

PLANNING APPEALS

LIST OF APPEALS SUBMITTED BETWEEN 6 OCTOBER AND 2 NOVEMBER 2017

<u>Planning Application Number</u>	<u>Inspectorate Ref.</u>	<u>Address</u>	<u>Description</u>	<u>Appeal Start Date</u>
16/00323/E NF/A	APP/Z3635/C/ 17/3174752	Land and premises known as Gleneagles Farm, rear of Gleneagles Close, Stanwell	The material change of use of the land from agricultural land to a timber and fencing builder's merchants/business with associated storage of materials in connection with that use.	13/10/2017
17/00696/H OU	APP/Z3635/D/ 17/3181883	3 Corsair Road Stanwell	Erection of single storey side extension.	24/10/2017
17/00463/F UL	APP/Z3635/W/ 17/3182051	55 Cherry Orchard Staines-upon-Thames	Demolition of existing building, store and garage and the erection of a replacement three storey building comprising 4 no. 2 bed apartments, with car parking, amenity space and landscaping.	02/11/2017

APPEAL DECISIONS RECEIVED BETWEEN 6 OCTOBER AND 2 NOVEMBER 2017

Site	99 School Road, Ashford
Planning Application No.:	17/00255/FUL
Proposed Development:	Erection of rear dormer window. (Amended from Householder to Full Application).
Appeal Reference:	APP/Z3635/W/17/3175986

Appeal Decision Date:	09/10/2017
Inspector's Decision	The appeal is dismissed.
Reason for Refusal	The proposed rear facing dormer would by reason of size, scale and detailed design, have an unacceptable impact upon the character of the area and visual amenity. The dormer would be over-dominant and out of proportion within the roof form and would not be in adherence to the Council's guidance upon dormer design. The proposal would therefore be contrary to Policy EN1, of the Spelthorne Core Strategy and Policies Development Plan Document (February 2009) and the Design of Residential Extensions and New Residential Development Supplementary Planning Document (April 2011).
Inspector's Comments:	<p>The Inspector identified that the main issue was the effect of the development on the character of the area. It was noted the area surrounding the site is residential in character, with differing styles and designs of properties. It was further noted the main use of the building is a dwelling house, with a childminding business also operating from the property.</p> <p>The Inspector commented that the dormer would be located at the rear of the property, restricting views from public vantage points. The starting point for the determination of planning applications should be the Development Plan, which should be given significant weight, and in this case Policy EN1 is relevant. The Inspector also noted the Council's SPD on the Design of Residential Extensions and New Residential Development (2011), which gives guidance on design matters for dormers.</p> <p>It was commented that the dormer would be a substantial addition, and would significantly increase the massing of the building when viewed from the rear. Given the overall size and bulk of the dormer, it would not respect the original roof form and would be overly dominant and out of proportion with the host dwelling. The dormer would not therefore make a positive contribution to the street scene, as required by policy EN1.</p> <p>It was noted that there are several examples of dormers in the locality, some of which are more prominent than the appeal development. However, it was commented that most, if not all such dormers may not have required planning permission and would have utilised permitted development rights.</p> <p>The Inspector was mindful that had the dwelling not been used in part for a childminding business, the dormer would not require express planning permission, as it would have been permitted development. However, each application must be considered on its individual merits,</p>

and the possible use of permitted development rights (by ceasing the childminding business and returning the premises back to a dwelling house) does not outweigh the harm that the proposed development would have upon the character and appearance of the building, the surrounding area, or the conflict with the Development Plan.

It was commented however, that the roof lights proposed within the front elevation would not represent an unacceptable element of the development.

It was concluded that the dormer would lead to unacceptable harm, contrary to Policy EN1, and the appeal was dismissed.

