

# **Report to Area Plans Sub-Committee South, East and West**



**Epping Forest  
District Council**

**Date of meeting: South – 21/05/08  
East – 28/05/08  
West – 04/06/08**

**Subject: Probity in Planning – Appeal Decisions, October 2007 to March 2008.**

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## **Recommendation:**

**That the Planning Appeal Decisions be noted.**

## **Report Detail:**

### **Background**

1. (Director of Planning & Economic Development) In compliance with the recommendation of the District Auditor, this report advises the decision-making committees of the results of all successful appeals, particularly those refused by committee contrary to officer recommendation. 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.

2. To set the context, a Best Value Performance Indicator was for district councils to aim to have less than 40% of their decisions overturned on appeal. The latest figure for the national average for District Councils is 30.9%. That BVPI was scrapped but recently replaced by one which records planning appeals only (not advertisement, listed buildings, enforcements, telecommunications or tree related appeals) and where the Council sets its own target – set this year to align with top quartile performance at 25%. In fact in recent years the Council has been more successful than the national average with only 18% in 2003/04, 29% in 2004/05, 22% in 2005/06 and 30% in 2006/07.

### **Performance**

3. Over the six-month period between October 2007 and March 2008, the Council received 78 decisions on appeals – 73 planning and related appeals and 5 enforcement appeals. Of the 73 planning and related appeals, 25 were allowed (34.2%) but none of the 5 enforcement appeals – a combined total of 32.1% of the Council's decisions being overturned during this period.

4. For the year 2007/08 as a whole: a total of 132 decisions were received – 120 planning appeals and 12 enforcement appeals. Of the 120 planning appeals 36 were allowed but none of the enforcement appeals – a total of 27.3% of the Council's decisions being overturned.

5. For the BVPI, which only considers appeals against the refusal of planning permission (so does not include advertisement, listed building, enforcement, telecommunications or tree-related appeals, nor appeals against conditions), the performance figure is 29%.

### **Planning Appeals**

6. The proportion of appeals that arose from decisions of the committees to refuse contrary to the recommendation of officers during the 6-month period was 19% - almost 1 in 5 appeals derive from committee decisions to refuse contrary to recommendation and of the 14 decisions that this percentage represents, the Council was successful in sustaining its objection in only 2 of them. The remaining 12 were lost:

- EPF/0791/07 – Land r/o The Forge, Lambourne Road, Chigwell – 11 flats and 1 house (Area Plans South)
- EPF/1824/07 – 114, 116 & 118 Manor Road, Chigwell – 11 apartments (Area Plans South)
- EPF/0146/07 – 1 Church Hill, Loughton – 8 apartments (Area Plans South)
- EPF/0765/07 – 12A Alderton Close, Loughton – single and two storey extensions (Area Plans South)
- EPF/0911/07 – Land r/o 33 & 35 Spring Grove, Loughton – one detached house (Area Plans South)
- EPF/2212/06 – 7 Ashfields, Loughton – wind turbine on roof (Area Plans South)
- EPF/1458/06 – Land at 42/44 Ongar Road, Abridge – use as garden and erection of 2 timber buildings and gates (Area Plans East)
- EPF/1346/07 – 32 Blackacre Road, Theydon Bois – two detached houses (Area Plans East)
- EPF/2388/06 – r/o 12 Forest Drive, Theydon Bois – refrigeration unit and roof (Area Plans East)
- EPF/2464/06 – Wansfell College, Piercing Hill, Theydon Bois – use for 14 flats (Area Plans East)
- EPF/1671/07 – 64 Morgan Crescent, Theydon Bois – details of one detached dwelling (Area Plans East)
- EPF/0232/07 – Langridge Barn, Paynes Lane, Nazeing – use of barn as a 'granny annexe' (Area Plans West)

7. The 2 committee refusals that were sustained were:

- EPF/1638/07 – 9 Foxley Close, Loughton – two storey side extension (Area Plans South )
- EPF/1575/07 – 41 Duck Lane, Thornwood – two storey front extension (Area Plans East ).

8. 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.

9. It will be noted that 7 of the 12 cases allowed involved the erection of new dwellings and it is understood that the Inspectorate have been charged to allow appeals for new dwellings whenever possible in order to assist in meeting housing need. Refusals based upon density factors or overdevelopment are therefore

unlikely to succeed unless real harm to the surroundings or adjacent properties can be shown, or poor design can be identified.

10. This is also borne out by those 13 appeals allowed following refusals under delegated powers – 7 of which related to house extensions, 2 to business uses, but 4 related to proposals for new dwellings. In the past, officers feel that fewer of those appeals would have been won, particularly at Lower Park Road, Loughton and High Road, Epping, but the push to approve new dwellings has over-ridden previously robust arguments.

