

**PLANNING COMMITTEE – 17 AUGUST 2023**

**PART 5**

Report of the Head of Planning

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Decisions by County Council and Secretary of State, reported for information

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- **Item 5.1 – 22 East Street Sittingbourne**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

The application site is a three storey building that was previously in use as a Public House but was granted permission to be converted to three flats in 2015. These works were not carried out in accordance with the approved plans, and this application sought a Lawful Development Certificate for the works as built.

The Inspector agreed with the Council that the development would have to be in situ for 10 years in order to become lawful through the passage of time, and as this is not the case, dismissed the appeal, concluding that the Council's refusal to grant a certificate of lawfulness to be well-founded.

- **Item 5.2 – Land at Murston Playing Fields Church Road Murston**

**APPEAL DISMISSED**

**ENFORCEMENT APPEAL**

**Observations**

The application site is a small area adjacent to Murston Playing Fields which was previously used as an unofficial car park. 13no. shipping containers used for storage in connection with a cleaning business and palisade fencing was erected at the site without any consent. Planning permission was refused and an enforcement notice was served, requiring removal of the containers and fencing within 4 months. The appellant appealed the enforcement notice under grounds (a) and (f).

The Inspector agreed with the Council that the development harms the open character and appearance of the surrounding area, making note of the utilitarian character and appearance of the fencing and containers which is incongruous and out of keeping with the open character of the playing fields and the verdant appearance of Hugh Price Close. The Inspector also agreed with the Council that there was no visual association with the industrial park on the opposite side of the road which is beyond the bollards. The Inspector failed the appeal on ground (a).

The appellant requested a 9 month period to remove the containers and fencing under ground (f) which was contrary to the 4 months required on the enforcement notice. The Inspector was not convinced that 9 months was necessary and concluded that 6 months would be an acceptable length of compliance time. The notice was amended to reflect this.

- **Item 5.3 – Car Park adj to Church Road Sittingbourne**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

As linked to the above enforcement case (Item 5.2) the appellant also appealed against the Council's decision to refuse the retrospective planning application for the siting of 13no. shipping containers and palisade fencing. The Inspector agreed with the Council that the development harms the open character and appearance of the surrounding area.

- **Item 5.4 – Land adj to 241 Leysdown Road Leysdown**

**APPEAL DISMISSED**

**ENFORCEMENT APPEAL**

**Observations**

The application site consists of agricultural land in designated countryside where the grazing of horses is taking place. The site is an undeveloped field with some low level fencing. A motor home and caravan have been sited on the site without planning permission with small fenced off curtilages containing domestic paraphernalia. An enforcement notice has been served, requiring the removal of the motor home, caravan and fencing from the site. The appellant has appealed the enforcement notice under grounds (a) and (b).

The Inspector agreed with the Council that a breach has occurred making reference to the character and nature of the site being materially changed with the addition of the units for residential use with domestic enclosures and paraphernalia and dismissed the appeal under ground (b).

The Inspector also agreed that the development harms the open character and appearance of the surrounding area, noting that the presence of two separate domestic enclosures within a field with the units and the domestic paraphernalia is out of keeping and incongruous in a countryside location of a field used for the grazing of horses. The appeal was also dismissed under ground (a).

- **Item 5.5 – Pandora and land north of Nelson Avenue Minster**

**APPEAL DISMISSED**

**NON-DETERMINATION**

**Observations**

In landscape terms, the Inspector reported that the site, together with adjoining open space, additionally plays an important role in providing a vestigial link between the historic core of Minster and the wider open landscape. In this regard it helps to recall a time when Minster was a more rural settlement. Further, he states that whilst this is

particularly apparent in views which feature both the site and the tower of the Abbey Church, it is also directly experienced in walking footpath ZS8, from which the site is clearly visible. This crosses the field to the east, skirts the north edge of the site, and, via other adjoining open space, ultimately leads to the Abbey Church itself. In so doing it passes between only a small group of buildings close to the churchyard. For all the above reasons the site makes a strongly positive contribution to the character and appearance of the area. This contribution is not diminished in any significant way by the fact that the site is currently in equestrian use for horse grazing, nor by a broad characterisation of the landscape surrounding Minster as being in 'poor' condition.

In addition, the Inspector stated that the development would see most of the site covered by a small housing estate. Given the slope, this would be highly exposed within views to the south, and would require terracing, thus significantly altering the existing topography. Though a narrow strip of open space could be retained toward the top of the slope, this would inevitably form a suburbanised component of the overall layout. The development would see the last meaningful link between the historic core of the settlement and the landscape beyond wholly compromised, and the positive role that the site plays within the visual and physical setting of Minster would be almost entirely lost. Given that the value of the site stems from its openness, the adverse effects could not be successfully alleviated or masked by design or landscaping. The development has been promoted as a 'natural extension' and as 'rounding off' of the settlement. However, based on my assessment of the relationship between the site and existing development above, its attributes do not lend support to either claim.

