

15 August 2019		ITEM: 6
Planning Committee		
Planning Appeals		
Wards and communities affected: All	Key Decision: Not Applicable	
Report of: Jonathan Keen, Interim Strategic Lead of Development Services		
Accountable Assistant Director: Leigh Nicholson, Interim Assistant Director of Planning, Transportation and Public Protection.		
Accountable Director: Andy Millard, Interim Director of 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: 19/00269/FUL**

Location: 53 - 55 Third Avenue, Stanford Le Hope

Proposal: Nine dwellings with associated access road, hardstanding, landscaping and bike stores following the demolition of two existing detached bungalows.

3.2 **Application No: 19/00283/HHA**

Location: Raglan, Central Avenue, Stanford Le Hope

Proposal: Two storey side extension

3.3 Application No: 19/00178/FUL

Location: Amberley, 237 Branksome Avenue, Stanford Le Hope

Proposal: Two storey detached dwellinghouse

3.4 Application No: 19/00539/FUL

Location: Fouracres, Brentwood Road, Bulphan

Proposal: Demolition of existing dwelling garage and stable and the replacement of an existing dwelling

3.5 Application No: 19/00518/HHA

Location: 181 Crammaville Street, Stifford Clays, Grays

Proposal: Two storey side extension.

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 18/01313/FUL

Location: Tamarisk, Third Avenue, Stanford Le Hope

Proposal: Conversion of detached bungalow into 2x semi-detached dwellings, incorporating extension to roof with front and rear dormer windows and single storey front/side extension (Resubmission of 18/00754/FUL)

Decision: Appeal Allowed

4.1.1 The main issue under consideration in this appeal was the effect of the proposed development on the character and appearance of the Homesteads character area, with particular regard to the sub-division of the plot.

4.1.2 The Inspector considered that the proposed development would not harm the character and appearance of The Homesteads character area as a consequence of the sub-division of the plot.

4.1.3 Accordingly the appeal was allowed as it was considered to accord with policies PMD2, CSTP22 and CSTP23 of the Core Strategy, which together seek to ensure high quality design that protects and contributes to local character.

4.1.4 The full appeal decision can be found online.

4.2 Application No: 18/01817/HHA

Location: 22 Claudian Way, Chadwell St Mary

Proposal: Single storey rear extension

Decision: Appeal Allowed

4.2.1 The main issue under consideration in this appeal is the consideration effect of the proposal on the living conditions of occupiers of No. 24 Claudian Way, with particular reference to visual impact.

4.2.2 The inspector considered that due to the small scale of the proposal and the predominance of glass in all elevations, it is not considered that the proposal would appear as an overbearing feature to neighbours. The inspector also commented that the glazed structure, due to the design and scale situated behind the existing boundary fence, would not create a sense of enclosure for neighbours. Thus, the proposal would not undermine the purpose of the guidance in SPD, where it seeks to ensure that extensions do not have an overbearing impact on adjacent properties or cause them to be excessively enclosed.

4.2.3 The Inspector upheld the appeal on the grounds that the proposal would not have an adverse effect on the living conditions of neighbours. Thus, the proposal would be in accordance with guidance in SPD and in accordance with Policy PMD1 in the Thurrock Core Strategy and Policies for Management of Development (2015), with regard to protecting residential amenity. The inspector also consider that Policy PMD1 is broadly consistent with the National Planning Policy Framework where the Framework seeks to protect residential amenity.

4.2.4 The full appeal decision can be found online.

4.3 Application No: 18/01257/FUL

Location: Old Bank, The Green, Stanford Le Hope

Proposal: Conversion from disused bank (use class A2) on part of the ground floor to 2 x two bedroom flats (use class C3)

Decision: Appeal Dismissed

4.3.1 The inspector considered the main issue as to whether the proposed conversion would provide adequate living conditions for future occupants, with particular regard to privacy, light and disturbance.

4.3.2 The Old Bank is a three storey building occupying a prominent corner plot in an area of the town centre. The surrounding area comprises a mix of commercial, retail, community and residential uses. Permission has already been granted for the conversion of the upper floors of the building into flats. The application

sought permission for the conversion of part of the ground floor into two flats whose windows would face Central Road.

