

5 January 2023		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 of Planning, Transportation and Public Protection.		
Accountable Director: Mark Bradbury, Director of 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: 22/00080/FUL

Location: Valmar Store, 50 Valmar Avenue, Stanford-Le-Hope
SS17 0NF

Proposal: (Retrospective) Erection of structure to front of shop to provide covered shopping area.

3.2 Application No: 22/00016/FUL

Location: 41 Southend Road, Stanford-Le-Hope SS17 0PQ

Proposal: Proposed replacement dwelling house towards the rear of existing development site.

3.3 Application No: 22/00665/FUL

Location: 7 Blackmore Close, Grays, Essex RM17 6EB

Proposal: (Retrospective) Re-positioning of shed and erection of new picket fence panel over existing brick wall along with change of use of land to residential curtilage with levelling and hard surfacing

3.4 Application No: 22/01098/PHA

Location: 65 Feenan Highways, Tilbury, Essex, RM18 8ET

Proposal: Rear extension with a depth of 6 metres from the original rear wall of the property, with a maximum height of 3 metres and eaves height of 3 metres.

3.5 Application No: 22/00740/HHA

Location: 96 Hamble Lane, South Ockendon, Essex, RM15 5HP

Proposal: Two storey side extension.

3.6 Application No: 22/00882/HHA

Location: 1 Kershaw Close, Chafford Hundred, Grays, Essex RM16 6RN

Proposal: Loft conversion and two storey side extension.

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 21/02093/CLOPUD

Location: 68 Purfleet Road, Aveley, South Ockendon RM15 4DR

Proposal: Single storey side extension.

Appeal Decision: Appeal allowed

- 4.1.2 The appeal related to a proposed single storey side extension, not more than 4m in height, submitted under a Lawful Development Certificate (LDC) application. The main issue, according to the Inspector, was whether the decision to refuse to grant the LDC was well-founded.
- 4.1.3 The primary issue relating to the assessment of the lawful status of the proposal related to the height of the proposed eaves, versus the height of the eaves of the existing dwelling. The Council considered that as the eaves height of the proposed side extension would be higher than the eaves of a single storey rear element, the proposal would fail to be lawful as Permitted Development (PD).
- 4.1.4 The Inspector considered that as the proposed eaves height related to a side extension, and the eaves height which was higher on the existing building related to the rear elevation, that the measurement which would apply, would relate to the side elevation only. Given the side elevation eaves are two storey in height, then there would be no conflict with respect to Class A.1 d).
- 4.1.5 The Inspector considered the rear extension was not the same part of the building as the location of the proposed side extension, and therefore concluded that the development would be lawful.
- 4.1.6 The full appeal decision can be found online.

4.2 Application No: 21/00243/FUL

Location: Wick Place Cottage, Brentwood Road, Bulphan, Essex RM14 3TJ

Proposal: Demolition of existing outbuildings, replacement of former smithy to create new dwelling and erection of new dwelling, including associated development and access.

Appeal Decision: Appeal Dismissed

Costs Decision: Appeal Dismissed

Planning Matters

- 4.2.1 The Inspector considered the main issues in this appeal related to be whether the proposal would be inappropriate development in the Green Belt; whether the proposal would be contrary to the purposes of including land within the Green Belt; and, if inappropriate, whether the proposal

would be clearly outweighed by other considerations so as to amount to Very Special Circumstances necessary to justify the development.

- 4.2.2 The Inspector noted the open nature of the northern half of the site where the new dwellings would be located, and considered that, ' the introduction of built form in an undeveloped part of the site would mean the proposal would have a greater visual impact on the openness of the Green Belt... [and] ...having regard to the spatial and visual impact the development would undoubtedly have a greater impact on the openness of the Green Belt than the existing development'. The Inspector therefore found the proposal would be inappropriate development contrary to PMD6 and the NPPF.
- 4.2.3 The Inspector also agreed with the Council with respect to the proposal conflicting with the third purpose of including land within the Green belt, in that, 'the development would represent encroachment of built development into the countryside to the east of the road', contrary to paragraph 138 (c) of the NPPF.
- 4.2.4 Turning to the Appellant's case for justifying the development, the Inspector agreed with the Council with respect to its assessment of the Appellant's Permitted Development fall-back position, commenting that while it is a material consideration he only gave it limited to moderate weight in assessing it as a factor. The Inspector also attributed limited to moderate weight to the benefit provided from the proposal to the local housing supply.
- 4.2.5 With respect to the Appellant's proposed reinstatement of the former smithy building, the Inspector commented, 'although reference is made to the 'reinstatement' of the smithy, what is proposed is essentially a new dwelling incorporating features reminiscent of the former building.' and the Inspector advised the design and appearance of the scheme carried no weight in favour of the proposal.
- 4.2.6 Finally, the Inspector concluded that the proposal would be inappropriate development, harmful given the reduction in openness and the encroachment of built development into the countryside. Advising that substantial weight must be given cumulatively to this harm. The appeal was dismissed.

Costs

- 4.2.7 The Appellant also submitted an appeal claim for costs against the Council. The Appellant's claim was that the Council had caused time delays in not provided them with a copy of the appeal questionnaire in as timely a fashion as expected within the appeal timetable. However, the Inspector commented that the questionnaire was ultimately sent to the Appellant and that there is no evidence to support the position that this led to any delay in

issuing a decision, nor that the Council did not engage appropriately with the Appellant. The Inspector concluded that while the Council should have adhered to the Planning Inspectorate set timetable, the delay did not lead to any unnecessary cost. The appeal was dismissed.

4.2.8 The full appeal decisions 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		2	1	7	5	11	3				39
No Allowed	4	1		0	0	5	0	4	2				16
% Allowed	57.1%	33.3%	0	0%	0%	71.4%	0%	36.3%	66.6%				41%

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.

During planning appeals the parties will usually meet their own expenses and the successful party does not have an automatic right to recover their costs from the other side. To be successful a claim for costs must demonstrate that the other party had behaved unreasonably. Where a costs award is granted, then if the amount isn't agreed by the parties it can be referred to a Costs Officer in the High Court for a detailed assessment of the amount due

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, 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