

<b>2 November 2017</b>		<b>ITEM: 6</b>
<b>Planning Committee</b>		
<b>Planning Appeals</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Not Applicable	
<b>Report of:</b> Leigh Nicholson, Development Management Team Leader		
<b>Accountable Assistant Director:</b> Andy Millard, Assistant Director Planning and Growth		
<b>Accountable Director:</b> Steve Cox, Director of Environment and 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: 17/00033/BUNUSE**

Location: The Old Chapel, Oxford Road Horndon, On The Hill

Alleged breach:

A large metal container has been placed onto an established drive way, completely blocking access for vehicles.

This area is green belt land.

#### 4.0 Appeals Decisions:

The following appeal decisions have been received:

#### 4.2 Application No: 16/00941/CONDC

Location: 76 High Street, Grays

Proposal: Application to discharge conditions 2 [Materials]; 3 [Landscaping]; 5 [Construction Management Plan and Waste Management Plan]; 6 [Highways Management Plan]; 7 [Ground Levels]; 10 [Surface Water Management Strategy]; 11 [Delivery & Servicing Strategy]; 15 [Waste Access & Management Strategy]; 16 [Archaeological Trial Trenching]; 17 [Archaeological Deposits]; 18 [Post Excavation Assessment]; 20 [Travel Plan] and 21 [Foundations Construction Methods and Tree Protection] from approved application 13/00480/FUL

**Decision: Part dismissed / Part allowed**

#### Summary of decision:

- 4.2.1 This appeal was submitted against the refusal of an application to discharge certain planning conditions which were imposed by the Council when approving the redevelopment of the site (13/00480/FUL).
- 4.2.2 The Council declined to approve the information submitted in respect of condition 2 (materials), 10 (surface water management) and 11 (delivery and servicing) on the basis that these conditions were pre-commencement conditions. The planning permission required the development to be implemented by 28 August 2016. The applicant argued that works commenced on the 24 August 2016 by the laying of a floor slab for a bin enclosure. The Inspector took a contrary view to the Council that work had commenced before the 28 August as the slab related to the development permitted.
- 4.2.3 The Inspector considered the main issue to be:
- I. Whether or not the conditions are 'true conditions precedent' (i.e. necessary to be approved prior to commencement),
  - II. If not, whether the submitted details would adequately safeguard the character and appearance of the area (condition 2) and ensure that the development proposed would be acceptable with regard to flood risk (condition 10) and highway safety (condition 11).
- 4.2.4 In relation to (i), the Inspector concluded that having regard to the context of the location, conditions 2, 10 and 11 did not go to the heart of the permission so could not be true condition precedents.

- 4.2.5 The Inspector however found the submitted materials to be unacceptable and took the view that the materials would not safeguard the character and appearance of the area. The Inspector refused the appeal on this basis and held that condition 2 is not discharged.
- 4.2.6 Similarly, the Inspector found the information submitted by the applicant in respect of condition 10 to be inadequate. The Inspector refused the appeal on this basis and held that condition 10 is not discharged.
- 4.2.7 With regard to condition 11, the Inspector took the view that the information supplied was sufficient and determined that condition 11 was partially discharged (full discharge of the condition requires the delivery and servicing operations to be undertaken in accordance with the approved strategy).
- 4.2.8 The full appeal decision can be found online.

**5.0 Forthcoming public inquiry and hearing dates:**

- 5.1 The following inquiry and hearing dates have been arranged:
- 5.2 None.

**6.0 APPEAL PERFORMANCE:**

6.1 The following table shows appeal performance in relation to decisions on planning applications and enforcement appeals.

	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	
Total No of Appeals	2	2	6	5	8	1							24
No Allowed	0	2	4	1	0	0							7
% Allowed													29%

**7.0 Consultation (including overview and scrutiny, if applicable)**

7.1 N/A

**8.0 Impact on corporate policies, priorities, performance and community impact**

8.1 This report is for information only.

**9.0 Implications**

**9.1 Financial**

Implications verified by: **Sean Clark**

## **Head of Corporate Finance**

There are no direct financial implications to this report.

### **9.2 Legal**

Implications verified by: **Vivien Williams**  
**Principal Regeneration Solicitor**

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').

### **9.3 Diversity and Equality**

Implications verified by: **Rebecca Price**  
**Community Development Officer**

There are no direct diversity implications to this report.

### **9.4 Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None.

## **10. 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](http://www.thurrock.gov.uk/planning). The planning enforcement files are not public documents and should not be disclosed to the public.

## **11. Appendices to the report**

- None

### **Report Author:**

Leigh Nicholson

Development Management Team Leader