Site	14 Birch Grove, Shepperton
Planning Application No.:	17/00020/HOU
Proposed Development:	Erection of a pitched roof over the existing single storey side extension to create additional habitable accommodation with in the roof.
Appeal Reference:	APP/Z3635/D/17/3178783
Appeal Decision Date:	11/10/2017
Inspector's Decision	The appeal is allowed
Reason for Refusal	The proposed development in terms of design, proportion and lack of symmetry is considered to unbalance the pair of semi-detached properties at nos. 12 and 14 Birch Grove and cause a terracing effect by reducing the gap between nos. 14 and 16 Birch Grove and does not make a positive contribution to the street scene. The proposal is therefore contrary to Policy EN1 Core Strategy and Policies Development Plan Document 2009 and the Supplementary Planning Document on the Design of Residential Extensions and New Residential Development 2011.
Inspector's Comments:	The Inspector considered the main issue to be the effect of the proposed development on the character and appearance of the local area. The Inspector considered that together with the proposed use of external materials to match those of the existing dwelling, the modest scale of the new addition and its sympathetic design, the appeal scheme would be in keeping with the character of the host building.

The Inspector considered that as the neighbouring property at No 16 Birch Grove has a hipped roof and is set back from the common boundary, a sufficient space would be retained around the completed dwelling to preserve the visual break between Nos 14 and 16 and would not lead to a terracing effect.

The Council considered that the new extension would further disrupt the symmetry and unbalance the semi-detached pair of buildings at Nos 12 and 14 Birch Grove. However, the Inspector considered did not consider that the existing buildings were symmetrical or balanced and that the proposed development would not disturb the uneven relationship between the two properties, look out of place or introduce visual disharmony within the street scene.

Site	Fresh Image Training, 13 - 15 High Street Staines-upon-Thames
Application No.:	16/01641/LBC
Proposed Development:	Listed Building Consent for the display of advertisement for gym (retrospective) on side wall
Appeal Reference:	APP/Z3635/Y/17/3173999
Appeal Decision Date:	16/10/2017
Inspector's Decision	The appeal is dismissed
Reason for Refusal	The signage by reason of its size, siting and design fails to preserve the character of this important Grade II* Listed Building within the Staines Conservation Area contrary to Policy EN5 of the Core Strategy and Policies DPD 2009.
Inspector's Comments:	<p>The Inspector considered that the main issue was whether the advertisement display preserves the special interest of the listed building, whether it preserves the character and appearance of the Staines Town Centre Conservation Area and whether, in terms of the National Planning Policy Framework, it conserves the significance of these designated heritage assets.</p> <p>He noted that the corner of the building on which the sign is located is set just in front of the building line of the adjacent building, Nos. 19 - 23 High Street, and is therefore very visible in views towards the appeal</p>

building from the east from the High Street. He stated that the sign would appear, '*... as a visually discordant and obtrusive element, therefore, the sign fails to preserve the special interest of the listed building and, by its prominence in views into this part of the conservation area, it also fails to preserve its character and appearance. As a result, it also causes harm to the significance of these designated heritage assets.*'

He went on to refer to paragraph 132 of the National Planning Policy Framework (the Framework) which is clear that great weight should be given to the conservation of designated heritage assets, and that the more important the asset, the greater the weight should be. He noted, however, that notwithstanding the high listing grade of the appeal building, it appeared that the harm would be less than substantial as such the harm should be weighed against the public benefits of the proposal. However, he concluded that no public benefits have been identified. As such as the benefits from the sign would be purely private, he felt that the sign is not justified in this respect.

The Inspector concluded that, '*...as well as conflicting with the provisions of the Framework, the sign would also fail to comply with policy EN5 of the Borough's Core Strategy and Policies DPD 2009, insofar as this is a material consideration in the determination of this listed building consent appeal. This policy seeks to resist changes to listed buildings which would not preserve the building or its setting.*'

Site	22 Thames Meadow, Shepperton
Enforcement Ref.:	15/00098/ENF
Breach:	The breach of planning control as alleged in the notice is without planning permission, the making of a material change of use of the land and mooring to a mixed use comprising (1) the continuous mooring of a boat for the purpose of permanent residential accommodation; (2) the stationing of a caravan on the land for the purpose of human habitation; and (3) storage purposes including but not limited to the storage of motor vehicles, building materials and other paraphernalia.
Appeal Reference:	APP/Z3635/C/16/3162163
Appeal Decision Date:	23/10/2018

