

16 March 2023		ITEM: 6
Planning Committee		
Planning Appeals		
Wards and communities affected: All	Key Decision: Not Applicable	
Report of: Jonathan Keen, Interim Strategic Lead of 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: 21/00760/HHA

Location: Atwal Villa, Brentwood Road, Bulphan, Essex, RM14 3ST

- Proposal: (Retrospective) First floor side extension and alterations to main roof. Addition of brick slips to front elevation and render to swimming pool
- 3.2 Application No: 22/00586/HHA**
- Location: 82 Gilbert Road, Chafford Hundred, Grays, RM16 6NJ
- Proposal: Retrospective hardstanding to the front of the property.
- 3.3 Application No: 21/01136/HHA**
- Location: 15 Bromley, Grays, RM17 6LE
- Proposal: Retrospective single storey side extension to existing annex incorporating a balcony overlooking main road.
- 3.4 Application No: 22/00422/PHA**
- Location: 15 Butts Road, Stanford Le Hope, Essex, SS17 0JH
- Proposal: Rear extension with a depth of 5.85 metres from the original rear wall of the property, with a maximum height of 3.20metres and eaves height of 3.00 metres.
- 3.5 Application No: 22/00699/HHA**
- Location: 6 Woolings Row, Baker Street, Orsett, Grays, Essex, RM16 3AS
- Proposal: Two storey rear extension.
- 3.6 Application No: 21/02172/FUL**
- Location: Land Part Of 261 Rectory Road, Grays, Essex
- Proposal: Demolition of existing garage, sub division of plot and erection of new detached two bedroom dwelling with associated landscaping and parking

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 21/01909/PHA

Location: 20 Leighton Gardens, Tilbury RM18 8ND

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.

Appeal Decision: Appeal Allowed

4.1.1 The main issue relating to this Prior Notification appeal was whether the development would constitute Permitted Development under Class A of the GPDO 2015. The Council considered the proposed wraparound extension to conflict with paragraph A.1 (j)(iii) in that the enlarged part of the dwelling would extend beyond a wall forming a side elevation of the original property and thereby have a greater width of half the original dwelling and no be PD. The Inspector referred to the Technical Guidance in reference to rear wall alignment for houses, and commented that as the original rear walls of the property are directly opposite the street-facing walls, the rear walls could be considered to comply with paragraph A.1 (g) of the GPDO. The Inspector therefore concluded that no part of the proposal would comprise a side extension.

4.1.2 The Council also determined there was inadequate information submitted with the application to confirm that the development would comply with paragraph A.1 (i) of the GPDO, with respect to its eaves height within 2ms of the boundary. The Inspector concluded that as the application form stated the eaves would be 3m in height, and in the absence of any other substantive evidence submitted to the contrary, there would no reason to conclude that this eaves height would not be achievable. The Inspector concluded the proposal would therefore comply with paragraph A.1 (I).

4.1.3 The full appeal decision can be found online.

4.2 Application No: 21/01756/FUL

Location: 39 Grays End Close, Grays RM17 5QR

Proposal: Construction of a new dwelling

Appeal Decision: Appeal Dismissed

- 4.2.1 The Appellant submitted additional information and plans within their appeal statement, relating to the provision of additional car parking at the site, which did not form part of the application and which the Inspector considered within the appeal.
- 4.2.2 The Inspector considered there were two main issues associated with this proposal: the effect of the proposal upon the character and appearance of the area and the effect of the proposal upon highway safety and on-street parking.
- 4.2.3 The Inspector commented that while the proposal would provide a new dwelling adjoining the existing terrace and provide a degree of symmetry, the dwelling would also substantially fill the space adjacent to no. 39 as viewed from the public realm. The siting of the dwelling, with minimal front garden space and immediately adjacent to the access serving the private garage area, would result in a cramped arrangement. The Inspector noted that this arrangement would also result in the proposal having a greater degree of setback than the existing terrace, and a dwelling with a higher eaves height to the front roof slope to accommodate this recess. The Inspector concluded that the proposal would result in a more enclosed ambience to the end of the cul-de-sac, which would be harmful to the character and appearance of the area, contrary to Policies CSTP22, CSTP2, PMD2 and the NPPF.
- 4.2.4 With respect to highway safety and parking, the proposal would result in an under provision of parking for the new dwelling. The Inspector stated that residents had commented on parking near the garages as being compromised, and they noted that many nearby properties had off-street parking provision on their frontages. As a result, the Inspector noted, there were few opportunities for on-street parking within the street. The Inspector also acknowledged that on-street parking would be likely to fluctuate, however, considered that due to the shortfall in off-street parking for the existing dwelling, it was likely that demand for on-street parking for the occupiers of this property would increase. Given the immediate context, the Inspector concluded that the demand for on-street parking that would result from the proposals would be likely to conflict with other vehicles and pedestrians to the detriment of highway safety. In conclusion, the Inspector considered the development would have an adverse impact on highway safety through an increased demand for on-street parking as a result of the under provision of vehicle parking within the appeal site contrary to Policies PMD8 and the NPPF.
- 4.2.5 The full appeal decision can be found online.

