

28th September 2017		ITEM: 6
Planning Committee		
Planning Appeals		
Wards and communities affected: All	Key Decision: Not Applicable	
Report of: Leigh Nicholson, Development Management Team Leader		
Accountable Head of Service: Andy Millard, Assistant Director - Planning and Growth		
Accountable Director: Steve Cox, Director of Environment and Place		

Executive Summary

This report provides Members with information with regard to planning appeal performance.

1.0 Recommendation(s)

1.1 To note the report

2.0 Introduction and Background

2.1 This report advises the Committee of the number of appeals that have been lodged and the number of decisions that have been received in respect of planning appeals, together with dates of forthcoming inquiries and hearings.

3.0 Appeals Lodged:

3.1 Application No: 17/00129/FUL

Location: Land Adjacent 23, St Teresa Walk, Chadwell St Mary

Proposal: 2 New 3 bedroom dwellings with 4 associated car parking spaces.

3.2 Application No: 17/00177/HHA

Location: Hollywood, Southend Road, Corringham SS17 9ET

Proposal: First floor extension with hipped roof extension to rear.
Single storey rear extension to replace existing rear extension and conservatory.

3.3 Application No: 16/01206/FUL

Location: Jade Farm, Oxford Road, Horndon On The Hill SS17 8PX

Proposal: Change of use to a dwelling house.

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Enforcement ref: 16/00375/CWKS

Location: Malgraves Meadow, Lower Dunton Road

Proposal: Erected barn with a large chimney without planning permission.

Decision: Appeal Dismissed

Summary of decision:

- 4.1.1 This appeal was submitted against the Enforcement Notice which was issued by the Council on 2 September 2016 relating to the unauthorised construction of a biomass building in the Green Belt.
- 4.1.2 The Inspector considered the main issues to be:
- i. Whether the building is inappropriate development in the Green Belt;
 - ii. The effect of the development on the openness of the Green Belt and the purposes of including land in it;
 - iii. If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development
- 4.1.3 In relation to (i), the Inspector concurred with the Council and found the building to be inappropriate development in the Green Belt.
- 4.1.4 In relation to (ii) the Inspector found that the building has a significant effect on the openness of the Green Belt, contrary to CS Policy PMD6 and the NPPF.

- 4.1.5 In relation to (iii), the Inspector took in account the appellant's case (which predominantly focussed upon the benefits of renewable energy) but reached the view that the harm being caused by the development is not clearly outweighed.
- 4.1.6 In dismissing the appeal the Inspector did vary the Enforcement Notice to allow the owner 6 months, rather than 3 months, to remove the building.
- 4.1.7 The full appeal decision can be found online.

4.2 Application No: 16/00815/CLEUD

Location: 123 Mollands Lane, South Ockendon

Proposal: Retain mobile home on property

Decision: Appeal Dismissed

Summary of decision:

- 4.2.1 This appeal was submitted against the Council's decision to refuse to issue a Lawful Development Certificate (LDC) relating to the stationing of a mobile home.
- 4.2.2 The Inspector considered the main issue to be whether the Council's decision to refuse to issue a LDC was well founded. After considering the case, the Inspector found that a LDC could not be issued because the application failed to specify with sufficient precision the use for which a certificate is sought. The Inspector consequently rejected the appeal.
- 4.2.3 The full appeal decision can be found online.

4.3 Application No: 17/00067/FUL

Location: Cameo Cards, 17 Grover Walk, Corringham

Proposal: Change of use from A1 to A3

Decision: Appeal Dismissed

Summary of decision:

- 4.3.1 The Inspector considered the main issue to be the effect of the proposal on the vitality and viability of the Local Shopping Centre.
- 4.3.2 The Inspector noted that the proposal was in direct conflict with Policy SH10 of the Local Plan and found no evidence to support the appellant's case, which suggested that A1 retail uses are failing in this location. Accordingly, the appeal was dismissed.