My findings above indicate that the development would cause significant harm to the character and appearance of the area. In these circumstances Policy DM 24 of the Local Plan, which seeks to protect and enhance non-designated landscapes, requires harm to be weighed against social and economic benefits. This is something that I shall return to below.

In Heritage terms, the Abbey Church of St Mary and St Sexburga, and the associated Abbey Gatehouse are both Grade I listed buildings, and therefore designated heritage assets of the highest significance. Here the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the desirability of preserving the setting of listed buildings. Paragraph 199 of the Framework further makes clear that great weight should be given to the conservation of designated heritage assets, and that the more important the asset, the greater the weight should be. Insofar as it is relevant to this appeal the special interest and significance of the listed buildings resides in their historic association as surviving fragments of Minster Abbey, their fabric and architecture, which is substantially medieval but includes Saxon material, the continuing role they play as landmarks, and the ongoing function of the church as a place of worship. As outlined above, the buildings lie at the historic core of the settlement, and within the context of their ridge top location, provide a key source of local identity.

Set within the context of the surrounding landscape it is apparent that the Abbey was purposely founded in a highly prominent location. But though the prominence of the ridge remains appreciable from within the broader landscape, appreciation of the landmark quality and historic context of the surviving Abbey buildings is much obscured by later development. I have already established above that the site provides a vestigial link between the historic core of Minster and the open landscape beyond. Whilst I have also established the value that this holds in relation to the broader character and appearance of the area, it additionally enables continued appreciation of the historic rural and landscape context of the Abbey. Given both limited intervening development and the open foreground, this is clearly perceived in views from within the site, in views from gardens towards the south, and is again directly experienced in use of footpath ZS8.

The openness and undeveloped character of the site therefore makes a positive contribution to the setting of the listed buildings, and this in turn makes a modest contribution to their significance.

The Inspector further advised that I therefore find that the development would fail to preserve the positive contribution that the site makes to the settings of the listed buildings, in turn failing to conserve the positive contribution that this makes to their significance. The adverse effects would be modest, and the harm less than substantial. Such harm attracts considerable importance and weight. In accordance with paragraph 202 of the Framework it is necessary to weigh this harm against the public benefits of the scheme.

In terms of the Planning Balance, it is reported that the development would provide a net increase of up to 63 market dwellings within a location well served by a range of facilities and services. This would help to meet a general need for additional housing, and, assuming its deliverability, would also help to address a minor shortfall in the Council's demonstrable 5-year supply of deliverable housing sites (5YHLS). This is acknowledged by the Council to lie at 4.83 years, and was not a position disputed at the Hearing, despite speculation that the figure should be lower. The development mix would however fail to fully reflect local needs as identified within the Strategic Housing Market Assessment, and this could not be remedied by condition. Moreover, though the development would additionally generate short- and long-term economic activity during the construction and occupation phases, such benefits would be unremarkable in context. The above being so I attach limited weight to the social and economic benefits of the scheme's provision of housing. I therefore find that the public benefits of the development would not outweigh the harm that it would cause. This provides a clear reason for refusing planning permission. The same range of benefits are relevant in relation to the balance required by Policy DM 24 of the Local Plan as noted above. Here I am again satisfied that the social and economic benefits of the development would not outweigh the harm caused.

In conclusion, the Inspector advised that I conclude that the site would be an unsuitable location for the proposed development given the unacceptable harm it would cause to the character and appearance of the area, including by its failure to preserve the settings of Grade I listed buildings. The development would therefore conflict with Policies ST 3 and DM 24 of the Local Plan as set out above, Policy DM 14 of the Local Plan, which amongst other things seeks to secure development that reflects the positive characteristics and features of the site and locality, taking into account the desirability of sustaining and enhancing the significance of heritage assets; and Policy CP 4 of the Local Plan, which amongst other things seeks the retention and enhancement of features which contribute to local character and distinctiveness.

The Appeal was dismissed and planning permission refused on the 28<sup>th</sup> July 2023.

- **Item 5.6 – Garage rear of Riverbank House Ash Lane Minster**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

The Inspector agreed with the Council that the proposed conversion of the garage into a dwelling would result in a contrived development that would fail to provide adequate

living conditions for future occupiers, particularly with regard to outlook and privacy due to the proximity of the site to adjacent dwelling, Myrtle House. The Inspector also agreed that the development would fail to provide appropriate mitigation for the increased recreational disturbance to the nearby SPA sites.

- **Item 5.7 – 53 Millfield Sittingbourne**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

The Inspector agreed with the Council that the proposed new dwelling would harm the living conditions of neighbouring properties, with particular regard to outlook, privacy, and daylight and sunlight due to the constrained nature of the site, in close proximity to neighbours to the east. The Inspector also agreed that the development would fail to provide appropriate mitigation for the increased recreational disturbance to the nearby SPA sites.