

Appendix 2 – Examples of Publications

MIXED USE DEVELOPMENT



LONDON BOROUGH OF SOUTHWARK

Work prevented by site archaeology

An enforcement notice directed against excavation and foundation works next to the River Thames in south London has been upheld because it would harm the area's archaeology.

The appellant aimed to create a coffee and tea museum together with small flats. He admitted that the works alleged in the notice had been started without planning permission, but maintained that the basement and ground-floor box needed to be sufficiently advanced to allow accurate site measurements to be obtained.

An archaeological watching brief had been set up but this had done little more than identify the presence of remains on the site. However, the evidence pointed to the area's archaeological interest, especially because the sandy islands on the river's south bank were recognised as having been the location of Roman and medieval settlement.

The inspector asserted that there could be no cogent justification to retain the works without a proper archaeological assessment of the ground below the concrete substructure. He ruled out the appellant's suggestion that holes could be punched through the concrete slab to allow archaeological investigation, finding that this would only allow limited inspection.

However, he held that complete removal of all the concrete would be excessive because it could jeopardise the stability of an adjoining listed building and other structures and disturb the occupants of nearby premises. He considered that it should be possible to devise a scheme that would allow significant areas of the site to be examined and assessed. In the absence of such a scheme, however, he ruled that the appeal must fail.

DCS Number 100-061-735

Inspector Roger Dyer; Inquiry

MIXED USE DEVELOPMENT



LONDON BOROUGH OF SOUTHWARK

Courtyard shutters permission denied

An inspector has upheld an enforcement notice against roller shutters, brackets and guides on a mixed scheme in south London, rejecting claims that they were *de minimis* because they faced an internal courtyard.

The inspector noted that section 55(2)(a) of the Town and Country Planning Act 1971 as amended excludes certain operations from the definition of development, including any works that do not materially affect the external appearance of a building. He cited *Burroughs Day v Bristol City Council [1996]*, where the High Court held that the external appearance rather than the exterior of the building must be affected and that the alteration must be one that is visible from a number of vantage points.

The inspector considered that the installations were quite prominent. Two of them could be seen in oblique views from the street and all could be seen from flats and commercial units opposite the premises. He judged that the shutters constituted operational development that harmed the outlook from nearby flats and failed to preserve or enhance the conservation area.

DCS Number 100-060-015

Inspector Stephen Brown; Hearing

Southwark Council wins planning enforcement case in Camberwell

Southwark Council recently won an enforcement case against the owner of 115 Camberwell Road (SE5 0HB) for building and refusing to take down an illegal extension on the side of his house.

The owner breached planning controls by constructing a raised timber side extension on the northern side of the building, which sat over council-owned land.

The owner repeatedly ignored notices to remove the unauthorised side extension. After receiving an enforcement notice, the owner appealed to the Planning Inspector. The Inspector found in favour of the council, which then removed the extension in late December.

Cllr Paul Noblet, Executive member for Regeneration, said:

"Most of our beautiful Victorian terraces in the borough are the source of pride for their owners, and they take every care in keeping the exterior tidy.

"We don't know why the owner of 115 Camberwell Road thought it was alright to build a flimsy timber extension on the side of the terrace. However, this structure was not only highly visible to all and a complete eyesore, but more importantly it had no planning approval and sat over land that didn't belong to the owner.

"No one should ignore the Government's planning laws. They are there for a reason and you must expect us to take action if you flout them."

The council is now pursuing the owner for payment for the work done.

DC Casebook: Housing: Conversion - Flats found to fail floor space standards

Housing conversion

Planning, 23 October 2009

An enforcement notice directed against conversion of a house in south London into five flats has been upheld after the living accommodation was judged to be inadequate.

The council had no objection in principle to the change of use. However, it argued that the development had resulted in an over-intensive use of the building and failed to comply with a supplementary planning document specifying minimum areas for bedrooms and other rooms. The appellant claimed that consents granted for additions would allow the flats to be enlarged.

The inspector predicted that the bedrooms were likely to take on the role of bed-sitting rooms, given the very small areas set aside for the kitchens and lounges. He agreed that there were too many residential units in the property and held that extensions should facilitate a more generous allocation of floor space per resident. In upholding the notice, he rejected the nine-month compliance period requested by the appellant, finding that six months would suffice to allow outstanding leases to expire.

DCS Number 100-064-729

Inspector Ian Currie; Written representations