

# **Report to Planning Services Scrutiny Standing Panel**



## SCRUTINY



**Date of meeting: 12 June 2012**

**Subject: Probity in Planning – Appeal Decisions,  
October 2011 to March 2012**

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**Committee Secretary: Mark Jenkins (01992 564607)**

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### **Recommendations/Decisions Required:**

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

### **Report:**

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 previous Best Value Performance Indicator (BVPI) for district councils was to aim to have less than 40% of their decisions overturned on appeal. There is no longer a national indicator but the Council instead created a Local Performance Indicator (LPI 45). 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, 30.9% in 2009/10 and 36.6% in 2010/11.

3. Since 2011/12, there has been two local indicators, one of which measures all planning application type appeals as a result of committee reversals of officer recommendations (KPI 55) and the other which measures the performance of officer recommendations and delegated decisions (KPI 54).

### **Performance**

4. Over the six-month period between October 2011 and March 2012, the Council received 51 decisions on appeals (44 of which were planning related appeals, the other 7 were enforcement related). Out of this 44, 11 were allowed (25%).

5. For the year end, both targets for KPI 54 and KPI 55 have been achieved. However, between October 2011 and March 2012, for KPI 54, 6 out of 35 were allowed (17%) and for KPI 55, 5 out of 9 were allowed (55%).

### **Planning Appeals**

6. Out of the 9 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, the Council was not successful in sustaining the committee's objection in the following 5 cases:

### **Area Cttee South (2 Allowed):**

EPF/2151/10	Provision of artificial playing surface and surround fencing to existing playing field. (Revised application)	Loyola Preparatory School 103 Palmerston Road
EPF/2664/10	Use of 'Motel' building (Use Class C1) for residential purposes as 26 apartments (Use Class C3).	Woolston Manor Abridge Road

### **Area Cttee East (2 Allowed):**

EPF/0167/11	Construction of 10 no 2 bed and 2 no 3 bed flats with associated car parking..	Wintry Park Service Station 37 Thornwood Road
EPF/1456/11	Construction of 10 no 2 bed and 2 no 3 bed flats with associated car parking. (Revised application)	Wintry Park Service Station 37 Thornwood Road

### **Area Cttee West (1 Allowed):**

EPF/0054/11	Proposed 2 no. three bedroom detached two storey houses with integral garages and parking fronting Wheelers Close.	Land Rear of 66 -70 Western Road
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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. As this is now highlighted as a separate performance target (KPI 55) it therefore potentially comes under more scrutiny.

8. Out of 7 enforcement notice appeals decided, 1 was allowed and one part allowed/part dismissed, although in the latter case the greater part of the appeal was dismissed. These are as follows:

#### **Allowed:**

ENF/0497/10	The building erected on the land was granted a Certificate of Lawfulness as a games room incidental to the main dwelling under CLD/EPF/1352/08. After a period of five months the building was converted for residential use as a separate residence and is therefore unlawful and without planning permission	Oaklands (Hatchmans Lodge) School Lane Abess Beauchamp And Berners Roding
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#### **Part Allowed/ Part Dismissed:**

ENF/0241/09	French windows (Allowed) All other parts of development not built in accordance with EPF/2151/08 (Dismissed)	20 Tomswood Road Chigwell
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## Costs

9. During this period, there was 1 successful finalised award of costs made against the council. Circular 03/2009 *Costs Awarded in Appeals and Other Planning Proceedings* advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

10. The Planning Inspectorate's quashing of an enforcement appeal resulted in an award of costs of £2,200.00 against the Council in respect of Plots 40-41 Roydon Lodge Chalet Estate, Roydon after failing to follow the appeal procedure. The enforcement notice was withdrawn after receipt and grant of an application for a certificate of lawful development because the alleged use was proven to be time immune. The Planning Inspector considered the appeal could have been avoided by more diligent investigation by the Council and awarded costs because the appellant had already incurred costs in preparing for the appeal.

## Conclusions

11. Whilst performance in defending appeals has improved, particularly in respect of committee reversals, Members are reminded that in refusing planning permission there needs to be justified reasons that in each case, must be relevant, necessary, but also sound and defensible.

12. Future reporting of appeal decisions to the Area Plans Sub-Committees will take place annually, rather than 6 monthly. Planning Services Scrutiny Standing Panel at its meeting on 20 December 2011 agreed that the report come to them every 6 months before recommending to the Area Plans Sub-Committees every year.

