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 7 appeal decisions were received during April to June 2014, of which 2 were allowed 5 dismissed and 0 split decisions.

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 defendable 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.

Lead officer contact

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Gun Wharf
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Email: dave.harris@medway.gov.uk.

Background papers

Appeal decisions received from The Planning Inspectorate for the period April – June 2014.
APPENDIX A

Appeal Decision Summaries

CHATHAM CENTRAL

The Ropemakers Arms, 70 New Road, Chatham, Kent, ME4 4QR (AB):

MC/14/0341 – refused (21 March 2014) – delegated

Variation of condition 1 of planning permission MC/13/0175 to alter the opening hours to Friday – Saturday 11:00am – 03:00am and Sunday 11:00am – 01:00am

Dismissed (17 July 2014)

Summary:
The main issue is the effect on the proposed increase in opening hours on living conditions of the occupiers of nearby residential properties with regard to noise and disturbance.

Having regard to the suggested condition of deliveries only between the hours of 00:30 and 03:00, the Inspector stated that the potential nuisance to nearby residential properties would still take place and that further noise and disturbance would be caused by the delivery vehicles. There would be a detrimental impact to the residential amenity.

GILLINGHAM SOUTH

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

MC/13/2868 – refused (7 February 2014) – delegated

Outline application with some matters reserved (appearance, landscaping and layout) for construction of a development of 10 apartments

Dismissed (17 July 2014)

Summary:
The main issues are the effect on the character and appearance of the area and whether the proposal would amount to overdevelopment in respect of lack of adequate amenity facilities.

Character and appearance.
The proposed large three storey element extending around the corner of the site would be result in over-dominant bulk and mass in the street scene. The development would be unsatisfactory in both scale and mass and would not be appropriate to the area.
Amenity facilities
A detailed layout submitted at reserved matters stage could demonstrate that adequate supporting amenity facilities could be provided, which would not amount to overdevelopment. This would provide satisfactory amenities and parking provision for future occupants.

Other matters
The level of proposed parking provision would be satisfactory. The question of possible contamination of the site could have been dealt with by an appropriate condition.

The provision of a third storey element would have an adverse impact upon the character and appearance of the area and outweigh any benefits arising from the scheme.

199-199c Gillingham Road, Gillingham, Kent, ME7 4EP (WS-original; PI-appeal):

MC/13/2232 – refused (09 January 2014) – committee

Variation of condition 03 of planning permission MC/13/1368 (Change of use from part residential at ground floor into commercial use Class A1 (retail), change of use of covered storage area to Class A1 floor space with works including re-roofing of storage area and infilling of garage door together with installation of roller shutters and ramp.) to allow the retail use to operate 06.00 to 23.00 on Mondays to Saturdays (inclusive) and 06.00 to 22.00 on Sundays and National Holidays.

Dismissed (18 September 2014)

Summary:
The main issue is the effect extended opening hours would have on the living conditions of neighbouring residents in terms of noise and disturbance.

Customers of the premises use the site’s parking area but also park opposite the site regularly which is likely to make the store more attractive to customers with cars than other stores. The noise from drivers and people departing and arriving from the premises, and banging of car doors, has the potential to cause material harm to the occupiers of the surrounding properties, and it would not be possible to control the activities of customers. To allow this proposal would result in harm to the living conditions of neighbouring occupiers in terms of noise and disturbance.

PENINSULA

The Helmet, Sharnal Street, High Halstow, Rochester, Kent, ME3 8QN (SF):

MC/13/1749 – refused (19 November 2013) – Committee

Demolition of existing dwelling and ancillary building and construction of a 4-bedroomed dwelling with associated 1-bedroomed ancillary building and associated parking
Approved subject to conditions (16 July 2014)

Summary:
The main issues are the effect of the proposed ancillary building on the character and appearance of the surrounding area and whether it can be regarded as sustainable development.

Character and appearance
The difference between the siting, footprint, height and mass of the existing garage relative to the proposed replacement building is negligible, thus having a neutral effect. The proposed ancillary building would not have a significant effect on the character and appearance of the area.

Whether the development is sustainable
The area does not amount to a sustainable community with any significant services. The proposed ancillary building has the potential to become a separate dwelling, however a Unilateral Undertaking (UU) has been submitted and would ensure the proposed building could not be sold, let or otherwise disposed of separately from the main dwelling and could only be occupied by relatives of the occupants of the main dwelling. Therefore, subject to the UU, the proposed development can be regarded as sustainable.

