

Planning Committee

7 May 2025

Report on Appeal Decisions 1 January to 31 March 2025

Report from: Mark Breathwick, Assistant Director, Culture & Community –
Regeneration Culture Environment and Transformation

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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 seventeen appeal decisions were received during the period. Six of these appeals were allowed, two of which were Committee decisions in line with the officer's recommendation and four were delegated decisions. Eleven appeals were dismissed, which included four enforcement appeals.

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

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

1. Recommendation

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

2. Budget and policy framework

- 2.1 This is a matter for the Planning Committee.

3. Background

- 3.1 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.
- 3.2 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.

- 3.3 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.
- 3.4 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 Inspectors report.
- 3.5 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.

4. Advice and analysis

- 4.1 This report is submitted for information and enables members to monitor appeal decisions.

5. Risk management

- 5.1 As part of the reform of the planning system, the Government are focusing on planning committee decisions, with the Planning Inspectorate being asked to start reporting to Government about cases where a successful appeal is made against a planning committee decision contrary to the officer recommendation. The overturning of a recommendation made by a professional officer should be rare and infrequent. The government have reminded the Inspectorate that where it cannot find reasonable grounds for the committee having overturned the officer's recommendation, it should consider awarding costs to the appellant.
- 5.2 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.
- 5.3 For quality of decision-making assessment, any authority that has more than 10% of either major or non-major applications overturned at appeal over a specified two year period is at risk of designation. The assessment period for quality of decision-making continues to be 24 months as it is considered the number of relevant cases is lower than for the speed of decision-making and if measured over 12 months would represent too few cases to provide an accurate measure of performance.

The most up-to-date Government data, which is for the 24 months to the end of March 2024, shows the number of decisions overturned at appeal for major applications is 3.1% and 0.8% for non-major applications.

6. Consultation

6.1 Not applicable.

7. Climate change implications

7.1 All planning applications for new development must have a section on Climate Change and Energy Efficiency.

8. Financial implications

8.1 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.

8.2 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 the Inspectorate having to re-consider the appeal and 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.

8.3 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.

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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 October to 31 December 2024.

Gov.uk statistical data sets Table P152 and Table P154

APPEAL DECISION SUMMARY

Appeals decided between 01/01/2025 and 31/03/2025

MC/23/0038

Land rear of 18-24 City Way, Rochester – Rochester East & Warren Wood Ward

Refusal – 20 September 2023 - Committee

Construction of a part two storey/part three storey block of 8 flats with associated external works.

Appeal decision – Allowed 15 January 2025

Summary

The main issues are the effect of the proposal on the character and appearance of the local area; the significance of the Napoleonic wall and its setting; and the integrity of protected European sites.

The appeal site is a long, triangular shaped parcel of disused and overgrown land to the rear of properties on City Way. Due to a significant change in levels, the gardens and buildings on City Way are elevated above the site and Delce Road, which the appeal site fronts. The site is bound by a Napoleonic wall on the site's northern and eastern perimeters. The site boundary onto Delce Road is lined by boundary fencing and five large advertising boards, which are prominent and detrimental features within the street scene. To the south of the site, dwellings are located atop a grassed bank which contains the remains of Delce Tower. Overall, the Inspector considers the appeal site does not make a positive contribution to the character of the area.

The building's footprint would follow the tapered shape of the appeal site, avoiding large, blank side elevations. Amenity space would be provided along the proposal's elevations, ensuring that the building would be set back from its northern, southern and eastern boundaries, and would not appear excessively large or overbearing. The part three, part two storey design would work with the local topography to create a logical transition in building heights from the significantly taller properties on City Way to the two storey terraced properties on the opposite side of Delce Road.

The elevation would include design features which would create articulation. These include an attractive corbelled brick surround to the main entrance of the building onto Delce Road. Stepped brick detailing is proposed along the ground floor of the three storey part of the building and would rise to parapet level across the two storey element, creating visual interest. Each of the three ground floor units would have their entrances taken from Delce Road. The entrances, combined with the windows to the units set back behind planting buffers, would assist in creating a pleasing rhythm along the Delce Road façade.

The Inspector notes that in determining the previous appeal, that Inspector found that the proposed building would be unacceptably dominant and cramped on the site due to the size of their footprint and mass relative to the site's depth and the proximity to all boundaries. Whilst the Inspector has viewed the drawings for the previous appeal proposals, it seems that the scheme was inferior in terms of its design quality. In contrast, for reasons outlined above, the Inspector considers that the current appeal proposal would be beneficial to the character and appearance of the area and concludes that the proposal would make effective use of an underutilised parcel of land in a sustainable location.

