

## PLANNING APPEAL DECISIONS RECEIVED BETWEEN 01/03/2016 AND 31/03/2016

Council ref.	Appeal type	Address	Proposal	Decision type	Officer recommendation	Decision date	Appeal decision
15/00371/LDCE	Refusal - Town Planning	5 Cavendish Parade Clapham Common South Side London SW4 9DW	Application for a Certificate of Lawful Development (Proposed) with respect to the use of the property as 2 self-contained units with internal alterations.	Delegated Decision	Refuse Permission	18.03.2016	Appeal Dismissed
<p>The Inspector considered the main issue of the appeal to be whether the Council's decision to refuse to grant a LDC was well-founded.</p> <p>On this issue the Inspector concluded on the balance of probability the physical internal works that took place in order to provide living accommodation are lawful, as using Building Regulations certificates it appears that these works took place in 2009, comfortably over the required 4 year period for the works to be lawful.</p> <p>The Inspector noted however, it is also important to consider the continuity of use over the relevant four year period. In <i>Swale Borough Council v First Secretary of State &amp; Lee</i> [2005] EWCA Civ 1568, the Court held that there is a difference between an established dwellinghouse when an occupier does not have to be continuously or even regularly present in order for it to remain in use as a dwellinghouse, and where there is as yet no lawful use: in the latter case the use has to be affirmatively established over the four year period. The Inspector noted that regrettably for the appellant, the application falls down badly in this regard.</p> <p>Given the lack of evidence to show a continued use over the past four years, the Inspector dismissed the appeal.</p>							
15/02935/FUL	Refusal - Town Planning	30 Becmead Avenue London SW16 1UQ	Erection of a ground floor single storey rear/side infill extension, together with the installation of balustrade to existing rear first floor roof terrace.	Delegated Decision	Refuse Permission	21.03.2016	Appeal Allowed
<p>The Inspector considered the mains issues of this appeal to be the effect of the proposal on the character and appearance of 30 Becmead Avenue.</p> <p>The Inspector noted that the proposed extension would be a modest 10% increase in overall floor space. The first floor and dormer would still be visible and the stepping in of the extension from the boundaries ensured the extension would be a subordinate feature. There are no amenity impacts and as such the proposal would not have a harmful effect on the character and appearance of 30 Becmead Avenue. It was also noted that the proposal would not impact on the setting of the adjacent Garrads Road Conservation Area. The Inspector went on to allow the appeal.</p> <p>Further to the main appeal, an Application for Costs was also assessed. The Inspector noted that the Council had acted reasonably and that unreasonable behaviour and unnecessary or wasted cost had not been demonstrated. As such the Inspector refused the application for cost.</p>							
15/02021/LDCP	Refusal - Town Planning	130 - 134 Clapham High Street	Application for a certificate of lawfulness for the unrestricted trading operation (24 hours) use of	Delegated Decision	Refuse Permission	29.03.2016	Appeal Dismissed

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		London SW4 7UH	the McDonald's Restaurant at 130 - 134 Clapham High Street				
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The Inspector considered the main issues of this appeal to be whether the Councils decision to refuse to grant a LDC was well-founded.

The Inspector stated that the site has an extensive planning history and the relevant planning history to the appealed LDC application begins in 1990, when planning permission was granted, on appeal. The inspector set out the circumstances in which the 2001 and the 2007 permissions were sought and granted and interpreted the permission with the approach set out by Lodge Hodge of the Trump Judgement. The Inspector then stated that in reaching his decision regard was given to other case-law and decisions to which attention was drawn but to which I have not specifically referred. The inspector then concluded that the Councils refusal to grant a lawful development certificate was well founded and that the appeal should fail. The Inspector went on to dismiss the appeal.

15/00154/FUL	Refusal - Town Planning	48 Valleyfield Road London SW16 2HR	Change of use from (C3) dwellinghouse to HMO sui generis.	Delegated Decision	Refuse Permission	21.03.2016	Appeal Dismissed
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The Inspector considered the main issues of the appeal to be one, whether the change of use would have an unacceptable effect on the supply of smaller sized family houses in the Borough; two, the suitability of the HMO's location as regards access to public transport, and three, the adequacy of the living conditions for the occupiers.

