

PLANNING APPEALS

LIST OF APPEALS SUBMITTED BETWEEN 12 JULY 2018 AND 7 SEPTEMBER 2018

Planning Application Number	Inspectorate Ref.	Address	Description	Appeal Start Date
18/00025/HOU	APP/Z3635/D/18/3203974	Cockaigne Sandhills Meadow Shepperton	Conversion of roofspace at rear of property to form habitable accommodation to include a hip to gable extension and the installation of roof lights in the western roof slope.	06/08/18
18/00270/HOU	APP/Z3635/D/18/3205760	Oakford Park Road Shepperton	Erection of an extension to the eastern elevation of the property (following demolition of existing eastern element), including additional habitable accommodation in the roof space and a ground floor extension, the installation of an eastern facing dormer and southern gable (including balcony), a roof extension including a western facing dormer, a ground floor extension and balcony in the western elevation, and associated works including decking at the southern elevation.	06/08/18
17/01126/FUL	APP/Z3635/W/18/3198128	Beulah Penny Lane Shepperton	Change of use of garages to a mixed use of garages and holiday accommodation.	22/08/18
17/01837/FUL	APP/Z3635/W/18/3207714	83 Thames Side Staines-upon-Thames	Retrospective application for the retention of landing stage for boat mooring.	28/08/18

APPEAL DECISIONS RECEIVED BETWEEN 12 JULY 2018 AND 7 SEPTEMBER 2018

Site	24 Darby Crescent, Sunbury On Thames
Planning Application No.:	17/01861/HOU
Proposed Development:	Erection of a single storey side extension following removal of existing garage, a loft conversion and extension to create a habitable first floor, including the installation of two dormers within the front and rear elevations, a hip-to-gable alteration and the raising of the ridge, and alterations to openings in the northern flank elevation.
Reason for Refusal	As a result of siting location and proximity to the rear boundary, the proposed rear facing dormers would provide unacceptable opportunities for overlooking into rear window and door openings and the garden area of no.21 Ivy Close, and would have an unacceptable impact upon the residential occupiers of this dwelling. The proposal would therefore be contrary to the objectives of policy EN1, of the Spelthorne Core Strategy and Policies Development Plan Document (Feb 2009) and the Supplementary Planning Document on the Design of Residential Extensions and New Residential Development (April 2011).
Appeal Reference:	APP/Z3635/D/18/320289
Appeal Decision Date:	15/08/2018
Inspector's Decision	The appeal is dismissed
Inspector's Comments:	<p>The Inspector identified that the main issue was the effect of the proposal upon the living conditions neighbours. It was noted that the appeal property was a detached bungalow with a rear garden that is very restricted by local standards. A two storey detached property lies to the rear, which the Inspector commented has an average sized amenity area.</p> <p>The Inspector noted that the proposed dormers would be some 4-5 metres away from the rear boundary. It was considered that the dormer windows would provide very straightforward viewing towards the rear elevations of the property behind by reason of height, proximity to the boundary and the fact the face to face distance between the two homes would be about 16 metres. There would therefore be considerable opportunities for overlooking into both the rear garden and the</p>

	fenestration of rear facing rooms of this dwelling, which would lead to an unacceptable loss of privacy.
	It was therefore concluded that the appeal scheme was contrary to policy EN1, the Councils SPD on Design and the NPPF, and the appeal was dismissed.
	It was noted that the appellant had commented that vegetation had been removed from a neighboring property which may have assisted restricting views. However, the Inspector commented that they would have been very reluctant to rely upon vegetation with windows so close to the boundary, as this can die.

