

**Subject:** **Planning Appeals - Decisions**  
**Director/Head of Service:** **Head of Planning**  
**Decision Issues:** These matters are within the authority of the Committee.  
**Decision:** Non-key.  
**Classification:** This report is open to the public.

**Ward:** West Bay  
**Appellant:** Herne Bay CT6 Ltd  
**Application No:** CA/18/01024/OUT  
**Proposal:** Outline application for the development of the site to create up to 425sqm of employment space within flexible Class B1/B8 use.  
**Location:** Land adjacent and south of Whitstable at the junction of Westbrook Lane, Herne Bay  
**Application Decision Level:** Delegated  
**Planning Inspector:** Timothy C King  
**Appeal Decision:** Appeal dismissed

The application was refused under delegated powers on the grounds that the appellant had failed to adequately carry out a Sequential Test to demonstrate that the development could not be accommodated on an alternative site at lower risk from flooding.

The Inspector noted that Canterbury City Council's Local Plan 2017 assists in providing a supply of employment land sufficient to meet local needs. They said the appellant's claim that the search should be limited to Herne Bay only was not backed up by compelling evidence. They also noted that the appellant had overlooked certain sites protected for business purposes. The Inspector concluded that under the circumstances, and given the detailed knowledge on employment and economic development which the Council can draw upon as part of its consultation process for Class B1/B8 proposals, local expertise was best suited to evaluate a Sequential Test proposal. As such, they concluded that the information provided in support of the appeal was insufficient.

For these reasons, the appeal was dismissed.

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**Ward:** Chestfield  
**Appellant:** Rebus Planning Solutions  
**Application No:** CA/18/01518/FUL  
**Proposal:** Proposed two-storey detached dwelling together with garage and access.  
**Location:** Land rear of 145-149 Chestfield Road, Chestfield CT5 3LR  
**Application Decision Level:** Delegated

**Planning Inspector:** John Morrison  
**Appeal Decision:** Appeal dismissed

The application was refused under delegated powers on the grounds that the development would result in the introduction of backland development uncharacteristic of the area. It was also refused because the applicant had failed to secure the delivery of necessary measures to mitigate the impacts of the proposed development on the North Kent Marshes SPA and The Thanet Coast and Sandwich Bay SPA.

The Inspector noted that whilst the design of the proposed building sought to emulate a quasi-agricultural form in the use of materials and shape, it would be readily identifiable as a dwelling. He stated that the erection of a dwelling on the site would be backland development that would create a tier of development uncharacteristic of the area, which is made up of frontage development in a ribbon form stretching out either side of the main road from the village. He concluded that the development would be harmful to the character and appearance of the area. Also, as no provision for mitigation in respect of the proposed development had been made in the form of a planning obligation, the Inspector found that there would be an adverse effect on the integrity of the North Kent Marshes SPA and The Thanet Coast and Sandwich Bay SPA.

For these reasons, the appeal was dismissed.

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**Ward:** Westgate  
**Appellant:** Mr J Winder  
**Application No:** CA/18/01907/FUL  
**Proposal:** Proposed installation of solar panels  
**Location:** 26 Orchard Street, Canterbury, CT2 8AP  
**Application Decision Level:** Delegated  
**Planning Inspector:** Philip Willmer  
**Appeal Decision:** Appeal dismissed

The application was refused under delegated powers on the grounds that the proposed development would have a harmful impact on the character and appearance of the locally listed building, the street scene and the conservation area and the setting of nearby listed buildings. It was considered that the less than substantial harm to the designated heritage assets would not have been outweighed by any identified public benefit.

The Inspector considered that the proposed development would represent a prominent addition to the roof that would have a harmful impact on the locally listed building. Whilst the proposed

development was not considered to negatively impact on the setting of listed buildings within the vicinity, it was considered that the proposal would neither preserve nor enhance the character and appearance of the conservation area. Although weight was afforded to the generation of renewable energy in this instance, it was deemed that it would not sufficiently outweigh the harm to the streetscene, the locally listed building and the conservation area.

For these reasons, the appeal was dismissed.

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<b>Ward:</b>	Gorrell
<b>Appellant:</b>	Peter Jackson Architects
<b>Application No:</b>	CA/18/00086/FUL
<b>Proposal:</b>	Erection of chalet bungalow
<b>Location:</b>	Land rear of 17 Saddleton Road, Whitstable
<b>Application Decision Level:</b>	Delegated
<b>Planning Inspector:</b>	John Morrison
<b>Appeal Decision:</b>	Appeal dismissed

The application was refused under delegated powers on the grounds that the applicant failed to secure the delivery of necessary measures to mitigate the impacts of the proposed development on the North Kent Marshes SPA and The Thanet Coast and Sandwich Bay SPA.

