

18 March 2021		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:** 20/01344/HHA

Location: 1 Fanns Rise, Purfleet-on-Thames

Proposal: Single-storey rear extension (retrospective)

3.2 Application No: 20/00929/HHA

Location: 70 Whitehall Road, Grays

Proposal: Single storey rear extension

3.3 Application No: 19/01666/FUL

Location: Chadwell Café, 53 River View, Chadwell St Mary

Proposal: Change of Use from A1 to A3 use and an extractor to eliminate odour to the rear

3.4 Application No: 20/01472/HHA

Location: Fairlawn, Lower Dunton Road, Horndon On The Hill

Proposal: Single storey detached garage to front of existing house to replace existing storage unit

3.5 Application No: 20/01419/HHA

Location: 38 Sanderling Close, East Tilbury

Proposal: (Retrospective) Metal fence around driveway and in front of the house

3.6 Application No: 21/00015/AUNWKS

Location: Land Near Junction Of Biggin Lane, Sandy Lane

Chadwell St Mary

Proposal: Activity on the land, removal of bank.

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 19/01518/FUL

Location: 7 Churchill Road, Grays

Proposal: Erection of new 1no 2bed dwelling to flank wall of existing property with vehicular access and associated landscaping

Appeal Decision: Appeal Dismissed

4.1.1 The main issues were: flood risk, highway safety and the living conditions of the host property and adjoining occupiers with particular regard to overbearing effect and outlook.

4.1.2 The site lies within Flood Zone 3a which has a high probability of flooding. The National Planning Policy Framework (the Framework) requires at paragraphs 157 and 158 that the application of a sequential test is undertaken which seeks to steer new development to areas with the lowest probability of flooding.

4.1.3 The appellant could not comply with the sequential tests and, therefore, the exception test at paragraph 160 of the Framework was applied. However, at the application stage, the appellant could not demonstrate the development would be safe for its lifetime without increasing flood risk elsewhere.

4.1.4 The Planning Inspector agreed with the Environment Agency, in that the appellant did not supply sufficient information within the Flood Risk Assessment supplied and could not demonstrate the development would be safe from flooding and will not increase risk elsewhere. The Inspector, therefore, held that the development would conflict with paragraphs 160 of the Framework.

4.1.5 The vehicular access to the site is already installed, but installed without planning permission but subject of the appeal application. Notwithstanding this, the Inspector held that visibility to the south would potentially be impeded by the fence that adjoins 9 Churchill Road and that the appellant needs to demonstrate suitable visibility splays can be achieved. The Inspector maintained it was not appropriate this was address via planning condition.

4.1.6 In terms of the impact of the development to the living conditions of the adjoining occupiers, the Inspector disagreed the development would accept unacceptable effects on the amenities of the area. It was held that the

proposal would not be in conflict with policies CSTP22, PMD1 and PMD2 of the Core Strategy and paragraphs 127 of the Framework.

4.1.7 Notwithstanding the above, regarding the living conditions comments, as a whole the appeal was dismissed on Flood Risk and Highways grounds

4.1.8 The full appeal decision can be found online.

4.2 Application No: 18/00540/FUL

Location: Town Centre Car Park, King Street, Stanford Le Hope

Proposal: Construction of a mixed use development comprising 159sq.m of retail/leisure/commercial units (within classes A1, A2, A3, A4, A5 and D2) at ground floor level and 47 residential units on upper floors together with an undercroft and surface car park (comprising 56 car parking spaces), access, landscaping and associated works.

Appeal Decision: Appeal Dismissed

4.2.1 The Inspector considered that the main issues to consider were:

- The effect of the proposed development on the living conditions of future occupiers, with particular regard to receivable light;
- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on the vitality of Stanford-le-Hope town centre; and
- Whether the proposal would preserve the setting of the Church of St Margaret of Antioch Grade I listed building.

4.2.2 With regard to living conditions, the Inspector recognised that around three fifths of the 47 proposed flats would be single aspect, north west facing and would have balconies limiting light to windows on the lower levels of the development. The Inspector considered that the living space of a substantial proportion of the flats would be overly gloomy and would not receive daylight, this would be harmful to future occupiers. As such, it would conflict with Design and Layout Policy PMD2 of the Thurrock Core Strategy and Policies for Management of Development (2015) (CS) and Paragraphs 124 and 127 of the National Planning Policy Framework (the Framework), which together seek to ensure good design of high quality buildings and places.

