

Report to Area Plans Sub-Committee South
Date of meeting: 11 November 2015



**Epping Forest
District Council**

Subject: Probity in Planning – Appeal Decisions, 1 April 2015 to 30 September 2015

Officer contact for further information: Nigel Richardson (01992 564110).

Democratic Services Officer: Jackie Leither (01992 564243)

Recommendation:

That the Planning Appeal Decisions be noted.

Report Detail:

Background

1. (Director of Governance) In compliance with the recommendation of the District Auditor, this report advises the decision-making committees of the results of all successful allowed appeals (i.e. particularly those refused by committee contrary to officer recommendation).
2. The purpose is to inform the committee of the consequences of their decisions in this respect and, in cases where the refusal is found to be unsupportable on planning grounds, an award of costs may be made against the Council.
3. Since 2011/12, there have been two local indicators, one of which measures all planning application type appeals as a result of committee reversals of officer recommendations (GOV08) and the other which measures the performance of officer recommendations and delegated decisions (GOV07).

Performance

4. Over the six-month period between 1 March 2015 and 30 September 2015, the Council received 39 decisions on appeals (32 of which were planning related appeals, the other 7 were enforcement related).
5. GOV07 and 08 measure planning application decisions and out of a total of 32, 12 were allowed (37.5%). Broken down further, GOV07 performance was 7 out of 22 allowed (35%) and GOV08 performance was 5 out of 10 (50%), although out of this 5, one was part-allowed/ part-dismissed.

Planning Appeals

6. Out of the planning appeals that arose from decisions of the committees to refuse contrary to the recommendation put to them by officers during the 6-month period, the Council was not successful in sustaining the committee's objection in the following cases:

COMMITTEE REVERSALS - APPEALS ALLOWED:

Area Committee South

EPF/0037/15	Erection of new 1.6m electric gate and painted black steel railings to front wall. (Resubmission following refusal of EPF/1638/14)	2 Norlands Chigwell Park
EPF/1629/14	Demolition of existing single dwelling house and the erection of two new apartment buildings accommodating 12 dwellings together with associated landscaping and car parking.	120 High Road Chigwell
EPF/1412/14	The redevelopment of a disused car park to provide 350sqm of A1 retail space with six C3 residential apartments above with car parking and associated landscaping	Former Public Car Park, Church Hill Loughton
EPF/3012/14	Demolish garage and replace with two storey extension, 1m from boundary, with continuation of roof above. Attached garage to other side of house, 1.1m from boundary, with "granny flat/studio" above. Three front dormers. Two storey and single storey rear extensions.	24 Alderton Hill Loughton

Area Committee East

EPF/2358/14	Change of use from retail (Use Class A1) to estate agency (Use Class A2) (Re-submission following refusal of application EPF/1141/14.)	Ground Floor Unit, 134 High Street
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7. The appeal performance for GOV08, committee reversals, was on target at 50%, but the committees are urged to continue to heed the advice that if they are considering setting aside the officer's recommendation it should only be in cases where members are certain they are acting in the wider public interest and where the committee officer can give a good indication of some success at defending the decision. The 5 cases where the committees were successful are as follows:

COMMITTEE REVERSALS - APPEALS DISMISSED:

Area Committee East

EPF/2056/14	Outline application with all matters reserved for demolition and removal of stables and hardstandings. Provision of access road with turning head, erection of five detached dwellings with garages and car spaces including ancillary works and landscaping.	Broadbanks Ivy Chimneys Epping
EPF/0255/14	Proposed conversion of stable block to a 2 bed single storey dwelling	Land Adjacent 1 Gun Cottage Abridge Road Theydon Bois

Area Committee South

EPF/1286/14	New attached dwelling.	2 Durnell Way, Loughton
EPF/2429/14	Three new detached dwellings, part single, part	20 Albion Hill, Loughton

two storey with green roofs and including new private access road off Albion Hill. Re-submission following withdrawal of EPF/0250/14

