

10 June 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, 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. Recommendation(s)

1.1 To note the report.

2. 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. Appeals Lodged:

3.1 Application No: 20/01561/HHA

Location: 22 Meadway, Grays

Proposal: Part single part two storey rear extension together with internal alterations (Revised 20/00456/HHA)

3.2 Application No: 19/00151/AUNUSE

Location: The Willows Willow Farm House, New Road, Rainham

- Proposal: 13/01185/FUL application is for equestrian buildings. There is a house built there with family living in it, along with a garage and grass walkway.
- 3.3 Application No: 20/01461/HHA**
- Location: 47 Solway, East Tilbury
- Proposal: Single storey front extension and alteration to rear window
- 3.4 Application No: 20/01428/HHA**
- Location: 16 Birch Close, South Ockendon
- Proposal: Loft conversion with rear dormer and front roof lights
- 3.5 Application No: 20/01080/HHA**
- Location: Judds Farm, Harrow Lane, Bulphan
- Proposal: First storey side extension, single storey rear extension, removal of chimney stack, extension to existing loft conversion with the addition of a rear box dormer including 2no. Juliet balconies and the conversion of the garage into a habitable room.
- 3.6 Application No: 20/01298/HHA**
- Location: 23 Ridgeway, Grays
- Proposal: (Retrospective) Retention of single storey rear summerhouse used as personal gymnasium
- 3.7 Application No: 20/01632/HHA**
- Location: 6 Church Crescent, South Ockendon
- Proposal: Part two storey part single storey rear extension
- 3.8 Application No: 20/01436/HHA**
- Location: 33 Saffron Road, Chafford Hundred
- Proposal: Loft Conversion including clipped hip to gable alteration construction of rear dormer and three front facing roof lights
- 4.0 Appeals Decisions:**

The following appeal decisions have been received:

4.1 Application No: 20/00848/FUL

Location: 37 Sanderling Close, East Tilbury

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

Appeal Decision: Appeal Dismissed

4.1.1 The Inspector considered the main issues were the effect of the proposal on the character and appearance of the area.

4.1.2 The area consist of generally open front gardens and vehicle parking areas to the front or side of dwellings. The landscaped areas on corner plots are generally free from enclosure and where in limited cases this occurs it is in the form of low hedges, bushes or timber planting boxes.

4.1.3 The Inspector found the close boarded fence to be a visually impenetrable barrier which not only encloses part of the open landscaped area to the side of the appeal building, but also erodes the open character of this part of the residential estate. If permitted, it would introduce a visually jarring addition to the open and spacious character of the area that is at odds with the prevailing pattern of development in this locality

4.1.4 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). The appeal was dismissed on design grounds.

4.1.5 The full appeal decision can be found online.

4.2 Application No: 20/01561/HHA

Location: 22 Meadway, Grays

Proposal: Part single part two storey rear extension together with internal alterations (Revised 20/00456/HHA)

Appeal Decision: Appeal Dismissed

4.2.1 The Inspector found the main issue is the effect of the development on the character and appearance of the host property and the area.

4.2.2 The Inspector noted that planning permission has been granted (20/00456/HHA) for a similar extension. However, that extension was

designed to integrate with the original hipped roof slope. Therefore, whilst the appellant had indicated that permission existed for a larger version of the extension (the depth of the extension roof is reduced with the dormer) that permission cannot be implemented. As such, contrary to the appellant's position, it was not just a case of comparing the difference between the two schemes. That scheme did not represent a fallback and the proposed development must be considered in the context of the current situation, which now includes the changes to the roof.

4.2.3 The Inspector found the scale and form of the extension would create an awkward and unsympathetic integration with the existing property which together with the dormer would result in an incongruous addition which would dominate the property, failing to enhance the property or positively contribute to the character of the area.

4.2.4 It was understood by the Inspector that the appellant may have assumed, given the previous planning permission and certificate of lawful development (20/00457/CLOPUD), that both the rear extension and roof alterations would be acceptable. It was however noted that the Council did clearly indicate via an informative that both could not be carried out together. And in this case the cumulative additions would result in a visually prominent feature which would dominate the host property and be out of keeping the character of the area

4.2.5 Therefore for the reasons set out above the extension would be harmful to the character and appearance of the host property and the area in conflict with DPD policies CSTP22 and PMD2 which require high standards of design and for development to positively contribute to the character of the area.

4.2.6 The full appeal decision can be found online.

4.3 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.

Appeal Decision: Appeal Allowed

4.3.1 The Inspector considered that the main issue of the proposal would be the effect of the development on the retail vitality and viability of the neighbourhood centre.

