

Report to Area Plans Sub-Committee

Date of meeting: South – 07 January 2015



**Epping Forest
District Council**

Subject: Probity in Planning – Appeal Decisions, 1 April 2014 to 30 September 2014

Officer contact for further information: Nigel Richardson (01992 564110)
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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 (KPI 55) and the other which measures the performance of officer recommendations and delegated decisions (KPI 54).

Performance

4. Over the six-month period between 1 April 2014 and 30 September 2014, the Council received 36 decisions on appeals (29 of which were planning related appeals, the other 7 were enforcement related).
5. KPI 54 and 55 measure planning application decisions and out of a total of 29, 10 were allowed (34.5%). Broken down further, KPI 54 performance was 4 out of 18 allowed (22.2%) and KPI 55 performance was 6 out of 11 (54.6%).

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/0942/14	Retention of ground floor rear extension.	69 Queens Road Buckhurst Hill
EPF/2595/13	Change of use from Class A1 Shop to Class A5 fish and chips hot food takeaway use together with installation of extract duct on roof of cold room at the rear.	Chigwell Food & Wine 10 Brook Parade High Road, Chigwell

Area Committee East

EPF/0879/14	Two storey rear extension.	11 Tower Road Epping
EPF/1043/13	Application for engineering operations comprising formation of roadway and installation of cesspool (Resubmitted application to EPF/0132/13)	Great Notts Moreton Road Ongar
EPF/1683/13	Retention (with modifications) of agricultural building and erection of agricultural building.	The Acres Bounebridge Lane Stapleford Abbots

Area Committee West

EPF/1521/13	Variation of condition 16 'Parking Area' of planning permission EPF/0339/13. (Redevelopment to form 28 sheltered apartments for the elderly including communal facilities(Category II type accommodation), access, car parking and landscaping)	The Green Man Public House, Broomstick Hall Road, Waltham Abbey
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7. Therefore, 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. However, the committees were successful in the following 5 cases:

COMMITTEE REVERSALS - APPEALS DISMISSED:

Area Committee South

EPF/0219/14	Single storey side and rear extension with part second storey to side and rear.	49 Southern Drive, Loughton
EPF/2664/13	Redevelopment of site to create four detached dwellings, formation of vehicular access and car parking	48 Church Lane, Loughton.
EPF/0941/13	New semi detached house and alterations to existing dwelling.	Land adj 20 Ollards Grove Loughton

Area Committee East

EPF/1052/14	Two storey extension to rear of property together with first floor extension built over existing garage to side (Revised application to EPF/0431/14)	17 Emberson Way, North Weald.
EPF/2075/13	Private stables and log store.	Brook House Farm Barn Epping Lane, S Tawney

8. Out of 7 **ENFORCEMENT NOTICE APPEALS** decided, 2 were allowed and 5 were

dismissed. These are as follows:

Allowed

ENF/0021/13	Without planning permission the change of use of the land from menage to parking and or storage of vehicles and storage of plant and machinery in connection with recycling business and; Without planning permission the change of use of the land from agricultural to storage, sorting, distribution, recycling of concrete, hard core, tarmac and screen waste together with the stationing or related plant and machinery	Marlow High Road Thornwood
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ENF/0251/13	Breach of condition 4 attached to Planning Inspectors decision (EPF/0492/09) dated	Disney Alpacas Hamlet Hill Roydon
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Dismissed

ENF/0263/13	Without planning permission the change of use of the land from agriculture to residential use	Paslows Field (Oak Tree Lodge) King Street High Ongar
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ENF/0356/13	Without planning permission the erection of a storage shed	Highfields Gravel Lane Chigwell
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ENF/0642/12	Without planning permission the erection of a front wall, railings, gates and piers more than one metre in height adjacent to a highway	75 Honey Lane Waltham Abbey
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ENF/0062/11	Without planning permission the material change of use of the land to a mixed use comprising agriculture, residential and storage	Barkers Farm Mount End Road Theydon Mount
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ENF/0721/11	Without planning permission material alterations to a barn to form a mixed use of residential and agricultural	Land adj.Great Notts Moreton Road Bobbingworth
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Costs

9. During this period, costs were awarded against the Council in respect of the following.

EPF/1521/13	Variation of condition 16 'Parking Area' of planning permission EPF/0339/13. (Redevelopment to form 28 sheltered apartments for the elderly including communal facilities(Category II type accommodation), access, car parking and landscaping)	The Green Man Public House, Broomstick Hall Road, Waltham Abbey
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10. Members attention is brought to the fact recent appeal changes allows Planning Inspectors to award costs against a party that has behaved unreasonably even if neither the Council or the appellant has applied for costs. In the case above, Committee West's concern was that despite condition 16 requiring up to 15 spaces to be provided, the developer argued a need for 12 and the application was submitted to vary the condition to 12. Committee West refused on the grounds of increased on-street parking resulting in harm to amenity and traffic hazard. At the appeal, there was no County Council highway objection, and evidence put forward relied on local knowledge and comment from Waltham Abbey Town Council that this was an accident hot-spot.

The appellants produced evidence that 12 were needed. The Inspector concluded that the Council had behaved unreasonably because it could not provide any substantiated evidence why 3 extra cars would result in amenity and traffic hazard harm and awarded costs, which Officers have negotiated down to a final payment of £10,328.

