

Committee(s): Planning and Licensing Committee	Date: 27 July 2021
Subject: Planning Appeals Update (February – July 2021)	Wards affected: All
Report of: Phil Drane, Corporate Director (Planning and Economy)	Public
Report Author: Caroline Corrigan, Development Management Team Leader Tel: 01277 312500 Email: caroline.corrigan@brentwood.gov.uk	To note

Summary

This report provides Members with information regarding recent planning appeal decisions.

Main Report

Introduction and Background

1. This report advises Planning and Licensing Committee of decisions that have been received in respect of planning appeals. Updates are provided to the committee regularly. This report provides a summary of the main issues and comments made by inspectors, which can be useful when making decisions on current and future planning applications. This is taken since February 2021, following the most recent update given to committee in February 2021 (Item 683, Planning and Licensing Committee, Planning Appeals Update November 2020 - January 2021).
2. It can be seen from the summaries that different inspectors reached different views on similar matters, for example the degree of consistency between the 2005 Brentwood Replacement Local Plan and the National Planning Policy Framework (NPPF). Although not indicated in the summaries below, inspectors have an inconsistent approach to the conditions they are willing to impose, for example requiring provision of a travel information pack often requested by highways and also on the removal of specified permitted development rights.
3. The committee is aware that a local planning authority's record at defending appeals is the Ministry of Housing, Communities and Local Government (MHCLG) chosen measure taken to assess the quality of its decision making. This is broken down into Majors (M) and Non Majors (NM), with a maximum allowable 'loss rate' of ten percent of the total number of applications of that type determined. The measure is challenging for Majors due to the low number of such applications the authority receives, in contrast to the measure for non

Majors. The summary below identifies the type of appeal in each case. Cases listed in this report determined by committee are marked with a (C).

- The application documents and the appeal decisions are available to view on the Council's website at www.brentwood.gov.uk/planning and via Public Access.

Appeal Decisions

- The following appeal decisions have been received since 1 February 2021 (35 applications in total):

5.1	Application No:	19/01438/FUL (NM)
	Location:	Kelby The Green Blackmore Ingatestone
	Proposal:	Construction of 1no. 3 bedroom dwelling and 1no. 4 bedroom dwelling.
	Appeal Decision:	Appeal Dismissed 15.02.2021

The proposed redevelopment and subdivision of the site to provide two rather than one dwelling would be out of character with its surroundings and fail to protect the character of the conservation area. The proposal including the use of modern designs would have an urbanising effect on the character of the area. The Inspector was not persuaded that the proposal would give rise to highway or parking issues.

5.2	Application No:	19/01264/FUL (NM)
	Location:	Clements Wood Farm Vaughan Williams Way Warley Brentwood
	Proposal:	Removal of Condition 16 (Permitted Development for extensions to the dwellinghouse) of application number 10/00673/FUL (Demolition of existing dwelling and erection of new dwelling and detached garage) to allow extensions to the dwellinghouse under Permitted Development.
	Appeal Decision:	Appeal Dismissed 10.02.2021

The inspector identified one main issue: whether the previous conditions are necessary and compliant with the NPPF. The inspector concluded that the conditions removing permitted development rights were necessary and that by removing these would allow for substantial extensions to be built which would be inappropriate development within the Green Belt. This does not prevent the applicant from extending the dwelling under planning permission which allows the Local Planning Authority (LPA) some control over the impact on the Green Belt. The appeal was dismissed.

5.3	Application No:	19/01489/FUL (NM)
	Location:	Clements Wood Farm Vaughan Williams Way Warley Brentwood
	Proposal:	Removal of Condition 12 (no dormer windows/additions or alterations to shape of roof) of application number 10/00673/FUL (Demolition of existing dwelling and erection of new dwelling and detached garage)
	Appeal Decision:	Appeal Dismissed 10.02.2021

The inspector identified one main issue: whether the previous conditions are necessary and compliant with the NPPF. The inspector concluded that the removal of permitted development conditions were necessary and that by removing these would allow for substantial extensions to be built which would be inappropriate development within the Green Belt. This does not prevent the applicant from extending the dwelling under planning permission which allows the LPA some control over the impact on the Green Belt. The appeal was dismissed.

5.4	Application No:	16/00080/UNOPDE
	Location:	Craigielea Chivers Road Stondon Massey Essex
	Proposal:	Appeal against enforcement notice concerning material change of use of the land to a mixed use of commercial use and residential use (by the stationing or storage of static and touring caravans on the land which facilitates the unauthorised residential area) and also storage use by the parking and storage of motorised or mechanically propelled vehicles on the land. Operational development on the land i.e the carrying out of engineering or other operations on the land, including but not limited to ; the importation , depositing and levelling of sundry hardcore materials and hardstanding surface material including crushed concrete, which has resulted in a raising of the land level. Also the erection of a front boundary wall, brick piers, gates and associated light fittings, the construction of a concrete base and the erection of outbuildings which are associated with the unauthorised residential use of land.
	Appeal Decision:	Appeal Withdrawn 18.02.2021