- 4.2.3 In terms of character and appearance, whilst the Inspector did not object to the design, scale and massing of the development he did object to the expanse of podium wall at street level where the corner of the High Street and King Street meet. The Inspector considered that the scale of the wall would at this prominent gateway would appear overly dominant and abrupt, jarring in the streetscene and this would result in significant harm to the character and appearance of the town centre and would conflict with Policy PMD2 of the CS, which seeks to ensure that development complements local character and helps to create a positive sense of place.
- 4.2.4 Vitality of the town centre The Inspector recognised that the town centre appears popular for people ‘popping’ to the shops and the vacancy rate of retail and commercial units appears low. In regard to the loss of car parking the Inspector considered that the remaining 43 public car parking spaces would be acceptable and noted the applicant’s intention to allow these for mainly short stay parking and these would not be free parking but the Inspector recognised that it is not uncommon for parking charges for town centre shops and facilities. In conclusion, the Inspector found that proposal would contribute to the vitality of Stanford-le-Hope town centre. As such, it would accord with Policy CSTP8 of the CS, which seeks to improve the vitality and viability of the network of centres.
- 4.2.5 Setting of the listed building This being the Grade I listed Church and the Inspector recognised its importance to the town. The Inspector found that the proposal would fail to preserve the setting of the listed building. Given the factors that would limit the negative impact on the setting of the church, the harm to the significance of the listed building would be ‘less than substantial’, but nevertheless of considerable importance and weight. Given paragraph 196 of the Framework, the Inspector considered it was necessary to weigh the harm that would arise to the heritage asset against the public benefits of the proposal, which are new commercial uses, housing provision, town centre location, links to sustainable transport systems, re using of brownfield land and the Council’s lack of 5 year housing land supply. The Inspector considered that amounts to significant public benefit that would outweigh the identified harm to the heritage asset. As such, the proposal would not conflict with Policy PMD4 of the CS and the Framework, which together seek, amongst other things, to conserve the historic environment.
- 4.2.6 In reaching his conclusion to the planning balance of the appeal the Inspector concluded that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefit, when assessed against the policies in the Framework taken as a whole. The proposals would fail to

comply with the relevant policies of the development plan and national guidance, and therefore the appeal was dismissed.

4.2.7 In regard to the appellant's Costs Application against the Council the Inspector found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, had not been demonstrated. Accordingly, the application for costs failed.

4.3 Application No: 19/00807/OUT

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

Proposal: Outline planning application for light industrial units, use class B1 (c) with associated hardstanding and acoustic fencing following partial demolition of existing warehouse building. To include determination of the matters of access, landscaping, layout and scale (matters relating to appearance reserved).

Appeal Decision: Appeal Dismissed

4.3.1 The main issues were the effect of the proposal on the provision of open space, the character and appearance of the area and living conditions of adjoining occupiers and highway safety and parking.

4.3.2 The Inspector concluded that the site represents open space and found that it had not been demonstrated that the open space was surplus to requirements or that the proposal would not cause or worsen a deficiency of open space. It was also found that it had not been demonstrated that the loss of open space would be adequately mitigated through the improvement of other open space or through the transfer of land at part of the site to become open space. Although the site is not designated as open space by the Core Strategy and the site is allocated as a Secondary Industrial and Commercial Area, it was concluded that this does not prevent the site being considered open space. It was also found that support for employment development within Policy CSTP6 does not make irrelevant the protection of open space contained within Policy PMD5 and paragraph 97 of the NPPF. In this case, where the Core Strategy policies pulled in differing directions, the loss of open space and the associated conflict with Policy PMD5 and the NPPF was afforded substantial weight.

4.3.3 In terms of the effect on character and appearance, the Inspector found that the proposal would broadly follow the scale of the existing building at the site and the layout would enable the provision of a 'tree alley' and acoustic fence

which would provide an effective screen between the development and the adjacent football pitch and nearby properties. It was also deemed that the separation distance from neighbouring properties and the abovementioned features of the layout and design combined to ensure that the proposal would not be domineering, intrusive, incongruous or harmful to the living conditions of nearby residents.

4.3.4 The Inspector found that the site was within an urban area and had good access to alternative forms of transport, noting the presence of Grays railway station, a nearby bus stop and cycle routes. Therefore, and in the absence of substantive evidence relating to parking stress in the local area, it was deemed that the provision of 20 parking spaces and cycle storage space was adequate and not contrary to Core Strategy Policies PM8 and PM9.

