

**PLANNING COMMITTEE – 17th July 2025****PART 5**

Report of the Head of Planning

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

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- **Item 5.1 - Land at Eden Top, Sheppey Way, Bobbing, Kent, ME9 8QP**

**PINS Decisions:****Section 73 Application (Committee Decision) - Appeal Allowed****Enforcement Notice Appeal – Allowed****Two Applications for an Award of Costs - Refused****Observations**

Planning permission was sought for the removal of conditions 3 and 4 on SW/09/0972, with the effect being that the use of the gypsy and traveller site would no longer be tied to an individual and that the use could continue beyond the occupation of the site by that person. The main issues were identified to be whether the absence of a personal link and justification for the site would be acceptable, taking into account the remote location and impact on the Important Local Countryside Gap (ILCG).

The Inspector considered that the removal of the conditions would not result in conflict with the purposes of the ILCG, on the basis that the residential use is in keeping with the land use pattern in the area and that the removal of the personal link would not necessarily result in the loss of adjacent paddocks. In assessing whether the site was remote, the Inspector acknowledged that residents of the site may use the car for most trips because of convenience, but noted that a good range of facilities and services are not far away and there are genuine options of transport modes available for certain types of local trips. The Inspector therefore considered the site to be in an accessible location.

In light of the very significant need for Gypsy and Traveller pitches in the borough, the Inspector noted that the proposal would increase flexibility and availability of the site to other persons. For these reasons and those above, the appeal was allowed.

Separately, an Enforcement Notice was served on the landowner of the site in August 2024, following the unauthorised stationing of a mobile home and change of use of land for residential purposes. It was served on the basis that the site is outside of any built-up area boundary and within the open countryside, encroaching on and eroding the rural character of the area and causing harm to an Important Local Countryside Gap (ILCG). That Notice was also the subject of an appeal.

The Inspector identified that the occupiers of the site have gypsy status and the site would, therefore, represent an extension of an existing gypsy site, which can be supported by policy DM10, subject to certain criteria. In considering the impact on the landscape and ILCG, the Inspector found that due to property boundaries and vegetation, the mobile home blends well into the surroundings. The development was considered to be consistent with the pattern of land use in the ILCG, which includes residential, commercial as well as agricultural uses, with the rural open character remaining dominant both within the larger site at Eden Top and in the ILCG. The

Inspector therefore concluded that in respect of the ILCG, the development was in accordance with Local Plan policy.

The Inspector did not identify any significant harm to the local environment or social infrastructure and given a high level of immediate need for traveller pitches, concluded that this small scale windfall development would be a positive contribution to the stock of traveller sites in an appropriate and sustainable location. Therefore the appeal was allowed.

Each of the above appeals led to an application for an award of costs. Both were refused.

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- **Item 5.2 - 89 London Road, Teynham, Kent ME9 9QL**

**PINS Decision: Appeal Allowed**

**Committee or Officer Decision: Delegated Decision**

**Observations**

The appeal related to three conditions of a planning permission (24/503051/FULL) which allowed for works of alteration to a residential property. The conditions related to the materials required to be used in the development, the plans that were required to be accorded with and the requirement for a window to obscure glazed and partially fixed shut.

In relation to the plans condition (Condition 3) the applicant sought to revert to an earlier submitted plan than what was approved. This was concluded to be unacceptable by the Inspector as the earlier proposal, with a blanker façade, would have been visually acceptable. Also on visual grounds, the requirement to use materials of similar appearance (Condition 2) was also upheld.

However, it was found that the requirement for a first floor window to be restricted, as set out above, was considered to be unnecessary. It was found that the privacy of nearby residents would not be harmed as a result of the removal of the condition. For this reason, whilst the appeal against other conditions was unsuccessful, the decision is recorded as being allowed.

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- **Item 5.3 – Peternel, Elm Way, Eastchurch, Kent ME12 4JP**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision: Delegated Decision**

**Observations**

The development involves the erection of a replacement pre fabricated lodge dwelling with detached garage, the change of use of land for the siting of three static caravan holiday lets, the erection of an outbuilding and associated parking. The main issues were the suitability of the location of the development, the effect on the character and

appearance of the area and the impact on protected species.

Although not operationally linked, it was considered that the caravans would appear as an extension of an existing holiday park and, as such, the proposal conflicts with Policy DM4 which prevents the expansion of such parks and, in turn, conflicts with Policy DM3. The proposal therefore conflicts with the spatial strategy and the aim to limit development in the countryside.