On the first issue the Inspector considered that the Council's interpretation of Policy H6 as applying in this case is technically sound as well as being reasonable in other respects. Furthermore, he considered that (i) his assessment of the character of the area; (ii) the intensity of use allied to the standard of accommodation measured in terms of bedroom size and ratio of shared spaces to bedrooms, and (iii) the comments of local residents as to the unneighbourly impacts of the use as a HMO (and separate from when it was a care home) all support the refusal of permission. In essence, both the living conditions for occupiers of the building and the effect of the 8 bedroom HMO on the neighbouring dwellings and their occupiers are such as to result in a harmful change of use from a family dwelling. This loss would have an unacceptable effect on the supply of smaller sized family houses in the Borough.

On the second issue regarding access to public transport and services, the Inspector acknowledged the appellant's assessment on this, but noted that this information would have been factored in to the PTAL rating assessment, and as it is the authorised, more comprehensive and objective method of assessing accessibility, greater weight was afforded to the PTAL rating rather than the appellant's assessment. It was also considered that it would be unlikely that the relevant inputs into the PTAL assessment would have materially altered in the four or five years since it was prepared. The Inspector therefore agreed with the Council on this issue.

On the third issue regarding living standards, the Inspector agreed with the Council.

15/03372/FUL	Refusal - Town Planning	9 Hemberton Road London	Loft conversion involving a hip to gable roof extension incorporating a rear dormer, together	Delegated Decision	Refuse Permission	23.03.2016	Appeal Dismissed
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Council ref.	Appeal type	Address	Proposal	Decision type	Officer recommendation	Decision date	Appeal decision
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SW9 9LE with the installation of two front rooflights.

The Inspector considered the main issues of this appeal to be the effect on the character and appearance of the host building and the wider area and the effect on the living conditions of neighbouring occupiers.

On the first issue the Inspector found that the development would change the hipped roof to gable end, altering the proportions of the building. The hip to gable modification, accompanied by the flat roof element of the rear dormer, would unbalance the uniformity of these buildings. Due to its excessive size the development would be out of scale with the surrounding roof-scape and it would not accord with the aims of Policy Q5. Furthermore, the development would not relate positively to the remainder of the unaltered buildings in the terrace. In addition the dormer would extend across the width of the rear roof and would be constructed off the ridge line of the main roof. The dormer would not be set back from the eaves and the majority of the rear dormer would not be glazed. The proposed dormer would not positively respond to the original architecture of the host building as it would appear incongruous due to its excessive size and would fail to be subordinate.

On the second issue the Inspector found that the impact upon Nos 5 and 7 would be minor and would not unacceptably harm the living conditions of the occupiers of these properties.

In light of the above, the Inspector dismissed the appeal on the basis of the impact of the proposals on the character and appearance of the host building and the wider area.

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15/03025/FUL	Refusal - Town Planning	392 - 394 Coldharbour Lane London SW9 8LF	Continued use of mini-cab office (sui-generis) with additional permission sought to allow for walk-in customers.	Delegated Decision	Refuse Permission	17.03.2016	Appeal Allowed
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The appeal inspector considered that the main issues were the impact on the highway and neighbour amenity. The inspector considered that the town centre location would be suitable in principle for a minicab office; however there are no places for vehicles to stop without unacceptably harming the safe and efficient operation of the highway. It was noted that the Council had previously granted a temporary consent and in the absence of an adequate Transport Assessment, parking survey, or information on where waiting drivers would park, no case was established for granting a permanent consent. The inspector accepted the Council's consideration that it is rarely justifiable to grant a second temporary consent; however also stated that in this case the proposal would be different to the previous consent as it would include an increased proportion of walk-in business. The inspector considered that as the application did not demonstrate that it would be acceptable and the proposal was different to the original temporary consent, a second temporary (1 year) consent could be justified. The inspector went on to allow the appeal subject to a 12 month temporary time period and a condition requiring the submission (and LPA's approval) of a transport management plan within 2 months.

