

PLANNING COMMITTEE
30 MAY 2012
REPORT ON APPEAL DECISIONS
JANUARY - MARCH 2012

Report from: Robin Cooper, Director Regeneration, Community and Culture

Author: Dave Harris, Development Manager

Summary

This report informs members on appeal decisions. The summary of appeal decisions is listed by ward in Appendix A. Further information on costs is given in Appendix B

A total of 21 appeal decisions were received during January to March 2012, of which 7 were allowed, 13 dismissed and 1 split decision.

1. Budget and Policy Framework

1.1 Not applicable.

2. Background

2.1 When a planning application is refused, the applicant has the right to appeal within six months of the date of decision for non-householder appeals. For householder applications the time limit to appeal is 12 weeks. A householder application means (a) an application for planning permission for development of an existing dwelling house or development within the curtilage of such a house for any purpose incidental to the enjoyment of the dwelling house or, (b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development.

2.2 Appeals can also be lodged against conditions imposed on a planning approval and against the non-determination of an application that has passed the statutory time period for determination.

2.3 Where the Council has taken enforcement action through the serving of an Enforcement Notice then an appeal can be lodged in relation to that. An appeal cannot be lodged though in relation to a breach of condition notice on the basis primarily that if the individual did not like the condition then they could have appealed against that at the time it was originally imposed.

2.4 The appeals are determined by Inspectors appointed by the Secretary of State and administered by the Planning Inspectorate, which informs Medway Council of the Inspector's decision.

3. Options

3.1 Not applicable.

4. Advice and analysis

4.1 Not applicable.

5. Consultation

5.1 Not applicable.

6. Financial and legal implications

6.1 An appeal may be determined after a Public Inquiry, a Hearing or written representations. It is possible for cost applications to be made either by the appellants against the Council or vice versa if it is alleged that either has acted in an unreasonable way.

6.2 It is possible for decisions made by Inspectors on appeal to be challenged through the courts but only if it is considered that an Inspector has erred in law, for instance by not considering a relevant issue or not following the correct procedure. A decision cannot be challenged just because an Authority does not agree with it. A successful challenge would result in an Inspector having to make the decision again in the correct fashion, e.g. by taking in to account the relevant factor or following the correct procedure. This may lead ultimately to the same decision being made.

6.3 It is possible for planning inspectors to make a "split" decision, where they allow one part of an appeal but not another. This is not possible for the Council when it makes its original decision on the planning application other than for an advert application.

7. Risk Management

7.1 Monitoring of all appeal decisions is undertaken to ensure that the Council's decisions are being defended thoroughly and that appropriate and defensible decisions are being made by Committee and under delegated powers. The lack of any monitoring could lead to more decisions going contrary to the Council's decision possibly resulting in poorer quality development and also costs being awarded against the Council.

8. Recommendations

- 8.1 This report is submitted for information only and therefore, there are no recommendations for the Committee to consider.

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Background papers

Appeal decisions received from The Planning Inspectorate for the period January – March 2012.

GILLINGHAM NORTH

The Railway Hand Car Wash, 2 Railway Street, Gillingham, Kent, ME7 1XF, Gillingham North, (ME):

Appeal A

MC/11/0396 - Refusal - 18 April, 2011 - Delegated

Retrospective application for part change of use of site from car sales to hand car wash

Allowed with Conditions

The Railway Hand Car Wash, 2 Railway Street, Gillingham, Kent, ME7 1XF, Gillingham North, (ME):

Appeal B

ENF/10/0610 – Enforcement Notice Issued 26 August 2011.

The breach of planning control as alleged in the notice is the unauthorised use of the land for hand car wash purposes.

No Action Required

Main Issue

In respect of Appeal A this is the likely effect of the development on ground water conditions and the implications of this, having regard to local and national policy on these matters. If Appeal A fails and it becomes necessary to consider Appeal B the issue in that appeal would be whether the period allowed for compliance with the enforcement notice is too short.

The appeal site is in a generally commercial area close to a main railway line and immediately adjoining Gillingham station car park. The closest houses seem to be those on the far side of the railway line. In such a location it would not be expected there to be any material impact on the living conditions of local residents and no residents appear to have objected to the car wash.

As the previous authorised use of the site appears to have been for car sales, an element of car valeting and washing could reasonably have been expected to occur. It is realistic to expect it to be practicable to implement measures that would ensure that any effect on ground water would be no greater than with the previous use.

Appeal A should be allowed and planning permission granted. By virtue of s180 of the Act this means that the enforcement notice that is the subject of Appeal B will cease to have effect. There is therefore no need to consider Appeal B which would have been concerned only with the adequacy of the time allowed for complying with the requirements of the notice.

