

<b>22 April 2021</b>		<b>ITEM: 6</b>
<b>Planning Committee</b>		
<b>Planning Appeals</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Not Applicable	
<b>Report of:</b> Jonathan Keen, Interim Strategic Lead - Development Services		
<b>Accountable Assistant Director:</b> Leigh Nicholson, Assistant Director –Planning, Transportation and Public Protection.		
<b>Accountable Director:</b> 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:** 20/01505/FUL

Location: Montrose, 168 Branksome Avenue, Stanford Le Hope

Proposal: Demolition of the existing bungalow and the construction of 4 new dwellings with associated access road, hardstanding, landscaping and two vehicular access points (resubmission of 19/00379/FUL Demolition of the existing bungalow and the construction of 5 new dwellings with associated access

road, hardstanding, landscaping and two vehicular access points (resubmission of 18/00316/FUL Demolition of the existing bungalow and the construction of 7 new dwellings)

**3.2 Application No: 20/00870/HHA**

Location: 5 Branksome Close, Stanford Le Hope

Proposal: Front porch extension with pitched roof and single storey side extension to be used as a garage

**3.3 Application No: 20/01276/FUL**

Location: 2 Hall Lane, South Ockendon

Proposal: Development of a single-storey, 1-bedroom dwelling and reconfiguring the existing dwelling's rear extension and new vehicle crossover

**3.4 Application No: 20/01507/FUL**

Location: 1 Grove Road, Grays

Proposal: Extension to garage and conversion to HMO

**3.5 Application No: 20/01547/PAOFFR**

Location: Go Train Ltd, Victoria House, Clarence Road, Grays

Proposal: Change of Use from office to 4 flats

**4.0 Appeals Decisions:**

The following appeal decisions have been received:

**4.1 Application No: 20/00266/CV**

Location: Blossom Barn, Peartree Lane, Bulphan

Proposal: Application for the removal of conditions no 6 (Enclosure) and 7 (Extensions) of planning permission ref 14/01351/FUL (Proposed conversion of existing barn to single dwelling house.)

Appeal Decision: Appeal Dismissed

- 4.1.1 The main issue was whether Conditions 6 and 7 of the previous permission were necessary having regard to the impact upon visual amenity and the openness of the Green Belt. The Inspector noted that the appeal property is sited in a sensitive location deeper into its plot than most other development along Peartree Lane. Furthermore, the dwelling is positioned at the end of the lane, and is bounded by open fields on two sides, with informal hedging and other vegetation forming the external boundaries with the countryside beyond.
- 4.1.2 Given the sensitive rural location of the dwelling and its proximity to open countryside, the Inspector considered that the uncontrolled erection of fences, walls and gates could potentially have a highly urbanising effect which would harm the visual amenities of the area and the character and appearance of the countryside, contrary to Policies CSTP22 and PMD2 of the Core Strategy. Consequently, the Inspector found that Condition 6 meets the tests and was reasonable and necessary.
- 4.1.3 With regard to Condition 7 the Inspector noted that the reason for refusal of application ref. 20/00266/CV was clear in that the Council was seeking control in assessing any future effects of development on the Green Belt and the rural character of the area. If uncontrolled, a detached house on a large plot could otherwise feasibly undertake a significant amount of development without the need for planning permission. Paragraph 145 c) of the NPPF establishes that extensions or alterations to a building within the Green Belt are not inappropriate provided that they do not result in disproportionate additions over and above the size of the original building.
- 4.1.4 The Inspector noted the barn conversion is not a conventional dwelling and it is located in a highly sensitive location, away from the existing frontage development on Peartree Lane and is open to views from the open fields beyond. The building is substantial in size and given its rural character and appearance, would be sensitive to change from further additions. In the Inspector's judgement, the removal of condition 7 and thus the lifting the current restrictions on PD rights would lead to considerable potential for unsympathetic alterations and large extensions that could result in disproportionate additions that may have a significant impact on the

openness of the Green Belt. Such extensions and alterations, along with further built form including outbuildings, would have the potential to harm the visual amenities and character and appearance of the surrounding area, as well as the openness of the Green Belt. The Inspector commented that all types of extensions and alterations that could be carried out under Classes A, B, C and E (and including the new Class AA) could potentially have a significant harmful effect on the visual amenities and character and appearance of the surrounding area and the openness of the Green Belt, contrary to Policies PMD2 and PMD6 of the Core Strategy as well as paragraph 145 of the Framework. The Inspector consequently found Conditions 6 and 7 reasonable and necessary and dismissed the appeal.

4.1.5 The full appeal decision can be found online.

**4.2 Application No: 20/00633/CLOPUD**

Location: Glenfield, Brentwood Road, Bulphan

Proposal: Outbuilding incidental to the main dwelling

Appeal Decision: Appeal Allowed

4.2.1 The main issue in this appeal is whether the Council's decisions to refuse to grant the LDC was well-founded. The decision turns on whether the outbuildings would be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO).

4.2.2 The Council argued that the outbuildings were not required for a purpose incidental to the enjoyment of the dwellinghouse. In the case of the gym building, this is due to its scale and internal layout. There is no disagreement that in all other the outbuildings respects would fall within the scope of Class E of the GPDO.