- 4.3.3 The Inspector dismissed the appeal, commenting that the conversion would provide unsatisfactory living conditions for future occupants, due to lack of privacy and inadequate light, contrary to policies PMD1 and PMD2 of the Thurrock Core Strategy and Policies for the Management of Development.

4.4 Application no: 19/00196/HHA

Location: 7 Runnymede Road

Proposal: Loft Conversion with rear dormer and two rooflights.

Decision: Dismissed

- 4.4.1 The main issues in this appeal are, although loft conversions with the use of rooflights are apparent within the locality, there are no examples of other dormer windows within the immediate area of the appeal site and the surrounding roof forms are relatively uniform in style and height. Due to the property being an end of terrace the proposed dormer would be visible from public realm, therefore the impact upon the street scene was to be considered.

- 4.4.2 The inspector considered that while the proposed dormer was to be smaller than the roof of the main house, the dormer would still constitute a large addition and would stand out as very large and bulky in comparison to the host dwelling's pitched roof. It was also considered that while the dormer would not be 'uncommon practice', in this setting the dormer incongruous addition, therefore creating a harmful impact upon the character and appearance of the area.

- 4.4.3 The dormer within the plans submitted to the inspector had been reduced in size and it was proposed a condition regarding materials were to be implemented, it was considered by the inspector that the amendments proposed were not sufficient to comply with the Residential Alterations and Extensions (July 2017). The proposed development would be harmful to the character and appearance of the area and therefore would be contrary to Policies PMD2 and CSTP22 of the 'Core Strategy and Policies for Management of Development' (December 2011).

- 4.4.4 Accordingly the appeal was dismissed

4.5 Application no: 18/01693/HHA

Location: 183 Abbotts Drive, SS17 7BN

Proposal: Single storey side extension, garage conversion and first floor rear extension.

Decision: Part dismissed/Allowed

- 4.5.1 The main issue under consideration is the effect of the proposal on the character and appearance of the existing dwelling and surrounding area.
- 4.5.2 The Inspector considered that, due to the siting and scale of the proposed side extension would appear as an incongruous addition, not in keeping with the uniformity of design and pattern of development in this area. The inspector also stated that the sense of openness between properties would be eroded and is not acceptable as it would be detrimental to the character and appearance of the existing dwelling and surrounding area.
- 4.5.3 The Inspector has allowed the second storey rear extension as the Council has not raised any concern with regards to the proposal and the proposed second storey extension would be keeping with the character and appearance of the existing and wider area. The inspector also consider that this proposal would not have an adverse effect on the living conditions of neighbours. The proposal would be in accordance with Core Strategy Policies PMD2 and CSTP22.
- 4.5.4 Accordingly, the appeal was part dismissed and allowed. Thus, the proposed side extension would be contrary to Policies PMD2 and CSTP22 in the Thurrock Core Strategy and Policies for Management of Development (2015).

4.6 Application no: 19/00037/HHA

Location: 28 Alderton Road, RM16 3DZ

Proposal: Appeal dismissed

- 4.6.1 The main issues in this appeal are the effect of the proposal on the character and appearance of the existing dwelling and surrounding area.
- 4.6.2 The inspector considered that the property modern terraced dwelling, it is situated within an area where uniformity of scale and design of the properties within this terrace makes a positive contribution to the character and appearance of the surrounding area. While within the surrounding area there are properties that have rear roof lights, there are no rear dormers within the terrace. It has been considered from the inspectors observations that the proposed dormer would unacceptably disrupt the uniformity of design of the terrace, which would be to the detriment of the character and appearance of the existing dwelling, wider terrace and surrounding area.
- 4.6.3 The proposal would be contrary to guidance in the Council's Supplementary Planning Document: Thurrock Design Guide Residential Alterations and Extensions (2017) and contrary to Policies PMD2 and CSTP22 in the Thurrock Core Strategy and Policies for Management of Development (2015).
- 4.6.4 Accordingly the appeal was dismissed
- 4.6.5 The full appeal decision can be found online.