Conditions

1. The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within one month of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i. within 3 months of the date of this decision a scheme setting out the measures to be implemented to ensure that the impact on ground water conditions of surface and other water draining from the site is no greater than that of the previous authorised use shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation;
 - ii. if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State;
 - iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.
2. The measures included in the approved scheme shall be retained in working order for so long as the use hereby permitted continues on the site.

GILLINGHAM SOUTH

14 Duncan Road, Gillingham, ME7 4LE, Gillingham South, (MBJ):

MC/11/0746 - Refusal - 20 April, 2011 - Delegated

Variation of condition 2 of planning consent MC/10/3384 to alter opening hours to 6:00am to 23:00pm Monday to Sunday

Allowed with Conditions

A general store is now trading at the appeal site. The appellant wishes to extend the opening hours from those originally imposed to between 0600 and 2300 hours every day of the week. The main issue is the effect of these proposed times on the living conditions of adjoining and nearby residents in Duncan Road.

Given the location of the site the current restrictions within Condition 2 are unduly onerous. They are neither reasonable nor necessary having regard to the viability of the business and the mixed environment along Duncan Road which itself is busy with traffic. Nevertheless given the immediate proximity to housing some restriction on the opening times is required.

The use should generally be restricted to opening hours of 0700 to 2300 hours. This would avoid conflict with the times that people are normally asleep. It would also put the shop on a par with other similar establishments in the locality such as 82 Balmoral Road. Whilst Sunday is no longer a traditional 'day of rest' it is when residents are more likely to be relaxing at home so that an hour of trading should be

'shaved off' each end of the day. The same applies to Public Holidays. A condition to this effect would strike the right balance between commercial and environmental interests.

The hours should be adjusted as indicated above and the appeal should succeed. Deciding it in this way would not harm the living conditions of adjoining or nearby residents and would accord with the development plan. A new planning permission should be granted without the disputed condition but substituting a replacement and retaining the relevant non-disputed conditions from the previous permission.

New Condition

1. The use hereby permitted shall only take place between 0700 and 2300 hours on Mondays to Saturdays and between 0800 and 2200 hours on Sundays and Public Holidays.

173 Nelson Road, Gillingham, ME7 4NB, Gillingham South, (ME):

MC/11/2202 - Refusal - 28 November, 2011 - Delegated

Construction of a vehicular crossover and the removal of the existing front boundary treatment.

Dismissed

The main issue is whether the proposed development would preserve or enhance the character or appearance of the Gillingham Park Conservation Area.

173 Nelson Road is in a small terrace of five two-storey properties on the western edge of the Conservation Area. The terrace is constructed of yellow brick. Each property has red brick arches, cornices and decorative terracotta panels. The terrace's frontage originally comprised low brick walls, topped with wrought iron railings, and waist high iron gates. Some of this detailing has been lost but the terrace retains a generally uniform appearance that represents an attractive and significant contribution to the character and appearance of the Conservation Area.

Although there is no objection to the construction of a dropped kerb on highway grounds, the loss of the front boundary wall, an aspect specifically brought within planning control by the Article 4(2) Direction, would erode the character of the terrace within which No 173 sits. The loss of No 173's front boundary wall would result in material harm and be to the detriment of the preservation of the character and appearance of the Conservation Area.

HEMPSTEAD & WIGMORE

Pemberth Lodge, Spekes Road, Hempstead, Gillingham, ME7 3RT, Hempstead & Wigmore, (PI):

MC/11/2104 - Refusal - 16 November, 2011 - Planning Committee

Part retrospective application for the changes in the land levels to the front garden and the construction of retaining walls to North, South & West boundaries, together with new front entrance gates & pillars

Allowed with Conditions

The main issue to be the effect of the proposal on the character and appearance of Spekes Road.

Pemberth Lodge is a large detached house set back from the road by a considerable distance. It lies on the eastern side of Spekes Road, on land that slopes down towards the road. Spekes Road is a narrow un-made road and the numerous trees and hedges, together with the distance of the dwellings from the road, provides a semi-rural character.

The appeal site includes a number of trees safeguarded by a Tree Preservation Order (TPO). Previous excavation works have affected the root systems of some of the trees on the site. The Council required the appellant to remove and replace two of these trees because it was felt that the effect of the excavations on the roots could make the trees unstable.

The width of the proposed drive would be similar to the original driveway, aside from a passing place. Although the proposal would include a large parking and turning area close to the dwelling, views of this would be limited by the proposed pinch point and adjacent landscaping. This would include a hazel copse that would filter any views of this area. The meandering form of the proposed driveway and variations in its width would reflect the semi-rural character of this part of Spekes Road.

The proposal would not harm the character and appearance of Spekes Road.

Conditions

The trees on the appeal site should be protected during construction, and that notwithstanding the details shown on the submitted plans, a landscaping scheme is required. The appeal property is a private garden and so a maintenance schedule is not necessary.