The site's north and western boundary walls are surviving sections of Z-shaped defensive walls constructed during the Napoleonic Wars. The walls were part of a network of defences within this part of Chatham, which also comprise a nearby guard tower located a short distance to the south, called Delce Tower. The Tower has largely been demolished, but some external elements of it survive, and below ground elements are understood to be buried within the bank adjacent to Delce Road.

Neither the Napoleonic wall within the appeal site, or the largely buried remains of Delce Tower are scheduled or statutorily or locally listed and have no statutory protection. Historic England were consulted on the proposals but confirmed that they were not offering advice. The Inspector concludes the submitted evidence does not demonstrate that the Napoleonic wall or Delce Tower remains are of national importance.

Whilst not listed or appearing on a local list, the Napoleonic wall is of sufficient historic interest to be considered a non-designated heritage asset (NDHA) by the Council. It has been put to the Inspector that the proposal would obscure the Napoleonic wall and fill the intentionally empty space and that this would harm the ability to understand how the Delce Tower was designed to function defensively, including close defence against infantry.

The Inspector acknowledges that the proposal would substantially obscure views of the wall from Delce Road. However, it would also result in the removal of the intermediate terrace which entirely obscures a large expanse of the wall. The proposed building would be set away from the wall behind circulation and amenity space. This would enhance the setting of the wall, enabling its historic form to be understood, and potentially revealing evidence regarding the construction of the defences. The removal of the advertising boards, fencing and overgrown vegetation would also have the potential to reveal features of significance. On balance, the Inspector considers the proposal would enhance the setting of the wall through greater definition and articulation of the wall.

The Inspector also considers the associated remedial works to the wall, including structural repair works and on-going maintenance would be a public benefit. Undertaking a detailed archive record of the wall, and the removal of the spoil which could offer potential for uncovering archaeological remains would also be benefits of the scheme which would not come forward without development of the appeal site. These could be secured by planning condition.

The development would likely result in additional recreational activity in the SPA and Ramsar sites, causing disturbance to protected bird species that over-winter or breed on the sites. The appellant has submitted a Unilateral Undertaking in respect of the requisite contribution to the mitigation measures.

Interested parties state that the proposed development would harm highway safety, with concerns raised about an increase in traffic, the potential for additional on-street car parking and the effect on pedestrian safety. Concerns in relation to construction traffic and noise have also been raised. Any noise and disturbance associated with construction would be temporary and managed by an imposed condition for the submission of a Construction Environmental Management Plan (CEMP).

Whilst the proposal would not provide any car parking, the appeal site is within a highly accessible location with good access to a range of local shops and services, as well as local bus and rail services. Furthermore, the Inspector has imposed a planning condition which requires the provision of a car parking management plan, containing details of how residents will be prevented from applying for parking permits, to ensure that the development does not contribute to increased parking competition in the area. With regard to pedestrian safety, the submitted drawings demonstrate that the proposal would be contained entirely within the appeal site, which does not include the adjoining pavement on Delce Road.

In relation to concerns about trees, the Inspector notes that a small grouping of trees would be removed. However, their amenity value is currently impaired by the existing advertising boards fronting Delce Road. The Inspector agrees with the Council's conclusions which is that there would be no unacceptable harm in this respect.

In relation to the effect on the living conditions of neighbouring occupiers, the difference in land levels and the boundary treatments would be sufficient to prevent any significant impact in terms of light, outlook and privacy.

Having regard for all the matters raised, the Inspector concludes that the appeal should be allowed.

MC/23/2505

Scarlet Meadow, Matts Hill Road, Rainham – Rainham South East Ward

Refusal – 19 January 2024 - Committee

Retrospective – Construction of a single storey outbuilding.

Appeal decision – 17 February 2025

Appeal A – Dismissed

Appeal B - Allowed

Summary

Appeal A is against an enforcement notice issued in relation to ‘without the benefit of planning permission, the construction of a single storey brick built outbuilding on the land’.

Appeal B is against a refusal to grant planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

The main issue for both appeals A and B is the effect of the development on the character and appearance of the surrounding area, with particular regard to its location within the North Kent Downs National Landscape (NKDNL), and locally designated valued landscapes, namely the North Downs special Landscape Area (NDSL), an identified ‘Strategic Gap’ and also the Matts Hill Farmland Character Area (MHFCA).