Conditions:
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 1981-P01; Drawing No 1981-P02; Drawing No 1981-P03; Drawing No 1981-P04; Drawing No 1981-P05
3. No development shall take place until details and samples of all materials to be used externally 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 full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority (LPA) and these works shall be carried out as approved. All planting, seeding or turfing comprised in the approved details of the landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which are within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the LPA gives written approval to any variation.
5. Prior to the development hereby approved being brought into use the access, parking areas and turning areas shall be laid out, drained and surfaced in accordance with details to be submitted to and approved in
writing by the Local Planning Authority, and those areas shall not thereafter be used for any other purpose.

**Allhallows Touring Caravan Park, Stoke Road, Allhallows, Rochester, ME3 9PD**

(MP-Original; SF-Appeal):

MC/14/0075 – refused (13 March 2014) – delegated

Construction of a two storey building for use as an office and managers accommodation

**Dismissed (29 August 2014)**

**Summary:**
The main issue is whether or not there are special circumstances to justify an exception to local and national policies for countryside development.

During quieter months the estimated level of custom indicates there’s a very limited need for someone to be living on site. Furthermore, the issues the appellants raised of gate operation, directing late arrivals and fixing electrical outages can be resolved with alternatives such as installing electronic gates, signage and instructions and out-of-hours telephone numbers. The issue of security was also raised, however this is not of itself sufficient to justify this development.

A village is very close to the site and housing for the appellants could be sought there. Special circumstances justifying the proposal as an exception to policy have not been demonstrated

**RAINHAM CENTRAL**

**249 London Road, Rainham, Gillingham, ME8 6YR (AB):**

MC/13/3172 – refused (24 February 2014) – committee

Construction of single storey infill extension to rear; single storey rear extension, two first floor rear extensions and conversion of existing roof space to living accommodation together with the insertion of two dormers to rear, with associated amenity, parking & landscaping works

**Dismissed (12 September 2014)**

**Summary:**
The main issues are the effect on the character and appearance of the area, the living conditions of the occupiers and neighbouring properties and street parking.

*Character and appearance*
The extent of the building proposed, in context of the amount of built development already on site and resulting plot coverage would be incongruous in terms of layout and pattern of the immediate area which is characterised by open rear gardens. It
would fail to respect the scale, pattern and layout of the area and would have a harmful impact on the character and appearance of the area.

**Effect on living conditions**
The proposed extensions would not have an unacceptable impact on outlook or privacy. The impact of lighting at night is unlikely to be significant, and can be further controlled by condition. The proposal would be acceptable in terms of living conditions.

**On-street parking**
The Council’s parking standards suggest that 12 car parking spaces should be provided, though this is a maximum standard. The proposed on-site provision would be well below this, but a significant level of cycle parking would be provided. The proposed travel plan would encourage the use of sustainable transport, which appears to be a viable alternative. The proposal would be unlikely to result in an unacceptable level of parking as to cause detriment to neighbouring properties.

**Other matters**
The proposal would meet social and economic roles, but would fail to meet the environmental role and would not constitute sustainable development.

**RAINHAM NORTH**

**J A High Opticians, 73 High Street, Rainham, Gillingham, Kent, ME8 7HS (IS):**

MC/14/0332 – Split (17 April 2014) – delegated

Advertisement consent for the installation of an internally illuminated projecting sign, fascia sign and non illuminated A-board

**Allowed subject to condition (15 July 2014)**

**Summary:**
The main issue is the effect of the display sign on the character and appearance of the locality, and on public safety.

**Procedural matters**
This appeal relates only to the refusal of the non-illuminated A board

**Character and appearance**
There are a number of commercial premises within the area with A boards positioned outside in the immediate area. The proposed A board would not look incongruous within the street scene and would not cause unacceptable harm to the character and appearance of the locality.

**Public safety**
The footway in front of the site is generous in width due to the staggered frontage of shop units. There is sufficient space within this recessed section of footway to accommodate the A board without prejudicing pedestrian safety. No harm to public safety has been demonstrated. The A board would be acceptable subject to
conditions including restricting its location to the rear part of the footway in the interest of public safety.