Inspector's Decision	The appeal is dismissed and the enforcement notice is upheld with corrections and a variation.
Reason for serving the notice	The reason to serve the Enforcement Notice is in order to maintain the openness of Green Belt land and to avoid the risk of flooding to the occupants and accumulative flood risk elsewhere by the structures and materials on the site. The unauthorised residential use of the boat, land and mooring as it is at present is considered to represent 'inappropriate' development within the Green Belt and within an area liable to flood (1:20), this places the occupant at an unacceptable flood risk. The vehicles, white goods, building materials, and general debris would result in a reduction in flood storage capacity and impede the flow of flood water, as such it is contrary to policy LO1 of the Spelthorne Core Strategy and Policies Development Plan Document (2009).
Inspector's Comments:	<p>The Inspector considered that the breach of control had occurred and had done so within the last 10 years although in respect of the boat, he did not feel that there was evidence of permanent residential use of the mooring.</p> <p>On the assessment of whether the uses were acceptable, the Inspector felt that the main issues were:</p> <ul style="list-style-type: none"> • Whether the development constitutes inappropriate development in the Green Belt (GB); • The impact of the development on the openness of the GB; • Whether the occupiers of the development would be at risk from flooding and/or whether the development would increase the risk of flooding elsewhere; • If the development is inappropriate development in the GB, whether there are any other considerations which would clearly outweigh the harm by reason of inappropriateness and any other harm. If so, would this amount to the very special circumstances required to justify the development. <p>The Inspector considered that the development does constitute inappropriate development in the GB. The NPPF states that this is harmful by definition and that substantial weight should be given to that harm.</p> <p>On the openness issue, he stated that there "is a significant amount of material stored on this site and this, together with the stationing of a caravan, does reduce the openness of the GB as a matter of fact". This would be apparent from the River Thames and from the footpath and Walton Lane on the south side of the river.</p> <p>On the flooding, the Inspector commented that "<i>caravans intended for permanent residential use are classified as "highly vulnerable" development which should not be permitted in Zones 3a and 3b</i>". The appeal site is in zone 3b. He concluded that the "<i>risk to residential</i></p>

occupiers of any caravan on the appeal site from flooding would be unacceptable and the storage of material on the site could impede the movement of fast flowing water and increase the risk of flooding on other land, contrary to CS Policy LO1, the Framework and PPG.”

In terms of the very special circumstances, the Inspector felt there were none which would outweigh the overall harm and the development conflicts with saved LP Policy GB1, CS Policy LO1 and the NPPF.

Site	Lookrite, 13 Broadway, Kingston Road
Application No.:	16/00370/COU
Proposed Development:	<p>Appeal against hours of use condition (no.4) attached to the following planning permission:</p> <p>Change of use from hairdresser (class A1) and part of first floor flat (class C3) to a hot food takeaway (class A5) and external alterations including installation of extraction and ventilation equipment. (Amended plans and amended description). Appeal against hours of use condition (no.4).</p>
Appeal Reference:	APP/Z3635/W/17/3177681
Appeal Decision Date:	27/10/2017
Inspector's Decision	The appeal is allowed
Reason for Refusal	N/A – appeal against hours of use condition attached to the change of use (16/00370/COU).
Inspector's Comments:	<p>The approved hours for the use were:</p> <p>“That the premises are not used for the purposes hereby permitted except during the hours of 11.00am until 09.00pm on Monday to Saturday and except during the hours of 11.00am to 07.00pm on Sundays and Bank Holidays”.</p> <p>The appellant wanted this to be substituted with the following condition:</p> <p>“The premises shall only be used for the purposes hereby permitted between the following hours: 11:00 am – 11:00 pm Mondays – Saturdays, and 11:00 am – 10:30 pm Sundays and Bank Holidays.”</p>