4.3.5 Therefore, the appeal was dismissed on the grounds of the loss of open space.

4.3.6 The full appeal decision can be found online

4.4 Application No: 19/01685/HHA

Location: 14 Manor Road, Stanford Le Hope

Proposal: Part two-storey, part single-storey side extension on both sides. Part two-storey, part single-storey rear extension. Loft conversion and rear dormer windows.

Appeal Decision: Appeal Dismissed

4.4.1 The Inspector considered the main issue is the effect of the proposed extensions on the character and appearance of the host dwelling and surrounding area.

4.4.2 The Inspector found the roof form would be contrived and the mass and bulk of the proposal close to the boundary with a bungalow would be unacceptable and have a detrimental impact on the character and appearance of the property and the street scene, contrary to Policies PMD2, CSTP22 and CSTP23 of the Core Strategy.

4.4.3 Accordingly the appeal was dismissed.

4.4.4 The full appeal decision can be found online.

4.5 Application No: 20/00355/HHA

Location: 230 Lodge Lane, Grays
Proposal: Single storey rear extension with two roof lights, first floor side extension and garage conversion
Appeal Decision: Appeal Allowed

4.5.1 The Inspector considered the main issues were whether the proposal would result in a detrimental impact upon the living conditions of the occupiers of No 228 Lodge Lane, with regard to outlook and natural light.

4.5.2 The dwellinghouse is a semi-detached property, adjoining to No 228. After conducting a visit to the site the Inspector confirmed that the closest ground floor window located at No 228 serves a kitchen. It was confirmed by the inspector that the proposal would result in a minor breach of the 45 degree vertical plane, and a marginal breach on the 60 degree horizontal plane as prescribed by the RAE2017. It was considered by the Inspector that given the limited breach of the standards as set out within the SPD and the existence of the boundary fence and planting, the side wall of the extension as seen from the neighbouring kitchen would not be a dominant or overbearing feature.

4.5.3 With regard to natural light, the Inspector advised that due to the limited height of the extension and its flat roof it would not cause any loss of daylight to the neighbouring window. The orientation of the properties means that the only potential effect on sunlight as a result of the extension would be in the late afternoon and evening. However, the limited height and flat roof would mitigate any potential harm in this regard.

4.5.4 The Inspector concluded that they agreed with the Council that the first floor extension and garage would not be harmful for the reasons given in the officer's report. The proposed rear extension would not have a materially harmful effect on the living conditions of the occupiers of No 228 Lodge Lane, with regard to outlook and natural light. Consequently, there is no conflict with Policy PMD1 of the Thurrock Core Strategy. The appeal was allowed subject to conditions.

4.5.5 The full appeal decision can be found online.

4.6 Application No: 20/00168/HHA

Location: 26 Whitmore Avenue, Stifford Clays
Proposal: Single storey front extension

Appeal Decision: Appeal Dismissed

4.6.1 The Inspector considered the main issue is the effect of the proposed extension on the character and appearance of the host dwelling and the street scene.

4.6.2 The Inspector found that as the proposed extension would extend across the dwelling's full width, it would introduce a wholly new design feature in the street scene which would be uncharacteristic of the unaltered dwellings. Given the open frontage and the views from the street scene the Inspector found the matter to be contrary to Policies PMD2, CSTP22 and CSTP23 of the Core Strategy.

4.6.3 Accordingly the appeal was dismissed.

4.6.4 The full appeal decision can be found online.

4.7 Application No: 20/00713/PHA

Location: 64 Moore Avenue, South Stifford

Proposal: Single storey rear extension with a depth of 6 metres, maximum height of 3.27 metres and eaves height of 3 metres

Appeal Decision: Appeal Allowed

4.7.1 This application is not a planning application where the case was assessed on the basis of policies in the Core Strategy or the NPPF. It is an application for a Prior Approval, and is considered against the requirements of the Town and Country Planning General Permitted Development Order 2015.

4.7.2 The Council considered that the property had been previously extended in such a form that meant the criteria of the Order did not apply. The Inspector considered that the proposed rear extension would comply with the criteria of the Order and the appeal was allowed.

