



## Appeal Decision Report

12<sup>th</sup> November 2009 - 09<sup>th</sup> December 2009

WINDSOR

**Appeal Ref.:** 08/60183/REF **Planning Ref.:** 08/02126/VAR **Plns Ref.:** APP/T0355/A/08/2091645

**Appellant:** Mr Maqsood Ahmad **c/o Agent:** Direct Planning Limited Riverbank House 95 - 97 High Street St Mary Cray Orpington BR 3NH

**Decision Type:** Delegated **Officer Recommendation:** Refuse

**Description :** Relaxation of Condition 2 of Planning Permission 97/75830 to allow the serving of food and non-alcoholic beverages until 3.00am

**Location:** **Pizza Palace 16 Oxford Road East Windsor SL4 1EF**

**Appeal Decision:** Part Allowed **Decision Date:** 30 November 2009

**Main Issue:** The appellants sought permission to open until 3am 7 days per week whereas the condition stated that the takeaway should close at 11pm. There were 2 reasons for refusal, one being the impact on the amenities of neighbouring properties and the other being the impact on the conservation area. On the secondary issue, the Inspector considered that, due to the location of the takeaway, even if the opening hours of Pizza Palace were extended, this would not detract from the special character of the conservation area as a whole. However, on the primary issue, the Inspector considered that on the basis of all the evidence presented, if planning permission to extend the hours until 3am is refused, there will be an improvement in the overall situation and a reduction in the level of noise and disturbance to residents. On this basis the Inspector decided to relax the condition to a limited extent only so that it now reads as follows: "The premises shall not be open for the serving of customers outside the following hours: 0900 to 2300 on Mondays, Tuesdays, Wednesdays, Thursdays and Sundays; and 0900 to 2400 (midnight) on Fridays, Saturdays, Bank Holidays and New Year's Eve. In each case customers shall be permitted to remain on the premises for up to 15 minutes after these times."



**Appeal Ref.:** 09/60081/REF **Planning Ref.:** 09/00636/FULL **Plns Ref.:** APP/T0355/A/09/2107248  
**Appellant:** Mr A Chandler **c/o Agent:** Selsdon Consultancy 24 -28 St Leonards Road Windsor SL4 3BB  
**Decision Type:** Delegated **Officer Recommendation:** Refuse  
**Description :** Chalet bungalow and garage  
**Location:** **14 Park Avenue Wraysbury Staines TW19 5ET**  
**Appeal Decision:** Dismissed **Decision Date:** 4 December 2009

**Main Issue:** The Inspector dismissed the appeal on flood risk grounds (as contrary to Policy F1 of the Local Plan and PPS25), although the Inspector considered that insufficient evidence had been put forward by the Council to show that the tests in Circular 05/2005 on the requirement for developer contributions had been met. The Inspector considered that the Sequential Test in PPS25 would not be met. Moreover, even had the Sequential Test been met the proposed development would still be unacceptable as PPS25 identifies housing as development that should not be permitted in Flood Zone 3B. Even if the whole of the site was in Flood Zone 3A, and thus at a slightly less risk of flooding, an Exception Test, as set out in PPS25, would also need to be passed following the Sequential Test. In the Inspector's view that too would be failed. Whilst the Inspector appreciated the benefits of new housing and the need for new housing in the Borough, the Inspector did not consider that the proposed single house would provide the wider sustainability benefits to the community required by the Exception Test to outweigh flood risk. Nor, despite all the information submitted by the appellant had a Flood Risk Assessment been clearly provided to the minimum requirement set out in PPS25 and showing that the development would be safe, without increasing flood risk elsewhere and, where possible, reducing flood risk overall. Much of the appellant's case was based on allegations that the Council had taken a different approach on other residential developments in the area and at times has overturned its Officer's advice. However, the Green Man and Feathers developments referred to were considered to be different from the proposal before the Inspector, amongst other things, involving replacement buildings. Moreover, the issue of flood risk is of such importance that the Inspector felt that considered it must be determined primarily having regard to the development plan and Government guidance. Should any decisions have gone against that they would not create good precedents to be followed.