Conclusions

11. Whilst performance in defending appeals has improved during the last couple of years, Members 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. As the above appeal cost case demonstrates, it is in the area of highway and parking refusals that the Council has difficulty in defending Members objections on these grounds without substantiated evidence. Highway and parking appears to be weighed far more heavily in favour of the developer who usually can justify parking provision from evidence.

12. Finally, at a previous request from Planning Services Scrutiny Standing Panel, appended to this report are the 11 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 dismissed and therefore refused planning permission.

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

Total Appeal Decisions April to September 2014

Allowed

Buckhurst Hill

1	EPF/0312/14	First floor rear extension. (Revised application to EPF/0024/13)	146 Queens Road
2	EPF/0584/14	Prior notification application for an 8 metre deep single storey rear extension, height to eaves 3.0 metres and maximum height of 4.0 metres.	5 Forest Side
3	EPF/0942/14	Ground floor rear extension.	69 Queens Road

Chigwell

4	EPF/2595/13	Change of use from Class A1 Shop to Class A5 fish and chips hot food takeaway use together with installation of extract duct on roof of cold room at the rear.	Chigwell Food & Wine 10 Brook Parade High Road
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Epping

5	EPF/0159/13	Change of use from 4 no. 1 bed self contained flats to single dwelling (Appeal against a condition).	66A Bower Hill
6	EPF/0879/14	Two storey rear extension.	11 Tower Road

Moreton, Bobbingworth and the Lavers

7	EPF/1043/13	Application for engineering operations comprising formation of roadway and installation of cesspool (Resubmitted application to EPF/0132/13)	Great Notts Moreton Road
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Stapleford Abbotts

8 EPF/1683/13 Retention (with modifications) of agricultural building and erection of agricultural building. *** Revisions to building ***
The Acres
Bournebridge Lane

Waltham Abbey

9 EPF/0365/13 Installation of illuminated fascia sign.
Castles
2-4 Highbridge Street

10 EPF/1521/13 Variation of condition 16 'Parking Area' of planning permission EPF/0339/13. (Redevelopment to form 28 sheltered apartments for the elderly including communal facilities(Category II type accommodation), access, car parking and landscaping)
The Green Man Public House, Broomstick Hall Road

Dismissed**Chigwell**

11 EPF/2397/13 Retrospective application for the retention of a storage shed.
Highfields
Gravel Lane

12 EPF/2615/13 Proposed two storey rear extension.
The Shaws

Lambourne

13 EPF/0679/13 Construction of three new 3 bedroom houses with associated access and parking.
92-110 London Road
Abridge

14 EPF/1641/13 Installation of 648 ground mounted photovoltaic panels.
Patch Park Farm
Ongar Road

Loughton

15 EPF/0014/14 Formation of additional bedrooms in re-profiled and extended roof, including new window with juliet balcony at second floor rear, and first floor side extension over integral garage.
65 Roundmead Avenue

16 EPF/0219/14 Single storey side and rear extension with part second storey to side and rear.
49 Southern Drive

17 EPF/0941/13 New semi detached house and alterations to existing dwelling.
Land adjacent to
20 Ollards Grove

18 EPF/2664/13 Redevelopment of site to create four detached dwellings, formation of vehicular access and car parking
48 Church Lane

Nazeing

19 EPF/2081/13 Variation of condition 4 'Removal of mobile home and shed structures' of planning permission EPF/2133/12. (Proposed barn conversion and demolition of redundant former farm buildings by removing any reference to the mobile home structure from condition 4)
Church Farm
Back Lane

North Weald Bassett

20 EPF/0733/14 Proposed garage and domestic store (Revised application to EPF/2471/13)
Amber Cottage
Foster Street
Hastingwood

21 EPF/1052/14 Two storey extension to rear of property together with first floor extension built over existing garage to side
17 Emberson Way

(Revised application to EPF/0431/14)

22	EPF/2030/12	Removal of condition 5 'Demolition of Unit 7A' of planning permission EPF/2562/11 (Retention of building on site of former agricultural buildings for small scale B1 use (unit 50) and the demolition of Unit 7A to provide access to rear)	Chase Farm Vicarage Lane
23	EPF/2056/12	Retain change of use from residential to vehicular access to and parking for small scale B1 use in connection with business centre	Chase Farm Vicarage Lane
Ongar			
24	EPF/0914/13	1 non-illuminated projecting sign and 1 trough lit externally illuminated sign in middle of fascia.	Co-operative Retail Services Ltd 198 High Street
25	EPF/1097/13 T	Listed building application for installation of 1x rough light above existing fascia sign, installation of 1x projection sign with wrought iron bracket fixed to existing fascia sign. (No alterations of shop front)	Co-operative Pharmacy 198 - 202 High Street Ongar Essex CM5 9JJ
Stapleford Abbots			
26	EPF/1629/13	Replacement dwelling.	Underwoods Nupers Hatch
Theydon Bois			
27	EPF/2469/13	Single storey rear and single storey side extensions, raising existing roof to accommodate rooms in roof and insertion of two front dormers	121 Theydon Park Road
Theydon Mount			
28	EPF/2075/13	Private stables and log store.	Brook House Farm Barn Epping Lane Stapleford Tawney
Waltham Abbey			
29	EPF/1029/13	Phase 1 of mixed use development to the rear of 54 Sun Street, to include new office (B1) at ground floor and 1 no. one bedroom flat at first floor.	54 Sun Street