

PLANNING COMMITTEE – 22nd May 2025**PART 5**

Report of the Head of Planning

PART 5Decisions by County Council and Secretary of State, reported for information

• Item 5.1 - Cherry Tree Farm, Grove Road, Selling, Kent ME13 9RN**PINS Decision: Appeal Allowed. Costs application refused.****Committee or Officer Decision: Delegated Decision****Observations**

Planning permission was sought for the change of use of agricultural land and a poultry shed to a dwelling with an associated plot. The main issues were the effect of the conversion on the provision of employment and community facilities, the effect on the character and appearance of the area, including the Kent Downs National Landscape (KDNL), the suitability of the location for residential development and the effect on best and most versatile agricultural land.

The Inspector had regard to a report which identified the shortcomings of the building and the inappropriateness or unattractiveness of using the building for many commercial or community purposes. From this basis, and noting that there was no policy requirement to try and identify a tourism use for the building, it was found that the applicant's marketing exercise was adequate and demonstrates that the use of the building for other purposes than residential would not be viable. The proposal was therefore found to accord with Policy DM3 of the local plan.

Having regard to the landscaping proposals of the applicant and the existing landscape features of the site, it was found that the proposal would *"enhance the landscape and natural scenic beauty, visual qualities and essential characteristics of the KDNL, and the character and appearance of the surrounding countryside."* Moreover, whilst the relatively remote location of the site and the inevitably dependence on cars was noted, by representing a change of use of a building in a manner that accords with national and local planning policies and as a result of it being found to be visually enhancing, it was considered that the development could be found to be policy compliant in terms of its location. In addition, it was found that the need for housing and the shortfall of supply in the Swale Borough meant that the 'overriding need' aspect of the Council's agricultural Land policy (Policy DM31) had been met and the proposal would not undermine the viability of an agricultural holding as it had not been farmed and did not form part of a wider holding.

The Inspector also considered matters such as the presence of a neighbouring listed building, the impact on highway safety, the ecology impacts of the proposal, the visual impact of the dwelling, the potential future use of the site and the impact of the development on the living conditions of existing residents. However, no harms were identified that led the Inspector to conclude that the appeal should not be allowed.

In relation to the application for an award of costs, the commentary of the Inspector indicates that, although they reached a different view in the respects that are set out

above, it was not unreasonable for the Council to have reached the conclusion that it did and, as such, the application was refused.

- **Item 5.2 - 1 Broomhill Cottages, Hansletts Lane, Ospringe, Kent ME13 0RS**

PINS Decision: Appeal Dismissed.

Committee or Officer Decision: Delegated Decision

Observations

Outline planning permission was sought for a three bedroom dwelling with a detached garage. The application followed a previous refusal and dismissed appeal for a similar proposal at the site.

The site is within the Kent Downs National Landscape (NL) and the Inspector found that *“the proposal would introduce built development that would be outside the built confines of any village and unrelated to the pattern of existing traditional buildings along the lane, creating harmful sporadic development. The Inspector identified that the illustrative plans indicate that a significant and noticeable amount of built form would be created, comprising a large bungalow and double garage, where currently there is none, as well as a large hardstanding area. Thus, similar to the previous proposal, the appeal scheme would have an urbanising effect on open, undeveloped land, harming the rural character and failing to further the purpose of conserving and enhancing the natural beauty of the NL.”* Consequently the proposal was found to be contrary to the local plan and the NPPF.

The Inspector identified that the lack of a noise assessment and the lack of an assessment of the ecological value of the site meant that it had not been demonstrated that the occupiers would have suitable living conditions or that the proposal would not have a harmful impact on protected species.

It was found that the harm to the NL was a strong reason to refuse the application and, therefore, the approach set out at paragraph 11(d) of the NPPF indicated that planning permission should be refused. Consequently, the appeal was dismissed.

- **Item 5.3 - 8 Anatase Close, Sittingbourne, KENT ME10 5AN**

PINS Decision: Appeal Allowed

Committee or Officer Decision: Delegated Decision

Observations

A retrospective application for an extension to the side of a detached garage was refused by the Council on the grounds of the impact on neighbouring residents, particularly in terms of the impact on light and outlook. The Inspector found that the low eaves height of the extension and the manner in which the roof rakes away from the neighbouring property means that the impact on outlook was acceptable. The impact on light was

also found to be acceptable as, although the Inspector identified that there would be some loss of light on a patio area, this was not considered to be unacceptably harmful. The appeal was, therefore, allowed and planning permission was granted.