4.7 Application No: 18/00781/HHA

Location: 4 Treetops Close, Grays

Proposal: Construction of new garage

Decision: Appeal Dismissed

4.7.1 The full appeal decision can be found online.

4.8 Application No: 18/01027/FUL

Location: Downwell Demolition Ltd, Newcastle House, Oliver Close, West Thurrock

Proposal: Two-storey side extension to form training room & further office space

Decision: Appeal Dismissed

4.8.1 The main issues in this appeal are, firstly, whether the proposal would expose occupiers of the building to an unreasonable level of risk and secondly, the effects of the proposed extension on the character of the area.

4.8.2 The Inspector considered the suggested restriction would be unreasonable and difficult to enforce and so would be contrary to the advice in the Planning Practice Guidance. In the absence of such a restriction, the proposal would increase the capacity of the building and would have the potential to expose its increased number of occupiers to the risks associated with its location would conflict with Policy PMD1. The extension due to size, location and design would have an unacceptably negative effect on the character of the locality, contrary to Policies CSTP22 and PMD2 of the Core Strategy.

4.8.3 Accordingly the appeal was dismissed

4.8.4 The full appeal decision can be found online.

4.9 Application No: 18/00155/LBC

Location: 7 Hollow Cottages, London Road, Purfleet

Proposal: Erection of a rear glass conservatory

Decision: Appeal Dismissed

4.9.1 The main issues related to the effect of the proposal on the Grade II Listed Building and the Conservation Area. The Inspector recognised that the property is of modest size and it was considered that a 4m rear extension would distort the compact form of the Listed Building resulting in a loss of its size and proportions. The Inspector concluded that the extension would also reduce the positive contribution of the building to the character and appearance of the Conservation Area.

4.9.2 The proposal would be contrary to Policies CST24 & PMD4 of the LDF Core Strategy 2015.

4.9.3 Accordingly the appeal was dismissed

4.9.4 The full appeal decision can be found online.

4.10 Application No: 18/01761/FUL

Location: 15 Alfred Road, Aveley

Proposal: Erection of two storey dwelling

Decision: Appeal Dismissed

4.10.1 The main issue in this appeal is the effect of the proposed development on the character and appearance of the surrounding area

4.10.2 The scale and siting of the development shown on the submitted plans would, in the context of this particular site, be harmful to the character and appearance of the area. This would conflict with Policies PMD1, PMD2 and CSTP22 of the Thurrock Core Strategy and Policies for the Management of Development 2015 (CSPMD), and the Retained Annex 2 of the Thurrock Local Plan 1997.

4.10.3 Accordingly the appeal was dismissed

4.10.4 The full appeal decision can be found online.

4.11 Application No: 18/00082/FUL

Location: Malgraves Meadow, Lower Dunton Road, Horndon on the Hill.

Proposal: Retention of the existing single storey timber building for use in association with agricultural enterprise at the farm. Removal of flue on roof, removal of biomass burner boiler and associated plumbing and modification of the building front elevation.

Decision: Appeal Allowed

- 4.11.1 Permission was sought to retain a large timber framed structure which currently houses a biomass boiler. There is an existing enforcement notice requiring that demolition of this building which was upheld at appeal. Following this appeal decision a previous refused application (ref 16/00232/FUL) was also dismissed at appeal. In both cases the Inspectors found that the structure comprised inappropriate development in the Green Belt which were deemed material considerations in the current appeal application.
- 4.11.2 The proposal put forward in the planning application sought to retain the structure of the building but remove the biomass building/infrastructure associated with it and open up the structure on one side and is partly retrospective. The appellant held at the time of the planning application the proposed development would constitute an agricultural purpose; an exception to inappropriate development in the Green Belt.
- 4.11.3 The application was refused on the grounds of the building not being considered appropriate for agriculture use and would therefore comprise inappropriate development in the Green Belt. The second reason for refusal maintained that the details submitted within the application did not adequately demonstrate very special circumstances to justify inappropriate development in the Green Belt.
- 4.11.4 In pursuing the appeal the appellant submitted a further statement from an agricultural surveyor, which was not submitted at the time of the planning application. In general terms, the statement addressed animal welfare standards and explained what the principal purposes of the calving activities would involve. Within the written representations and at the hearing, the Council maintained that the appeal materially changes the proposed development and should not be considered within the parameters of an appeal application.
- 4.11.5 However, the Inspector was satisfied with the supporting information submitted within the planning application which mentioned the modified building would be used as a husbandary unit in connection with a herd of cows and associated farm use at the site; significant weight was afforded to factor. In light of this, the Inspector also found the supporting appeal statement supplied was appropriate and deemed that the additional information could be accepted in the appeal.
- 4.11.6 Following the submission of the agricultural statement at the appeal, the Council had confirmed that the proposed development is a building for agriculture and meets the NPPF exception to inappropriate development in the Green Belt; to which the Inspector agreed. Therefore, the Inspector concluded that the proposal therefore complies with policy PMD6 of the Thurrock Core Strategy (as amended) 2015 and that there was no requirement to demonstrate very special circumstances to justify the proposal since the development constitutes inappropriate development.
- 4.11.7 The full appeal decision can be found online.

