

25 June 2020		ITEM: 6
Planning Committee		
Planning Appeals		
Wards and communities affected: All	Key Decision: Not Applicable	
Report of: Jonathan Keen, Interim Strategic Lead - Development Services		
Accountable Assistant Director: Leigh Nicholson, Interim Assistant Director – Planning, Transportation and Public Protection.		
Accountable Director: Andy Millard, Director – 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:** 19/01642/FUL

Location: 37 Sanderling Close, East Tilbury

Proposal: Change of use from landscape setting to residential curtilage and erection of 1.8m high fence [Retrospective]

- 3.2 **Application No: 19/01747/FUL**
Location: 65 Welling Road, Orsett
Proposal: (Retrospective) Change of use from amenity land to residential use. Erection of concrete post and timber fence along property boundary.
- 3.3 **Application No: 19/01254/HHA**
Location: Tall Trees, 106 Lodge Lane, Grays
Proposal: Erection of a perimeter wall to front of property with electric sliding gates for pedestrian and vehicular access (Retrospective)
- 3.4 **Application No: 19/01163/HHA**
Location: Ladysons Farm House, Prince Charles Avenue, Orsett
Proposal: Demolition of existing conservatory and erection of two storey rear extension with rear canopy and first floor balcony
- 3.5 **Application No: 19/01648/HHA**
Location: 25 Whitmore Avenue, Stifford Clays, Grays
Proposal: Single storey front extension
- 3.6 **Application No: 19/01466/HHA**
Location: 3 Duarte Place, Chafford Hundred
Proposal: Loft conversion with rear dormer, two front roof lights and side window
- 3.7 **Application No: 19/01744/HHA**

- Location: The Warren, Ridgwell Avenue, Orsett
- Proposal: (Retrospective) Garage conversion into habitable room
- 3.8 Application No: 19/00918/FUL**
- Location: 44 High Road, North Stifford, Grays
- Proposal: Change of use from open land (nil use) to residential use in association with 44 High Road with associated plastic grass, partly constructed children's playhouse and wooden bench outside the curtilage of 44 High Road, situated to the rear of 34 and 36 High Road
- 3.9 Application No: 19/01865/HHA**
- Location: 123 Southend Road, Grays
- Proposal: Part first floor side extension and roof alterations
- 3.10 Application No: 19/01688/HHA**
- Location: 31 Edmund Road, Chafford Hundred
- Proposal: Loft conversion including alterations to the main roofs ridge height and design and two side dormers and two side roof lights
- 3.11 Application No: 19/01608/HHA**
- Location: 87 Fullarton Crescent, South Ockendon
- Proposal: Two storey side extension, chimney stack removal and formation of a new vehicular access to the highway
- 3.12 Application No: 18/00044/BUNWKS**

Location: Land Adjacent Holly Drive And Sycamore Way, South Ockendon - (7 Laurel Drive)

Proposal: Application 15/00186/FUL seems to be being carried out even though application refused. A fence is erected around the area and work is being carried out.

3.13 Application No: 19/01781/CLOPUD

Location: Hill House, High Road, Orsett

Proposal: Erection of Outbuilding for Use as a Games Room, Gymnasium and Garden Room Incidental to the Enjoyment of the Dwelling

3.14 Application No: 18/00124/BUNWKS

Location: Sumet, Mucking Wharf Road, Stanford Le Hope

Proposal: Possible erected a dwelling without the benefit of planning permission.

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 19/01180/FUL

Location: 17 College Avenue, Grays

Proposal: Full planning application for erection of a detached dwelling (Class C3), with associated access, parking and landscaping

Appeal Decision: Appeal Dismissed

4.1.1 The main issue related to the effect on the proposed development on the character and appearance of the area, and the living conditions of the occupants of 19 College Avenue in terms of outlook and overlooking.

4.1.2 The Inspector considered that the proposal would reduce the effect of the separation between the existing single depth development in College Avenue to the mature tree planting to the south and the Quarry Hill Academy beyond.

The introduction of built form and the subsequent disruption to the general pattern of development in the surrounding area that would be harmful to the character of the area.

