



## ***Report to Area Plans Sub-Committee***

### ***Date of meeting: South – 1 December 2010***

**Subject: Probity in Planning – Appeal Decisions, April to September 2010**

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**Democratic Services Officer: Mark Jenkins (01992 564607)**

#### **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 last available figure for the national average for District Councils was 30.9%. That BVPI was scrapped but replaced by one which records planning appeals only, not enforcement. That too has been dropped as a National Indicator but the Council has created a Local Performance Indicator. In previous years, this target has been to not exceed 25% of allowed decisions. In recent years the Council performance has been 18% in 2003/04, 29% in 2004/05, 22% in 2005/06, 30% in 2006/07, 29% in 2007/08, 40.3% for 2008/09 and 30.9% in 2009/10.

For 2010/11 a revised target has been set to not exceed 28%.

##### **Performance**

3. Over the six-month period between April and September 2010, the Council received 36 decisions on appeals, 32 of which were planning related appeals and 4 were enforcement related. Of these, 10 were allowed (31.7%).
5. For LPI 45, which only considers appeals against the refusal of planning permission (so does not include advertisement, listed building, enforcement, Certificate of Lawful Development's, telecommunications or tree-related appeals, nor appeals against conditions), the 6-month performance figure is 28.1% allowed (9 of 32 appeals). LPI45 target for this year is 28%.

## **Planning Appeals**

6. The proportion of the 32 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 was 31.3% and of the 10 decisions that this percentage represents, the Council was not successful in sustaining the committee's objection in 6 of 10 (60%). The 6 lost were:

### **Area Cttee South:**

EPF/0485/10 – Redevelopment with a detached house at Former Beagle Hut, The Retreat, Retreat Way, Chigwell.

EPF/0375/10 - Palisade fence and access gate on the boundary of units 11 & 12 at Unit 12 Loughton Business centre, Langston Road, Loughton.

### **Area Cttee East:**

EPF/1271/09 - Replacement of former stables with accommodation block and rear extension to form conservatory and storage at The Green Man, School Road, Toot Hill, Ongar. (Part allowed for conservatory).

EPF/0380/10 - Side and rear two storey extension and two storey front extension at 3A The Weind, Theydon Bois.

### **Area Cttee West:**

EPF/0364/10 - Erection of 4 bedroom house to rear of no.114 Old Nazeing Road, Nazeing.

EPF/1206/09 - Demolition of disused pumping station and erection of a new build detached 3 bed house at Disused pumping station r/o 18 Stoneyshotts, Waltham Abbey.

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.
8. Of the 22 planning application decisions made by the Director of Planning & Economic Development under delegated powers, 3 were allowed (13.6%).

## **Costs**

9. During this period, there were two awards of costs made against the Council.
10. The first was an appeal against an enforcement notice for a change of use from office to a 1 bedroom flat at 53 High Street, Epping. Full costs of £8,287.00 were awarded because the Inspector considered the Council had issued the enforcement notice too promptly after the appellant had given notice that he was about to make a planning application and secondly, the information then submitted was sufficient for the Council to justify withdrawing the enforcement notice.
11. The second case was an appeal against an enforcement notice for the use of the site for permanent residential accommodation at 38 Roydon Lodge Chalet Estate.

The Council had not, in the opinion of the Planning Inspector, considered the fall back situation and the previous use of the site. The costs awarded was £3,563.50 and the notice withdrawn to seek further enforcement investigation, rather than allow it to proceed to a possible favourable decision for the appellant and potential further costs.

## **Conclusions**

14. The Council's performance for this 6-month period is an improvement on 2009/10 despite there being fewer appeals submitted. Fewer public inquiries and hearings have helped to safeguard against over using the budget set aside for employing consultants to defend appeals, given the procedure is now set by the Planning Inspectorate. Whilst 2 costs have been awarded against the Council, this has still been relatively low and infrequent, though in one case it perhaps indicates that there should be some caution taken by officers before issuing an enforcement notice a little hastily.

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

## **Appeal Decisions April to September 2010**

### **Planning Appeals Allowed:**

#### **Chigwell**

1. EPF/0485/09 – Demolition and clearance of existing site and redevelopment with a detached house with ancillary car parking and associated hard surfacing and landscaping at Former Beagles Hut, The retreat, Retreat Way.
2. EPF/1862/09- Demolition and clearance of existing site and redevelopment with a detached house with ancillary car parking and associated hard surfacing and landscaping (revised application) at Former Beagles Hut, The Retreat, retreat Way.

#### **Fyfield**

3. EPF/1187/09- New chimney and internal alterations at 1 Elmbridge Hall.

#### **Lambourne**

4. EPF/1755/09- Grain storage building. (revised application) at Gallmans End Farm, Manor Road.

#### **Loughton**

5. EPF/0375/09- Erection of a palisade fence and access gate on the boundary of units 11 and 12 at Unit 12 Loughton Business Centre, Langston Road.