4.3.3 The full appeal decision can be found [online](#).

4.4 Application No: 16/01151/LBC

Location: 12 Bata Avenue, East Tilbury

Proposal: Replace wooden windows with UPVC double glazed units

Decision: Appeal Dismissed

Summary of decision:

4.4.1 The Inspector considered the main issues to be:

- i. The effect of the proposed works on the special architectural or historic interest of the listed buildings at No.12 and No.14, and in particular, whether the scheme would preserve the listed building or its setting or any features of special architectural or historic interest which it possess, and:
- ii. The effect of the proposed scheme upon the East Tilbury Conservation Area and in particular, whether the scheme would preserve or enhance its character or appearance.

4.4.2 In relation to (i), the Inspector noted that the wooden fenestration is a key feature of the original design and composition of the properties and contributes to the significance of its historic form. The Inspector considered the use of UPVC windows to be a discordant and incongruous alteration which would be harmful to the special architectural and historic interest of the Grade II listed buildings at No.12 and No.14. The Inspector found the proposal to be in direct conflict with CS Policy PMD2, PMD4 and the NPPF in this regard.

4.4.3 In relation to (ii), the Inspector noted that the East Tilbury Conservation Area has been identified as being 'very bad' condition and is included in Historic England's Heritage at Risk Register. The Inspector took the view that the character and appearance of the Conservation Area would be neither preserved nor enhanced by the proposed works.

4.4.4 The Inspector consequently dismissed the appeal.

4.4.5 The full appeal decision can be found [online](#).

4.5 Application No: 16/01154/LBC

Location: 18 Bata Avenue, East Tilbury

Proposal: Replace wooden windows with UPVC double glazed units

Decision: Appeal Dismissed

Summary of decision:

4.5.1 The Inspector considered the main issues to be:

- i. The effect of the proposed works on the special architectural or historic interest of the listed buildings at No.16 and No.18, and in particular, whether the scheme would preserve the listed building or its setting or any features of special architectural or historic interest which it possess, and:
- ii. The effect of the proposed scheme upon the East Tilbury Conservation Area and in particular, whether the scheme would preserve or enhance its character or appearance.

4.5.2 In relation to (i), the Inspector noted that the wooden fenestration is a key feature of the original design and composition of the properties and contributes to the significance of its historic form. The Inspector considered the use of UPVC windows to be a discordant and incongruous alteration which would be harmful to the special architectural and historic interest of the Grade II listed buildings at No.16 and No.18. The Inspector found the proposal to be in direct conflict with CS Policy PMD2, PMD4 and the NPPF in this regard.

4.5.3 In relation to (ii), the Inspector noted that the East Tilbury Conservation Area has been identified as being 'very bad' condition and is included in Historic England's Heritage at Risk Register. The Inspector took the view that the character and appearance of the Conservation Area would be neither preserved nor enhanced by the proposed works.

4.5.4 The full appeal decision can be found [online](#).

4.6 **Application No: 16/01645/LBC**

Location: 28 Bata Avenue, East Tilbury

Proposal: Retrospective application for installation of uPVC windows in listed building.

Decision: Appeal Dismissed

Summary of decision:

4.6.1 The Inspector considered the main issues to be:

- i. The effect of the proposed works on the special architectural or historic interest of the listed buildings at No.28 and No.30, and in particular, whether the scheme would preserve the listed building or its setting or any features of special architectural or historic interest which it possess, and:
- ii. The effect of the proposed scheme upon the East Tilbury Conservation Area and in particular, whether the scheme would preserve or enhance its character or appearance.

4.6.2 In relation to (i), the Inspector noted that uPVC windows are designed to closely mimic the original wooden windows but took the view that the windows lack the integrity of the original finish and lacked the accompanying subtlety of composition in their texture. The width of the glazing bars and frames also make for a bulkier design and appearance and the proportions of the main front glazing panels are also different. The Inspector concluded that the works are harmful to the special architectural and historic interest of the Grade II listed building at No.28 and No.30.