4.3 Application No: 21/01181/FUL

Location: 107 Humber Avenue, South Ockendon, RM15 5JT

Proposal: Erection of detached dwelling on land adjacent to No 107 Humber Avenue

Appeal Decision: Appeal Allowed

- 4.3.1 The Inspector considered the main issues to be i) the effect of the proposed development on the character and appearance of the area and ii) whether any material considerations would indicate a decision other than in accordance with the development plan.
- 4.3.2 In terms of design and character it was concluded that although the scale and general design of the proposed dwelling would be acceptable, the proposed side elevation, boundary treatment and lack of landscaping, together with the loss of the open parcel of land that contributes towards the openness of the area, would harmfully detract from the open and green character and appearance of the area.
- 4.3.3 It was found that the proposal was therefore contrary to Policies PMD2, CSTP22 and CSTP23 of the Thurrock Local Development Framework Core Strategy and Policies for the Management of Development (as amended) January 2015. But that subject to suitable amended boundary treatment and landscaping that could be required by planning conditions, this harm would be very limited.
- 4.3.4. The Inspector noted that the NPPF encourages the effective use of land, especially where there is an identified need for housing and where housing land is constrained. It also supports small scale development on windfall sites. The site was considered to be well related to local services, facilities and public transport and the proposal would make a positive contribution towards the Council's housing land supply. Whilst the contribution would only be small, the Inspector noted such housing can often be delivered quickly. The proposal would also make a modest contribution to the local economy during its construction phase and thereafter, through the use of services and facilities in the local area by its future occupants. The lack of a 5-year housing supply was also noted. The site also had no formal designation as Open Space or significant biodiversity value.
- 4.3.5 Accordingly the appeal was allowed as the benefits would outweigh the limited harm identified.
- 4.3.6 An appeal for an award of costs against the Council was dismissed.
- 4.3.7 The full appeal decision can be found online.

4.4 Application No: 22/00740/HHA

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

Proposal: Two storey side extension

Appeal Decision: Appeal dismissed

4.4.1 This appeal related to two separate application – 22/00740/HHA (Two storey side extension – *Appeal A*) and 22/00217/HHA (Single storey side extension – *Appeal B*). The Inspector considered the main issues of both proposed side extensions to be the impact upon the character and appearance of the host dwelling and surrounding area.

4.4.2 The Inspector noted there was a good degree of uniformity between the nearby terraced dwellings due to their siting, orientation towards an open green area, similar scales and two storey building lines.

Appeal A

4.4.3 The side extension would extend close to the boundary and would therefore extend beyond the established building line and original planned development pattern. The side extension would appear as incongruous given the adjacent footpath and highway close to the site boundary. The proposal would harmfully effect the open and spacious appearance of the street scene.

4.4.4 The Inspector noted this conclusion was consistent with an earlier appeal for a similar form side extension at no. 142 Hamble Lane where the two-storey side extension would erode the spaciousness of the street scene harmfully out of keeping with the character of the area.

4.4.5 The existing two storey extension opposite the site at no. 110 has been acknowledged. Although this pre-dates existing local and national policies where a strong emphasis has been placed on high quality design and maintaining or enhancing local character. The Inspector commented this development demonstrates the harmful effects of such an extension due to its dominance and unbalanced appearance in an otherwise uniform character and appearance. It was therefore concluded that the side extension would have an unacceptably harmful impact upon the character and appearance of the host dwelling and surrounding area.

Appeal B

4.4.6 The width of the single storey side extension would be of the same width as the extension considered under Appeal A but would not have the same bulk. The roof form would be of a hipped design whereas the host dwelling is of a gabled roof form.

4.4.7 The roof design would not be reflective of the host dwelling, and the shallow pitch of the roof would draw further attention to the incongruous addition, reduce the openness to the side of the dwelling resulting in a harmful effect on the consistent building lines and spacious aspect. It was therefore

concluded that the proposal would have a materially harmful effect on the character and appearance of the host dwelling and surrounding area.

4.4.8 The full appeal decision can be found online.

4.5 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.

Appeal Decision: Appeal dismissed

4.5.1 The Inspector considered the key issue of the appeal to be the effect of the development undertaken on the character and appearance of the street scene, and on the privacy of current and future occupiers of the appeal property.