#### **Nazeing**

6. EPF/0364/09- Erection of a four bedroom detached house associated parking to the rear of No.114 Old Nazeing Road.

#### **Stanford Rivers**

7. EPF/1271/09- Replacement of former stables with accommodation block and rear extension to form conservatory and storage at The Green Man, School Road, Toot Hill, Ongar.- (Part Allowed – conservatory only)

#### **Theydon Bois**

8. EPF/0380/10- Side and rear two storey extension to replace existing detached garage and store and two storey front extension. (revised application) at 3A The Weind, Theydon Bois

#### **Waltham Abbey**

9. EPF/1206/09- Demolition of disused pumping station and erection of a new build

detached 3 bed house at Disused Plumbing Station rear of 18 Stoneyshotts.

### **Planning Appeals Dismissed**

#### **Buckhurst Hill**

1. EPF/1099/09- Demolition of existing property and erection of a block of seven flats at 104 Queen's Road.
2. EPF/2271/09- Demolition of existing property and erection of a block of five flats. (revised application) at 105 Queen's Road.

#### **Epping**

3. EPF/0239/10- Vehicle Crossover at 20 Bower Hill.

#### **Fyfield**

4. EPF/1187/09- New chimney and alterations at 1 Elmbridge Hall, Fyfield.

#### **Lambourne**

5. EPF/0141/10- Retention of fencing. (revised application) at 3 Middle Boy, Abridge.

#### **Loughton**

6. EPF/0279/10- Loft conversion with front and rear dormer windows and raising the ridge line at 11 Longfield.
7. EPF/0325/10- External remodelling to include front, sides and rear two storey extensions, extensions to existing roof. (Revised application) at 18 Alderton Hill.
8. EPF/1507/09- Demolition of existing bungalow and erection of a pair of semi detached houses at 15 The Crescent.
9. EPF/1965/09- Erection of wall and metal railings to boundary of front garden. (Revised application) at 51 Valley Hill.
10. EPF/1716/09- Renewal of outline planning permission for the erection of a private dwelling house for the proprietor of 'Beechlands' at Beechlands 42 Alderton Hill.
11. EPF/0061/10- EPF/29/04 T1 Cedar-fell at 7 Church Hill.
12. EPF/1362/09- Reserved matters application for the erection of a detached dwelling in the rear garden of care home for proprietor of 'Beechlands' at Beechlands, 42 Alderton Hill.

#### **Nazeing**

13. EPF/0730/09- Demolition of existing house and erection of detached replacement dwelling at Dene, Nursery Road.

#### **Roydon**

14. EPF/ 1168/09- Erection of 14 two storey houses and 4 one storey bungalows at Land to rear of 32 High Street

#### **Stanford Rivers**

15. EPF/0408/10- Two storey front and side extension with dormer windows added to front at Willow Mount Epping Road.

#### **Stapleford Abbots**

16. EPF/1733/09- Part change of use of existing stables to form two bedroom dwelling with associated cartilage at Oak Field, Curtis Mill Lane.

#### **The Rodings, Abbess, Beauchamp & Berners**

17. EPF/0956/09- Proposed conversion of former Cart Lodge to form B1 Office Unit at Abbess hall, Abbess Roding
18. EPF/0995/09 – Conversion of cart-lodge to form B1 Office Unit at Abbess Hall, Abbess Roding

**Theydon Bois**

19. EPF/0603/10- Single storey rear extension and two storey side extension and side dormer window. (Revised application) at 2 Heath Drive.

**Theydon Mount**

20. EPF/1439/09- Change of use of an existing building at front of site to canteen (A2 use) at Barkers Farm, Mount End Road.

**Waltham Abbey**

21. EPF/0527/09- Retention of use of site for stabling of horses together with position of stables and ancillary structures for the keeping of livestock and retention of palisade fencing on boundaries at Land On The East Side of Pick Hill.
22. EPF/2478/09- Variation of condition 7 'Delivery times' on EPF/1305/08, to allow deliveries to be made between 7am-11pm Monday and Saturdays and from 9am to 5pm on Sundays and Bank Holidays. (Demolition of existing buildings and erection of new 'Lidl' food store and construction of five start-up industrial units- Revised application) at 1 Cartersfield Road.
23. EPF/0975/09 – Use as a Hospital at Wellington Hall, Wellington Hill.

**Enforcement Appeals Allowed**

1. Change of use from office (Class B1) to residential (Class C3) comprising a 1 bedroom flat at first floor level at 53 High Street, Epping

**Enforcement Appeals Dismissed**

2. Construction of a Building at The Burrows Fishing Lake, London Road, Stapleford Tawney
3. Erection of a single storey building at the Green Man PH, School Road, Toot Hill, Stanford Rivers.
4. Change of use of land for the hire and storage of skips at Land at Former Prospect Nursery, Old Nazeing Road, Nazeing.