5.5	Application No:	20/00040/PIP (NM)
------------	------------------------	--------------------------

	Location:	Lapwater Hall Sewage Disposal Works Middle Road Ingrave Essex
	Proposal:	Application for Permission in Principle for the construction of a minimum of 3 to a maximum of 4 dwellings.
	Appeal Decision:	Dismissed Costs Awarded to Applicant 17.02.2021

The Inspector identified the main issue for the proposal is whether the site is suitable for residential development, having regard to:

- (i) Whether the proposed development would amount to inappropriate development in the Green Belt; its effect on the openness of the Green Belt; and if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development; (location)
- (ii) The accessibility of the proposed development to services and facilities; (location)
- (iii) Whether the proposed development would result in unacceptable flood risk; (location and proposed land use)
- (iv) and the amount of development.

Green Belt- Despite the reduction in hard standing, the additional above ground built form would amount to inappropriate development in the Green Belt and harm its openness. In terms of very special circumstances, the modest contribution to the need of housing, would not outweigh the harm to the green belt, contrary to Framework.

Accessibility to services and facilities- The sites location to services and facilities, as well as its accessibility in relation to non vehicular reliant movements, would be contrary to the Framework.

Flood Risk- A detailed flood risk assessment was not submitted, which is a requirement within the NPPG, therefore the proposal would lead to an unacceptable flood risk contrary to Framework.

Amount of development- If the proposal were acceptable in other areas, the density proposed would be acceptable.

Costs decision

A costs application was submitted with the appeal. The Inspector raised four areas from the appellants costs application under the headings: (i) engagement during the application, (ii) interpretation of guidance, (iii) interpretation of scheme of delegation and (iv) new reasons for refusal and evidence. The inspector agreed that point (iii) did not

result in unreasonable behavior, however found that on the other three areas raised the Council had acted unreasonably in procedural and substantive matters, resulting in unnecessary or wasted expense to the appellant and that a full award of costs was justified.

5.6	Application No:	20/00339/FUL (NM)
	Location:	208 Ongar Road Brentwood Essex CM15 9DX
	Proposal:	Single storey rear extension to include rooflights.
	Appeal Decision:	Appeal Dismissed 20.04.2021

The inspector identified one main issue: the effect of the proposed extension on the living conditions of occupiers of 206 Ongar Road with respect to outlook and amenity space.

Overall, the Inspector noted the proposal would extend 1 metre above the existing boundary treatments and extend 6.7 metres in depth, amounting to an unduly overbearing effect for the occupiers of No. 206, especially noting the current openness benefits to the garden space of No. 206.

5.7	Application No:	20/00504/HHA (NM)
	Location:	171 Chelmsford Road Shenfield Brentwood Essex
	Proposal:	Construction of single storey rear/infill extension. Construction of garage.
	Appeal Decision:	Appeal Allowed 27.05.2021

The inspector identified one main issue: whether the infill and garage extensions would amount to inappropriate development in the green belt.

The inspector concluded that due to the modest scale of the proposal and the close relationship with the existing development, it would not appear disproportionate, with the proposal being comparable to neighbouring properties, the appeal should be allowed.

5.8	Application No:	17/01815/OUT (M)
	Location:	Ingatstone Garden Centre Roman Road Ingatstone Essex
	Proposal:	Outline application to demolish and re-develop site to provide up to 110 residential units with associated open

		space with access from Roman Road (Appearance, Landscaping, Layout and Scale reserved matters)
	Appeal Decision:	Appeal Allowed Costs Refused 11.05.2021

This appeal was made on the basis that the application had not been determined within the statutory period for determining the application. The Council indicated that had it been able to determine the application it would have been refused. The three main issues were 1) whether the proposal is inappropriate development, 2) the effect of the proposal on the openness of the green belt and 3) if the proposal is inappropriate development, whether the harm would be clearly outweighed by very special circumstances.

On the first issue, there was no dispute between the parties that the proposal is inappropriate development in the green belt. On the second issue, while the site is partly previously developed, the proposal would reduce the openness of the site and taken in combination with the inappropriateness of the development, these two factors carry substantial weight against the proposal.

The site is allocated for residential development in the emerging LDP. The Inspector did not consider the proposal to be premature – this has a specific meaning in the NPPF: an emerging plan would have to be at an advanced stage and determining the application at this point would be so significant so as to undermine the plan. The first test was accepted, the second was not. Therefore the Inspector did not consider it premature to consider permitting the proposal.

In assessing whether very special circumstances existed to the required standard, the Inspector identified the following matters: in allocating the site, the Council was supporting its residential development; part of the site is previously developed; the Council has very poor housing land supply and delivery rates; the proposal would provide 35% affordable housing, in a borough where such accommodation is in high demand; the proposal would improve local public transport; some limited weight was given to the economic benefits of the proposal. In conclusion the Inspector did consider that the very special circumstances would clearly outweigh the harm identified.

The Inspector considered the other issues raised, including those from interested parties, but considered that some concerns were not supported by evidence or were capable of being addressed by conditions. A S106 agreement would be necessary to secure provision and management of open space; affordable housing; health care and education contributions; highway works and; biodiversity net gain.

