

Appeal Decision

Site visit made on 21 October 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th November 2025

Appeal Ref: APP/V2255/W/25/3370775
20 Park Road, Sittingbourne, ME10 1DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick Melanophy against the decision of Swale Borough Council.
 - The application Ref is 25/500670/FULL.
 - The development proposed is the conversion of building currently used as offices into three apartments. Demolition and replacement of existing single-storey extension with new rear extension and associated landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal site is located within a 6km zone of influence of the Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). As part of the appeal, the appellant has provided a financial contribution towards the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy for off-site mitigation. This has been confirmed by the Council.
4. Given this, the Council have stated the second reason for refusal relating to the impact of the proposal on the SPA can fall away. I have therefore proceeded on this basis.

Main Issue

5. The main issue is whether the proposal would provide adequate living conditions for the future occupiers, with particular regard to outlook, light, and privacy.

Reasons

6. The appeal property comprises a three-storey semi-detached building on the western side of Park Road, within a predominantly residential part of Sittingbourne close to the town centre. The appeal building features a two-storey rear outrigger with a pitched roof and a small rear garden. A narrow side passage allows access to the rear. At roof level, a prominent gabled dormer window projects from the front

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roof slope and incorporates white painted timber sash windows consistent with the lower bays. The surrounding area is characterised by closely spaced Victorian and Edwardian terraces and semi-detached properties with shallow rear gardens.

7. I accept the appellant's clarification that the proposed basement and ground floor unit (Flat 1) would meet the minimum gross internal area required by the Nationally Described Space Standards. However, the quality of the proposed accommodation would be significantly compromised by the physical configuration of the site and the relationship of key rooms to external spaces.
8. The proposed bedroom to Flat 1 would rely solely on a newly formed lightwell at the rear of the building for natural light and outlook. The lightwell would sit directly beneath an external staircase and landing serving the upper flat (Flat 3). The enclosing walls of the appeal building's rear outrigger together with the neighbouring outrigger, and the stair structure above, would combine to restrict daylight penetration and create an oppressive outlook. The limited view of open sky and close proximity of adjacent walls and stairs would further contribute to a sense of enclosure. Whilst the appellant contends the existing stairwell and balcony would be replaced with a lightweight structure, the resulting internal environment would appear gloomy and confined, failing to provide an acceptable living standard for the future occupiers of this unit.
9. The adjacent study would benefit from a rear-facing window. While the light reaching this room would be moderate given the surrounding built form, it would likely be sufficient for its intended ancillary use as a study rather than a primary habitable space. This, however, does not mitigate the harm identified in relation to the principal bedroom.
10. The proposal would also introduce a contrived circulation arrangement. Access to Flat 3 would be achieved solely via the external stair positioned within the rear garden, requiring residents to pass directly alongside the bedroom window of Flat 2 at ground-floor level. This would result in frequent footfall and activity within less than a metre of that window, causing an unacceptable loss of privacy and outlook for occupiers of Flat 2. The narrow passage and proximity to the boundary would also create a heightened sense of enclosure.
11. The appellant contends that such access arrangements are not unusual within historic urban settings and that prospective occupiers could opt for alternative accommodation if they found the arrangement unsatisfactory. Whilst I acknowledge tighter spatial relationships and awkward accesses are often found within urban environments, planning decisions for new development must be based on whether a proposal would provide a reasonable standard of amenity for any future occupier, not on individual preferences or tolerance levels. In this instance, the proposed arrangement and degree of material harm it would cause would go beyond what could reasonably be expected even in a dense urban context.
12. Accordingly, I conclude that the proposal would fail to provide acceptable living conditions for future occupiers, contrary to Policies CP4 and DM14 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017 (the Local Plan) insofar as they seek to ensure that proposals are well-designed and cause no significant harm to amenity.

