

8 June 2023		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: Mark Bradbury, Interim 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:** 22/00676/FUL

Location: 14 Raphael Avenue, Tilbury, Essex, RM18 8NA

Proposal: Change of use from Residential Dwellinghouse (C3) use, used as a 6 persons smaller House of Multiple Occupation, to an 8 persons Larger House of Multiple Occupation falling

under a Sui Generis use, including the erection of a single storey rear extension.

3.2 Application No: 22/01074/FUL

Location: Land Adjoining Fobbing Acres And Mill Lane, Fobbing, Essex

Proposal: Change of use of land to a gypsy and traveller caravan site consisting of a 1 no. pitch and associated development

3.3 Application No: 23/00125/HHA

Location: 38 Charlotte Place, West Thurrock, Essex, RM20 3JF

Proposal: (Retrospective) Outbuilding

3.4 Application No: 22/01462/FUL

Location: 58 Brentwood Road, Chadwell St Mary, Essex, RM16 4JP

Proposal: Detached garage to be used in association with the C3(b) Dwellinghouse where care is provided

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 20/00010/AUNUSE

Location: Land Adjacent, Collingwood Farm, Brentwood Road, Orsett, Essex

Proposal: 50 containers are being rented out without planning permission, sheds, caravans, and scrap vehicles are on the land.

Appeal Decision: Notice Quashed

4.1. The Inspector noted from his site visit the presence of lorries, containers and temporary buildings on site. He considered that it was likely there was some unauthorised activity.

4.2 The requirements of the Notice, the Inspector considered, would not suitably remedy the alleged unauthorised uses and the Inspector considered he could

not safely amend the Notice without causing injustice to the appellants. Accordingly the Notice was quashed, with no further action being taken.

4.3 The full appeal decision can be found online.

4.2 Application No: 21/02061/FUL

Location: Envirotam Ltd, Organ Works, Foxton Road, South Stifford, Grays

Proposal: Change of use from office (Class E) to a place of worship/community hall (Class F.1)

Appeal Decision: Appeal Allowed

4.2.1 The main issue relating to this appeal was the effect of the proposed use upon highway and pedestrian safety.

4.2.2 The Council's Draft Parking Standards at the time required a maximum of 1 parking space per 10 sqm of floor area for places of worship, such as the use proposed. The Inspector noted that the draft standards were maximum standards and that the Appellant's submitted Transport Statement included an assessment of trip generation and parking accumulation for the proposed use. The Appellant's assessment indicated that maximum parking accumulation would occur on Sundays when it was forecast that 8 parking spaces would be required at the peak time between 11:00 and 12:00 hours. The Inspector agreed with the Council that the use would undoubtedly increase travel demands of the existing site and wider Foxton Road area, including the demand for parking. The Inspector also noted that Foxton Road is regulated by double yellow lines, with an area immediately opposite the site of uncontrolled parking for a limited number of vehicles

4.2.3 The Inspector noted from their appeal site visit, that many residential properties in Foxton Road and Chase Way have private off street parking; the Inspector also commented that during the time of their visit, there was moderate parking on street in Gumley Road, a short walking distance from the appeal site, and that controlled parking also takes place along The Chase which has single yellow lines. The Inspector concluded that they were confident that there would be sufficient parking availability on street for the users of the site. The Inspector, therefore, disagreed with the Council and neighbour comments received in respect of parking, and determined that the proposal would not have an unacceptable effect on highway and pedestrian safety, and would not conflict with Policies PMD8 and PM9

4.2.4 The full appeal decision can be found online.

4.3 Application No: 21/01396/PNTC

Location: Telecommunications Mast, Muckingford Road, Linford, Essex

Proposal: Proposed 15.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.

Appeal Decision: Appeal Allowed

- 4.3.1 The original application sought a 18m high monopole mast which was revised to a height of 15m during the course of the consideration of the application. The Inspector considered the limits of Permitted Development as detailed under Part 16 of The GPDO to be most relevant; in particular, the fact that Part 16 requires the siting and appearance of the proposal to be the sole considerations, along with any representations made. The issue as to whether the development would be inappropriate within the Green Belt was not, in the Inspector's view, a matter for consideration.
- 4.3.2 With respect to its siting and appearance the Inspector concluded that the installation would not be inherently incongruous, as there is already a moderate amount of visual clutter in the street scene. This is particularly the case at the mini roundabout, due to additional lighting columns and road signs associated with the junction. The level of clutter would be increased and would be further exacerbated by the additional height of the mast and the associated cabinets etc at street level. The Inspector concluded there would be harm to the character and appearance of the location due to the prominent siting and appearance of the mast.
- 4.3.3 With respect to alternative locations, the Inspector considered that each of those put forward by the Appellant would be more harmful in terms of siting and appearance than the proposed location. Therefore, the Inspector considered that the Appellant had demonstrated that the appeal site would be the least harmful location available. This, stated the Inspector, weighed strongly in favour of the proposed installation. The Inspector concluded that the harm identified to the character and appearance of the area would be outweighed by the need for the installation to be sited as proposed, taking into account the lack of any suitable alternatives.
- 4.3.4 The full appeal decision can be found online.

