



PLANNING COMMITTEE
21 NOVEMBER 2023

REPORT TITLE:	Planning Appeals Update (July – October 2023)
REPORT OF:	Phil Drane, Director – Place
REPORT IS FOR:	Information

REPORT SUMMARY

This report provides the committee with a summary of recent planning appeal decisions in the borough. It forms part of a regular series of updates for information.

SUPPORTING INFORMATION

1. BACKGROUND

- 1.1 This report provides a summary of recent appeal decisions that have been received relating to sites in the borough.
- 1.2 This report is regularly presented to the committee and was last reported on 25 July 2023 (summary of appeals between March and June 2023, Item 110).
- 1.3 The number of lost appeals is measured each quarter as part of the council's Key Performance Indicators (KPIs) reported to Audit and Scrutiny Committee. The cases reported in this report provide more context to the decisions beyond pure KPI figures, which is useful when considering future applications.

2. APPEAL DECISIONS

- 2.1 The following appeal decisions have been received between July and October 2023. There were six appeals decided. Out of those appeals, five were dismissed (83%) and one was allowed (17%).
- 2.2 So far this financial year (2023/24) (i.e. since 1 April 2023), there has been 13 appeals decided, 12 were dismissed (92%) and one was allowed (8%).

Standing Stone, Beehive Chase, Hook End, CM15 0PA

Application No:	22/00767/FUL
Proposal:	Conversion of existing garage/studio apartment to a residential dwelling (Use Class C3), development of 2x residential dwellings, landscaping, car parking and other associated infrastructure
Appeal Start Date:	14 July 2023
Appeal Decision:	Dismissed, 12 October 2023

- 2.3 The council identified inconsistencies and the generally poor quality of the documentation but that it was sufficiently clear to assess the proposal. The inspector agreed with both parts of this assessment.
- 2.4 The inspector considered that the council's assessment that the site is not previously developed land was superior to appellants opposite claim. He agreed with the council that the case identified by the appellant in support of its claim was a rural site and not at all comparable to the appeal site.
- 2.5 The proposal would be incongruous and uncharacteristic of its setting and appear as a cramped form of overdevelopment. The extensive use of obscure glass is indicative of the cramped form of development and would give the properties an incongruous appearance. The development would dominate its neighbours and adversely affect neighbours' outlook and privacy.
- 2.6 The inspector noted that the appellant's comments about land supply were out of date and the 'tilted balance' did not apply, but even if it had, the harm of the development would not justify it being permitted.

30 Danes Way, Pilgrims Hatch, CM15 9JS

Application No:	22/00544/FUL
Proposal:	Demolition of existing single garage and construction of a new detached 3-bedroom home with associated parking
Appeal Start Date:	20 April 2023
Appeal Decision:	Dismissed, 4 October 2023

- 2.7 The main issues for consideration were: 1) the effect of the proposal on the character and appearance of the local area; and 2) the effect of the development on surface water flooding.
- 2.8 The application site is characterised by the distinctive terraced row which includes No.30 with strong symmetry and architectural rhythm and generous spaces to each side of the building. Other building blocks are similarly spaced which provide views to the rear and create a sense of openness. Whilst the proposed development would have similarities in appearance to nearby dwellings, the inspector agreed that there would be an erosion of the sense of openness, disrupting views and creating a degree of enclosure which would be visually incongruent. The orientation of the building also would put it an awkward angle with no.28 and result in the building appearing cramped in its plot. The proposal was considered contrary to local policies BE14, HP03 and NE07.
- 2.9 In terms of surface water flooding, the site is in a Critical Drainage Area which triggering a requirement for a Flood Risk Assessment (FRA) to be submitted to identify sustainable drainage systems. The application was not supported by an FRA, and the inspector was unable to make an informed judgement on flood risk/mitigation. Nor did he think it would be appropriate to secure an FRA through condition. Therefore, the proposal was also contrary to policies BE05, BE14 and NE09.
- 2.10 The appeal proposal would have made a very modest contribution to housing land supply which did not outweigh the harm identified. Consequently, the appeal was dismissed.

