

28 October 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, Assistant Director Planning, Transportation and Public Protection.		
Accountable Director: Julie Rogers, Director Public Realm		

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:** 21/00589/HHA

Location: 54 Dupre Close, Chafford Hundred, Grays

Proposal: Retrospective planning application for a metal fence with two access gates

3.2 Application No: 21/00966/HHA

Location: 53 Arun, East Tilbury

Proposal: Single storey side extension

3.3 Enforcement No: 21/00099/AUNUSE (Appellant 1)

Location: Land Part Of Thurrock Flexible Generation Plant, Fort Road, Tilbury

Proposal: Unauthorised encampment

3.4 Enforcement No: 21/00099/AUNUSE (Appellant 2)

Location: Land Part Of Thurrock Flexible Generation Plant, Fort Road, Tilbury

Proposal: Unauthorised encampment

3.5 Application No: 20/01739/HHA

Location: Summerville, Fort William Road, Vange

Proposal: Proposed golf simulator room and garden room

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 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

Appeal Decision: Appeal Dismissed

4.1.1 The Inspector considered the issues to be: the effect of the proposed single-storey side extension on the character of the existing dwelling and

surrounding area; and the effect of the proposal on pedestrian and highway safety in the immediate locality.

- 4.1.2 The Inspector considered the proposed roof design would introduce two different interconnecting roof styles and that the awkward design would appear as an unacceptably incongruous addition not in keeping with the character of the existing dwelling. In such a prominent location she found it would be to the detriment of the character of the surrounding area. She also considered the limited amount of parking and difficulty that would occur in manoeuvring would be likely to lead to harm to highways and pedestrian safety.
- 4.1.3 The proposal was therefore considered contrary to Policies PMD2, PMD8 & CSTP22 of the Core Strategy, the Residential Alterations and Extensions (RAE) 2017 and the NPPF 2021 and accordingly the appeal was dismissed.
- 4.1.4 A separate costs decision was also dismissed.
- 4.1.5 The full appeal decision can be found online.

4.2 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.

Appeal Decision: Appeal Dismissed

- 4.2.1 The Inspector considered the key issues to be whether the proposal would be inappropriate development; the impact of the openness of the Green Belt; and, if inappropriate whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the every special circumstances necessary to justify the development.
- 4.2.2 The Inspector considered the proposals to be disproportionate, not subservient, and thereby inappropriate development. The Inspector gave very limited weight to potential Permitted Development options, both those previously applied for under Prior Notification and Lawful Development Certificates, and those not yet applied for, in his consideration of very special circumstances. The Inspector concluded there were no very special circumstances which existed to outweigh the harm by reason of

inappropriateness, and any other harm, for the development and dismissed the appeal.

4.2.3 The full appeal decision can be found online.

4.3 Application No: 20/00610/FUL

Location: Land To Rear Of 14 Corringham Road, Stanford Le Hope

Proposal: Demolition of existing single storey vacant garage unit and erection of a two storey four bedroom residential dwelling with living space in the roof, internal garage and associated amenity and parking areas.
Resubmission of 19/01094/FUL [Demolition of existing garage and erection of three storey residential building providing 2 no. 2 bedroom residential units with undercroft parking]

Appeal Decision: Appeal Dismissed

4.3.1 The main issues under consideration in this appeal was the effect of the proposal on the character and appearance of the area, to the occupiers of 3 to 5 Salisbury Avenue and if the proposal would provide satisfactory living conditions for future occupiers.

4.3.2 The Inspector considered the proposal would have an unacceptably harmful effect on the character and appearance of the appeal site and surrounding area. They also considered the proposal would have a harmful effect on the living conditions of the occupiers of 3 to 5 Salisbury Avenue with particular regard to privacy and outlook. The Inspector also supported the final reason for refusal and agreed the proposal would not provide future occupiers with satisfactory living conditions in terms of the size of the external space, or the standard of outlook and daylight reaching the ground floor rear windows. Consequently, there is conflict with policies PMD1, PMD2, CSTP22 and CSTP23 of the Core Strategy.

4.3.3 The Inspector concluded that the limited housing supply benefits of the proposal do not outweigh the harms set out above and the proposal would not amount to sustainable development

4.3.4 The full appeal decision can be found online.

4.4 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.

Appeal Decision: Appeal Dismissed

4.4.1 The Inspector considered the main issue to be the effect of the proposed development on the character and appearance of the local area and on the living conditions of the occupiers of 14 Mary Rose Close with particular regard to visual impact.

4.4.2 It was considered that the dormers would be poorly designed and incongruous as each proposed dormer would include a flat roof which would cause them to appear as overly large 'box like' additions, the bulk of which would give the host building an awkward top-heavy appearance. Accordingly the proposal was found to be contrary to Policies CSTP22 and PMD2 of the Core Strategy and criteria in the RAE.