- 4.1.3 The Inspector concluded that the proposal would have an unacceptably harmful effect on the character of the area, contrary to Policies CSTP22, CSTP23 and PMD2 of the Thurrock Core Strategy 2015, Policy H11 of the Thurrock Local Plan, and the National Planning Policy Framework.
- 4.1.4 The Inspector considered that, given the close proximity of the proposed development with the side boundary of No 19, the proposal would be oppressive and create an enclosing effect in relation to the rear garden of that property. The Inspector also concluded that the proposed development would have an unacceptably harmful effect on the living conditions of the occupiers of No 19 College Avenue, in terms of outlook, contrary to Policy PMD1 of the Thurrock Core Strategy 2015.
- 4.1.5 The appeal was dismissed for the above reasons.
- 4.1.6 The full appeal decision can be found online.

4.2 Application No: 19/00896/FUL

Location: 2 Hall Lane, South Ockendon

Proposal: Two storey detached dwelling with new vehicular access and associated hardstanding and landscaping

Appeal Decision: Appeal Dismissed

- 4.2.1 The Inspector considered the main issue was the effect of the proposed development on the character and appearance of the area, including whether it would preserve or enhance the setting of the Grade II listed buildings known as the Royal Oak Inn and the Gateway and Moat Bridge to South Ockendon Hall, the scheduled moated site of South Ockendon Hall and the scheduled Roman Barrow to the north of the Hall, and the effect on the significance of 1 and 2 Hall Lane, as non-designated heritage assets.
- 4.2.2 It was considered that the proposal would introduce a discordant form of development which would disrupt the undeveloped and spacious characteristics that contribute to the existing pattern of development in the surrounding area and the setting of Nos 1 and 2, as non-designated heritage assets, and the part of the setting, around the entrance to Hall Lane, of the designated heritage assets situated further to the east.
- 4.2.3 Importantly the Inspector noted that the designated heritage assets in the vicinity of the Hall are some distance from the entrance to Hall Lane, Nos 1 and 2 and there are several intervening cottages that would reduce the visibility between them. However, they did not find the absence of a visual connection to be a determinative factor, as it is the physical presence, form

and scale of the proposal that would be harmful to the significance of these more distant heritage assets.

4.2.4 In the final balance, the Inspector concluded that the harm to the character and appearance of the area and the setting of the non-designated heritage assets, listed buildings and Scheduled Ancient Monuments would outweigh the benefits of the proposed.

4.2.5 Accordingly the appeal was dismissed as it would have been contrary to policies PMD2, PMD4, CSTP22, and CSTP24 of the Core Strategy 2015 and paragraphs 193 and 197 of the National Planning Policy Framework 2019.

4.2.6 The full appeal decision can be found online.

4.3 Application No: 19/01117/FUL

Location: 13 Crouch Road, Chadwell St Mary

Proposal: Erection of 6 bedroom house of multiple occupation on land adjacent to 13 Crouch Road with associated hardstanding.

Appeal Decision: Appeal Allowed

4.3.1 The main issues in this appeal related to the removal of permitted development rights for alterations and extensions to the proposed building, including to its roof, and for other structures within its curtilage. Therefore the main issue was whether or not the condition was reasonable and necessary in the interests of the character and appearance of the area and the living conditions of neighbouring occupiers.

4.3.2. It was considered by the Inspector, that the disputed planning condition would enable the Council to retain a measure of control over the future development of the site to avoid, amongst other things, overdevelopment and to protect against harm to the character and appearance of the area and the living conditions of neighbouring occupiers. However, there was no substantive evidence to suggest that future development of the appeal property enabled by full permitted development rights, would result in greater harm than similar development associated with other houses within the locality.

4.3.3 It was also considered that the permission is restricted by another condition, that the proposed development could not be occupied by any greater than six persons. Therefore, the proposal could not be occupied by more persons, unless that condition were to be breached. This exists as a further means for the Council to manage the intensification of the use of the site if they feel it necessary.