Site	49 Heathcroft Avenue, Sunbury-on-Thames
Planning Enforcement No.:	17/00136/ENF
Planning Breach	The unauthorised erection of a single storey detached dwelling.
Reasons for serving the Enforcement Notice	The single storey residential dwelling has an unacceptable impact upon the character of the area and detracts from the surrounding building pattern. The scheme introduces an incongruous feature within the surrounding landscape and represents an overdevelopment of the site. The one bedroom unit is considered to provide insufficient habitable accommodation leading to a harmful impact upon the occupiers of the unit. The scheme is therefore contrary to policy EN1 of the Core Strategy and Policies DPD 2009, and the Supplementary Planning Document on the Design of Residential Extensions and New Residential Development 2011.
Appeal Reference:	APP/Z3635/C/17/3191508
Appeal Decision Date:	21/08/2018
Inspector's Decision	The appeal is dismissed and the enforcement notice as corrected is upheld.
Inspector's Comments:	<u>Ground [A]</u> The Inspector identified two main issues on in relation to ground [a] of the appeal:

- The effect of the dwelling on the character and appearance of the area.
- Whether suitable living conditions had been provided for existing and future occupiers, having regard to internal floor space.

The Inspector noted the property is situated in an area which is largely comprised of two storey dwellings of a similar scale and style, arranged in rectilinear plots of similar substantial size. It was commented that the dwelling is of a very modest scale compared to those surrounding, and occupies a plot that is more limited in size. The Inspector also noted the dwelling was sited on a 'backland' plot at variance to the established building pattern. Whilst outbuildings were located at the rear of neighbouring properties, there was little to support the appellants assertion that there are a significant number of outbuildings in the locality being used as dwellings. Accordingly the Inspector considered that the dwelling is entirely at odds with the established building patterns and is an alien urbanizing feature in its surroundings. The dwelling was therefore found to have an unacceptable impact upon the character of the area and did not accord with policy EN1, and was also inconsistent with the NPPF.

In terms of living conditions, the Inspector noted that the dwelling was laid out as two reasonably modest sized rooms, with an en-suite shower and toilet as well as a kitchen/living area containing a sofa bed. The 31m² floor area was significantly below the 37m² minimum for a one bedroom, one person dwelling with a shower room, as set out within the Government's Technical Housing Standards (THS). Moreover, the bedroom size is above the minimum size capable of providing two bed spaces according to the THS, without any internal or external alterations. The Inspector therefore considered it appropriate to apply the 50m² minimum floor area requirement for a one bedroom, two person dwelling set out in the THS. The substantial shortfall in floor area reinforced the Inspector's view that the dwelling has a cramped and restricted living space, and therefore does not provide suitable living conditions for its existing and future occupiers. It was therefore considered that the dwelling did not accord with policy EN1 in this regard.

The Inspector concluded that the dwelling does not accord with the Development Plan and is inconsistent with the Framework. The appeal therefore failed on Ground [A].

Ground [B]

The appellant also appealed on ground [b] concerning whether the matters alleged in the enforcement notice had occurred as a matter of fact. The appellant stated that there had not been a breach of planning control as the building had been erected as a garage under permitted development legislation. The appellant further argued that the breach was a material change of use rather than the erection of a dwelling. The Inspector commented that no firm evidence had been submitted to support the claim that the dwelling was formed by conversion rather than

being erected with the express purpose of occupation as a dwelling. It was therefore concluded on the balance of probability that the operational development alleged in the enforcement notice had occurred as a matter of fact and ground (b) of the appeal failed.

Ground [C]

The appellant appealed on ground [c] that the matters alleged in the enforcement notice do not constitute a breach of planning control. The Inspector acknowledged that the Council had granted a Certificate of Lawful Development (LDC) at the site in December 2015. However, the building erected at the property is materially different in terms of its height and roof form to that of the garage granted in the LDC. Therefore even if the building had been erected as a garage, it could not have been permitted by Class E of the General Permitted Development Order. Furthermore express planning permission would have been required for a new dwelling and none was granted. The appeal therefore failed on ground [c].