In a previous appeal on the site, it was found that an executed version of the obligation could not be taken into account as it did not include all parties with an interest in the land as signatories. Thus, all relevant parties who had an interest in the land subject of the appeal scheme were not bound by the obligation. Consequently, it was not enforceable as an obligation under Section 106 of the Act. With this application, the appellant tried to make a payment directly to the Council to be taken as the mitigation required. Whilst this clearly demonstrates a willingness from the appellant to provide a financial contribution, standing as a miscellaneous cash payment to the Council means it is just that. There is, in effect, no guarantee that the monies deposited will be used for the purpose intended and as such is not a sufficiently robust mechanism required for ensuring mitigation. Similarly, a Grampian style condition was considered by the inspector, however the circumstances before the Inspector were far from exceptional and the proposed development is neither complex nor strategically important and the inspector considered this approach, in this particular case, unacceptable.

For these reasons, the appeal was dismissed.

A costs appeal was also submitted on the grounds that the Council refused to accept a payment from the applicant in respect of the required SPA mitigation. The Inspector agreed with the Council's explanation as to why a completed obligation binding all parties with an interest in the land was necessary to be satisfied that appropriate mitigation would be in place and thus for the appeal scheme to be acceptable in planning terms. Although no other options were discussed at the application stage, these were brought up at appeal but were not considered appropriate. The Inspector concluded that being unhelpful does not translate to being unreasonable and with nothing to the contrary, the Inspector concluded the Council could simply have not been aware of the measures taken by other Council's to secure mitigation in respect of SPAs or other legislative provisions considered.

For these reasons, the costs appeal was refused.

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**Ward:** Tankerton  
**Appellant:** Mr D Town  
**Application No:** CA/18/01271/OUT  
**Proposal:** Outline application for a detached building containing 2 no. flats with all matters reserved.  
**Location:** Land adjacent 49 Queens Road, Whitstable, CT5 2JJ  
**Application Decision Level:** Delegated

**Planning Inspector:** John Morrison  
**Appeal Decision:** *Appeal dismissed*

The application was refused under delegated powers on the grounds that the proposal would represent a cramped and visually intrusive form of development out of character with the area, it would not provide adequate outdoor space or on-site parking facilities and the applicant failed to secure the delivery of necessary measures to mitigate the impacts of the proposed development on the North Kent Marshes SPA and The Thanet Coast and Sandwich Bay SPA.

The Inspector acknowledged that a scheme for a two storey building comprising two single bed flats could theoretically fit on the site but the resulting plot would be very restrictive, crowded and lack the spaciousness of others in the area. As such, he considered this to be harmful to the character and appearance of the area.

In terms of outdoor space, the Inspector stated that neither the national standards nor policy DBE4 of the Local Plan set out a minimum expected garden size required by new development, with the latter only stating that outdoor space should be provided, which it would be. The Inspector states that as a flatted development, the expectation for a large garden would be different to that of a conventional family dwelling and as such, he found the space provided would suit the single intended occupiers.

Turning to parking, the inspector found that the lack of parking provision was acceptable given the capacity for on-street parking within the street, and considered that the development in isolation would not give rise to an obstacle in the highway.

For these reasons, the appeal was dismissed.

A costs appeal was also submitted on the grounds that the Council determined the application after its initial target date and this was due to the original case officer leaving the Council. The Inspector found the time taken to determine the application not to be unacceptably long given the circumstances.

For these reasons, the costs appeal was refused.

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**Ward:** Little Stour and Adisham  
**Appellant:** Bob Britnell Planning Consultancy  
**Application No:** CA/18/01513/FUL  
**Proposal:** Proposed semi-detached two-storey dwelling following demolition of side extension together with hardstanding to front.  
**Location:** 23 Bifrons Road, Patrixbourne, CT4 5DE  
**Application Decision Level:** Delegated  
**Planning Inspector:** AJ Steen  
**Appeal Decision:** Appeal allowed

The application was refused under delegated powers on the grounds of the location of development being suitable and adjacent to settlements and the impact upon the character and appearance of the area.

The Inspector considered that the proposed development would not be in an isolated location and is within the settlement of Patrixbourne. He states that policy HD1 of the Local Plan includes an allocation of 14 dwellings adjacent to Bifrons Road, carried forward from an earlier plan and planning permission had been granted for 17 dwellings on that site. Five further dwellings have also be constructed in recent years within the gardens of houses on or adjacent to Bifrons Road, albeit these were approved prior to adoption of the Local Plan. The Inspector also stated that policy SP4 of the Local Plan supports development within Patrixbourne which specifically meets an identified local need. No local need has been identified to support the development proposed. Whilst the policy seeks to focus development elsewhere such that it discourages development within smaller settlements such as Patrixbourne, it does not preclude residential development in this location.

Whilst the Inspector acknowledged that Patrixbourne is in a rural area with limited services and facilities, such that residents are likely to rely on private cars for journeys, as do residents of other surrounding developments. However, he commented that there is a path alongside Station Road from Bifrons Road to the station in the neighbouring settlement of Bekesbourne, such that there is public transport access to services and facilities elsewhere.

The Inspector also commented that the propped dwelling would be in the form of a two storey extension to the house that is set back from the existing front elevation of the house with eaves and ridge height lower than the existing, with the main front door to the side such that it would have the appearance of an extension. He stated that whilst narrower than other houses in the street, it would be of modest design and appear as a subservient addition to the existing house and as such, would not harm the character and appearance of the existing building and the surrounding area.

For these reasons, the appeal was allowed.

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