4.4 Application No: 21/01091/FUL

Location: Jemaine, 3 Branksome Avenue, Stanford Le Hope, Essex, SS17 8AZ

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.

Decision: Appeal Dismissed

4.4.1 The Inspector considered the main issues to be:

- 1) The effect of the proposed dwellings on the character and appearance of the surrounding area and:
- 2) Their effect on the Integrity of the Thames Estuary and Marshes Special Protection Area.

(1) The effect of the proposed dwellings on the character and appearance of the surrounding area.

4.4.2 The Inspector noted the proposed houses would be of a traditional, pitched roof design and would use materials of brick and tile. The existing site would be sub-divided, but the resulting plot would be comparable to the general width of those nearby and wider than some.

4.4.3 An appeal was dismissed for the construction of two semi-detached new build properties in 2020. The Inspector observed that the width of the proposed building would be considerable with only small gaps to the side boundaries and that it would be of substantial scale. The criticisms made by the Inspector on the previous proposal had been addressed, the current proposal has been reduced in terms of size of the proposed buildings and their separation.

4.4.4 The Inspector concluded the proposed dwellings would retain the character of Branksome Avenue in the vicinity of the appeal site where spacious gardens are not a particular trait. They would also be consistent with the general design, siting and spacing of development nearby. As such there would be no harm to the character and appearance of the surrounding area. Policy CSTP23 would be complied with and there would be no conflict with Policies PMD2 and CSTP23 which also deal with design.

2. Their effect on the Integrity of the Thames Estuary and Marshes Special Protection Area.

4.4.5 The Inspector concludes the proposal would have a likely significant effect on the Thames Estuary and Marshes Special Protection Area (SPA) as it is within the Essex Coast RAMS zone of influence. In combination with other development in Thurrock and elsewhere, an extra dwelling would be liable to lead to recreational disturbance to the interest features of the SPA. Local planning authorities in Essex have developed a strategy to deliver the necessary mitigation to address such impacts which is to be funded through a tariff.

4.4.6 No planning obligation had been provided to secure this. As a result, following an appropriate assessment, the proposal would adversely affect the integrity of

the SPA. Moreover, in these circumstances, the Conservation of Habitats and Species Regulations preclude the proposal from proceeding.

4.4.7 The full appeal decision can be found online.

4.5 Application No: 22/00699/HHA

Location: 6 Woolings Row, Baker Street, Orsett, Grays, Essex, RM16 3AS

Proposal: Two storey rear extension.

Appeal Decision: Appeal Dismissed

4.5.1 The Inspector considered the key issues of the appeal to be whether the proposed extension would be inappropriate development in the Green Belt and the effect on the living conditions of the occupiers of 7 Woolings Close.

4.5.2 The Inspector drew attention to Policy PMD6 of the Thurrock Core Strategy and Policies for the Management of Development 2015 which indicates that *Extensions to buildings must not result in disproportionate additions over and above the size of the original building. Furthermore, for residential extensions this means that they should be no larger than two reasonably sized rooms or any equivalent amount.*

4.5.3 It was stated by the Inspector that the proposal would represent an increase of over 42% and would exceed the figure given for the two reasonably sized rooms allowance. An addition of this size would be approaching half of the floorspace of the original dwelling and, on this basis, would be disproportionate. It was concluded that the proposal would be inappropriate development in the Green Belt.

4.5.4 With regards to the amenities of No. 7 whilst the Inspector found no harm to arise from the development with regards to an overbearing impact or loss of light upon No. 7. However, it was commented that the two first floor bedroom windows would afford views directly down into the rear garden of No 7 and this would result in a serious loss of privacy. It was concluded that the proposal would harm the living conditions of the occupiers of 7 Woolings Close due to the significant overlooking that would occur.

4.5.5 The full appeal decision can be found online.

4.6 Application No: 21/01136/HHA

Location: 15 Bromley, Grays, Essex, RM17 6LE

Proposal: Retrospective single storey side extension to existing annex incorporating a balcony overlooking main road.

