However at the hearing and subsequent site visit it was established that the proposed extension would be built just 1.5m from an adjoining building which had received planning permission but which had not yet been constructed. Two bedroom windows of the approved scheme would directly face the wall of the appeal building at a distance of just 1.5m. The Inspector concluded that the appeal scheme would have an unacceptable effect on these windows in terms of the living conditions of adjacent occupiers. On this basis the appeal was dismissed.

Costs: The appellant applied for costs on the basis that the Council had not properly considered the effects of the proposed development on the next door approved scheme. The Council's response was that the file had been lost and therefore it had not been possible to look at the plans to assess any impact. The application failed.

Implications: No new implications

12. Site Address: 16 Andre Street, London E8 2AA

Application and Appeal Reference: 2007/2583 & APP/U5360/A/08/2081939

Inspectors Ruling: DISMISSED

Development Description & Type of Appeal: Written representations planning appeal against the Council's refusal of retrospective planning permission for the continued use of the premises as a church.

Key Policies/ Material Considerations: UDP Policies EQ1, EQ40 and E3.

Inspector Considerations and Key Issues: The effect of the change of use on the supply of employment floorspace; and the implications for local resident's living conditions.

Brief Assessment: The Inspector accepted that the proposal would result in a loss of employment floor space as no marketing evidence was provided by the appellants to show that the property was no longer viable for employment uses. The Inspector did not accept the Council's argument that the proposal would have an adverse effect on residents along Amhurst Road due to noise and disturbance. He considered that conditions could be imposed to minimise any impact, such as restricted hours of use. However due to the loss of employment floorspace the appeal was dismissed.

Implications: No new implications

13. Site Address: 32 Shoreditch High Street, London E1 6PG

Application and Appeal Reference: 2008/1089 & APP/U5360/H/08/2083383

Inspectors Ruling: allowed

Development Description & Type of Appeal: Hearing advertisement appeal against the Council's refusal to grant express consent for an open weave mesh display.

Key Policies/ Material Considerations: Advertisement Regulations 2007

Inspector Considerations and Key Issues: The effect of the proposed display on the amenity of the area.

Brief Assessment: The Council noted its concern about the impact of the proposal on the adjacent Shoreditch High Street Conservation Area and the forecourt wall and gates of the Bishopsgate Goodsynd, which are listed buildings. The Inspector did not consider that the advertisement mesh would be harmful as it added visual interest and would only be in place for a limited period of one year. Accordingly the appeal was allowed.

Implications: The appellant was required to obtain separate permission from Transport for London for a structure over the highway. Earlier this year it emerged that TfL had rejected an application for the advertisement on the mesh. Accordingly in the end only plain mesh was erected.