4.5.2 Firstly the Inspector gave attention to the fact that the extended part of the garden comprised a raised area of land perpendicular to the end of No 7's original back garden, with a retaining wall on one side next to the car park and, on the other side, a steep bank with residential properties sited on higher ground above. The privacy of No 7's original rear garden is maintained by a side boundary wall that prevents any overlooking from use of the adjacent car park.

4.5.3 The Inspector commented that the extended garden area is raised well above the level of the original gardens and, therefore, has particular prominence from the car park and surrounding area. The highly linear nature of this area, extending away from the planned layout of the original gardens behind the dwellings resulted in it appearing incongruous in the otherwise uniform setting. The picket fence above the retaining wall and location of the shed accentuated the uncharacteristic use and appearance of this area.

4.5.4 The position of the extended garden area and lack of effective screening by the picket fence means that use of it is readily seen from the car park and surrounding area. Consequently, the position and layout of this area means that current and future occupiers' privacy will be harmfully compromised by the widely available public views.

4.5.5 It was concluded the development undertaken has an unacceptably harmful effect on the character and appearance of the street scene, and on the privacy of current and future occupiers of the appeal property.

4.5.6 Subsequently the appeal was dismissed.

4.5.7 The full appeal decision can be found online.

4.6 Application No: 22/00882/HHA

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

Proposal: Loft conversion and two storey side extension.

Appeal Decision: Appeal dismissed

- 4.6.1 The main issue was considered to be the effect of the proposed extension on the character and appearance of the host dwelling and the surrounding area.
- 4.6.2 The Inspector considered the appeal property is of simple design, with a rectangular plan form and gable ends to front and rear. The side extension would also include a gable end to the side with a similar roof form of subordinate height to the original dwelling. As such, he considered it would reflect the existing design and proportions and seen in isolation would not result in material harm, either due to its size or details, including the fenestration.
- 4.6.3 The Inspector found the extension would largely infill the gap to the boundary and so would harmfully reduce the characteristic open aspect to the side, breaching the nominal building line with the properties to the rear on Rainbow Road. This would result in an incongruous and uncharacteristic layout of development with the extended dwelling appearing cramped and a form of overdevelopment due to its proximity to the side boundary. While noting there is some existing planting to the side boundary, this was considered insufficient to screen the effects of the proposed extension so close to this boundary.
- 4.6.4 Accordingly, for the reasons given, he concluded that the proposal would have an unacceptably harmful effect on the character and appearance of the host dwelling and the surrounding area. As such, it is contrary to Policies CSTP22 and PMD2 of the Core Strategy and to the SPD, as described above. It was also found to be contrary to the National Planning Policy Framework, which promotes high quality design.
- 4.6.5 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	2	0	1	6	1	14	3	5	2	5		40
No Allowed	1	1	0	0	2	0	4	2	3	1	2		16
% Allowed	100%	50%	0%	0	33.3%	0%	28.6%	66.7%	60%	25%	40%		40%

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

Government Intervention & Section 114

In July 2022, the Council was made aware of concerns around the valuation of specific investments. A review process commenced, and the initial findings highlighted significant concern with three investments and the position was shared informally with the Department of Levelling Up, Housing and Communities (DLUHC).

On the 2 September 2022 DLUHC announced directions to implement an intervention package at the Council.

The Secretary of State exercised his powers under section 15(11) of the Local Government Act 1999 to give a Direction without complying with the requirement at section 15(9) to give Thurrock an opportunity to make representations about the Directions, as he considered the failures of the Council's compliance with its Best Value duty in respect of the functions specified in the Directions sufficiently urgent. This was because of the following:

- the scale of the financial and commercial risks potentially facing the Authority, which were compounded by the Authority's approach to financial management and the seriousness of the allegations that were made by third parties about the processes applied to the operation of the Authority's commercial strategy, and;

- the failure of the Authority to provide assurance to Ministers and the Department on the adequacy of the actions that they were taking to address the issues, taking account of the scale and pace of the response required.

The Secretary of State nominated Essex County Council to the role of Commissioner

On 19 December 2022, the Council's Acting Director of Finance & Section 151 Officer issued a report under Section 114 of the Local Government Finance Act 1988. This advises Councillors that the Council faces 'a financial situation of an extremely serious nature'.

Implications relating to this specific report

This report is an update report and as such there are no specific financial implications.

8.2 Legal

Implications verified by: **Mark Bowen**
Interim Project Lead

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: **Becky Lee**
Team Manager - Community Development and Equalities Adults, Housing and Health Directorate

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

Report Author:

Jonathan Keen

Interim Strategic Lead Development Services