Costs decision

The appellant made an application for costs against the local planning authority. The Inspector did not consider the planning authority had acted unreasonably in its handling of the application or in its defense of the appeal. On that basis there was no justification for awarding costs.

5.9	Application No:	20/00272/S191 (NM)
	Location:	The Toll House Fingrith Hall Lane Blackmore Ingatestone
	Proposal:	Application for a Lawful development Certificate for an existing use or operation or activity including those in breach of a planning condition for the demolition of existing garage and construction of a new double garage in revised location on site.
	Appeal Decision:	Appeal Allowed 02.02.2021

This was an appeal concerning non determination of an application for a lawful development certificate. The application was confused, appearing to relate to the existing use of a building as a dwelling, but was clarified to be for the proposed erection of a garage in its grounds. The application should have been made under S192 of the Act (proposed development) rather than S191 (existing development). The Inspector clarified matters and determined the appeal as a S192 application for a proposed development. Had the local planning authority determined the application it would have been refused on the basis that the proposal is not permitted development.

The issue was whether the proposed garage would be forward of the principal elevation. The inspector considered that what appeared to be the principal elevation (west) now was not the original principal elevation, which was the south elevation. Although disagreeing with the appellant who considered the west elevation to be the relevant one, the Inspector found, based on her view that the principal elevation was the south elevation, that the proposal could be erected as permitted development and therefore issued a certificate of lawful development.

5.10	Application No:	19/01746/PNTEL (NM) (C)
	Location:	Land Corner of Coptfold Road/ Crown Street Brentwood Essex

	Proposal:	Application for Prior Approval - under Part 16 of Schedule 2 for the Installation of a 20m Slim line column supporting 4no shrouded antennas, 1 no transmission dish, 2 no equipment cabinets 1 no meter cabinet and ancillary development thereto
	Appeal Decision:	Appeal Dismissed 25.06.2021

This is one of three related appeal decisions considered by the same inspector at the same time. The Inspector agreed with the Council that the proposal had not been sympathetically designed and camouflaged but would be particularly visually damaging, obtrusive and harmful to the character of the area and the outlook of residents. The proposal would require a partner site (at Pastoral Way) and therefore would increase the number of sites/masts. She considered that the harm would not be outweighed by public benefit, particularly when there was a preferable proposal (on the multi storey car park).

5.11	Application No:	19/01745/PNTEL (NM) (C)
	Location:	Land Adj The Nightingale Centre Pastoral Way Warley Essex
	Proposal:	Application for Prior Approval under Part 16 of Schedule 2 for construction for installation of 20m slim line column supporting 6 No. Shrouded Antennas, 2 No. Transmission dishes, 2 No. equipment cabinets, 1No. meter cabinet and ancillary development thereto
	Appeal Decision:	Appeal Dismissed 25.06.2021

This is also one of three related appeal decisions considered by the same inspector at the same time. The Inspector considered that the mast had not been sympathetically designed and camouflaged, would have an unacceptable detrimental impact on visual amenity, the character and appearance of the surrounding area and the setting of listed buildings. The proposal would require a partner site (at Coptfold Road) and therefore would increase the number of sites/masts. She considered that the harm would not be outweighed by public benefit, particularly when there was a preferable proposal (on the multi storey car park). The Inspector commented that the appellant has provided copies of numerous appeal decisions but, in common with the comments made by the case officer, determined the proposal on its own merits. She considered that the harm would not be outweighed by public benefit, particularly when there was a preferable proposal (on the multi storey car park).

5.12	Application No:	20/00466/PNTEL (NM) (C)
	Location:	Coptfold Road Multistorey Car Park Coptfold Road Brentwood Essex
	Proposal:	Application for Prior Approval - under Part 16 of Schedule 2 for the Installation of 2no. antennas, 2no. transmission dishes, 2no. Remote Radio Units, 3no. equipment cabinets at ground level and ancillary development thereto including 1no. GPS module
	Appeal Decision:	Appeal Allowed 25.06.2021

This is the third of the three related appeal decisions considered by the same inspector at the same time. The inspector said “There is no getting away from the fact that the mock chimney enclosure surrounding the roof top equipment would be visible in public views and from nearby residential properties. It would also be visible in longer distance views.” In her view the roof top equipment, with its camouflage surround, would not appear so conspicuous that the eye would be naturally drawn to it, though it would project higher than any other part of the existing building, detracting from the current skyline.

Having concluded that the other two proposals were unacceptable and in the absence of any alternative she concluded that the proposal would result in very limited visual harm from the siting and appearance of this roof top proposal which would be outweighed by the need to provide appropriate coverage in this area.

An integral part of the proposal was the ‘mock chimney’ to hide the antennas. The Council in its submission had raised the likelihood that as when the site is upgraded to 5G – which is known to be less tolerant of shields and screening – the mock chimney might not be retained. The Council made reference to this but responded that she could only consider the proposal before her and not what may or may happen in the future. While this is a well accepted principle it remains possible that as the site is upgraded in the future the equipment may not retain the screening currently proposed.