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15/04229/ADV	Condition -	Plot Site Of 285	Replacement of existing advertisement hoarding	Delegated	Grant Permission	30.03.2016	Appeal
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Council ref.	Appeal type	Address	Proposal	Decision type	Officer recommendation	Decision date	Appeal decision
	Advert	Streatham High Road London SW16 3NP	with an internally illuminated digital LED display advertisement hoarding	Decision			Allowed

The Inspector considered the main issues of this appeal to be whether or not the following disputed condition is reasonable and necessary in the interests of amenity or public safety:

Condition 7: Upon the expiry of this consent any advertisement(s) displayed and any site used for the display of advertisements hereby permitted shall not benefit from deemed consent under Schedule 3 Part 1 Class 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 unless an application for renewal of this consent has been approved prior to the expiry of this consent.

Reason: To comply with the requirements of Regulation 14 (5)(c) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 to ensure that the advertisement(s) is removed following the expiry of the consent.

In assessing these issues the inspect found that in the absence of any substantive evidence to demonstrate that deemed powers should be removed, and given the advice in Planning Practice Guidance and the powers available to the Council to take discontinuance action if appropriate, Condition 7 is neither reasonable nor necessary in the interests of amenity or public safety.

The appeal was allowed and express consent varied to remove the disputed condition.

15/03867/OUT	Refusal - Town Planning	West Norwood Lawn Tennis Club 128 Knight's Hill London SE27 0SR	Outline application for the erection of new mixed use building to provide replacement tennis club facilities on ground floor and basement with 34 market and affordable dwellings (following demolition of existing tennis club buildings). All matters reserved except access.	Delegated Decision	Refuse Permission	11.03.2016	Appeal Dismissed
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The Inspector considered the main issues of this appeal to be 1) the effect of the proposal on open space and recreational provision in the area, 2) the effect on the living conditions of future residents of Cheviot Gardens and the appeal development, in relation to mutual overlooking and 3) whether the proposed private amenity space would be of an acceptable quality

On the first issue the Inspector noted that although the amount of outdoor recreational space would be reduced as a result of the proposal, the existing sports facility was considered to be of little or no use to the local community and that the proposed replacement facility would represent good quality provision. The Inspector accepted the loss of outdoor space as being in conflict with Policy EN1 but was outweighed by the quality of the replacement facility.

On the second issue the Inspector noted that the distance of 17m between the appeal scheme and the neighbouring Cheviots Gardens scheme would result in intrusive overlooking.

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On the third issue the Inspector noted that amenity space running alongside the building's north side would be gloomy and uninviting due to its limited width, proximity of buildings and lack of convenient access. Although the application was in outline the scheme is for a considerable amount of development, and the illustrative plans do not reassure the Inspector that the amount of floorspace can be fitted onto the site in a manner that provides adequate amenity space. The Inspector went on to dismiss the appeal.

15/01134/FUL	Refusal - Town Planning	38 Dalberg Road London SW2 1AN	Conversion of the existing dwelling into 3 self contained flats comprising 2 x 1 bed flats and 1 x 2 beds flats.	Delegated Decision	Refuse Permission	22.03.2016	Appeal Dismissed
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The Inspector considered the main issues of this appeal to be 1) whether the change of use would have an unacceptable effect on the supply of family houses in the Borough, and 2) the adequacy of the living conditions for the occupiers as regards living space and cycle parking.

On the first issue the Inspector noted the appeal proposal is for two one bed flats that would certainly not be used for family accommodation, and even if the ground floor 2 bed flat were to be occupied by, say, two adults and a child, the nature of the accommodation would be quite different from its potential future use as a single family dwelling with six bedrooms. Whilst the inspector recognised that the conversion of one property may not be significant in itself, it was determined nonetheless to be an incremental erosion of the Councils objective to have mixed and balanced communities in the Borough as well as to retain the environmental quality of the area. It was therefore concluded that the appeal scheme would have an unacceptable effect on the supply of family houses in the Borough in harmful conflict with Policy H6 of the Lambeth Local Plan.

