

Planning Committee

19 November 2025

Appeal Decisions 1 July to 30 September 2025

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

Author: Dave Harris, Chief Planning Officer

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 sixteen appeal decisions were received during the period, one of which was a Committee overturn decision and one related to enforcement. Four of these appeals were allowed and twelve were dismissed. The percentage of appeals allowed during the period is 25%.

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 September 2024, shows the number of decisions overturned at appeal for major applications is 3.1% and 0.9% 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.

Lead officer contact

Dave Harris, Chief Planning Officer
Telephone: 01634 331575
Email: dave.harris@medway.gov.uk.

Appendices

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

Background papers

Appeal decisions received from the Planning Inspectorate for the period 1 July to 30 September 2025.

Gov.uk statistical data sets Table P152 and Table P154

Appeal Decision Summary

Appeals decided between 01/07/2025 and 30/09/2025

Appeal Decision MC/23/0685

Site and Proposal Overview

- **Location:** 20 Broomhill Road, Strood, Rochester, Medway ME2 3LE
 - **Appellant:** Freshbloom Ltd
 - **Proposal:** Demolition of existing buildings and construction of 26 residential flats across three blocks, including associated access, refuse storage, and parking.
 - **Committee Overturn**
 - **Decision Date:** 18 September 2025
-

Appeal Outcome

- **Appeal Allowed:** Outline planning permission granted.
 - **Matters Approved:** Access, layout, and scale.
 - **Reserved Matters:** Appearance and landscaping.
-

Inspector's Reasoning

1. Policy and Site Context
 - The site qualifies as backland development and is located in a former quarry.
 - It is surrounded by two-storey homes with pitched roofs, creating a traditional residential character.
 - The inspector assessed the proposal against Policies H9 and BNE1 of the Local Plan and the National Planning Policy Framework (NPPF).
2. Visual Impact and Design
 - The buildings are taller than surrounding homes but set on lower ground, reducing their visibility.
 - From street level, the buildings would appear as two to three storeys, which is not out of character.
 - Flat roofs and wider footprints are inconsistent with local design, but the impact is limited.
 - The inspector concluded that the harm to character and appearance is modest and outweighed by benefits.
3. Planning Obligations and Infrastructure
 - The Unilateral Undertaking (UU) included contributions for affordable housing, education, healthcare, and more.
 - Two clauses were rejected:
 - Public realm improvements lacked policy support.

- Land ownership transfer clause was unenforceable under Section 106.
 - 4. Housing Need and Sustainability
 - Medway Council cannot demonstrate a five-year housing supply.
 - The proposal supports housing delivery, including affordable units.
 - Reuse of brownfield land and proximity to services add substantial positive weight.
 - 5. Neighbouring Amenity
 - Adequate separation distances maintained.
 - No significant harm to privacy, outlook, or light.
 - Appearance reserved for future consideration to address mitigation.
 - 6. Transport and Highways
 - Minor shortfall in parking mitigated by cycle storage and walkable access to services.
 - No severe impact on traffic or highway safety.
 - Visibility splays and turning space deemed acceptable.
 - 7. Ecology and Environmental Protection
 - No conservation area or listed buildings affected.
 - Conditions imposed for archaeological mitigation, bat protection, and biodiversity net gain.
 - Ground conditions and land stability adequately addressed.
 - 8. European Sites Impact
 - Site lies within the zone of influence of North Kent Special Protection Areas and Ramsar Sites.
 - Recreational disturbance mitigated via Strategic Access Management and Monitoring Scheme.
 - Financial contributions secured through UU.
 - 9. Planning Balance
 - Conflict with local policies on character and appearance acknowledged.
 - Benefits of housing delivery, sustainability, and infrastructure contributions outweigh the harm.
 - Presumption in favour of sustainable development under paragraph 11(d) of the NPPF applies.
-

Conditions Summary

27 Conditions Imposed, including:

- Submission of reserved matters (appearance and landscaping)
- Archaeological work programme
- Updated bat mitigation strategy
- Construction Environmental Management Plan
- Sustainable drainage and surface water management

- Tree protection measures
 - Travel and Parking Management Plans
 - Landscape Management Plan
 - Boundary treatments and lighting controls
 - Contamination response protocol
 - Energy efficiency and climate change measures
 - Verification of drainage systems
 - Cycle storage and vehicle parking provision
-

Final Remarks

This appeal decision reflects a comprehensive assessment balancing local character concerns with national housing and sustainability objectives. The inspector's reasoning demonstrates a pragmatic approach, weighing modest visual harm against significant public benefits. The conditions imposed ensure environmental protection, infrastructure adequacy, and design quality, enabling the development to proceed responsibly and in alignment with planning policy.

