

9 June 2022		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: 21/01077/CV

Location: Tanga Inglefield Road, Fobbing

Proposal: Application for the variation of condition no. 5 (PD rights) of planning permission ref. 94/00646/FUL (Replacement dwelling house)

3.2 Application No: 21/01186/FUL

Location: Tyelands Farm House, Langdon Hills

- Proposal: Demolition of existing dwelling and other outbuildings along with the removal of hardstanding and garaging to construct a replacement dwelling.
- 3.3 Application No: 21/01396/PNTC**
- Location: Telecommunications Mast, Muckingford Road, Linford
- Proposal: Proposed 15.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works.
- 3.4 Application No: 21/01909/PHA**
- Location: 20 Leighton Gardens, Tilbury
- Proposal: Rear extension with a depth of 6 metres from the original rear wall of the property, with a maximum height of 4 metres and eaves height of 3 metres.
- 3.5 Application No: 21/02152/HHA**
- Location: 21 Astley, Grays
- Proposal: Loft conversion with rear dormer and front velux windows
- 3.6 Application No: 21/01734/FUL**
- Location: 6 Elm Terrace, West Thurrock
- Proposal: Conversion existing bedroom and bathroom side of main building and construction of double storey side extension as a self-contained one-bedroom flat
- 3.7 Application No: 21/01091/FUL**
- Location: Jemaine, 3 Branksome Avenue, Stanford Le Hope
- Proposal: Demolition of the existing dwelling and construction of two detached properties with integral garages and parking provision with an additional vehicle access to Branksome Avenue.
- 3.8 Application No: 21/01987/FUL**
- Location: 58 Brentwood Road, Chadwell St Mary
- Proposal: 1 bedroom annexe to be used in association with the C3(b) Dwellinghouse where care is provided

- 3.9 **Application No: 21/01987/FUL**
Location: 58 Brentwood Road, Chadwell St Mary
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- 3.10 **Application No: 21/01181/FUL**
Location: Land Adjacent 107 Humber Avenue, South Ockendon
Proposal: Erection of detached dwelling on land adjacent to No 107 Humber Avenue
- 3.11 **Application No: 21/02093/CLOPUD**
Location: 68 Purfleet Road, Aveley, South Ockendon
Proposal: Single storey side extension
- 3.12 **Application No: 21/01611/FUL**
Location: 50 Giffordside, Chadwell St Mary, Grays
Proposal: Demolition of existing side extension: single storey extension to existing property and erection of end of terrace part two storey and part single storey dwelling with off street parking and rear amenity space
- 3.13 **Application No: 21/01629/FUL**
Location: 5 Malpas Road, Chadwell St Mary, Grays
Proposal: New dwelling to side plot adjacent to 5 Malpas Road including new vehicle access from Malpas Road.
- 3.14 **Application No: 21/00412/HHA**
Location: Talford, Horndon Road, Horndon On The Hill
Proposal: Removal of conservatory and build new single storey rear extension
- 3.15 **Application No: 21/02146/HHA**
Location: 87 Church Lane, Bulphan, Upminster
Proposal: Single storey rear extension

3.16 Application No: 21/01469/CV

Location: Riverview, Kirkham Shaw, Horndon On The Hill

Proposal: Application for the variation of condition no.10 (Permitted Development Rights) of planning permission ref. 93/00697/FUL (One for one dwelling and detached garage)

3.17 Application No: 21/01418/FUL

Location: 31 Elmway, Stifford Clays, Grays

Proposal: Erection of 1 three bedroom dwelling including associated refuse and cycle store

3.18 Application No: 21/01126/FUL

Location: Linsteads, Orsett Road, Horndon On The Hill

Proposal: Demolition of storage building/yard, stable, mobile home, containers and construction of 2 x chalet bungalows with associated parking and amenity areas (resubmission of 20/00745/FUL)

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 21/01258/HHA

Location: 25 Brandon Close, Chafford Hundred

Proposal: Loft Conversion with three rear dormers and one front dormer.

Appeal Decision: Appeal Allowed

4.1.1 The Inspector considered that the main issue was the effect on the character and appearance of the dwelling and the local area.

4.1.2 It was noted that the proposed dormers would be visible from Brandon Close and Elizabeth Road, that the front dormer would align with an existing front window, that the rear dormers would be narrower and that they would all be constructed from matching materials.

