

PLANNING COMMITTEE

2 AUGUST 2023

REPORT ON APPEAL DECISIONS 1 APRIL 2023 TO 30 JUNE 2023

Report from: Dee O'Rourke, Assistant Director, Culture & Community
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Summary

This report informs Members of appeal decisions. The summary of appeal decisions for those allowed or where decisions were made by the Committee contrary to Officer recommendation is listed by ward in Appendix A.

A total of 15 appeal decisions were received between 1 April 2023 and 30 June 2023. Ten of these appeals were allowed, which included three Committee decisions which overturned the Officer recommendation and two relating to enforcement. 5 appeals were dismissed.

A summary of appeal decisions is set out in Appendix A.

A report of appeal costs is set out in Appendix B.

1 Budget and policy framework

1.1 This is a matter for the Planning Committee.

2 Background

2.1 When a planning application is refused, the applicant has the right to appeal. The timescale for lodging an appeal varies depending on whether the application relates to a householder matter, non-householder matter or whether the proposal has also been the subject of an Enforcement Notice.

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 a 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. In a limited number of cases appeals are determined by the Secretary of State after considering an Inspector's report.
- 2.5 In accordance with the decision made at the Planning Committee on Wednesday 5 July 2017, Appendix A of this report, will not summarise all appeal decisions but only either those which have been allowed on appeal or where Members made a contrary decision to the officers' recommendation.

3 Advice and analysis

- 3.1 This report is submitted for information and enables Members to monitor appeal decisions.

4 Risk management

- 4.1 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.
- 4.2 The quality of decisions is reviewed by Government and the threshold for designation on applications for both major and non-major development is 10% of an authority's total number of decisions being allowed on appeal. The most up-to-date Government data, which is for the 24 months to the end of March 2022, shows the number of decisions overturned at appeal for major applications is 1.6% and 1.1% for non-major applications. Where an authority is designated as underperforming, applicants have the option of submitting their applications directly to the Planning Inspectorate.

5 Consultation

- 5.1 Not applicable.

6 Financial and legal implications

- 6.1 An appeal may be determined after a Public Inquiry, an Informal Hearing or by exchange of 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. Powers have now been introduced for Inspectors to award costs if they feel either party has acted unreasonably irrespective of whether either party has made an application for costs.

- 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 or an aggrieved party 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 into 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 Recommendation

- 7.1 The Committee is asked to consider and note this report which is submitted to assist the Committee in monitoring appeal decisions.

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Appendices

- A) Summary of appeal decisions
- B) Report on appeal costs

Background papers

Appeal decisions received from the Planning Inspectorate for the period 1 March 2023 to 30 June 2023.

Gov.uk statistical data sets Table P152 and Table P154

APPEAL DECISION SUMMARY

Appeals decided between 01/04/2023 and 30/06/2023

ENF/19/0025

1 Dean Road, Strood – Strood North Ward

Enforcement Notice served – 06 April 2021 – Delegated

Without the benefit of planning permission, the construction of a detached single storey dwelling to the rear of the property.

Allowed and the enforcement notice quashed – 4 April 2023
Costs awarded against the Council.

Summary

The appellants consider that what has been erected is not a dwelling and that the development as constructed is not substantially or materially different to that granted planning permission in 2016 under reference MC/15/4550. The Council has accepted that it could be considered slightly premature to refer to the development as a 'dwelling' at the time the notice was issued. It considers that the notice can be corrected by deleting the word 'dwelling' and replacing it with 'building'. It also considers that windows and doors are in different positions, rooflights have not been inserted and boundary treatments are different to that approved by the 2016 permission and that these differences result in the development being materially different to the 2016 permission.

The Inspector noted that whilst the shell of the building is complete the internal space within it is not and the window openings are boarded over. The Inspector also acknowledged that given the position of the window and door openings the building does have the appearance of a dwelling when viewed externally. Moreover, the boundary treatments also differ to that shown on the plans approved for the 2016 permission and their position and design could be taken to indicate that in the future the building may be occupied independently of the dwelling at 1 Dean Road. Nevertheless, the building was not occupied at the time the enforcement notice was issued and does not have any facilities within it. Therefore, the development as constructed is not a dwelling and the alleged breach of planning control has not in fact occurred.

