

PLANNING COMMITTEE – 14 SEPTEMBER 2023

PART 5

Report of the Head of Planning

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

- **Item 5.1 – Copton House 8 Ashford Road, Sheldwich**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Inspector took the view that the conversion and extension of an existing garage / car port to create a large two storey annexe would operate as ancillary accommodation which is capable of being controlled via planning conditions. The Inspector did not share the Council's view that the proposal would have a harmful impact upon the countryside and considered the development to be appropriate in this location having regard to local and national policies and the intended use and scale of the development.

- **Item 5.2 – Jalna Warden Road Eastchurch**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector supported the Council's position that the scale and massing of the extended property would be harmful to the rural character and appearance of the area. The Inspector also supported the Council's position that the development was unacceptable in absence of a Coastal Erosion Vulnerability Statement, but considered that this could be secured via a planning condition.

- **Item 5.3 – Appleyard Barn Plough Road Eastchurch**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

The Inspector considered that the extension did not have an unacceptable impact on the character and appearance of this converted barn. Whilst he noted that the extension had altered the roof which was a key element of the barn, this was not harmful.

- **Item 5.4 – 43 St Helens Road Sheerness**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

The Inspector agreed with the Council that the proposed flat roofed first floor side extension would be harmful to the appearance of the existing dwelling and to the character and appearance of the area. It failed to maintain space between dwellings, and the appellant's suggestion that the area was "dominated" by similar extensions was not to a fair reflection of the situation in St Helens Road, and that some of the examples referred to clearly illustrated developments that the policies rightly seek to avoid.

In addition, the Inspector noted that the proposed increase from 3 bedrooms to 4 had the potential to increase the number of cars owned or used by the household, and that existing parking was substandard, and this counted further against the scheme.

- **Item 5.5 – Hill Top Farm Elverland Lane Ospringle**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

The Inspector agreed with the Council that the erection of stables and kennels upon this prominent, elevated site would give rise to harm to the distinctive landscape character of the Area of Outstanding Natural Beauty, where the NPPF affords great weight towards conserving landscape and scenic beauty.

Although the Inspector considered that the proposals would reduce the harm to the character of the rural lane compared to the current access arrangements, the Inspector agreed with the Council that the access arrangements gave rise to unacceptable harm to highway safety.

- **Item 5.6 – 106 - 110 Broadway Sheerness**

ENFORCEMENT APPEAL**DELEGATED REFUSAL****Observations**

Some Members may recall that planning permission was refused for roller shutters at this property by the Planning Committee in 2021, in accordance with the officer recommendation. As the development was retrospective, an enforcement notice was served to require removal of the shutters. The Inspector agreed with the Council that the shutters were harmful to the design and appearance of the terrace and the setting of the nearby listed church and upheld the notice.

- **Item 5.7 – The Cottage Ashford Road Sheldwich**

APPEAL DISMISSED**DELEGATED REFUSAL****Observations**

The Inspector agreed with the Council that the large wrap-around extension would not be modest or in keeping with the existing traditional form of the house. As a result, the proposed extension would harm the character and appearance of the house itself, its rural setting, and the conservation area. The Inspector pointed out that the reliance on using trees to screen the frontage is not a satisfactory approach to render acceptable a development which would otherwise be unacceptable.

- **Item 5.8 – London Road, Newington**

APPEAL ALLOWED**DELEGATED REFUSAL****Observations**

The Inspector initially referred to the previous appeal decisions at the site, together with the subsequent legal challenges, first to the High Court and then to the Court of Appeal.

The Inspector then identified the main issues are:

- whether the site is an appropriate location for housing, having regard to the spatial strategy of the development plan;
- the effect of the proposal on the character and appearance of the area; and
- the effect of the proposal on best and most versatile agricultural land.

In terms of the first issue, the Inspector concluded that he attached only limited weight to the conflict with Policies ST 1, ST 3 and ST 5, because those policies seek to confine housing development to within the built-up area boundaries defined in the LP which are out-of-date. The appeal site is adjacent to a local rural service centre and is reasonably accessible to shops, services, and community facilities. Subject to consideration of the other main issues, he concluded that this is an appropriate location for the scale of housing proposed, notwithstanding that it is outside the built-up area boundary of Newington.

In terms of the second issue, he found that there would be moderate landscape impacts on the site and its surroundings and a minor impact on LCA 28 Newington Fruit Belt. These effects would reduce over time. I conclude that the proposals would minimise and mitigate landscape impacts, including through the provision of public open space in the centre of the site, at the gateway, around the former farm buildings and along the western and southern site boundaries. Hedgerows within the site, which are important to the landscape structure of the locality, would be retained as far as possible, and enhanced. Overall, the Inspector concluded that there would be some harm to the character and appearance of the area. However, this would reduce over time, and I consider that the proposals would minimise and mitigate landscape impacts, in accordance with Policy DM 24.

