

26 October 2023		ITEM: 6
Planning Committee		
Planning Appeals		
Wards and communities affected: All	Key Decision: Not Applicable	
Report of: Louise Reid, Head of Service for Development Services		
Accountable Assistant Director: Tracey Coleman, Interim Chief Planning Officer		
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: **21/01635/FUL**

Location: Land South Of Marsh Farm, Marsh Lane, Fobbing, Essex.

Proposal: Installation of renewable-led energy generation station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with substation, inverter/transformers stations, site access, internal access tracks, security measures, access gates, other ancillary infrastructure, grid connection cable, landscaping, and biodiversity enhancements.

3.2 Application No: 21/00606/FUL

Location: 37 Bridge Road, Grays, Essex, RM17 6BU.

Proposal: Self-contained dwelling unit at the rear of the existing HMO building.

3.3 Application No: 22/01570/FUL

Location: Golden Chicken & Pizza, 10 Civic Square, Tilbury, Essex, RM18 8AD.

Proposal: Retention of siting of four shipping containers linked together on hard standing for storage and refrigeration. Proposed is the painting of the exterior of the containers and the installation of a pitched roof.

4.0 Appeals Decisions:

The following appeal decisions have been received:

4.1 Application No: 21/02062/OUT

Location: Malvina Close, Lower Dunton Road, Horndon On The Hill, Essex.

Proposal: Outline planning application for the provision of up to 5 custom-build dwellings with all matters reserved (resubmission of 20/01514/OUT).

Appeal Decision: Appeal Dismissed

4.1.1 The Inspector considered that the main issues were whether the proposal would be inappropriate development in the Green Belt, the effect of the proposal on the openness and purposes of the Green Belt, whether the proposed development would provide a suitable location for housing and whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

4.1.2 The Inspector stated the proposal does not meet the exceptions within the NPPF paragraphs 149e or 149g. Nor does it meet any of the other exceptions in the same paragraph. The Inspector therefore concluded that it would comprise inappropriate development in the Green Belt also stating the proposal would cause harm to the openness of the Green Belt and be contrary to the purposes of the Green Belt. It would also conflict with relevant requirements of policy PMD2, which amongst other things requires that development promotes connections between places that people want

to use. There were no other considerations to amount to very special circumstances required to justify the proposal.

4.1.3 The Inspector concluded that there would be conflict with the development plan. Therefore, the appeal was dismissed.

4.1.4 The full appeal decision can be found online.

4.2 Application No: 21/01761/FUL

Location: Supply 2 Location Ltd, Southend Road, Corringham, Stanford Le Hope, Essex.

Proposal: Retention of marquee for temporary period of 2 years for storage in association with host business.

Appeal Decision: Appeal Dismissed

4.2.1 The main issues were whether the development was inappropriate development in the Green Belt; the effect of the development on the character and appearance of the area; and, whether any harm by reason of inappropriateness, and any other harm, was clearly outweighed by other considerations to as to amount to Very Special Circumstances to justify the development.

4.2.2 The Inspector agreed with the Council's assessment regarding the development having a greater impact upon the openness of the Green Belt, both visually and spatially, and would conflict with the purposes of including land within the Green Belt. As such, the Inspector considered the development did not benefit from the exceptions set out under paragraph 149 of the NPPF, and was therefore inappropriate development.

4.2.3 With respect to the impact on character and appearance, while the Inspector noted that there was some surrounding vegetation which provided screening from several vantage points, overall, the size and appearance of the building is out of keeping with the surrounding area and incongruous. The Inspector concluded the building was harmful to the character and appearance of the locality, contrary to Policies CSTP22, CSTP23 and PMD2 of the Core Strategy and Paragraph 130 of the NPPF

4.2.4 The full appeal decision can be found online.

4.3 Application No: 21/01746/CV

Location: Supply 2 Location Ltd, Southend Road, Corringham, Stanford Le Hope, Essex, SS17 9EY.

Proposal: Application for the variation of condition no.4 (Hours) of planning permission ref. 17/00747/FUL (Retention of change of use of land to B8 (open air storage) and sui

generis (where the site will be used for a 'drive through' hand car wash).

Appeal Decision: Appeal Dismissed

- 4.3.1 The main issues were considered to be the effect of the variation of the conditions on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.
- 4.3.2 The appeal proposal would also vehicles, including HGVs, to access the site for longer periods on each day of the week. This would include up to 11pm on weekdays, and up to 6pm on Saturdays, as well as for up to 7 hours on Sundays. The Inspector observed the steady flow of traffic in the vicinity, and that the noise from this traffic flow on the dual carriageway and at the roundabout was audible, in addition to the noise generated by neighbouring commercial uses.
- 4.3.3 However, this noise, the Inspector commented, would likely reduce later in the evenings and at times at weekends, meaning that the proposal would be likely to introduce HGV noise and vehicle movements during these later periods, including engine noises, doors closing and reversing sounds, which may result in noise pollution and disturbance. The Inspector noted the anecdotal representations from interested parties and planning enforcement records relating to operations and vehicle movements outside of the controlled times, that have led to complaints. The Inspector also considered the Appellant's suggestion of a reduced time period that could be acceptable of no later than 10pm on weekdays. However, the Inspector considered that this would not overcome or demonstrate that the proposals would be acceptable with respect to the main concern regarding noise and disturbance. The Inspector concluded that the proposals would harm the living conditions of the occupiers of neighbouring properties, particularly regarding noise and disturbance, contrary to Policies CSTP6 and PMD1 of the adopted Core Strategy.
- 4.3.4 The full appeal decision can be found online.