The 2016 permission related to the construction of a detached single storey annexe building to the rear of No 1. The permission was subject to 4 planning conditions but none of those conditions required details to be submitted to and approved by the Council prior to commencement. There is no dispute that the building constructed on the site has the same dimensions and is in the same location as that approved by the 2016 permission. Consequently, the Inspector considers that most of the

elements of the development relating to the external shell of the building are common to both the 2016 permission and the enforcement notice.

The development as constructed has window and door openings in different positions to that approved as part of the 2016 permission and roof lights have not been inserted. However, the Inspector judged the differences to the design of the building in themselves does not constitute a substantial deviation from the 2016 permission and does not amount to material changes that have significant planning consequences.

The Inspector does not consider that the allegation of a breach of condition 2 of the 2016 permission can be corrected without injustice to both parties as it would fundamentally change the scope of the notice. Furthermore, the enforcement notice and its requirements do not currently relate to any of the boundary treatments. However, it is clear that the Council considers that the boundary treatments are part of the breach of planning control. The Inspector concluded that the decision to quash the notice leaves open to the Council the option of issuing a further notice with a corrected allegation.

An application for costs were made by the appellant as they consider that it should have been apparent to the Council that what was alleged in the Notice had not occurred, they also consider that the Council was unreasonable in; suggesting corrections to the enforcement notice at a late stage of the appeal process; not withdrawing the notice and stating that the planning permission granted in 2016 was not extant.

The Council have not provided any evidence of what investigations were carried out prior to the enforcement notice being issued and no record of a Planning Contravention Notice being issued. The Inspector considered that the Council could have taken legal advice prior to the issue of the notice and also after the appeal was lodged. The Council could have withdrawn the notice and issued a corrected notice.

All of the above lead the Inspector to conclude that the Council has acted unreasonably in issuing the notice and the applicants have, therefore, been put to the unnecessary expense in making the appeal against the notice. The Inspector found that a full award of costs is justified.

MC/22/0606

Land Opposite 20-30 Weybridge Close, Lordswood – Lordswood and Capstone Ward

Refusal – 6 May 2022 – Committee Overturn

Construction of four 2-bedroom flats with associated parking and landscaping.

Allowed – 19 April 2023

Summary

The main issue is the effect of the development on the provision of open space, having regard to trees and the character and appearance of the area.

The appeal site comprises an area of grass and trees in a residential estate. It is bordered by stretches of public road and footpaths, a car park for use by local residents and the rear gardens of properties. Nearby dwellings are generally semi-detached or terraced in nature over two storeys. The appeal site is not protected or designated as formal open space under the Local Plan.

The land is privately owned; public access to the open space that currently exists is at the discretion of the land owner and it could be enclosed to prevent future use. Consequently, any existing value from such access would only carry limited weight because it may not endure.

The Inspector observed that the woodland on the north side of Lordswood Lane, which is designated open space, is in close proximity to the site with accessibility via well-lit, level footpaths. Similarly, the public footpath in the direction of Capstone Country Park, which leads across attractive open countryside, is an easy walk via Kingston Crescent and North Dane Way. Although the latter road is busier with fast-moving traffic, the Inspector considers the pedestrian visibility is good in both directions and there is a central island for refuge.

The submitted tree survey indicates that the specimens to be removed are of low value and there is no robust evidence to the contrary. Therefore, the Inspector concludes that the trees to be felled do not provide a valuable contribution to local character.

The submitted landscaping plan demonstrates that replacement trees could be planted elsewhere on the site to counterbalance those to be removed. This could be controlled through the imposition of a condition.

With regard to biodiversity, the Inspector saw no robust evidence that the loss of existing vegetation on the site would be harmful to wildlife. As well as the new trees, planting of indigenous hedgerows around the proposed flats would provide habitats for birds and insects, thereby increasing ecological potential.

The Inspector considered concerns raised by residents in relation to loss of privacy and light, overbearing effects, parking and access arrangements, the construction process, pollution, noise and disturbance, ongoing maintenance, the introduction of balconies and cycle and storage could be dealt with through the imposition of conditions.

Having regard to the above and all other matters raised, the Inspector concludes that the appeal should be allowed.

