

PLANNING APPEAL DECISIONS RECEIVED BETWEEN 01/06/2019 AND 30/06/2019

Council ref.	Appeal type	Address	Proposal	Decision type	Officer recommendation	Decision date	Appeal decision
18/00536/FUL	Refusal - Town Planning	Aigburth Mansions Mowll Street London SW9 0EP	Erection of a roof extension with 2 side dormer windows to provide 2 studio units with rear terraces and the installation of 2 front roof lights above flats no 35 and 36.	Delegated Decision	Refuse Permission	06.06.2019	Appeal Dismissed

The Inspector considered the main issues to be (i) whether the proposed development should give rise to a contribution towards the provision of affordable housing, (ii) the living conditions of future occupiers of the proposed two flats in relation to internal space standards, refuse storage and cycle parking facilities and (iii) the impact of the proposal upon the character and appearance of the area.

On the first issue, the Inspector saw the dispute as a disagreement over what policies should take precedent. Noting that the Lambeth Local Plan (LLP) is not in conformity with the NPPF, which states that *'provision of affordable housing should not be sought for residential developments that are not major developments'*, the Inspector attributed greater weight to the NPPF given that the amended document is more recent than the LLP and represents a national approach to affordable housing on small sites. As such, the Inspector found that an affordable housing contribution should not be sought on this site.

On the second issue, the Inspector considered the quality of the proposed living accommodation for future occupiers. He identified that the 2.1m floor to ceiling height would fail to comply with London Plan Policy 3.5 requirements for new flats to have a minimum floor to ceiling height of 2.3 metres for at least 75% of the gross internal area. This would result in poor standard of accommodation to the detriment of the space needs of future occupiers. The proposed refuse storage arrangements in the rear garden would be of limited size and inaccessible and not compliant with LLP Policy Q12 and the Waste and Recycling Storage and Collection Requirements (2013). The Inspector found the proposed cycle store in the basement within a communal access-way was limited in space and inaccessible and would not accord with London Plan requirements.

On the third issue, the Inspector considered the impact of the rear roof extensions on his site visit. Whilst it would add to the height of the existing flat roofed extension, this would not be particularly visible from public vantage points and would not be significantly intrusive for occupiers of adjoining properties. As such these proposed extensions would not adversely affect the character or appearance of the area. However, the Inspector considered that the proposed development would likely lead to bin storage, and possibly cycle storage, in public view where they would have a significant adverse impact upon the character and appearance of the area. He concluded that the proposals for bin and cycle storage were contrary to paragraph 130 of the NPPF which states that *"permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents"*.

The Inspector concluded that the proposed new flats would result in sub-standard living conditions for the occupants and went on to dismiss the appeal.

16/05125/LDCE	Certificate 4 Lawful Development Appeal	84 Gleneldon Road London SW16 2BE	Application for a Certificate of Lawful Development (Existing) with respect to the use of the property as eight self-contained flats.	Delegated Decision	Refuse Permission	10.06.2019	Appeal Dismissed
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The Inspector considered the main issue of this appeal to be whether the Council's decision to refuse to grant a lawful development certificate was well founded and specifically whether

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the use applied for was lawful through the passage of time. In this case, it was necessary for the appellant to demonstrate, on the balance of probability, that each of the 8 properties are flats and were occupied continuously for a period of 4 years up to the date of the planning application.

On this issue the Inspector noted that there has been a mix of occupation of some of the units on an assured short hold tenancy but also used as emergency accommodation. The Inspector noted that a condition of the Greater London (General Powers) Act 1973 (as amended) limits the number of nights to 90 in a calendar year that a unit could be used as temporary sleeping accommodation without a material change of use from use class C3. The Inspector then went onto assess the appellant's evidence submitted in support of each of the units and concluded that on the balance of probabilities, at the date of the application, the occupancy of 5 of the flats was lawfully within Use Class C3. However, a Certificate of Lawful Development could not be issued for 8 flats as sought by the appellant.

The Inspector went onto dismiss the appeal.

18/04681/FUL	Refusal - Town Planning	25 Clapham Common South Side London SW4 7AB	Change of use of premises from A1 to A1 (retail)/A3 (restaurant), and the erection of a ground level single storey infill extension.	Delegated Decision	Refuse Permission	18.06.2019	Appeal Dismissed
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The Inspector considered the main issue of this appeal to be the effect of the proposal on the vitality and viability of the district centre. The shop unit has a current lawful use that falls within Use Class A1 (shops) and is currently used for the sale of sushi related products for consumption off the premises. The proposals would result in internal alterations that would allow for the current use to continue but would also allow for customers to eat within the premises.

The Inspector considered the proposal against LLP Policies ED6 and PN5. Policy PN5 specifically supports the role of Clapham High Street as a district centre by safeguarding and encouraging retail and other town-centre uses. In order to achieve this objective it sets out a number of measures including that no more than 25 percent of original ground-floor units should be in food and drink uses (Classes A3/4/5) across the centre as a whole. The council put forward evidence that the proposed Class A3 use would increase the number of food and drink uses to 97 out of the 300 original ground floor units within Clapham district shopping area increasing the percentage to 32.33, which would further exceed the 25 percent threshold. Whilst acknowledging that some element of Class A1 use would be retained, the Inspector commented that there was clear potential for the proposal to result in a predominantly Class A3 use which would conflict with the specific requirements of LLP Policy PN5.

The Inspector noted that the proposal would satisfy other elements of LLP policy ED6 as it would retain an active frontage and would continue to be a recognised town centre use. Being in a secondary area, the loss of a Class A1 use would not harm the predominantly retail function of the primary shopping area. It would also continue to support the evening economy in accordance with LP policy ED7. On balance, as there would be clear conflict with policies PN5 and ED6, he concluded that the proposal would be at odds with the development plan as a whole.

Given the lack of certainty with regard to the future operation of a business with a joint Class A1/A3 use, the Inspector considered that the Council has addressed the proposal correctly by considering that there is a likelihood that the Class A1 element could lawfully substantially diminish and the Class A3 element become the defining characteristic of the use. In these circumstances, the Inspector agree that the proposal would conflict with the development plan when considered as a whole.

In light of this policy conflict the Inspector went on to dismiss the appeal.

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Council ref.	Appeal type	Address	Proposal	Decision type	Officer recommendation	Decision date	Appeal decision
18/04766/FUL	Refusal - Town Planning	25 Mordaunt Street London SW9 9RD	Erection of a dormer extension to the rear outrigger.	Delegated Decision	Refuse Permission	18.06.2019	Appeal Dismissed

The Inspector considered the main issue to be the effect of the proposal on the character and appearance of the appeal property and the surrounding area. The appeal property is a two-storey mid terrace property with a butterfly roof. At the rear of the property there is an original two-storey pitched roof addition paired with its neighbour at No. 27.

The Inspector considered that the proposed box dormer on top of the rear outrigger would be out of keeping with the host property's external appearance. It would undermine the uniformity of the rear elevations and, as a result of its very dominant feature, would disrupt the regularity of the traditional roof profile. The Inspector concluded that it would fail to respect local distinctiveness and conflict with the aims of the Building Alterations and Extensions SPD.

The Inspector went on to dismiss the appeal.

	Allowed	Dismissed	Mixed
Month total	0	4	0
Financial year to date	15	21	4