North Lodge, Warley Gap, Little Warley, CM13 3DP

Application No:	22/00951/HHA
Proposal:	Single storey side extension
Appeal Start Date:	30 January 2023
Appeal Decision:	Dismissed, 23 October 2023

- 2.11 On the first issue for consideration, the inspector judged that the footprint and overall scale and massing of development over the original building would be considerable and therefore disproportionate.
- 2.12 On the second issue, the inspector reached the view that given that the size of the resultant dwelling would be larger than the existing (and original), it would inevitably have an adverse impact on the openness of the Green Belt

as a result of its greater size and bulk. Therefore, in his view, the proposal would lead to a loss of Green Belt openness and would undermine the Green Belt purpose of safeguarding the countryside from encroachment, contrary to the NPPF and Policy MG02.

- 2.13 While the appellant did not put forward very special circumstances, the Inspector noted that the extension would have some benefits for the occupiers of the property, though that only provides very limited benefit in the overall balance. Therefore, in considering the substantial weight given to the Green Belt, he concluded that the very special circumstances necessary to justify the development did not exist and the proposal would conflict with the Framework, and Policy MG02 of the Local Plan.

39 Oliver Road, Shenfield, CM15 8QA

Application No:	22/01634/HHA
Proposal:	Proposed loft conversion and creation of rear dormer, alterations to roof and raising ridge height to include x3 roof lights
Appeal Start Date:	5 June 2023
Appeal Decision:	Dismissed, 9 August 2023

- 2.14 The inspector stated that main issues were the effect the development would have on the appearance of the host property and the character and appearance of the area. On the first point, the Inspector judged that the height, scale, bulk and design of the proposal would unacceptably overwhelm the appeal property. On the second point, he reached the view that the development would not be in keeping with the existing proportions and design of the dwelling, and the fenestration would appear at odds with the design, proportions and positioning of the existing fenestration.
- 2.15 The inspector also noted that proposed dormer in addition to double hip to gable additions would not be constructed through the utilisation of 'Permitted Development Rights'. However, a small dormer could be accepted if limited in size and volume as surrounding properties have done. Taking the fallback position into account, the inspector is of the view that this would not warrant approval of the proposal.
- 2.16 Therefore, in considering the proposed development, the inspector concluded the proposal would have an adverse effect on the appearance of the existing dwelling and the character and appearance of the surrounding area, would be contrary to Policy BE14 of the Local Plan, and the NPPF.

Kingsley Cottage, Ongar Road, Brentwood, CM15 0JX

Application No:	22/01129/HHA
Proposal:	Demolition of existing conservatory and construction of single storey rear extension
Appeal Start Date:	28 September 2022
Appeal Decision:	Allowed, 28 September 2023

- 2.17 The main issues for consideration were: 1) whether the proposal would be inappropriate development in the Green Belt; and 2) the effect of the proposal on the openness of the Green Belt and whether any harm would be clearly outweighed by very special circumstances to justify the proposal.
- 2.18 Regarding the first issue, the inspector agreed with the council's assessment, that the proposal would result in a disproportionate addition over and above the size of the original building, due to the previous extensions to the property.
- 2.19 In relation to openness, the inspector concluded that the proposed extension would be set to the rear of the dwelling, largely occupying the same footprint as the existing conservatory and the visual impact would be negligible, with the combined spatial and visual considerations, the impact on the openness of the Green Belt was considered to be marginal. However, it would still result in inappropriate development.
- 2.20 The appellant's claim of an improved energy efficiency was considered by the inspector to not overcome the harm to the Green Belt and the inspector agreed with the council's assessment of no impact to neighbouring amenity or impact on the character and appearance of the area. However, the appellant also presented a fallback position, in relation to an 8 metre depth extension that could be erected under permitted development. The inspector considered that there was a great possibility that the fallback option would be implemented, which would be more harmful to the Green Belt and therefore attracted considerable weight. Therefore, the harm resulting from the proposal was outweighed by other considerations and very special circumstances were considered to exist and consequently the appeal was allowed.