## **Costs**

11. During this period, two awards of costs were made against the Council.

12. The first concerned the appeal by MacCarthy and Stone on land at 19-23 High Road, Epping. This was the second appeal relating to the development of apartments for the elderly at this site. Although the first Inspector did not agree that the character and appearance of the street was harmed by a block of flats, the Council tried to run that argument again. The second Inspector conceded that it is open to a Council to disagree with a previous Inspector but stated that if it is to do so the evidence must be far more robust, detailed and specific than it was. He felt that the Council had acted unreasonably in failing to produce evidence of such robustness in the light of the previous decision and made a partial award of costs to cover the costs of dealing with that one reason for refusal. A sum has yet to be claimed and agreed in that case.

13. The second case related to the appeal at Wansfell College, Piercing Hill, Theydon Bois. Here the Council had refused permission, contrary to officer's recommendation, on grounds related to the position and impact of the proposed car parking area to serve the apartments being created in the former college building. The Inspector criticised the Council stance in looking at the car park in isolation, not having regard to the removal of large parking areas at the rear of the site. In total; there would be no impact upon the Green Belt. A case was made to the effect that the car park was not proposed in the optimum place, but this, he said, could have dealt with by condition. An award of costs was made to cover the appellant's entire costs of that appeal (though not for the joint appeal covering the replacement dwelling on the site).

14. The appellants have submitted a claim in excess of £56,000, though this has been challenged and the Council have offered a sum less than 50% of that claimed. Whatever the final figure, this is a substantial sum for which there is no budget provision.

## **Conclusions**

15. The Council's performance for this 6-month period has been disappointing, though the full year figure is still above average and not far short of the top quartile target. There have been some satisfactory defence of the Council's retail, Green Belt and Conservation policies and the support for the Council's decisions to take enforcement action is particularly encouraging but there were some particularly disappointing decisions relating to MacCarthy & Stone development in High Road, Epping and to the demolition of a locally listed building and its redevelopment at the corner of Lower Park Road, Loughton.

16. Note must be taken of the costs award in relation to the Wansfell College site at Theydon Bois.

17. The decisions are listed in the Council Bulletin from time to time but a full list of decisions over this six month period appears below.

### **Appeal Decisions April to September 2007**

#### **Planning Appeals Allowed:**

1. EPF/1827/06 – 155 Princes Road, Buckhurst Hill – erection of a garage
2. EPF/0791/07 – Land r/o The Forge, Lambourne Road, Chigwell – 11 flats and 1 house
3. EPF/1824/07 – 114, 116 & 118 Manor Road, Chigwell – 11 apartments
4. EPF/2164/06 – 31 Lyndhurst Rise, Chigwell – two storey and single storey extension
5. EPF/0468/07 – 19-23 High Street, Epping – 28 sheltered apartments
6. EPF/1458/06 – Land at 42/44 Ongar Road, Lambourne – use as garden and erection of 2 timber buildings and gates
7. EPF/0020/07 – 188-194 High Road, Loughton – conversion of offices to 14 flats
8. EPF/0146/07 – 1 Church Hill, Loughton – 8 apartments
9. EPF/0765/07 – 12A Alderton Close, Loughton – single and two storey extensions
10. EPF/0911/07 – Land r/o 33 & 35 Spring Grove, Loughton – one detached house
11. EPF/2024/06 – 2 Lower Park Road, Loughton – 8 flats and parking
12. EPF/2107/06 – 2 Hill Top Close – two storey rear extension, single storey side extension and front dormers
13. EPF/2212/06 – 7 Ashfields, Loughton – wind turbine on roof
14. EPF/2309/06 – 18 High Beech Road, Loughton – three storey rear extension
15. EPF/2310/06 – 18A High Beach Road, Loughton – three storey rear extension
16. EPF/0032/07 – Lakeside Nursery, North Street, Nazeing – building to replace sheds for vehicle repairs
17. EPF/0232/07 – Langridge Barn, Paynes Lane, Nazeing – use of barn as a 'granny annexe'
18. EPF/0436/07 – 1 The Mead, Nazeing – revising a proposed dwelling to 5 flats
19. EPF/0372/07 – 13 London Road, Stanford Rivers – single storey rear extension
20. EPF/1346/07 – 32 Blackacre Road, Theydon Bois – two detached houses
21. EPF/2388/06 – r/o 12 Forest Drive, Theydon Bois – refrigeration unit and roof
22. EPF/2464/06 – Wansfell College, Piercing Hill, Theydon Bois – use for 14 flats
23. EPF/1671/07 – 64 Morgan Crescent, Theydon Bois – details of one detached dwelling
24. EPF/0832/06 – Green Barn Blunts Farm, Theydon Bois – use for storage of building materials
25. EPF/1768/07 – 8 Wood Lane, Willingale – rear dormer