MC/22/1567

8 Abbey Road, Gillingham – Twydall Ward

Refusal – 19 August 2022 – Delegated

Construction of a single storey extension to rear attaching to an existing extension – demolition of existing conservatory.

Allowed – 19 April 2023

Summary

The main issues are the effect of the development on the character and appearance of the dwelling and surrounding area and the living conditions of the occupants of the property with regard to external amenity space.

The appeal site relates to a semi-detached, two-storey house with off-street parking to the front. It is located in a residential area comprising other houses of broadly similar size and design.

The proposal would replace an existing extension at the rear of the house with a glazed conservatory. The plans show that the new element would replicate the existing structure in terms of its footprint and height, with a shallow monopitch roof.

The Inspector observed that the existing structure is of modest scale and low level in nature. The site slopes downwards towards the rear and there are tall boundary walls running along either flank boundary, which reduces its impact. Given this context, the Inspector considers that the new conservatory would similarly assimilate with the host dwelling, without dominating it or resulting in a cramped over-development of the site and would integrate with the surrounds and would not harm the character and appearance of the dwelling and surrounding area.

Due to the extensions to the main house and the presence of a large outbuilding at the end of the garden, the external amenity space at the rear would be small. Nonetheless, the Inspector considers the garden would retain a useable rectangular shape and is satisfied that it would meet the needs of the appellant and his family.

The existing extension would need to be demolished before construction on the conservatory could commence, therefore a condition requiring its removal would be unnecessary.

Having regard to the above and all other matters raised, the Inspector concludes that the appeal should be allowed.

MC/21/2659

Grass Verge Opposite, King Charles Hotel, Brompton – Gillingham North Ward

Refusal – 29 October 2021 – Delegated

Prior approval for the installation of a 15m Phase 8 Monopole, C/W wrapround cabinet at base and associated ancillary works.

Allowed – 22 May 2023

Summary

The main issues are the effect of the siting and appearance of the proposed installation on the locality; including the character and appearance of the Brompton Lines conservation Area, the setting of the listed buildings known as Brompton Barracks Gymnasium and Royal Engineers Museum and the setting of the Scheduled Monument known as Brompton Lines, and if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

The area surrounding the appeal site is characterised by a mix of buildings and areas of open space; including the King Charles Hotel building. The area is a typical urban area with common street furniture including street lighting, brick walls and/or railings, road signs, bus stops and traffic lights.

The proposal would be taller than the adjacent bus stop and slightly taller than the King Charles Hotel building on the opposite side of the road. The Inspector considers that telecommunication structures are common features in built up areas and the proposal would not necessarily be highly noticeable as it would blend in with similar structures such as street lighting and be viewed in the context of nearby trees.

The proposal would be noticeable in some views from and to Brompton barracks Gymnasium, Royal Engineers Museum and the Brompton Lines Scheduled Monument. However, the Inspector concludes such views would be constrained to a degree by the foliage of existing mature trees. Due to its siting, height and bulk, the Inspector feels the proposed monopole would not appear as an intrusive feature that adversely compromises the street scene and surrounding buildings.

The significance of the designated heritage assets within the context of this appeal derives from their aesthetic contribution to the street scene and wider Medway towns. The proposal would result in a change to the setting of these heritage assets through the introduction of strikingly modern communications equipment. It would also alter the character and appearance of this part of the conservation area.

The Inspector feels that, at worst, the proposal would result in less than substantial harm on the significance of the nearby heritage assets and whilst it would also fail to preserve or enhance the character or appearance of the conservation area, this amounts to no greater than less than substantial harm as set out in the NPPF.

In terms of public benefits, the Inspector notes that the proposal would increase the capacity and coverage of the mobile communications network in this locality. The appellant indicates that they have considered alternative sites for the proposal but these were not suitable. The Inspector has seen little evidence to the contrary from the Council that the need for the mast in this location to ensure reliable coverage of

the mobile communications network is not present. The Inspector concludes that the public benefits arising from the proposal outweigh the less than substantial harm in this case and therefore the appeal should be allowed and prior approval should be granted.

MC/22/1874

66 Sharfleet Drive, Strood – Strood North Ward

Refusal – 27 September 2022 – Delegated

Application for a Lawful Development Certificate (Existing) for the construction of a detached outbuilding incidental to the enjoyment of the dwellinghouse.

