

Report to Area Plans Sub-Committee East



**Epping Forest
District Council**

**Date of meeting: East – 25 November
2009**

Subject: Probity in Planning – Appeal Decisions, April 2009 to September 2009

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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 (BVPI) for district councils was 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 replaced by one which records planning appeals only (not advertisement, listed buildings, enforcements, telecommunications or tree related appeals). That too has been dropped as a National Indicator but the Council has created a Local Performance Indicator with a target of 25% of allowed decisions. In recent years the Council had been more successful than the national average with only 18% in 2003/04, 29% in 2004/05, 22% in 2005/06, 30% in 2006/07 and 29% in 2007/08. However, for 2008/09, a total of 40.3% of the Council's decisions were overturned, making this our worst performance since the BVPI was introduced.

Performance

3. Over the six-month period between April 2009 and September 2009, the Council received 49 decisions on appeals, 46 of which were planning and related appeals and 3 were enforcement related. Of these, 14 were allowed (28.6%).

5. For LPI 45, which only considers appeals against the refusal of planning permission (so does not include advertisement, listed building, enforcement, CLD's,

telecommunications or tree-related appeals, nor appeals against conditions), the 6-month performance figure is 27.3% allowed (44 appeals). LPI45 target for this year is 25%.

Planning Appeals

6. The proportion of the 46 appeals that arose from decisions of the committees to refuse contrary to the recommendation put to them by officers during the 6-month period was 13% and of the 6 decisions that this percentage represents, the Council was not successful in sustaining the committee's objection in any of them. The 6 (100%) lost were:

Area Cttee South:

EPF/1719/08 – Erection of a two storey end of terrace dwelling at 20 Cascade Close, Loughton.

EPF/0296/08 - Demolition of existing house and erection of 2 x 3 bedroom houses and 2 parking spaces at (Revised application) 66 England's Lane, Loughton.

EPF/0900/08 - Demolition of existing buildings and erection of three linked blocks of three storeys with accommodation at roof level. The development comprises 24 apartments, 3 retail units and 27 car parking spaces, cycles parking and amenity area. (Revised application) at 12-30, Church Hill, Loughton.

EPF/1411/08 – Replace existing garage and rear extension with two storey side extension and loft conversion with rear dormer to provide 1 no. one bedroom flat and 1 no. two bedroom flat at 2C Goldings Road, Loughton.

Area Cttee East:

EPF/2086/08 - Change of use of a former gas works building to short term holiday lets accommodation at Brick Works Building, Downhall Road, Matching Green.

EPF/2435/08 – Removal of planning condition 2 'obscure glass fixed frames to front windows' on EPF/1972/08 for loft conversion with dormer windows to front and rear at 1 Aukingford Green, Ongar.

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.

9. It will be noted that 4 of the 6 cases allowed directly 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. As reported previously, It would seem that only the very worst are being dismissed at appeal. The appeal decision at 1 Aukingford Green, Ongar is also to note that planning conditions should only be attached to planning permissions if considered relevant, reasonable and necessary, i.e. that planning permission would be refused otherwise. The Planning Inspector clearly considered that the condition did not meet these tests in this particular case.

10. Of the 40 planning application decisions made by the Director of Planning & Economic Development under delegated powers, 7 were allowed (17.5%). Whilst 2 of these involved the creation of new dwellings, 2 were related to enlarging existing bungalows to make larger houses, implying that Government advice in making the best use of urban land is still of paramount importance.

11. However, it would not be wise to draw too many firm conclusions from one 6-month set of results.

Costs

12. During this period, there were no awards of costs made for or against the Council.

Conclusions

14. The Council's performance for this 6-month period has improved on last year, but is still marginally over the threshold target. Because of the economic downturn, there have been fewer appeals submitted this year compared with last (80 by this stage last year) and with PINS now dictating how appeals are dealt with, a greater percentage are by the written representation method rather than hearings and inquiries. This has not necessarily resulted in an improved performance, but it does mean that the Council has not needed to use external consultants as much as in previous years, which has budget implications.

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

Appeal Decisions April to September 2009

Planning Appeals Allowed:

Buckhurst Hill

1. EPF/1719/08 – Erection of a two storey end of terrace dwelling at 20 Cascade Close

Chigwell

2. EPF/2371/08 – Erection of new chalet bungalow. (Revised application) at land to rear of 4 Doves Cottages

Epping

3. EPF/1588/08 - Conversion of existing bungalow to house by addition of new first floor, and new single storey rear extension (revised application) at 63 Tower Road

Fyfield

4. EPF/1434/08 - Conversion of existing bungalow to two storey house with rooms in loft space with front and rear dormer windows and two storey rear extension at Nottage Croft, Ongar Road

Loughton

5. EPF/0296/08 - Demolition of existing house and erection of 2 x 3 bedroom houses and 2 parking spaces at (Revised application) 66 England's Lane
6. EPF/0900/08 - Demolition of existing buildings and erection of three linked blocks of three storeys with accommodation at roof level. The development comprises 24 apartments, 3 retail units and 27 car parking spaces, cycles parking and amenity area. (Revised application) at 12-30, Church Hill
7. EPF/1392/08 – First floor side extension at 31 Forest View Road
8. EPF/1411/08 – Replace existing garage and rear extension with two storey side extension and loft conversion with rear dormer to provide 1 no. one bedroom flat and 1 no. two bedroom flat. at 2C Goldings Road

Matching

9. EPF/2086/08 - Change of use of a former gas works building to short term holiday lets accommodation at Brick Works Building, Downhall Road

