

Planning Committee

8 January 2020



Planning Appeals

List of Appeals Submitted between 28 November and 18 December 2019

Planning Application / Enforcement Number	Inspectorate Ref.	Address	Description	Appeal Start Date
19/00889/FUL	APP/Z3635/W/19/3240130	22 Church Road Ashford TW15 2UY	Erection of two storey rear extension to provide additional office accommodation at ground floor level, a second floor extension and conversion of first floor to form 2 no. 2 bedroom flats.	0612/19

Appeal Decisions Received 28 November and 18 December 2019

Site	22 Willowbrook, Stanwell
Application Nos.:	18/00227/CLD and 18/00675/CPD
Enforcement Notice:	19/00029/ENF
Proposed Development:	<p>Serving of Enforcement Notices for the unauthorised siting of two metal storage containers on the land without the benefit of planning permission.</p> <p>There were also linked appeal cases, namely:</p> <p>18/00227/CLD - Building works to erect a single story garage on the land to the rear of 22 Willowbrook Road, Stanwell, TW19 7AB.</p>

	18/00675/CPD - Single Storey garage being constructed on the current garden. The garage is fully compliant with the requirements of permitted development.
Reason for Refusal	Neither of these applications were made valid as the application site was subject to enforcement action, including the serving of an enforcement notice and subsequent prosecution following a failure to comply with the terms of the notice.
Appeal References:	APP/Z3635/C/19/3225501 APP/Z3635/C/19/3225502 APP/Z3635/X/18/3218294 App/Z3635/X/18/3217627
Appeal Decision Date:	02/12/19
Inspector's Decision	All four appeals were dismissed
Inspector's Comments:	<p>Ground (c) – where the appellant's believed that the matters raised in the enforcement notice do not constitute a breach of planning control.</p> <p>The Inspector concluded that the outbuilding constituted development and required planning permission. The appellant believed that the structure could be built under permitted development. However the Inspector considered that at the time the notice was issued, the structure did not comply with the requirements of the General Permitted Development Order (GPDO) and therefore the appeal under ground (c) should fail.</p> <p>Ground (f) – where the steps required by the Enforcement Notice to remedy the breach of planning control are excessive.</p> <p>The appellants argued that the notice should be varied to allow the structure to be altered to comply with the requirements of the GDPO. However the Inspector considered that under the GDPO it is not possible for a development to become permitted development retrospectively. Therefore the entire structure would have to be removed before any new construction could commence that would benefit from the GDPO. Therefore, the Inspector concluded that the requirements of the Notice did not exceed what was necessary to remedy the breach of planning control and that the appeal on ground (f) failed.</p> <p>Having dismissed the two enforcement appeals considered alongside these two appeals, the Inspector considered that operations may be lawful if they do not contravene any requirements of any enforcement notice then in force. However, in this instance, both applications were submitted when the building was in contravention of the previous</p>

	enforcement notice which was in force at the relevant dates the applications were submitted. Therefore the Inspector concluded that the existing and proposed works would not be lawful and therefore the two appeals must fail.
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Site	6 St Pinnock Avenue Staines-upon-Thames TW18 2HX
Planning Application No.:	19/00528/HOU
Proposed Development:	Erection of a single storey side extension to incorporate a garage.
Reasons for Refusal	<p>The proposal by reason of its location and sitting, would constitute inappropriate development in the Green Belt for which no very special circumstances have been demonstrated. It will diminish the openness of the Green Belt and conflict with the purposes of including land within it. The proposal would therefore be contrary to the NPPF (February 2019), Saved Policy GB1 and Policy EN2 of the Spelthorne Core Strategy and Policies Development Plan Document (February 2009).</p> <p>The proposal would result in open Green Belt land being incorporated within the curtilage of the existing residential dwelling. This land does not presently benefit from planning permission to be part of the residential curtilage and its incorporation would result in significant harm to the openness of the Green Belt contrary to the objectives of Saved Policy GB1 of the Spelthorne Core Strategy and Policies Development Plan Document (February 2009) and the NPPF 2019.</p>
Appeal Reference:	APP/Z3635/D/19/3234253
Appeal Decision Date:	26/11/19
Inspector's Decision	The appeal is dismissed
Inspector's Comments:	The Planning Inspector noted that the original house including its existing two storey side and single storey rear extensions were not located within Green Belt, whereas the red-line of the appeal site included Green Belt land. Since the Framework does not make reference to similar scenarios, the Planning Inspector felt that the protection aims of the Green Belt policy were clear and as such he

