

Report to Area Planning Sub-Committee South

Report Reference: PA-001-2011/12
Date of meeting: 15 June 2011



**Epping Forest
District Council**

Subject: Probity in Planning – Appeal Decisions for the period October 2010 to March 2011.

Responsible Officer: Nigel Richardson (01992 564110).

Democratic Services: Adrian Hendry (01992 564246).

Recommendation:

(1) That the Planning Appeal Decisions for the period October 2010 to March 2011 be noted.

Reasons for Proposed Decision:

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.

Other Options for Action:

None.

Report:

Background

1. 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 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 (LPI 45). 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.

2. For 2010/11, a more realistic achievable target was set to not exceed 28%, however, once again, this was exceeded (36.6%). For 2011/12, LPI 45 has been split into two, one of which will measure the performance of committee reversals of officer recommendations, which generally is the main factor why the performance has not been achieved.

Performance

3. Over the six-month period between October 2010 and March 2011, the Council received 65 decisions on appeals (56 of which were planning related appeals and 9 were enforcement related). Of these, 24 were allowed (36.9%).

4. 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 42% allowed (21 of 50 appeals).

Planning Appeals

5. Out of the 22 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, 14 were allowed and 8 dismissed. 63.6% of appeals resulting from committee reversals were therefore not supported on appeal. The Council was not successful in sustaining the committee's objection in the following 14 cases:

(a) Area Plans Sub-Committee South (4 Allowed):

- EPF/0310/10 – Redevelopment involving demolition of 1 house and replace with 12 apartments at 118 High Road, Chigwell;
- EPF/0924/10 - New fence, wall and gates at 36 Stradbroke Drive, Chigwell;
- EPF/2175/10 - Extension of existing patio at 7 Chigwell Park, Chigwell; and
- EPF/0294/10 - Erection of four storey, 6 bedroom house at 13 Eleven Acre Rise, Loughton.

(b) Area Plans Sub-Committee East (4 Allowed):

- EPF/1177/10 - Two-storey rear extension, conservatory and replacement dormers to front at 11 Beulah Road, Epping;
- EPF/0917/10 - Two storey side extension with new vehicular access and crossover at 64 Morgan Crescent, Theydon Bois;
- EPF/1183/10 - Front extension with first floor addition to alter existing bungalow into a two storey dwelling at 44 Theydon Park Road, Theydon Bois; and
- EPF/1409/10 - Use of part of land and the building within for equine use for 2 ponies for personal use and retention of stable doors to outbuilding at 30/30a Piercing Hill, Theydon Bois.

(c) Area Plans Sub-Committee West (5 Allowed):

- EPF/0697/10 - Two storey side extension at 22 Palmers Grove, Nazeing.
- EPF/0971/10 - Retention of single storey side and rear extension at Oakview, Netherhall Road, Roydon.

- EPF/2278/09 - Five bedroom house with new access and driveway, alterations to dormer and single storey protrusion on existing dwelling at Woodbury, Harlow Road, Roydon.
- EPF/0002/10 - Single storey rear extension - 1a Honey Lane, Waltham Abbey.
- EPF/2376/09 - Change of use of house to multi-occupancy - 35 Denny Avenue, Waltham Abbey.

(d) District Development Control (1 Allowed):

- EPF/1448/09 - Two further pitches with additional hard standing at 5 Moores Estate off Church Road/Harlow Road, Roydon.

6. Therefore, the Sub-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. This will come under more scrutiny and be reported upon with the separation of the LPI 45 performance figure over the coming year.

7. Of the 28 planning application decisions made by the Director of Planning & Economic Development under delegated powers or recommended to the Committee for refusal, 7 were allowed (25%).

8. Out of 9 enforcement notice appeals decided, 1 was allowed:

- ENF/0546/09 - Use of house in multi-occupancy - 35 Denny Avenue, Waltham Abbey.

Costs

9. During this period, there was a partial award of costs (£1200.00) made against the council, in respect of a planning application refusal at 5 Moores Estate off Church Road, Roydon (EPF/1448/09). The Inspector in allowing the appeal, concluded that the highway reason for refusal was not substantiated by firm evidence and failed to give thorough consideration to the advice of the highway authority, who had raised no objection.

10. There was also one award of full costs (£2,326.16) in respect of an enforcement notice at Burrs Farm, Foster Street, Harlow. Because of inaccuracies in the notice, due to further issues that came to light as a result of further investigation that needed to be rectified, the enforcement notice was withdrawn, but it was after expense had been incurred by the appellant in producing evidence to challenge the appeal.

