



Report to Area Plans Sub-Committee

Date of meeting: East – 5 December 2018

Subject: Probity in Planning – Appeal Decisions, 1st April to 30th September 2018

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Recommendation:

That the Planning Appeal Decisions from 1 April 2018 to 30 September 2018 be noted.

Report Detail:

Background

1. (Director of Planning) 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 April 2018 and 30 September 2018, the Council received 58 decisions on appeals (53 of which were planning related appeals, the other 5 were enforcement related).
5. GOV07 and 08 measure planning application decisions and out of a total of 53, 11 were allowed and 1 was part allowed (22.6%). Broken down further, GOV07 performance was 7 (including 1 part allowed) out of 41 allowed (17.1%) and GOV08 performance was 5 out of 12 (41.7%).

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 (5):

Area Committee East

Epping

EPF/3259/17	Proposed single storey side extension and garden wall.	121 Theydon Grove
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Theydon Bois

EPF/3364/17	Demolition of existing dwelling, erection of replacement dwelling and front boundary fence. Erection of detached garage and relocate vehicular access point.	Granville 119 Theydon Park Road
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Area Committee South

Chigwell

EPF/0479/17	Demolition of existing building and garage and new build three storey residential development comprising of 11 units with on site car parking, cycle storage and refuse store	Amar Nivas 146 Hainault Road
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Loughton

EPF/3036/17	Removal of further sections of roof above ground floor addition at the rear, and raising of the roof of part of ground floor back addition - representing revisions to previously approved scheme ref EPF/2744/16	1 Woodbury Hill
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Area Committee West

Waltham Abbey

EPF/1782/17	Demolition of existing bungalow. Construction of 3 bed detached house and 2 x 3 bed semi-detached houses.	Marydel Copt Hall Green
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8. The appeal performance for GOV08, committee reversals, was on target at 41.7%, 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 7 cases where the committees were successful are as follows:

COMMITTEE REVERSALS - APPEALS DISMISSED (7):

Area Committee East

Epping

EPF/2265/17	Proposed new vehicular access and hardstanding High Road	2 Creeds Cottages
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EPF/0947/17	Demolition of existing houses and construction of a new building to provide 28 no. 1 and 2 bedroom sheltered retirement apartments with parking, bin/buggy storage, communal space, access and landscaping.	1-5 Stonards Hill
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North Weald

EPF/2771/17	Erection of a detached 1.5 storey two bedroomed dwelling with associated car parking and new access onto High Road (alternative to previously approved bungalow EPF/1440/15).	21 Princes Close
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Area Committee South

Buckhurst Hill

EPF/0339/18	Two storey and single storey side and rear extension.	2 Gladstone Road
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EPF/1064/17	New three-storey classroom building and link element with associated alterations, parking and boundary treatments	Braeside Junior School 82 Palmerston Road
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Loughton

EPF/0897/17	First floor extension, new mansard roof, and new rear extension to provide 4 flats comprising 2 x 1 bed and 2 x 2 bed flats.	1 Ollards Grove
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Area Committee West

Waltham Abbey

EPF/3197/17	Demolition of existing bungalow. Construction of 3 storey block of 7 flats. Re-submission of refused application: EPF/2596/16	69 Farm Hill Road
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9. Out of 5 **ENFORCEMENT NOTICE APPEALS** decided, all were dismissed. These are as follows:

ENF/0001/14	Erection of a portable building	Providence Nursery Avey Lane Waltham Abbey
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ENF/0172/14	LISTED BUILDING NOTICE Without LBC the alteration, extension and conversion barn into 3 separate residential units	Old House Old House Lane Roydon
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ENF/0172/14	Without planning permission the use of the barn a Grade II Listed Building situated on the land (The Barn) for the purpose of 3 self contained residential units	Old House Old House Lane Roydon
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ENF/0328/16	Rear extension built not as EPF/2241/14	School Knotts Middle Street Nazeing Waltham Abbey
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ENF/0414/14	Without planning permission the erection of a commercial building	Providence Nursery Avey Lane Waltham Abbey Essex EN9 3QH
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Costs

10. During this period, there was one successful award of costs against the Council in respect of

a refusal of planning permission, which was allowed on appeal, for the provision of a 34 space car park and dropping off area for use by Oaklands School only, formation of related vehicular access from Warren Hill and provision of associated landscaping (application ref: EPF/2774/15) - Land Adjacent Warren Hill, Loughton.