Area Committee West

EPF/1556/14	Outline application with all matters except access reserved for demolition of all existing structures except the farmhouse and erection of up to 72 dwellings (50% affordable) with ancillary parking, access and gardens, along with the erection of a community building.	Former Haulage Yard Sewardstone Road, Waltham Abbey
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8. Out of 7 **ENFORCEMENT NOTICE APPEALS** decided, 5 were dismissed, 1 allowed with variation of conditions and the other quashed for invalidity. These are as follows:

Dismissed

ENF/0103/14	Without planning permission the erection of 108 - brick wall and metal railings around the front garden of the land	110 High Street Epping
ENF/0241/14	Without planning permission the erection of a pergola situated to the front of the principle elevation of the dwelling house	Lambourne Park Farm Lambourne
ENF/0298/12	Building to be demolished as per EPF/2562/11 and Notice 1.	Chase Farm Vicarage Lane North Weald Bassett
ENF/0499/12	Without planning permission the erection of a building for residential purposes	Moor Hall Lodge Moor Hall Road Harlow
ENF/0630/12	Without planning permission the erection of a building described as "Barn"	Lambourne Park Farm Hoe Lane Lambourne

Invalid, Notice Quashed

ENF/0504/13	Without planning permission the stationing of eight mobile homes/caravans for residential purposes on the land	Logic Travel – Ricotta Transport Tylers Cross Nursery Epping Road Roydon
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Allowed with Conditions, but Varied

ENF/0721/10	Without planning permission the material change in the use of the land from a mixed use for leisure and residential occupation of a caravan to the use of the land as a gypsy and traveller caravan site	Plot 38, Roydon Lodge Chalet Estate High Street Roydon
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Costs

9. During this period, there was one award of costs against the Council in respect of a refusal of planning permission, which was a committee reversal, at Former Public Car Park, Church Hill Loughton – EPF/1412/14 - The redevelopment of a disused car park to provide 350sqm of A1 retail space with six C3 residential apartments above with car parking and associated landscaping.

10. Planning Practice Guidance on Award of Costs advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party in the following two circumstances:

- a party has behaved unreasonably; and
- the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

11. In this particular case, there were two reasons for refusal which were concerned with character/appearance on the local area and secondly, on highway safety. The appellant made a full cost claim against the Council for unnecessary and wasted expense of making the appeal. The Inspector did not totally agree, but awarded partial cost in respect of the highway safety reason for refusal. The Inspector took account of the Highway Authority confirmation that it had no objection to the proposal on the grounds of highway safety and that all the technical requirements for parking and servicing had been met because the submitted drawings demonstrated that vehicles can enter and leave the site safely. Rather than being refused, this could have been secured by condition rather than be a reason for refusal. This reason had not been substantiated, and that the Council's "unreasonable behaviour in this regard" led the applicant to incur unnecessary or wasted expense in addressing this matter. The Planning Inspectorate does not set the fee in the award of costs so after much negotiation between the developer and officers, the partial award of cost the Council pays £22,888, which is mainly the appellant solicitors and highway consultants appeal work fees for this reason for refusal..

Conclusions

12. Whilst performance in defending appeals at 37.5% appears high, there is no national comparison of authority performance. Members and Officers are reminded that in refusing planning permission there needs to be justified reasons that in each case must be not only relevant and necessary, but also sound and defensible so as to avoid paying costs. This is more important now than ever given a Planning Inspector or the Secretary of State can award costs, even if neither side has made an application for them. Whilst there is clearly pressure on Members to refuse in cases where there are objections from local residents, these views (and only when they are related to the planning issues of the case) are one of a number of relevant issues to balance out in order to understand the merits of the particular development being applied for.

13. Finally, appended to this report are the 10 appeal decision letters, which are the result of Members reversing the planning officer's recommendation (and therefore refusing planning permission) at planning committees, 5 of which were allowed and 5 which were dismissed and therefore refused planning permission.

