

**PLANNING COMMITTEE – 18 JULY 2024**

**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 – 26 Springvale Iwade**

**APPEAL DISMISSED**

**DELEGATED REFUSAL**

**Observations**

The Inspector agreed with the Council that the extension would have an unacceptable impact on the living conditions of the occupants of the neighbouring property.

- **Item 5.2 – 1 Norwood Walk Sittingbourne**

**APPEAL ALLOWED**

**MEMBER OVERTURN**

**Observations**

The Inspector allowed the appeal on the basis that the extension would not appear cramped or out of character with the surrounding area, and would not negatively impact upon the living conditions of neighbours. An award of costs was refused on the basis that the Planning Committee had reasonably evidenced the planning reasons why permission was refused, even though the Inspector ultimately concluded that the development was acceptable.

- **Item 5.3 – Land North of Perry Leigh Grove Road Selling (LDC appeal)**

**APPEAL ALLOWED**

**AGAINST NON-DETERMINATION**

**Observations**

This appeal related to whether planning permission for a storage building had been implemented. As such, the key matter was whether a material operation had taken place within the six month time limit as required by condition. In this case the Inspector concluded that the evidence demonstrated that a hole had been dug to contain foundations which constituted a material operation within the relevant time period and that based upon a site visit, the excavation was in the correct location. On this basis it was concluded that the planning permission had been implemented and the appeal was allowed.

- **Item 5.4 – Land North of Perry Leigh Grove Road Selling (Enforcement appeal)**

**ENFORCEMENT NOTICE QUASHED****ENFORCEMENT APPEAL****Observations**

This appeal related to an Enforcement Notice issued in 2021 on the basis that an unauthorised change of use of the land had taken place to include a storage use, facilitated by storage containers on the site. The Notice required that the storage containers on the land be removed in order to remedy the breach of planning control. The Inspector noted that the plan attached to the Enforcement Notice included only part of the appellant's site and that the Enforcement Notice did not specify with sufficient clarity the alleged breach of planning control. The Inspector considered these matters to be flaws in the Notice and that the necessary corrections would result in injustice to the parties. As a result the Notice was considered to be invalid and was quashed. The Inspector confirmed that it is open to the Council to serve a further notice clearly setting out the nature of the breach and the requirements, if it is considered expedient to do so.

- **Item 5.5 – The Retreat Elverland Lane Ospringe**

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

The Inspector agreed with the Council that the caravans, stores, hardstanding and other residential paraphernalia on the site gave rise to harm to the character and appearance of the area and the scenic beauty of the Area of Outstanding Natural Beauty. The Inspector also agreed with the Council that the site has poor access to services and facilities via sustainable modes of transport although disagreed that the access to the site itself gave rise to harm to highway safety.

Despite the harm identified, the Inspector considered that the lack of available alternative sites and the personal circumstances of the appellant and their family, which included the appellant's grandson's short term educational needs attracted substantial weight in the planning balance. On this basis a three year temporary permission was granted.

- **Item 5.6 – Land at Wises Lane Borden**

**APPEAL ALLOWED****MEMBER OVERTURN****Observations**

The Inspector concluded that the temporary flag poles would not be harmful to the visual amenity of the surrounding area, or detrimental to the living conditions of existing occupiers. On that basis, the appeal was allowed.

- **Item 5.7 – Land at Ufton Court Farm Tunstall**

**APPEAL ALLOWED****Observations**

The appeal proposal was for a residential development of 290 dwellings located adjacent to the Urban Area of Sittingbourne and in the Important Countryside Gap, as identified by policy DM25. The main issues in this appeal were identified as:-

- The extent of the deliverable 5-year housing land supply for Swale Borough;
- The interpretation of policy DM8 and appropriate provision of affordable housing;
- The effect of the appeal development on the character and appearance of the area and whether the appeal location is a valued landscape;

Focusing on the housing land supply position, the Inspector found the Swale Borough to have circa 4.1 years of housing supply. As such, the Inspector concluded that the development plan is not delivering the required number of homes and reasoned that housing policies are out-of-date and that the presumption in favour of sustainable development applies.

With respect to affordable housing requirements, the appeal proposal was concluded to be within the Sittingbourne town, urban extensions and Iwade local housing market area where the affordable housing percentage to be sought is 10% as set out in Policy DM8 of the SBLP. As the proposal delivered 30% affordable housing, the Inspector determined that the scheme would exceed the requirements of the Local Plan and so comply with policy DM8.

Turning to the matters of visual impact and impact upon the coalescence of settlements, the Inspector acknowledged the Important Countryside Gap is a local spatial planning tool addressing settlement, not a landscape designation. He concluded that the appeal proposal would not result in the physical coalescence of Sittingbourne with either Borden or Tunstall, as a sizeable gap would be retained to the rural settlement at Tunstall with no visual intervisibility.

He concluded that the appeal site does not form part of a 'valued landscape', but nonetheless, the proposal would have a moderately adverse impact on the site's landscape character and only a minor impact on the character of the wider Tunstall Farmlands Local Character Area and broader Fruit Belt Area.

In weighing the benefits of the proposal, the Inspector reasoned that the appeal proposal has deployed a landscape-led approach to minimise and mitigate adverse landscape and visual impacts. He identified that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. Consequently, the Inspector allowed the appeal.

- **Item 5.8 – Land at Cleve Hill Graveney**

**APPEAL ALLOWED AND COSTS AWARDED TO THE APPELLANT****MEMBER OVERTURN****Observations**

The Inspector allowed the appeal on the basis that the battery safety management plan fulfilled Requirement 3 and that the expert consultee advice from Kent Fire and Rescue Service was clear that the details were acceptable. Likewise the Council's own appointed consultant came to the same conclusion. Although the Inspector recognised that the concerns raised by third parties were based on rational fears, they did not provide justification to dismiss the appeal.

The Inspector granted a full award of costs against the Council as no reasoned justification was given as to why the Planning Committee departed from the advice given by consultees, their independently appointed consultant, or their professional officers. In particular, it was clear that Kent Fire and Rescue Service had considered guidance from the National Fire Chiefs Council and then deployed their own site-specific knowledge in providing their responses. The Council failed to explain why it had departed from such advice, and this directly led to the need for an appeal to take place which could have been avoided, and unnecessary expense was incurred by the applicant in having to pursue an appeal.