

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: Heron
Appellant: J C Rook & Sons Ltd
Application No: CA/18/01774/FUL
Proposal: Change of use of first and second floors to form 3 no. flats together with second floor rear extension and alterations to shopfront.
Location: 118 Mortimer Street, Herne Bay, CT6 5EB
Application Decision Level: Delegated
Planning Inspector: S J Papworth
Appeal Decision: Appeal dismissed

The application was refused under delegated powers on the grounds that the proposed layout and separation distances of the development would result in loss of privacy and overlooking towards 163 High Street. The application was also considered to provide a poor standard of accommodation for the future occupiers as a result of overlooking between the proposed flats and noise and disturbance. The application was also refused on the grounds of SAMMS contributions not being secured.

The inspector noted that the location and layout of Unit 2 risks harmful overlooking of properties on High Street and the outdoor amenity area being largely surrounded by built form would exacerbate noise and disturbance at bedroom windows.

For these reasons, the appeal was dismissed.

Ward: Chestfield
Appellant: Kitewood Estates Limited
Application No: CA/17/00469/OUT
Proposal: A mixed use development including up to 300 dwellings and 3,500sqm of employment floorspace comprising: Detailed proposals for the erection of 140 residential dwellings, 1 no. Local Area of Play (LAP), vehicular access from Reeve's Way and emergency access from Richmond Road, associated internal roads, footpaths and cycleways, open space, associated car park and overspill car park from Reeves Way, pumping station and landscaping.
Outline proposal for up to 160 dwellings and 3,500sqm of employment (Use Class B1 (a)) with

associated parking, allotments, MUGA and open space with all matters reserved except access (excluding internal circulation).

Location: Grasmere Gardens, Land South of The Ridgeway, Chestfield

Application Decision Level: Committee (in line with officer recommendation)

Planning Inspector: Richard Schofield

Appeal Decision: Appeal allowed

The application was refused under delegated powers on the grounds that the proposed main access to the site from Reeves Way would be unsafe and unsuitable to all users (in particular, emergency vehicles) without the provision of the emergency access onto Richmond Road, which the applicant has failed to demonstrate could be delivered and maintained. In addition, the application was refused on the grounds of highway works, provision of open space, community infrastructure, affordable housing and SAMMS contributions not being secured.

The applicant entered into legal agreement, securing all the necessary planning obligation and this addressing reasons 2, 3 and 4 for refusing the application. In respect to the first reason for refusal, KCC Highways agreed that the emergency access will be adopted by them as public highway - the emergency access could be secured and so the first reason for refusal was overcome.

The Inspector noted that on the basis of all the evidence, the proposal would provide safe and secure access into the site, which could be retained in perpetuity.

For these reasons, the appeal was allowed.

A costs application was also submitted by the applicant but following the agreement of the emergency access arrangement and planning obligations, this was withdrawn.

Ward: Nailbourne

Appellant: Mr M Aaronovitch

Application No: CA//18/01348/FUL

Proposal: Change of use from shop to dwelling.

Location: 59 High Street, Bridge, CT4 5LA

Application Decision Level: Delegated.

Planning Inspector: R Norman

Appeal Decision: Appeal dismissed

The application was refused under delegated powers on the grounds that it would pose a significant risk of flooding to the future occupiers and it would fail to provide acceptable standards of accommodation for the future occupiers.

The Inspector noted that the application failed to demonstrate that the proposed development would not pose a flood risk to future occupiers. In addition, the Inspector identified that a lack of private amenity space would not provide suitable living conditions for future occupiers.

For these reasons, the appeal was dismissed.

Ward: St Stephens
Appellant: Mr Douglas Wood
Application No: CA//19/00491/FUL
Proposal: Proposed first-floor side and first floor rear extension, canopy and gable feature to front, roof extension, Juliet balcony and cladding to dwelling.
Location: 6 Hever Place, Canterbury, CT2 7QP
Application Decision Level: Delegated
Planning Inspector: S J Papworth
Appeal Decision: Appeal allowed

The application was refused under delegated powers on the grounds that the first floor side extension over the existing garage would result in a loss of space between the application site at 5 Hever Place, which was considered to be a characteristic repeated within the street scene.

The Inspector noted that the loss of space between the house and 5 Hever Pace would not harmfully erode the rhythm of space or built form in this cul-de-sac and that there would remain some open space to the west within the curtilage.

For these reasons, the appeal was allowed.

Ward: Greenhill
Appellant: Miss D Wigman
Application No: CA//18/01691/FUL
Proposal: Proposed bungalow with accommodation in the roof space together with associated parking, following demolition of existing workshop and outbuildings.
Location: Land adjacent to 2 Woodland Road, Herne Bay
Application Decision Level: Delegated
Planning Inspector: S J Papworth
Appeal Decision: Appeal dismissed

The application was refused under delegated powers on the grounds that the development would represent overdevelopment of the site that would not follow the pattern of development in the area. In addition, it was considered that the proposed dwelling would have an unacceptable overshadowing and overbearing impact on the living conditions of neighbouring property occupiers and would also be harmful to the living conditions of future occupiers given the lack of amenity space. The application was also refused on the grounds of SAMMS contributions not being secured.

The Inspector noted that the limited size, cramped plot and forward position of the proposed dwelling would harm the character and appearance of the area, and not represent high quality

design. With regard to the impact on living conditions, the Inspector concluded that the size of the site militated against the design of an adequate amount of amenity space and the overhang of the proposed building would adversely affect daylight to the neighbouring property. The proposed building's location was also found to appear overbearing in outlook from 32 Blackburn Road but would not cause undue harm through loss of sunlight as other areas of the garden would remain sunny.

