

PLANNING APPEALS

LIST OF APPEALS SUBMITTED BETWEEN 14 JUNE AND 12 JULY 2017

Planning Application / Enforcement Number	Inspectorate Ref.	Address	Description	Appeal Start Date
17/00255/FUL	APP/Z3635/D/17/3175986	99 School Road Ashford	Erection of rear dormer window. (Amended from Householder to Full Application).	20/06/2017
17/00288/HOU	APP/Z3635/D/17/3177081	11 Springfield Grove Sunbury On Thames	Erection of a first floor front extension	21/06/2017
16/00959/FUL	APP/Z3635/W/17/3176519	5 Sunbury Court Island Sunbury On Thames	Demolition of existing dwelling and erection of new 3 bed chalet style dwelling with first floor terrace and external staircase.	22/06/2017

APPEAL DECISIONS RECEIVED BETWEEN 14 JUNE AND 12 JULY 2017

<u>Site</u>	50 Hogarth Avenue, Ashford
<u>Planning Application no.</u>	16/00488/CPD
<u>Proposed Development:</u>	Certificate of lawfulness for the proposed development of loft alterations including a hip to gable alteration, the installation of a rear facing dormer, a single storey rear extension and a detached outbuilding.
<u>Reason for Refusal</u>	The proposed single storey detached outbuilding would not meet the requirements of Schedule 2 Part 1 Class E of the Town and Country Planning Act General Permitted Development) 2015, as the eaves of the proposed outbuilding would exceed 2.5 metres in height, and the size, use, layout and location of the outbuilding would not constitute

	development that would be regarded as incidental to the enjoyment of the dwelling house.
<u>Appeal Reference Number</u>	APP/Z3635/X/16/3164470
<u>Appeal Decision Date:</u>	14 June 2017
<u>Inspector's Decision</u>	CPD application is dismissed Application for costs by the appellant is dismissed
<u>Inspector's Comments</u>	<p>The Inspector noted the appeal related to a semi-detached house situated on the corner of Hogarth Avenue, near to the junction with Glenfield Road. It was noted the appellants' wanted to erect an outbuilding to the side of the dwelling that would have a pitched roof, and would be 10.6 metres in depth and 5.6 metres in width. The Inspector commented that the principle points at issue were the Council's determination that the use of the outbuilding would not be required for a purpose incidental to the enjoyment of the main dwelling house, and that the eaves height would exceed the limitations of Class E.</p> <p>With regard to whether the outbuilding would be incidental to the enjoyment of the dwelling, it was commented that Case Law confirmed that the key point was reasonableness. The inspector considered that the proposed lounge area provided primary living accommodation, and it could be argued the proposal for a toilet also fell within the scope of primary living accommodation. It was commented that the appellants' argument about the distance to the toilet within the main dwelling was undermined by the placing of the entrance to the outbuilding on the far side of the structure, creating a longer walk between buildings. As there would be a lounge and toilet within the outbuilding, the inspector found this use would not be incidental to the enjoyment of the dwelling.</p> <p>The Inspector commented that the onus of proof would be on the appellant to show on the balance of probabilities, that what is proposed is reasonably required for a purpose incidental to the use of the dwelling as a dwelling. It was noted that the existing dwelling was not unduly large and the outbuilding would be almost as wide as the dwelling. The Inspector also noted the Nationally Described Space Standards (2015) for a new single storey 1 bedroom/ 1 person flat (39sqm) or a 1 bedroom/2person flat (50sqm). He commented that while physical size is not in itself conclusive, it is nonetheless an important determinative in this case.</p> <p>The Inspector stated the appellants' have not demonstrated that space for an office, gm and additional lounge is reasonably required on such as scale in relation to the host dwelling.</p>

	<p>With regards to the eaves height, it was noted that the GDPO states that development is not permitted if the eaves height of the building would exceed 2.5 metres. It was stated that the appellants evidence as to whether this was the case, could have been clearer, and a figured eaves height would have been helpful. It was noted the onus was on the appellants to provide clear unambiguous evidence, and weight was given to the Council's findings that although minimal the eaves height limitation has been overstepped, and the outbuilding did not fall within the parameters of Class E of Part 1 Schedule 2 of the GDPO.</p> <p>The request for a reward of costs to the appellant against the Council was also refused as unreasonable behavior, resulting in unnecessary or wasted expense had not been demonstrated.</p>
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<u>Site</u>	104 Avondale Avenue, Staines-upon-Thames
<u>Planning Application no.:</u>	17/00130/HOU
<u>Proposed Development:</u>	Erection of an outbuilding (retrospective application).
<u>Reason for Refusal</u>	The outbuilding would, by reason of its height and close proximity to the common boundary, have an unacceptable and overbearing impact on, and would result in the loss of outlook to, the neighbouring residential properties, contrary to policy EN1 (b) of the Spelthorne Borough Local Plan, 2009.
<u>Appeal Reference Number</u>	APP/Z3635/D/17/3173712
<u>Appeal Decision Date:</u>	23/06/2017
<u>Inspector's Decision</u>	The appeal is allowed.
<u>Inspector's Comments</u>	<p>The Inspector considered that the main issue is the effect of the proposed development on the living conditions of the occupiers of 102 (a-d) and 106 Avondale Avenue and 47 and 49 Penton Avenue with particular regard to outlook and visual impact.</p> <p>The Inspector set out that various parts of the appeal building would be evident from most rear-facing windows and back gardens of the neighbouring residential properties but that these views would be largely</p>