Despite identical issues there is a marked distinction between the two appeals in that Appeal B is accompanied by a Unilateral Undertaking (UU) whereby, in the event that this appeal is allowed and planning permission granted, the appellant has obligated to modify the existing day-room outbuilding with a specified reduction in its height. As it stands, the new intended day-room building is an unduly prominent structure. However, in being largely positioned behind the main mobile home its presence is shielded to a significant extent, but its height is uncharacteristically excessive in this contextual setting.

Appeal B is concerned with the building depicted on the elevational drawing on which the application was determined, which shows an existing maximum height of 5.7m from ground level. However, during the appeal process, the appellant has produced a revised drawing which proposes that the ridge-height be significantly reduced to a maximum of 5.05m from ground level. A UU has been signed by the appellant to this end and also states that the required works shall be undertaken and completed within a period of three months.

During a site visit the Inspector is satisfied that this proposed degree of modification would render the development acceptable.

The appellant has indicated that the other much smaller buildings on the site, which are clustered around the main mobile home, would be removed if the appeal was allowed and planning permission granted. However, the Council did not suggest that a clause be inserted in the UU to effect removal and the Inspector is mindful that the enforcement notice did not seek their removal. Given their modest size and positioning, the Inspector is satisfied that they can be reasonably retained in situ, so long as they might continue to serve an ancillary purpose.

The Inspector finds that the development enforced against, due to the building's height, is harmful to the character and appearance of the surrounding area. Accordingly, Appeal A does not succeed and the Inspector upholds the enforcement notice and refuses to grant planning permission on the deemed application.

The Inspector finds the remedial measure to reduce the building's ridge-height by 0.65m would bring about an acceptable form of development, particularly as regards its effect on the character and appearance of the surrounding area. As such Appeal B is allowed and planning permission is granted for the retention of a dayroom at Scarlet Meadow. The building shall be used only as a day-room in association with the residential use on the site.

MC/23/2793

63 Woodlands Road, Gillingham – Watling Ward

Refusal – 6 September 2024 - delegated

Construction of a detached block comprising of seven studio flats.

Appeal decision – Allowed 24 March 2025

Summary

The main issues relate to the effect of the development proposed on highway safety, and whether future occupiers would be provided with acceptable living conditions in term of outdoor amenity space provision.

The appeal site comprises a corner plot at the traffic light-controlled junction of Woodlands Road with Canadian Avenue and Cornwallis Avenue. The site is currently occupied by a three-storey building, housing a local convenience store on the ground floor, with 4 x one-bed one-person studio flats above, to the side of which is a small surface car park that is accessed from Canadian Avenue via a dropped kerb. It is proposed to erect a two and a half storey block of seven x one-person studio flats on the car park area.

The scheme would result in the loss of the existing car park, whilst one cycle storage space per flat is accommodated within the proposed development. No off-street parking is proposed, with both the existing and proposed development intended to be car free.

Whilst the Council's Residential Parking Standards 2010 seeks a maximum of seven off-street bays for the proposed flats, they do allow for reductions in parking provision where a development is within an urban area with good links to sustainable transport and where day-to-day facilities are within easy walking distance.

The appellant draws attention to a recent permission granted by the Council for a couple of flats in Gillingham where the officer's report states that 'given the site's highly sustainable location and general nature of smaller size flat occupancy in urban areas, the site presents itself to occupiers who do not typically possess cars.' The Inspector sees no reason why the same sentiment would not hold true here. Indeed, the officer's report in relation to this appeal notes that one bed units in this location could lend themselves towards attracting residents who do not own cars.

Having regard to the nature of the proposed accommodation and its location within an urban area, where future occupiers would have ready access either by walking and/or by sustainable transport modes to the services and facilities that might be required on an everyday basis, the Inspector considers that the development proposed would not result in a material increase in demand for on-street parking spaces, with no consequential threat to highway safety.

The Highway Authority raised no objection in terms of the absence of any parking provision for the proposed development but it did make reference to the loss of the parking provision for the existing flats above the convenience store on the site, suggesting the need for a parking beat survey. The Council's concerns in relation to parking demand are focussed on evening and night-time parking, as opposed to day-time parking. A subsequent parking beat survey carried out on behalf of the appellant indicates on-street parking occupancy in the area of some 88%. Although the Council's statement of case refers to the survey demonstrating existing on-street parking stress of 100-102%. Whatever the correct figure, it is clear that this is an area under significant parking stress.