11. Costs can be awarded against any party who has behaved unreasonably and where this behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

12. In this particular case, the Inspector considered that the Council's case lacked objective analysis, particularly on parking and highway safety matters given Essex CC highways clear view that the scheme would be highly beneficial to highway safety and secondly there was insufficient analysis of the site and surrounding key characteristics, or the extent to which existing and proposed landscaping would or would not mitigate any perceived adverse impacts. He did though commend Members during deliberation for seeking a way forward, but a more appropriate approach might be to have deferred a decision in order to allow time for further options to be investigated. Finally, he also criticised why the perceived absence of landscaping proposals, which were specifically mentioned in the refusal reason, could not have been addressed by a planning condition.

13. The total cost paid by the Council to Oaklands School amounted to £7,375.50.

Conclusions

12. Whilst performance in defending appeals at 22.6% appears modest, 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 appeal decision letters, which are the result of Members reversing the planning officer's recommendation (and therefore refusing planning permission) at planning committees, 7 of which were allowed and 5 which were dismissed and therefore refused planning permission. Only those appeals relevant to the relevant Area Plans Sub-Committee are attached.

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

Total Planning Application Appeals

ALLOWED WITH CONDITIONS

Buckhurst Hill

EPF/2064/17	Demolition of bungalow and construction of two-storey block of four flats with rooms in roof and integral carport	142 Buckhurst Way
EPF/2648/17	Loft conversion with front and rear dormers.	30 Boxted Close

Epping EPF/3259/17	Proposed single storey side extension and garden wall.	121 Theydon Grove
Loughton EPF/0679/18	Extension of the existing garage to provide space for family gym and home office	1 Ripley View
EPF/3036/17	Removal of further sections of roof above ground floor addition at the rear, and raising of the roof of part of ground floor back addition - representing revisions to previously approved scheme ref EPF/2744/16	1 Woodbury Hill
Nazeing EPF/1493/16	Outline application for 7 no. self-build houses	Broxlea Nursery, Nursery Road.
Theydon Bois EPF/3364/17	Demolition of existing dwelling, erection of replacement dwelling and front boundary fence. Erection of detached garage and relocate vehicular access point.	Granville 119 Theydon Park Road
Waltham Abbey EPF/0713/17	Subdivision of previously approved flats to create three new flats	King Harold Court Sun Street
EPF/1075/17	Demolition of existing building and erection of detached dwelling with basement and rooms in the roof. (Revised drawings).	Greenacre 9 Woodman Lane
EPF/1782/17	Demolition of existing bungalow. Construction of 3 bed detached house and 2 x 3 bed semi-detached houses.	Marydel Copt Hall Green
Willingale EPF/3063/17	Demolition of existing garage block and construction of new garage building with study and shower room to rear and room within roof.	Quires Green Walls Green
DISMISSED		
Buckhurst Hill EPF/0339/18	Two storey and single storey side and rear extension.	2 Gladstone Road
EPF/1064/17	New three-storey classroom building and link element with associated alterations, parking and boundary treatments	Braeside Junior School 82 Palmerston Road
EPF/3124/16	Two storey side extension to accommodate 1 bedroom self contained flat on ground floor and 1 studio flat on first floor with on-site parking and amenity space.	154 Princes Road
Chigwell EPF/0200/18	Erection of a 5 bedroom detached two storey dwelling with two rear dormer windows at roof level. (Same proposal as previously refused application EPF/1123/17).	1 Stradbroke Drive

