

PLANNING COMMITTEE
20 MAY 2014
REPORT ON APPEAL DECISIONS
JANUARY – MARCH 2014

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

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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 and C.

A total of 25 appeal decisions were received during January to March 2014, of which 13 were allowed 11 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 2014.

Appeal Decision Summaries

CHATHAM CENTRAL

69 Beaconsfield Road, Chatham, ME4 5SW, Chatham Central, (PI):

MC/13/2223 - Refusal - 30 October 2013 - Delegated

The development proposed is to demolish an existing attached garage and conservatory and erect a double storey side extension and single storey rear extension.

Allowed with Conditions

Main Issue

The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

The appeal property is a detached dwelling on the corner of Beaconsfield and Booth Roads to the south of Chatham town centre. The appeal property has a single storey garage adjoining its southern elevation, which would be demolished to make way for the proposed development. No 69 appears somewhat isolated in the street scene. The proposed extensions would increase the bulk of the host property but the two storey side extension would not disrupt either the existing building line or the current ridge height of No 69, whilst the single storey rear extension would be seen against the rear extensions that are a feature of the other properties along the east side of Beaconsfield Road. Providing that materials and detailing are compatible, the side extension would comfortably complement the form of the existing dwelling. The separation distances between No 69 and its neighbours would ensure that the proposed development should raise no issues affecting the living conditions of the occupants of any adjacent dwellings.

Other matters

The consequence of the proposed development would be the loss of two off-street parking spaces and some increase in the pressure for on-street parking. However, no highway objection has been raised to the proposed development, nor have any local residents raised this issue. The loss of the off-street parking spaces should not weigh against the proposed development.

Decision

The appeal is allowed and planning permission is granted to demolish an existing attached garage and conservatory and erect a double storey side extension and single storey rear extension at 69 Beaconsfield Road, Chatham, Kent, ME4 5SW in accordance with the terms of the application, Ref MC/13/2223, dated 4 September 2013, subject to conditions.

Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: WS100-484.
3. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

CUXTON & HALLING

23 Sundridge Hill, Cuxton, Rochester, ME2 1LH, Cuxton & Halling, (SF):

MC/13/1589 - Refusal - 4 September 2013 - Delegated

The development proposed is outline application with all matters reserved for the construction of three dwellings (demolition of existing dwelling).

Dismissed

Procedural Matter

The decision is based upon the drawing entitled Proposed Site Plan (Dwg. No. 124/002), which, with the potential for minor adjustments, is considered to show the approximate location of the dwellings sought.

Main Issues

The main issues are the effects of the proposed development on the character and appearance of the surrounding area and on the living conditions of neighbouring occupants in terms of outlook, privacy and daylight.

Reasons

Character and appearance

The outline proposal seeks to demolish the existing bungalow and replace it with a single dwelling near to the front of the site and a further pair of semi-detached dwellings nearer to the rear of the site. Policy BNE1 (MLP) indicates that development should respect the location of buildings and spaces of the surrounding area and be satisfactory in terms of layout and siting. Policy H9 (MLP) and its supporting paragraphs explain that tandem development, with one house behind another, generally causes disturbance and loss of privacy stating 'tandem development will not be permitted' and indicates that backland development will be permitted when there is no loss of privacy from overlooking adjoining houses or their back gardens, and the character and amenity of the area as a whole is maintained. In this case, the layout would result in both a tandem style of development and backland development. Such an arrangement would represent an incongruous form of development that is out of character with the prevailing pattern of development within the area. The proposal would result in material harm to the character of the area by reason of its backland and tandem nature that would conflict with the aims of Policies BNE1 and H9 of the LP.

Living conditions

There is a window in the flank wall of No 21 Sundridge Hill, which would be opposite the dwelling at the front of the site. This is the only window serving this room. The window is north facing and the dwelling opposite would be a bungalow. The window would be situated about 2 metres from the flank wall of the detached dwelling proposed. Given the proximity the proposal would result in a loss of the present outlook and daylight enjoyed from that window. The scheme would result a wall oppressively close to the window, which would make the room dark and gloomy for the occupiers and as a result. No. 21 would be a less pleasant place in which to live. Extensions to the rear of Nos 21 and 25 have been inadvertently omitted from the drawings. The layout plan shows dormer style openings within the roof form. It is not, therefore, unreasonable to consider that there would be living accommodation within the roof of the semi-detached dwellings. Whilst a distance of about 20 metres is generally considered to be acceptable, given the topography of the site characterised by steep gradients, the proposal would result in overlooking into the rear gardens of Nos 21 and 25 Sundridge Hill. It would also result in overlooking into the rear garden area of the single dwelling to the front of the site. Given the elevated position of the semi-detached dwellings, the overlooking would be into the garden areas closest to the rear of the adjoining and proposed dwellings, which are normally considered as the most private garden areas. Landscaping can contribute towards mitigating some of the overlooking issue by acting as screening, however, in elevated sites such as this, these can be ineffective in ensuring long-term privacy of neighbours.

Decision

The appeal is dismissed.

GILLINGHAM NORTH

37 Richmond Road, Gillingham, Kent, ME7 1LN, Gillingham North, (DC):

ENF/12/0153 – Enforcement Notice Issued 21 May 2013.

The breach of planning control as alleged in the notice is:
The conversion of a single dwelling into self contained flats.

Summary of Decision: The appeal is dismissed, the enforcement notice is upheld as varied by the direction and planning permission is refused on the application.

The appeal on ground (a) and the deemed planning application

The main issues are:

- (a) whether the change of use has resulted in the loss of accommodation that should be retained for occupation by a family or a single household and
- (b) whether the standard of accommodation provided by the flats is satisfactory.

The first two exceptions of Policy H6 that allow change of use of larger houses into flats are relevant to this appeal and are

- (i) “the surrounding area is predominantly in single household occupation” and
- (ii) “the house is of a size suitable for use for single household occupation”.

Character or appearance

Out of about two hundred properties in Richmond Road Road, around twenty-two have been converted into flats and the remainder are in single-household occupation. Several of the flats are in the row containing No 37 and, therefore this row is no longer predominantly in single household occupation. However, the area surrounding No 37, as a whole is still predominantly in single household occupation. For the purposes of Policy H6 it would not be reasonable to define the “surrounding area” as just the row.

Living conditions

The preamble to the policy indicates that houses of less than 120m² gross floor area in predominantly residential areas should be retained for families and single households “as conversion to smaller units is unlikely to be satisfactory”. The *Medway Housing Design Standards (interim)* (November 2011) states that one-bedroom/two-person flats should have a minimum gross internal floor area of 50m². It is therefore the kind of house that the preamble to the policy indicates should be retained for families and single households. The appellant’s plan shows the gross internal floor area of the ground floor flat to be 36m² and that of the first-floor flat to be 42m². Both the flats are therefore substantially below the 50m² minimum requirement.

Decision

It is directed that the enforcement notice be varied by deleting “two separate” in sub-paragraph 5(i) and by replacing sub-paragraphs (ii), (iii) and (iv) in paragraph 5 by the following: -

- “(ii) Reduce the number of kitchens to one.
- (iii) Reduce the number of gas meters to one.
- (iv) Reduce the number of electricity meters to one.
- (v) Remove the door at the foot of the stairs leading to the first floor.”

Subject to these variations the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the deemed application.

GILLINGHAM SOUTH

146 Canterbury Street, Gillingham, Kent, ME7 5UB, Gillingham South, (TS):

ENF/12/0163 – Enforcement Notice Issued 4 June 2013.

The breaches of planning control as alleged in the notice are:

- (i) Material Change of Use
Without the benefit of planning permission the change of use from plumbers merchant to hand car wash
- (ii) Operational Development
Without the benefit of planning permission the construction of a canopy.

Summary of Decision: The appeal is dismissed and the enforcement notice as corrected and varied by the directions is upheld.

The appeal on ground (b) and procedural issues

The purpose of an appeal on ground (b) is to demonstrate that the matters alleged in the notice have not in fact occurred. The appellant accepts that the majority of the area shown on the plan attached to the notice is in use as a hand car wash and that the canopy has been erected, but maintains that the notice is a nullity because it is defective and has prejudiced others who have had no involvement with the car wash or the canopy. The Council accepts that there are defects in the notice. The red line on the plan has inadvertently been drawn so as to include some residential property, when it should have been restricted to the premises that used to be the plumbers' merchants. The address of these premises is 146 Canterbury Street, not 146-150 Canterbury Street, and the correct postcode is ME7 5UB. Notwithstanding these defects, the notice is clear in its identification of the breaches of planning control and in what it requires to be done to remedy them, and the appellant has not been in any doubt about these matters.

