Constitution and Member Services Scrutiny Panel – 29th March 2010
Appeal Decisions on Vehicular Crossovers and Requested Banding Changes Over the Last Two Years
(as requested by the Housing Appeals and Review Panel)qa

Vehicular Crossovers			
5/09	20.8.09	**Dismissed**	Officers decided that an occupier should not be given permission for a vehicular crossover, in accordance with the Council's policy, due to the presence of a fence and associated safety concerns. The Panel decided that officers should consult all residents who had the fence outside their home and Essex Highways, asking if they would have any objections to EFDC removing the fence. On consultation, the majority of residents objected and Highways also objected on safety grounds. The appeal was therefore dismissed.
7/08	24.7.08	**Dismissed**	Officers decided that permission should not be given for a dropped kerb, in accordance with the Council's policy, since it would provide a vehicular access across a lay-by and result in the loss of a designated on-road parking space. The Panel agreed that permission should not granted, and dismissed the appeal.
5/08	27.3.08	**Allowed**	**This was not a request for a vehicular crossover, but has been recorded in the Schedule of Appeals as being in this category.** A vehicular crossover had previously been agreed by officers but, at a much later date, officers had decided that the Council should not pay for the required dropped kerb to enable the vehicular access. In 1975, the appellant's late brother had sought permission from the Council to construct a parking space in the rear garden of his property; access to the garden area could be gained from a block of Council garages, which ran behind the appellant's property; permission was given. However, the permission letter made no mention of the need for a dropped kerb or the construction of a crossover across the land between the garage forecourt and the rear garden. It was noted that these matters would have been listed in a permission letter, if a similar application had been made now. In May 2005, the appellant had applied to Highways to have kerbstones removed from the area between the garage forecourt and her garden. On inspection of the area, it appeared to officers that the kerbstones had always been in situ. Photographs presented to the Panel clearly showed a line of kerbstones to the whole length of the garage forecourt. It was then subsequently claimed by the appellant that, at some time in the more recent past, the Council had installed the kerbstones and the appellant felt that the Council should pay to have them removed. A check of the Council's Repairs Service records had not revealed any work being carried out to the kerbstone since at least 1999. It was officers' view that it was clear that the kerbstones had been there for many years.; officers felt it was reasonable to assume that the kerbstones had always been present. This explanation was supported by the fact that the area between the garage

			forecourt and the garden did not appear to have ever had a crossover built on it to take the weight of a motor vehicle. However, the Panel agreed that the Council should obtain separate quotes for a dropped kerb and other work, and that the Council should meet the cost of providing a dropped kerb. It was also agreed that the Council should arrange other works wanted by the owner, but that the owner should meet all associated costs. The appeal was therefore allowed. However, in the event, the resident arranged to have all work done at her expense. **It should be noted that, if this case was not covered by the Housing Appeals and Review Procedure, the applicant would have been able to pursue her case through the Council's Complaints Procedure.**
	12.3.08	**Dismissed**	Officers decided that, in accordance with the Council's policy, permission should not be given for a vehicular crossover, since the proposal would involve creating an access from a parking area nearby, which would lead to the loss of car parking spaces from a designated parking area. The Panel agreed that permission should be granted and the appeal was dismissed.
4/08	14.2.08	**Allowed**	Officers decided that permission should not be given for an existing path to be used as a vehicular crossover, since it would require the removal of an additional section of green over 12 metres in length, which was in excess of the Council's maximum permitted length at that time of 6 metres. Officers had considered it necessary to seek clarification of the Council's policy in relation to this case and similar situations which existed throughout the Council's estates. The Housing Portfolio Holder had subsequently decided that the construction of vehicular crossovers should not be permitted on any existing footpath used for pedestrian access across housing owned grassed amenity land. However, the Panel felt that exceptional reasons applied. Although the Panel acknowledged that the proposal did not comply with the conditions which normally had to be met, the Panel considered that the following special circumstances in this case justified an exception being made to the Council's policy: (a) The existing footpath over which the vehicular access was proposed was wider than a normal footpath and was able to accommodate an average sized family vehicle without any wheels encroaching onto the adjoining grass areas; (b) The existing footpath was not adopted and, as a result, it was not maintained by the Highways Authority; (c) The evidence indicated that the existing footpath was probably originally constructed and used as a vehicular crossover some 30 years ago; and (d) In view of the width and location of the existing footpath, only a small triangle of grassed area needed to be removed to achieve a vehicular crossover to the appellant's property. The Panel therefore agreed that permission should be given to the end of the crossover being widened. The appeal was therefore allowed.

Requests for Banding Changes			
8/09	15.10.09	**Dismissed**	Officers assessed that the applicant's housing band should be changed (demoted) from Band 3 to Band 4, in accordance with the Allocations Scheme, since his child had reached 15 years of age, and the criteria relating to the need for a garden no longer applied The Panel agreed that Band 4 was correct and the appeal was dismissed.
6/09	23.7.09	**Dismissed**	Officers decided that, in accordance with the Council's Allocations Scheme, the applicant should be in Band 2. The applicant felt she should be in Band 1, due to strong medical grounds. The appellant stated that she needed to be living with her partner, since living apart had a detrimental affect on her mental health; she was suffering with depression, anxiety and panic attacks. The Council's Medical Adviser had awarded additional preference on the basis of the appellant's depression and high blood pressure, and promoted the application from Band 4 to Band 3. Subsequently, the appellant requested that their application be placed in Band 2, under the category of homeseekers having to live apart from other members of their household because of lack of accommodation. This was agreed. Subsequent to that, the appellant sought a further promotion to Band 1, due to high blood pressure, anxiety and depression. However, the Council's Medical Adviser concluded that there was insufficient evidence to promote the application to Band 1. The Panel agreed that Band 2 was the correct Band and the appeal was dismissed
11/08	5.11.08	**Dismissed**	Officers decided that, in law, the applicant should not succeed to his late father's tenancy and, in accordance with the Council's Allocation Scheme, should not be promoted to the highest housing allocation band. The appellant had moved in with his father and had been placed in Band 5, since he had not lived in the District for a year at the time of submitting his application. His father subsequently died. The applicant's assertion that he should succeed to the tenancy was not agreed, since he had not lived in the property for more than one year, as required by law. Subsequently, the appellant had submitted a medical form referring to stress. As a result, the Council's Medical Advisor promoted him to Band 3. The appellant was seeking a promotion to a higher Band. The Panel decided that the applicant should not be promoted to a higher band and dismissed the appeal. The Panel also agreed that he was not allowed to succeed.