Allowed – 6 June 2023

Summary

The main issue is whether the Council's refusal to grant the LDC was well founded. The Council determined that the existing garden room falls foul of Paragraph E.1(h), of the GPDO which restricts the construction or provision of a verandah, balcony or raised platform.

The appeal site relates to a semi-detached two-storey dwellinghouse. The garden room, the subject of the appeal, is a single storey L-shaped outbuilding with a flat roof.

The planning officer's report states that the development comprises a raised platform at a height of 0.45m. The appellant argues that the surface of the ground on which the decking is situated, is not uniform, and that no part of the decking exceeds 0.3m in height when measured from the highest part of the surface of the ground adjacent to it.

During a site visit the Inspector observed that the ground level was not uniform with land sloping down away from the main house. Both parties agreed that the height of the decking was around 0.15m closest to the main dwelling, around 0.29m adjacent to the part of the outbuilding closest to the main dwelling and around 0.42m adjacent to the rear part of the outbuilding (Garden Room).

The Government's Technical Guidance states that a raised platform will be permitted development under Class E subject to it not exceeding the 0.3m height limit. No part of the decking exceeds 0.3m in height when measured from the highest part of the surface of the ground adjacent to it. Therefore, the decking does not amount to a raised platform in excess of 0.3m and does not fall foul of the limitation at paragraph E.1(h) of Class E of the GPDO.

The Inspector concludes that the Council's refusal to grant a certificate of lawful use or development was not well-founded and that the appeal should succeed.

MC/21/2225

Land to the East of Seymour Road and North of London Road, Rainham – Rainham South Ward

Refusal – 21 October 2022 – Committee Overturn

Outline application with all matters reserved (except access) for a residential development of up to 48 dwellings, including associated access, parking, landscaping and open space.

Allowed – 22 June 2023

Summary

The main issues are the effect of the proposal on highway capacity and safety and on the setting and significance of designated heritage assets. However, in light of a nearby appeal decision and a clarificatory analysis, the council resolved to withdraw its opposition to the appeals (30 March 2023). The authority concluded that, in the overall balance, the scheme should be granted planning permission.

This appeal was heard at a joint Inquiry with an appeal relating to land at Moor Street as many of the issues were virtually identical, as was the position of the Council in both cases.

The site comprises open fields located to the east of Rainham, to the north of London Road and to the east of Seymour Road. The northern boundary is formed by a railway line with residential development to the west and south with open countryside to the east. It is just under 2 hectares in extent. Rainham High Street is located approximately 850m west of the site, with the core retail area around 1.5km to the west. The appeal site is not allocated in the Local Plan as it lies some 480m to the east of the defined urban boundary of Rainham.

The position of the authority in highway terms changed for two reasons. Firstly, the consideration of two previous appeal decisions dating from April 22 and March 23. In both cases it was concluded that a severe impact would be unlikely. Secondly, was further analysis of the highway situation with the safety record indicating that human error was the dominant cause of recorded incidents within the latest 5 year period. The layout or condition of the network does not appear to have been an issue.

Subsequent clarificatory analysis of the issue of vehicles re-routing along roads that are unsuitable to accommodate increased traffic flow demonstrated that, although there is likely to be a diversionary impact as a result of the scheme, this would be offset by existing trips on those routes taking alternative paths. The conclusion is that the absolute change in vehicles using the roads would be negligible.

The heritage assets in question are Moor Street House, The Cows, The Oasts, The Press and the Moor Street conservation Area. The conservation area covers the

small settlement of Moor Street and the majority of the significance of the asset derives from the buildings within the area.

The appellant agrees that the proposed 48 dwellings within the setting of the assets would cause harm to the setting and significance of Moor Street Conservation Area and to the listed buildings. It was agreed that the proposed development would result in no more than a low level of less than substantial harm to Moor Street House. Some disagreement remains over the level of less than substantial harm caused to the conservation area and oast houses. The Council assessed the harm to the conservation area as medium, with the appellant suggesting low level. The Inspector agrees with the appellant on that matter. The Council stated a medium level of harm in relation to the oast houses with the appellant assessing the level to be low-medium. In view of the proximity of the assets to the proposed development, the Inspector considers the proposal would result in a medium level of harm. Overall, the Inspector concludes the proposal would cause less than substantial harm to various heritage assets, within the low to medium range.