In terms of visual impact, the Inspector found that *“Due to their utilitarian design and close-knit layout, the introduction of the three static caravans is at odds to the rural character of the area surrounding Elm Way. The caravans and associated walkway have a harmful urbanising effect on a part of the appeal site which was previously undeveloped. This is exacerbated by the elevated position of the three caravans which are accessed via a raised walkway.”* Moreover, whilst the dwelling, garage, a container and an outbuilding were considered to be acceptable, it was found that the proposed storage container would be prominent and incongruous.

In relation to protected species, the lack of submissions within the application was grounds to find that the proposal concluded with Policy DM28 which requires proposals to conserve, enhance and extend biodiversity.

The harm identified in these three respects was not outweighed by other considerations and therefore the appeal was dismissed.

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- **Item 5.4 - Building 3, Hales Court, Paradise Farm, Lower Hartlip Road, ME9 7SU**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision: Delegated Decision**

**Observations**

Permission was sought to convert to agricultural buildings to a dwelling, with additional extensions, alterations, parking and landscaping.

The Inspector concluded that the appeal site would not be a suitable location for the development when applying the spatial strategy in the Local Plan, particularly having regard to local and national planning policy, and the accessibility of the site to services, facilities and employment opportunities. It was also stated that it has not been demonstrated that the building could not be used for employment or community purposes.

The visual impact of the proposal was acceptable, the parties agreed that an earlier objection relating to ecology had been overcome, the Inspector identified benefits arising from the provision of a dwelling in terms of housing supply and economic activity. Minor biodiversity benefits were also identified. However, these factors did not outweigh the harm that was identified and, therefore, the appeal was dismissed.

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- **Item 5.5 - Land at junction of Fox Hill and Blossom Street, Bapchild, Sittingbourne**

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

Advertisement Consent was sought for an internally illuminated totem sign. The prominent positioning of the sign and the fact that it would be viewed against a backdrop of sky and an open field lead the Inspector to conclude that it would become a dominant feature of the streetscape and incongruous in its context. The presence of other adverts or signs in the area, related to recent housing developments, were not found to be a reason to find the proposed signage acceptable as some were clearly temporary and another was materially different in terms of its appearance. The impact on visual impact was found to be unacceptable and therefore the appeal was dismissed.

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- **Item 5.6 - Central Communal Garden, Sommerville Close, Faversham, Kent, ME13 8HP**

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

The appeal related to a refusal to grant consent to fell three alder trees that are the subject of a Tree Preservation Order (TPO).

The Inspector found that *“The three trees grow together in the communal area of Sommerville Close. Next to footway access and green space, they have formed one large, spreading crown. The three trees are an imposing group and can be seen from many of the adjacent roads. They make an important contribution to the character and appearance of the area being some of the tallest, most noticeable trees, in the general locality. Therefore, the felling of the trees would be a significant loss and lead to unacceptable harm to the character and appearance of the area.”*

The trees were found to be healthy and, whilst regard was had to damage being caused to nearby buildings and footpaths, the Inspector found that there was not information available (having regard to Planning Practice Guidance which details what should be submitted) to indicate that the removal of trees was the only option. Regard was had to the shading impact of trees, their impact on phone lines and that they sway in the wind. However, these were not found to be a reason to support the removal of the trees at this time and on the basis of the information available. The appeal was, therefore, dismissed.

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- **Item 5.7 - 30 Harps Avenue, Minster-on-Sea, Kent ME12 3PH**

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

### **Observations**

Permission was sought for a two storey side extension and the main issue was the effect of that extension on the character and appearance of the area.

Having had regard to the guidance contained in Council's SPG relating to residential extensions, the Inspector found that, partly due to the manner in which the site tapers, *"From the street the perception would be of a notable reduction in the width of the gap between the properties. This would harmfully erode the sense of space between the dwellings, which is an important characteristic of the area."* The potential to replicate the extension at the neighbouring property in such a way that would further erode the gap was also commented on by the Inspector. Whilst the Inspector found the design acceptable in other respects and concluded had regard to an allowed appeal within the vicinity of the site enabled a similar extension, there were differences identified between developments and these factors were not found to be reason to find the proposal acceptable. The appeal was, therefore, dismissed.