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. No development shall take place until samples of the materials to be used in the construction of the retaining wall, piers and gates hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
3. All the trees and hedges shown on the Plan No.10.12.03/4A as to be retained shall be protected by strong fencing in accordance with British Standard 5837 "Trees In Relation To Construction" ,the location and type to be previously approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

4. Notwithstanding the details shown on plan number 10.12.03/4A, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a landscaping scheme showing details of new trees and shrubs and the programme for their planting, and any existing trees/hedges to be retained. The details shall include schedules of plants, noting species, plant sizes where appropriate. If, within a period of 5 years from the date of planting, any tree or plant is removed, uprooted, destroyed or dies, another of the same species and size shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
5. The development hereby permitted shall be carried out in accordance with the following approved plan 10.12.03/4A.

LORDSWOOD & CAPSTONE

177 Ballens Road, Lordswood, Chatham, ME5 8PG, Lordswood & Capstone, (PI):

MC/11/1896 - Refusal - 24 October, 2011 - Delegated

Construction of a single storey front extension with pitched roof over and a two storey side extension

Dismissed

The main issue to be the effect of the proposal on the character and appearance of Ballens Road.

The appeal property is one of a group of dwellings arranged around a small green. It is an end of terrace property separated from Ballens Road by a side garden about 6 metres wide.

The proposed two storey side extension would be similar in design and appearance to the existing dwelling. It would be set back from the front elevation and would have a lower roofline.

The way in which the dwellings are arranged around the green, and the separation of the end of terrace dwellings from the highway contributes to the open and spacious character of this part of Ballens Road. Due to the height and proximity of the proposed extension to the highway, it would detract from the spacious appearance of this group of dwellings and would be unduly obtrusive within the street scene.

99 Ballens Road, Lordswood, Chatham, ME5 8PD, Lordswood & Capstone, (ME):

MC/11/2216 - Refusal - 25 October, 2011 - Delegated

Construction of a part single storey side & rear extension to provide new kitchen/dining area; utility room and replacement garage

Dismissed

The main issue is the effect of the proposed extensions on the living conditions of adjoining neighbours at No.97 Ballens Road in respect of loss of light and outlook.

The appeal building is a two storey semidetached dwelling located in a residential area. The Council has raised no objection regarding the proposed single storey side extension.

The proposed rear extension would be single storey with a flat roof. It would occupy the full width of the rear elevation of No.99 and would project for a distance of around 5.5 metres towards the rear garden. The attached neighbouring dwelling, No.97 Ballens Road, has glazed doors in its rear elevation serving a lounge. No.97 is located directly to the north of No.99 and already experiences some loss of light to its lounge doors and part of the garden because of a screen boundary fence.

Although it would have a flat roof to minimise its height, the proposed rear extension would result in a significant increased loss of sunlight to the lounge doors and part of the rear garden of No.97 during the middle part of the day. There would also be an increased loss of daylight received by the lounge doors. This is because of the degree of projection of the proposed rear extension and its proximity to the boundary. For the same reasons the extension would also result in a detrimental loss of outlook for the occupants of No.97 from their glazed lounge doors.

PENINSULA

1 Ropers Farm, Ropers Green Lane, High Halstow, Rochester, ME3 8AD, Peninsula, (JN):

MC/11/2011 - Refusal - 19 September, 2011 - Delegated

Construction of a two storey rear extension

Dismissed

The main issue is the effect of the proposal on the countryside.

The existing dwelling is relatively modern with three bedrooms and has been extended before, increasing the size of the house by 29%. The proposed two-storey extension would result in extensions that would result in a 66% increase over the original dwelling's floorspace. This would not be a modest extension and would fall outside the suggested limit of 25%.

The proposed house would entail development of a permanent nature which would remain long after the personal circumstances of the appellants have ceased to be material.

The proposal would not accord with the relevant requirements of the development plan and is unacceptable.

PRINCES PARK

19 Highgrove Road, Princes Park, Chatham, ME5 7QE, Princes Park, (ME):

MC/11/2395 - Refusal - 8 November, 2011 - Delegated

Construction of a two storey side extension with single storey to front, enlargement of off road parking area and dropped kerb to front (demolition of existing garage)

Dismissed

19 Highgrove Road, Princes Park, Chatham, ME5 7QE, Princes Park, (ME):

MC/11/2915 - Refusal - 9 January, 2012 - Delegated

Construction of a part two storey/part single storey side extension, enlargement of off road parking area and dropped kerb to front (demolition of existing garage)

Dismissed

The main issue in both appeals is the effect of the proposal on the living conditions of occupants of 24 Bronington Close, with particular reference to the potential for overshadowing.

