

Report to Area Plans Sub-Committee East

Date of meeting: East – 30/05/07



**Epping Forest
District Council**

Subject: Probity in Planning – Appeal Decisions, October 2006 to March 2007.

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Recommendation:

That the Planning Appeal Decisions be noted.

Report Detail:

Background

1. (Head of Planning Services) 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 was for district councils to aim to have less than 40% of their decisions overturned on appeal with the national average of about 33%. That BVPI was scrapped but recently replaced by one which records planning appeals only (not advertisement, listed buildings, enforcements, telecommunications or tree related appeals) and where the Council sets its own target – set this year at 24%. In fact in recent years the Council has been more successful than the national average with only 25% lost in 2000/01, 24% in 2001/02, 27% in 2002/03, 18% in 2003/04, 29% in 2004/05 and 22% in 2005/06.

Performance

3. Over the six-month period between October 2006 and March 2007, the Council received 74 decisions on appeals – 71 planning and related appeals and 3 enforcement appeals. Of the 71 planning and related appeals, 22 were allowed (31%) and none of the 3 enforcement appeals – a combined total of 29.7% of the Council's decisions being overturned.
4. For the BVPI, which only considers appeals against the refusal of planning permission (and regards all 'part-allowed' appeals as decisions against the Council), the performance figure is 31%.

Planning Appeals

5. On this occasion, the proportion of appeals that arose from decisions of the committees to refuse contrary to the recommendation of officers was much higher than on previous occasions. Of the 71 appeal decisions, 18 arose in such circumstances and the Council lost 12 of those cases. If those 18 cases were entirely discounted from the statistics, the Council's performance figure would have been 19%, which is well within the top quartile performance nationally.
6. Nevertheless, it cannot be denied that the Council were successful in sustaining refusals in 6 of those 18 cases, so the advice has to be that if members 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.
7. The 12 appeals allowed following decisions by committee to refuse contrary to officer's recommendation were:

EPF/1015/06 – Land adj. 3, Brook Rise, Chigwell – two, four-bedroomed houses (Area Plans A 19/07/06)

EPF/1108/06 – Chigwell School, High Road, Chigwell – all-weather hockey pitch (Area Plans A 19/07/06)

EPF/1289/06 – 12 Audleigh Place, Chigwell – two storey side extension (Area Plans A 16/08/06)

EPF/156/06 – 2 Western Avenue, Epping – erection of detached house (Area Plans B 08/03/06)

EPF/182/06 – Land adj. Treetops Care Home, Station Road, Epping – Amendments to approved scheme of 13 flats (Area Plans B 31/05/06)

EPF/13/06 – Land adj. 26 Stony Path, Loughton – erection of 2 dwellings (Area Plans A 01/03/06)

EPF/488/06 – J Sainsbury, Old Station Road, Loughton – variation of condition to allow extended opening hours (Area Plans A 21/06/06)

EPF/2176/05 – 230 High Road, Loughton – change of use to coffee shop (Area Plans A 01/02/06)

EPF/1754/05 – Ruallan, High Road, North Weald – removal of agricultural occupancy condition (Area Plans B 08/03/06)

EPF/2187/05 – Knightlands Farm, Berwick Lane, Stanford Rivers – change of use of barn to storage (Area Plans C 15/03/06)

EPF/401/06 – 64 Morgan Crescent, Theydon Bois – erection of dwelling (Area Plans B 31/05/06)

EPF/620/06 – Adj. 55 Theydon Park Road, Theydon Bois – erection of detached dwelling (Area Plans B 31/05/06)

8. To complete the picture, officers were successful in sustaining the committee decision to refuse, when officers had recommended granting permission, in the following 6 cases:

EPF/1525/05 – Coopersale Hall School, Flux's Lane, Epping – extensions and new classroom block (Area Plans B 08/02/06)

EPF/980/05 – 66 & 66a Bower Hill, Epping – erection of 3 blocks containing 14 flats (Area Plans B 31/05/06)

EPF/521/06 – Former Police House, New Farm Drive, Abridge – erection of 4 houses and garages (Area Plans B 31/05/06)

EPF/2157/05 – 14 Shooters Hill, Nazeing – side and rear extensions and dormers (Area Plans D 25/01/06)
EPF/2030/05 – Wansfell College, Piercing Hill, Theydon Bois – change of use to 20 flats (Area Plans B 10/02/06)
EPF/2031/05 – 30A, Piercing Hill, Theydon Bois – replacement dwelling (Area Plans B 10/02/06)