The owners and occupiers of the residential property inadvertently included were not served with copies of the notice. By raising this issue, the appellant has in effect appealed on ground (e). However, neither the appellant nor those owners and occupiers have been substantially prejudiced by the failure to serve them and therefore power has been exercised to disregard the fact that they have not been served. The appeal on ground (b) and the procedural issues raised by the appellant have therefore not succeeded.

The appeal on ground (f)

Under ground (f) the appellant maintains that full cessation of the use is excessive. He is prepared to implement mitigation measures if they would ameliorate any adverse impacts that may have arisen. No measures have been suggested and there are no obvious alternatives to the normal requirements that are made in cases of this kind, namely the cessation of the use, and the removal of the materials and equipment brought onto the premises to sustain it, and the demolition of the operational development and the removal of the resultant materials from the premises. The wider planning merits of the appeal do not fall to be considered following the lapse of the ground (a) appeal and the deemed planning application. The appeal on ground (f) has therefore not succeeded.

Requirement (i) is excessive because it includes uses that are not referred to in the allegation. It is therefore varied so that it simply requires the use alleged to cease. Requirement (iii) is excessive because it purports to impose a method of disposal of the materials; this goes beyond what is needed to achieve the restoration of the premises to their condition before the breach took place or to remedy any injury to amenity that has been caused. It is therefore varied so as to impose the usual requirements in circumstances of this kind.

The appeal on ground (g)

The appellant seeks a compliance period of six months, to provide more time to find an alternative site for the business. Three months is a reasonable period to allow since it strikes the appropriate balance between the need to address the injury to amenity promptly and the interests of the business and those employed in it. The notice is varied accordingly and the appeal has therefore succeeded on ground (g) to this extent.

Decision

It is directed that the enforcement notice be corrected by:

- (a) The deletion of “- 150” in paragraph 2
- (b) Replacing “ME7 5TU” in paragraph 2 by “ME7 5UB”
- (c) Replacing “edged red” in paragraph 2 by “edged and cross-hatched in black”
- (d) Substituting the plan attached to this appeal decision for the plan attached to the notice.

The enforcement notice be varied by:

- (a) Replacing “one (1) month” in paragraph 6 by “three months”
- (b) Replacing paragraph 5 by the following paragraph: -

WHAT YOU ARE REQUIRED TO DO

- (i) Cease the use of the premises as a hand car wash.
- (ii) Remove from the premises all materials and equipment brought on to the premises for the purposes of the hand car wash.
- (iii) Demolish the canopy.
- (iv) Remove from the premises all materials arising from compliance with requirement (iii).”

Subject to these corrections and variations, the appeal is dismissed and the enforcement notice is upheld.

HEMPSTEAD & WIGMORE

230 Wigmore Road, Wigmore, Gillingham, Kent, ME8 0TW, Hempstead & Wigmore (PI):

MC/13/1768 – Refusal – 17 September 2013 – Delegated

Raising of whole roof to facilitate conversion of bungalow into a part two storey house, two storey rear extension incorporating balcony to rear and solar panels to southeast roof slope.

Allowed with Conditions

The main issue is the effect of the development on the living conditions of the occupiers of 228 Wigmore Road.

Reason

This is the third appeal to be made in connection with proposals to add a first floor to the bungalow. The first would have had a two-storey elevation on the side facing No 228. The second would have had a predominantly two-storey elevation on the side facing No 228, with a section where the side wall and roof would have been lower. This proposal would retain the existing single-storey eaves height on the side facing No 228. Above the eaves would be a pitched roof sloping away from No 228, which would incorporate two set-back, low-profile dormers with obscure-glazed windows. Compared to the previous proposals, the effect on No 228 would be substantially reduced, since the development would be far less bulky on this side and the impact

on the outlook from No 228's side windows and the light reaching them would be much less. The development would not detract from No 228's living conditions to an extent that would bring it into conflict with Policy BNE2 of the Medway Local Plan. The revised proposals, being less bulky than before, would not look out of keeping or harm the character and appearance of the area.

Decision

The appeal is allowed and planning permission is granted for development at 230 Wigmore Road, Gillingham, Kent ME8 0TW, consisting of the raising of the whole of the roof to facilitate the conversion of the bungalow into a part two storey house, the construction of a two-storey rear extension incorporating a balcony to the rear and the provision of solar panels on the south-eastern roof slope, in accordance with the application Ref MC/13/1768 dated 10 July 2013 and the plans submitted therewith, subject to conditions.

LORDSWOOD & CAPSTONE

Wyevale Garden Centre, 20 Elm Court Industrial Estate, Hempstead, Gillingham, Kent, ME7 3JQ (TS):

ENF/12/0461 – Enforcement Notice Issued 4 June 2013.

The breach of planning control as alleged in the notice is:

The construction of a timber shed, timber screen enclosure, collection tank and separator tank.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission granted on the application.

Appeal A: Ref: APP/A2280/C/13/2201110

Land at the garden center, 20 Elm Court Industrial Estate, Hempstead, Gillingham, Kent, ME7 3JQ

Main Issues

The main issues in determining both these appeals are the effect on the appearance of the site and its surroundings. The garden centre buildings are within the industrial estate but the car park is in an Area of Local Landscape Importance as part of the countryside and outside the settlement boundaries. The appeals are a very minor development on a small part of a large car park that looks as if it is part of an industrial estate. There are no long-range views of the development and the car park is also used for the storage of materials belonging to the garden centre, as well as often containing a significant number of parked vehicles of various sizes. The development is not in conflict of Policy BNE34 as it does not materially harm the landscape character and function of the area and is sited, designed and landscaped to minimise harm to the area's landscape character and function. It does not harm the countryside. The car-wash facility is unlikely to be used by anyone other than motorists who are already in the area in connection with the garden centre or the industrial estate. Although the site is not allocated for a car-wash facility, this use has been accepted as being ancillary to the garden centre, which is longstanding and authorised. The development therefore does not comply wholly with the wording of Policy BNE25, but it is sustainable in the circumstances and a positive approach

should be taken to it in view of the contribution it makes to the garden centre business and to job creation.

Decision

Appeal A: Ref: APP/A2280/C/13/2201110

The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for the construction of a timber shed and a timber screen enclosure and the siting of a collection tank and a separator tank on land at the garden centre, 20 Elm Court Industrial Estate, Hempstead, Gillingham, Kent ME7 3JQ, subject to the condition that the development approved shall only be used in connection with the car-wash facility operated from the garden centre.

Wyevale Garden Centre, 20 Elm Court Industrial Estate, Hempstead, Gillingham, Kent, ME7 3JQ (AB):

MC/13/0339 - Refusal - 29 April 2013 - Delegated

The development proposed is “the erection of a timber shed and timber screen for purposes incidental to the garden centre as an office/store and screen to a car wash facility”.

Summary of Decision: The appeal is allowed.

Appeal B: Ref: APP/A2280/A/13/2201131

Land at the garden centre, 20 Elm Court Industrial Estate, Hempstead, Gillingham, Kent ME7 3JQ

Main Issue

The main issues in determining both these appeals are the effect on the appearance of the site and its surroundings. The garden centre buildings are within the industrial estate but the car park is in an Area of Local Landscape Importance as part of the countryside and outside the settlement boundaries. The appeals are a very minor development on a small part of a large car park that looks as if it is part of an industrial estate. There are no long-range views of the development and the car park is also used for the storage of materials belonging to the garden centre, as well as often containing a significant number of parked vehicles of various sizes. The development is not in conflict of Policy BNE34 as it does not materially harm the landscape character and function of the area and is sited, designed and landscaped to minimise harm to the area’s landscape character and function. It does not harm the countryside. The car-wash facility is unlikely to be used by anyone other than motorists who are already in the area in connection with the garden centre or the industrial estate. Although the site is not allocated for a car-wash facility, this use has been accepted as being ancillary to the garden centre, which is longstanding and authorised. The development therefore does not comply wholly with the wording of Policy BNE25, but it is sustainable in the circumstances and a positive approach should be taken to it in view of the contribution it makes to the garden centre business and to job creation.

Decision

Appeal B: Ref: APP/A2280/A/13/2201131

The appeal is allowed and planning permission is granted for development on land at the garden centre, 20 Elm Court Industrial Estate, Hempstead, Gillingham, Kent ME7 3JQ, consisting of the erection of a timber shed and a timber screen for purposes incidental to the garden centre as an office/store and screen to a car-wash facility, in accordance with the application Ref MC/13/0339 dated 8 February 2013 and the plans submitted therewith, subject to the condition that the development approved shall only be used in connection with the car-wash facility operated from the garden centre.

Highways Depot, North Dane Way, Lordswood, Chatham, Kent ME5 8YE, Lordswood & Capstone, (MP):

MC/13/1549 - Refusal - 3 October 2013 - Planning Committee

The development proposed is change of use from winter management depot for storage of salt and parking of seven gritters, to an asbestos waste transfer station (resubmission of MC/12/3046).