Appeal A

The proposed extension would be built up to the side boundary of the appeal property and would be significantly taller than the single-storey garage which it would replace. The garden depth of No.24 is limited, and given the close proximity between the appeal property and No.24, the significant change in levels and the orientation, the proposed extension would result in material overshadowing of most of the private rear garden of that neighbouring property for a large part of the day. The proposal would fail to protect those amenities enjoyed by adjacent properties in terms of daylight and sunlight.

Appeal B

The extension would be lower, narrower and less deep at first-floor level compared to the scheme submitted under Appeal A. Although the proposal would have less impact on neighbouring residents than the larger scheme, the reductions in the size and scale of the extension would not significantly reduce overshadowing of the garden of No.24. This is due to the fact that the proposal would still be unacceptably close to the neighbouring property in the context of the respective land levels and the limited garden depth of No.24

Conclusion

Both appeals are dismissed.

RAINHAM CENTRAL

59 Chalfont Drive, Rainham, Gillingham, ME8 9DW, Rainham Central, (ME):

MC/11/2060 - Refusal - 19 September, 2011 - Delegated

Removal of condition 2 of planning consent MC/10/2467 to enable the rooflights to be clear glazed and openable.

Allowed

The main issue in this case is the effect of the development on the living conditions of the adjoining occupiers, with particular reference to privacy.

The appeal extension has formed a catslide roof with the host dwelling. Within that roof plane there are many rooflights and sun tunnels in the neighbours' full view above boundary fencing and a single detached garage, which sits alongside the common boundary and partly separates the two sets of properties.

The perceived threat of potential overlooking is unsupported by evidence. Whether the rooflight windows were open or shut, clear glazed or obscure glazed, would make little difference to any potential for overlooking. Little difference to the perception of overlooking would result, because fixed, obscure glazed rooflight windows would look much the same as now. The subject condition is not necessary.

In conclusion on the main issue, the development does not unacceptably affect the living conditions of the adjoining occupiers.

10 Cherry Amber Close, Rainham, Gillingham, ME8 8LA, Rainham Central, (ME):

MC/11/2466 - Refusal - 8 November, 2011 - Delegated

Construction of a single storey front extension (demolition of existing front porch)

Dismissed

The main issue is the effect of the proposed extension on the character and appearance of the street scene.

The appeal building is a modern semidetached dwelling located in a cul-de-sac that has dwellings of a matching design. The dwellings are set back from the highway and the estate layout is open-plan in style.

The extension has been designed to result in minimal change to the appearance of the front elevation of the dwelling when viewed from the road. It would also have a flat roof. However, the side elevations of the extension and its overall bulk and mass would make it clearly visible as a discordant feature when viewed from various points within the cul-de-sac. The proposed extension would be particularly prominent and harmful in the street scene because of the open character of the house frontages.

RAINHAM SOUTH

26 Hunstanton Close, Parkwood, Gillingham, ME8 8RL, Rainham South, (ME):

MC/11/2507 - Refusal - 12 January, 2012 - Delegated

Construction of a first floor side extension

Dismissed

The main issue in this appeal is the effect of the proposal on the character and appearance of the area.

The appeal site is an end of terrace property in a residential estate where nearby houses are of a similar design. The houses are set back from the road and where they are on corners there are sizeable spaces between the side of houses and the edge of the public footpath. These factors contribute to the regular and spacious character and appearance of the area.

The proposed extension would be set back from the front and rear main walls of the house and the ridge height would be less than that of the house. However, the side wall would be immediately above the side wall of the existing ground floor extension which is adjacent to the back edge of the footway. Thus there would be no space at first floor level between the building and the footpath and this would be detrimental to the regular and spacious character and appearance of the area. Also the side wall would be relatively featureless and prominent and this would exacerbate the harmful effect of the proposed extension.

The proposed extension would entail development of a permanent nature which would remain long after the personal circumstances of the appellants have ceased to be material.

The proposed extension would detract from the character and appearance of the area.

ROCHESTER EAST

40 Fleet Road, Rochester, ME1 2PX, Rochester East, (PI):

MC/11/2002 - Refusal - 15 November, 2011 - Delegated

Retrospective application for changes to land level and construction of new vehicular hardstanding; retaining wall and crossover

Appeal Allowed

The main issues are the effect of the development on the character and appearance of the area and on highway and pedestrian safety.

The appeal property comprises a semidetached dwelling on a road of other similar properties. Front gardens in the vicinity comprise a variety of treatments, including grassed areas, shrub planting as well as hardstandings for vehicles.

The area between the back of the hardstanding and the house has a narrow 'planter' with various shrubs which once fully established will provide a softening effect. Furthermore, the curved retaining walls also provide interest in the design, so that the area does not appear as an unrelieved expanse of paving. The materials used for the wall and paving are attractive and, given that there are a variety of treatments to the front gardens in the vicinity, the scheme does not appear discordant in this location.