4.2.3 Class E gives planning permission for ' (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such...'. It has been established by case law that an incidental use should be functionally related to the primary use, but not part and parcel of the primary use. The functional relationship should be one that is normally found and not based on the personal choice of the user. The Inspector commented that whether a use should be regarded as incidental will be a matter of fact and degree.

4.2.4 The Inspector agreed with the Council that the proposed gym outbuilding would be a substantial single storey building, divided into six separate interconnected rooms. The largest room would provide a gymnasium with gym equipment, with smaller rooms providing a sauna, steam room, changing room with shower and WC, a plant room, and an external covered area for a hot tub. It would be for the use of the appellants and their parents who will be moving into the replacement dwelling. The Inspector noted the Appellants state that the building is particularly needed during the current pandemic and to assist with the recovery of their father from knee surgery.

4.2.5 The Inspector found no reason to consider the proposal would not be used incidentally stating that, 'While the building would be large, the facilities it would provide would be relatively modest in size and likely to be what is needed to achieve their purpose. A WC and shower room could be primary accommodation but, in this case, it would not be unreasonable to regard it as part of the incidental use as a gym.' Based upon the information submitted the Inspector considered the outbuilding to be incidental and Permitted Development by virtue of Schedule 2, Part 1, Class E of the GPDO.

4.2.6 The full appeal decision can be found online.

**4.3 Application No: 20/00632/CLOPUD**

Location: Glenfield, Brentwood Road, Bulphan

Proposal: Outbuilding incidental to the main dwelling

Appeal Decision: Appeal Allowed

4.3.1 The main issue in this appeal is whether the Council's decisions to refuse to grant the LDC was well-founded. The decision turns on whether the outbuildings would be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO).

4.3.2 The Council argued that the outbuildings were not required for a purpose incidental to the enjoyment of the dwellinghouse. In relation to the garage building it is due to its scale and its purpose to provide additional garaging. There is no disagreement that in all other the outbuildings respects would fall within the scope of Class E of the GPDO.

4.3.3 Class E gives planning permission for ' (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of

the dwellinghouse as such...'. It has been established by case law that an incidental use should be functionally related to the primary use, but not part and parcel of the primary use. The functional relationship should be one that is normally found and not based on the personal choice of the user. The Inspector commented that whether a use should be regarded as incidental will be a matter of fact and degree.

4.3.4 The proposed garage would be a large building that would provide bays for three vehicles. One of the bays would be deeper to provide space for a long wheel based camper van, resulting in an L-shaped building. The other two bays would provide covered storage for the appellants' classic vehicles. The Inspector noted that these vehicles form part of the Appellant's personal collection and require safe and secure storage. The Appellants provided photographs of a range of scooters, cars, trucks and garden machinery, some of which the Inspector saw on site.

4.3.5 The Inspector considered that the scale of the proposed garage would be relatively modest, and would be of a size and design that could normally be found in the curtilage of a dwelling of this size. While the collection of classic cars is the personal choice of the Appellant, an outbuilding required in connection with a hobby is capable of being incidental, and the proposed building is of a size that is reasonably required to fulfil that purpose. The Inspector concluded that garage building would reasonably be required for a purpose incidental to the enjoyment of the dwellinghouse, and would be permitted development under Schedule 2 Part 1 Class E of the GPDO.

4.3.6 The full appeal decision can be found online.

**4.4 Application No: 20/01419/HHA**

Location: 38 Sanderling Close, East Tilbury

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

Appeal Decision: Appeal Dismissed

4.4.1 The main issue for this appeal relates to the impact of the development on the character and appearance of the area. The Inspector commented that the area is characterised by an open planned appearance noting that, 'when looking up and down the main part of Sanderling Close, one is able to see the generally open front gardens and vehicle parking areas to the front of

dwellings. In the main these are free from enclosure and where that does occur it is usually in the form of low hedges or bushes. The result of this is a uniqueness to the character of the area and specifically links to the wider development creating a sense of place. ‘

4.4.2 The erection of the metal railings has enclosed a large part of the front garden and parking area to the front of No 38. The Inspector found that this introduces a striking and highly visible form of boundary treatment that is incongruent with the wider area. The Inspector did not see any other examples within the wider housing development of the use of such boundary treatments in this way.

4.4.3 The Inspector also found that the black colour and height of the railings at around 1.4 metres increases their visual prominence within the street scene. The Inspector considered this impact to be especially noticeable when viewed from an angle and against the light yellow brick used for the dwellings along this side of Sanderling Close and stated the railing appeared ‘a visually jarring development and means of enclosure which is at odds with the generally open character of the area.’ The Inspector consequently dismissed the appeal finding it out of keeping and harmful to the character and appearance of the area contrary to policies CSTP22 and PMD2 of the Core Strategy, and as supported by the Thurrock Design Guide; Residential Alterations & Extensions SPD July 2017, which, amongst other aims, seek to ensure that proposals demonstrate high quality design founded on a thorough understanding of and positive response to the local context.

4.4.4 The Council will now look to progress enforcement action in relation to the planning breach.

4.4.5 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	4	63
No Allowed	1	0	2	2	0	0	3	1	0	2	2	3	16

% Allowed	20%	0%	40%	50%	0%	0%	75%	33.33%	0%	14.29%	15.38%	75%	25.40%
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## 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](http://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