For these reasons, the appeal was dismissed.

Ward:	Nailbourne
Appellant:	Mr Numan Sherifali
Application No:	CA/18/02139/FUL
Proposal:	Proposed single-storey detached dwelling.
Location:	Land between Ela's House and Linkfield, Westcourt Lane, Woolage Green, Womenswold
Application Decision Level:	Delegated.
Planning Inspector:	Neil Smith
Appeal Decision:	Appeal dismissed

The application was refused under delegated powers on the grounds that the development would involve backland development that is uncharacteristic of the area and would be harmful to the character and appearance of the conservation area, the setting of the adjacent listed building and the character of the landscape designated as an Area of High Landscape Value (AHLV) and an Area of Outstanding Natural Beauty (AONB). The application was also refused given the site's location outside of an urban area, resulting in an unsustainable and harmful form of development.

The Inspector noted that there was an absence of supporting evidence identifying a need for housing in this location from either the Parish Council or a community forum and therefore found the site not a suitable location for housing with regards to the accessibility to services and facilities.

The inspector also noted that the proposal would unacceptably reduce the openness in this part of the hamlet and be an incongruous form of development that would harm the setting of the conservation area and also the listed building. The Inspector also stated that the development would fail to preserve or enhance the natural beauty of the AHLV and the AONB as a result of the erosion of openness and rural character of the landscape.

For these reasons, the appeal was dismissed.

Ward:	Gorrell
Appellant:	Suzanne Folkard
Application No:	CA/18/01977/FUL
Proposal:	Proposed two-storey detached dwelling.
Location:	Land r/o 4 Cromwell Road, Whitstable, CT5 1NW

Application Decision Level: Delegated.
Planning Inspector: M Heron
Appeal Decision: Appeal dismissed

This application was refused under delegated powers on the grounds that it would have resulted in a cramped and contrived form of development detrimental to the character and appearance of the streetscene and the Whitstable Town conservation area. In addition, it was considered that the proposed dwelling would have had an unacceptable overlooking impact on the living conditions of neighbouring occupiers at 4 Cromwell Road. The application was also refused on the grounds of SAMMS contributions not being secured.

The Inspector concluded that the unduly cramped appearance of the proposed dwelling would unacceptably harm the character of the conservation area and not be outweighed by any public benefit. The Inspector agreed that the two first-floor, north facing windows would unacceptably impact the privacy of the neighbours at 4 Cromwell Road, whilst the proposed revision of blanking out those two windows and providing rooflights instead would have resulted in an unacceptable outlook for future occupiers.

For these reasons, the appeal was dismissed.

Ward: Chartham and Stone Street
Appellant: Mr Peter Bell
Application No: CA/18/00836
Proposal: Application for a certificate of lawfulness of proposed works to a listed building for a plaque
Location: Youngs Farm, Catt's Wood Road, Lower Hardres, CT4 5PG
Application Decision Level: Delegated
Planning Inspector: Sandra Prail
Appeal Decision: Appeal dismissed

A Lawful Development Certificate was not granted on the grounds that listed building consent was required for the proposed works as they would affect the external character of the listed building.

The Inspector noted that irrespective of whether this proposal would represent a fixture or a fitting, the plaque has the potential to affect the character of the listed building for example by virtue of its size, design or location and as such, the proposal requires listed building consent.

For these reasons, the appeal was dismissed.

Ward: Sturry
Appellant: Gladman Developments Limited
Application No: CA/18/001305

Proposal: Outline application for up to 140 dwellings including access

Location: Land north of Popes Lane, Sturry, CR2 9JZ

Application Decision Level: Delegated

Planning Inspector: John Felgate

Appeal Decision: Appeal dismissed

The application was refused under delegated powers on the grounds that the site was considered to be unsustainably located outside any settlement identified as potentially suitable for further development. It was also refused because of the potential impact on the highways network, the setting of nearby listed buildings and the character and appearance of the landscape; and because of the loss of best and most versatile farmland. Further reasons for refusal related to the failure to secure developer contributions and air quality mitigation.

The appellant argued that the Council could only demonstrate a 3.8-year housing land supply. The Council disputed this and submitted evidence to demonstrate a 6.7-year housing land supply. The Inspector concluded that on the evidence submitted, the Council could demonstrate a 4.8-housing land supply. He also accepted the appellant's argument that Local Plan policy could be sufficiently flexible to allow for a housing development such as that proposed on the edge of Sturry. He concluded that the impact of the proposal on the nearby listed buildings and the landscape would be insignificant and that in view of his findings on housing land supply, the loss of agricultural land could be justified in terms of meeting housing need. The Inspector also accepted that reasons for refusal relating to developer contributions and air quality mitigation no longer applied as the appellant had submitted a legal agreement to secure these.

However, the Inspector agreed with the Council that the proposal would result in an unacceptable and severe impact on the highways network and that mitigation from unrelated housing development could not be relied upon. The Inspector also noted that Natural England had, during the course of the Inquiry, raised concern over the impact of the proposal on the nearby Stodmarsh Special Area of Conservation (SAC) and that therefore one could not be certain that the development would not harm the SAC.

For these reasons, the appeal was dismissed.

The Council has subsequently issued a press statement setting out that while it welcomed dismissal of the appeal, it disagreed with the Inspector's findings in particular regarding housing land supply and Local Plan spatial policy. It is the Council's position that it can demonstrate in excess of a 5-year housing land supply.

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