Allowed with Conditions

Main Issues

The main issues are the effect on the health of residents, the effect on highway safety and the effect on the character and appearance of the surrounding area.

Reasons

The site is a former highways gritting depot, set back behind a screen of mature trees and enclosed by a substantial fence with barbed wire on top. The nearest residential properties are on Farley Close some 50 metres to the southwest of the site. The proposal is to use the site as a transfer station for asbestos and asbestos containing material (ACM) removed from buildings and construction sites. The appellant company is an experienced operator working under licence since 1998 from the Health and Safety Executive, and subject to stringent safety audits. Following removal of asbestos from sites, the double bagged and sealed ACM would be temporarily transferred to a lockable steel container, prior to being taken to a licenced landfill site for disposal. Two skips would be used on site and the plans show the storage of decontamination units, which would be taken off site to be used when the asbestos was being removed from a building. A maximum of 8 tonnes would be stored on site at any one time. The bulk skips would be exchanged on a fortnightly basis and there would be 10 transit movements a day. The hours of operation are proposed as 0700 to 1800 Monday to Friday and 0700 – 1300 on Saturdays, with no operations on Sundays or Bank Holidays.

Health

Asbestos is well-known to be hazardous to health, and residents of the area, as well as schools and community facilities, are concerned about the potential for ACM from the site to find its way into the surrounding environment for example as windblown dust, or as a result of fire/vandalism, or into groundwater. While these fears are understandable, the operation would be strictly regulated by the HSE and the Environment Agency. An environmental permit (EP) would be required to handle the

waste on site, which would be subject to conditions. The conditions would limit the quantity of waste that can be accepted and require that all asbestos wastes must be double bagged and kept within secure lockable containers. There would also be a requirement that asbestos wastes must be stored on an impermeable surface with sealed drainage, to ensure no drainage to controlled waters. The application for an EP is a separate process from the planning application. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. The Council's Environmental Health Officers and the Environment Agency had no objection to the proposed activity. In summary, the operation of the site subject to an EP would ensure that there would be strict controls to minimise the risk of ACM escaping into the environment where it could cause a health hazard to residents and others. While the location means that the site could be affected by vandalism, the use of CCTV, which can be required by condition, would enable the risk to be managed. The storage of the material within lockable containers would effectively control the risk of fire as a possible cause of contamination. Objectors also drew attention to the possibility of illegal fly-tipping occurring, in the event of independent contractors bringing material to the site and finding it closed, or being turned away if the material was not properly bagged in accordance with the EP requirements, or simply to escape payment of disposal charges. However there is little conclusive evidence to show that the presence of the site would lead to an increased risk of fly-tipping in the area to the detriment of the locality or the Area of Local landscape Importance. While such illegal activity cannot be absolutely ruled out, the purpose of providing for the transfer of small quantities of materials under controlled conditions at an economic rate would, if anything, help to reduce any cost driven incentive to fly-tipping. The applicant is a licensed operator who would be able to advise on the appropriate treatment for materials brought to the site, and provides bags of a suitable quality for safe storage. The requirement for an EP would ensure that there would be no material harm to human health. The proposal would comply with Policy BNE2 of the Medway Local Plan.

Highway safety

The levels of usage proposed, which can be limited by the attachment of appropriate conditions, is predicted to result in a relatively low number of vehicle movements unlikely to exceed that associated with the former depot use. The highways consultee did not object to the proposal or identify any conflict with saved policies T1 and T2 of the Medway Local Plan or Policy W9 of the Kent Waste Local Plan. The current access arrangements mean that drivers leaving the site have to make an awkward manoeuvre if turning right into North Dane Way. However visibility at this point is satisfactory, and traffic using slowed down to negotiate the junction. Arrangements to eliminate any risk of accidents involving large vehicles emerging from the site can be achieved by an appropriate condition.

Character and appearance

The site was formerly used as a highways depot with parking for seven gritters. No external changes would be made to the site. The existing boundary fence is not attractive, but it has been in place for many years. The operator may wish to remove branches and foliage that overhang the site, but this would not result in a material threat to the health of the trees, or to any wildlife that may use them for roosting or foraging. Proposal would not conflict with saved Policy BNE1 of the Medway Local Plan.

Decision

The appeal is allowed and planning permission is granted for change of use from winter maintenance depot for storage of salt and parking of seven gritters, to an asbestos waste transfer station as described in supporting statement at Highways Depot, North Dane Way, Lordswood, Chatham, ME5 8YE in accordance with the terms of the application, Ref MC/13/1549, dated 18 June 2013, subject to conditions.

Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan received on 2 June 2013; 0999/1438/01 received on 25 June 2013; and 0999/1438/03A received on 2 September 2013.
3. The use hereby permitted shall only operate between the hours of 0700 to 1800 Mondays to Fridays inclusive and between the hours of 0700 to 1300 on Saturdays and not at any time on Sundays and Public Holidays.
4. No development shall take place until details of arrangements for large vehicle access and egress have been submitted to and approved in writing by the local planning authority. The approved arrangements shall thereafter be implemented in accordance with the approved details, and retained for the life of the development.
5. No development shall take place until a security scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall include measures for the prevention and mitigation of vandalism and flytipping including the type and location of boundary treatment, CCTV and lighting on the site. The scheme shall be fully implemented in accordance with the approved details prior to commencement of the use and thereafter retained for the life of the development.
6. No more than 2 skips or 8 tonnes of Asbestos Containing Material shall be stored on site at any one time.
7. None of the skips hereby permitted or any other temporary or moveable structures used in association with the use shall be located within 1 metre of the boundaries of the site.
8. There shall be no more than 10 transit van movements per day or 1 skip movement per fortnight in association with the permitted use.

LUTON & WAYFIELD

Magpie Hall Road (rear of 18 Luton Road) Chatham Kent ME4 5JY, Luton & Wayfield, (MS):

MC/13/1586 - Refusal - 14 October 2013 - Delegated

The development proposed is construction of a detached building for use as a MOT test center (demolition of existing building).

Dismissed

Main issue

The main issue is the effect of the proposed development on the amenities of other local land users with particular regard to parking.

Reasons

The proposed MOT test centre would be built over a vacant storage yard behind No. 18 Luton Road. Access would be taken from a service road, which runs between Magpie Hall Road and Bank Street and parallel to Luton Road. Although not a major road, the service road provides access to the back of some commercial properties on Luton Road. There are car parking spaces and three loading bays along the southwestern side of the service road. Luton Road Shoppers Car Park is close by. There is a very high demand for off-site public parking spaces in this locality, such that short-term indiscriminate parking is already taking place in the immediate vicinity of the appeal site, including the unauthorised use of private car parking spaces and loading bays and parking on the service road itself, making access and egress difficult for other local land users. It would be wrong to introduce any new use onto the appeal site that would exacerbate the local parking problems. The proposed ground floor plan shows a car ramp and one car parking space in line with it towards the front of the building. The tandem parking arrangement inside the building would only be workable with constant manoeuvring in the service road. The front space is therefore unlikely to be used with any great frequency if there is already a car on the ramp. No customer waiting room would be provided and it is most likely that customers would call back later in the day to pick up their vehicles which would be likely to be indiscriminately parked on the service road, given the lack of obvious alternative parking facilities. There could be eight or nine vehicles dealt with at the premises in the course of a day. Two full-time employees are envisaged and it is possible that one or both employees would arrive to work in cars. No on-site parking spaces would be available for delivery vehicles or cars belonging to employees.

Decision

The appeal is dismissed.

PENINSULA

68 Stoke Road, Hoo St Werburgh, Rochester, ME3 9BL, Peninsula, (AW):

MC/12/2875 - Approval With Conditions - 7 March 2013 - Planning Committee

Amendment to planning permission MC/08/1390 for the construction of a 2 storey front extension and single storey rear extension and construction of two 4-bedroomed semi-detached houses with associated parking within garden area, to allow variations to the rear boundary treatment.

Allowed

Appeal against Condition '7': *within 1 month of the date of this decision the 3m section of the rear boundary wall shown on the plans hereunder approved to be*

retained, shall be rebuilt to a height no less than 1.8 m and shall thereafter be retained as such.

Reason: to protect the amenities of the occupiers of the adjacent property in accordance with Policy BNE2 of the Medway Local Plan 2003.