4.3.4 It was concluded that the condition is not reasonable or necessary in the interests of the character and appearance of the area or the living conditions of neighbouring occupiers. Hence, the proposal would accord with Policies PMD1 and PMD2 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (2015).

4.3.5 The full appeal decision can be found online.

4.4 Application No: 18/00649/FUL

Location: Water Tower, Kirkham Road, Horndon On The Hill

Proposal: Conversion of redundant water tower to residential dwelling, with part two/part single storey rear and side extension and associated hardstanding (resubmission of 16/00399/FUL Conversion of redundant water tower to residential dwelling)

Appeal Decision: Appeal Dismissed

4.4.1 The main issue under consideration in this appeal was the effect of the proposal to the Green Belt and to the character and appearance of the wider area.

4.4.2 The Inspector considered the proposal would give rise to a modest loss of openness of the Green Belt in both a spatial and visual sense. The Inspector did not consider that the very special circumstances necessary to justify the development in the Green Belt exist.

4.4.3 Accordingly the appeal was dismissed for being contrary to policies CSSP4, PMD6 of the Core Strategy and the NPPF.

4.4.4 The full appeal decision can be found online.

4.5 Application No: 18/01814/CLOPUD

Location: Land Rear Of Ewen House, High Road, Fobbing

Proposal: New storage building for B8 use (warehousing) on land to the rear of Ewen House under Part 7, Class H of the Town and Country Planning (General Permitted Development) (England) Order 2015

Appeal Decision: Appeal Dismissed

4.5.1 The main issue under consideration in this appeal was the lawfulness of the proposal and whether it complied within the requirements of the Town and

Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Whether the proposal was lawful depend on matters of fact and law.

4.5.2 The Inspector considered it is less than probable that the site has been in Use Class B8 for ten continuous years. Therefore, the proposal to erect the new storage building would not fall within the curtilage of an existing industrial building or warehouse, in Use Class B8. The appellant had therefore not discharged the burden of proof upon him to establish, on the balance of probability, that the proposal accorded with the provisions of Condition H.2 (a) of Class H (Class H – extensions etc of industrial and warehouse), of Part 7, Schedule 2 of the GPDO. Therefore, the erection of the storage building requires planning permission.

4.5.3 Accordingly the appeal was dismissed as the proposal did not comply with the requirements of the GDPO.

4.5.4 The full appeal decision can be found online.

4.6 Application No: 18/00322/AUNUSE

Location: Milo, South Avenue, Langdon Hills

Proposal: Alleged Breach of planning control. The stationing of a caravan and container on the land.

Appeal Decision: Appeal Dismissed

4.6.1 The appeal was heard at a Hearing against the enforcement notice served for the alleged breach of stationing a caravan and container on the land for temporary living accommodation. Three other enforcement notice appeals were heard at the same Hearing, this appeal was with reference to notice 2.

4.6.2 The Inspector considered the main issues to be whether the appeal constitutes inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and any relevant development plan policy. If the development is inappropriate development in Green Belt, whether any harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

4.6.3 The appeal site is at the furthest end of South Hill, near a public footpath and lies within the Green Belt. The Inspector concluded that the site constituted previously developed land and questioned whether each appeal development had a greater impact on the openness of the Green Belt than the existing development.

4.6.4 At the Hearing the Council presented photographs to demonstrate the site was previously green and heavily vegetated. The Inspector commented that the site appeared free from built development with the exception of a few

dispersed buildings. He was able to compare with the current developments at the site and maintained that it is clear the site exhibits considerably more built development and that each appeal development was visible from at least one public footpath. Furthermore, he held that there was no evidence that the replacement building provisions from Policy PMD6 or paragraph 145 of the NPPF are relevant for the temporary living accommodation which is the subject of Notice 2.

- 4.6.5 To the Inspector it was evident that, compared to what existed previously, the appeal development would have a greater visual and spatial impact on the openness of the Green Belt.
- 4.6.6 Each of the appeal developments were deemed inappropriate development in the Green Belt and does not comply with Policy PMD6 or the NPPF. Inappropriate development is, by definition, harmful to the Green Belt and should be approved except in very special circumstances. The Inspector also concluded that the harm arising from the appeal development was not outweighed by other considerations.
- 4.6.7 The Inspector upheld the enforcement notice and planning permission was subsequently refused, however, the time to comply with the notice was extended to 12 months.
- 4.6.8 The full appeal decision can be found online.