**Conditions:**

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
2. No advertisement shall be sited or displayed so as to-
   a. endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
   b. obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
   c. hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.
6. Notwithstanding the approved plans, the A board hereby permitted shall be restricted to siting to the rear part of the footway.
There were no cost decisions for this quarter.
## Report on Appeal Costs

### Appeals prior to 2011/12

<table>
<thead>
<tr>
<th>Ref.</th>
<th>Site</th>
<th>Proposal</th>
<th>Decision type</th>
<th>Costs</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>MC/05/0263</td>
<td>Trechmanns Wharf Cuxton (Cuxton &amp; Halling Ward)</td>
<td>Re-use of land as wharf: siting of prefab building, 2 cranes, lighting and new access road to Rochester Road</td>
<td>Delegated</td>
<td>For</td>
<td>Legal pursuing costs</td>
</tr>
<tr>
<td>ENF/12/0006</td>
<td>28A East St, Chatham (Chatham Central Ward)</td>
<td>Demolition of garage premises + construction of a 3 bedroomed mid terrace house</td>
<td>Against</td>
<td>£25,500 paid as final settlement (2 instalments January and May 2014)</td>
<td></td>
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<tr>
<td>COMP/07/0012</td>
<td>Thameside Terminal Cliffe (Strood Rural)</td>
<td>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</td>
<td>Enforcement</td>
<td>For</td>
<td>Legal pursuing costs from Panther Platform Rentals and Britannia Assets (UK) Ltd</td>
</tr>
<tr>
<td>Ref.</td>
<td>Site</td>
<td>Proposal</td>
<td>Decision type</td>
<td>Costs</td>
<td>Comment</td>
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<tr>
<td>ENF/11/0094</td>
<td>113 Imperial Rd Gillingham (Gillingham South Ward)</td>
<td>Conversion to 2 x 2 bed flats with no planning permission</td>
<td>Enforcement</td>
<td>For (partial)</td>
<td>Legal applied for High Court costs order - received March 2014. Pursuing payment</td>
</tr>
<tr>
<td>MC/10/1737</td>
<td>Forge Cottage, 214 Bush Rd, Cuxton (Cuxton &amp; Halling Ward)</td>
<td>Outline for 3 bed detached dwelling</td>
<td>Delegated</td>
<td>For (partial)</td>
<td>Costs of £90.42 paid in full 30/04/2012</td>
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<tr>
<td>COMP/09/0154</td>
<td>Medway Manor Hotel 14-16 New Rd Rochester (River Ward)</td>
<td>Erection of wooden outbuilding on site without planning permission</td>
<td>Enforcement</td>
<td>For (partial)</td>
<td>Costs of £217.91 paid in full 20/01/2012</td>
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### Appeals 2012/13

<table>
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<th>Costs</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/11/0282</td>
<td>2 Livingstone Circus, Gillingham (Watling Ward)</td>
<td>Change of use of ground floor to mixed use resi and A1 retail use without permission</td>
<td>Enforcement</td>
<td>For (partial)</td>
<td>Costs of £243.36 paid in full 20/11/2013</td>
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<tr>
<td>ENF/10/0141</td>
<td>Riverview Manor, Rochester (Rochester West Ward)</td>
<td>Planning breach : mixed use of resi, recovery, repair and storage of vehicles and storage of catering van and container</td>
<td>Enforcement</td>
<td>For</td>
<td>Costs of £872.04 paid in full over 3 instalments (final instalment received 09/09/2014)</td>
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<tr>
<td>MC/13/0280</td>
<td>Plot 1, Merryboys Stables, Cliffe Woods (Strood Rural Ward)</td>
<td>Construction of shed to side of dwelling (resubmission of MC/12/0818)</td>
<td>Delegated</td>
<td>For</td>
<td>Costs of £276 paid in full 30/12/2013</td>
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<td>MC/13/2031</td>
<td>48 Hoath Lane, Rainham (Wigmore Fish Bar)</td>
<td>Construction of 4 dwellings</td>
<td>Committee over turn of officer recommendation</td>
<td>Against (partial)</td>
<td>Costs limited to defending reasons 1 and 3 of decision. £1,946.50 paid to cover 50% costs.</td>
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<tr>
<td>ENF/12/0473</td>
<td>Buttercrock Wharf, Vicarage Lane, Hoo</td>
<td>Construction of a commercial building with landscaping, parking and internal infrastructure without the benefit of planning permission</td>
<td>Enforcement</td>
<td>For (partial)</td>
<td>Costs incurred limited to preparation to refute the claim that the new commercial building erected was the implementation of a valid planning permission Costs of £1,517.50 paid in full 27/08/2014</td>
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