Background

On 6 November 2008 the Council granted planning permission ref MC2008/1390 (the 2008 planning permission) The 2008 planning permission was subject to various conditions including condition 2 which stated that:- "No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment details submitted pursuant to this condition shall make provision for the retention of the existing brick walls along the north eastern and southeastern boundaries to the site. The boundary treatment shall be completed before any part of the development is occupied and shall thereafter be retained. Development shall be carried out in accordance with the approved details. The reason given for the imposition of the condition was "to ensure that the development does not prejudice conditions of amenity". In accordance with condition 2, the northeastern and part of the southeastern parts of the wall, which comprise the side and rear boundaries of 70 Stoke Road, have been retained. However, other than for a small section, the remainder of the southeastern wall located along the rear boundary of the appeal site has been replaced with a low level fence. An application was lodged to regularize this situation and an offer was made to reinstate a 3m wide section of the wall along the rear boundary nearest to the neighbouring property at 66 Stoke Road. Following a comprehensive assessment of the proposal, the Council decided to grant the 2012 planning permission subject to conditions. In particular, condition 1 effectively varied condition 2 of the 2008 planning permission to regularise the removal of most of the wall along the rear boundary of the appeal site. Condition 7 was imposed to reflect the offer made by the appellant to reinstate a 3m wide section of the wall but at a height of no less than 1.8m.

Main Issue

The main issue is whether the disputed condition is reasonable and necessary in the interests of protecting neighbouring residents' living conditions at 66 Stoke Road with specific reference to a loss of privacy due to overlooking.

Reasons

Due to the low level fencing and the predominantly unenclosed nature of the gardens at Nos 66 and 68, extensive views of the surrounding open countryside are available for occupants of these properties. This open aspect has resulted in a considerable degree of mutual overlooking between the two gardens. There are also views across to most of No 66's garden from the upper floor windows of No 68. The remaining wall measures 1.5m in height and, as such, would be insufficient to prevent overlooking in a standing position from the appeal premises, particularly from the elevated platform for the whirlpool at the end of No 68's garden. The retention of the wall as required by condition 2 of the 2008 planning permission was not imposed to afford privacy to the residents at No 66 but because it was desirable to retain the wall for its historical interest. The rebuilding of a small section of a wall, even at a greater height, would not prevent overlooking of No 66's long garden from other parts of the appeal premises and, in particular, over the low level fence which the Council

considers is a suitable replacement for the former wall. It would not, therefore, ameliorate the degree of overlooking that currently exists to any appreciable extent.

Decision

The appeal is allowed and the planning permission ref MC/12/2875 for the construction of a 2 storey front extension and single storey rear extension and construction of two 4-bedroomed semi-detached houses with associated parking within garden area to allow variations to the rear boundary treatment at Riverview, 68 Stoke Road, Hoo, Rochester, Medway ME3 9BL granted on 7 March 2013 by Medway Council is varied by deleting condition 7.

RAINHAM SOUTH

Land at Wollaston Close, Parkwood, Gillingham, Kent, ME8 9SH (WS):

MC/13/0984 - Refusal - 26 June 2013 - Delegated

The development proposed is the construction of five dwellings with associated parking - resubmission of MC/12/1170

Dismissed

The main issue is whether the scheme would provide a good standard of amenity for future occupants of the dwellings, with particular regard to the floor area for the living/dining/kitchen spaces in units 2, 3, 4 and 5 and the potential overshadowing of the plots at units 4 and 5.

Reasons

The site benefits from an extant planning permission, issued in December 2011 under ref. MC/11/2139, for the construction of three terraced houses. The Council raises no objection in principle to residential development on this site, however, with regard to internal floor areas, the Council's concerned with the size of the combined living/dining/kitchen spaces in the proposed three-bedroom houses (units 2, 3, 4 and 5). The submitted plans show five bed spaces in each of those dwellings although it is more likely in reality for the single bed spaces to be found in the second floor bedrooms rather than in the rear first floor bedrooms as shown. The second floor bedrooms would be in the roof space, lit by a small dormer and narrower in width. It would also be difficult for occupants of the second floor bedrooms of units 4 and 5 to get into or out of the double beds (as indicated on the plans) in a comfortable manner. The good practice standard expects 29m² of aggregate floor area for living/dining/kitchen space in five-person dwellings. Shortfalls of 2.7m² and 2.8m² are significant departures from the individual minimum standard. Four of the five proposed dwellings would be affected. No alternative methodologies or furniture itinerary have been provided. The basic information on the floor plans shows seating for only four persons in the dining and lounge elements of the main ground floor rooms of the four dwellings. The ground floor level of these four units will be very cramped for future residents at the intended level of occupation. The fairly generous sizes of the gardens for units 4 and 5 are noted but this is of little assistance if they are unduly overshadowed. The garden of unit 5 sits to the north of the proposed dwelling and therefore the building itself would cast shadows on to the garden and

when combined with the shadows cast by the trees, the shading of the garden is likely to fall below the criteria set out. The garden at unit 4 would fall even further away; the shadow path analysis relating to the trees reveals that virtually all the garden would be in shade throughout the whole day. The woodland would present a pleasant backdrop, although the immediate outlook from the main patio doors in the rear of units 4 and 5 would be likely to be dominated by boundary fencing only 4 m or so away and there would be a shortage of winter sunlight in the living/dining room at the rear of unit 5.

Decision

The appeal is dismissed.

RIVER

Land at Chatham Docks, Pier Road, Gillingham, Kent, River, (MP):

MC/13/0643 - Refusal - 20 June 2013 - Planning Committee

Application for approval of reserved matters being appearance, landscaping, layout and scale pursuant to MC/11/2756 (outline application for a mixed use development comprising up to 179,297m² of floorspace, incorporating Employment Uses (B1 and B2), Residential (C3 - up to 950 units), Student Accommodation (Sui Generis), Hotels (C1), Leisure, Conference, Events and Education Facilities (D1 and D2), Retail Uses (A1-A5) including Superstore, an Energy Centre, Petrol Filling Station and associated open space, access, parking and infrastructure) for Phase 1 of the development for a retail superstore, petrol filling station, pub/restaurant; food/beverage unit and associated open space, parking and road infrastructure and details pursuant to conditions 6 (Spatial Design Framework), 8 (Design Review), 10 (Design Details), 12 (Landscaping), 23 (Secured by Design), 28 (Parking), 37 (Energy Sustainability Strategy) and 72 (Ecological Enhancements) of the same outline consent (MC/11/2756).

Dismissed

The details for which approval is sought are: Phase 1 Reserved Matters application in respect of appearance/landscaping/layout/scale for development including Superstore (6810m²), and petrol filling station (A1-A5), Pub/Restaurant (770m²) (A3/A4), and Food and Beverage unit (200m²) (A3) and associated open space, access and car parking.

Procedural Matters

On receipt of a joint request by both main parties, the procedure was changed to a **Hearing**. The emerging Medway submission draft Core Strategy was withdrawn on 21 November 2013 and I has been disregarded.

Main Issue

Is the effect of the proposed reserved matters on the character and appearance of the area with particular regard to the height, siting and design of the pub/restaurant and food/beverage unit, and the extent of their integration with later phases, in the

context of the Pier Road frontage and the overall scale and layout of the development.

Background

The majority of the proposals have already been permitted, including a new Asda store and petrol filling station, and these elements are likely to be implemented in the near future. The only difference between the appeal proposals and the permitted scheme is that is the latter omits the pub/restaurant and the food/beverage unit.

Reasons

The site is at the cusp of two very different land uses with very different characters. The outline design and access statement (DAS) sets out the parameters for the land uses on the site and the maximum height of buildings across it. The indicative scale of development would be for these to rise from lower buildings along Pier Road to taller ones further into the site. The storey heights parameters drawing for the area for the proposed pub/restaurant and pavilion café identifies a maximum of six storeys but no minimum height. The land would be regraded so that the balancing ponds necessary for drainage would be part of an attractive landscape feature in the centre of the site. The landscaped area would extend from deep within the site and run between the two access points and out into the gaps in the gyratory system. The south west corner of Phase I remains a potential site for a hotel. The pub/restaurant would stand to the west of the existing access. The food/beverage unit would stand behind it in the form of a pavilion, housing a café. The proposed pub/restaurant would be part 2 storey with the rest single storey except for a blind second floor window in a gable end to a part of the roof space. Overall, the highest roof ridge on the building would rise to around 8m. The idea behind the elevations is to use articulation and varied materials to provide visual interest. Raised roofs and different roof finishes would break up the forms and give variety as well as visual interest to the roofscape, with chimneys suggesting warmth and comfort within the pub/restaurant. It is required to be located so as to be visible from the road and that its form should 'signal' its presence and its nature to attract passing trade. The Council object to the proposed height of the pub/restaurant, particularly in the context of the overall design and framing to the site entrance, including achieving a balance with the 5 storey police HQ opposite. The Council made no specific objection to the form or design of the pavilion, only its relationship with other buildings, but it could be sited in other locations adjoining the central parkland area. There is a remarkably strong character to the area, in particular, the road, industrial buildings and police HQ are all bold, strident features with strong characteristics and with some uniform qualities and architectural integrity. The food store would have strong clean lines adjoining bold landscaping. Although much smaller in size, the café pavilion would share these characteristics and so, be compatible with the overall redevelopment.