5.13	Application No:	20/00423/FUL (NM)
	Location:	12 Goodwood Avenue Hutton Brentwood Essex
	Proposal:	Hip to gable roof extension, dormer windows to front and rear to create first floor. Construction of new porch with glazed feature over. Alterations to fenestration.

	Appeal Decision:	Appeal Dismissed 08.03.2021
--	------------------	-----------------------------

The inspector identified one main issue: the impact of the development on the character of the surrounding area. Three elements were identified; the close proximity of the roof extension to the side boundary with No.14, the steep porch extension and the rear flat roof dormer. The inspector concluded the proposed development significantly harmed the character and appearance of the area and the appeal is dismissed.

5.14	Application No:	20/00842/HHA (NM)
	Location:	171 Chelmsford Road Shenfield Brentwood Essex
	Proposal:	Construction of single storey rear/infill extension. Construction of garage.
	Appeal Decision:	Appeal Allowed 27.05.2021

The inspector identified one main issue: whether the infill and garage extensions would amount to inappropriate development in the green belt.

The inspector concluded that due to the modest scale of the proposal and the close relationship with the existing development, it would not appear disproportionate, with the proposal being comparable to neighbouring properties, the appeal should be allowed.

5.15	Application No:	20/00799/HHA (NM)
	Location:	208 Ongar Road Brentwood Essex CM15 9DX
	Proposal:	Single storey rear extension to include rooflights
	Appeal Decision:	Appeal Allowed 20.04.2021

The inspector identified one main issue: the effect of the proposed extension on the living conditions of occupiers of 206 Ongar Road with respect to outlook and amenity space.

Overall, the Inspector noted the proposal would extend 0.4 metres above the existing boundary treatments and extend 6.7 metres in depth, which noting the Permitted Development boundary treatment allowance of 2 metres and pitched roof design of the proposal would not amount to an unduly overbearing effect for the occupiers of No. 206 or materially harm the current openness of the garden space of No. 206.

5.16	Application No:	20/00695/OUT (NM)
	Location:	Glencar Tilbury Road West Horndon Brentwood
	Proposal:	Outline application to construct detached two storey dwelling house (All matters reserved)
	Appeal Decision:	Appeal Dismissed 23.02.2021

The inspector identified three issues, 1) whether inappropriate development in the green belt, 2) effect on character of the area, including effect on trees and whether very special circumstances would out weight the harm of the development. On the first issue the inspector had to decided whether the proposal was ‘infilling in villages’. This embodies a two part test; while considering the proposal to be infilling he did not consider the site to be within a village. He also considered whether it could be an acceptable form of redevelopment of previously developed land, but concluded that it would result in a significant reduction in openness of this part of the green belt. On that basis the proposal was not one of the exceptions to inappropriate development in the NPPF. On the second main issue, he concluded that the development would not unacceptably harm the character of the area or the trees on the site. On the third issue, he concluded that very special circumstances would not out weight the harm to the green belt he had identified.

5.17	Application No:	20/00470/HHA (NM)
	Location:	Fiesta Hulletts Lane Pilgrims Hatch Brentwood
	Proposal:	Add two storey front extension, first floor side and part single part two storey extensions to rear
	Appeal Decision:	Appeal Dismissed 27.04.2021

The Inspector identified four main issues:

- (i) whether the proposal would be inappropriate development in the Green Belt;
- (ii) the effect of the proposal on the openness of the Green Belt;
- (iii) the effect of the proposal on the character and appearance of the area, including the setting of Hulletts Farmhouse, a Grade II listed building;
- (iv) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

The Inspector concluded that the proposal was not considered to meet any of the exceptions to inappropriate development in the greenbelt given in the NPPF and would materially harm its openness.

The proposal would also result in significant harm to the character and appearance of the area by way of an unduly dominant and highly discordant feature, contrary to Policy CP1 of the BRLP and would not accord with requirements within the Framework seeking development that is in keeping with the local character. In regard to the nearby Grade II Listed Building Hulletts Farmhouse, the Inspector concluded no harm to its setting would occur as a result of the proposal.

In relation to very special circumstances, the Inspector concluded that the benefits noted from the proposal would not outweigh the harm to the green belt.

5.18	Application No:	20/00462/HHA (NM)
	Location:	2 & 3 Deans Road Warley Brentwood Essex
	Proposal:	No.3 - Part single part two storey rear extension, and loft conversion with new mansard style roof including dormers to front and rear elevations. No.2 - Single storey rear extension. (Joint application)
	Appeal Decision:	Appeal Allowed 06.05.2021

The Inspector identified two main issues:

- (i) the effect of the proposal on the character and appearance of the host dwelling, the adjoining terrace and the surrounding area;
- (ii) the effect of the rear extensions at No 3 on the living conditions of occupiers of the appeal dwellings with respect to outlook at No 2 and internal space and outside amenity space at No 3.

