

19 August 2021		ITEM: 6
Planning Committee		
Planning Appeals		
Wards and communities affected: All	Key Decision: Not Applicable	
Report of: Louise Reid, 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:** 20/01503/HHA

Location: 15 Mary Rose Close, Chafford Hundred, Grays

Proposal: Loft conversion consisting of two skylights to front and two dormers to rear

3.2 Application No: 20/00454/OUT

Location: The Red House, Brentwood Road, Orsett

Proposal: Application for outline planning permission with all matters reserved: Residential development of up to 41 self-contained units (Use Class C3) with a maximum of 52 bedrooms for the over 55s with underground car park and dentists surgery (Use Class D1) of up to 70 sq.m. floorspace.

3.3 Application No: 21/00123/FUL

Location: 78 Scott Road, Chadwell St Mary

Proposal: 2 bedroom annexe in the rear of the garden

3.4 Application No: 20/01077/ADV

Location: Rosina Café, London Road, Aveley

Proposal: Upgrade of existing 48 sheet advert to support digital poster

3.5 Application No: 20/01756/FUL

Location: 61 Cedar Road, Chadwell St Mary

Proposal: Erection of a 3-bedroom dwelling house, with integral garage, secure area for bicycle parking, bin storage, boundary treatment, vehicle access and associated landscaping

3.6 Enforcement No: 21/00115/BUNUSE

Location: Claylands, 186 Branksome Avenue, Stanford Le Hope

Proposal: Refusal of planning application 20/01680/FUL dual use as a C3/ E(f) day nursery

3.7 Enforcement No: 20/00010/AUNUSE

Location: Land Adjacent Collingwood Farm, Brentwood Road, Orsett

Proposal: 50 containers are being rented out without planning permission, sheds, caravans and scrap vehicles are on the land

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 20/00444/HHA

Location: Oak Cottage, Oxford Road, Horndon On The Hill

Proposal: Two storey rear extension

Appeal Decision: Appeal Allowed

4.1.1 The Inspector considered that the main issues were whether the proposal would be inappropriate development in the Green Belt and the effect on the character and appearance of Oak Cottage and the surrounding area.

4.1.2 The Inspector recognised that the Council had calculated that the floorspace of the resultant dwelling would exceed the original dwelling and the policy allowance of two reasonably sized rooms by 9 square metres. However, it was identified that there was not a clear methodology for calculating the size of a reasonably sized room and, as such, the 9 square metre was taken as a guide rather than a determinative figure. It was found that the dwelling was not being enlarged to an excessive degree and did not agree with the Council that the resultant dwelling would be unduly spacious in comparison to the existing building. It was found that the extensions would meet the test of being equivalent to two reasonably sized rooms and that, if the 'excess' was removed, this would not materially change the scale and bulk of the additions.

4.1.3 As the extension was considered to be proportionate to the original building, it was deemed that the development was not inappropriate in the Green Belt and was deemed to be in accordance with Core Strategy Policy PMD6 and the NPPF.

4.1.4 The effect on the character and appearance of the existing dwelling and the surrounding area was also found to be acceptable on the grounds that the extensions would not appear incongruous and would feature matching materials. It was also concluded that the scale and bulk of the extensions would be acceptable for the same reasons as set out above. The proposal was therefore considered to accord with Core Strategy Policies PMD2 and CSTP22, the RAE and the NPPF.

4.1.5 The full appeal decision can be found online.

4.2 Application No: 20/01344/HHA

Location: 1 Fanns Rise, Purfleet-on-Thames

Proposal: Single-storey rear extension (retrospective)

Appeal Decision: Appeal Dismissed

4.2.1 The Inspector considered that the main issues were the effect on the character and appearance of the area and the effect on the living conditions of the occupiers of 3 Fanns Rise with regard to visual impact and light.

4.2.2 The Inspector noticed that the neighbouring property at 3 Fanns Rise, and the others within the terrace, are particularly narrow and substantially narrower than the end-of-terrace dwellings but that this was not reflected on the submitted plans. Whilst it was noted that the Council found no conflict with the 45 and 60 degree rules, the Inspector did not find that he could share this view given the perceived inaccuracy of the submitted plans.