4.6.3 In relation to (ii), the Inspector noted that the East Tilbury Conservation Area has been identified as being 'very bad' condition and is included in Historic England's Heritage at Risk Register. The Inspector took the view that the character and appearance of the Conservation Area would be neither preserved nor enhanced by the proposed works.

4.6.4 The full appeal decision can be found [online](#).

4.7 Application No: 16/00593/FUL

Location: Church Hall Rigby Gardens Chadwell St Mary RM16 4JJ

Proposal: Demolition of the existing pre fabricated concrete church hall and the construction of 4 three bedroom and 2 two bedroom houses with associated parking and landscaping

Decision: Appeal Dismissed

Summary of decision:

4.7.1 The Inspector considered the main issues to be:

- i. Whether the existing building on the site is required to meet local need for community facilities
- ii. The effect of the proposal on the character and appearance of the area.

- 4.7.2 In relation to (i), the Inspector found that it had not been adequately demonstrated that the existing building is not required to meet local need for such facilities. The Inspector considered the appellant's case but concluded that the proposal is in conflict with CS Policy CSTP10.
- 4.7.3 In relation to (ii), the Inspector found the development to be generally in accordance with the wider character and appearance of the area. The Inspector took the view that subject to certain planning conditions, the development would be acceptable. This factor did not however override the conflict with CS Policy CSTP10.
- 4.7.4 The full appeal decision can be found [online](#).

4.8 Application No: 16/00391/REM

Location: Thatched Cottage, Baker Street, Orsett, RM16 3LJ

Proposal: Reserved matters (all) for erection of 8 No. 4 bedroom detached properties with attached garages and 1 No. 4 bedroom property with attached car port and detached single garage (refer to 14/00912/OUT)

Decision: Appeal Dismissed

Summary of decision:

- 4.8.1 The Inspector considered the main issue to be whether the application for reserved matters constitutes a submission consistent with the terms of the original outline permission, or whether it is a materially different proposal.
- 4.8.2 The applicant's revised proposal (to which this appeal related) sought permission for 9 units rather than 14 as set out in the outline approval. The provision of nine units would have fallen below the s.106 threshold and the applicant would not have been obliged to provide any affordable housing. The Inspector considered the 9 unit proposal to be materially different in its planning character from the terms of the s.106 completed as part of the outline approval. The Inspector therefore concluded that the reserved matter submission was materially different from the terms of the approved outline scheme and could not be considered as compatible with the original approval.
- 4.8.3 The full appeal decision can be found [online](#).

5.0 Forthcoming public inquiry and hearing dates:

- 5.1 The following inquiry and hearing dates have been arranged:
- 5.2 None.

6.0 APPEAL PERFORMANCE:

6.1 The following table shows appeal performance in relation to decisions on planning applications and enforcement appeals.

	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	
Total No of Appeals	2	2	6	5	8								23
No Allowed	0	2	4	1	0								7
% Allowed													30%

7.0 Consultation (including overview and scrutiny, if applicable)

7.1 N/A

8.0 Impact on corporate policies, priorities, performance and community impact

8.1 This report is for information only.

9.0 Implications

9.1 Financial

Implications verified by: **Sean Clark**
Head of Corporate Finance

There are no direct financial implications to this report.

9.2 Legal

Implications verified by: **Vivien Williams**
Principal Regeneration Solicitor

The Appeals lodged will either have to be dealt with by written representation procedure or (an informal) hearing or a local inquiry.

Most often, particularly following an inquiry, the parties involved will seek to recover from the other side their costs incurred in pursuing the appeal (known as 'an order as to costs' or 'award of costs').

9.3 Diversity and Equality

Implications verified by: **Rebecca Price**
Community Development Officer

There are no direct diversity implications to this report.

9.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None.

10. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- All background documents including application forms, drawings and other supporting documentation can be viewed online: www.thurrock.gov.uk/planning. The planning enforcement files are not public documents and should not be disclosed to the public.

11. **Appendices to the report**

- None

Report Author:

Leigh Nicholson

Development Management Team Leader