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

## Appeal Decisions October 2011 to March 2012

### Allowed With Conditions

#### **Buckhurst Hill**

1 EPF/2151/10	Provision of artificial playing surface and surround fencing to existing playing field. (Revised application)	Loyola Preparatory School 103 Palmerston Road
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#### **Chigwell**

2 EPF/2664/10	Use of 'Motel' building (Use Class C1) for residential purposes as 26 apartments (Use Class C3).	Woolston Manor Abridge Road
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#### **Epping**

3 EPF/0167/11	Construction of 10 no 2 bed and 2 no 3 bed flats with associated car parking..	Wintry Park Service Station 37 Thornwood Road
4 EPF/1456/11	Construction of 10 no 2 bed and 2 no 3 bed flats with associated car parking. (Revised application)	Wintry Park Service Station 37 Thornwood Road

#### **Loughton**

5 EPF/2003/11	Front/side conservatory and replacement bay window to rear.	Pump House 27 Pump Hill
6 EPF/1935/11	Two storey rear extension with extended raised patio, internal alterations and loft conversion with two front dormer windows and rear roof lights and part pitched roof to existing garage. (Amended application)	67 York Hill

7	EPF/0400/11	Prior approval determination for a telecommunications installation comprising the	Grass Verge at rear of pavement next to Boundary
		erection of a 11.8m high street works monopole with antenna shroud, to be used by both O2 and Vodafone, together with ground level equipment cabinets	Oaklands School Opposite Junction with Spring Grove High Road

8	EPF/0493/11	Illuminated fascia sign.	2 Centric Parade 200 High Road
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**Nazeing**

9	EPF/0054/11	Proposed 2 no. three bedroom detached two storey houses with integral garages and parking fronting Wheelers Close.	Land Rear of 66 -70 Western Road
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**Theydon Bois**

10	EPF/1387/11	Two storey side and single storey rear extensions and loft conversion and rear dormer window.	29 Theydon Park Road Theydon Bois
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**The Rodings - Abbess, Beauchamp and Berne**

11	EPF/2328/10	Certificate of lawful development for existing use of games room as an annexe.	Oaklands School Lane
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**Dismissed**

**Buckhurst Hill**

12	EPF/0732/11	Demolish existing house and build new single family house. (Revised application)	206 Queens Road
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13	EPF/0959/11	Proposed two storey side extension, single storey rear and front extensions and loft conversion	112 Forest Edge
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14	EPF/2652/10	Demolition of existing sub station and facilities building and erection of 3/4 storey block of 11 no. two bed flats with associated car parking.	Former Electrical Substation Station Way
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**Chigwell**

15	EPF/0017/11	Redevelopment of land into a two storey building with 1 x 2 bedroom duplex flat and car port for 2 no. car parking spaces. (Revised application)	Land to rear Burney Court 113 Manor Road
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16	EPF/2130/11	Retention of single storey rear extension.	20 Lechmere Avenue
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**Epping**

17	CAC/EPF/1071/11	Conservation area consent for the demolition of buildings and redevelopment of site to provide a mixed use development comprising A3 restaurants and 8 residential units.	208 - 212 High Street
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18	EPF/1020/11	Demolition of buildings and redevelopment of site to provide a mixed use development comprising A3 restaurants and 8 residential units.	208 - 212 High Street
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19	EPF/0966/11	Erection of bungalow in rear garden.	93 Sunnyside Road
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**Epping Upland**

20 EPF/0811/11	Construction of single detached dwelling. (Revised application)	Richmond Farm Parsloe Road
21 EPF/2543/10	Variation of condition 4 'ancillary accommodation' of planning permission EPF/0431/10 to permit independent occupation.	Yew Tree Cottage High Road

**High Ongar**

22 EPF/2156/09	Change of use from agricultural use to B1 and B8 use. (Revised application)	Nine Ashes Farm Rookery Road
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**Lambourne**

23 EPF/0545/11	Retention of unlawful fence for a temporary period of 18 months.	New Farm Cottage New Farm Drive
24 EPF/0807/11	Demolition of existing dwelling and erection of replacement dwelling.	54 Hoe Lane
25 EPF/1520/11	Demolition of existing dwelling and replacement dwelling. Revised application.	42 Hoe Lane

**Loughton**

26 EPF/0538/11	New dwelling.	Land adjacent to 16 Grasmere Close
27 EPF/2133/11	Retention of first floor and single storey rear extensions and dormer window.	26 Kenilworth Gardens
28 EPF/0221/11	Refurbishment and enlargement of existing building by way of a basement storage area, construction of one additional storey and erection of a four storey rear extension incorporating 5 parking spaces, extension to ground floor commercial units (12 additional flats) comprising 6 studio flats, 8 one bedroom flats and 2 three bedroom flats.	165 & 165a High Road
29 EPF/1711/11	Retention of 3x externally illuminated hanging sign and 1 non illuminated hoarding sign.	165 High Road