4.4.3 The Inspector also considered that the presence of the new dormers would be so imposing as to overbear on the occupiers of No 14, which would feel intrusive. The proposal was found to be contrary to Policy PMD1 in this respect and accordingly the appeal was dismissed.

4.4.4 The full appeal decision can be found online.

4.5 Application No: 20/01727/HHA

Location: 51 Stephenson Avenue, Tilbury

Proposal: (Retrospective) Demolition of existing garage and replace with outbuilding to be used as a gym and as storage space

Appeal Decision: Appeal Allowed

4.5.1 The Inspector considered the main issues were whether the development provides satisfactory living conditions for the occupiers of the appeal property with regard to private amenity space and the effect of the proposal on the living conditions of the occupiers of 49 Stephenson Avenue with regard to light and visual impact

4.5.2 The Inspector indicated that a suitably sized garden would be left for the occupier taking into account the size of the outbuilding and other exiting extensions to No 51. He also found that given the distance from No 49 and the orientation of the windows that there would not be a harmful impact on the amenities of the residents of No 49. Accordingly the appeal was allowed.

4.5.3 The full appeal decision can be found online.

4.6 Application No: 21/00123/FUL

Location: 78 Scott Road, Chadwell St Mary

Proposal: 2 bedroom annexe in the rear of the garden

Appeal Decision: Appeal Allowed

4.6.1 The Inspector considers the main issue is the effect of the proposed development on highway safety for the users of Scott Road with particular regard to on-street vehicle parking.

4.6.2 The plans show that the appeal dwelling has no off-street vehicle parking or a formal vehicle access and that none would be provided. The appellant confirmed that position ahead of the Council's decision and the application was determined on that basis.

4.6.3 The site visit by the Inspector saw that a vehicle crossover was in place along part of the site's highway frontage to provide access from the road to a hard surfaced area in front of the dwelling. Highways Officers letter dated 18th May 2021 gives approval in principal to the vehicle crossover, stipulates that the off-street parking is for one vehicle and that the vehicle crossover should be a minimum width in line with the deep point of the driveway and not in front of or extending to the point of the old porch. On that basis, the proposal would fall short of the Council's off-street parking requirement by one space

4.6.4 The Inspector concluded the main issue that the proposed development, despite the shortfall in off road parking by up to 2 spaces, would not have an adverse effect on highway safety As such, it does not conflict with Policies PMD2, PMD8 and PMD9 of the Council's Core Strategy and Policies for Management of Development (as amended).

4.6.5 Two additional conditions to be added to the approval. Standard Time Limit and Restrict the Use to the annexe to ensure that the development remains ancillary to the main dwelling.

4.6.6 The full appeal decision can be found online.

4.7 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

Appeal Decision: Appeal Dismissed

- 4.7.1 The Inspector considered that the main issues of the proposal was the, effect of the proposed dwelling on the character and appearance of the appeal site and street scene. The effect on the living conditions of the occupiers of No 61 Cedar Road, with regard to outlook and natural light; and whether the proposal makes adequate provision for parking and, related to this, the effect on highway safety.
- 4.7.2 Firstly, the Inspector considered that whilst the proposal would reduce the openness of the existing side garden, it would retain a good degree of separation from the dwellings to the west. The terrace to the north would be visible from the public realm, due to the limited projection of the new dwelling beyond the building line of this terrace and due to the grassed area immediately west of the appeal site. The new dwelling would also retain a small area of garden between its side wall and the boundary. As such, it would not appear cramped in this residential setting and would not impinge on the footpath adjacent to the boundary. The arrangement of the extended terrace would not be dissimilar to many other examples within the surrounding area. Therefore, any conflict with the principles of the SPD for extensions or new dwellings in this corner location would be limited and would not result in material harm.
- 4.7.3 The Inspector highlighted that the proposal would result in a breach of the 45-degree vertical plane and would significantly exceed the 60-degree maximum depth, from the nearest ground floor doors of No.61 as specified within the Council's SPD. It was noted that the appellant has been granted a certificate of lawful development for the same form of single storey projection at No 61 as would be built to the rear of the new dwelling. As such, this would overcome the Council's concerns and the appellant had suggested that a condition could be imposed to require the extension to No 61 to be built at the same time as the new dwelling. With such a condition in place, it was concluded that the proposal would not have a materially harmful effect on the living conditions of the occupiers of No 61 Cedar Road, with regard to outlook and natural light.
- 4.7.4 The proposal included two off-street spaces, one in the form of an integral garage, the other as a parking area in front of the garage, accessed via a new dropped kerb. The garage would not meet the requisite standard, which is referred to as 7 metres by 3 metres. While the appellant contended that the shortfall is marginal, the garage would be some 2 metres below the required length. While this might enable small vehicles to be parked, the fact is that the size is well below the expected standard and would, in my view, be more likely to result in the garage not being used for its intended purpose.