There are a range of planning conditions agreed between the council and the appellant, with a number addressing the outline nature of the proposal and secure the submission and retention of reserved and other matters.

The planning obligation also deals with a range of matters: including affordable housing; open space; education; waste and recycling and health care. The Inspector considers the mitigation measures make the development acceptable. However, the Inspector saw no evidence that the contribution in relation to traffic monitoring and management is justified and does not support it.

MC/21/3125

Land North of Moor Street, Rainham – Rainham South Ward

Refusal – 24 October 2022 – Committee Overturn

Full application for the development of 66 dwellings (including 25% affordable housing) together with open space, landscaping, drainage, access, parking and associated works.

Allowed – 22 June 2023

Summary

The main issues are the effect of the proposal on highway capacity and safety and on the setting and significance of designated heritage assets. However, in light of a nearby appeal decision and a clarificatory analysis, the council resolved to withdraw its opposition to the appeals (30 March 2023). The authority concluded that, in the overall balance, the scheme should be granted planning permission.

This appeal was heard at a joint Inquiry with an appeal relating to land at Seymour Road as many of the issues were virtually identical, as was the position of the Council in both cases.

The appeal site is around 3.7 hectares of vacant agricultural land. It is bounded by residential and commercial development on all sides, most notably a large secondary school and related playing fields on the northern boundary. The Moor Street Conservation Area lies to the southeast of the site, along with two Grade II listed buildings, Westmoor Cottage and Westmoor Farmhouse.

Please see summary above for Seymour Road in relation to the authority's position regarding Highway concerns.

With regards to the two listed buildings, the Inspector agrees with the Council in that the proposed development would cause a low level of less than substantial harm to various heritage assets.

The proposal would make a clear contribution to the shortfall of homes and affordable homes (25% of the development), which the Inspector attaches very significant weight.

Please see summary above for Seymour Road with regards to the Inspector's conclusions.

ENF/19/0376

12 Watermeadow Close, Hempstead – Hempstead and Wigmore Ward

Enforcement Notice served – 17 January 2022 – Delegated

Without the benefit of planning permission the construction of an extension to existing garage.

Allowed and the enforcement notice quashed and planning permission is granted for the development already carried out – 26 May 2023.

Summary

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

The appeal site relates to a detached house within a residential cul-de-sac characterised by similar detached houses set within spacious plots, set back from the road behind landscaped front gardens and grass lawns. Many of these properties benefit from large garages.

The property has been previously extended with a single storey rear extension. More recently, the detached garage situated to the rear of the site has been extended with a single storey side extension (the subject of this appeal). The garage extension has been designed with matching materials and incorporates a pitched roof with a gable end, giving an integrated appearance with the original garage. As such the extended garage has a straightforward and pleasing design and is similar to other properties within the Close.

The garage extension preserves a reasonable gap from the main property, is set back from the road and positioned behind the existing grass lawn and mature trees, which adequately respects the verdant and open character of the area.

The Council considers that the unauthorised works are similar to two previously refused applications which were both dismissed on appeal. However, the Inspector considers the existing extended garage would not be as wide as these previously refused scheme and therefore the openness of the area would not be harmed.

Furthermore, in relation to a failed previous appeal the Inspector stated that the proposal would result in the loss of 3 adjacent trees and the creation of additional hard paving would reduce the potential for planting and could result in more cars being parked about the building. The current proposal does not result in the loss of trees and maintains the existing soft landscaping in front of the garage.

Therefore, the Inspector concludes that the development preserves the character and appearance of the area and the appeal succeeds.

MC/21/3357

Maritime way, St Marys Island – River Ward

Refusal – 11 March 2022 – Delegated

Prior approval under Part 16 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for proposed 16.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.

Allowed – 19 June 2023

Summary

The main issues are the effect of the siting and appearance of the proposal on the character and appearance of the area, the effect of the siting and appearance of the proposal on the setting of the Number 8 Machine shop grade II and Combined Ship Trade Office grade II listed buildings and the effect of the siting and appearance of the proposal on highway safety.