4.12 Application No: 18/00034/BUNWKS

Location: Police Station, Gordon Road, Corringham

Proposal:

Decision: Appeal Dismissed

- 4.12.1 Breach: The breach of planning control related to a material change of use of the land to stationing of storage containers which are rented out for storage (Use Class B8) with the additional stationing and use of commercial vehicles.
- 4.12.2 An Enforcement Notice was issued on 21st February 2018 requiring the cessation of the use of the land for the storage of containers and the removal from the land of all storage containers and vehicles associated with the storage use. The period for compliance with the requirements was one month.
- 4.12.3 The Appellant appealed against the Enforcement Notice on the grounds that the breach of planning had not occurred as it was already lawful given the site's former use as a vehicle compound as part of the former activities of the police station. The Inspector found that the use of the site was as a B8 storage use and that this was materially different from the use of the former police station, which is a sui generis use, and as such the appeal failed on this ground.
- 4.12.4 The Appellant also stated that permission should be granted for the use on site. Although the Inspector found that there was some harm to the living conditions of neighbouring occupiers, having regard to noise and disturbance, subject to the imposition of appropriate conditions the storage use could continue and comply with Council Policy PMD1. However, the Inspector considered there to be harm to the safe and efficient operation of the highway, by virtue of the inconsiderate parking within the site of the users, resulting in waiting on the highway and therefore the appeal failed for this reason.
- 4.12.5 The Appellant finally stated that the period of time for compliance with the Notice was excessive. The Enforcement Notice required the cessation of the use on site and the removal from the site of the containers and associated vehicles within one month. The Inspector did not consider this to be an excessive period of time and the appeal therefore failed on this final ground.
- 4.12.6 The Planning Inspectorate determined to dismiss the applicant's appeal of the Enforcement Notice on 17th July 2019. The Planning Inspector concluded that the appeal should not succeed and the Enforcement Notice upheld, subject to very minor changes to the wording to include, "without planning permission, the material change of use of the land for storage purposes (Use Class B8)" in the Notice.
- 4.12.7 In dismissing the appeal, the Inspector has upheld the Enforcement Notice with effect from the date of the decision and as such the Appellant has one month from this date, that is until 17th August 2019, to comply with the requirements of the Notice and cease the unauthorised B8 use and for the containers and vehicles associated with the storage use to be removed.

4.12.8 The full appeal decision can be found online.

4.13 Application No: 18/00811/OUT

Location: Land Adjacent Gunning Road Newburgh Road And Globe Industrial Estate, Towers Road, Grays

Proposal: Outline planning application for four houses, detached garage, access, associated hardstanding, improved sports pitch and play equipment. To include determination of the matters of access, landscaping, layout and scale (matters relating to appearance reserved)

Decision: Appeal Dismissed

4.13.1 The main issue in this appeal is the effect of the proposed development on the provision of open space.

4.13.2 The Inspector acknowledged that the land is allocated as a Secondary Industrial and Commercial Area in the Council's Local Plan Proposals Map, it is used as a recreational open space for nearby residential properties. This use is supported by a S106 agreement relating to planning permission 98/00349/FUL which preserved the land for open space (including landscaping and play equipment) in perpetuity for the existing residential development to the south. The National Planning Policy Framework (Framework) definition of open space includes all open space of public value which offer important opportunities for sport and recreation. For the above reasons, supported by considerable third-party representations and evidence from local residents as to the public value and recreational use of the land, they found that the appeal site does constitute open space for the purposes of the Framework and Policy PMD5 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development 2015 (CS).