The proposed pub/restaurant, by contrast, would be a much more complicated affair made up of a sequence of differently shaped enclosures under a series of varied roof forms. The facing materials would be deliberately different to hint at the historical precedents, which it would claim to reflect. There would be false elements such as the top floor window and chimneys. The west-facing roof would be covered with a bold area of photovoltaic panels at odds with the rather dainty timber framed porch and the more jumbled approach to the rest of the elements of the pub/restaurant.

Outside, the roadside wall would be lowered to allow greater visibility into the garden, which would be intended to merge into the wider landscaping.

The proposed pub/restaurant would be a disjointed and muddled affair, which would make little reference to its urban context or to the strong distinctive buildings, which reflect the local naval history of Chatham. Its garden, and the reduction in wall height alongside it, would create a confused edge to the site, whether or not the new landscaping is brought out into the gyratory system, and result in poor definition to the scheme when set against the road. The combination of its low roofs and its siting behind the garden would fail to frame the edge of the site or the entrance and pay scant regard to its situation next to a major road, opposite the police HQ or at the entrance to a high density development. In a place that exudes local distinctiveness, it would be a weak response with little reference to its context.

Decision

The appeal is dismissed.

61 High Street, Chatham, ME4 4EE, River, (WS):

MC/13/1354 - Refusal - 22 August 2013 - Committee

The development proposed is a new residential three storey building with basement and roof storey for 2x1 bed maisonettes, 1x1 bed flat and 1x3 bed flat with existing retaining walls, basement slab and footings to be demolished.

Allowed with Conditions

Procedural Note

Subsequent to the consideration by the Council of the original application, the appellants submitted an alternative internal layout for the front (southern) facing duplex unit (Drawing PL110 REV A, dated 31 May 2013). The revised layout was designed to improve the amount of natural light to the basement and ground floor living areas. The revisions have no impact on the external appearance of the proposed development.

As the changes are solely to the internal arrangements, there is no reason why any third party should be adversely affected, therefore, amended internal layout, as set out in Drawing PL110 REV A is accepted for consideration as part of the appeal.

Main Issues

The main issues are:

- i. Whether the proposed development would preserve or enhance the character or appearance of the Star Hill to Sun Pier Conservation Area; and
- ii. The effect of the proposed development on the living conditions of its future occupants.

Reasons

The character or appearance of the Star Hill to Sun Pier Conservation Area

The Conservation Area would benefit from the redevelopment of this derelict site and in the current conditions, residential use may be the only viable possibility. The

proposed development would be compatible with Policy H4 of the adopted Medway Local Plan, which encourages such redevelopment. Despite its location in the Conservation Area, the street scene in the appeal site's vicinity is severely disrupted by the presence of a ten-storey office block that stands to the west. Anchorage House is excluded from the Conservation Area but its bulk and aggressively mid 20th century design dominates the immediate area. The gap in the High Street frontage resulting from Anchorage House emphasises the prominence of the appeal site and especially any development on its western flank. Given the proximity the critical visual relationship for the site must be as a link between modern buildings and the older development in the High Street and especially that block of properties immediately to the east. None are listed but these five properties form a pleasant group of 19th century buildings distinguished by a unity of form and coherence of materials that results in their making a broadly common contribution to the character and appearance of the Conservation Area. Efforts had been made to renovate and refurbish buildings in this part of the Conservation Area. The appellants might have attempted a pastiche development mimicking the older properties to the east. Instead, they have sought to use a modern design vocabulary and palette of materials that articulate well with the site's surroundings. The building would be slightly taller but at the end of the existing terrace would provide an attractive punctuation mark at the point where the street scene changes dramatically. Moreover, the fenestration seeks to complement that of the adjacent property, No 63, and although the proposed development would be wholly residential, the High Street ground floor frontage has elements that reflect the adjoining commercial uses. This would be an attractive building of a high standard of design and materials that would replace an unattractive vacant site. It would enhance the character and appearance of the Star Hill to Sun Pier Conservation Area.

The living conditions of future occupants

In concluding that the proposed development should be wholly residential, the issue arises of ensuring acceptable living conditions for its future occupants, especially where basement development is involved. The floor area of the proposed units is satisfactory but there are concerns about the amount of natural light reaching the basement living area of the duplex maisonette. This is a finely balanced issue, however the revised proposals for the internal layout of this unit would secure an improvement. Essentially, these changes would reverse the floor plans of this unit. The benefits to the living conditions of future occupants would be small, however they would be sufficient that the proposed development would meet the terms of Policy BNE2 of the adopted Local Plan in protecting their amenity.

Other Matters

The sole objection to the original application and appeal came from the Ministry of Justice who are concerned about the relationship of the proposed development to the working of the Courts at its rear. In respect of any overlooking that might interfere with Court proceedings, the intervening distance should ensure no significant overlooking or loss of privacy. With respect to disturbance during any period of construction, this is a matter, which, is common to many developments, and negotiations associated with the drawing up of a Construction Code of Practice, the necessity for which could be imposed by condition, ought to be able to resolve these matters.

Decision

The appeal is allowed and planning permission is granted for a new residential three storey building with basement and roof storey for 2x1 bed maisonettes, 1x1 bed flat and 1x3 bed flat with existing retaining walls, basement slab and footings to be demolished at 61 High Street, Chatham, Kent, ME4 4EE in accordance with the terms of the application, Ref MC/13/1354, dated 5 June 2013, subject to conditions.

Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawings PL100, PL101, PL102, PL103, PL104, PL112, PL120, PL130 and PL131 as received by the local planning authority on 6 June 2013, and the revisions to the internal layout put forward in drawing PL110 REV A.
3. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building 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.
4. No development shall take place until a scheme, across all floors, of acoustic mitigation against road noise has been submitted to, and approved in writing by, the local planning authority. The agreed scheme shall be fully installed and operational before the first occupation of any of the residential units hereby approved and shall be retained thereafter.
5. No development shall take place until a scheme of mechanical ventilation for all front, south-facing rooms below second floor level has been submitted to, and approved in writing by, the local planning authority. The agreed scheme shall be fully installed and operational before the first occupation of any of the residential units hereby approved and shall be retained thereafter.
6. The proposed waste and recycling storage area shown on approved drawing PL110 REV A shall be for the use of the front ground floor/basement duplex, the first floor flat and the second/third floor flat only. Waste and recycling storage for the rear ground floor/basement duplex shall be provided only within that unit or within the rear private terrace serving that unit. These arrangements shall be retained thereafter.
7. As shown on approved drawing PL110 REV A, the lightwell/private terrace serving the front ground floor/basement duplex shall be accessed by glazed doors from the bedroom of that unit.
9. No development shall take place, including any works of demolition, until a Construction Code of Practice has been submitted to, and approved in writing by, the local planning authority. The approved Code shall include issues related to deliveries, waste and recycling management and noise and dust impacts and shall be adhered to throughout the construction period.

262 High Street, Chatham, ME4 4AN, River, (DC):

MC/13/0990 - Approval With Conditions - 30 July 2013 - Delegated

Advertisement Consent for installation of 2 illuminated fascia signs

Dismissed

Main Issue

The main issue is the effect of the display on the character and appearance of the area.

Reasons

The original application sought consent for static illuminated LED and neon fascia signs and non-static illuminated column flutes. During the course of the application, revised plans were submitted which indicate that the non static illuminated column flutes had been removed from below the fascia. The property is in use as an amusement centre and is situated in a narrow part of the pedestrianised main retail area of Chatham town centre High Street. The building is a prominent feature in the streetscene which, contains a mix of retail and other uses. Its predominant character is commercial but there are a significant number of older style properties and some trees which create an attractive, but more subdued and informal appearance than might be found in a wholly modern shopping area. The wider area is likely to be busy in the evenings as there are a number of pubs and other leisure facilities within walking distance of the appeal property. Any non-static signs would reflect the use of the building as an amusement arcade; however, it would be in stark contrast to the nature of the signage in the area, drawing the eye. Whilst there is a considerable variety to signs and fascias in the area which including bright colours, the majority clearly appeared to be without non-static or flashing components. The narrowness of the High Street in this location and the prominence of the appeal property would amplify the effect of any non-static elements and would result in an alien feature in the street.

Decision

The appeal is dismissed.

225A High Street, Chatham, ME4 4BQ, River, (DC):

MC/13/1151 - Refusal - 16 July 2013 - Delegated

The advertisement proposed is 2 x wall-mounted posters on each side elevation.

Dismissed

Main Issue

The main issue is the effect of the proposal on the character, appearance and amenity of the surrounding area.