Ground [F]

The Inspector noted within ground [f] the appellant suggested as an alternative to demolition of the structure, the structure could be retained as a garage. The Inspector commented that legislation does not provide for the grant of planning permission in the appeal, other than in circumstance where it would be for the whole or part of the matters alleged in the enforcement notice. As the erection of a garage does not compromise part of the alleged breach or planning control in the enforcement notice, it cannot form part of the deemed planning application arising from ground [a] of this appeal. The Inspector also noted that the Council has also not had the opportunity to consider the merits of the structure as a garage. As such this suggestion did not represent an obvious alternative to the requirements of the enforcement notice.

This ground concerns whether the steps required by the enforcement notice exceed what is necessary to remedy the breach of planning control. The Inspector noted that the enforcement notice was issued as a result of the impact on the character and appearance of the area and the living conditions for future occupiers. The notice requires the demolition of the dwelling. The appellants suggested alternative of retaining the structure as a garage was not possible in this appeal, and as such reducing the requirements of the enforcement notice for anything other than demolition would not fulfil the purpose of restoring the land to its condition before the breach took place. Consequently the appeal failed on ground [f].

Ground [G]

This ground concerns the time given to comply with the enforcement notice. The Council specified a period of 6 months. The Inspector noted that there was not firm evidence to suggest the occupiers would find it difficult to find suitable alternative accommodation or that a builder

could not be secured in this time period. The appeal therefore also failed on ground [g].

Site	49 Heathcroft Avenue, Sunbury-on-Thames
Planning Application No.:	17/01175/FUL
Proposed Development	Retention of single storey 1 no. 1 bedroom detached dwelling, including the erection of single storey rear extension, and associated parking and amenity space.
Reason for Refusal	<p>The dwelling and proposed extension by virtue of layout and plot size, has an unacceptable impact upon the character of the area, and detracts from the surrounding building pattern. The scheme introduces an incongruous feature within the surrounding landscape, and represents an over development of the site contrary to Policy EN1 of the Spelthorne Development Plan Core Strategy and Policies Development Plan Document (February 2009), the Design of Residential Extensions and New Residential Development Supplementary Planning Document (April 2011).</p> <p>The proposed one bed unit is considered to provide insufficient habitable accommodation leading to a harmful impact upon the occupiers of the unit, contrary to Policy EN1 of the Spelthorne Development Plan Core Strategy and Policies Development Plan Document (February 2009), the Design of Residential Extensions and New Residential Development Supplementary Planning Document (April 2011) and the Department of Communities and Local Government Technical Housing Standard - nationally described space standard (March 2015).</p>
Appeal Reference:	APP/Z3635/W/18/3193139
Appeal Decision Date:	21/08/2018
Inspector's Decision	The appeal is dismissed
Inspector's Comments:	<p>This application sought planning permission for the retention of the dwelling subject to the enforcement notice, as well as for the erection of an extension to the rear of the dwelling.</p> <p>As with the enforcement appeal, the Inspector identified two main issues:</p> <ul style="list-style-type: none">- The effect of the dwelling on the character and appearance of the area.

- Whether suitable living conditions had been provided for existing and future occupiers having regard to internal floor space.

The Inspector commented that the rear extension proposed to the dwelling would not in any way address the unacceptable harm to the character and appearance of the area caused by the dwelling. Consequently the proposal failed to accord with Policy EN1.

The proposed extension would increase the internal floor area of the dwelling to around 38 m² and would allow for a slightly enlarged living room. However, the Inspector commented that the proposal would not result in a significantly less cramped and congested living area.

It was noted the extended dwelling would exceed the Technical Housing Standards minimum floor area requirement for a one bedroom, one person dwelling with a shower room. However, it would fall short of the THS 50 m² minimum recommendation for a one bedroom, two person dwelling due to the size of the bedroom. The significant shortfall in floor area of the extended dwelling compared to the THS requirement reinforced the Inspector's view that the extended dwelling would have a cramped and restricted living space and would not provide suitable living conditions. It was therefore concluded that the proposal would not accord with the development framework and the appeal was dismissed.