Appeal Decision: Appeal Allowed

4.6.1 The main issue was considered to be the appearance of the balustrade and screen in relation to the host property and surrounding area.

4.6.2 The Inspector found that although the balustrade extended higher than the slope of the roof on the outbuilding when viewed by passers by and nearby residents the appearance of the balustrade would not be unacceptable and in three dimensions it appeared better than on a plan form on paper.

4.6.3 Accordingly the appeal was allowed.

4.6.4 The full appeal decision can be found online.

4.7 Application No: 22/00586/HHA

Location: 82 Gilbert Road, Chafford Hundred, Grays, Thurrock, RM16 6NJ

Proposal: Retrospective hardstanding to the front of the property.

Appeal Decision: Appeal Allowed

4.7.1 The main issue in this case were considered to be

- 1) The effect of the development of highway safety and
- 2) Visual impact

Highway Safety

4.7.2 The proposal was solely for hardsurfacing to the front of the property rather than for its use for parking. The Inspector noted without a dropped kerb (which was not proposed as part of the application) parking on the frontage would be illegal. Accordingly, on the basis of hardsurfacing only, rather than parking, no highways safety issues were identified.

Visual Amenity

4.7.3 The Inspector did not consider the previously grassed front garden area of the site to be attractive and considered that the hardsurfacing would be acceptable subject to a condition to provide a planning scheme for approval by the LPA.

4.7.4 A condition was also required to prevent the use of the hardsurfacing for vehicle parking, unless a further planning application is made to the LPA.

4.7.5 Subject to the above, the appeal was allowed.

4.7.6 The full appeal decision can be found online

4.8 Application No: 21/01186/FUL

Location: Tyelands Farm House, South Hill, Langdon Hills, Essex
SS16 6JD

Proposal: Demolition of existing dwelling and other outbuildings along with the removal of hardstanding and garaging to construct a replacement dwelling.

Appeal Decision: Appeal Allowed

- 4.8.1 The Inspector considered the key issues of the appeal to be whether the proposed replacement dwelling would be inappropriate development in the Green Belt and the effect of the development on the Thames Estuary and Marshes Special Protection Area and Ramsar site ('the SPA').
- 4.8.2 This appeal had been assessed with reference to the NPPF fundamental aims to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belt being their openness. Specifically, the officer assessment made reference to para. 149(d) and (g) of the NPPF along with the relevant Core Strategy Policies.
- 4.8.3 The appeal comprised of the demolition of the existing structures and a replacement dwelling with a reduction of the proposed footprint. Although, due to the positioning of the replacement dwelling in front of the existing dwelling and increases in height/volume, the LPA assessment concluded the development fails to comply with the referenced exemptions to inappropriate development in the Green Belt.
- 4.8.4 In his assessment the Inspector held that the proposed development would be in the same use as the existing dwelling but, conversely, maintained that the total floorspace of both storeys of the proposed development would not exceed that of the existing dwelling. It was further considered that it would not be materially larger than the building it would seek to replace. It was upheld that the appeal application complies with para. 149(d) of the NPPF and, thus, reference to para. 149 (g) was not necessary.
- 4.8.5 The Inspector agreed with the LPAs assessment that a proportionate financial contribution in line with Essex Coast RAMS is not required as the application is for a replacement dwelling with no net increase in residential units.
- 4.8.6 Notwithstanding this, it was held the application constitutes appropriate development in the Green Belt and the appeal was consequently allowed.
- 4.8.7 The full appeal decision can be found online.

4.9 Enforcement No: 21/00494/BUNUSE

Location: Brewers Farm, Brentwood Road, Orsett, Essex

Proposal: Potential unauthorised lorry parking / storage.

Appeal Decision: No further action is taken.

4.9.1 The Inspector noted that the Notice did not specify a date for the start and end of the period of compliance and accordingly the Notice had no effect and was a nullity.

4.9.2 No further action was therefore required on behalf of the Inspectorate.

4.9.2 The full appeal decision can be found online.

4.10 Application No: 21/01067/LBC

Location: St John The Baptist Church, Mucking Wharf Road, Stanford Le Hope Essex

Proposal: Internal and external works to listed building to facilitate: Conversion of the Tower to become a 2 bedroom home on 4 levels; Conversion of the Nave and South Aisle to become a 4 bedroom home on 3 levels and conversion of the Chancel and South Chapel to become a 4 bedroom home on 3 levels.