4.7 Application No: 18/00323/AUNWKS

Location: Milo, South Avenue, Langdon Hills

Proposal: Without the benefit of planning permission, the erection of an office building (with foundations and connecting water drainage and electricity services)

Appeal Decision: Appeal Dismissed

- 4.7.1 The appeal was heard at a Hearing against the enforcement notice served for the alleged breach of the erection of an office building (with the foundations and connecting water drainage/electricity services) Three other enforcement notice appeals were heard at the same Hearing, this appeal was with reference to notice 5.
- 4.7.2 The Inspector considered the main issues to be whether the appeal constitutes inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and any relevant development plan policy. If the development is inappropriate development in Green Belt, whether any harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
- 4.7.3 The appeal site is at the furthest end of South Hill, near a public footpath and lies within the Green Belt. The Inspector concluded that the site constituted

previously developed land and questioned whether each appeal development had a greater impact on the openness of the Green Belt than the existing development.

- 4.7.4 At the Hearing the Council presented photographs to demonstrate the site was previously green and heavily vegetated. The Inspector commented that the site appeared free from built development with the exception of a few dispersed buildings. He was able to compare with the current developments at the site and maintained that it is clear the site exhibits considerably more built development and that each appeal development was visible from at least one public footpath. Furthermore, he held that there was no evidence that the replacement building provisions from Policy PMD6 or paragraph 145 of the NPPF are relevant for the office building which is the subject of Notice 5.
- 4.7.5 To the Inspector it was evident that, compared to what existed previously, the appeal development would have a greater visual and spatial impact on the openness of the Green Belt.
- 4.7.6 Each of the appeal developments were deemed inappropriate development in the Green Belt and does not comply with Policy PMD6 or the NPPF. Inappropriate development is, by definition, harmful to the Green Belt and should be approved except in very special circumstances. The Inspector also concluded that the harm arising from the appeal development was not outweighed by other considerations.
- 4.7.7 The Inspector upheld the enforcement notice, subject to the removal of 'with foundations and connecting water drainage and electricity services'. Planning permission was subsequently refused, however, the time to comply with the notice was extended to 12 months.
- 4.7.8 The full appeal decision can be found online.

4.8 Application No: 18/00324/AUNWKS

Location: Milo, South Avenue, Langdon Hills

Proposal: Without the benefit of planning permission, the erection of a dwelling on the land (including excavation of a basement as part of the dwelling) and the erection of an outbuilding on the land.

Appeal Decision: Appeal Dismissed

- 4.8.1 The appeal was heard at a Hearing against the enforcement notice served for the alleged breach of the erection of a dwelling on the land (including excavation of a basement as part of the dwelling) and the erection of an outbuilding on the land. Three other enforcement notice appeals were heard at the same Hearing, this appeal was with reference to Notice 1.
- 4.8.2 The Inspector considered the main issues to be whether the appeal constitutes inappropriate development in the Green Belt for the purposes of

the National Planning Policy Framework (NPPF) and any relevant development plan policy. If the development is inappropriate development in Green Belt, whether any harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