Pooks Hill, Riseway, Brentwood, CM15 8BG

Application No:	22/01480/FUL
Proposal:	Demolition of an existing dwelling and construction of one detached house and a pair of semi-detached houses
Appeal Start Date:	12 July 2023
Appeal Decision:	Dismissed, 29 September 2023

- 2.21 The main issues for consideration were: 1) effect of the proposed development on the character and appearance of the local area; and 2) the effect of the proposal on the living conditions of the occupants of Brook Lodge, Candleford and San Vito, having particular regard to privacy and outlook.
- 2.22 In relation to the first issue, the inspector considered that the form, appearance and height of the proposed dwellings would be different from the surrounding properties, although in keeping with the individual characteristics of the street. However, the height of the proposed dwellings, along with the gradient of the street and the proximity between the dwellings, would create an awkward relationship and appear incongruent in the street scene, with the semi-detached pair of dwellings would dominate views from the public realm, detracting from the local distinctiveness and would be contrary to local policy BE14 and paragraphs 126 and 130 of the NPPF.
- 2.23 The inspector disagreed with the council's assessment of direct overlooking through the roof lanterns of Candleford, due to the oblique angle and sufficient distance from the first floor windows, thus safeguarding the privacy of the occupants. The direct window to window views to Brook Lodge were upheld, though the overlooking of private amenity space to the rear, would be reflective of the locality where some mutual overlooking of gardens is a common feature. In relation to San Vito, given the height, depth and proximity of the development, the outlook from the living space and garden area would be dominated by views of the flank elevation of the semi-detached dwellings, forming and overbearing impact and unpleasant outlook.
- 2.24 Some of the trees on site are in poor condition and require removal regardless of the outcome of the appeal. The inspector was not convinced that the general maintenance would remove the trees to the extent that is required to facilitate the development. It was considered that additional planting may reduce some of the overlooking. However, the inspector was not persuaded that it would be sufficient to overcome the harm identified.

2.25 The suggestion by the appellant that the proposal would replace a dwelling in poor condition with a good standard of accommodation, also did not outweigh the harms identified in relation to design and layout. No other material considerations would outweigh the harm and accordingly the appeal was dismissed.

3.0 ENGAGEMENT/CONSULTATION

3.1 Formal consultation takes place as part of individual planning applications.

4.0 FINANCIAL IMPLICATIONS

Name & Title: Tim Willis, Director – Resources (Section 151 Officer)

Tel & Email: 01277 312500 / tim.willis@brentwood.rochford.gov.uk

4.1 There are no financial implications 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.

5.0 LEGAL AND GOVERNANCE IMPLICATIONS

Name & Title: Claire Mayhew, Acting Joint Director – People & Governance (Monitoring Officer)

Tel & Email 01277 312500 / claire.mayhew@brentwood.rochford.gov.uk

5.1 There are no legal implications arising from this report.

6.0 EQUALITY AND HEALTH IMPLICATIONS

Name & Title: Kim Anderson, Corporate Manager – Communities, Leisure and Health

Tel & Email: 01277 312500 / kim.anderson@brentwood.gov.uk

6.1 There are no equality & health implications arising from this report. Health impact assessments may be required for individual planning applications.

7.0 ECONOMIC IMPLICATIONS

Name & Title: Phil Drane, Director – Place

Tel & Email: 01277 312500 / phil.drane@brentwood.rochford.gov.uk

7.1 There are no direct economic implications arising from the report. Individual development schemes subject to the appeals process may deliver local economic benefits.

REPORT AUTHOR: **Name:** Caroline Corrigan
 Title: Corporate Manager (Planning Development Management)
 Phone: 01277 312500
 Email: caroline.corrigan@brentwood.gov.uk

APPENDICES

None

BACKGROUND PAPERS

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

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Planning Committee: Item 110, Planning Appeals Update (March – June 2023)	25/07/2023
Planning Committee: Item 435, Planning Appeals Update (December 2022 – February 2023)	14/03/2023
Planning Committee: Item 319, Planning Appeals Update (September – December 2022)	17/01/2023
Planning Committee: Item 164, Planning Appeals Update (June – August 2022)	29/09/2022
Planning Committee: Item 60, Planning Appeals Update (February – May 2022)	28/06/2022
Planning and Licensing Committee: Item 294, Planning Appeals Update (December 2021 – January 2022)	22/02/2022
Planning and Licensing Committee: Item 253, Planning Appeals Update (July – November 2021)	15/12/2021

Planning and Licensing Committee: Item 90, Planning Appeals Update (February – July 2021)

27/07/2021