The appellant has confirmed that it is not intended to park a vehicle on the southern portion of the drive where the depth is less than the Council's minimum standard. The northern portion, which exceeds the Council's standard, is of sufficient overall size to allow for the parking of an average sized family car so as to avoid any overhang. The fact that the minimum depth is not maintained for the full width of the drive is not a reason to withhold permission.

ROCHESTER SOUTH & HORSTED

343 Maidstone Road, Chatham, ME5 9SE, Rochester South & Horsted, (WS):

MC/11/1392 - Refusal - 13 July, 2011 - Planning Committee

Construction of a two bedroom single storey house (Demolition of existing detached double garage)

Allowed with Conditions

The main issue in this case to be the effect of the proposal on the character and appearance of the area.

The appeal site comprises the rear part of the back garden of No 343 Maidstone Road, Access to the site is via a shared driveway that runs between Nos 339 and 343 providing access to a number of private garages (including the one on the appeal site) as well as a detached property at No 341.

The area is characterised by a mix of houses and bungalows of varying styles and sizes, and no single design predominates. The proposed design would be uncompromisingly contemporary utilising modern materials, including a 'green roof' and would comprise an L-shaped block-like single storey structure, with large glazed windows serving the lounge and bedroom, and an external patio area. Whilst the proposed design concept does not draw on any others in the vicinity, the appellant has attempted to achieve an interesting and high quality modern design. The dwelling's floor level would be set below the existing ground level, which combined with its flat roof form, would reduce its overall bulk and ensure it would not appear prominent in the locality. It would not be conspicuous from Maidstone Road, and the existing garage to the east would partially obscure the dwelling when viewed from No 341.

The northern and southern boundaries of the site are generally well vegetated, which would provide a degree of screening around the dwelling, particularly in the summer months. The proposed dwelling would sit comfortably within its proposed plot and would not appear cramped. It would have adequate amenity space around it, and although the existing garden of No 343 would be reduced, it would still retain a sizeable garden.

Overall, the proposal would integrate satisfactorily with the locality and would not harm the character and appearance of the area.

Costs Decision

The application for an award of costs by the appellant is refused.

24 Horsted Way, Horsted, Chatham, Rochester, ME1 2XY, Rochester South & Horsted, (SF):

MC/11/0625 - Refusal - 20 May, 2011 - Delegated

Construction of a 4-bedroomed detached dwelling with associated vehicular crossover and a 1.2m high boundary wall to front (demolition of existing dwelling)

Dismissed

The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

The appeal site is in a residential area and has a frontage on to a main road. Other houses in the area are of varying designs. While there is some degree of variation in terms of individual house designs, there is also a sense of spaciousness and uniformity resulting from the similar set back from the road, height of most of the buildings and amount of architectural detailing.

The proposed house would have a flat, unimaginative and relatively featureless front elevation and this, together with the large hipped roof planes surrounding the flat roof element would result in the house appearing bulky and would not respect the more articulated and detailed appearance of other houses in the vicinity. The proposed gaps to the side boundaries would be about 1.5m and 2m and while, in themselves, these spaces would not be completely out of place in the area, when combined with the other features described above they would result the proposed house appearing considerably larger than others nearby. The limited architectural features proposed, such as the front facing, apparently unused, dormer windows and the canopy with supporting pillars, would accentuate the perceived size of the house that would be incongruous in the street scene.

The proposed house would be unduly large and dominant and would be detrimental to the spacious and uniform aspects of the character and appearance of the area.

STROOD NORTH

4 Richmond Drive, Strood, Rochester, Kent, ME2 3LU, Strood North, (DC):

ENF/10/0462 – Enforcement Notice Issued 16 September 2011.

The breach of planning control as alleged in the notice is the erection of a 2.5 metre high wall on the north and north eastern boundary of the rear garden of the property.

Split Decision

The main issue is the effect that the wall has on the streetscene and, if it is harmful, whether there are any other considerations, such as the appellant's concerns regarding privacy and security, that are sufficient to outweigh that harm and thus justify permitting the wall to remain either at its current height or at some height between this and the height specified in the requirements.

The appeal property is a detached house on a corner plot, where Sherbourne Drive joins Richborough Drive, within a relatively recent housing development.

Structures similar in principle to the appeal wall are not unusual either in modern housing developments generally or in the particular area in which the appeal property is located. Moreover, they normally blend in most satisfactorily when they are constructed of bricks to match the adjoining houses, as the appeal wall is.

The Council's concern seems to be primarily the height of the wall, which exceeds 2m as viewed from the road. In part the wall is a retaining one and the level of the ground within the appellant's garden is higher than that immediately outside the wall. Although the base of the wall is higher than the adjoining part of Sherbourne Drive (and higher still compared to the end of this cul-de-sac) the gradients and changes in level are not particularly severe. The changes in levels have only a modest effect on the perception and impact of the wall. In addition, in many views the wall is seen against a backdrop of buildings constructed in similar materials and this reduces the visual impact that it has.

