

2 December 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 of 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:** 21/00777/HHA

Location: 4 Crescent Avenue, Grays

Proposal: Demolish existing garage, part single part two storey rear extension and two storey side extension

3.2 Application No: 21/00554/HHA

Location: 106 Digby Road, Corringham

Proposal: Hip to gable loft conversion with front and rear dormers. Single storey rear and side extension with roof lights.

3.3 Application No: 21/00810/HHA

Location: 49 Fyfield Drive, South Ockendon

Proposal: Loft conversion with rear dormer and three front roof lights.

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 20/00749/CLOPUD

Location: The Willows, Kirkham Road, Horndon On The Hill

Proposal: Single storey outbuilding (garage) with pitched roof

Appeal Decision: Appeal Allowed

4.1.1 This application sought a Lawful Development Certificate (LDC) for a detached outbuilding, rather than a planning application. Accordingly there was no assessment against the Core Strategy, but against the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) on points of planning law. The Council refused to grant the certificate as it determined that the garage is not required for a purpose incidental to the enjoyment of the dwellinghouse, and that the eaves height would exceed 2.5 metres.

4.1.2 The Inspector noted that in these cases the size of the proposed building in relation to the existing dwelling is a relevant, but not conclusive factor. The Inspector considered that the size of the building was not excessive in relation to its purposes, and whilst there were other outbuildings presently on site, the building would be reasonably required for a purpose incidental to the dwellinghouse.

4.1.3 The Inspector also found that the height of the eaves complied with the requirements of the GPDO.

4.1.4 The appeal was therefore allowed.

4.1.5 The full appeal decision can be found online.

4.2 Enforcement No: 21/00015/AUNWKS

Location: Land Near Junction Of Biggin Lane Sandy Lane,
Chadwell St Mary

Proposal: Activity on the land, removal of bank.

4.2.1 The appeal was against the serving of an Enforcement Notice relating to the unauthorised material change of use of the land to B8 storage use and unauthorised development of hardstanding to facilitate that change of use. The Enforcement Notice sought the cessation of the B8 use of the land, along with any ancillary uses, within fourteen days of the date the Notice becomes effective; the removal of the authorised hardstanding and removal of equipment, machinery, rubble and debris associated with the works to comply, within three months of the date the Notice becomes effective.

4.2.2 The Inspector considered that main issue to be whether the material change of use occurred more than ten years ago, that is, before 28th January 2011. In these types of cases the onus of the proof is on the appellant and the standard of proof is the balance of probability. Following the consideration of all evidence provided, the Inspector concluded that the appellant had not demonstrated that on the balance of probability a material change of use and development had occurred before 28th January 2011. As a consequence, the change of use to B8 storage use and the creation of hardstanding was not immune from enforcement action. The Inspector also concluded that the Council's stated compliance periods on the Enforcement Notice were entirely reasonable.

4.2.3 As a result, the appeal was dismissed and the Enforcement Notice upheld subject to a revision to the wording relating to the description of the Land on an associated substituted plan.

4.2.4 The full appeal decision can be found online.

4.3 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.

Appeal Decision: Appeal Dismissed

4.3.1 The main issues were as follows:

- Whether the proposed development would be inappropriate development in the Metropolitan Green Belt having regard to the revised NPPF of 2021 and any relevant development plan policies;
- The effect on the openness of the Green Belt;
- The effect on the highway network;
- Whether the proposed contribution towards affordable housing was acceptable; and
- If inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, was clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal

4.3.2 The Inspector identified the development would not fall within the exception at criteria (d) of paragraph 149 of the NPPF and was therefore inappropriate development.

4.3.3 Although acknowledging the relatively isolated location and that all residents would need to use a car for most journeys the Inspector did not consider the proposal would be harmful of the local highways network.

4.3.4 The proposal included a signed unilateral undertaking to provide 40% of the dwellings as affordable houses, which the Inspector found to be acceptable and considered that this should attract significant weight.

4.3.5 However, in coming to a balancing exercise, the Inspector did not find the harm to the Green Belt was which he identified as “noticeable and dramatic” would be clearly outweighed by the limited benefits of the scheme.

4.3.6 The appeal was therefore dismissed.

4.3.7 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	1	2					21
No Allowed	0	1	0	4	0	3	1	0					9
% Allowed	0%	25%	0%	57.14%	0%	30%	100%	0%					42.86%

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 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 Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

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