EPF/2669/17	Outline application for demolition of existing house and garage and erection of proposed three detached dwellings with garages and associated works. (Revised application from EPF/2472/16).	93 Manor Road
EPF/2785/17	Demolish existing structure and construct one Bedroom, two storey dwelling house.	26 Maypole Drive (land adjacent to)
Epping		
EPF/0947/17	Demolition of existing houses and construction of a new building to provide 28 no. 1 and 2 bedroom sheltered retirement apartments with parking, bin/buggy storage, communal space, access and landscaping.	1-5 Stonards Hill
EPF/1918/17	Proposed new attached dwelling on land adjacent to no. 12	Land adj 12 Margaret Close
EPF/2246/17	Redevelopment of land to the rear of 287-291 High Street to provide 6 residential units	287-291 High Street
EPF/2265/17	Proposed new vehicular access and hardstanding High Road	2 Creeds Cottages
EPF/2640/17	Double storey side extension and single storey rear extension.	8 Brook Road
EPF/3404/17	Proposed first floor extension	19 Church Hill
Loughton		
EPF/0897/17	First floor extension, new mansard roof, and new rear extension to provide 4 flats comprising 2 x 1 bed and 2 x 2 bed flats.	1 Ollards Grove
Nazeing		
EPF/0002/18	Change of use of existing outbuilding currently used to store building materials into a separate residential dwelling	Osborne Nazeing Road
EPF/1493/16	Outline Application for 7 no. Self-Build Houses in accordance with Housing & Planning Act 2016 and Self-Build Act 2015.	Broxlea Nursery Nursery Road
EPF/3062/16	Outline application for the redevelopment of nursery to provide up to 50 dwellinghouses including means of access (all other matters reserved)	Fernbank Nursery Nazeing Road
North Weald Bassett		
EPF/2343/17	New vehicular access to existing waste transfer station, including new access road and part change of use of paddock.	Marlow High Road Thornwood
EPF/2771/17	Erection of a detached 1.5 storey two bedroomed dwelling with associated car parking and new access onto High Road (alternative to previously approved bungalow EPF/1440/15).	21 Princes Close North Weald

Ongar

EPF/0007/17	Change of use of land from agricultural to garden	5 Fairbank Close
EPF/0008/17	Change of use of land from agricultural to garden	10 Fairbank Close
EPF/0009/17	Change of use of land from agricultural to garden	9 Fairbank Close
EPF/0010/17	Change of use of land from agricultural to garden	2 Fairbank Close
EPF/0011/17	Change of use of land from agricultural to garden	21 Fairfield Road
EPF/0012/17	Change of use of land from agricultural to garden	1 Fairfield Road
EPF/0013/17	Change of use of land from agricultural to garden	11 Fairfield Road
EPF/0014/17	Change of use of land from agricultural to garden	7 Fairfield Road
EPF/0015/17	Change of use of land from agricultural to garden	15 Fairfield Road
EPF/0016/17	Change of use of land from agricultural to garden	17 Fairfield Road
EPF/0017/17	Change of use of land from agricultural to garden	23 Fairfield Road
EPF/0018/17	Change of use of land from agricultural to garden	19 Fairfield Road
EPF/0019/17	Change of use of land from agricultural to garden	23A Fairfield Road
EPF/0020/17	Change of use of land from agricultural to garden	13 Fairfield Road
EPF/0021/17	Change of use of land from agricultural to garden	5 Fairfield Road
EPF/0022/17	Change of use of land from agricultural to garden	9 Fairfield Road

Roydon

EPF/1185/17	Erection of a 4 bedroom residential dwelling. Netherhall Road	Sunnyside
EPF/1214/17	Demolition of existing outbuilding and the construction of a two storey detached dwelling.	Land adjoining Marford Tylers Road

Theydon Bois

EPF/2528/17	Demolition of detached bungalow and erection of replacement (Revised application to EPF/1134/17) Theydon Bois	Lillicroft Nurseries Abridge Road
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Theydon Mount

EPF/2248/17	Demolition of barn and erection of two detached houses.	1 Mount End Mount End Road
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Waltham Abbey

EPF/2606/16	Certificate of Lawful Development for proposed first floor rear extension.	3 Woodgreen Road Upshire
EPF/3197/17	Demolition of existing bungalow. Construction of 3 storey block of 7 flats. Re-submission of refused application: EPF/2596/16	69 Farm Hill Road

Willingale

EPF/1776/17	Re-development of existing and former Nissen	Land to the east of Berry
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Huts to create a single storey, three bedroom house.

Lodge, Fyfield Road

PART ALLOWED AND PART DISMISSED

Nazeing

EPF/2728/16

Retrospective planning application to retain first floor side extension, ground floor front porch extension and external railings to front and rear roof areas. Flat roofs are not accessible except for maintenance.

School Knotts
Middle Street