In conclusion, the wall is not excessively prominent or out of keeping. It causes some modest harm, but in respect of those parts of the wall that extend behind the appellant's house that harm is more than offset by the benefits of screening the rear garden. Such a conclusion is consistent with the lack of objections from the occupiers of the small number of properties on Sherbourne Drive.

However, where the wall runs along the side of the house, there is no obvious need for screening to maintain privacy whilst security concerns could be dealt with, if necessary, by relocating the gate. Moreover, it is this section of wall that is most noticeable from Richborough Drive. The balance of considerations is significantly different in respect of this part of the wall and that it needs to be reduced in height to protect the character and appearance of the streetscene.

The appeal should be allowed on the basis set out. As only part of the wall should be allowed to remain at its present height and the remainder needs to be lowered,

rather than granting planning permission, the requirements of the notice shall be varied to that effect.

Variations

1. The substitution of plan A attached to this decision for the one attached to the enforcement notice;
2. The deletion of requirement (i) and the substitution of the following requirement:
reduce the height of panels 1, 2, 3 and 4 as shown on Plan B attached to this decision so that the top of those panels is level with that of panel 5 and reduce the height of columns 2, 3, 4 and, if necessary, 5 again as shown on Plan B so that their tops are level with that of column 6;
3. In requirement (ii), the deletion of all words after 'damage' and their replacement with the following: '.....and clear any resultant rubble.'

STROOD RURAL

Plot 2, Merryboys Stables, Merryboys Road, Cliffe Woods, Rochester, Kent ME3 7TP, Strood Rural, (sf):

MC/11/0232 - Refusal - 28 April, 2011 - Planning Committee

Construction of pitched roof over flat roof side projections, new roof to rear projection and insertion of rooflights to facilitate conversion to a 1-bedroomed dwelling

Dismissed

The main issues in this case are the effect of the proposal on the character and appearance of the surrounding area, and the local rural economy.

The appeal site is located close to a small cluster of residential properties fronting Merryboys Road and Perry Hill. With the exception of nearby Cliffe Woods, the surrounding area has a predominantly rural character, consisting mainly of small equestrian enterprises and agriculture. The appeal barn has a rural character that positively reflects its setting. Whilst it is located some distance from Merryboys Road, the appeal building is clearly visible from both Merryboys Road and the surrounding countryside due to the open nature of the adjoining land, including the school playing fields. The limited height of the surrounding hedgerows and trees means that the upper parts of the building, including the roof, are particularly prominent in views from the surrounding area.

It is proposed, however, to replace the existing roof over the rear projection with a tiled mono-pitched roof, which would extend from the single-storey rear eaves line to the main eaves line of the barn. Whilst this would alter its appearance, the resulting roof shape would be sympathetic to the character of this rural building. The proposed roofs over the existing side projections would, however, as a result of their pitches, which would be considerably steeper than the main roof, provide a bulky appearance.

Whilst no material harm would arise from the nature, scale and intensity of the proposed use, the alterations proposed to the barn would result in material harm to

the character and appearance of the surrounding area.

Notwithstanding that the previous proposal for class B1 industrial use was found to be unacceptable, there is no evidence to suggest that the location of the appeal site, or the appeal building itself, are unsuitable for other B1 uses or other economic development uses.

In the absence of any substantiated evidence to the contrary, the proposal could undermine the thrust of national and local policies that encourage diversification of the rural economy.

Costs Decision

The application for an award of costs against Mr Jaz Gill is refused.

38 Station Road, Cliffe, Rochester, ME3 7RX, Strood Rural, (PI):

MC/11/3054 - Refusal - 24 January, 2012 - Delegated

Construction of a first floor rear extension

Dismissed

The main issue is the effect of the proposed extension on the character and appearance of the existing dwelling and the wider area.

The appeal property is located towards the edge of a settlement in a rural area, and sits in a ribbon of houses of varying styles, opposite open fields. The appeal dwelling has single-storey and two-storey flat roofed elements to the side, and a single-storey flat roofed rear extension which spans the width of the original house. The main pitched roof section of the house retains its integrity as the majority of the flat-roofed elements are single-storey.

Given the depth of the existing rear extension, the cumulative visual impact of the appeal proposal and the two-storey side extension would result in the original dwelling being dominated by two-storey flat-roofed additions. The area of flat roof at first-floor level would be disproportionate relative to the scale of the original building, and would contrast awkwardly with the main pitched roof of the house.

The appeal proposal would not be satisfactory in terms of scale, mass, proportion, and details, and it would fail to respect the scale and appearance of buildings and the visual amenity of the surrounding area.