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- **Item 5.8 - Land West of Salvation Place, Bell Farm Lane, Minster-on-Sea, Sheerness, Kent, ME12 4JB**

**PINS Decision: Appeal Dismissed**

**Committee or Officer Decision: Delegated Decision**

### **Observations**

Planning permission was sought for the change of use of the land to a single residential caravan pitch for one Gypsy family with the erection of kennels for the keeping and breeding of dogs and store.

The main issue was whether the location of the site is suitable for the proposed use, with particular regard to the risk of coastal erosion. The appellant's submissions indicated that the area has not been affected by cliff slippage since 2003 and that, even in the worst case scenario, the development would be safe for the five year period that they were seeking permission. However, the Inspector concluded that the rate of erosion could change recognised that the Environment Agency had objection to the proposal on the grounds that *"the site is within an area at significant risk of coastal erosion, and residential accommodation, even on a temporary basis, is not appropriate given the difficulty in predicting locations and rates of erosion."* As the Inspector was not satisfied that the development would be safe for its planned lifetime, the proposal was found to be unacceptable. The presence of other comparable accommodation at an adjacent site was not found to be reason to support further risk, particularly as the relevant policy came into effect after that was approved.

The Inspector identified benefits relating to the provision of an additional pitch and gave this significant weight due to the lack of five-year supply, the current unmet need for pitches, the absence of an alternative site, and the failure of policy that has led to this situation. The Inspector also had regard to the personal circumstances of the applicants and applied weight to these.

Overall, the Inspector concluded that the benefits did not outweigh the harm and, even having considered the potential to grant a shorter temporary permission, it was found

that the appeal should be dismissed and that this was a proportionate decision that did not violate rights under Article 8 of the Human Rights Act.

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- **Item 5.9 - Land to the East of Scocles Rd, Minster-on-Sea**

**PINS Decision: Appeal Allowed**

**Appeal against Non-Determination.**

**Observations**

Outline planning permission was sought for the erection of upto 650 dwellings at the application site. The applicant submitted an appeal on the grounds of non-determination and it was subsequently concluded by the Planning Committee that no objection would be raised to the proposals during the appeal.

Notwithstanding this, the Inspector proceeded to consider the impact on the character and appearance of the area, biodiversity, highway safety and congestion, the availability of adequate infrastructure and various other considerations including but not limited to housing delivery, housing land supply, heritage assets, economic and social considerations, the Public Sector Equality Duty contained in the Equality Act 2010 and the Human Rights Act 1998. The Inspector found visual harm that was contrary to the development plan. However, the proposal was considered to be acceptable in all other areas. The appeal was, therefore, allowed and planning permission was granted.

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- **Item 5.10 - Land at Ham Road, Faversham, Kent ME13 7TX**

**PINS Decision: Appeal Allowed**

**Committee or Officer Decision: Delegated Decision**

**Observations**

Outline planning permission was sought for the erection of up to 250 dwellings and associated works and development. The main issues were the application of flood risk policies, the impact on the character and appearance of the area, including landscape character, and the acceptability of the location for development in the context of national and local policies and with regard to the loss of agricultural land.

In terms of flood risk, the Inspector found that the application had not adequately addressed the Sequential Test but went on to conclude that no 'real world' harm was derived from this. Any actual flood risk was accepted to be mitigated. The visual impact of the development was considered to be harmful with moderate harm and conflict being identified in relation to some policies and limited harm identified in relation to others. Limited conflict with the Council's Spatial Strategy was identified and it was agreed that this and the loss of BMV agricultural land meant that the site is not an appropriate location for development. Harm to the setting of some heritage assets was also identified. The Inspector found the highway safety and accessibility, the ecology impacts, the heritage impacts and the proposed drainage provisions to be acceptable.

Weighing in favour of the proposal, the Inspector gave substantial weight to the housing

provision (affordable and open market), significant weight to the economic benefits of the proposal (during construction and occupation), moderate weight to a biodiversity net gain and also applied weight to benefits that included off-site flood risk reduction, a car club, the remediation of land and PRow upgrades.

These benefits were considered to outweigh the harm to the heritage assets to prevent this being carried forward as a determinative issue and the conflict arising from the failure to comply with the Sequential Test was not found to be a strong reason for the refusal of the application. The Inspector also concluded that the Faversham Neighbourhood Plan being based on a *“housing requirement that does not accurately reflect up-to-date housing need”*, prevented the approach set out at paragraph 11 of the NPPF being disengaged. The ‘tilted balance’ was therefore applied and the Inspector found that planning permission should be granted in light of the balancing exercise that was based on the abovementioned factors.

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