Conclusions

11. The Council's total performance for this 6-month period and the previous 6 months shows a slight overall worsening of performance for LPI 45 compared with 2009/10 from 34% to 36%, despite there being fewer appeals submitted (102 in 2009/10 and 81 in 2010/11). This is still unsatisfactorily above the performance target. The greater proportion though remain written representation appeals, which the Planning Inspectorate dictate the process on how appeals are being dealt with. Fewer public inquiries and hearings have helped to safeguard against using the

budget set aside for employing consultants to defend appeals, but it only takes a committee reversal, with a number of specialist grounds for refusal to defend, for these appeals to become quite costly to defend and, judging by performance, this is with a less than 50% chance of the appeal being dismissed, given recent years performance. We have been generally successfully fighting off major costs sought against the council, though the 3 award of costs for the year as a whole have been carefully noted, in particular, care needed in serving enforcement notices, whilst Members should think very carefully when considering refusing planning permission on highway grounds where there is no firm evidence of highway harm and where no objection has been raised by ECC Highway Officers.

12. A full list of decisions over this six month period appears in the Appendix below.

Planning Appeals Allowed

Chigwell:

1. EPF/0310/10 – Redevelopment involving demolition of 1 house and replace with 12 apartments at 118 High Road, Chigwell.
2. EPF/0924/10 - New fence, wall and gates at 36 Stradbroke Drive, Chigwell.
3. EPF/2175/10 - Extension of existing patio at 7 Chigwell Park, Chigwell.
4. EPF/1244/10 – Crossover to front and new hard standing for car parking at 26 Warren Court, Chigwell.
5. EPF/1805/10 – Single storey rear extension at 57 Tomswood Road, Chigwell

Epping:

6. EPF/1177/10 – Two-storey rear extension, conservatory and replacement dormers to front at 11 Beulah Road, Epping.
7. EPF/1474/10 – Illuminated sign at Billie Jeans, 26 High Street, Epping

Loughton:

8. EPF/0294/10 - Erection of four storey, 6 bedroom house at 13 Eleven Acre Rise, Loughton.
9. EPF/0184/10 – Second floor side extension at 82 Tycehurst Hill, Loughton.
10. EPF/1522/10 – New fence and railings to boundary of Nursery Road at 1 Longfield, Loughton.
11. EPF2096/10 – First floor rear extension at 26 Queens Road, Loughton.
12. EPF/0131/10 – Non illuminated fascia sign x 4, 2 x first floor window manifestations and 1 x entrance door manifestations at 106-108 High Road, Loughton.

Ongar:

13. EPF/0457/10 – Development of 60 assisted living apartments for the frail and elderly at Land at Ongar Station, Ongar.

Nazeing:

14. EPF/0697/10 - Two storey side extension at 22 Palmers Grove, Nazeing.

Roydon:

15. EPF/0971/10 - Retention of single storey side and rear extension at Oakview, Netherhall Road, Roydon.
16. EPF/2278/09 - Five bedroom house with new access and driveway, alterations to dormer and single storey protrusion on existing dwelling at Woodbury, Harlow Road, Roydon.
17. EPF/1448/09 - Two further pitches with additional hard standing at 5 Moores Estate off Church Road/Harlow Road, Roydon.

Theydon Bois:

18. EPF/0917/10 - Two storey side extension with new vehicular access and crossover at 64 Morgan Crescent, Theydon Bois.
19. EPF/1183/10 - Front extension with first floor addition to alter existing bungalow into a two storey dwelling at 44 Theydon Park Road, Theydon Bois.
20. EPF/1409/10 - Use of part of land and the building within for equine use for 2 ponies for personal use and retention of stable doors to outbuilding at 30/30a Piercing Hill, Theydon Bois.
21. EPF/1707/09 – Retention of dwelling built not accordance with approved plans at Greenview adj 2 Blackacre Road, Theydon Bois.

Waltham Abbey:

22. EPF/0002/10 - Single storey rear extension - 1a Honey Lane, Waltham Abbey.
23. EPF/2376/09 - Change of use of house to multi-occupancy - 35 Denny Avenue, Waltham Abbey.

Planning Appeals Dismissed**Buckhurst Hill:**

1. EPF/0488/10 – Artificial playing surface and surround fence at Loyola Prep School, 103 Palmerston Road.

Chigwell:

2. EPF/400/10 – Brick piers, walls and metal entrance gates to paddock entrance at Magnolia House, Vicarage Lane.
3. EPF/0401/10 – Access road at Magnolia House, Vicarage Lane.

Epping:

4. EPF/0631/10 – Removal of cond. 10 “Removal of Barn” on EPF/2451/07 at The Dairy, Home Farm, Copped all Estate, Epping.

Fyfield:

5. EPF/1820/10 – Two storey front/side extension, front dormer, single storey rear extension and garage/cart-lodge at front at 29 Cannons Lane.