- **Item 5.4 - Woodgate Oast, Woodgate Lane, Borden, Kent ME9 8JX**

PINS Decision: Appeal Dismissed

Committee or Officer Decision: Delegated Decision

Observations

The application that was the subject of the appeal sought permission to not comply with a condition of an earlier permission which restricted the use of the building to a combination of residential, bed and breakfast and office use. Within an extensive commentary, the Inspector concluded that the applicant's intention was to use the building for any of the uses, solely, rather than as a combination of the uses. It was found that other conditions of the original permission would also have required amendment to achieve this and that the terms of the amendment would be outside the scope of an application made under Section 73 of the Act.

Notwithstanding this, the Inspector went on to consider the case for the proposals and found that it had not been demonstrated that there was no demand for the site, or that it is undesirable or unsuitable in its current form. It was concluded that varying or removing conditions could lead to a reduction of tourist and employment floorspace which would undermine the site's contribution to the rural economy, contrary to local plan policies ST1, ST3, DM3 and CP1.

For both reasons, the appeal was dismissed.

- **Item 5.5 - Land to the rear of 21 Middletune Avenue, Sittingbourne, ME10 2HX**

PINS Decision: Appeal Dismissed

Committee or Officer Decision: Delegated Decision

Observations

Planning permission was sought for the erection of a dwelling in a position to the rear of 21 Middletune Avenue. The Inspector disagreed with the Council's position that the development would cause a loss of light within that neighbouring property and would not provide occupants with suitable living conditions, but found that the impact on the outlook from the abovementioned existing dwelling would be unacceptable.

The Inspector had regard to the Council's housing supply position but highlighted that the benefit arising from the proposal would be modest in this respect as it related to a single dwelling. Similarly, the economic benefit of the construction of the dwelling and its subsequent occupation and the potential ecological and landscape enhancement was also found to be limited. The harm caused to the living conditions of existing neighbouring residents was found to significantly and demonstrably outweigh the benefits of the proposal and, therefore, the appeal was dismissed.

- **Item 5.6 - Playtime, The Promenade, Leysdown-On-Sea, KENT ME12 4QB**

PINS Decision: Appeal Allowed

Committee or Officer Decision: Delegated Decision

Observations

Advertisement consent was sought for a larger fascia sign at the site. Following an assessment of the features of other buildings within a similar use in the surrounding area, the Inspector found that the signage is not overly prominent or uncharacteristic in comparison to other premises within the vicinity of the appeal site. The Inspector went on to state that *“The overall design of the fascia sign, having regard to its scale, height, width and location, would not result in harm to the character of the property or the wider area. The increased prominence of the fascia sign is not so substantial when taking into account the context of The Promenade’s existing street scene frontages. Consequently, I do not find that the proposal would cause significant visual harm to the character and appearance of the area.”* The Inspector was satisfied that potentially harmful impacts arising from the illumination of the signage could be controlled by conditions. Therefore, advertisement consent was granted.

- **Item 5.7 - School Lane Farm, School Lane, Iwade, Kent ME9 8SG**

PINS Decision: Appeal Allowed – Costs Awarded Against SBC

Committee or Officer Decision: Delegated Decision

Observations

The appeal was against a condition imposed upon a planning permission which required that, prior to the commencement of development, details of how the development would achieve a 50% emission rate reduction must be submitted to and agreed in writing by the Local Planning Authority. The approved details would then have had to be implemented and retained.

The Inspector had regard to the aims of the NPPF, Policy DM19 and the Climate and Ecological Emergency Action Plan but found that there is no policy basis within the Local Plan that supports a condition in the stated terms. The Inspector identified that such a condition was not imposed by the Secretary of State in the case of the Wisles Lane decision and that, whilst it had been imposed in a case at Minster, the Inspector in that case also found that there was not a policy basis for the condition. Consequently, the condition was not found to be necessary and reasonable and, as such, the appeal was allowed and the condition was deleted from the planning permission.

An award of costs was made to the applicant on the grounds that the need to submit the appeal to remove the condition had caused the applicant unnecessary or wasted expense and was a result of the condition being imposed unreasonably.