	<p>considered the whole site as a whole when assessing whether the proposal constitutes inappropriate development. The Inspector considered that due to the size of the previous alterations, the proposed garage extension would result in disproportionate addition over and above the size of the original building and as such would represent inappropriate development within the Green Belt.</p> <p>In terms of openness, the Planning Inspector took a view that the proposal would introduce an extension into an area that was currently absent from any structure and as a consequence he considered that the proposal would harm the openness of the Green Belt. The Inspector made reference to the Council's 'Green Belt Assessment (Stage 1) Report: Methodology and Assessment' which forms part of the local plan review and which was referred to the Inspector by the appellant. The inspector noted that the report identifies the area of Green Belt in which the appeal site is located as being 'weak' in relation to the purposes of Green Belt land. However, regardless of this conclusion, the Green Belt boundary had not been altered and consequently, the proposal had to be assessed on this basis and the Inspector attached very little weight to the findings of this report.</p> <p>The Inspector concluded that the harm to the Green Belt would outweigh the other considerations. Consequently, the very special circumstances necessary to justify the proposal do not exist and therefore the proposal fails to accord with the Green Belt protection aims of the NPPF.</p>
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Site	The Anchor Hotel Church Square Shepperton TW17 9JY
Planning Application No.:	19/00474/FUL
Proposed Development:	The partial demolition of the existing hotel with the retention of the front facade. Erection of 3 no. 4 bedroom townhouses 2 no. attached 2 bedroom cottages and 2 no. 2 bedroom apartments with associated landscaping and cobbled parking court.
Reasons for Refusal	The site is located within a dry island surrounded by Flood Zone 3a and 3b, and therefore there is no dry means of escape that avoids the higher risk flood areas and leads to an area entirely outside the flood plain. The creation of new dwellings, which is a 'more vulnerable use' in this area, would be inappropriate and will place more people at risk from flooding. The proposal is therefore contrary to Policy LO1 of the Core Strategy

	<p>and Policies DPD 2009 and the Supplementary Planning Document on Flooding July 2012.</p> <p>The proposed flatted development by reason of its design and siting, close to the footpath of Church Road, forward of the main front building line of the properties to the north, along with the lack of useable amenity space and the position of car parking, in close proximity to the rear of the building, results in a cramped and incongruous form of development. This would be out of character with the surrounding area, would appear at odds with the existing form of spacious development and will be visually obtrusive in the Shepperton Conservation Area. This would also result in a poor standard of amenity for future occupants of the flats. The proposal will be contrary to Policies EN1 and EN6 of the Core Strategy and Policies DPD 2009 and the Supplementary Planning Document on Design 2011.</p>
Appeal Reference:	APP/Z3635/W/19/3233754
Appeal Decision Date:	16/12/19
Inspector's Decision	The appeal is dismissed
Inspector's Comments:	<p>The Inspector noted that the site is within Flood Zone 1 with a low probability of flooding but is located on a 'dry island' which is surrounded by land within Flood Zone 3a and would become cut off from the surrounding area by flood waters. The Council's Flooding SPD states that dry islands should be treated the same as for the level of flood risk in the area surrounding them, regardless of their size.</p> <p>The Inspector noted that para 163 of the NPPF states development should only be allowed in areas at risk of flooding where it can be demonstrated that any residual risk can be safely managed and safe access and escape routes are included where appropriate, as part of an agreed emergency plan.</p> <p>The appellant had submitted an Outline Flood Risk Management Plan and in response, the Inspector commented that , <i>'...while it may be possible to organise the evacuation of residents from the proposed development during this time, this is assuming people are prepared and ready to leave almost immediately on the river flooding and a warning being issued..'</i>... Moreover, vulnerable residents may need more time or assistance from others to evacuate their property which would add further pressure on resources at a time of emergency when they are likely to be stretched..'</p> <p>The Inspector also commented that the Planning Practice Guidance makes clear that even low levels of flooding can pose a risk to people in</p>