Other Considerations

13. The appellant refers to the borough's housing land-supply position, stating that it stands at 3.98 years. The Council acknowledge that they cannot demonstrate a 5-year supply of deliverable housing land. Consequently, because of the provisions of footnote 7, paragraph 11 d) of the National Planning Policy Framework (the 'Framework') is engaged. As such, it is necessary for me to determine whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits inherent in providing additional housing to assist the Council in addressing its undersupply.
14. I have found conflict with Policies CP4 and DM14 of the Local Plan which are consistent with the Framework. I therefore find that the proposal would conflict with the Development Plan as a whole. The conversion of this vacant building would make a modest contribution to local housing supply. The site lies within the built-up area of Sittingbourne, a highly accessible location close to public transport, services and employment opportunities. These factors lend the proposal some sustainability credentials, and the reuse of an existing building would also represent an efficient use of land. However, the provision of three additional residential units would make a relatively minimal difference to the overall supply of housing and so I give this moderate weight in favour of the proposal.
15. The appellant also highlights that the proposal would restore the property to residential use, which would better reflect the prevailing character of Park Road and potentially enhance the appearance of the building through refurbishment. While this would offer a minor visual and functional benefit to the streetscene, it too carries only limited weight in the overall balance.
16. There would also be some minimal economic benefits during construction and from future occupants' contributions to the local economy through the use of services and facilities. I have attached limited weight to this consideration.

Planning Balance and Conclusion

17. Set against these benefits is the significant harm I have identified in respect of the quality of accommodation. This harm attracts substantial weight given the Framework's core objective of securing well-designed, high-quality places.
18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The harm I have identified would significantly and demonstrably outweigh the moderate benefits of the appeal scheme, when assessed against the policies in the Framework taken as a whole. The appeal scheme therefore does not benefit from the presumption in favour of sustainable development.
19. I have a duty under the Conservation of Habitats and Species Regulations 2017 to assess any impact the proposed development would have upon the SPA, which is a designated European site. New residential development at this site has the potential to cause disturbance to the SPA and therefore the development must provide appropriate mitigation. The appellant has provided a financial contribution towards mitigation as part of the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS). This is acknowledged by the Council. Notwithstanding this, as I am dismissing the appeal for the reasons

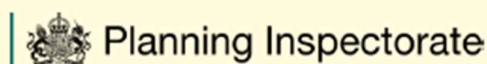
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given above, I do not need to conduct any further assessment in relation to the SPA.

20. The proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it.
21. For the reasons given above the appeal should be dismissed.

Thomas Courtney

INSPECTOR



Costs Decision

Site visit made on 21 October 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th November 2025

Costs application in relation to Appeal Ref: APP/N2255/W/25/3370775 20 Park Road, Sittingbourne, ME10 1DR

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Patrick Melanophy for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for the conversion of building currently used as offices into three apartments. Demolition and replacement of existing single-storey extension with new rear extension and associated landscaping.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. The appellant states that the Council misapplied the Nationally Described Space Standard (NDSS) by excluding voids over stairs from the gross internal area calculation, and that this error led to an unnecessary appeal. The Council's floorspace calculation for Unit 1 should have included voids above staircases in accordance with the NDSS. On that narrow point the Council was mistaken.
4. However, the refusal was not founded solely on the NDSS figure. The officer's assessment identified substantive harm to future occupiers' living conditions arising from the basement bedroom's poor light and outlook, and from the contrived access arrangement whereby occupiers of the upper flat would pass immediately beside the ground-floor bedroom window of Flat 2. Those concerns were policy-based and reasonable, and they would have persisted irrespective of the precise NDSS figure.
5. Even had the correct floorspace figure been used, the application would still have been refused on living conditions grounds. The appeal would therefore still have been necessary to resolve the parties' disagreement on those issues. In these circumstances, while there was an error, it did not cause the appellant unnecessary or wasted expense in the appeal process.

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6. The appellant also refers to the planning officer's limited engagement during the application process and suggests that greater dialogue or an opportunity to amend the scheme could have avoided the appeal. Whilst proactive communication is generally encouraged by the PPG, the Council is not necessarily required to negotiate or invite amendments where they consider the proposal to be fundamentally unacceptable. In this instance, the Council's concerns related to the overall quality of the accommodation and the site layout, matters that could not have been readily overcome through minor revisions. I therefore do not find that the Council's approach amounted to unreasonable behaviour.
7. I am satisfied on the basis of the evaluation of the planning merits set out in the Council Officer's Report that the Council has shown a clear rationale for its decision in light of the disputed assessment over the adequacy of the internal space and has provided a balanced commentary on the other material planning considerations. A full and reasonable assessment of the proposal against the Development Plan and other material considerations has therefore been undertaken by the Council during the course of the planning application. In the absence of any conclusive evidence to the contrary, I am unable to conclude that the Council has acted unreasonably in their assessment and determination of the proposed development.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Thomas Courtney

INSPECTOR