4.7.3 The full appeal decision can be found online.

4.8 Application No: 20/00452/HHA

Location: 12 Balmoral Avenue, Corringham

Proposal: Single storey rear extension

Appeal Decision: Appeal Dismissed

- 4.8.1 The Inspector considered the main issues were the effect of the development on the living conditions of the occupiers of 14 Balmoral Avenue in regard to light and outlook.
- 4.8.2 The Inspector concluded that the extension would have an overbearing impact on No. 14 and would cause excessive enclosure and light loss. Even if it was shown that there was no significant impact on light entry at No 14, the outlook from the aforementioned habitable room would be effectively along an 8 metre long tunnel which would not be satisfactory.
- 4.8.3 The inspector considered the matters raised in the statement that the existing extension exceeds the right of light of the adjoining property already, however the Inspector concluded the existence of harm does not justify increasing the harm and noted that the current occupiers of No 14 did not object to the development, but that the situation or the occupiers may change.
- 4.8.4 The Inspector concluded the development would be detrimental to the living conditions of occupiers of No 14 which would be contrary to Policy PMD1 of the Core Strategy. This does not permit development where it would cause unacceptable effects on the amenity of others, as well being contrary to guidance in the SPD.
- 4.8.5 The full appeal decision can be found online

4.9 Application No: 20/00396/HHA

Location: 194 Southend Road, Stanford Le Hope

Proposal: Two storey side extension and enclosed lobby area to main entrance with roof lantern

Appeal Decision: Appeal Dismissed

- 4.9.1 The Inspector considered the main issue to be the effect of the development on the character and appearance of the area.
- 4.9.2 The Inspector found that the extension would nearly double the width of the property and would project beyond the building line of dwellings on Goldings Crescent introducing significant mass and bulk on the corner plot. The extension would impact on the openness of the area.
- 4.9.3 Given the tight development pattern the Inspector indicated the development would be detrimental to the character and appearance of the area, contrary to Policies CSPT22 and PMD2 of the Core Strategy.
- 4.9.4 The appeal was dismissed.

4.9.5 The full appeal decision can be found online.

4.10 Application No: 19/01229/OUT

Location: Sable House, Horndon Road, Horndon On The Hill
Proposal: Outline Planning Application (All Matters Reserved) for the erection of a two bedroom bungalow
Appeal Decision: Appeal Dismissed

4.10.1 The main issues were: whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; the effect of the development on the openness of the Green Belt; the effect of the development on the character and appearance of the area; and would the harm, by reason of the inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to very special circumstances required to justify the proposal.

4.10.2 The site is situated at the end of a short ribbon of development and abuts open land on two boundaries. The opposing plot, Woodside, and the appeal site are both residential and located at the end of short ribbons of development abutting open land. The existing dwellings at the appeal site are remote from a more nucleated building pattern and Inspector concluded that the site is not situated within a settlement boundary or within a built-up area and consequently the appeal site could be considered to be PDL.

4.10.3 In light of this, paragraph 145 sets out exceptions for development in the Green Belt, including limited infilling or the partial or complete development on PDL, subject to the development's impact on openness.

4.10.4 It was held that the bungalow would be an additional structure with associated hardstanding for parking and domestic paraphernalia in its amenity space. Evidently, the development would therefore have a greater impact on openness of the Green Belt than the existing development.

4.10.5 Furthermore, the introduction of the bungalow on a narrow plot between the pool house and the site boundary would require the removal of the existing mature trees located within its footprint. The Inspector deemed that the loss of the mature trees would be detrimental to the semi-rural character and appearance of the area.

4.10.6 It was acknowledged that the application was an outline application and that the layout, at this stage is indicative, and could be located anywhere within the application site and have a lesser impact on the trees. Although, the Inspector held that an alternative location within the site would result in potential issues regarding deviation from the underlying building pattern. On this basis, it was concluded that the development would have an adverse effect on the character and appearance of the area, contrary to design aims of policies CSTP22 and PMD2m and CSTP23 which seek to protect, management enhance the character of Green Belt areas.

4.10.7 It was noted that this development would represent a very small addition to local housing supply and that a shortfall in housing supply cannot in itself constitute the very special circumstances required to clearly outweigh the harm arising from inappropriate development in the Green Belt. Accordingly the Inspector did not consider Very Special Circumstances existed to clearly outweigh the harm. Consequently, the bungalow would be inappropriate development, contrary to Paragraph 145 of the Green Belt as well as Policies CSSP4 and PMD6 of the Local Plan (LP) which taken together aim to maintain and protect the open character of the Green Belt. The Framework states that substantial weight should be given to harm to the Green Belt.