Reasons

The appeal building sits within a pedestrianised stretch of Chatham High Street that is wholly commercial in character. The building's side elevations, which are flat faced and finished with painted render, are clearly visible and prominent within the street scene when approached from either direction along High Street. Although they would be within a commercial setting, both signs would be noticeably elevated above the fascia levels of the surrounding uses and each would be of significant size. Rather than reflecting the typical street scene they would stand out as prominent and incongruous features that would be seen against, and poorly related

to, the architectural features of the host building rather than merging with the other shops' advertisements that are, for the most part, more traditionally positioned immediately above their frontages. The advertisements would be detrimental to the visual amenities of the area. There would be clear conflict with the overall aims and objectives of Policy BNE10.

Decision

The appeal is dismissed.

ROCHESTER EAST

35 Maidstone Road, Rochester, ME1 1RL, Rochester East, (MSP):

MC/13/1844 - Refusal - 2 December 2013 - Delegated

The development proposed is alteration of existing courtyard to East Row into car parking for one car and landscape area (Resubmission of MC/12/3023).

Dismissed

Main Issue

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

Reasons

The appeal site is situated at an attractive and important corner of the Historic Rochester Conservation Area; where there is a mixture of historic and traditional buildings, open spaces, vegetation and a combination of both dense and more spacious development. One key distinctive feature is the walls that closely follow the back edge of pavement reflecting the strong sense of enclosure provided by many of the buildings. Where openings are formed these are usually filled by gates, with straight vertical brick pillars or are set back from the edge of the back edge of the pavement in an undercroft style arrangement. The existing wall around the land to the rear of No 35 is built in 2 different bricks. Even though, by reason of both its height and position, the wall makes a significant positive contribution to the designated heritage asset in the ways described above. The creation of a wide opening accentuated by the curving sections on either side would seriously weaken the solidity and physical containment that the wall provides. Resulting in an important aspect of the conservation area's character and appearance being significantly eroded. Furthermore, the proposal would create and open up views into an area that has historically been hidden. The proposal would consequently have a negative impact on the heritage asset. There was an earlier appeal for the site, which was dismissed as that proposal failed to preserve or enhance the character and appearance of the Conservation Area. This is an important material consideration, and this scheme has sought to address the concerns raised in the earlier appeal. In particular, that the rear wall would be raised in height in order to screen a timber fence boundary and that metal gates are proposed to the front of the site. Even with the use of electronic metal gates and curved brick pillars, the gap in the boundary treatment would remain.

Decision

The appeal is dismissed.

ROCHESTER SOUTH & HORSTED

287 Wilson Avenue, Rochester, ME1 2SS, Rochester South & Horsted, (MSP):

MC/13/1461 - Refusal - 12 September 2013 - Planning Committee

The development proposed is the construction of a rear extension; single storey side extension; increase in roof height and extension to roof incorporating rear and side extensions; insertion of dormer to front, window to side elevations at first floor level and dormers to rear to facilitate living accommodation in roof space; formation of additional parking area to front and new boundary wall (resubmission of MC/13/0394).

Allowed with Conditions

Procedural matters

Amended plans were submitted before the Council took its decision to refuse planning permission contrary to the officer's recommendation.

The main issue is the effect of the proposed development upon the character and appearance of the dwelling and the street scene.

Reasons

The appeal property is a detached bungalow set within a short row of detached bungalows and chalet bungalows; there is also a range of two-storey houses along Wilson Avenue, which provides a very diverse and varied street scene as a whole. The submitted scheme eschews the rather wide and unattractive flat roof design that characterized the previously refused planning application ref. MC/13/0394. The revised "barn hip" roof style and well-proportioned gabled dormers, coupled with the retention of the existing advanced front bay, would create a chalet bungalow with a coherent and simple appearance, as opposed to an unduly bulky and unattractive appearance as alleged in the decision notice. The development would be satisfactory in terms of its scale, mass, proportion and general design. Consequently, the scheme would result in a successful transformation of a bungalow into a chalet bungalow. In terms of the street scene, increasing the ridge height by about one metre and changing from a fully hipped roof with a short ridge to a "barn hipped" roof with dormers will clearly add to the bulk of the building at the upper/roof levels and result in a building that is taller than its immediate neighbours. However, the difference in height would not be so great that it would appear dominant or imposing. The building would not look out of place as it would be viewed by observers as a chalet bungalow rather than a full two-storey house. The front dormer would resemble a similar dormer in the front roof of no. 289.

Decision

The appeal is allowed and planning permission is granted for construction of a rear extension; single storey side extension; increase in roof height and extension to roof

incorporating rear and side extensions; insertion of dormer to front, window to side elevations at first floor level and dormers to rear to facilitate living accommodation in roof space; formation of additional parking area to front and new boundary wall (resubmission of MC/13/0394) at 287 Wilson Avenue, Rochester ME1 2SS in accordance with the terms of the application ref. MC/13/1461 dated 18 June 2013 subject to conditions.

Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following drawing numbers: 3636/1; 3636/4A; 3636/5A (which shall be read in conjunction with drawing no. 3636/4A and not 3636/4 as stated on the drawing); and 3636/6.
3. The render to be used in the construction of the external walling surfaces of the extensions and alterations hereby permitted shall match the render used in the existing building.
4. Notwithstanding the submitted plans, no development shall take place until a sample of the roofing material to be used in the development has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
5. The front parking area shall not be brought into use until it has been formed from permeable surfacing materials in accordance with details submitted to and approved in writing by the local planning authority. The surfacing so provided shall thereafter be retained as such thereafter.
6. The proposed high-level landing window in the southern side elevation shall be installed with an internal sill level at least 1.7 metres above the associated landing floor level and shall be retained as such thereafter.
7. The proposed en suite window in the northern side elevation shall be obscure-glazed and any parts of the window which can be opened shall be at least 1.7 metres above the floor of the en suite room. The window shall be retained as such thereafter.

278 Maidstone Road, Chatham, Kent ME4 6JL, Rochester South & Horsted, (ME):

MC/13/1778 – Non-determination - Planning Committee

The development proposed is the creation of a new dormer to front elevation, alongside existing dormer to create headroom for a new en-suite.

Allowed with Conditions

Main Issues

The main issues are:

- a) the effect of the proposed development on the character and appearance of the area and
- b) on the living conditions of neighbouring occupiers.

Reasons

Character and appearance

The proposed development would result in the introduction of a dormer window in the front roof slope. This would be adjacent to an existing dormer and replicate both its visual appearance and size. Due to its size and proposed design the dormer would neither over dominate the front roof slope, the dwelling or the locality. It would not, therefore, result in an over development of the site. The proposal would not be harmful to the character and appearance of the existing dwelling or wider street scene and conforms with Policies BNE1 of the Medway Local Plan 2003 (MLP).

Living conditions

No 276 Maidstone Road is located to the south of the appeal building. Given the relative path of the sun on an east west axis, the proposal wouldn't lead to an unacceptable loss of sunlight or daylight for the occupants of No 276. The dormer would be for an en-suite which would be served by obscured glass and by the windows being non-opening, except for a high level fan light, therefore the proposed development would not result in a materially harmful impact in terms of overlooking from the proposed windows and conforms with Policy BNE2 of the MLP.

Decision

The appeal is allowed and planning permission is granted for creation of a new dormer to front elevation, alongside existing dormer to create headroom for a new en-suite at 278 Maidstone Road, Chatham, Kent, ME4 6JL in accordance with the terms of the application, Ref MC/13/1778, dated 22 July 2013, subject to conditions.

Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan, Block Plan and Drawing No 27846.
3. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
4. The first floor en-suite window on the eastern elevation shall be fitted with obscure glass (Pilkington Level 5 or equivalent) and, apart from any top hung light set at a minimum of 1.7 metres above the internal floor level, shall be non-opening. This work shall be implemented before the room is occupied and shall be retained thereafter.

ROCHESTER WEST

City Wall Wine Bar, 120/122 High Street, Rochester, ME1 1JT (DC):

ENF/11/0442 – Enforcement notice issued 30 April 2013.

The breach of planning control as alleged in the notice is without the benefit of planning permission the erection of a covered storage area.

Preliminary matters

Address 120-122 High Street, also referred to as 120 High Street is the City Wall Wine Bar, which occupies the ground floor of a three-storey building on High Street.

The appeal on ground (a) and the deemed planning application

Main issue

The main issue is the effect of the development upon the character and appearance of the Historic Rochester Conservation Area and upon the setting of the City Wall, a Scheduled Ancient Monument.