- **Item 5.8 - 38A High Street, ME10 4PB**

PINS Decision: Appeal Dismissed**Committee or Officer Decision : Delegated Decision****Observations**

Planning permission was sought for the demolition of the existing bakery at the rear of the shop at the site and the erection of a block of four flats. The Inspector identified that the main issues were the impact on the Sittingbourne Conservation Area and the provision of adequate living conditions for future occupiers.

Having assessed the character and appearance of the conservation area and its value as a heritage asset, the Inspector found that the building would be of considerable scale and bulk, with the height of the proposed development meaning that it would tower over neighbouring structures. It was also found that the proposal would lack architectural detailing, include large expanses of brick and block walls on the same plane to the east and west, have little visual interest to the gable walls and a plain, sizeable, hipped roof. Furthermore, the large flat roof terrace would be at odds with the surrounding roofscape. For these reasons it was found that the proposal would not preserve or enhance the character or appearance of the conservation area and, as a result, conflict with the local plan and the NPPF.

In relation to living conditions, it was found that an adjacent wall and parked cars would dominate the outlook from the ground floor flat and have an unacceptable sense of enclosure. An adjacent wall and commercial waste area would also cause odour and have an unacceptable impact on the light received within a bedroom of that flat. Noise from the bakery was also identified and, in this regard, the objection from the Environmental Health team on the grounds of the lack of a noise assessment accompanying the application was supported. For these reasons, the living conditions of future occupiers were found to be inadequate.

For these reasons, the appeal was dismissed.

- **Item 5.9 - 60 Shortlands Road, ME10 3JT**

PINS Decision: Appeal Dismissed**Committee or Officer Decision: Delegated Decision****Observations**

The appeal followed a retrospective planning application for roof alterations including a rear dormer. The application was refused on the grounds of the visual impact of the development and the Inspector reached a similar conclusion noting that due to the size and bulk of the dormer, it fails to respect the original form and architecture of the host building. The Inspector found the dormer, which spanned the full height and width of the main part of the roof and above the rear outrigger, to be very bulky and a disproportionate addition. The use of materials to match those of the host dwelling and the limited visibility from the public domain were not found to be reasons to find the development acceptable.

The appeal was, therefore, dismissed with conflict with the local plan and the Council's design guidance being identified and not outweighed by other material considerations.

- **Item 5.10 - 4 Church View Cottages, Boxted Lane, Newington, KENT ME9 7LD**

PINS Decision: Appeal Dismissed. Costs Application Refused.

Committee or Officer Decision: Delegated Decision

Observations

Permission was sought for a building to be used for the storage of forestry and agricultural equipment and animal feed. However, the Inspector identified that no substantive information had been provided to demonstrate how the building would be used in conjunction with a farming operation or that any equine related use would have benefited rural employment. It was also found that domestic storage would not fall within the scope of Policy DM3. The Inspector also noted that a building of the size proposed would represent an encroachment into the countryside and have a visually detrimental impact upon the character and appearance of the rural landscape. For these reasons, it was considered that the proposal *"would not represent sustainable growth and expansion of business and enterprise in the rural area with the need for such a building not having been demonstrated. Furthermore, the proposal would have a harmful effect on the character and appearance of the countryside."* The loss of high value agricultural land was also not supported. The proposal was, therefore, found to be contrary to local and national policies and the appeal was dismissed.

In relation to the application for an award of costs, the Inspector found that no detail had been provided of how the reasons for refusal could have been overcome and recognised the Council's case that the grounds of complaint did not align with the reasons for the refusal of the application. As such, an appeal would not have been avoidable and the incurring of unnecessary or wasted expense had not been demonstrated.

- **Item 5.11 - Land at A2 Food Stores, 25 Canterbury Road, Sittingbourne, Kent, ME10 4SG**

PINS Decision: DISMISSED

Enforcement Notice Appeal

Observations

An extension was built to the front of the commercial property at the abovementioned address and a retrospective application was refused. An enforcement notice was subsequently served and the applicant contested the compliance period, stating that 3 months was too short a period and that they should be allowed 9 months to comply. The Inspector noted that 7 months had elapsed between the appellant submitting the appeal and the Inspector determining the appeal and, as a result, they had effectively created a 10 month compliance period through the use of the appeal procedure. No reason was found to elongate the compliance period any further and, as such, the appeal was dismissed.