North Weald

10. EPF/0701/08 – Proposed division of property to provide additional 1 bed cottage at 11 Woodfield Terrace

Ongar

11. EPF/2435/08 – Removal of planning condition 2 'obscure glass fixed frames to front windows' on EPF/1972/08 for loft conversion with dormer windows to front and rear at 1 Aukingford Green

Waltham Abbey

12. EPF/1863/08 - Two storey side extension, with garage at ground floor, infill rear extension and removal of flat roof to existing rear extension and replacement with a mono-pitched roof with parapet walls to the flanks at 118 Honey Lane

Enforcement Appeals Part Allowed

1. ENF/0494/08 - Unauthorised fence erected over 1m high adj to a highway at Brook House, Debden Lane, Loughton

Planning Appeals Dismissed

Buckhurst Hill

13. EPF/2079/08 - Part two part single storey side extension and ground floor rear extension. (Amended application) at 12 Loughton Way

Chigwell

14. EPF/0679/08 - Demolition of an existing dwelling and erection of 10 x 2 bedroom flats and 2 x 3 bedroom penthouses including associated car parking, access and landscaping at 118 High Road
15. EPF/0870/09 – Two storey side extension and pitched roof canopy to front elevation at 61 Tomswood Road
16. EPF/1279/08 – Demolition of two houses and erection of a three storey building comprising of 20 no. 2 bedroom flats and 3 no. 1 bedroom flats. (Revised application) at 113 & 115 Grange Crescent
17. EPF/1895/08 - Amendment to planning approval EPF/0320/08 for a new dwelling, in respect of increased depth of rear ground floor and formation of room in loft with rear facing dormer window at Land adj. 48 Love Lane
18. EPF/2697/07 – Two storey side and rear extensions, part single storey side extension, roof extension with side dormer window and alterations. (Amended application) at 7 Murtwell Drive

Epping

19. EPF/1416/08 – Change of use from office to residential comprising a one bedroom flat at first floor level at 53 High Street

Epping Upland

20. EPF/1439/08 - Conversion of dairy into single one bedroom dwelling with car port. (Revised application) at Annexe to The Dairy, Home Farm, Copped Hall Estate

Lambourne

21. EPF/1239/08 - Two storey side extension at Tudor Oak, 9A London Road
22. EPF/1325/08 - Demolition of existing dwelling and erection of replacement dwelling at 40 Hoe Lane
23. EPF/1926/08 – Two storey side extension. (Revised application) at Tudor Oak, 9A London Road
24. EPF/2341/08 – Conversion of ground floor A1 use to A5 take away - home deliveries. (Revised application) at The White House

Loughton

25. EPF/0409/08 – Erection of new house to rear gardens at 92/94 Roding Road
26. EPF/1390/08 - Single storey rear extension and new boundary fence (side) 2100 high at 7 Longfield
27. EPF/1546/08 – Change of use to A5 food take-away and erection of new shopfront and extract ducting at 244 High Road
28. EPF/1717/08 – New pitched roof to front to accommodate rooms in roof space at 5 High Beech Road
29. EPF/2040/08 – Extension and conversion of detached garage to one bedroom residential unit at 10 Valley Hill
30. EPF/2416/08 – Two storey side and front extensions, two storey infill extension at rear and minor alterations to dwelling at 62 Lower Park Road

North Weald

31. EPF/0095/09 - Erection of single attached dwelling and ancillary works at 75 Beamish Close
32. EPF/1241/08 – Demolish the existing bungalows (no's 1 & 2) and replace with nine new houses stretching along the site at 1 Marconi Bungalows
33. EPF/1709/08 – Retention of new entrance gates and walls fronting Hastingwood Road to replace existing at Orchard House

Ongar

34. EPF/1568/08 – Erection of 4 bedroom detached house at land adjacent Threeways House

Roydon

35. EPF/1477/08 - Proposed erection of a swimming pool and enclosure, demolition of two detached outbuildings and a lean-to to stable block at Knight Landings, Epping Road
36. EPF/1817/08 – Wet weather exercise and training area for trotting or harness racing horses at Rose Farm, Hamlet Hill
37. EPF/2073/08 – Loft conversion with side dormer windows at Roadside , Avenue Road
38. EPF/2106/08 – Certificate of lawfulness for existing use of siting of one mobile home and one touring caravan at Rose Farm, Hamlet Hill

Sheering

39. EPF/1074/08 - Two storey side and single storey rear extensions at 95 Sheering Lower Road

Stanford Rivers

40. EPF/0577/08 - Replacement house and outhouse annexe at Wayletts, 28 London Road

Stapleford Tawney

41. EPF/1860/08 - Proposed erection of new dwelling to side of existing premises at Suttons Manor, London Road

Waltham Abbey

42. EPF/2128/08 - Erection of new 3 storey building to provide for shop (A1) at the ground floor and 2 no. 2 bed flats at the first and second floors (Revised Application) at 12 Highbridge Street
43. EPF/2142/08 – Conservation area consent for retrospective demolition of the building at 12 Highbridge Street

Willingale

44. EPF/0036/09 – Change of use of land and erection of stable block and hay barn for private use at The Steers, Pigstye Green Road
45. EPF/0768/08 – Single storey side extension to form garden room at McKerros, Dukes Lane
46. EPF/1175/08 – Removal of mobile home with extension and replacement with single storey dwelling at Greenacres, Walls Green

Enforcement Appeals Dismissed

1. ENF/0409/08 - Entrance gates and walls erected over 2m high at Orchard House, Hastingwood Road, Hastingwood, North Weald
2. ENF/691/08 - Structure/shed erected on parking space at front of property at 23 Lytton Close, Loughton