The Inspector concluded the mansard roof extension would be inconspicuous and would have a limited impact on the character and appearance of the terrace owing to its 'modest height and its mid-terrace position'.

In regard to the living conditions of adjacent dwelling occupiers the Inspector found, even if built in isolation, the extension would not result in an unacceptable overbearing impact nor lead to a material loss of light. The Inspector also noted the proposals at No. 3 would reduce the available private amenity space, though commented the space lost was small and not being materially harmful to the living conditions of the occupiers, also

that the internal space provision on balance would improve the living conditions of the occupants.

5.19	Application No:	20/00611/FUL (NM)
	Location:	1 La Plata Grove Brentwood Essex CM14 4LA
	Proposal:	Demolition of existing outbuildings and construction of 1 no two bedroom detached property
	Appeal Decision:	Appeal Allowed 02.03.2021

The inspector identified two issues 1) the effect of the proposal on the character of the area and 2) its effect on the living conditions of the neighbouring property of 25 Gerrard Crescent. His views on the first issue were finely balanced, calling it cramped and squeezed in, in conflict with NPPF policy on well designed places but not unduly harmful. On the second issue he considered its relationship with and effect on the amenity of its neighbour would be acceptable.

What is noteworthy about the decision, is that the Inspector invoked the 'tilted balance' where because of the lack of a five year land supply, permission for developments on urban sites should be permitted unless the 'adverse impacts of doing so would significantly and demonstrable out weigh the benefits'. While he had criticisms of the proposal he concluded that as they would not would significantly and demonstrable out weigh the benefits, the appeal should be allowed.

5.20	Application No:	20/00649/FUL (NM)
	Location:	28 Wainwright Avenue Hutton Brentwood Essex
	Proposal:	Demolish garage and construct one x 1 bedroom detached house, with vehicular crossover and associated works
	Appeal Decision:	Appeal Dismissed 25.02.2021

This is a case where an applicant has tried to create a development site where there isnt one. The proposed dwelling would appear cramped, relate poorly with its surroundings, dominate and be severely overbearing on its neighbour. The Inspector was not persuaded of the similarity of a 'comparable development' and concluded that the harm of the development out weighed the benefit of an additional dwelling even applying the 'tilted balance' (see case above).

5.21	Application No:	20/00905/FUL (NM)
	Location:	Oak Cottage 550 Rayleigh Road Hutton Brentwood
	Proposal:	Demolition of single storey outbuildings and construction of one single storey residential dwelling.
	Appeal Decision:	Appeal Dismissed Costs Refused 22.02.2021

The Inspector identified three issues:

- i) whether the development would be inappropriate development in the Green Belt;
- ii) the effect on the character and appearance of the area;
- iii) very special circumstances necessary to justify the development.

The Inspector concluded that the proposal was not considered to meet any of the exceptions to inappropriate development in the greenbelt given in the NPPF and would materially harm its openness.

The proposal would also result in some harm to the character and appearance of the area, contrary to Policy CP1 of the BRLP and would not accord with requirements within the Framework seeking development that is in keeping with the local character.

In relation to very special circumstances, the Inspector concluded that the presumption in favour of sustainable development would not apply and the benefit of one dwelling would not outweigh the harm to the green belt.

A costs application was submitted with the appeal. The Councils analysis or conclusions of the proposal in relation to harm to the green belt were not unreasonable, nor was the advice provided at the pre-application stage misleading. Although no site visit was undertaken for the application, the Council was suitably aware of the site context from previous visits. The Councils suggestion of a visual representation of the site was to aid the applicant in substantiate their case and that unreasonable behaviour by the Council has not been demonstrated and the full award of costs is refused.

5.22	Application No:	20/00648/HHA (NM)
	Location:	Paglesham 23 Ridgeway Hutton Brentwood
	Proposal:	Demolition of existing dwelling house and construction of replacement dwelling.
	Appeal Decision:	Appeal Dismissed 01.03.2021

The Inspector identified two main issues: (i) the effect of the proposal on the character and appearance of the area;

(ii) the effect of the proposal on the living conditions of the occupiers of No. 21 Ridgeway with particular regard to outlook.

In regard to character and appearance the Inspector noted the substantial bulk proposed as well as limited articulation which would sit within 1.2 metre of the flank boundary and dominate the more modest dwellings either side as well as have a notable reduction in openness detracting from the spacious character of the street scene. Further to this, the large areas of glazing at first floor level and slated roof would be uncharacteristic, compounding the unsympathetic nature of the proposal.

In regard to the impact on living conditions of the occupiers of No. 21 Ridgeway, as a result of the close proximity, considerable bulk and mass at upper storey level and depth beyond the rear of No. 21 the proposal had dominant and intrusive features that would result in an overbearing impact and unacceptable loss of outlook to the occupiers of No. 21.

5.23	Application No:	20/00763/HHA (NM)
	Location:	4 Clavering Way Hutton Brentwood Essex
	Proposal:	First floor and single storey side extensions, single storey rear extension, canopy to the front, dormer window to the front and rear as well as rooflights in the roof
	Appeal Decision:	Appeal Allowed 19.02.2021

The inspector identified one main issue: the effect of the proposal on the character and appearance of the area.