The Inspector considered that the main issue was *“whether the disputed condition would be reasonable and necessary in the interests of protecting the living conditions of neighbouring occupiers.”*

The Inspector noted that other takeaway businesses in the vicinity are open until 10:30 or 11:00 on most nights, with slightly earlier closing on Sundays. Whilst the Council suggested the disputed condition is justified given the cumulative impact of the number of non-retail uses and their potential to generate noise, activity and disturbance, the Inspector was not *“convinced that any substantive harm to living conditions would arise from this use”*. He therefore allowed the amended hours.

Site	Stanwell Farm, Bedfont Road, Stanwell
Enforcement Ref.:	16/00311/ENF
Breach:	The making of a material change of use of the land comprising (1) The use of the site for airport car parking; (2) lawful garden land laid with hardstanding and incorporated into the existing yard; and (3) a boundary fence erected along the western end of the yard.
Appeal Reference:	APP/Z3635/C/17/3167818
Appeal Decision Date:	30/10/2017
Inspector's Decision	The appeal is dismissed and the enforcement notice is upheld with a correction and variations.
Reason for serving the notice	<p>The development represents inappropriate development within the Green Belt for which no very special circumstances are considered to exist. It results in the site having a more urban character, diminishes the openness of the Green Belt and conflicts with the purposes of including land within it. It is therefore contrary to saved policy GB1 of the Spelthorne Borough Local Plan and Section 9 (Protecting Green Belt Land) of the Government's National Policy Framework 2012.</p> <p>The use of the car park for airport car parking would encourage the use of the private car for journeys to and from Heathrow Airport. Which is highly accessible by alternative modes of transport, and would therefore be contrary to the sustainability aspirations of the National Planning Policy Framework 2012 and Policies SP7 and CC2 of the Spelthorne Borough Council Core Strategy and Policies DPD 2009.</p>

Inspector's Comments:	<p>The Inspector considered that the main issues were:</p> <p>Whether there is any additional harm in terms of:</p> <ul style="list-style-type: none"> • the impact on the openness of the GB and the purposes of including land within it; and/or • sustainable transport objectives; and • whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the development. <p>The Inspector concluded that the development “<i>constitutes inappropriate development in the GB and it causes additional harm in terms of loss of openness and encroachment on the countryside. It is not justified by very special circumstances and conflicts with saved Local Plan Policy GB1 and the Framework.</i>”</p> <p>In terms of the transport objection, the Planning Inspector concluded that the “<i>impact of this development on sustainable transport objectives is neutral. Whilst it does not encourage alternatives to car use, it might reduce the number of private car journeys</i>”. Therefore there was no conflict with the Local Plan or the NPPF.</p> <p>Nevertheless, despite the Inspector not finding any clear harm to sustainable transport objectives, it was considered to be unacceptable on green belt grounds.</p>
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FUTURE HEARING / INQUIRY DATES

Council Ref.	Type of Appeal	Site	Proposal	Case Officers	Date
16/00972 /FUL	Public Inquiry	Former Brooklands College, Church Road, Ashford	Planning application for the redevelopment of the site comprising the demolition of the existing buildings and the construction of new buildings between one and six storeys to accommodate 366 dwellings (use class C3), 619 sq. m (GIA) of flexible commercial floorspace (use classes A1, A2, A3, A4, A5, B1(a)) and 442 sq. m (GIA) of education floorspace (use class D1),	PT/KW	20-23 February 2018

Council Ref.	Type of Appeal	Site	Proposal	Case Officers	Date
			provision of public open space and associated car parking, cycle parking, access and related infrastructure and associated works.		
16/00323 /ENF/A	Public Inquiry	Land rear of Gleneagles Close, Stanwell	The material change of use of the land from agricultural land to a timber and fencing builder's merchants/business with associated storage of materials in connection with that use.	RJ	TBA