	<p>screened by the boundary fence at 104 Avondale Avenue. Reasonably generous distances would also separate the appeal building from each of the neighbouring dwellings and the inspector considered that it would not be overbearing or result in an over-dominant impact on outlook for the occupiers of nos. 47, 49, 102 and 106. The boundary fences would also largely prevent overlooking from the openings of the new building and would not cause any significant loss of privacy.</p> <p>With regards to the concerns of an interested party that the appeal building could be used for residential purposes, the Inspector set out that if a residential use were sought planning permission would likely be required.</p> <p>The Inspector did not find a material conflict with Policy EN1 of the Council's Core Strategy and Policies Development Plan Document 2009 or the National Planning Policy Framework with regards to amenity and concluded that the appeal should be allowed.</p>
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<u>Site</u>	72 Charles Road, Laleham, Staines-upon-Thames
<u>Planning Application no.:</u>	16/01818/RVC
<u>Proposed Development:</u>	Variation of Condition 3 of PA ref 14/01091/HOU to reword the condition regarding the use of the existing outbuilding, to allow it to be used ancillary,(including a bedroom) to the domestic enjoyment of the main house by a family member.
<u>Reason for Refusal</u>	The use of the outbuilding for primary habitable purposes would result in an unacceptable level of noise and disturbance to neighbouring residential properties and would have a detrimental impact on their amenity and enjoyment of their houses and gardens. As such the proposal is considered to be contrary to policies EN1 and EN11 of the Core Strategy and Policies DPD 2009 and the Councils Supplementary Planning Document on the Design of New Residential Development (April 2011).
<u>Appeal Reference Number</u>	APP/Z3635/W/17/3169239
<u>Appeal Decision Date:</u>	29/06/2017
<u>Inspector's Decision</u>	The appeal is allowed. The application for costs against the Council is allowed.

<p><u>Inspector's Comments</u></p>	<p>The Inspector noted that the condition requires the building to remain incidental to the main dwelling and not contain any form of habitable accommodation, including as a separate unit of residential accommodation. The Inspector felt that whilst the condition may remove any ambiguity, he felt it was not necessary, which is one of the requirements for a condition as set out at paragraph 206 of the National Planning Policy Framework. The Inspector concluded that the removal of the condition would not cause harm to the living conditions of occupiers of neighbouring dwellings by reason of noise and disturbance, despite the Council's concerns that noise and disturbance from the building would be difficult to control under Environmental Health legislation as it would not be due to a specific noise nuisance.</p> <p>The Inspector also acknowledged that the building contains windows facing across the garden toward the house, which may result in some overlooking of neighbouring gardens and he understood concerns that the use of the building may have affected the health of a neighbouring occupier. However, he concluded that the building was incidental to the use of the existing dwelling and the removal of the condition would not materially affect the amount of overlooking and it would not result in a material increase in vehicular traffic and parking at the dwelling, such that it would not affect highway safety.</p> <p>With regards to the costs decision, the Inspector noted that the condition may have reduced ambiguity on the use of the building but concluded that it did not meet the test of necessity as required by the NPPF. As such, he considered that seeking to defend the condition following an application to use the building without compliance with that condition was unreasonable behaviour that has incurred unnecessary or wasted expense in the appeal process. Although he accepted that the Council sought to substantiate why the use of the building for primary living accommodation would be unacceptable and why issues of noise and disturbance could not be dealt with by the Council's Environmental Health Department, because the condition was unnecessary the award of costs was allowed.</p>
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<p><u>Site</u></p>	<p>Magna House, 18 - 32 London Road, Staines-upon-Thames</p>
<p><u>Planning Application no.:</u></p>	<p>17/00086/ADV</p>
<p><u>Proposed Development:</u></p>	<p>Retention of illuminated freestanding totem sign.</p>
<p><u>Reason for Refusal</u></p>	<p>Because of its size, height, prominent location and illumination the retention of the totem advertisement is considered to be detrimental to the appearance of the neighbouring building and to the visual amenity of the</p>

	surrounding area. For this reason, the proposal would not be in accordance with paragraph 67 of the National Planning Policy Framework dated March 2012.
<u>Appeal Reference Number</u>	APP/Z3635/Z/17/3175458
<u>Appeal Decision Date:</u>	07/07/2017
<u>Inspector's Decision</u>	The appeal is dismissed The application for costs by the appellant is dismissed
<u>Inspector's Comments</u>	<p>The Inspector considered that the main issue was the <i>“effect of the totem sign on the appearance of the appeal building and the amenity of the area”</i>. The Inspector accepted that the sign did not cause <i>“significant harm to the appearance of the appeal building”</i> but was concerned with the overall height and size of the sign within the streetscene. <i>He felt that the “sign, by virtue of its overall height, size, siting and illumination is at odds with the character of the locality where the commercial totem signs are predominantly understated and adversely harms the visual amenity of the locality”</i>.</p> <p>The appellant applied for costs against the Council because they felt the Council took an unreasonable view about the impact of the sign on the appeal building and surrounding area and other signs existed in the locality. However, the Officer's report considered these issues and the Inspector noted that it is important for each application to be considered on its merits. The Inspector stated that the reason for refusal was <i>“complete, precise, specific and relevant to the application and clearly states the National Planning Policy Framework as the appropriate supporting planning documents that the proposal would be in conflict with.”</i> He concluded that the Council had not acted unreasonably and <i>“unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated.”</i></p>