situ (because of, for example, the presence of unseen hazards and contaminants in floodwater, or the risk that people remaining may require medical attention). A similar finding is also set out within the Council's Flooding SPD, paragraph 4.37, which states that the Council does not accept that walking through flood water can be safe because where it is fast moving water, even of shallow depth, it can be dangerous.

The Inspector noted that the existing hotel use and the proposed use are both classified as 'more vulnerable' uses and that the hotel incorporates a residential flat and, if all guest rooms were full, could have more residents on site than the proposed development. However she also commented that during a period of flooding, the hotel could shut before the onset of a flood avoiding the risk and local residents could make a choice as to whether to leave their homes or not. She concluded that. *'...in this regard, I consider the proposed use would lead to a greater risk of harm to people from flooding.'*

The Inspector noted that she is not satisfied the proposed evacuation plan would be sufficient as a safe means of escape and therefore that it could ensure the safety of residents concluded that, *'...the appeal site would not be suitable for housing with particular regard to flood risk and the provision of a safe means of access and escape during flooding. It would therefore conflict with Policy LO1 of the CSPDPD and the Flooding SPD. These seek to reduce flood risk and its harmful effects on people and to ensure that there is a safe means of escape.'*

The Inspector noted that Shepperton Conservation Area (CA) retains the character of a traditional village and that the Church Road frontage would be positioned slightly forward of the line of the detached houses along the east with the apartment block bringing the building significantly closer to the pavement thereby appearing very prominent. She noted that the *'...proximity and the angle of the proposed terrace to the pavement would result in an awkward relationship between the building and the public highway, narrowing what is currently a more spacious arrangement. This would make it appear incongruous in the context of the pattern of development on the eastern side of Church Road just outside the Conservation Area (CA).'* She concluded that it would harm the character and appearance of the CA.

The Inspector considered that retaining the facade onto Church Square would help to preserve the setting of the listed buildings also fronting the square, as required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special regard must be given to the desirability of preserving a listed building or its setting. Furthermore, with a reduction in the bulk of the rear part of the hotel building adjacent to Erasmus House and opposite the listed terrace of cottages, the setting of these listed buildings would be enhanced.

However, she noted that, '*...I have paid special attention to desirability of preserving or enhancing the character or appearance of CA, ... however the unsympathetic layout of the development along Church Road would detract from the street scene which would fail to preserve or enhance the character and appearance of the CA. The harm would be less than substantial and therefore in accordance with the requirement of paragraph 196 of the Framework, this harm should be weighed against the public benefits of the proposal.*'

The Inspector considered that whilst there are public benefits of the scheme, they would not be sufficient to outweigh the harm to the character and appearance of the Shepperton CA and that the proposed development would not preserve or enhance the character and appearance of the Shepperton CA.

Finally, the Inspector considered that the proposed flats would have an irregular shaped rear garden area of which would be small and an awkward shape, behind the parking area for the proposed development. She noted that this would not provide a spacious area for sitting out in private or performing a range of outdoor household tasks, and would feel cramped being unsatisfactory garden space. This, she felt, would significantly harm the living conditions of future occupants of the two-bedroom apartments, with particular regard to the provision of private outdoor garden space.

Future Hearing / Inquiry Dates

Council Refs.	Type of Appeal	Site	Proposal	Case Officers	Date
19/00518/ FUL and 19/00778/ FUL	Hearing	Rear 37-51 Hithermoor Road Stanwell Moor	Change of use of site from former nursery site to fencing manufacture and supply business. Demolition of existing glasshouses, polytunnels and concrete building and erection of a new workshop building and a 3 metre high acoustic fence. Retention of existing hardstanding and provision of new hardstanding to accommodate car parking and building storage area. Retention of existing fencing and gates.	PT	17/03/19