4.7.5 During the Inspectors visit to the site during the daytime, there was a relatively high number of vehicles parked on the street close to No 61 and neighbouring properties. The proposed dwelling would both further increase this demand and reduce the available on-street spaces by provision of a dropped kerb in a location where parking already occurs. This will add to the parking constraints in this location, which is likely to effect the free flow of traffic along this part of Cedar Road. As such, the proposal would have a materially harmful effect on parking and highway safety through the inadequate provision made on-site. Consequently, it is contrary to Policy PMD8 as described above, and to Policies PMD2 and PMD9 of the Core Strategy.

4.7.6 Subsequently the appeal was dismissed.

4.7.7 The full appeal decision can be found online.

4.8 Application No: 21/00175/HHA

Location: 2 Bredle Way, Aveley

Proposal: Single storey rear and double storey side extension

Appeal Decision: Appeal Dismissed

- 4.8.1 The inspector considers the main issues are the effect of the proposed development on highway and pedestrian safety for users of the adjacent highways with particular regard to vehicle parking and on the character and appearance of the local area.
- 4.8.2 The Inspector notes the Council states that a dwelling of the size proposed would require 3 off-road parking spaces to meet its parking standard. At the moment, No 2 is served by a single off-road space on Bredle Way, opposite the site. A further parking space is available for visitors just in front of the existing dwelling. This arrangement reflects the approved parking layout for the housing development of which No 2 forms part. As no change is sought to this arrangement, the proposal would fall short of the Council's parking requirement.
- 4.8.3 There would be an additional loss of up to 2 parking spaces on site because the existing hard surface area would be removed to make way for the new side addition.
- 4.8.4 The Inspector concludes that the proposal would add to on-street parking demand and present a safety hazard to other roads users and pedestrians. As such, it conflicts with Policies PMD8 and PMD9 of the Core Strategy and Policies for Management of Development (CS), which note that all development, which includes dwelling extensions, should comply with relevant car parking standards and avoid prejudicing road safety.

- 4.8.5 The Inspector considered the second main issue of the character and appearance of the proposed 2-storey side and rear extension would introduce additional built form that would be close to the site's highway frontage with Park Lane. Even so, the appeal scheme would relate well to the style and appearance of the host building with a noticeable gap between the finished building and the footway. Although a sizeable addition, the proposal would not be disproportionate in scale or appear overly bulky.
- 4.8.6 The Inspector concluded that the proposed development would be in keeping with the character and appearance of the local area. It would therefore comply with CS Policies CSTP22 and PMD2 and the advice within the Council's Supplementary Planning Document, Residential Alterations and Extensions. These policies and guidance promote high quality design and aim to ensure that development adds to the character of the local area.
- 4.8.7 However the Inspectors finding on this matter does not outweigh the significant harm identified in relation to the first main issue.
- 4.8.8 The full appeal decision can be found online.

4.9 Application No: 20/00827/FUL

Location: Former Ford Motor Company, Arisdale Avenue, South Ockendon

Proposal: The erection of 92 units, comprising 86 No. 1 and 2 bed apartments, 2 No. 3 bed dwellings and 4 No. 2 bed dwellings along with associated infrastructure, works and landscaping. (Partial revisions to phase 4 of approval 18/00308/REM Dated 12th June 2018)

Appeal Decision: Appeal Allowed

4.9.1 The Inspector considered the main issues with this appeal were:

1. Whether the proposal would provide an acceptable quality of development, with particular regard to density and character, housing mix and type and the living conditions of existing and future occupiers in terms of access to sufficient size and quality of open space.
2. Whether the proposed car parking provision would be acceptable.
3. Whether the proposed affordable housing provision would be acceptable.
4. If harm and conflict with the development plan is identified, whether this would be outweighed by other material considerations.

4.9.2 With regard to Issue 1, the Inspector noted the existing surroundings of development and in terms of density recognised that Phase 2 was a 71

dwellings per hectare development. On density and having regard to the existing character and surroundings of the site the Inspector considered that *'this is a good example where an opportunity to deliver additional units by an increase in density has been identified and successfully designed so as to integrate into the character of an existing housing development, with no adverse visual effects'*. The Inspector also considered the proposed housing mix reflected the Borough's housing needs for 3 bedroom houses and 1-2 bedroom apartments. For open space, the Inspector recognised that residents would have *'direct and easy access'* to open space at the site and that the proposed development would create *'an attractive and useable open space for occupiers of the apartments'*. The Inspector also noted the access to the nearby Little Belhus Country Park and Bonnygate Wood Recreation Ground with these areas also providing *'suitable and accessible open space for the occupiers of the dwellings..... in addition to their own gardens and balconies'*. In conclusion on Issue 1 the Inspector stated that *'in the absence of adverse character and appearance effects, and of an appropriate design, density, housing mix and creating acceptable living conditions in terms of access to open space, the proposal would be an acceptable quality of development. It would accord with Policies CSTP1, CSTP20, PMD2 and PMD5'*.