4.13.3 Under the appeal scheme improvements would be made to the existing albeit reduced open space in the form of improved sports pitch provision, new play equipment and general maintenance. The replacement play area would provide a greater number of different play equipment pieces. The existing football goals on the pitch would be replaced with multi-sport goals. The Inspector considered these proposed improvements would be of moderate benefit.

4.13.4 The proposal would result in a substantial loss of space. The Inspector noted considerable evidence submitted by interested third parties to show that the local community uses the entirety of the space, or the bulk of it, for various recreations and events and that the reduction in open space as proposed would seriously diminish community opportunities in that respect. They placed substantial weight on that evidence.

4.13.5 Therefore, taking all this into account, the partial loss of the open space is not outweighed by the proposed improvements to the remaining space and

facilities. The open space would not be safeguarded. As such the proposed development would be in conflict with Policy PMD5 of the CS. It would also be in conflict with the Framework which advises that existing open space, including recreational land and playing fields, should not be built on unless clearly surplus to requirements, or that replacement provision would be equivalent or better to existing in terms of quantity and quality.

4.13.6 The Inspector carefully considered the fallback position set out in application 19/00807/OUT. However they noted that they could not with any reasonable level of certainty conclude that approval would likely to be forthcoming given the proposed introduction of industrial activity closer to residential receptors than currently exists. Therefore the fallback position was given limited weight, and did not alter their conclusions.

4.13.7 In concluding the Inspector considered that the appeal scheme would not safeguard a piece of open land which has high value to the local community. This adverse impact would conflict with the Framework which says that access to high quality open spaces is important for the health and well-being of communities. Overall, the adverse impact of the proposal is of a magnitude which weighs heavily against the grant of planning permission.

4.13.8 Accordingly the appeal was dismissed.

4.13.9 The full appeal decision can be found online.

4.14 Application No: 18/01390/HHA

Location: 246A Heath Road, Chadwell St Mary

Proposal: Two storey side and rear extension.

Decision: Appeal Dismissed

4.14.1 The main issue to consider was whether the proposal would be inappropriate development in the Green Belt and the effect of the proposal on the openness of the Green Belt and the effect of the proposal on the character and appearance of the area. Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

4.14.2 The planning inspector concluded found harm to the Green Belt I apply substantial weight in respect to it. I have also found that significant harm would be caused to the character and appearance of the area. Accordingly, very special circumstances do not exist as the appellant has not indicated the extent of any shortfall. Even if I were to conclude there is a shortfall in 5-year supply and that the most important policies for determining the proposal should be considered out-of-date, Paragraph 11d) and footnote 6 would be engaged as an important material consideration. The proposal is contrary to the guidance

in the Framework, and Policies PMD6, PMD2 and CSTP22 of the LP which together seek to protect the Green Belt and its character and appearance.

4.14.3 Accordingly the appeal was dismissed

4.14.4 The full appeal decision can be found online.

5.0 Forthcoming public inquiry and hearing dates:

5.1 Application No: 18/01802/FUL

Location: Beauchamp Place, Malvern Road, Grays

Proposal: Use of land to provide 5 pitches for Gypsy / Traveller families a total of 5 mobile homes, 5 touring caravans and 1 dayroom

Dates: 6 August 2019 (3 days)

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	3	7	3										13
No Allowed	1	0	0										1
% Allowed	33.33%	0%	0%										7.7%

7.0 Consultation (including overview and scrutiny, if applicable)

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: **Laura Last**
Management Accountant

There are no direct financial implications to this report.

9.2 Legal

Implications verified by: **Tim Hallam**
Deputy Head of Law (Regeneration) and Deputy Monitoring Officer

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: **Natalie Warren**
Strategic Lead Community Development and Equalities

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:

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Place