The Inspector concluded that the proposed extension included elements of subordination (ridge line and front built line stepped in from the original dwelling), and due to its location and the scale of the original dwelling the proposal would not result in a dominant form of development, given the varied context of the surrounding estate.

5.24	Application No:	20/01094/HHA (NM)
	Location:	11 Lilian Crescent Hutton Brentwood Essex
	Proposal:	Demolish garage and conservatory, construct single storey side extensions incorporating roof extensions with 1 rear and 2 front dormers and rooflight to front,

		single storey rear extension, canopy porch to front and construct detached outbuilding for home office use.
	Appeal Decision:	Part Dismissed Part Allowed 23.02.2021

The inspector identified one main issue, the effect of the proposed development on the character and appearance of the area.

The spatial aspect between No. 10 and 11 contributes positively to the character of the area, offering glimpsed views of trees beyond. The proposal would significantly reduce this spatial element, along with the rear dormer, would result in a disproportionately large addition and erode the spatial element between No. 10 and 11 resulting in a harmful impact to the character and appearance of the area. Although there has been other developments within the vicinity, these are not comparable and this element of the proposal was dismissed.

The proposal included a detached outbuilding which the Council and Inspector considered to comply with policy and this part of the appeal was allowed.

5.25	Application No:	20/01006/FUL (NM)
	Location:	Fowchers Farm Cottage 1 Rectory Lane Herongate Brentwood
	Proposal:	Demolition of existing garage and construction of a two bedroomed dwelling
	Appeal Decision:	Appeal Allowed 10.05.2021

The inspector identified the main issues as the effect of the development on the character and appearance of the Herongate Conservation Area and on the setting of Hop Cottage, a Grade II Listed Building.

The inspector agreed with the LPA's assessment upon the designated heritage assets, stating the proposed dwelling, as a result of its overall width including the side projection and siting forward of the existing neighbouring garage would result in a loss of spacing to Fowchers Farm Cottage, increasing the massing of development within this existing cluster and diminishing the spatial quality of the Conservation Area. The Inspector also concluded that the introduction of an additional dwelling within a narrow plot would contrast with the scale and spacing associated with Hop

Cottage and result in a diversion of attention which would result in harm to the significance of Hop Cottage and would encroach upon its setting.

The inspector afforded the harm that would arise to the heritage assets great weight, in line with paragraph 193 of the NPPF and confirmed that the proposed development would fail to accord with the policies of the Framework which seek to conserve and enhance the historic environment and conflict with policies CP1, C14 and C16 of the Brentwood Replacement Local Plan 2005.

The inspector considered that the modest benefits of the scheme would not outweigh the identified harm. However, the inspector considered the approved development in 2017 (which was reapproved in 2020) constituted a fallback position that would result in a greater level of less than substantial harm than the approved scheme. This view is contrary to the expert advice given to the LPA by the Historic Buildings Officer whom considered the fallback scheme to be acceptable within the context of the heritage assets. Regardless of this, the inspector allowed the appeal on the basis of this fallback, subject to 11 conditions

5.26	Application No:	20/00680/FUL (NM)
	Location:	1 Pilgrims Hall Cottages Ongar Road Pilgrims Hatch Brentwood
	Proposal:	Construction of 2no. detached residential dwellings with associated landscaping and vehicle parking.
	Appeal Decision:	Appeal Dismissed 28.05.2021

The main issues were 1) whether the proposal was inappropriate development in the green belt and 2) if so whether very special circumstances exist to the required threshold. On the first issue the inspector found that the development would have a greater visual impact than existing development – he identified ‘considerable’ harm to openness - on the site and therefore is inappropriate development in the green belt. The matters raised in support of the proposal did not justify the development to the extent necessary to grant permission.

5.27	Application No:	20/01052/HHA (NM)
	Location:	291 Chelmsford Road Shenfield Brentwood Essex

	Proposal:	Demolition of existing side garage extension and existing conservatory. Construction of single storey rear and side extension.
	Appeal Decision:	Appeal Dismissed 11.06.2021

An Appeal Planning Officer undertook the site visit and the recommendation was provided to the Planning Inspector before deciding the appeal. At the time of the visit, the works had been completed.

The Inspector identified three issues which all relate to Green Belt policy considerations; i) whether the development would be inappropriate development; ii) the effect upon the openness of the Green Belt; and iii) if the development would be inappropriate, whether the harm (or any other harm) is clearly outweighed by other considerations which would amount to 'very special circumstances'. 'Substantial' weight should be given to any harm to the Green Belt.

In respect of i), the Inspector found that the cumulative effect of additional extensions to the dwellinghouse from its original construction, i.e., 94.77% increase in floorspace, would be disproportionate additions. The proposal would be contrary to national policy (paragraph 145 criterion c).

In respect of ii), the Inspector found that the cumulative effect of the existing and retrospectively carried out works (in terms of footprint, volume and bulk increases) has had an adverse effect upon Green Belt openness in a spatial sense.