4.2.3 Based on his own assessment, the Inspector found that the scale and bulk of the flank wall at the boundary with 3 Fanns Rise would appear excessively large and have an undue overbearing presence. Although it had not been demonstrated that the effect on daylight would be unacceptable, it was found that limited outlook from the neighbouring property and its narrow width would cause the overbearing visual presence to be harmful to the living conditions within the neighbouring dwelling.

4.2.4 The opportunity for the applicant to build an alternative extension under the terms of permitted development rights was not found to be reason to allow the proposed development.

4.2.5 The effect of the development on the character of the appearance of the area was considered to be acceptable and in accordance with Core Strategy

Policies PMD2 and CSTP22. However, the impact on the living conditions of the occupiers of the neighbouring dwelling was found to be contrary to Core Strategy Policy PMD1 and the NPPF.

4.2.6 The full appeal decision can be found online.

4.3 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

Appeal Decision: Appeal Dismissed

4.3.1 The Inspector considered that the main issues were whether the proposal would be inappropriate development in the Green Belt, the effect on the openness of the Green Belt, the effect on the character and appearance of the area and whether any harm identified was clearly outweighed by other considerations so as to amount to the very special circumstances needed to justify the development.

4.3.2 The Inspector agreed with the Council's assertion that the garage development was an inappropriate form of development in the Green Belt as it met none of the exceptions listed within the NPPF and Core Strategy Policy PMD6. This had not been challenged by the appellant and the Inspector gave the harm caused by this conflict with policy substantial weight.

4.3.3 It was noted that the garage would occupy space that is currently free from development and is open. As such, it was found that the proposal would have an impact on openness that would add to the harm identified above.

4.3.4 The Inspector highlighted that the dwellings of the area are set back from the road and that there are several examples of garages being within the space between the dwellings and the road, some of which are of 'reasonably significant proportions'. A similar garage exists at the neighbouring property and therefore, in that context, it was found that the garage would not appear as an alien structure and it was deemed that the extension would be residential in scale and complimentary to the host dwelling through the use of sensitive materials. It was also found that alterations to the hardstanding at the frontage of the site was acceptable. Therefore, in this respect the proposal was found to be acceptable and in accordance with Core Strategy Policies PMD2 and CSTP22 and the applicable elements of the NPPF.

4.3.5 A nearby development of 80 homes and the removal of a shipping container was not found to be reason to allow the development and, even in addition to the proposal being acceptable in some respects, this did not represent the very special circumstances needed to justify the development.

4.3.6 The full appeal decision can be found online.

4.4 Application No: 20/01428/HHA

Location: 16 Birch Close, South Ockendon

Proposal: Loft conversion with rear dormer and front roof lights

Appeal Decision: Appeal Allowed

4.4.1 The Inspector considered that the main issue was the effect on the character and appearance of 16 Birch Close and the surrounding area.

4.4.2 The proposal would involve the provision of a box-like rear dormer. The Inspector disagreed with the Council's view that the rear roof slope should be deemed a 'visible but less prominent roof slope' as it cannot be seen from the public realm. Therefore, in the context of the RAE, it was concluded that the roofscape should be deemed to be not visible from a public space.

4.4.3 The Inspector found that the height of the dormer would not exceed three fifths of the eaves to ridge distance and, as such, would accord with the guidance contained with the RAE in respect of dormers of such limited visibility. It was found that the dormer would be suitably framed by the tiles of the existing roof, sufficiently inconspicuous and of acceptable scale and form that would respect the character of the area.

4.4.4 For these reasons, the Inspector concluded that the proposal would accord with Core Strategy Policies PMD 2 and CSTP22.

4.4.5 The full appeal decision can be found online.

4.5 Application No: 21/00037/HHA

Location: 16 Birch Close, South Ockendon

Proposal: Two storey side extension and front porch

Appeal Decision: Appeal Allowed

4.5.1 The Inspector considered that the main issues were whether the proposal would be inappropriate development in the Green Belt and the effect on the character and appearance of 16 Birch Close and the surrounding area.