In terms of the third issue, the Inspector noted that in the 2017 decisions, the Inspector concluded that the loss of BMV land would represent a very small proportion of the extensive resources of such land in this part of Kent. Further, the Inspector advised that the 2017 decisions pre-dated the adoption of the LP. Policy DM 31 states that development on agricultural land will only be permitted when there is an overriding need that cannot be met on land within the built-up area boundaries. The Council and the appellant agree that there is an overriding need for housing in Swale. It is further agreed that the proposal would not result in the remainder of Pond Farm becoming not viable. He also agreed. The Inspector then referred to the recent Swanstree Avenue appeal and advised that the Swanstree Avenue Inspector saw no reason to exclude urban land from his consideration of this matter and noted the conclusions of the Local Plan Review Site Selection (2020) in relation to the sites in question. He saw no reason to take a different view to the Swanstree Avenue Inspector on these matters. He therefore found that the proposal would conflict with Policy DM 31. I attach moderate weight to this policy conflict.

The Inspector then went on to discuss in some detail matters of highway safety and air quality. In terms of air quality, the Inspector particularly noted the outcome of the legal challenges to in 2017 and advised that those challenges were concerned with the lawfulness of the Inspector's reasoning on air quality. The reasoning in question was based on the evidence before that inquiry, which was quite different to the current situation for the reasons I have discussed. He concluded that the proposal would not have an unacceptable impact on air quality. It would comply with Policy DM 6, which (amongst other matters) seeks to ensure that proposals do not worsen air quality to an unacceptable degree, considering the cumulative impact of development schemes likely to impact on AQMAs.

Further, the Inspector commented on the Habitats Regulations, Heritage assets, Ecology, including BMV, Housing Land supply and economic, social, and environmental benefits.

The Inspector then dealt with planning conditions.

Finally, the Inspector referred to the mitigation contained within the s106 Agreement, which includes the delivery of 40% affordable housing.

- **Item 5.9 – Bells Forstal Farm Throwley Road Throwley**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

This appeal related to a proposal to change the use of an agricultural building to a mixed use under Class R of the General Permitted Development Order. The Inspector agreed with the Council that the proposal to change to a mixed use of more than one of the use classes listed in Class R would not be lawful, on the basis that Class R only allows for a change of use to a singular use falling within the list of uses set out in this Class.

- **Item 5.10 – 61 Playstool Road Newington**

APPEAL DISMISSED

ENFORCEMENT APPEAL

Observations

An enforcement notice had been served against various extensions to this property, following the refusal of retrospective planning permission and the dismissal of subsequent planning appeals. This appeal was made on the basis that the steps required in the notice were excessive. However, subject to some minor corrections to the notice, the Inspector agreed with the Council that the requirements to remove a rear extension and sloped tiled roof were appropriate, and the notice was upheld.

- **Item 5.11 – Land rear of 6 Orchard Grove Minster**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector supported the Council's position that the erection of a dwelling on this limited plot would both harm the living conditions of the existing dwelling, and failed to provide sufficient amenities for future residents.

- **Item 5.12 – 1 The Kennels Rushett Lane Norton**

APPEAL ALLOWED

DELEGATED REFUSAL

Observations

Although the Inspector recognised the content of the Council's SPG relating to the conversion of traditional farm buildings and that the guidance sets out that it is not normally appropriate to extend traditional buildings, in this case, contrary to the Council's view, the Inspector considered that the extension was a proportionate and sympathetic addition to the dwelling, which preserved the character and appearance of the site and the surrounding area. On this basis the Inspector allowed the appeal.

- **Item 5.13 – Fairview Lower Road Tonge**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

The Inspector fully supported the Council's decision, taking the view that the location of the proposed 3 dwellings would be unsustainable, not allowing future residents of the

site the opportunity to access services and facilities via sustainable transport methods. In addition, the Inspector agreed with the Council that the proposed development would give rise to significant harm to the character and appearance of the countryside. Finally, the Inspector concluded that the scheme failed to demonstrate how service vehicles would be able to access and turn within the site and that separately, insufficient evidence was provided to demonstrate how vehicles could enter and exit the site without harming highway safety.

In light of the Council's lack of a 5 year supply of housing land, the tilted balance was engaged, however, the Inspector concluded that the benefits of the scheme were limited and significantly and demonstrably outweighed by the harm identified.

- **Item 5.14 – Windmill Farm Yaughar Lane Hartlip**

APPEAL ALLOWED

COMMITTEE REFUSAL

Observations

The Inspector gave weight to the lack of a 5 year supply of Gypsy and Traveller sites and absence of alternative sites. Given the presence of a Gypsy and Traveller site next door, the Inspector gave little weight to the Council's concerns that the site was unsustainable and in a remote location, and considered the benefits and need for such sites outweighed this issue.