On the second issue the Inspector noted the Council had not demonstrated that the accommodation would fail to meet the required standards and be in conflict with Local Plan H5 and that cycle storage could be addressed by a condition. Accordingly, the adequacy of the living conditions for the occupiers as regards living space and cycle parking was not considered to be sufficient reason to dismiss the appeal. However, the Inspector concluded that this did not outweigh their finding on the first issue and accordingly dismissed the appeal.

15/02020/FUL	Refusal - Town Planning	Garage 11 Dryden Court, Renfrew Road London SE11	Application for a change of use from garage to a ground floor residential studio apartment with step free access.	Delegated Decision	Refuse Permission	21.03.2016	Appeal Dismissed
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The Inspector considered the main issues of this appeal to be a) the effect of the proposed development on the appearance of Dryden Court; and (b) whether the studio apartment would provide satisfactory living conditions for its future occupants in terms of internal living space, outlook, light levels, privacy, outdoor amenity space, waste storage and safety/security of access.

On the first issue, the Inspector noted that no other garages in Dryden Court have been converted and found that the proposed elevational changes involving the replacement of the existing garage doors with a window and door would "visually disrupt the cohesive appearance of this outside elevation of the complex", which is characterised by a sequence of garage and other solid doors along service roads with the complex of over 100 flats housed in 3 and 4 store blocks of accommodation with the garages located to the outside of the blocks at lower ground floor level. He concluded that the "appeal scheme would depart from the design concept of a pedestrian / vehicular segregated layout upon which the architecture of the

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overall development is based.

On the second issue the inspector found that on a range of factors the proposed development would not provide living conditions of an acceptable standard for future occupants including : the lack of dual aspect to the proposed dwelling; the poor outlook offered by a new window opening that would face onto a trafficked service road; the evidently limited access to sunlight because of overshadowing of the access way outside the proposed unit by the adjacent apartment blocks and the lower ground location of the unit and its orientation to the northwest; and the likelihood that the privacy of future occupiers could not be safeguarded by the proposed methods of screening.

The Inspector therefore dismissed the appeal on both issues.

15/04018/FUL	Refusal - Town Planning	194 Leigham Court Road London SW16 2RB	Demolition of the existing rear ground floor conservatory structure and the erection of a rear ground floor extension with glazed doors together with the excavation and enlargement of existing lower ground floor extension to include the installation of glazed doors on its rear elevation wall.	Delegated Decision	Refuse Permission	15.03.2016	Appeal Allowed
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The Inspector considered the main issues of this appeal to be 1) the effect of the proposal on the character and appearance of the area, and 2) the effect on the living conditions of the occupiers of the adjacent dwelling in respect of outlook and reduction of light.

On the 1st issue the Inspector noted Councils concern is that the almost total glazed form of the rear elevation of the scheme, together with the rain-screen cladding at the sides, would render the design inharmonious with the traditional features of the present dwelling. The inspector then noted that the National Planning Policy Framework says that planning decisions should not attempt to impose architectural styles or particular tastes and considered that the proposals would provide a cohesion of extension design in place of a present mismatch of styles. The inspector considered that the proposed extensions would be hidden from public viewpoints and also considered that a condition would ensure the shared boundary wall of the extension would be of acceptable appearance, and concluded on issue 1 that the proposal would not unacceptably harm the character and appearance of the area.

On the 2nd issue the Inspector noted that there is nothing under current policy to suggest that the onus of technical assessment on daylight and sunlight should rest with the applicant rather than the local planning authority and the Councils role in this regard is now set out in the supporting paragraph 10.5 under Local Plan Policy Q2. The Inspector noted that there is no precise requirements in the new SPD of height and or depth for rear extensions of the type proposed to suggest that the scheme would depart from this guidance and noted that there was no objections from no. 196. The inspector considered that there would be no impact on the outlook or create a sense of enclosure to no. 196 and allowed the appeal subject to conditions.