Loughton:

6. EPF/0733/10 – 3 bedroom, two-storey dwelling with walk-out basement at rear at 12-18 Pump Hill.
7. EPF/1040/10 – single storey front extension, with new pitched roof at 5 High Beech Road.
8. EPF/1833/10 – rear and side extensions, new dormers to flanks at 45 The Crescent.
9. EPF/1945/10 – part single part double storey side and rear extension at 18 Harwater Drive.
10. EPF/2015/10 – retention of double storey side and rear extension, single storey front, side and rear extensions, loft conversion with dormer in roof at 1 Marjorams Avenue.
11. EPF/2142/10 – Two storey side extension at 15 Goldings Rise.
12. EPF/2513/09 – Demolition of existing buildings and construction of single dwelling at r/o 186 Forest Road.
13. EPF/0182/10 – Crown lift of tree to 4.5m above ground level at 16 Upper Park.
14. EPF/0900/10 – Display of halo illuminated advert, non-illuminated projecting sign, internally illuminated signage and menu box at Zizzi, 2 Church Hill.
15. EPF/1808/09 – Retention of non-illuminated fascia, box and swing at 257a High Road.

Moreton, Bobbingworth and the Lavers:

16. EPF/2311/10 – Link porch between dwelling and outbuilding at Irenic Orchard, Ashlyns Lane.

Nazeing:

17. EPF0309/10 – Retention of existing storage containers for a temp period not exceeding 2 years at Nazeing Park House, Betts Lane.

18. EPF/0439/10 – Erection of day room in connection with residential mobile home site at Stoneshott View, Hoe Lane.
19. EPF/1950/10 – two bedroom house in rear garden at 49 Old Nazeing Road, Broxbourne.

North Weald:

20. EPF/1969/10 – Hand car wash with new tiled canopy roof at Pace Petrol Station, High Road.
21. EPF/0447/10 – retention of internally illuminate projection box sign at Carpenters Arms PH, High Road, Thornwood.

Roydon:

22. EPF/0524/10 – 4 bedroom house to rear with new driveway and access onto Harlow Road at Woodbury, Harlow Road.
23. EPF/2270/10 – First floor rear extension and conversion of loft space to provide 2nd floor accommodation at The Mount, Epping Road.

Sheering:

24. EPF/0399/10 – Alterations to form a two storey dwelling and new chalet bungalow at Gunn Lodge, The Street.

Stanford Rivers:

25. EPF/2399/10 – Replacement of 2 storey dwelling and redevelopment of site to provide 3 additional 2 storey dwellings (4 in total) (Scheme 2) at Millrite Engineering Site, 151-156 London Road.
26. EPF/2400/10 – Replacement of 2 storey dwelling and redevelopment of site to provide 3 additional 2 storey dwellings (4 in total) (Scheme 1) at Millrite Engineering Site, 151-156 London Road.

Stapleford Abbotts:

27. EPF/0332/10 – Change of use of existing office building to residential at Woodside Farm, Stapleford Road.

Theydon Bois:

28. EPF/0250/10 – Demolition of bungalow and reception of replacement bungalow at 40 Forest Drive.
29. EPF/0423/10 – Single storey building containing 4 loose boxes/stables, feed and machinery store, manage at Grazing land adj Broadlawn, Coopersale Lane.
30. EPF0888/10 – Demolition of existing bungalow and erection of replacement bungalow at 40 Forest Drive.

Waltham Abbey:

31. EPF/0449/10 – Wind turbine at Powder Mill, Powder Mill Way.
32. EPF/0716/10 – Variation of condition 3 on EPF/1305/08 to remove restrictions on newspapers, magazines etc at Lidl, 1 Cartersfield Road.
33. EPF/1148/10 – Use of land for car parking in connection with Breach Barns, Galleyhill Road.

Enforcement Appeals Allowed

1. Use of house in multi-occupancy - 35 Denny Avenue, Waltham Abbey.

Enforcement Appeals Dismissed

1. Stationing of metal container and storage building materials at land adjacent a residential caravan park at Honey Lane, Waltham Abbey.
2. Erection of wall and piers over 1m high at field entrance and construction of roadway, north of Magnolia House, Vicarage Lane, Chigwell.
3. Stationing of 6 storage containers at Land at Nazeing Park House, Betts Lane, Nazeing.
4. Use of land for car wash and placing of large metal container and plastic structure at Winston Churchill Pub, The Broadway, Loughton.
5. Floodlit car park and access road at Ivy Cottage, Bournebridge Lane, Stapleford Abbots.
6. Roof terrace and associated works at 84 Russell Road, Buckhurst Hill.
7. Stationing of Caravan at Land at Abridge Road, Theydon Bois.

Enforcement Notices No Further Action/Withdrawn

1. Change of use from agriculture to retail use and non-agriculture at Burrs Farm, Foster Street, Harlow.