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**Appeal Ref.:** 09/60083/REF **Planning Ref.:** 09/00088/FULL **Plns Ref.:** APP/T0355/A/09/2108091  
**Appellant:** Mr And Mrs B Turrell **c/o Agent:** Woolf Bond Planning LLP The Mitfords Basingstoke Road Three Mile Cross Reading. RG7 1AT  
**Decision Type:** Delegated **Officer Recommendation:** Refuse  
**Description :** Construction of a 3 bedroom detached house with garden store under bedroom 1 balcony only, together with access, parking and landscaping.  
**Location:** **Land Opposite 1 And 2 Pelling Hill Old Windsor Windsor**  
**Appeal Decision:** Dismissed **Decision Date:** 23 November 2009

**Main Issue:** The Inspector agreed with the Council's 2 reasons for refusal. Firstly, the development would adversely affect the character and appearance of Pelling Hill because it would erode the open character of the street scene and contrast awkwardly with this existing character due to the dwelling's proximity to the road necessitated by the extremely limited depth of the site. Furthermore, there would be no space for boundary planting to replace the hedgerow which would be lost to the west and north. Secondly, the Inspector agreed that the developer contributions sought by the Council were justified. The appellant submitted a unilateral undertaking prior to the appeal for the amount sought but the Inspector found it to be defective because the plan annexed to the document had not been signed by the appellant.

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**Appeal Ref.:** 09/60095/REF **Planning Ref.:** 09/00236/FULL **Plns Ref.:** APP/T0355/A/09/2109702  
**Appellant:** Mr Jagdev Phull **c/o Agent:** Mr M Hattrell - Michael Hattrell And Associates 3 Stomp Road Burnham Buckinghamshire SL1 7LW  
**Decision Type:** Delegated **Officer Recommendation:** Refuse  
**Description :** Two storey part single storey side extension with open front porch to form a Granny annex (not self-contained)  
**Location:** **92 London Road Datchet Slough SL3 9LQ**  
**Appeal Decision:** Dismissed **Decision Date:** 4 December 2009

**Main Issue:** By reason of the poor design relationship between the extension and the existing house and the bulk and scale of the extension and its prominence, the extended property would have a seriously harmful visual impact on the established street façade. This would be damaging to the character and the appearance of the area and be in conflict with local plan policies DG1(3) and H14(1).

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**Appeal Ref.:** 09/60098/REF **Planning Ref.:** 09/01069/CPD **Plns Ref.:** APP/T0355/X/09/211012  
**Appellant:** Mr Kimberley 84 Frances Road Windsor SL4 3AJ  
**Decision Type:** Delegated **Officer Recommendation:** Refuse  
**Description :** Certificate of lawfulness to determine whether a proposed single storey side and rear extension is lawful  
**Location:** **84 Frances Road Windsor SL4 3AJ**  
**Appeal Decision:** Dismissed **Decision Date:** 2 December 2009

**Main Issue:** If the proposal is considered to be a rear extension then it would not be permitted development as it would fail to satisfy Class A.1 (e) (i). As the appeal property is in a Conservation Area and falls within article 1(5) land, Class A.2 (b) states that development is not permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse. The side wall of the rear single storey projection is a side elevation of the original dwellinghouse and therefore the proposal could not be undertaken as permitted development in this respect either.

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**Appeal Ref.:** 09/60112/REF **Planning Ref.:** 09/01212/FULL **Plns Ref.:** APP/T0355/D/09/211462  
**Appellant:** Mrs Christine Parker **c/o Agent:** Miss C Parker 52 Wood Close Windsor SL4 3JZ  
**Decision Type:** Delegated **Officer Recommendation:** Refuse  
**Description :** First floor rear extension and single storey rear extension  
**Location:** **52 Wood Close Windsor SL4 3JZ**  
**Appeal Decision:** Allowed **Decision Date:** 13 November 2009

**Main Issue:** The Inspector concluded that from his observations from both gardens he did not consider its visually intrusive effect would be so great as to be overbearing or to thus give rise to unacceptable living conditions for them. The proposal would not have such an effect on the character and appearance of the appeal house or of the surrounding area as to cause unacceptable harm to either.

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