4.10.8 The appeal was therefore dismissed.

4.10.9 The full appeal decision can be found online.

4.11 Application No: 19/01317/HHA

Location: 23 Connaught Avenue, Grays

Proposal: (Retrospective) Hip-to-gable loft conversion with rear dormer, 3 front rooflights and Juliet balcony

Appeal Decision: Appeal Dismissed

4.11.1 The Inspector considered that the main issue to be the effect of the development on the character and appearance of the pair of semi-detached dwellings and the area.

4.11.2 The main hipped roof has been altered to a gabled roof, severely unbalancing the pair of semis and reducing the space between the dwelling and the

neighbouring detached house thereby detracting from the spacious nature of the street.

4.11.3 The rear dormer extended across the full width of the rear roof slope, and set only slightly below the ridge of the main roof and was contrary to the RAE. The dormer's size and position mean that it is clearly seen from the street, appearing unduly bulky and overly dominant.

4.11.4 The grey cladding contrasts starkly with the white rendered walls and tiled roofing, drawing attention to the disproportionate size and scale of the dormer, the incongruous form of the new roof and the awkward junctions between the dormer, new roof and existing projecting gabled roof.

4.11.5 The Inspector concluded that the development, by reason of its form, size, scale and materials, significantly harmed the character and appearance of the pair of semi-detached dwellings and the area and is contrary to Policies CSTP22 and PMD2 and the RAE.

4.11.6 The full appeal decision can be found online

4.12 Application No: 20/00144/HHA

Location: 84 Christchurch Road, Tilbury

Proposal: Single storey front extension

Appeal Decision: Appeal Dismissed

4.12.1 The Inspector considered that the main issues is the effect of the proposed development on the character and appearance of the dwelling and the area.

4.12.2 The appeal dwelling sits between an unaltered dwelling and an altered one to its front elevation. The proposal would extend across the full width of the dwelling with the same forward projection as the existing porch. Whilst it would be greater in width than the existing extensions in the terrace which have only canopies covering the full width, those canopies have a strong visual impact and the width of the proposed extension would therefore be acceptable in this context.

4.12.3 It was concluded that the scale and form of the continuous pitched roof would fail to reflect the flat roofs of the terrace and would appear unduly bulky in the street scene. Its greater eaves and ridge heights would also create an awkward junction with the adjoining hipped roof at no 82. The use of

brickwork across the whole frontage would fail to reflect the timber cladding and mix of materials in the original design. As such, its design would fail to reflect the original, 1960's character of the dwelling and the terrace.

4.12.4 Therefore the proposed extension, by reason of its scale and design, would significantly harm the character and appearance of the dwelling and the area and would be contrary to development plan policies CSTP22 and PMD2 and to the Council's SPD. Accordingly the appeal was dismissed.

4.12.5 The full appeal decision can be found online

4.13 Application No: 20/00526/FUL

Location: 101 Feenan Highway, Tilbury

Proposal: Erection of new dwelling with associated hardstanding and vehicular access. Ground floor rear extension to existing dwelling and new vehicular access.

Appeal Decision: Appeal Decision

4.13.1 The Inspector considered the main issues were the effect of the new dwelling upon the character and appearance of the surrounding area.

4.13.2 The proposed development would result in a longer terrace of dwellings. This would result in a diminished level of space between the appeal site and 99a Feenan Highway. This is a concern as the loss of the gap between the two buildings would erode the more open character that is a feature of this suburban location due to the limited amount of space between the two buildings conflicting with the more open nature of the wider area.

4.13.3 The neighbour property would be further set back. Therefore in a short distance two differing houses would be sited that are located notably different amounts of distance back from the highway edge appearing incongruous. Due to the flat topography of the surrounding area, combined with the lack of high-level landscaping the site is prominent would appear to be significantly strident and discordant.

4.13.4 Although the Inspector noted that 99A appears to be a relatively new dwelling, its positioning is such that a large gap has been retained between it and the existing dwelling at No. 101. In result, it does not have the same effect on the character and appearance of the surrounding area

4.13.5 The Inspector concluded that the appeal scheme would have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would fail to comply with Policies PMD2 and CSTP22 of the Thurrock Core Strategy and Policies for the Management of Development (2015).

4.13.6 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	5	4	7	0	4	3	0	14	13		59
No Allowed	1	0	2	2	0	0	3	1	0	2	2		14
% Allowed	20%	0%	40%	50%	0%	0%	75%	33.33%	0%	14.29%	15.38%		23.73%

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 Smith**
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