During a site visit, the Inspector observed, even at night-time, that the car park was very lightly used, with one vehicle that had clearly been in position for some time, plus one other car. The Inspector sees no reason why the same considerations applied to the proposed development should not apply to the existing flats on the site. The Inspector also considers that, subject to conditions, the development proposed should not necessarily lead to a material increase in demand for on-street parking in this area of existing parking stress.

The Council refers to road traffic accident records in the vicinity of the appeal site, which it fears might increase as a consequence of any increase in demand for on-street parking. The Inspector found the accident records do not indicate a highway safety issue caused by parking stress and concludes that the development proposed would be very unlikely to give rise to increased demand for on-street parking in the area.

Whilst the ground floor units (Nos 1-3) have policy compliant private amenity space, the other four flats have no such provision. The proposed flats are just the minimum size of 37sqm required for 1-person studio flats by the Technical Housing Standards. They do not include any additional internal space to mitigate the absence of outdoor

amenity space. The Inspector found that the Council does not always require external amenity space for flats, as evidenced by recent approvals for studio flats at other locations within Medway. In those cases departure from the Standards was justified on the basis that the flats were small units and did not require the same level of space as for a family home and/or were near to a large area of public open space. The units proposed are single person studio flats with Rookery Fields Park and Gardens, a large area of public open space, being two minutes' walk of the appeal site. The Inspector found this to be acceptable.

Local residents raise objections in relation to the effect of the development on the character and appearance of the area, noise and disturbance, loss of privacy and effect on daylight/sunlight.

The surrounding area is predominantly residential. The Inspector considers the overall height and scale of the proposed building would have the appearance of a short terrace or a pair of semi-detached dwellings and responds well to the character of the existing street and finds no harm in this regard.

The proposed block would lie to the east of the dwelling at no. 76 Canadian Avenue and to the north of the rear garden to no. 61 Woodlands Road. The Inspector notes that the officer's report, raises no issues in terms of overshadowing or loss of light and takes the view the arrangement proposed would ensure that the proposed development would not be seen as unduly overbearing when viewed from the rear garden of no. 61 Woodlands Road.

Four windows and four roof lights to the upper floors would face across the rear gardens of nos. 61-55 Woodlands Road. The first floor windows would serve a circulation/landing space and a hallway and kitchen to unit 5. The submitted plans show all four windows as high level and obscure glazed, removing opportunities for overlooking. The rear facing rooflights to the second floor are also shown as high level and, being set within the sloping roof plane, views out would be upwards, which removes opportunities for overlooking. The bedroom windows in the existing block are already impacted by the return of the existing rear stairwell. The Inspector considers that the set back of the upper floors on the development proposed means that whilst it would be seen from the bedroom windows, it would not have an unacceptable impact on outlook for existing occupiers, or on daylight/sunlight, with views from those windows directed along the rear elevation.

Being mindful of the proximity of the site to neighbouring dwellings, and the potential for construction works to result in noise, the Inspector considers a condition requiring a Construction Environmental Management Plan would help mitigate concerns relating to noise, disturbance and dust.

The appropriate SAMMS Mitigation Contribution Agreement and payment has already been made by the appellant which the Inspector considers will adequately overcome any adverse effects of the proposal on the qualifying features and conservation objectives of the protected areas.

For the reasons set out above, the Inspector concludes that the appeal should succeed.

MC/24/0050

Land off Borstal Road, opposite Army Reserve Centre, Rochester – Rochester West & Borstal Ward

Refusal – 1 March 2024 - delegated

Prior approval for installation of a 17.5m monopole, accommodating 6 antennas, the installation of 2 ground based equipment cabinets, along with ancillary works.

Appeal decision – Allowed 24 January 2025

Summary

The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, with particular regard to trees, 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 appeal site is part of a grass verge on Borstal Road. The verge contains several street trees, with a large hedgerow to the rear. There is also vegetation along the embankment on the other side of the road, including several well established trees. The planting gives the area a verdant character.

The 17.5m high monopole would be located between two existing trees, a 6-7m high field maple and a 2m high recently planted acer. Owing to their relatively small size, these trees are currently of limited value in the local environment but given their condition and potential lifespan could contribute more to the streetscape in future. There are also two 12m high Norway maples close by which due to their height and canopies, positively contribute to the street scene.

The scheme would not fall within tree root protection areas and the tree protection plan indicates the installation of protective fencing during construction. The appellant outlines that the site would be viable from a technical and operational perspective. Although the Arboricultural Report (AR) submitted states that the trees would interfere with the antennas over time, the Inspector found little evidence indicating the need to remove or prune any trees either now or in the future. In any event, the Council could protect the trees via a Tree Preservation Order if they are of amenity value and at risk.