Reasons

The High Street contains many original period buildings displaying quality architectural detailing and traditional materials of construction. The host property is in keeping with the notable architectural quality found within the conservation area as a whole. The City Wall, a designated heritage asset of the highest significance, is very close to the appeal property. The development that has taken place is prominent in views from both those public spaces, especially Eagle Court. The covered storage area extends over the rear yard and gives the impression that scaffolding has been fixed to the back of the building especially in view of the height of the structure. The structure exceeds the height of the brick boundary walls and is set above a row of purpose-built storage sheds in the rear yard, which are allocated to the flats above the City Wall Wine Bar. The covered storage area strikes a discordant note as it is an entirely inharmonious addition to the main building by virtue of its poor design, height and unsuitable materials of construction. By paying little regard to the overall design culture, which is clearly evident in the wider context, the development harms rather than preserves or enhances the character and appearance of the conservation area. The development is also an incongruous feature in such close proximity to the City Wall that it is detrimental to the setting of that Scheduled Ancient Monument. Planning permission (ref. MC/12/3015) was granted on 17 April 2013 for the construction of a rear extension and new roof over the existing yard to provide a covered storage area. The implementation of the planning Appeal Decision APP/A2280/C/13/21989843 permission has been delayed due to the need to discharge conditions and raise funds. The appellant is therefore seeking a temporary permission for a period of one year to allow for the implementation of the extant planning permission. This is an obviously functional addition to the appeal property and possesses little or no aesthetic merit. It should not be accepted even for a temporary one-year period. The covered storage area materially detracts from the character and appearance of the Historic Rochester Conservation Area and the setting of the City Wall, a Scheduled Ancient Monument and therefore conflicts with Policies BNE1, BNE14 and BNE20 of the Medway Local Plan concerning built development, conservation areas and Scheduled Ancient Monuments respectively.

The appeal on ground (a) does not succeed and planning permission will not be granted in respect of the deemed planning application.

The appeal on ground (f)

A requirement to remove all materials associated with the covered storage area could be construed to include all the stored items within or under the covered structure. The appellant has clearly interpreted the requirement as such. The notice will be varied so that it requires the removal of the covered storage area and all materials associated with its construction. This will remove the element of doubt and properly reflect the Council's intention.

The appeal has succeeded on ground (f) to this extent.

The appeal on ground (g)

The appellant seeks a compliance period of 12 months. One month has been given. The longer compliance period is sought to enable the appellant to implement the planning permission, whereas it is indicated that requiring the appellant to remove the structure within a month would result in a lengthy intervening period without essential covered storage space, which would be detrimental to the business. A 12-month compliance period would be tantamount to the grant of a temporary planning permission, an option ruled out under ground (a). The continuity of the appellant's business and the employment it provides should be supported, so far as is consistent with ending the harm that has been caused. Three months would be a reasonable compliance period allowing the appellant some flexibility in planning his storage arrangements without the existence of the covered structure. The notice will be varied accordingly.

The appeal has succeeded on ground (g) to this limited extent.

Decision

The appeal succeeds on ground (f) and accordingly, it is directed that the enforcement notice be varied by deleting the word "therewith" in the requirements of the notice at paragraph 5 and substituting therefore the words "with its construction". The appeal succeeds to a limited degree on ground (g) and accordingly, it is directed that the enforcement notice be varied by replacing the phrase "One (1) month" with the phrase "Three (3) months" in paragraph 6 relating to the time for compliance. Subject to these variations, the appeal is otherwise dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

STROOD NORTH

46 High Street, Strood, Rochester, ME2 4AR, Strood North, (MS):

MC/13/0867 - Refusal - 29 May 2013 - Delegated

The advertisement proposed is a wall-mounted non-illuminated signcase with a corporate logo and a directional sign (resubmission of MC/12/2224).

Allowed

Main Issue

The main issue concerns the visual impact of the advertisement.

Reasons

The advertisement would be attached to a gable wall at a busy road junction. The wall is an unattractive feature in the street scene, mainly because of its stark white colouring and the large black fume-extraction flue attached to it. The landscaping here consists only of some grass at the foot of the wall and some trees to one side of it. It does not soften the appearance of the wall and would not be significantly

affected by the advertisement. Although the wall faces the straight length of road leading from Rochester, long-range views of the advertisement would be obstructed by the railway bridge next to the road junction, and its supporting structures. Views from within the junction itself would be affected by two sets of traffic lights located at the roadside near the wall. The surroundings are dominated by road and rail infrastructure, to which this relatively small advertisement would be subordinate. There are other advertisements in the vicinity, but none are on the wall and the advertisement would not give rise to clutter. The advertisement would not have an appreciable impact on the wall or its surroundings so as to bring it into conflict with the National Planning Policy Framework or Policy BNE10 of the Medway Local Plan.

Decision

The appeal is allowed and express consent is granted for the display of a wallmounted non-illuminated signcase with a corporate logo and a directional sign, as applied for. The consent is for a period of five years from the date of this decision and is subject to the five standard conditions set out in Schedule 2 to the Regulations.

STROOD RURAL

63 View Road, Cliffe Woods, Rochester, ME3 8UB, Strood Rural, (ME):

MC/13/2535 - Refusal - 9 December 2013 - Delegated

Construction of a two storey side extension (demolition of existing porch)

Dismissed

Main Issue

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

Reasons

The estate has a very spacious and open feel. No 63 Tennyson Avenue is close to the appeal property. The position and building line of the properties on Tennyson Avenue, in relation to No 63 View Road, play a significant role in the openness and character in this location. Although the width of the proposed extension would be less at 4m, it would nevertheless be sufficiently far forward of Nos 63 and 61 Tennyson Avenue that it would obscure their clear building line. This would significantly reduce the sense of openness at the junction of View Road and Tennyson Road. The design and roofline of the extension would match that of the host property, however due to the overall scale and height of the extension it would be a prominent feature on the corner of the junction with Tennyson Avenue. This would be to the detriment of the character of the area.

Decision

The appeal is dismissed.

WALDESSLADE

KEPPLER, 46 York Avenue, Walderslade, Chatham, ME5 9ER, Walderslade, (ME):

MC/13/0625 – Non-determination - Delegated

The development proposed is a single storey rear extension and change of roof form and height to create habitable space to the loft and demolition of garage.

Allowed with Conditions

Main Issue

The main issue is the effect of the proposal on the living conditions of the occupiers of 48 York Avenue, with reference to the loss of outlook and daylight.

Reasons

The appeal site comprises a bungalow set back from the road and lies in close proximity to a neighbouring bungalow at No 48. This neighbouring dwelling has two windows serving a bathroom and bedroom flanking the bungalow on the appeal site. There is a small gap between the two bungalows. The bedroom is served only by one window, which is clear glazed, whilst the bathroom window is obscure glazed. The proposal would result in the raising of the roof of the appeal dwelling and a steeper pitched hipped roof facing these windows of this neighbouring property. The Council have objected to the impact of the proposal on the bedroom window. The outlook from lower down the window is already affected by the existing dwelling and the timber boundary fence separating the two properties. The steeper pitched roof and increased height of the extended dwelling would not significantly change the existing outlook. Any increased sense of enclosure would not be significant. The affected room is a bedroom where the required standards for living conditions would not be as high as living rooms that are intended for use during the day.

Daylight would still be able to reach the bedroom from directions other than from that of the extension. The pitched roof would be sloping and still allow light to enter the bedroom from either end of the gap separating the two properties.

Decision

The appeal is allowed and planning permission is granted for single storey rear extension and change of roof and height to create habitable space to the loft and demolition of garage at 46 York Avenue, Chatham, Kent ME5 9ER in accordance with the terms of the application, Ref MC/13/0625, dated 11 March 2013, subject to conditions.

Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: unnumbered location plan scale 1:1250 and Drawing no 324.

3. The brick and roof materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing dwelling. Prior to the commencement of development on site, details of the type and colour of the render to be used on the gables shall be submitted and approved in writing by the local planning authority. The development shall be carried out in accordance with these approved details and thereafter retained.
4. Before the first occupation of the extension hereby permitted the roof lights on the northern roof slope shall be fitted with obscured glass, sited at a minimum height of 1.7m above the level of the internal floor and be non-opening. They shall thereafter be permanently retained in that condition.

Land adjoining 32 Gorse Avenue, Chatham, Kent ME5 0UG, Walderslade, (MP):

MC/13/0977 - Refusal - 11 July 2013 - Planning Committee

The development proposed is a 3 bedroom dwelling.

Dismissed

Main Issues

The main issues are the effects of the proposal on:

- (a) the living conditions of the occupiers of 13 Rosemary Close, with reference to overlooking, and the occupiers of the proposed dwelling, with reference to outdoor space, and
- (b) the character and appearance of the area.

Reasons

Living conditions

Overlooking

The appeal site comprises the side garden of 32 Gorse Avenue and backs onto the flank part of a rear garden at 13 Rosemary Close. The proposed dwelling has been designed with one rear first floor window, which would face the rear garden area of the neighbouring property where the separation distance would be approximately 7m at its closest point. This separation distance is relatively short. The affected area would also be reasonably close to the rear of the neighbouring dwelling where it would be expected that occupiers would enjoy a high standard of privacy. For these reasons, the proposal would result in significant overlooking.