Costs

9. There were two cases where costs were awarded during this period – one for the Council and one against.
10. An appeal relating to land at 4, Buttercross Lane, Epping followed the refusal of an application for five flats. This, in turn, followed the dismissing of an earlier appeal for two houses on the site. The second proposal was for a larger development in a larger building and officers argued that it was unreasonable to put the Council to the expense of an appeal when a less intense scheme had already been dismissed at appeal. The Inspector agreed and awarded the Council the full costs of the appeal. This has been settled at £5,663.65p.
11. The Council were also successful in defending the decision to refuse the application for 36 sheltered apartments for the elderly at 19-23 High Road, Epping. However, as one of the strands, the Council sought to argue that the site could well be a location for protected species, which had not been properly dealt with by the appellants. The Inspector considered that the Council did not produce sufficient evidence to support this strand and consequently made a partial award of costs in the appellants' favour to cover their costs in defending that issue. This has been settled at £5,422.32p.

Conclusions

12. The Council's performance for this 6-month period, though still better than the national average, has been disappointing but this appears, in part, to be a reflection of the higher than previous willingness to set aside officers' recommendations. In addition, some of the decisions seem to show a determination to approve developments that make the best use of urban land but at the expense of previously accepted constraints
13. The decisions are listed in the Members Bulletin from time to time but a full list of decisions over this six month period appears at appendix 1.

APPENDIX 1

Appeal Decisions October 2006 – March 2007

Planning Appeals Allowed:

1. EPF/0894/06 – 38 Station Way, Buckhurst Hill – retention of condenser unit on roof
2. EPF/1015/06 – Land adj. 3, Brook Rise, Chigwell – two, four-bedroomed houses
3. EPF/1108/06 – Chigwell School, High Road, Chigwell – all-weather hockey pitch
4. EPF/1289/06 – 12 Audleigh Place, Chigwell – two storey side extension
5. EPF/0062/05 – Grange Farm, Chigwell – landscaping scheme for amended roundabout access works
6. EPF/1231/06 – Grange Farm, Chigwell – variation of condition to allow further 6 months to submit details of 28 houses, etc
7. EPF/0968/05 – 48-52 Stradbroke Drive, Chigwell – erection of 3 dwellings
8. EPF/0156/06 – 2 Western Avenue, Epping – erection of detached house
9. EPF/0182/06 – Land adj. Treetops Care Home, Station Road, Epping – amendments to approved scheme of 13 flats
10. EPF/0013/06 – Land adj. 26 Stony Path, Loughton – erection of 2 dwellings
11. EPF/0488/06 – J Sainsbury, Old Station Road, Loughton – variation of condition to allow extended opening hours
12. EPF/1335/06 – 42 Alderton Hill, Loughton – erection of detached dwelling
13. EPF/2176/05 – 230 High Road, Loughton – change of use to coffee shop
14. EPF/1754/05 – Ruallan, High Road, North Weald – removal of agricultural occupancy condition
15. EPF/2187/05 – Knightlands Farm, Berwick Lane, Stanford Rivers – change of use of barn to storage
16. EPF/0251/06 – Land adj. 2 Blackacre Road, Theydon Bois - erection of detached bungalow
17. EPF/0401/06 – 64 Morgan Crescent, Theydon Bois – erection of dwelling
18. EPF/0620/06 – Adj. 55 Theydon Park Road, Theydon Bois – erection of detached dwelling
19. EPF/2067/05 TEL – Thrifts Hall Farm, Abridge Road, Theydon Bois - telecommunications application for replacing 12.5m mast with 15m mast
20. EPF/1915/05 – Picks Farm, Sewardstone Road, Waltham Abbey – erection of 20m high radio transmitter
21. EPF/1343/06 A – Waltham Point, Waltham Abbey – retention of advertisement panels
22. EPF/2014/05 – Hodgkins Farm, Norton Heath Road, Willingale – conversion of barn to residential use

Planning Appeals Dismissed

23. EPF/1923/06 – 18 Luctons Avenue, Buckhurst Hill – two storey side extension
24. EPF/0867/06 - r/o 18, 20 & 22 Victoria Road, Buckhurst Hill – detached bungalow
25. EPF/0353/06 – 35 Mount Pleasant Road, Chigwell – replacement dwelling
26. EPF/0414/05 – 17 New Forest Lane, Chigwell – retention of railings and gates
27. EPF/0801/06 – 6 Tomswood Road, Chigwell – single storey side extension