Due to its proposed depth, the extension would be a prominent feature in the rear garden that would have a visual impact on its wider setting, and this impact would not be mitigated by the siting of the neighbouring houses.

The appeal proposal would be detrimental to the character and appearance of the existing dwelling and the wider area.

TWYDALL

22 Hawkhurst Road, Twydall, Gillingham, Kent, ME8 6MU, Twydall, (ME):

MC/10/3841 - Refusal - 14 April, 2011 - Delegated

Change of use of land to residential to be used as a new parking area and a new vehicular crossover.

Dismissed

The main issues in this case are the effect of the proposal on the character and appearance of the surrounding area, and the living conditions of adjoining occupiers with reference noise and disturbance.

Character and Appearance

The appeal property forms part of a terrace of dwellings fronting Hawkhurst Road, a residential street. To the front of Nos 14 to 28 (even) Hawkhurst Road lies an area of amenity land, in the form of a grassed verge, which is mirrored by a similar, in parts wider verge on the opposite side of the road to the front of Nos 9 to 27 (odd) Hawkhurst Road. Overall, these areas, including the appeal site, provide a green and spacious appearance that positively contributes to the character of the area.

The proposal involves the change of use of the section of the grassed verge located to the front of the appeal property to residential parking, which would be laid to block paving and accessed by a new vehicle crossover, which the appellant advises has been approved. Whilst the area would remain open as a result of the proposed scheme, its grassed appearance would be lost. As a result, the positive contribution that the verge makes to the character and appearance of the area would be significantly eroded as a result of the appeal proposals.

Living Conditions

The formal parking space proposed would encourage vehicle movements closer to the front elevations of the appeal property and its neighbours than if the area was not used for parking. However, the formal parking space proposed would be separated from these elevations by a relatively short front garden and a pedestrian footway.

The proposal would not result in noise and disturbance that would cause material harm to the living conditions of adjoining occupiers.

Conclusion

Whilst the proposal would not harm the living conditions of adjoining occupiers and would contribute to the reduction of parking stress within the area, these factors would not overcome the material harm to the character and appearance of the surrounding area.

13 Danson Way, Rainham, Gillingham, ME8 7ES, Twydall, (ME):

MC/11/1336 - Refusal - 5 August, 2011 - Delegated

Change of use from amenity land to garden to allow for formation of off road parking area to front and side boundary walls/railings

Dismissed

The main issues in this appeal are the effect of the proposal on the character and appearance of the area and whether, if granted, the proposal would set a precedent.

Danson Way is a residential area primarily comprising semidetached houses. In the part of the road in which the appeal site is located, houses are separated from the road by a wide grass verge.

There are a number of hardsurfaced areas in the fronts of houses on the opposite side of the road from the appeal site and in the northern part of Danson Way. These developments have taken place some time ago, and none of them have planning permission.

Each application for planning permission has to be determined on its own merits and that the existence of similar developments, particularly if they may not have permission themselves, is not justification for a grant of planning permission. If permission was granted for this proposal the Council would find it difficult to resist other similar proposals. This would result in the area having a different character and appearance from that which currently exists.

At the time of the site visit, there was a car parked on the grass in front of No 13 resulting in the loss of a parking space on the street, which would also be the result of the dropped kerb as proposed. Therefore the proposal would result in only one additional parking space and this would not outweigh the harm identified to the character and appearance of the area.

APPENDIX B

Appeal Costs

2007/2008					
Reference	Site Location	Proposal Description	Decision Type (Delegated/Committee/ Committee Overturn)	Costs Awarded Against or For Council	Total Cost
MC2006/2202	130A Maidstone Road, Rochester, Kent, ME1 3DT	Change of use from shop (A1) to hot food takeaway (A5) and construction of brick built chimneystack to rear and three new parking spaces	Committee	For	£933.74
MC2006/0324	Land to rear of 1-3 Cedar Road, Strood, Kent	Outline application for residential development	Delegated	Against	£10,000
2008/2009					
Reference	Site Location	Proposal Description	Decision Type (Delegated/Committee/ Committee Overturn)	Costs Awarded Against or For Council	Total Cost
TPO M160/2005	Trechmans Wharf, Cuxton	Re use of land as wharf with: siting of prefabricated building and two cranes; installation of lighting; and formation of new access road to Rochester Road	Delegated	For	£10,464.29
MC2007/0156	3 Upper Luton Road, Chatham, ME5 7BH	Outline application for construction of four blocks comprising 22 flats and associated parking	Committee Overturn	Against	£23,739.49
MC2008/0208	Halfway House, 68 Saunders Street, Gillingham, ME7 1HU	Demolition of building and construction of a block containing nine 1-bedroomed self-contained flats with associated parking	Committee Overturn	Against	