4.3.2 The Inspector first considered Thurrock's Core Strategy and Policies for Management of Development DPD policy CSTP7 which seeks to maintain the existing retail function of neighbourhood centres. Also the saved policy SH11 of Thurrock Borough Local Plan which does not permit changes from

A1 unless it can be demonstrated that there is no long-term demand for a retail use was also considered.

4.3.3 The Inspector noted that from the submitted plans the internal layout of the unit would be unchanged with just the addition of a few tables and chairs. The indicated opening hours, 7am-4pm Monday to Saturday, were considered akin to a retail use, an active frontage would be maintained, and the seating area would be limited in size. Therefore, it was considered the change to a café would be unlikely to have a detrimental impact on the vitality and viability of the neighbourhood centre as a whole.

4.3.4 Notwithstanding this, of material consideration is the recent changes to the Use Classes Order. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, among other things, create a new 'Commercial, business and service' use class (Class E), which incorporates the previous shops (A1), financial and professional services (A2) and restaurants and Cafés (A3).

4.3.5 These regulations came into force on 1 September 2020. They stipulate that for any planning application submitted prior to 31 August 2020, which is relevant to this appeal, it must be determined by reference to those use classes which then applied. Nevertheless, since September 2020 a shop and café are within the same use class and therefore any change between these uses is not now development requiring planning permission.

4.3.6 It was concluded that whilst the change from A1 to A3 conflicts with Local Plan saved policy SH11 and CS policy CSTP7 in terms of evidence to support the change of use, material considerations in this case, and specifically the amended Use Classes Order, indicate that planning permission should be granted.

4.3.7 Subsequently, the appeal was allowed, however conditions were imposed in relation to the external changes.

4.3.8 The full appeal decision can be found online.

4.4 Application No: 20/00929/HHA

Location: 70 Whitehall Road, Grays

Proposal: Single storey rear extension.

Appeal Decision: Appeal Dismissed

4.4.1 The Inspector considered that the main issues of the appeal were the effect of the development on, the living conditions of the occupiers of the

neighbouring property (No.68) by virtue of overbearing impact; and the character and appearance of the host property.

4.4.2 The Inspector considered that whilst the proposed extension would have a significant depth along the shared boundary with No 68, the rear of No.68 is on higher ground than No.70, the extension would have a limited projection above the existing boundary wall and the roof of the extension would remain lower than the top of the patio doors. As such, given the difference in ground levels, and the height and design of the extension the Inspector did not find that the single storey extension would be unduly overbearing to the occupiers of the adjacent property.

4.4.3 It was noted that the application site has already been extended to the rear at all levels, and the extension would further add to the bulk and scale of the additions. In combination these additions would at ground floor have a total depth of 7m, effectively doubling the depth of the property and fully consuming the rear elevation. Furthermore, whilst the flat roof design is in general an appropriate design form and restricts the height, the significant depth of the extension and expanse of flat roof would result in an addition that would have an incongruous box like appearance to detriment of the character of the original host property. The flat roof elements of the existing property are additions and not part of the original character of the property.

4.4.4 Whilst the Inspector noted visit that other properties in the terrace have been extended, including flat roof extensions, the proposals depth is much larger than those within the area. It was also highlighted that whilst the rear of the property cannot be seen from the street, the scale of the extension would be substantial and, in the Inspector's view, would not positively respond to the host property. It was concluded that the scale and design of the extension would fail to respect and enhance the character of the original dwelling.

4.4.5 Subsequently the appeal was dismissed.

4.4.6 The full appeal decision can be found online

4.5 Application No: 20/00604/FUL

Location: 5 Malpas Road, Chadwell St Mary

Proposal: New dwelling to side plot adjacent to 5 Malpas Road

Appeal Decision: Appeal Dismissed

4.5.1 The Inspector considered the main issue to be the effect of the development on the character and appearance of the area.

4.5.2 Although the general design, which would be in keeping with the existing terrace was found to be acceptable, the space to the side of No.5 provided a notable break to the built form at the end of the cul de sac. The proposed

development would extend across most of the plot with a limited set back from the road. The Inspector concluded this would interrupt the street pattern and, given the slight curve to Malpas Road, it would be a prominent property creating a sense of enclosure both in views along Malpas Road and along the terrace from Ingleby Road.

4.5.3 The Inspector concluded overall, the development would not reflect the prevailing character, nor would it positively contribute to an enhancement of the area. Thus, the proposed development would harm the character and appearance of the area and would be contrary to policies PMD2, CSTP22 and CSTP23 of the Thurrock Local Development Core Strategy and Policies for Management of Development DPD which require that all proposals are of high quality design, respond to the site and its surroundings and contribute positively to the character of the area and sense of place.

4.5.4 The full appeal decision can be found online.

5.0 APPEAL PERFORMANCE:

	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	
Total No of Appeals	1	4											5
No Allowed	0	1											1
% Allowed	0%	25%											20%

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

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