28. EPF/0617/06 – 26 Lindsey Street, Epping – removal of condition re opening hours
29. EPF/1195/06 – 19-23 High Road, Epping – 36 sheltered apartments
30. EPF/1525/05 – Coopersale Hall School, Flux's Lane, Epping – extensions and new classroom block
31. EPF/1775/05 – 2 Hartland Road, Epping – three storey side extension
32. EPF/1992/05 – Land adj to Broadbents, 4, Buttercross Lane, Epping – erection of block of 5 flats
33. EPF/2246/05 – 24 Coopersale Common – two storey side extension
34. EPF/0980/05 – 66 & 66a Bower Hill, Epping – 3 blocks containing 14 flats
35. EPF/1866/05 – 45 Ongar Road, Fyfield – vehicle crossing
36. EPF/0513/06 – rear of 5 Gould Cottages, Market Place, Abridge – conversion to form 5 dwellings
37. EPF/0521/06 – Former Police House, 19 New Farm Drive, Abridge – four semi-detached houses
38. EPF/2026/05 – Woodgrange, 52 Ongar Road, Abridge – conversion to provide 2 holiday lets
39. EPF/0270/06 – 1 Church Hill, Loughton – erection of 10 apartments in two blocks
40. EPF/0421/05 – Land adj.12a Alderton Close, Loughton – new dwelling
41. EPF/0593/06 – 91 Willingale Road, Loughton – first floor rear extension
42. EPF/0606/06 – Land adj.89 High Road, Loughton – detached dwelling
43. EPF/0839/06 – Land adj.89 High Road, Loughton – semi-detached dwelling
44. EPF/1089/06 – 9 Hillyfields, Loughton – loft conversion
45. EPF/2195/05 – Land adj.8 Bobbingworth Mill, Ongar – 2 cottages
46. EPF/0820/06 – Land adj.8 Bobbingworth Mill, Ongar – one detached house
47. EPF/0184/06 – Brookend Farm, Hoe Lane, Nazeing – stationing a mobile home
48. EPF/0233/06 – Elmside, Middle Street, Nazeing – two storey side and front extensions
49. EPF/1079/06 – Lakeside Nursery, North Street, Nazeing – erection of building for vehicle repairs
50. EPF/1132/06 – Oakleigh Nursery, Paynes Lane, Nazeing – change of use to B1 and B8
51. EPF/2157/05 – 14 Shooters Hill , Nazeing – side and rear extensions and loft conversion
52. EPF/0375/06 – Restawhile, Epping Road, Roydon – two storey side extension
53. EPF/2129/05 – Granville House, Toot Hill Road, Stanford Rivers – two storey side extension
54. EPF/1313/05 – Birchfield, Stapleford Tawney – use for 16 pitch traveller site
55. EPF/2030/05 – Wansfell College, Piercing Hill, Theydon Bois – change of use to 20 apartments
56. EPF/2031/05 – 30A, Piercing Hill, Theydon Bois – replacement dwelling
57. EPF/0574/06 – Land rear of 21 and 23 Forest Drive, Theydon Bois – erection of chalet bungalow
58. EPF/0334/06 – 2 Dawes Bridge Cottages, Theydon Garnon – first floor extension
59. EPF/0335/06 – 1 Dawes Bridge Cottages, Theydon Garnon – first floor extension
60. EPF/0493/06 – Blunts Farm, Coopersale Lane, Theydon Bois – traffic maintenance depot
61. EPF/0273/05 – Petcheys, Sewardstone Road, Waltham Abbey – parking of vehicles and retention of hardstanding and railings
62. EPF/0278/06 – London Lodge West, Copped Hall Estate – side extension

63. EPF/0279/06 LB – London Lodge West, Copped Hall Estate – listed building application for side extension
64. EPF/1293/06 – 30 Sun Street, Waltham Abbey – conversion of two retail units to one flat
65. EPF/1916/05 – Picks Farm, Sewardstone Road, Waltham Abbey – erection of 36m high transmitter mast
66. EPF/2066/05 – Netherhouse Farm, Sewardstone Road, Waltham Abbey – change of use to tyre fitting depot
67. EPF/0415/06 – Rylston & Park Farm Nursery, Sewardstone Road, Waltham Abbey – two replacement dwellings and one infill dwelling
68. EPF/0371/06 TEL – verge at Shernbroke Road, Waltham Abbey – 11.7m high telecommunications pole
69. EPF/0751/06 A – Sainsburys Depot, Waltham Abbey – illuminated hoarding
70. EPF/0924/06 A – 7-9 Cartersfield Road, Waltham Abbey – illuminated totem sign
71. EPF/1062/05 – Tile House Farm, Birds Green, Willingale – use as vehicle servicing, repairs and storage

Enforcement Appeals Dismissed

72. Entrance gates in excess of 1m high at 17 New Forest Lane, Chigwell
73. Use of land for stationing a mobile transmission mast at Picks Farm, Sewardstone Road, Waltham Abbey
74. Erection of fencing at Tutein Farm, Grove Lane, Chigwell