The Council suggests suitable alternative sites for the scheme but the Inspector finds that the siting of the proposed installation would not harm trees and therefore there is no need to consider other sites.

The appellant and the Council do not dispute that the appeal scheme would be visually acceptable. As the column and cabinets would be finished in fir green and sited in an area containing trees and typical street paraphernalia including lampposts and telegraph poles, the Inspector has no reason to disagree. Consequently, the Inspector concludes that the siting and appearance of the proposed installation

would not harm the character and appearance of the area, with particular regard to trees.

Fort Clarence is a grade II listed building around 150m from the appeal site. The setting of the Fort has evolved, becoming more immediate to the area around it because of subsequent urban development. The proposed installation would be partially visible from viewpoints close to the Fort on Borstal Road and from the roof of the listed building. As it would be another accretion against a backdrop of more modern development, the Inspector considers the proposal would preserve the setting of Fort Clarence, and its significance would not be harmed.

Concerns have been raised about the potential effects of the proposal on health. The appellant has provided a certificate declaring that the proposal conforms with the International Commission on Non-Ionizing Radiation Protection public exposure guidelines. Having regard to the Framework, and that the application is for prior approval where only siting and appearance are for consideration, the potential effect on health is not a determining issue in this case.

Residents are also concerned about potential impacts on TV reception and electronic systems. All operators of radio transmitters are required to operate them in accordance with the conditions of their licence which fulfil their legal obligations in respect of interference with other radio systems and electrical equipment.

Interested parties also raise concerns about impacts on wildlife and potential noise but there is no substantive evidence that the scheme would harm ecology or cause disturbance. There are also concerns that it would affect property values, but this is not a planning consideration relevant to the determination of the appeal.

The Inspector concludes that the appeal should be allowed and prior approval should be granted.

MC/24/0556

10 Grove Road, Strood – Strood North & Frindsbury

Refusal – 3 May 2024 - Delegated

Change of use of property to a 7-person HMO (Sui Generis).

Appeal decision – Allowed 19 February 2025

Summary

The main issues are the effect of the proposal on the character and appearance of the area, with particular regard to the balance and mix of housing; and whether a satisfactory standard of accommodation would be provided for future occupiers.

Parts of Grove Road have a predominantly residential character to them, formed principally of terraced housing. These often appear to be in use as single dwellings. However, flat developments, serviced apartments and subdivided properties do exist

on the road. A range of commercial uses also exist within Grove Road, including a functioning hand car wash business, a grocery store and a building and plumbers merchants. A large surface car park also exists further along and several places of worship and community uses are in operation nearby. Overall, the area could reasonably be described as of a mixed-use.

The property is a mid-terrace unit and there are neighbouring dwellings adjoining it and nearby. As a large house in multiple occupation, the proposal may well generate more day-to-day activity than a traditional single household. However, the Inspector considers that any additional comings and goings as a result of the proposed development would be small relative to the number of rooms that could potentially be provided here without the need for planning permission, noting, in particular, that a Lawful Development Certificate was issued previously to allow up to 6 occupants to live at this property. For these reasons, the Inspector concludes that the proposed development would not have a harmful effect on the character or appearance of the area.

The Council raises concern in relation to the standard of accommodation for future occupiers, in particular, the communal area on the ground floor and the layout of bedrooms 2, 5 and 7. The Inspector found no substantive evidence, such as adopted guidance of minimum floorspace requirements for communal living space or setting out the need for a dedicated living space within individual bedrooms. Moreover, the Council confirms that Nationally described Space Standards are met. Accordingly, the Inspector found no reason to conclude that the space would be inappropriate in this instance. From the plans, the Inspector finds that the layout and quality of bedrooms combined with the space set out for communal living would be satisfactory in this instance.

The appeal site is within the Zone of Influence of the Medway Estuary and Marshes Special Protection Area (SPA) and Ramsar site, as well as the Thames Estuary and Marshes SPA and Ramsar site. The Inspector found there is an appropriate mechanism in place that would secure a financial contribution to mitigate the impact of the proposed development of the affected protected site.

For these reasons the Inspector concludes the appeal should be allowed subject to a further condition relating to cycle parking as this is necessary in the interests of suitable provision and sustainable transport.

MC/24/1048

23 Railway Street and Paddock House, Chatham – Chatham Central and Brompton

Refusal – 16 July 2024 - Delegated

Change of use from office to seven flats together with construction of a second and third floor extension with associated refuse and cycle stores – resubmission of MC/23/0737.