4.4 Application No: 22/01431/HHA

Location: 36 Sabina Road, Chadwell St Mary, Essex, RM16 4PJ.

Proposal: New wall (retrospective) to enlarge enclosed area of rear garden and replacement of garage to outbuilding (retrospective) erection of front porch (retrospective) and proposed change of materials to rendered finish.

Appeal Decision: Appeal Allowed

- 4.4.1 The main issues were the effect of the appeal development on the character and appearance of the dwelling, the street scene and the wider area.

4.4.2 The Inspector's observation was that with bare breezeblocks on display, the porch and outbuilding do not make a positive contribution to the street scene, but finished in materials to draw the two together, their visual impact would be acceptable. The Inspector stated they were mindful that the majority of buildings in the area are of brick finish, but on the wider estate there were some examples of dwellings which have been rendered, and porches of a wide range of materials. The submitted plans indicate that the elevation of the dwelling facing Sabina Road would also be rendered, and provided there is consistency between the dwelling/porch and outbuilding, the Inspector considered that the use of render would be acceptable. The use of 'ivory' colour may be noticeable in the street scene but was also considered fairly neutral.

4.4.3 The Inspector concluded that the appeal development is acceptable in its impact on the character and appearance of the dwelling, the street scene and the wider area. It accords with Policy CSTP22 of the Thurrock Core Strategy and Policies for Management of Development (as amended) 2015, which amongst other criteria seeks to promote high quality design founded on a thorough understanding of, and positive response to, the local context; with Policy PMD2 of that document, in that it optimizes the potential of the site and would contribute positively to the character of the area; and with guidance in the RAE. It is sympathetic to local character and the surrounding built environment, and by increasing the enclosed garden has created a place with a high standard of amenity for existing and future users, as sought by paragraph 130 of the National Planning Policy Framework 2023.

4.4.4 The full appeal decision can be found online.

4.5 Application No: 21/00760/HHA

Location: Atwal Villa, Brentwood Road, Bulphan, 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.

Appeal Decision: Appeal Dismissed

4.5.1 The main issues were considered by the Inspector to be:

- whether the extension is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies,
- the effect on the openness of the Green Belt, and
- whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

- 4.5.2 The Inspector agreed with officers that the proposal was well in excess of the “2 reasonable sized room” allowance for extensions set out in Policy PMD6 of the Core Strategy and that the proposal would be “disproportionate additions” contrary to guidance in the NPPF. The proposals would therefore constitute inappropriate development.
- 4.5.3 Given the size and visibility of the extensions from public vantage points the Inspector considered the bulk of the extension would be apparent and therefore there would be harm to openness at a localised level in both spatial and visual terms.
- 4.5.4 The Inspector found no reason to suggest that very special circumstances existed to allow a departure from policy to be made. Accordingly, the appeal was dismissed.
- 4.5.5 The full appeal decision can be found online.

4.6 Application No: 23/00179/HHA

Location: 321 Southend Road, Stanford Le Hope, Essex, SS17 8HL.

Proposal: Hardstanding and vehicle access.

Appeal Decision: Appeal Allowed

- 4.6.1 The Inspector considered whether the introduction of a new vehicle access at the site would have adverse impacts upon vehicular and pedestrian safety on the highway.
- 4.6.2 The appeal site is located on Southend Road, where the new narrow vehicle access would front on to the junction where Mackley Drive meets Southend Road.
- 4.6.3 The Inspector drew attention to a number of vehicle accesses within Southend Road, and also notes that the highway within the street has a 30 mph speed limit and signs of average speed checks. Additionally, the section of Southend Road has a straight alignment. These features therefore, all add to a situation in which vehicle speed should be reasonable, with good visibility for drivers, both on the road and when entering or exiting at road junctions or from private properties.
- 4.6.4 Information provided to the inspector detailed that the existing garage related to the appeal site is not used to accommodate a car; but instead is used to store some of the appellant’s disability equipment such as power chair, mobility scooters, etc, therefore, an additional off street parking space is desired.
- 4.6.5 The inspector concluded that the highway and pedestrian safety concerns are not so serious as to justify refusal. Whilst these highway safety matters are the main issue in this case, the inspector also consider that the benefits to the appellant, in terms of coping with her disability, and not having to rely on kerbside parking in Fourth Avenue, are factors that weigh in favour of the grant of planning permission.

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	6						
No Allowed	1	1	0	0	2	2						
% Allowed	100	50	0	0	33.3	33.3						

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

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 - Legal

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