In respect of iii), the Inspector had regard to the Public Sector Equality (PSED) contained within the Equality Act 2010 the purpose of which is to set out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The appellant had set out a case of specific needs and personal circumstances and their contended justification for the extension which the Inspector considered the needs would fall within the auspices of the PSED. The personal circumstances related to the appellants relative who suffers from a disability.

However, the Inspector found that the works intended to provide an additional bedroom and alterations to the layout to provide open plan layout could have been achieved by alternative means without the need to further extend the building as outlined within the Council Officers report. Notwithstanding, the Inspector considered there would be an improvement to the living conditions of the appellants relative and attached 'moderate' weight to this 'very special circumstance'.

In terms of the planning balance, the Inspector concluded that the harm to the Green Belt outweighed the justification of the proposal confirming personal circumstances very rarely 'clearly outweigh' the harm to the Green Belt even where the works have been retrospectively undertaken. The appeal was dismissed.

5.28	Application No:	20/01280/HHA (NM)
	Location:	14 Little Dytchleys Mews Coxtie Green Road Pilgrims Hatch South Weald
	Proposal:	Single storey side extension.
	Appeal Decision:	Appeal Dismissed 16.03.2021

The inspector identified one main issue: the effect of the proposed extension of the living conditions of occupiers of the host dwelling with respect to private amenity space.

The proposal would reduce the private amenity space from 14 square metres to 6 square metres. Appendix 1 of the Brentwood Replacement Local Plan states that a minimum garden area for a one or two bed roomed dwelling should be 50 square metres with a two bedroom unit at 75 square metres, exceptions can be made where there is a substantial area of well landscaped and maintained communal open space.

The adjacent golf course could potentially amount to an area of maintained open space, however it is considered to be private land and no evidence of rights to use it as a communal open space for the local residents was found.

The inspector concluded that the appeal site is in a rural area, close to public footpaths and within walking distance of the Weald Country Park. However, this disconnected open space would not compensate for the significant lack of adequate private amenity space at the appeal dwelling if the proposed extension was to be allowed and would provide poor living conditions for the occupiers of the dwelling and the appeal should be dismissed.

5.29	Application No:	20/01414/HHA (NM)
	Location:	66A Brentwood Road Ingrave Brentwood Essex
	Proposal:	Two storey front extension, relocate front entrance and add open front porch, alterations to fenestration and external finishes (Retrospective)
	Appeal Decision:	Part Dismissed Part Allowed 20.05.2021

The Inspector identified the main issues to be the effect of the proposal on the character and appearance of the existing dwelling and surrounding street scene. The ground floor works had been substantially completed at the time of the visit.

In relation to the design, the Inspector concluded that the scale and design of the substantial ground floor extension and first floor works would create an unacceptably bulky and contrived appearance. In addition, the resultant various designs of elements of the front elevation together with a roof structure which was at odds with the existing building would create a confused frontage which was not in keeping with the traditional character and appearance of the building. The works would be visible from the street scene and would be an incongruous addition detrimental to the wider area.

However, the Inspector issued a 'split decision' in that some of the works related to the construction of a front porch, alterations to the fenestration pattern (windows/doors) and the external finish of the building which the Councils Officer did not raise concerns over. Given the clear severance of these elements to the remainder of the development, the Inspector considered it appropriate to approve this part of the proposal subject to standard planning conditions. The appeal was 'Part Dismissed, Part Allowed'.

5.30	Application No:	20/01471/HHA (NM)
	Location:	1 Kensington Way Brentwood Essex CM14 4RL
	Proposal:	Proposed Garage.
	Appeal Decision:	Appeal Dismissed 20.05.2021

The inspector identified one main issue: the effect of the proposal on the character and appearance of the Highwood Hospital Conservation Area.

The Inspector noted an outbuilding without the outrigger proposed in this application was approved (21/01472/HHA) at the application site, however concluded the outbuilding with the outrigger (within this application) would appear at odds with the simplicity of the original architecture of the dwelling, would not be in scale or harmony with the existing dwelling and wider streetscene and due to its prominent location at the entrance to the Conservation Area would not preserve the formal character or appearance of the Conservation Area. This would not be outweighed by any public benefit.

5.31	Application No:	20/00811/FUL (NM)
	Location:	30 Crown Street Brentwood Essex CM14 4BA
	Proposal:	Part Change of Use of Shop (Class A1) to create 2 bed dwelling (Class C3) with alterations to fenestration
	Appeal Decision:	Appeal Dismissed 08.07.2021

The Inspector identified two issues 1) effect on vitality and viability of this shopping street and 2) effect on the character of the Conservation Area. On the first issue the Inspector was not persuaded that the reuse of the retail unit would not be viable or that adequate efforts had been made to find a retail buyer or tenant. The loss of the unit would reduce the vitality of the area and detract from the character of the conservation area. The benefits would not overcome that harm. Recent changes to the use classes order have increased the range of customer generating commercial uses possible at the site which would support the vitality of the area rather than extinguishing it in favour of a residential use.