4.5.2 The Inspector recognised that the Council had calculated that the proposal would result in an increase of floorspace by 34.6 square metres and that the Council had calculated that the policy allowance of two reasonably sized rooms would be 24 square metres. However, it was identified that there was not a clear methodology for calculating the size of a reasonably sized room and, as such, the 9 square metre was taken as a guide rather than a determinative figure. It was found that the extension would be subordinate to the original dwelling in terms of height, depth and width and would be appropriately residential in scale. It was found that the extensions would not be disproportionate to the existing dwelling and, therefore the development would not be inappropriate in the Green Belt. Consequently, the development was deemed to be in accordance with Core Strategy Policy PMD6 and the NPPF.

4.5.3 The 'wedge-shaped' extension was found to be unusual but reflected the alignment of the boundary of the site and would be unnoticed when viewed head on. It was noted that angled views of the extension would be limited and obscured. As such, the Inspector concluded that the extension was acceptable and would not appear incongruous or awkward as had been suggested by the Council. The effect on the character and appearance of the existing dwelling and the surrounding area was therefore found to be acceptable and the proposal was considered to accord with Core Strategy Policies PMD2 and CSTP22, the RAE and the NPPF.

4.5.4 The full appeal decision can be found online.

4.6 Application No: 20/01461/HHA

Location: 47 Solway, East Tilbury

Proposal: Single storey front extension and alteration to rear window

Appeal Decision: Appeal Allowed

4.6.1 The Inspector considered that the main issue was the effect on the character and appearance of the street scene.

- 4.6.2 The Inspector noted that the host dwellings sits within a short terrace of once identical dwellings that feature forward projecting, flat-roofed, integral garages at one side of the front elevation and a recessed porch at the other side. However, it was also noted that little uniformity remained and that the garages at 47 and 48 had been converted into living accommodation and 48 has been remodelled with smooth render and coloured window frames. It was highlighted that a pitched roof had been provided over the garage at the appeal site and, at first floor, all of the properties within the terrace differ.
- 4.6.3 The proposal would result in the front projection extending to match the full width of the property, albeit not extending any further forward, and the roof of the resultant projection would be hipped. The Inspector found that, given the existing mix, the proposal would sufficiently complement the character of the street and be compliant with the RAE insofar as it relates to front extensions and porches. In this regard it was found that the extension would be finished with materials and fenestration to match the existing and, although there would be change to the appearance of the dwelling and the terrace as a whole, the proposal would merely add to an existing mix in a manner that would appear neither dominant nor incongruous within the street scene.
- 4.6.4 The effect on the character and appearance of the streetscene was therefore found to be acceptable and the proposal was considered to accord with Core Strategy Policies PMD2 and CSTP22 and the NPPF.
- 4.6.5 The full appeal decision can be found online.

4.7 Application No: 20/01298/HHA

Location: 23 Ridgeway, Grays

Proposal: (Retrospective) Retention of single storey rear summerhouse used as personal gymnasium

Appeal Decision: Appeal Dismissed

- 4.7.1 The Inspector considered that the main issues were the effect on the character and appearance of the area and the effect on the living conditions of the occupiers of 21 and 25 Ridgeway with regard to visual impact and privacy.
- 4.7.2 The Inspector concluded that the eaves height of the building would be unusually tall for a single storey building and, therefore, the front elevation

would be overly large, bulky and dominant with the rear garden setting. A lack of articulation and detail was considered to cause the building to be atypical of most traditional residential outbuildings and it was found that the building would appear intrusive and out of keeping with its setting. For these reasons it was found that the building would be harmful to the character and appearance of the area and harmful to the outlook from neighbouring properties.

4.7.3 The Inspector found that the openings in the elevation closest to 25 Ridgeway would allow sight back towards the rear elevation of that dwelling at fairly close quarters, thereby having a potential impact on the privacy within the first floor of that property which would exceed what would normally be expected.

4.7.4 Overall, it was found that the proposal would fail to show a positive relationship with its rear garden setting or respect for the amenity of neighbouring occupiers, contrary to the RAE. The harm would also be in conflict with Core Strategy Policies PMD1, PMD2 and CTP22. As it was not disputed that the building exceeds permitted development right allowances, it was not found that they were relevant to the assessment of the merits of this development.

4.7.5 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	0	7									12
No Allowed	0	1	0	4									5
% Allowed	0%	25%	0%	57.14%									41.67%

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