Appeal decision – Allowed 12 March 2025

Summary

The main issue in this appeal is whether the proposal would provide future occupiers with adequate living conditions having regard to the size and layout of Flat 1 located at ground and basement level.

The appeal site relates to 23 Railway Street, a three storey nineteenth century building and Paddock House, which forms a subordinate part of the original building at two storeys in height.

The nationally described space standards (NDSS) does not include a standard for a 1 person, 2 storey dwelling. In its absence, the Council suggest that Flat 1 should meet the 58 square metre Gross Internal Area (GIA) NDSS standard for a 2 person, 2 storey dwelling. This standard relates to a 2 person dwelling which has 1 double bedroom which is separate to the main living spaces.

Flat 1 would not be a 2 person dwelling and it would not have a bedroom separated from the living area with a bathroom located within a lower storey. Although this configuration does not fit any dwelling type, the Inspector considers it would be closely aligned to a 1 person, 1 bedspace dwelling and the NDSS requires such a dwelling to have a GIA of 27sqm, when provided over a single storey.

The appellant's evidence indicates that Flat 1 would have a GIA of 43.1sqm. The Council suggest that when the area of the stairway and hallway leading to the bathroom on the basement floor are removed from the internal floor area calculations, Flat 1 would have a GIA of 33sqm. The Inspector notes that the NDSS does not preclude the inclusion of hallways in GIA calculations. In contrast, the appellant's submitted evidence demonstrates that the ground floor area of Flat 1 would be 31.3sqm, and that the basement area, which includes the bathroom would be 11.8sqm. whilst the stairwell does result in a reduction in usable space, the appellant indicates that when the under stair storage is factored in, the overall floor area of Flat 1 would exceed 37sqm.

Flat 1's regular layout would be well proportioned, ensuring functional and useable habitable space. The bathroom and hallway provided within the basement would provide sufficient additional space. Whilst spread across two storeys, the Inspector is not persuaded that a person living within Flat 1 would find the home unduly cramped and therefore concludes that the proposal would provide satisfactory living conditions for its occupants.

The development as a whole would result in seven dwellings with a consequent increase in local residents living within 6km of the Special Protection Areas (SPA) and Ramsar Sites. The Council have confirmed a per dwelling contribution payment to fund the SAMMS has been made by the appellant and the Inspector is satisfied that the mitigation measures have been secured to adequately overcome any adverse effects of the proposal on the SPA and Ramsar Sites.

The Inspector considers amendments to the various planning conditions for clarity and consistency. A condition is imposed relating to the use of external materials in the interests of character and appearance. A condition is also imposed requiring the

submission of details of a clean air ventilation system and air quality mitigation measures in the interests of the living conditions of future occupiers. The provision of the acoustic mitigation measures outlined within the Noise Impact Assessment is also required.

The Inspector has also modified the condition relating to a car parking management plan in the interests of highways safety and encouraging sustainable modes of transport. As the proposed cycle parking is shown on the submitted drawings the Inspector does not consider the submission of additional details in relation to cycle parking are necessary.

For the reasons above the Inspector concludes the appeal is therefore allowed.

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. Costs paid £16,032 + VAT
MC/22/1002	153 Fairview Avenue	Change of use from butcher's shop to takeaway pizza shop	Allowed	Against	The applicant incurred unnecessary or wasted expense in the appeal process. Costs requested £3,500.
MC/22/1867	Land east of Rainham Pumping Station and North of Lower Rainham Road	Construction of 2 detached residential properties with associated parking, access and landscaping works	Allowed	Against	The Council's behaviour was unreasonable and the applicant was compelled to bear the expense of an appeal. Full costs awarded. Costs paid £7,550 + VAT

Appeals 2024/2025

MC/23/0970	Land rear of 9-15 Railway Street, Gillingham	Construction of a pair of semi-detached mews Houses	Allowed	Against	The Council's behaviour was unreasonable and caused the applicant to incur unnecessary or wasted expense. Full costs awarded
ENF/21/	Land at Factory Farm, Wouldham Road, Rochester	Material change of use of land to a mixed use for importation, deposit, processing and transfer of waste, stationing of shipping containers for storage, vehicle breaking and repair, and a residential caravan site including the construction of buildings, fencing, gates and hard surfacing	Upheld subject to variation of periods for compliance	Partially for	Cost of the appeal proceeding incurred in preparing the appeal statement and attending the site visit