15/03685/FUL	Refusal - Town Planning	99 Knatchbull Road London	Removal of a dormer to the North roofslope and replacement with 2 dormers, erection of a new	Delegated Decision	Refuse Permission	03.03.2016	Appeal Allowed
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SE5 9QU  
 dormer to the East roofslope, installation of solar panels and 3 rooflights to existing roof top

The main issue of this appeal was the effect of the proposals on the character and appearance of the host building and the character and appearance of the Minet Estate Conservation Area. The Inspector agreed with the appellant that properties are not entirely uniform with a notable difference in the number of original dormers and although there is some symmetry the distance between them and the gradual curve in the road precludes any visual enhancement of the conservation area arising from them being perceived as a symmetrical pair. The Inspector held that although the case was finely balanced that the proposal would not have an adverse effect on the character and appearance of the host building or the conservation area.

15/03744/FUL	Refusal - Town Planning	1 Streatham Common South London SW16 3BT	Removal of existing garage and the erection of a 2 storey side extension to provide a self contained unit ancillary to the property together with the erection of a first floor rear extension onto existing balcony .	Delegated Decision	Refuse Permission	29.03.2016	Appeal Dismissed
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The Inspector considered the main issues of this appeal to be the effect of the proposed extensions upon the character and appearance of the host building and that of the surrounding area.

The Inspector noted that the design of the proposed side extension would not relate to the host building. The Inspector described Streatham Common as a significant heritage asset and stated the importance of views from the Common of the surrounding development. The loss of the existing gap as a result of the proposed side extension was considered by the Inspector to result in a minor adverse impact upon the heritage asset and as such would fail to preserve or enhance the Streatham Common Conservation Area.

The Inspector went on to dismiss the appeal.

15/06392/FUL	Refusal - Town Planning	26 Hydethorpe Road London SW12 0HY	Erection of a single storey ground floor rear/side infill extension.	Delegated Decision	Refuse Permission	29.03.2016	Appeal Allowed
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The Inspector considered the main issues of this appeal to be 1) the effect of the extension upon the character and appearance of the host building and that of the surrounding area. 2) the impact of the extension upon the living conditions of nearby residents.

On the 1st issue the Inspector noted proposed extension would maintain the overall depth and width of that for which planning permission has already been granted and only seeks to alter the approved roof design to a dual pitch roof, of which the ridge height would extend 3.6m. The inspector noted that there are a variety of alterations that have been made to these dwellings, including rear facing dormer windows, and concluded that the pitched roof design would not be at odds with the host building or the surrounding area as required by Policies Q5 and Q11 of the Local Plan and the Councils adopted SPD.

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On the 2nd issue the Inspector noted relationship of the subject property with both 24 and 28 Hydethorpe Road and given that the adjacent property at no. 24 also subject of an adjoining appeal seeks an identical extension to that proposed, the living conditions of existing and future occupiers of that property would not be harmed and the proposal would accord with the requirements of Policy Q2 of the Local Plan and allowed the appeal subject to conditions.

15/06391/FUL	Refusal - Town Planning	24 Hydethorpe Road London SW12 0HY	Erection of a single storey ground floor rear/side infill extension.	Delegated Decision	Refuse Permission	29.03.2016	Appeal Allowed
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The Inspector considered the main issues of this appeal to be 1) the effect of the extension upon the character and appearance of the host building and that of the surrounding area. 2) the impact of the extension upon the living conditions of nearby residents.

On the 1st issue the Inspector noted proposed extension would maintain the overall depth and width of that for which planning permission has already been granted and only seeks to alter the approved roof design to a dual pitch roof, of which the ridge height would extend 3.6m. The inspector noted that there are a variety of alterations that have been made to these dwellings, including rear facing dormer windows, and concluded that the pitched roof design would not be at odds with the host building or the surrounding area as required by Policies Q5 and Q11 of the Local Plan and the Councils adopted SPD.

On the 2nd issue the Inspector noted relationship of the subject property with both 24 and 28 Hydethorpe Road and given that the adjacent property at no. 26 also subject of an adjoining appeal seeks an identical extension to that proposed, the living conditions of existing and future occupiers of that property would not be harmed and the proposal would accord with the requirements of Policy Q2 of the Local Plan and allowed the appeal subject to conditions.

	Allowed	Dismissed	Mixed
Month total	7	8	0
Financial year to date	73	97	6