**Moreton, Bobbingworth and the Lavers**

30 EPF/0995/10	Outline application for redevelopment of the site to provide five detached houses.	Prestopets Ltd Kents Lane
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**Nazeing**

31 EPF/1088/11	Reconstruction of fire damaged holiday chalet.	Auburnville Meadgate Road
32 EPF/1634/11	Demolition of existing dwelling and erection of new four bed dwelling	6 The Mead
33 EPF/0397/11	Grade II listed building application for retention of 2 no. roof lights.	Ravens Back Lane

**North Weald Bassett**

34 EPF/1209/11	Grade II listed building application for the erection of new two storey link attached bedroom wing, internal alterations and demolition of existing outbuildings.	Saint Clements Vicarage Lane
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**Sheering**

35 EPF/1757/11	Front/side ground floor infill extension.	Allbrook House Sheering Lower Road
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**Stapleford Abbotts**

36 EPF/2228/11 Outline application to demolish shop/office and glasshouses and erect six detached chalet bungalows with garages, lay out access drive and turning head, amenity and parking areas, alter vehicular access onto Stapleford Road and plant woodland/meadow, hedgerows and trees (Amended Proposal). Esperanza Nurseries  
Stapleford Road

37 EPF/0820/11 Conversion and extension of garage into 1 bed annexe. The Cott  
Tysea Hill

**Stapleford Tawney**

38 EPF/1429/11 Conversion of existing two bay garage and store building into residential dwelling. Cutlers Forge  
Tawney Lane

**The Rodings - Abbess, Beauchamp and Berne**

39 EPF/0572/11 Two storey rear and side extension and single storey front extension, and single storey side extension with balcony above. Cross Diamond Cottage  
Hurdle Lane

**Theydon Bois**

40 EPF/0810/11 Removal of section of hedge at front, replacement with brick wall as continuation of existing, in order to provide electric sliding gate to secure property. 1 Ivy Cottage Mews  
Theydon Park Road

41 EPF/1535/11 Rear dormer window. Greenview  
Blackacre Road

**Waltham Abbey**

42 EPF/0632/11 Rd Demolition of single storey rear garage structure and construct a new 2.5 storey addition to accommodate 3 flats and covered parking area to rear of property access from Quaker Lane. (Revised application) Rear of 15-16 Sewardstone

43 EPF/0984/11 Single storey rear orangery extension. The Cottage  
Long Street

44 EPF/0411/11 Side infill extension with raising of part of roof and dormer windows to front and rear. Greenview  
Marsh Hill  
Holyfield

**Enforcement Appeals Allowed**

ENF/0497/10 The building erected on the land was granted a Certificate of Lawfulness as a games room incidental to the main dwelling under CLD/EPF/1352/08. After a period of five months the building was converted for residential use as a separate residence and is therefore unlawful and without planning permission Oaklands (Hatchmans Lodge)  
School Lane  
Abbess Beauchamp And  
Berners Roding

**Enforcement Appeals Part Allowed/ Part Dismissed:**

ENF/0241/09 French windows (Allowed) All other parts of development not built in accordance with EPF/2151/08 (Dismissed) 20 Tomswood Road  
Chigwell

## **Enforcement Appeals Dismissed**

ENF/0062/11	Without planning permission the material change of use of part of the dairy building from B1 office use to residential use as a dwelling.	Barkers Farm Mount End Road Theydon Mount
ENF/0085/08	Without planning permission the raising of land levels by way of importing, depositing and spreading of fill material including demolition waste, clay and soil.	E7 Site and land SE of T11 Site Langston Road Loughton Essex
ENF/0136/10	Unauthorised work to Listed Building	Ravens Back Lane Nazeing
ENF/0302/06	Field used for motorcross	Land South of Canes Lane, and North of Weald Hall Lane, North Weald
ENF/0714/10	Unauthorised development, hard standing etc	Plot 32 Roydon Lodge Chalet Estate High Street Roydon

**Reason for decision:**

**Options considered and rejected:**

**Consultation undertaken:**

**Resource implications:**

Budget provision:

Personnel:

Land:

Community Plan/BVPP reference:

Relevant statutory powers:

Background papers:

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Key Decision reference: (if required)