4.1.3 It was found that the dormers would accord with the Residential Extensions and Alterations Supplementary Planning Document 2017, being recessive proportionate and in balance with the scale and traditional appearance of the existing dwelling. The presence of dormers on some nearby houses

and nearby blocks of flats was also noted and therefore it was considered that dormers are a significant part of the character of the area.

4.1.4 The Inspector reached the view that the front and rear dormers would balance the dwelling, add interest to the roof, enliven the streetscape, reflect the local context and represent the slight enhancement of the character and appearance of the property and the local area. The proposed rooflights were also considered to be acceptable. Therefore, the development was found to be acceptable and in accordance with the policies of the development plan.

4.1.5 The full appeal decision can be found online.

4.2 Application No: 21/00705/HHA

Location: 56 Edmund Road Chafford Hundred

Proposal: Loft conversion including two pitched-roof dormers to front elevation and one dormer to rear elevation and extension of single garage to double garage.

Appeal Decision: Appeal Allowed

4.2.1 The Inspector considered that the main issue was the effect on the character and appearance of the dwelling and the local area.

4.2.2 It was noted that the proposed front dormer windows would be traditionally formed and pitched-roofed in design, centring and aligning on the ground and first floor windows. The proposed front dormers would set back from the front edge of the roof.

4.2.3 It was found that the dormers would not accord with the Residential Extensions and Alterations Supplementary Planning Document 2017, but that the additional width of the dormers did not prevent them appearing recessive, proportionate and in balance with the scale and traditional design of the existing dwelling. The prominence of the existing dwelling was noted and it was found that the plain architectural design of the existing dwelling does not make a positive contribution to the street. Therefore, as the dormers would reflect others in the wider area, it would add interest to the dwelling and enliven the streetscape.

4.2.3 It was found that the rear dormer would be viewed in the context of other rear dormers and would be partially visible from the street. As with the front dormers, it was acknowledged that the dormer would not accord with the Residential Extensions and Alterations Supplementary Planning Document 2017 but this did not prevent the dormer appearing recessive and subservient to the existing dwelling, thereby being in keeping with other dormers within the wider area.

4.2.4 The Inspector reached the view that the front and rear dormers would balance the dwelling, add interest to the roof and represent the slight enhancement of the character and appearance of the property and the local area. The proposed garage extension was also considered acceptable. Therefore, the development was found to be acceptable and in accordance with the policies of the development plan.

4.2.5 The full appeal decision can be found online.

4.3 Application No: 21/00620/HHA

Location: 21 Falcon Avenue, South Ockendon

Proposal: Loft conversion with rear dormer and single storey side extension as garage.

Appeal Decision: Appeal Dismissed

4.3.1 The Inspector considered that the main issue was the effect on the character and appearance of the dwelling and the local area and the effective and safe use of the highway.

4.3.2 It was identified that the dwelling is located within a recently completed, planned estate and that the positioning of the dwelling at the junction with another access meant the rear roofslope was visible.

4.3.3 The Inspector found that the proposed rear dormer, which would be full width and depth, would not accord with the Residential Extensions and Alterations Supplementary Planning Document 2017. It was found that the dormer would be excessive in scale and have a boxy design that would appear disproportionate and dominating, thereby unbalancing the appearance of the dwelling and its attached neighbour. The prominence of the dormer would result in the excessive scale and box form of the proposed dormer differentiating the appeal property from its neighbours and would result in the appeal property appearing as incongruous when viewed in concert with neighbouring houses and therefore detrimental to the streetscene.

4.3.4 The scale and design of the proposed garage was considered to be in keeping with the appeal property and, by being set back from its main elevation, would not appear as unduly prominent. The Inspector also considered that the extension would visually break up the existing extensive plain flank gable end of the house. The proposal would, therefore, appear as a recessive and complementary addition to the appeal property, which would not unbalance it in relation to its semi-detached pair

4.3.5 The loss of an off street parking space, resulting from the provision of parking spaces that did not meet the Council's Parking Standards, was found to result in increased pressure on the street and surrounding streets

for car parking and would impact on the use of the street by other road users. The appeal was, therefore, refused for this reason and due to the effect on the character and appearance of the property and the local area.

4.3.6 The full appeal decision can be found online.

4.4 Application No: 21/00810/HHA

Location: 49 Fyfield Drive, South Ockendon

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

Appeal Decision: Appeal Dismissed

4.4.1 The Inspector considered that the main issue was the effect on the character and appearance of the dwelling and the local area.