The appeal site is a patch of grass located between a brick-paved footway and a road, on the side of a roundabout. There are a number of relatively tall trees running between the appeal site and surrounding properties. There are lampposts along the road, which when combined provide some existing vertical and tall elements to the character and appearance of the area. There is a relatively open feel to the area with the buildings set back from the roads. There are some residential properties further to the east and west but the nearest properties are in commercial use.

The proposed mast would be significantly in excess of any existing structures along the highway. The trees would provide a degree of screening and when seen in the context of an area with a commercial character and appearance, this would serve to lessen its impact.

The ground floor cabinets would be relatively bulky and would alter the character of the footway. However, this would only be over a small length of the footway and they would not intrude into the footway itself.

Overall, there would only be a small loss of green land. The trees and existing, fairly extensive, planted verges to the road would remain. The Inspector considers that, as there are existing relatively tall trees and lampposts in a mainly commercial surrounding, there would be no harm from siting and appearance of the proposal on the character and appearance of the appeal site and the surrounding area.

The large metal frame of the Number 8 Machine shop grade II listed building is nearby to the appeal site. The proposal would be set away from the frame, with an intervening road and line of trees. In addition, the low level cabinets would be partially screened by the existing trees. Therefore, the Inspector concludes that the proposal would not affect the frame or its setting.

The proposal is also set relatively distant from the combined Ship Trade Office grade II listed building and the Inspector concludes the proposal would not materially affect the setting of the building and therefore the proposal is acceptable in this respect.

The Inspector also concludes that there would be no actual or perceived reduction in the useability or width of the footway as the proposed mast and cabinets would be set slightly back from the road and further away than existing planting on the verge to the north-east. Therefore, the siting and appearance of the proposal would therefore result in no material effect on highway safety, either to pedestrians or drivers and the appeal is allowed and prior approval granted.

MC/22/2287

Allemande, Romany Road, Twydall – Twydall Ward

Refusal – 7 November 2022 – Delegated

Neighbourhood consultation application for the construction of a single storey extension to rear with dimensions of 4.5m depth x 2.8m height and 6.88 length to existing detached property.

Allowed – 22 June 2023

Summary

The main issues are whether the proposed development would comply with the conditions, limitations or restrictions applicable to development permitted and the impact of the proposed development on the amenity of adjoining premises.

The Council contends that the proposed extension, sited as it would be on the southern elevation, would not be located on the rear elevation of the dwelling as referred to within the application form, but rather the side elevation.

The technical Guidance states that in most cases the principal elevation will be that part of the house which fronts the main highway serving the house. It also states that the principal elevation will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house and that usually, but not exclusively, the principal elevation will be understood to be the front of the house.

In this case, the northern elevation of the appeal property fronts onto Romany Road (the main highway serving the house). Therefore, it can be considered to front the main highway.

The Inspector noted that entry to the property is taken from doors located on the eastern and western elevations. These elevations also contain windows of varying sizes. Two of the windows serving the eastern elevation are set at a high level and are of relatively small size, indicative of window styles normally found on side elevations of residential dwellings.

On the northern elevation, the host dwelling is set back from the road by a garden and driveway. This elevation contains two large windows, a garage door and an access door into the garage. The Inspector observed that many other dwellings on this section of the road face outward onto the street. Whilst the northern elevation does not share an entrance door fronting the road, it does share similar characteristics with nearby dwellings.

Whilst the Inspector acknowledges that access to the property is from the eastern and western elevations, the architectural features and the relationship the host dwelling shares with the surrounding properties clearly identifies the northern elevation to be the front of the house. Therefore, the Inspector finds that the proposed development would not extend beyond a wall forming a side elevation of the original dwellinghouse and would therefore be permitted development within the terms of Schedule 2, Part 1, Class A of the GPDO.

Whilst the proposed extension would project 4.5 metres beyond the rear elevation of the appeal building, it would be single-storey and have a flat roof, limited relative to the height of the existing dwelling. As a result, it would not appear as an overly dominant or overbearing structure when viewed from the bedroom windows and rooms of nearby properties or from within rear garden areas. These factors would also ensure that levels of daylight were not unduly restricted within these properties or gardens. Furthermore, whilst windows would be located close to the site boundary, they would not give rise to any unacceptable overlooking impacts.

The Inspector is satisfied there would be no material harm to the amenity of any adjoining neighbours and premises as a result of the proposed extension.