- 4.9.3 For Issue 2, parking, the Inspector decided that the 120 parking spaces for 92 dwellings would comply with the Council's minimum parking standard of 115 spaces and that each apartment would be provided with a space, the houses 2 spaces and a sensible approach taken in the provision and arrangement of 22 spaces for visitors. The Inspector commented that *'whilst I note comments made by Members about the level of accessibility, nonetheless, I observed the site lies in a location close to public transport links with South Ockendon rail station a short walk to the north and with regular bus services available along Arisdale Avenue. It is also close to adequate services and facilities to serve the scale of this development being within 1 kilometre of South Ockendon Town Centre'*. Furthermore, the Inspector stated that *'I also give some weight to the March report to the Council's relevant committee which stated the Council's officers were not aware of any ongoing parking issues on the development. Any modest increase in potential on-street parking as a result of the proposal from visitors or occupiers, including those occupiers of the apartments who may own a second vehicle, would not cause harm to highway safety'*. In conclusion, to the parking consideration the Inspector stated that *'for these reasons, the car parking provision and arrangements would be acceptable and would accord with Policy PMD8'*.

4.9.4 In terms of Issue 3, affordable housing, the Inspector noted that the application was supported by a viability assessment and that the development could deliver a 11 affordable housing units and this is in addition to the 10% already secured for Phase 4 and 5 reserved matters. In conclusion the Inspector stated that *'policy CSTP2 of the CS seeks the provision of 35% but parts 2 and 3 recognise that on brownfield sites, lower provision can be agreed via an open book approach. Having done so, the uncontested evidence of the appellant is that the viability position remains unchanged since that appraisal. I have no reasons to disagree, and the proposal would provide an acceptable affordable housing provision in accordance with the provisions of Policy CSTP2'*.

4.9.5 With regard to Issue 4 the Inspector found no issues with any other material considerations.

4.9.6 In assessing reaching the planning balance and conclusion the Inspector had regard to the Council's Housing Land Supply of 1.75 years deliverable housing land with the proposal assisting to address this *'considerable shortfall and be consistent with the Government's objective to significantly boost the supply of homes, including much needed affordable units, on previously developed land'*. Overall, the Inspector stated that *'drawing these conclusions together, there are no material considerations that indicate a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be allowed, and planning permission should be granted subject to the conditions set out in the attached Schedule'* and with regard to the agreed s106 agreement.

4.9.7 It should be noted that the applicant's application for costs against the Council was withdrawn during the appeal process following the Council's decision not to defend the reasons of refusal at the July Planning Committee following the receipt of legal advice.

4.9.8 The full appeal decision can be found online.

4.10 Application No: 20/01077/ADV

Location: Rosina Café, London Road, Aveley

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

Appeal Decision: Appeal Dismissed

4.10.1 The Inspector noted the existing poster advert hoarding was likely to have deemed consent, and the Inspector did not consider the proposed signage would be read in the context of the Green Belt location but would rather be viewed as a backdrop to the more urban Purfleet. The Inspector therefore considered the proposal not harmful to openness.

4.10.2 With respect to highway safety, the Inspector commented that, “..the new LED screen would be visually prominent to southbound users of Arterial Road on the immediate approach to the junction with Purfleet Road.. ...the introduction of an internally illuminated LED 48-sheet sign, displaying a variety of static images that change at intervals, would attract the attention of road users... ... just at a time when they are required to exercise particular care and attention to safely negotiate a busy stretch of highway and when they may need to brake suddenly especially if vehicles are slowing to turn into Purfleet Road. By introducing an unacceptable distraction to southbound users of Arterial Road, the proposal would result in an unacceptable increase in risk of accidents for pedestrians and road-users.” The Inspector did not consider any of the suggested mitigation by the appellant (that included a maximum illumination level of 200 cd/m2, a switch off between 1200 midnight and 6am and restrictions on the frequency of changes of display) would alleviate this highway safety concern and dismissed the appeal.

4.10.3 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	6	10							28
No Allowed	0	1	0	4	0	3							8
% Allowed	0%	25%	0%	57.14%	0%	30%							28.57%

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: **Ian Hunt**
Assistant Director Law and Governance

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