4.4.2 It was identified that the dwelling is located within a recently completed, planned estate where permitted development rights were removed and as such planning permission was required where it might not otherwise be. The Inspector acknowledged that permitted development rights were not applicable but gave the Government's support for people to adapt their homes significant weight anyway.

4.4.3 Despite the above, it was found that the flat roofed rear box dormer would extend across the full width of the dwelling extend the rear elevation upwards by a full floor. Therefore, the development would not accord with the Residential Extensions and Alterations Supplementary Planning Document 2017 and the scale and design of the dormer would cause it to appear as a disproportionate addition that would dominant and unbalance the dwelling. It was noted that this would be visible from the rear, from the street and from a communal garage and parking area. The gables would also be visible from the street.

4.4.4 The prominence and the obtrusive effect of the proposal would result in it differentiating the appeal property from its neighbours and having an incongruous appearance when viewed in concert with neighbouring houses.

4.4.5 Other dormers within the vicinity of the site were given little weight and were not found to be reason to support this dormer. Therefore, whilst the proposed rooflights were considered to be acceptable, the proposal was found to be unacceptable and contrary to the policies of the development plan.

4.4.6 The full appeal decision can be found online.

4.5 Application No: 21/00966/HHA

Location: 53 Arun, East Tilbury
Proposal: Single storey side extension
Appeal Decision: Appeal Allowed

- 4.5.1 The Inspector considered the considered that the main issue was the effect on the character and appearance of the dwelling and the local area.
- 4.5.2 It was noted that several examples nearby, where dwellings have been extended to the side.
- 4.5.3 The proposed extension would abut the footway which provides access to The dwellings to the rear. However The inspector said that given the small scale of the development and the fact that there are many other examples of similar developments in the surrounding area, it would not be harmful to the character and appearance of the host property or surrounding area. As such, it would comply with Core Strategy1 Policies PMD2 and CSTP22, which require in part that development is of a high standard of design which is in keeping with local character.
- 4.5.4 The Inspector concluded that the proposed development would comply with the development plan taken as a whole. There is no other material considerations which indicate a decision other than in accordance with it. As such, the appeal is allowed, subject to conditions.
- 4.5.5 The full appeal decision can be found online

4.6 Application No: 21/01314/HHA

Location: 10 Fobbing Road, Corringham
Proposal: Part two storey side and rear extension and a part single storey rear extension, removal of existing boundary wall and railings and increase in hardstanding area to provide additional off street parking
Appeal Decision: Appeal Allowed

- 4.6.1 The main issue in this appeal was the impact of the proposals on parking in the area, the application was refused only on parking grounds.
- 4.6.2 Due to a lack of parking restrictions along Fobbing Road, and other on street parking close to the application site, the Inspector determined that

the harm of on street parking increasing by one vehicle would not be significant.

4.6.3 The appeal was allowed.

4.6.4 The full appeal decision can be found online.

4.7 Enforcement No: 20/00339/BUNUSE

Location: Lakshmi Service Station, 36 - 38 Southend Road, Grays

Proposal: Possible hand car wash without the benefit of planning permission and using the access.

Appeal Decision: Appeal Dismissed

4.7.1 Enforcement Notices can be appealed on up to 7 Grounds: a – g.

4.7.2 The Notice was appealed on Ground b) that the breach alleged had not taken place, Ground c) that the matters that had occurred do not constitute a breach of planning control, Ground d) that on the date the Notice was issued it was too late to take action (i.e. the activity was lawful/time barred) and Ground f) that the requirements of the Notice were excessive.

Grounds b) and c)

4.7.3 The Inspector found that the use of the former automatic car wash area as a hand car wash was a material change of use. The automatic car wash which was previously on the site was considered to be ancillary to the petrol/service station use whilst the hand car wash was considered to be a use that customers would visit separate to the petrol station. The Inspector found that the alleged breach had taken place as a matter of fact – ground b) and that a change of use was required and had not been sought – ground c) so the appeal on both grounds failed.

Ground d)

4.7.4 For use to become immune from enforcement action, it would need to have continued uninterrupted for 10 years or more. The Notice was served on 12 April 2021, so the use would need to have taken place since 12 April 2011. The Inspector found that the new use had not started till after July 2014, so the use was less than 10 years, so the appeal on ground d) failed.

Ground f)

4.7.5 The Notice required the use as a hand car wash to cease. The appellant considered that submitting additional documents such as risk assessments could overcome the Council's concerns. The Inspector found this would not ameliorate the harm arising from the use, so the appeal on ground f) failed.