#### **Planning Appeals Dismissed**

1. EPF/0093/07 – 2 Green Lane, Chigwell – alterations and extensions

2. EPF/1065/07 – 114, 116 & 118 Manor Road, Chigwell – 12 apartments
3. EPF/0114/07 – 86 The Plain, Epping – two storey double garage
4. EPF/0611/07 – Coopersale Hall School, Flux's Lane, Epping – new classroom block
5. EPF/1354/07 – 9 Ravensmere, Epping – first and second floor extensions
6. EPF/1568/06 – Coopersale Farm, Houbbons Hill Epping – conservatory and new gates
7. EPF/2033/06 – 24 Centre Drive, Epping – retention of rear extension and conservatory
8. EPF/1243/07 – 19 Millfields, High Ongar – erection of bungalow
9. EPF/0889/07 – r/o 5 Gould Cottages, Market Place, Abridge – conversion to 3 apartments
10. EPF/0388/06 – 25 Pump Hill, Loughton – loft conversion
11. EPF/0444/07 – 258 High Road, Loughton – Use as A3 restaurant
12. EPF/0836/07 – 22 Station Road, Loughton – two storey side and rear extensions
13. EPF/1160/06 – r/o 25 Staples Road, Loughton – new dwelling
14. EPF/1311/07 – 72 River Way, Loughton – loft conversion
15. EPF/1638/07 – 9 Foxley Close, Loughton – two storey side extension
16. EPF/2041/06 – 134 Church Hill, Loughton – forecourt car parking
17. EPF/2066/06 – 6 Albion Hill, Loughton – use for educational purposes
18. EPF/2139/06 – Loughton Tennis Club, Eleven Acre Rise, Loughton – new dwelling
19. EPF/2274/06 – 8 Southernhay, Loughton – first floor side extension
20. EPF/2381/06 – 45 Fallow Fields, Loughton – loft conversion
21. EPF/0411/07 – September Lodge, Matching Green – side extension
22. EPF/2344/06 – Blackwood House, Matching Green – detached house and garage
23. EPF/0790/07 – Great Notts, Moreton Road, Bobbingworth – use of barn as leisure annexe
24. EPF/0890/07 – 30 Colvers, Matching Green – rear extension and conservatory
25. EPF/1522/07 – 2 Bush Hall Cottages, Threshers Bush, High Laver – rear conservatory
26. EPF/1535/07 – The Oates, High Laver – conversion of barns to one dwelling
27. EPF/2326/06 – Land at Pedlars End, Moreton – use of land as business yard and stables as a dwelling
28. EPF/0933/07 – 2 Common View, Nazeing – rear extensions and new roof
29. EPF/1113/07 – Warwick House, Bumbles Green, Nazeing – rear extension, swimming pool, and basement
30. EPF/1323/07 – Perry Hill Farm, Perry Hill, Nazeing – garages, store and office
31. EPF/2483/06 – Lakeside Nursery, North Street, Nazeing – glasshouses, retention of two buildings and construction of roadway
32. EPF/0841/07 – Windyridge, Harlow Common, North Weald – two storey extension and conservatory
33. EPF/1575/07 – 41 Duck Lane, Thornwood – two storey front extension and rear extension
34. EPF/2334/06 – 2 Esgors Cottages, High Road, Thornwood – extension for cat boarding
35. EPF/0156/07 – 157-165, High Street, Ongar – reduce minimum age restriction of residents
36. EPF/0137/07 – Kingsmead, Epping Road, Roydon – use as 9 flats and erection of three dwellings

37. EPF/0359/07 – Tower View, Dobbs Weir Road, Roydon – replacement dwelling
38. EPF/2386/06 – adj Tetsworth, Curtis Mill Lane, Stapleford Abbots – use of agricultural buildings as residential annex
39. EPDF/0217/07 – 21 Elizabeth Drive, Theydon Bois – two storey side and rear extension
40. EPF/1146/07 – r/o 21 & 23 Forest Drive, Theydon Bois – house and garage
41. EPF/1162/07 – Former Caretakers House, Wansfell College, Theydon Bois – erection of new dwelling
42. EPF/2254/06 – 4 Theydon Priory, Coopersale Lane, Theydon Bois – rear extension
43. EPF/2255/06 – 4 Theydon Priory, Coopersale Lane, Theydon Boise – listed building application for rear extension
44. EPF/0291/07 – 12 Mott Street, Waltham Abbey – two storey and single storey extensions
45. EPF/0393/07 – Land adj. 174, Crooked Mile, Waltham Abbey – three cottages
46. EPF/0870/07 – 1&2 Stable Cottage, Monkams, Waltham Abbey – ground and first floor extensions
47. EPF/1035/07 – Hawkswood House, Woodman Lane, Waltham Abbey – garage and first floor over
48. EPF/1051/07 – Disused pumping station, r/o 18 Stoneyshotts, Waltham Abbey – erection of one house

#### **Enforcement Appeals Dismissed**

1. 1 Market place, Abridge – use as A3 restaurant
2. 24 Centre Drive, Epping – single storey rear extension and conservatory
3. Land at Golden Row – Mott Street, Waltham Abbey – use as a contractors yard
4. Land at Blunts Farm, Coopersale Lane, Theydon Bois – depot for highway maintenance contractors
5. Maybanks Farm, Epping Road, Toot Hill – commercial use of stables.