Appeal Decision: Appeal Dismissed

4.10.1 The main issue was whether the proposed works would preserve the listed building, or any features of special architectural or historic interest which it possesses.

4.10.2 The Inspector found that the proposal would fail to preserve the special interest and significance of the listed building and the significance it presently embodies.

4.10.3 The Inspector found the appellant had provided no robust evidence to show why 3 dwellings was necessary to allow a beneficial conversion of the building, or that the appellant had suitably considered alternative uses.

4.10.4 The proposal was found to fail to preserve the listed building and the appeal was therefore dismissed.

4.10.5 The full appeal decision can be found online.

4.11 Application No: 22/00596/PNTC

Location: Telecommunications Mast, Crammavill Street, Stifford
Clays
Grays, Essex

Proposal: Proposed 5G telecoms installation: Phase 8 15m high
street pole with wrap-around cabinet and 3 further
additional equipment cabinets.

Appeal Decision: Appeal Dismissed

4.11.1 The main issue was the effect of the siting and appearance of the proposal on the character and appearance of the area and if any harm were to occur whether it is outweighed by the need for the installation.

4.11.2 The Inspector found the proposed mast would be significantly taller than the existing street lights, which are the tallest items of street furniture at present. It would furthermore be of heavier proportions and topped with relatively bulky antennas. The installation would also be in a particularly exposed position, on the outer edge of the open space, set apart from any of the taller trees. The existing vegetation would not provide any meaningful screening and the installation would be conspicuous from several directions, by virtue of its corner location. While the proposed installation is designed with urban, roadside locations in mind, and that the area is not subject to heritage or other policy constraints, the mast would nevertheless be a visually intrusive feature. It would be sited in an exposed and open location, where there is extensive passing foot traffic. As a result, it would both dominate this part of the street scape and undermine the visual and functional benefit of the small open space. The visual intrusion would furthermore be experienced by significant numbers of local residents as they move between the residential area, bus stops, parking area and local services.

4.11.3 The proposal was therefore found to be unacceptable and contrary to Policies PMD2 and CSTP22 of the Core Strategy. The Inspector was not convinced that suitable alternative site provision had been explored which would be less harmful to the street scene.

4.11.4 The appeal was therefore dismissed.

4.11.5 The full appeal decision can be found online.

4.12 Application No: 22/00939/PNTC

Location: Land West Of Bus Shelter, Stifford Road, South Ockendon
Essex

Proposal: Proposed 5G telecoms installation: H3G street pole and
additional equipment cabinets.

Decision: Appeal Allowed

- 4.12.1 The main issues were considered to be the effect of the siting and appearance of the proposal on the character and appearance of the area.
- 4.12.2 With respect to its siting and appearance the Inspector concluded the evidence offers only a limited explanation of the extent to which alternative options utilising existing masts, buildings and structures have been considered, and no specific opportunities for alternative installations have been identified in the evidence. Given the generally low-rise form of the surrounding buildings, there were no obvious alternatives to a new base station within the identified search area. Therefore, some degree of visual intrusion is an inevitable consequence of the identified need for additional telecommunications infrastructure, within what is a relatively small search area. Furthermore, the Framework makes clear that decision-makers should support the expansion of electronic communications networks, including 5G, as a matter of principle.
- 4.12.3 With respect to alternative locations, the Inspector considered there would be no significant benefit from an alternative siting further along Stifford Road, since the level of street furniture and trees, and the relationship with surrounding dwellings, is similar over a considerable distance. There are larger trees further to the west, but these are on the edge of a recreation ground and at a traffic light controlled junction, where the degree of public visibility would be greater and less transitory. Alternative sites identified by the appellant are generally less well screened and more directly in the outlook from residential properties. Therefore, they offer no clear advantage in terms of siting and appearance.
- 4.12.4 The Inspector concluded that the proposed siting and appearance would not be harmful to the character and appearance of the area. Accordingly, insofar as they are a material consideration, the proposal would not conflict with Policies CSTP22 and PMD2 of the Core Strategy and with relevant paragraphs of the Framework. These policies, amongst other things require that development proposals are based on an understanding of, and positive response to, their local context and that equipment on new sites should be sympathetically designed.
- 4.12.5 The full appeal decision can be found online.

5.0 APPEAL PERFORMANCE:

	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR
Total No of Appeals	1	2	0	1	6	1	14	3	5	2	5	4	12
No Allowed	1	1	0	0	2	0	4	2	3	1	2	1	6
% Allowed	100%	50%	0%	0	33.3%	0%	28.6%	66.7%	60%	50%	40%	25%	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

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)

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