4.7.6 The appeal against the notice was therefore dismissed.

4.7.7 The full appeal decision can be found online.

4.8 Application No: 21/01204/PNTC

Location: Highway Land Lancaster Road, Chafford Hundred

Proposal: Proposed 15 metre telecommunications mast (Phase 8 Street Pole with wraparound cabinet at base), three cabinets and associated ancillary works

Appeal Decision: Appeal Allowed

4.8.1 The Inspector considered that the main issue was the effect on the character and appearance of the area.

4.8.2 It was identified that the appeal site comprises highway land adjacent to Lancaster Road with other street furniture in close proximity. Directly opposite the appeal site is a block of residential flats, separated by Lancaster Road and the area is predominantly residential and urban in character. Given the height of the adjacent buildings it was found that the height of the mast would not cause it to appear overly dominant. The verticality of the buildings, the street lights and the nearby trees meant that the street pole would not appear incongruous within the locality and would not be unexpected. It was noted that the mast would be taller and thicker than other street furniture and taller than the surrounding trees but that this was not unacceptable given the above and would not cause the mast to be overly prominent. The equipment cabinets were also found to be acceptable and it was concluded that the proposal would not have an unacceptable impact on the outlook of neighbouring residents.

4.8.3 The Inspector gave weight to the applicant's evidence that there was no where preferable for the mast to be located and discounted each of the concerns raised by nearby residents. Accordingly, the development was found to be acceptable and the appeal was allowed.

4.8.4 The full appeal decision can be found online.

4.9 Application No: 20/01680/FUL

Location: Claylands, 186 Branksome Avenue, Stanford Le Hope

Proposal: Change of use from Class C3 (dwellinghouse) to a dual use C3 dwellinghouse and Class E(f) Day nursery.

Appeal Decision: Appeal Dismissed

- 4.9.1 The Inspector considered that the main issues in the appeal was the effect of the development on the character of the site and the surrounding area, the living conditions of the occupiers of neighbouring dwellings, with particular regard to the potential noise and disturbance, and whether the development makes acceptable provision for access manoeuvring and parking of vehicles.
- 4.9.2 The Inspector noted there was a steady flow of traffic on Branksome Avenue, but in general, the area was of a quiet residential estate despite the urban scale of the development, with noise sources which were traffic and the trains running on a nearby railway line.
- 4.9.3 The Inspector concluded that given the quiet nature of the area, a nursery use, even restricted to 10 children, was harmful to the character of the surrounding area. Therefore, the dual use was contrary to Policies CSTP22 and PMD2 of the Core Strategy.
- 4.9.4 The Inspector considered that the dual use has a harmful effect on the living conditions of the occupiers of neighbouring dwellings, with particular regard to the potential for noise and disturbance as a result of the early morning drop offs and regular use of the garden.
- 4.9.5 As a result of a lack of suitable off street parking spaces and suitable access arrangement the Inspector found the proposal would also be harmful on highway grounds, contrary to Policies PMD2 and PMD9 of the Core Strategy.
- 4.9.6 The appeal was therefore dismissed on 3 grounds as summarised above.
- 4.9.7 The full appeal decision can be found online.

4.10 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
Appeal Decision: Appeal Dismissed

4.10.1 Enforcement Notices can be appealed on up to 7 Grounds: a – g.

4.10.2 The Enforcement Notice was appealed on 3 Grounds a) That planning permission should be granted, b) that the development had not occurred as a matter of fact and g) that the time for compliance was too short. The full appeal decision can be found online.

Ground a)

4.10.3 As detailed in 4.9.1 - 4.9.7 above, the Inspector found that planning permission should not be granted for the refused planning application, and so the appeal was dismissed on ground a).

Ground b)

4.10.4 The Inspector found that the appellant had not demonstrated that the breach of planning control alleged (i.e. a change of use to a nursery) had not occurred, so the appeal was dismissed on ground b).

Ground g)

4.10.5 The appellant considered the period of 3 months to cease the use was too short. The Inspector considered 3 months to be an acceptable length of time for the use to cease. The appeal therefore also failed on ground g).

4.10.6 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	7	3											10
No Allowed	4	1											5
% Allowed	57.14%	33.33%											50%

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: **Mark Bowen**
Interim 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 Inequalities, Sustainability, Crime and Disorder or 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