5.32	Application No:	20/00812/FUL (NM)
	Location:	Rear Of 30 Crown Street Brentwood Essex CM14 4BA
	Proposal:	Change of use of the rear part of the shop from retail storage to residential along.
	Appeal Decision:	Appeal Dismissed 08.07.2021

The Inspector considered that the proposal would not adversely affect the character of the conservation area or the vitality of the nearby section of Crown Street. He did consider that the proposal would create a substandard accommodation, in floor area, ceiling height, natural light and outlook. The dwelling would have no amenity space, be hemmed in by parking and turning area. Overall, the standard of accommodation would be unacceptable.

5.33	Application No:	20/00742/FUL (NM)
	Location:	Belle Vue Brook Lane Doddinghurst Brentwood
	Proposal:	Demolition of part-constructed dwelling, workshop and removal of caravan to construct a 4-bed detached dwelling with landscaping, infrastructure and ancillary works.
	Appeal Decision:	Appeal Dismissed 08.07.2021

The inspector concluded that in case law the building it replaces should be based upon the extent of the physical development on site, which consists of a partially constructed dwelling which has ceased works some time ago and therefore would not comply with para.145 (d). The site is also accessed outside the built up area and fails para 145 (e).

The inspector agrees the land would constitute previously developed land, but the proposal would have significantly greater impact on the openness of the Green Belt than what currently exists on site.

The inspector agreed that the addition of a two storey dwelling and vast driveway is unnecessary and would not reflect the character of the neighbouring dwellings. Contrary to CP1.

I was considered very special circumstances put forward do not exist.

5.34	Application No:	20/00090/UNOPDE
	Location:	The Bumbles Mill Green Road Fryerning Ingatestone
	Proposal:	Appeal against enforcement notice concerning the construction of an unauthorised residential dwelling/building and associated hardstanding within the curtilage of The Bumbles
	Appeal Decision:	Appeal Dismissed Notice Upheld 05.07.2021

The enforcement notice was upheld with corrections and variations made. The inspector considered the appeal on ground b, f and g.

Ground B (Breach has not occurred)

The information provided by the appellant was not precise to his argument that the building was used as a temporary measure whilst improvement works were being carried out in the main dwelling, and did not meet the standard of proof and therefore failed under Ground B

Ground F (Steps required are excessive)

The inspector considered that a viable alternative to full compliance with the requirements of the notice or that these requirements exceed what is necessary. Therefore, the appeal failed on ground F

Ground G (Compliance period too short)

The inspector considered the period provided for compliance with the notice fell short of what is reasonable and suggested a longer time period. The inspector varied the enforcement notice prior to upholding it.

5.35	Application No:	20/01342/FUL (NM)
	Location:	Belle Vue Brook Lane Doddinghurst Brentwood
	Proposal:	Demolition of part-constructed dwelling, workshop and removal of caravan to construct a 4-bed detached

		dwelling with landscaping, infrastructure and ancillary works.
	Appeal Decision:	Appeal Dismissed 08.07.2021

The inspector concluded that in case law the building it replaces should be based upon the extent of the physical development on site, which consists of a partially constructed dwelling which has ceased works some time ago and therefore would not comply with para.145 (d). The site is also accessed outside the built up area and fails para 145 (e).

The inspector agreed the land would constitute previously developed land, but the proposal would have significantly greater impact on the openness of the Green Belt than what currently exists on site. The proposed dwelling, outbuildings and substantial earth mound with retaining wall would have a significantly greater impact upon the Green Belt than the existing built form.

The inspector did not see the dwelling itself having harm to the surrounding area, but the unnecessary hardstanding and substantial earth mound would detract from the character and appearance of the area.

It was considered very special circumstances put forward do not exist.

Consultation

- Individual applications include statutory consultation periods.

References to Corporate Strategy

- The Council's Planning Development Management team perform statutory planning functions as the local planning authority. The team assists in achieving objectives across the Corporate Strategy, including economic growth, environmental protection, community development and delivering effective and efficient services. The planning appeals system is part of the local decision making process.

Implications

Financial Implications

Name/Title: Jacqueline Van Mellaerts, Corporate Director (Finance & Resources)
Tel/Email: 01277 312500/jacqueline.vanmellaerts@brentwood.gov.uk

- There are no direct financial implication arising from this report. The cost of defending appeals is covered by the Development Management budget. Lost appeals can result in additional financial implications if costs are awarded, for instance. This is projected and considered when setting the budget.

Legal Implications

Name & Title: Amanda Julian, Corporate Director (Law & Governance) and Monitoring Officer

Tel & Email: 01277 312500/amanda.julian@brentwood.gov.uk

9. There are no legal implications arising from this report.

Economic Implications

Name/Title: Phil Drane, Corporate Director (Planning & Economy)

Tel/Email: 01277 312500/philip.drane@brentwood.gov.uk

10. There are no direct economic implications arising from the report.

Background papers

- Item 683, Planning and Licensing Committee, 10 February 2021, Planning Appeals Update (November 2020 – January 2021)

Appendices to report

None