14. A full list of appeal decisions over this six month period appears below.

Total Planning Application Appeal Decisions 1st April 2015 to 30th September 2015

Allowed With Conditions

Buckhurst Hill

1	EPF/2693/14	Retrospective application for retention of patio at rear.	42 Princes Road
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2	EPF/0797/15	Double storey side and partial single storey rear extension to existing 3 bedroom semi-detached property	10 Rous Road
Chigwell			
3	EPF/0037/15	Erection of new 1.6m electric gate and painted black steel railings to front wall. (Resubmission following refusal of EPF/1638/14)	2 Norlands Chigwell Park
4	EPF/1629/14	Demolition of existing single dwelling house and the erection of two new apartment buildings accommodating 12 dwellings together with associated landscaping and car parking.	120 High Road
High Ongar			
5	EPF/2916/14	Erection of two non-illuminated timber sign boards.	Cloverleaf Farm Pig Meadow King Street
Loughton			
6	EPF/2442/14	Demolition of existing house and erection of a building to accommodate ten one-bedroom flats. Parking area of ten spaces to rear of building, with vehicular access to southwest of building. Pedestrian bridge to front entrance of building.	89 High Road
7	EPF/1412/14	The redevelopment of a disused car park to provide 350sqm of A1 retail space with six C3 residential apartments above with car parking and associated landscaping	Former Public Car Park, Church Hill
8	EPF/0270/15	Proposed drop down kerb onto England's Lane and vehicle access over grass verge to tarmac hardstanding between house and front boundary of property. Re-submission following refusal of application EPF/2616/14.	203 Englands Lane
North Weald Bassett			
9	EPF/1993/13	Change of use of land to a use for the stationing of caravans for residential purposes for 1 no. gypsy pitch together with the formation of additional hard standing, the provision of a stable block and a utility/dayroom ancillary to that use. (Revised application)	Woodside Thornwood
Ongar			
10	EPF/2358/14	Change of use from retail (Use Class A1) to estate agency (Use Class A2) (Re-submission following refusal of application EPF/1141/14.)	Ground Floor Unit, 134 High Street

Roydon

11 EPF/1965/12 Change of use to a mixed use to include the stationing of caravans for occupation by gypsy traveller family. Ashview Hamlet Hill

Dismissed**Buckhurst Hill**

12 EPF/0194/15 Proposed 2 x one bedroom dwellings. Land to the side of 1 Princes Way

13 EPF/2237/14 Erection of a ground floor side infill extension, ground floor rear extensions, and part one / part two storey rear extension to existing house, including removal of existing conservatory. 50 Princes Road

14 EPF/0099/15 Create new roof, with a front gable and with an asymmetric crown roof form, with two rooflights/windows on rear. Rear dormer at first floor level. Revised application to EPF/2431/14. 25 Gladstone Road

15 EPF/0049/15 Demolition of existing property and redevelopment of the site to provide a two and a half storey building containing 4x one bedroom and 1x two bedroom self contained residential units with associated car and cycle parking, refuse store and landscaping (revision to EPF/2688/13) 142 Buckhurst Way

Epping

16 EPF/2056/14 Outline application with all matters reserved for demolition and removal of stables and hardstandings. Provision of access road with turning head, erection of five detached dwellings with garages and car spaces including ancillary works and landscaping. Broadbanks Ivy Chimneys

High Ongar

17 EPF/2206/14 Replacement of a disused garage with a new detached dwelling. Rosebud Chelmsford Road

Lambourne

18 EPF/2103/14 Proposed vehicle crossover. 3 London Road

Loughton

19 EPF/2758/14 Demolition of existing house, replacement house with 3 no. 6 bedroom houses. New front wall and gates. 16 Eleven Acre Rise

20 EPF/2603/14 Demolition of existing detached dwelling and construction of 8 no. 2 bedroom flats with underground car park. (Revised application) 2 Connaught Avenue

following refusal of EPF/1503/14 for 9 flats)