- 4.8.3 The appeal site is at the furthest end of South Hill, near a public footpath and lies within the Green Belt. The Inspector concluded that the site constituted previously developed land and questioned whether each appeal development had a greater impact on the openness of the Green Belt than the existing development.
- 4.8.4 At the Hearing the Council presented photographs to demonstrate the site was previously green and heavily vegetated. The Inspector commented that the site appeared free from built development with the exception of a few dispersed buildings. He was able to compare with the current developments at the site and maintained that it is clear the site exhibits considerably more built development and that each appeal development was visible from at least one public footpath.
- 4.8.5 The previous dwelling at the site was single storey with 1 bedroom and in broadly similar location to the principal dwelling subject of enforcement notice 1. The appellant considered, at the Hearing, that the previous dwelling's permitted development rights should be taken into account, but it was established that the approved permitted development extensions had not been built. Therefore, it was held that provisions within the 145(d) of the NPPF were not appropriate, in this instance, and taking them into account would not comply with PMD6.
- 4.8.6 To the Inspector it was evident that, compared to what existed previously, the appeal development would have a greater visual and spatial impact on the openness of the Green Belt. Furthermore, the new dwelling consists of at least two bedrooms in addition to other rooms including a rehabilitation room. Even with some of the basement accommodation taken into account, the dwelling was deemed materially larger than the original dwelling and, therefore, contrary to the NPPF and PMD6. The same view was reached with respect of the outbuilding subject to enforcement notice 1.
- 4.8.7 Each of the appeal developments were deemed inappropriate development in the Green Belt and does not comply with Policy PMD6 or the NPPF. Inappropriate development is, by definition, harmful to the Green Belt and should be approved except in very special circumstances. The Inspector also concluded that the harm arising from the appeal development was not outweighed by other considerations.
- 4.8.8 The Inspector upheld the enforcement notice and planning permission was subsequently refused. However, the time to comply with the notice was extended to 12 months.
- 4.8.9 The full appeal decision can be found online.

4.9 Application No: 18/00325/AUNWKS

Location: Milo, South Avenue, Langdon Hills

Proposal: Alleged breach of planning control. Without the benefit of planning permission, the development of two detached dwellings by conversion of two caravans and construction of foundations, decking, hardstanding and with associated services.

Appeal Decision: Appeal Dismissed

- 4.9.1 The appeal was heard at a Hearing against the enforcement notice served for the alleged breach of the development of two detached dwellings by the conversion of two caravans and construction and construction of foundations, decking, hardstanding and associated services. Three other enforcement notice appeals were heard at the same Hearing, this appeal was with reference to Notice 4.
- 4.9.2 The Inspector considered the main issues to be whether the appeal constitutes inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and any relevant development plan policy. If the development is inappropriate development in Green Belt, whether any harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
- 4.9.3 The appeal site is at the furthest end of South Hill, near a public footpath and lies within the Green Belt. The Inspector concluded that the site constituted previously developed land and questioned whether each appeal development had a greater impact on the openness of the Green Belt than the existing development.
- 4.9.4 At the Hearing the Council presented photographs to demonstrate the site was previously green and heavily vegetated. The Inspector commented that the site appeared free from built development with the exception of a few dispersed buildings. He was able to compare with the current developments at the site and maintained that it is clear the site exhibits considerably more built development and that each appeal development was visible from at least one public footpath.
- 4.9.5 To the Inspector it was evident that, compared to what existed previously, the appeal development would have a greater visual and spatial impact on the openness of the Green Belt. Furthermore, the structures which are the subject of notice 4 were deemed materially larger than the previous caravans.
- 4.9.6 Each of the appeal developments were deemed inappropriate development in the Green Belt and does not comply with Policy PMD6 or the NPPF. Inappropriate development is, by definition, harmful to the Green Belt and should be approved except in very special circumstances. The Inspector also concluded that the harm arising from the appeal development was not outweighed by other considerations.

4.9.7 The Inspector upheld the enforcement notice and planning permission was subsequently refused, however, the time to comply with the notice was extended to 12 months.

4.9.8 The full appeal decision can be found online.

5.0 APPEAL PERFORMANCE:

5.1 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	5	4											9
No Allowed	1	0											1
% Allowed	20.00%	0.00%											11.11%

6.0 Consultation (including overview and scrutiny, if applicable)

6.1 N/A

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

7.1 This report is for information only.

8.0 Implications

8.1 Financial

Implications verified by: **Laura Last**
Management Accountant

There are no direct financial implications to this report.

8.2 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').

8.3 Diversity and Equality

Implications verified by: **Natalie Warren**
Strategic Lead Community Development and Equalities

There are no direct diversity implications to this report.

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

None.

9.0. 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.

10. Appendices to the report

- None