MC2008/0383	Romany Lodge, Romany Road, Gillingham, Kent, ME8 6JH	Outline application for demolition of existing dwelling and construction of one 3-bedroomed bungalow, one 3-bedroomed detached house and two 4-bedroomed detached houses; associated garages, parking, access and turning area	Committee Overturn	Against	£9,496.81
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2009/2010

Reference	Site Location	Proposal Description	Decision Type (Delegated/Committee/ Committee Overturn)	Costs Awarded Against or For Council	Total Cost
MC/09/0503	Settersfield, 210 Maidstone Road, Rochester, Kent, ME1 3LP	Change of use from A1 (retail) unit into Class A5 hot food takeaway pizza shop with home delivery together with a first floor 1 bed flat for staff/manager above	Delegated	Against	

2010/2011

Reference	Site Location	Proposal Description	Decision Type (Delegated/Committee/ Committee Overturn)	Costs Awarded Against or For Council	Total Cost
MC/09/0409	Timber Barn, West Street Farm, West Street, Cliffe, Rochester, Kent, ME3 7TQ	Conversion and change of use from barn to dwelling including alterations to building and outbuilding	Delegated	Against	
MC/09/0362	224-228 Nelson Road, Gillingham, Kent, ME7 4LU	Construction of first floor infill extension; insertion of dormer window to side of 228 to facilitate conversion of buildings to 8 self contained flats together with the provision of bin store and car parking (Resubmission of MC2008/1484)	Delegated	Against for Site Visit	£442.74

COMP/07/0012 (ENFCASE200 7/0182D-P)	Land Known as, Former Conoco (also Known As Thameside Terminal) Site, Salt Lane, Cliffe, Rochester, ME3 7SU	Unauthorised creation of an industrial/business estate Mr Richard Miller (Panther Platform Rentals)	Enforcement	For	
COMP/07/0012 (ENFCASE200 7/0182D-P)	Land Known as, Former Conoco (also Known As Thameside Terminal) Site, Salt Lane, Cliffe, Rochester, ME3 7SU	Unauthorised creation of an industrial/business estate Britannia Assets (UK) Ltd	Enforcement	For	
MC2008/2000	Rock Avenue Working Mens Club, 2 Rock Avenue, Gillingham, ME7 5NP	Refurbishment of existing club premises and conversion of part of club including construction of an extension to side to form 9 apartments	Committee in line with Recommendation	For	£2,206.88
MC/09/1397	47 Wainscott Road, Wainscott, Rochester, ME2 4LA	Construction of single storey rear extension and change of use from shop (Class A1) to hot food takeaway (Class A5) and parking area to rear	Committee Overturn	Against	£600
COMP/09/0690	2 Pimpernel Way, Chatham, ME5 0SF	2132157 - Without the benefit of planning permission the erection of a garage building and shed/wc in connection with the unauthorised use of the Site for the storage, repair, dismantling & maintenance of motor vehicles. 2132159 - (i) Without the benefit of planning permission the change of use of the Site for the keeping of dogs. (ii) Without the benefit of planning permission the erection on the Site of a kennel building with runs. 2132164 - Without the benefit of planning permission the change of use of the Site to a mixed use for the storage of scaffolding and use for the	Enforcement	Against	£9,497.29 (figure not agreed yet)

		storage, repair, dismantling & maintenance of motor vehicles.			
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2010/2011					
Reference	Site Location	Proposal Description	Decision Type (Delegated/Committee/Committee Overturn)	Costs Awarded Against or For Council	Total Cost
MC/10/2069	9 Ash Tree Lane, Chatham, ME5 7ET	Construction of a one bedroomed bungalow	Delegated	Against	£742.50
MC/09/2401	259-261 High Street, Rochester, ME1 1HQ	Demolition of existing building and construction of new development for 22 units (9 two bedroom and 13 one bedroom) in two blocks with amenity space between parking for 16 cars and 24 bicycles to be in existing and extended basement level (Resubmission of MC/09/0824)	Delegated	Against	£12,089.70
MC/10/0216	55 High Street, Rainham, Gillingham, Kent ME8 7HS	Change of use from financial and professional services Class A2 to hot food take-away (Class A5) and installation of extraction flue	Delegated	Against	£5,256.24

2011/2012					
Reference	Site Location	Proposal Description	Decision Type (Delegated/Committee/Committee Overturn)	Costs Awarded Against or For Council	Total Cost
MC/10/1737	Forge Cottage, 214 Bush Road, Cuxton, Rochester, ME2 1HF	Outline application with all matters reserved for the construction of a 3 bedroomed detached dwelling with associated parking	Delegated	For (Partial)	£90.42

ENF/11/0094	113 Imperial Road, Gillingham, Kent, ME7 5PH	Without the benefit of planning permission the conversion of the Property into two 2 bedroom flats.	Enforcement	For (Partial)	
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