APPENDIX B

REPORT ON APPEALS COSTS

Appeals 2019/2020

Ref.	Site	Proposal	Decision type	Costs	Comment
MC/18/2739	260 Wilson Avenue, Rochester	Construction of extension to rear, dormer window to side (demolition of part existing rear extension, conservatory and garage)	Delegated	Against	25/07/2019 : £12,938 costs paid High Court judgement on JR
MC/18/2739	260 Wilson Avenue, Rochester	Construction of extension to rear, dormer window to side (demolition of part existing rear extension, conservatory and garage)	Delegated	Against	24/09/2019 : £1,871 costs paid Court order
MC/18/3016	Coombe Lodge, Coombe Farm Lane, St Mary Hoo	Demolition of stable + 2 bed holiday let	Delegated	Partial against	Costs covering work on PROW issue
MC/18/1818	Plot 1, Medway City Estate	Retail development + drive through restaurant	Committee	Against	January 2020 costs paid £48,625.02 + VAT

Appeals 2021/2022

Ref.	Site	Proposal	Decision type	Costs	Comment
ENF/15/0260	Rear of 48 – 52 Napier Road, Gillingham	Enforcement notice re 6 self contained flats without planning permission	Enforcement notice upheld for flats A, B and C but not for flats D, E and F 46 Napier Rd	Partial for	Applicant demonstrated unreasonable behaviour resulting in unnecessary and wasted expense re the adjournment of the 11/09/2019 inquiry. £2,000 received
ENF/15/0244	Land at 20 – 22 Hillside Avenue, Strood	Enforcement notice re 10 self contained flats without planning permission	Enforcement notice upheld but deadlines extended	Partial for	Inspector found unreasonable behaviour resulting in unnecessary or wasted expense. £3,106.99 received.
MC/19/2552	14 Duncan Road, Gillingham	Part retrospective construction of part single storey rear extension and loft conversion without complying with a condition attached to MC/18/2676	Allowed	Against	Council refused removal of condition 4 without providing evidence to demonstrate the character of the area would be affected and why it considers HMOs to be of particular concern in the area. Costs paid £1,250

MC/19/0171	Land east of Mierscourt Road, Rainham	Outline application for 50 dwellings – resubmission	Dismissed	For	Unilateral Undertaking not acceptable and unreasonable behaviour as described in PPG. Costs received £8,749.
MC/20/0028	Hempstead Valley Shopping Centre	Erection of a drive through restaurant, reconfiguration of car park and closure of multi storey car park exit ramp	Allowed	Partial against	Committee overturn. Unreasonable behaviour resulted in unnecessary or wasted expense due to insufficient evidence to support refusal on design and impact on highways but no objection to scheme from Highways Authority. Off site littering: no such objection raised in another recent approval for a takeaway therefore inconsistent. Agreed costs £1,250 and paid.
MC/19/0036	87 Rock Avenue, Gillingham	Change of use from 6 bed HMO to 7 bed HMO	Allowed	Against	Insufficient evidence to substantiate reason for refusal. Costs paid to

					applicant £500 and to consultant £750 + VAT
MC/19/1566	Land off Pump Lane	1,250 dwellings, school, extra care facility, care home	Dismissed	Partial for	Costs incurred in producing impact appraisal addendums, during adjournment, for additional sitting day and making costs application. £79,500 received.

Appeals 2023/2024

MC/21/2361	Patman's Wharf, Upnor Road	Change of use from boat storage yard to residential, construction of six 3-bed terraced houses and two 2-bed flats	Allowed	Partial against	Costs cover the expense incurred by the applicant in attending the reconvened hearing due to the late submission of council's evidence. Costs paid to applicant. £4,740 + VAT
ENF/19/0025	1 Dean Road, Strood	Appeal against an enforcement notice issued on 6/4/2021 requiring applicants to a. Demolish the unauthorised	Allowed and enforcement notice is squashed	Against	Council acted unreasonably in issuing enforcement notice which put applicants to unnecessary expense in making appeals

		single storey dwelling b. Remove all debris + associated materials from the property within 2 calendar months			against the notice, preparing statements an evidence that specifically support their appeals and response to the reasons for issuing the notice and making the costs applications.
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