21	EPF/1286/14	New attached dwelling.	2 Durnell Way
22	EPF/2468/14	The enlargement of the previously approved but not fully completed ground and first floor extensions. Initial consent given under EPF/0674/74 and garage plus structural works completed and meaningful start achieved within period stipulated under planning consent certificate.	12 Marjorams Avenue
23	EPF/2429/14	Three new detached dwellings, part single, part two storey with green roofs and including new private access road off Albion Hill. Re-submission following withdrawal of EPF/0250/14	20 Albion Hill
Ongar			
24	EPF/2881/14	Prior Approval of proposed change of use of agricultural building to a dwellinghouse (Use Class C3) and associated operational development.	1 Shelley Rectory Church Lane Fyfield Road
Theydon Bois			
25	EPF/2522/14	Proposed new house to rear garden and demolition of existing garage and shed. Proposed new vehicular access to existing dwelling.	39 Dukes Avenue
26	EPF/2646/14	Outline application for demolition of existing chalet and erection of a replacement bungalow 11m long, 17.1m wide, 3m eaves height and ridge height of 7m. Total foot print 195 sqm, total area is 335 sqm and volume is 1,064 cubic metres. All other details are reserved matters.	119 Theydon Park Rd
27	EPF/0255/14	Proposed conversion of stable block to a 2 bed single storey dwelling	Land Adjacent 1 Gun Cottage Abridge Road
28	EPF/0327/15	First floor front extension above existing garage.	87 Theydon Park Road
29	EPF/1449/14	Proposed new bungalow to rear garden and demolition of existing garage and shed. Proposed new vehicular access to existing dwelling.	39 Dukes Avenue
Waltham Abbey			
30	EPF/1556/14	Outline application with all matters except access reserved for demolition of all existing structures except the farmhouse and erection of up to 72 dwellings (50% affordable) with	Former Haulage Yard Sewardstone Road

ancillary parking, access and gardens, along with the erection of a community building.

31 EPF/0026/15 Proposed new garage to front of existing house including new crossovers to house 3 and 1 crossover to house 5 existing reused. 3 Harrier Way

Part Allowed - with Conditions and Part Dismissed

Loughton

32 EPF/3012/14 Demolish garage and replace with two storey extension, 1m from boundary, with continuation of roof above. Attached garage to other side of house, 1.1m from boundary, with "granny flat/studio" above. Three front dormers. Two storey and single storey rear extensions. Associated alterations. 24 Alderton Hill

Enforcement Appeals

Dismissed

ENF/0103/14 Without planning permission the erection of brick wall and metal railings around the front garden of the land 108 - 110 High Street Epping

ENF/0241/14 Without planning permission the erection of a pergola situated to the front of the principle elevation of the dwelling house Lambourne Park Farm Hoe Lane Lambourne

ENF/0298/12 Building to be demolished as per EPF/2562/11 and Notice 1. Chase Farm Vicarage Lane North Weald Bassett

ENF/0499/12 Without planning permission the erection of a building for residential purposes Moor Hall Lodge Moor Hall Road Harlow

ENF/0630/12 Without planning permission the erection of a building described as "Barn" Lambourne Park Farm Hoe Lane Lambourne

Enforcement Appeal - Invalid, Notice Quashed

ENF/0504/13 Without planning permission the stationing of eight mobile homes/caravans for residential purposes on the land Logic Travel – Ricotta Transport Tylers Cross Nursery Epping Road Roydon

Enforcement Appeal: Allowed with Conditions , but Varied

ENF/0721/10 Without planning permission the material change in the use of the land from a mixed use for leisure and residential occupation of a caravan to the use of the land as a gypsy and traveller caravan site Plot 38, Roydon Lodge Chalet Estate High Street Roydon

Withdrawn Appeal

ENF/0479/14

Without Planning Permission the laying of a patio and pathway to the rear of the property which exceeds the permitted development height of 300mm above the highest level of the land.

42 Princes Road
Buckhurst Hill