Outdoor space

The rear garden area of approximately 7m would be reduced to accommodate car parking to the side of the dwelling. However the relatively large width to this garden results in a sizeable area, which would be reasonable and practical to meet the everyday needs of the occupiers of the proposed dwelling. The dwelling would be for family sized accommodation where the provision of outdoor space would be important. The car parking area would not affect the usefulness of such an area. For these reasons, the proposal would provide satisfactory outdoor space.

Character and appearance

Both the side gardens of the dwellings at 32 and 30 Gorse Avenue, together with the access track separating the two properties, provide an open area within the street.

There is a mixed character to the area with wide terraces and some open areas around them. A relatively sizeable gap would still be retained between the boundary of the appeal site and the side of the proposed dwelling. This area would be used for car parking and access areas and would ensure a significant degree of openness to the side of the development. It would be compatible with the mixed character and appearance of the street, and provide some space to the side of the proposed extended terrace, which would avoid a cramped form of development.

Decision

The appeal is dismissed.

WATLING

42-44 Stuart Road, Gillingham, ME7 4AD, Watling, (DC):

MC/13/1034 - Refusal - 11 July 2013 - Planning Committee

The development proposed is described on the application form as installation of 3 metre high wire mesh fence inside garden perimeter 1.4m brick boundary wall between 42-44 and 40.

Allowed with Conditions

Main Issue

The main issue is whether the proposal would preserve or enhance the character or appearance of the Gillingham Park Conservation Area, within which the property is located.

Reasons

The appeal property backs onto Gillingham Park. The locality has a spacious and sylvan sense of place with a distinct but low-key element of enclosure. Established boundary treatments at the appeal property depart from this with the high brick wall that runs along most of the side boundary with Park Avenue. Nonetheless, this is well-weathered, constructed from traditional brick and, given the corner location, is entirely appropriate to its setting. The replacement wall on No 40's boundary, for which, permission is now sought retrospectively, is built from a harsher red brick, which contrasts with the older wall. However, although it can be glimpsed from the highway and the park, it is partially obscured and too distant from public viewpoints to draw the eye. The part of the replacement wall to be erected between the buildings would not be readily discernible from the road and, therefore, would also be acceptable in visual terms, however the proposed fencing is a matter of concern. This would be starkly utilitarian in design with an industrial character markedly at odds with the residential surroundings. There is nothing of similar height or design in the vicinity and, consequently, it would draw the eye as an incongruous and obtrusive feature that would detract from the street scene and prevailing sense of place. It would also, whether green or black, clash to an unacceptable degree with the light painted finish of the host building, the weathered brick boundary treatment to Park Avenue and the open railings of Gillingham Park. It would be even more harmful to the local townscape than the unauthorised, but more domestic, brick and timber screen that preceded it as depicted in photographs supplied by the Council.

The mesh structure of the fence would do little to mitigate its visual impact as, viewed from an oblique angle, it would have a more solid appearance. Nor would planting provide sufficient mitigation as, by its very nature, it would only be a temporary measure and, in any event, would take some considerable time to establish an effective visual screen. The brick wall on the boundary of No 40, in existing and completed form, preserves the character and appearance of the Gillingham Park Conservation Area to an acceptable degree, however the proposed mesh fence would fail to do so and, therefore, is contrary to Policies BNE1 and BNE14 and the NPPF.

Other Matters

The fence is required to meet the current Home Office/National Health Service (NHS) design guidance for security at units housing care patients in the categories envisaged. Whilst Policy BNE8 states that the design and layout of development should seek to maximise personal safety and the security of property, there is nothing in national or local policy to suggest that this consideration is more important than the preservation or enhancement of the character or appearance of conservation areas. There is no cogent evidence to the effect that there is an essential need to provide a care facility of this kind in this particular location. The property would be better suited to other forms of care, which do not require compliance with such stringent Government/NHS standards.

Formal Decision

The appeal is dismissed so far as it relates to the erection of a wire mesh fence. The appeal is otherwise allowed and planning permission is granted for the erection of a brick boundary wall between 42-44 and 40 Stuart Road, Gillingham, Kent ME7 4AD in accordance with the terms of the application, ref no MC/13/1034 dated 16 April 2013, and the plans submitted with it so far as relevant to that part of the development hereby permitted, subject to condition.

Condition

1. The erection of that section of the wall hereby permitted that has yet to be built shall be carried out in accordance with the following approved plans: drawing nos 2153/100 revision A and 2153/300.

JCB MEDWAY LTD Bailey Drive, Gillingham Business Park, Gillingham, ME8 0PZ, Watling, (AG):

MC/13/1541 - Refusal - 14 August 2013 - Delegated

The advertisement proposed is a single sided, back lit, light box.

Allowed

Main Issue

The main issue is the effect of the proposed advertisement on the character and appearance of the area.

Reasons

The appeal site is located within Gillingham Business Park. The appeal site contains a large modern industrial building and other buildings used for the sale and repair of

cars. The sign would be at the entrance, replacing an existing sign. The existing sign has moving words on both sides towards the top of the sign, set within a black surround, with brushed metal and a logo below this. The sign would be of a similar size and scale to the one to be replaced and the design of it would not appear unattractive. It would not appear prominent or out of context with its immediate surroundings and would not add visual clutter to the site. Although there would be an increase in the size of image from the existing sign, this would not look out of place, particularly as it would be mainly viewed against the backdrop of the main building on the approach to the site. It would also be less noticeable than the other signs on the appeal site, particularly the flags that, are considerably higher and more prominent. Given the nature and location of the businesses surrounding the area, the sign would not lead to a proliferation of similar advertising within the immediate area. Policy BNE1 relates to built development and therefore is not relevant in this instance. The proposal would comply with Policy BNE10.

Decision

The appeal is allowed and express consent is granted for a single sided, back lit, light box as applied for. The consent is for five years from the date of the decision and is subject to the five standard conditions set out in the Regulations.

Appeal Cost Decision Summaries

There were no cost decisions for this quarter.

APPENDIX C

Report on Appeal Costs

Appeals prior to 2011/12					
Ref.	Site	Proposal	Decision type	Costs	Comment
MC/05/0263	Trechmanns Wharf Cuxton (Cuxton & Halling Ward)	Re-use of land as wharf : siting of prefab building, 2 cranes, lighting and new access road to Rochester Road	Delegated	For	Legal pursuing costs
ENF/12/0006	28A East St, Chatham (Chatham Central Ward)	Demolition of garage premises + construction of a 3 bedroomed mid terrace house		Against	Legal negotiating costs
COMP/07/0012	Thameside Terminal Cliffe (Strood Rural)	Construction of roadway, buildings, change of use of land by subdivision to 9 plots for storage, transport and haulage and Portacabin businesses – all with no planning permission	Enforcement	For	Legal pursuing costs from Panther Platform Rentals and Britannia Assets (UK) Ltd

Appeals 2011/12					
Ref.	Site	Proposal	Decision type	Costs	Comment
ENF/11/0094	113 Imperial Rd Gillingham (Gillingham South Ward)	Conversion to 2 x 2 bed flats with no planning permission	Enforcement	For (partial)	Legal applied for High Court costs order - received March 2014. Pursuing payment

Appeals 2011/12

Ref.	Site	Proposal	Decision type	Costs	Comment
MC/10/1737	Forge Cottage, 214 Bush Rd, Cuxton (Cuxton & Halling Ward)	Outline for 3 bed detached dwelling	Delegated	For (partial)	Costs of <u>£90.42 paid in full 30/04/2012</u>
COMP/09/0154	Medway Manor Hotel 14-16 New Rd Rochester (River Ward)	Erection of wooden outbuilding on site without planning permission	Enforcement	For (partial)	Costs of <u>£217.91 paid in full 20/01/2012</u>

Appeals 2012/13

Ref.	Site	Proposal	Decision type	Costs	Comment
ENF/11/0282	2 Livingstone Circus Gillingham (Watling Ward)	Change of use of ground floor to mixed use resi and A1 retail use without permission	Enforcement	For (partial)	Costs of <u>£243.36 paid in full 20/11/2013</u>
ENF/10/0141	Riverview Manor Rochester (Rochester West Ward)	Planning breach : mixed use of resi, recovery, repair and storage of vehicles and storage of catering van and container	Enforcement	For	£500 received 23/04/2014. Remaining costs to be invoiced on 29/05/2014 and 01/07/2014 for £186.02 each
MC/13/0280	Plot 1, Merryboys Stables, Cliffe Woods (Strood Rural Ward)	Construction of shed to side of dwelling (resubmission of MC/12/0818)	Delegated	For	Costs of <u>£276 paid in full 30/12/2013</u>