Appeal Decision TPA/24/0947

Site and Proposal Overview

- **Location:** Land to rear of 22, 30, and 31 Glenwood Close, Hempstead, Gillingham ME7 3RP
 - **Appellant:** F D Attwood & Partners
 - **Proposed works:**
 - **Tree T2 (English Oak)**
 - Crown reduction by 5m over garden of No. 22 (east)
 - Finished crown spread: not less than 7m
 - **Tree T3 (English Oak)**
 - Crown reduction by 3m over garden of No. 30 (south)
 - Finished crown spread: not less than 6m
 - **Tree T4 (English Oak)**
 - Crown reduction by 5m over garden of No. 31 (south)
 - Initially proposed finished crown spread: not less than 6m
 - **Delegated Decision**
 - **Decision Date:** 4 September 2025
-

Appeal Outcome

- **Appeal Allowed in Part**
 - **Matters Approved:** Consent granted for all three trees with conditions.
 - **Modification:** T4's crown spread must be not less than 7m (instead of 6m)
-

Inspector's Reasoning

Main Issues

1. Effect on character and appearance of the area.
2. Justification for the proposed works.

Visual Amenity

- T2, T3, and T4 contribute significantly to the visual character of Glenwood Close and surrounding areas.
- Views of the crowns are visible from Pear Tree Lane, Star Lane, and nearby footpaths.
- Proposed reductions would restore balanced crowns and not appear abnormal from a distance.
- Short-term visual impact would be noticeable locally but mitigated by regrowth.

Tree Health

- All three trees are healthy and vigorous.
- No signs of structural failure or disease.
- Oaks are resilient and capable of recovering from large cuts if done sensitively.

Justification for Works

- Residents experience:
 - Significant overhang.
 - Shade.
 - Falling debris.
 - Perceived overbearing presence.
- Inspector acknowledged these concerns as valid despite limited formal justification.

Risk of Dual Permissions

- Concern raised about cumulative reductions if both TPA23/248 and TPA24/0947 were implemented.
- Conditions imposed to prevent overlapping works.

Specific Concerns About T4

- Proposed 5m reduction leaving 6m crown spread deemed excessive.
- Risk of vascular shock and removal of large branches.
- Modified to leave not less than 7m crown spread.

Conditions Summary

1. Works must be completed within 2 years of the decision date.
2. All works must comply with BS:3998 (2010) Tree Work – Recommendations.
3. T4's crown reduction must leave a crown spread of not less than 7m.
4. Works must not be carried out in conjunction with those approved under TPA23/248.

Final Remarks

The appeal was allowed in part with modifications and conditions. The proposed works were found to cause minimal harm to tree health and local amenity.

Appeal Decision: MC/25/0125

Site Address: View Bungalow, The Homestead, Sundridge Hill, Cuxton, Rochester
Appellant: Ms Amarjit Gill

Proposed Works:

- Front porch extension
- Replacement of existing front conservatory
- Gable roof extension with front dormer
- Side extension
- Extension of existing rear extension with balcony
- Double dormer

Decision: The appeal was lodged under Section 78 of the Town and Country Planning Act 1990 due to Medway Council's failure to determine the planning application (Ref: MC/25/0125) within the statutory timeframe.

Decision Date: 27 August 2025

Appeal Outcome

The appeal was allowed and planning permission was granted, subject to a schedule of conditions.

Inspector's Reasoning

1. Character and Appearance
 - The site is located opposite a cluster of houses and adjacent to Rainbows End.
 - The area features varied architectural styles, with no dominant character.
 - The dwelling is screened by a tall boundary fence and sits lower than the road, reducing visual prominence.
 - Despite increased massing, the design is compatible with surrounding properties and does not appear cramped.
 - No conflict found with Medway Local Plan Policies BNE1, BNE31, BNE34 or relevant paragraphs of the National Planning Policy Framework (NPPF).
2. Living Conditions of Neighbours (Rainbows End)
 - Existing overlooking is mitigated by proposed obscure glazing and fixed shut panels.

- Rear balconies will include 1.8m high obscure screens to prevent direct overlooking.
 - Oblique views from balconies are considered acceptable.
 - Increased roof height and massing are moderated by the lower site level and roof slope.
 - No breach of the 45-degree rule; daylight and outlook impacts are minimal.
 - Overshadowing is not excessive due to separation and roof design.
 - No conflict with Policy BNE2 of the Local Plan or paragraph 135 of the NPPF.
3. Highway Safety and Efficiency
- Site access is adequate with a filter lane and reasonable width.
 - Sufficient space for construction vehicle manoeuvring.
 - Traffic impact during construction is not deemed unacceptable.
 - Adequate parking provision confirmed.
 - No conflict with Policies T1 and T13 of the Local Plan or paragraph 116 of the NPPF.

Conditions Imposed

1. Development must commence within 3 years.
2. Must be carried out in accordance with approved drawings (24-1594/003 C, 004 C, 005 A, 006).
3. External materials must match those specified in the application form.
4. Obscure screens on balconies must be installed and maintained.
5. Ground floor east side windows must be obscure glazed and non-opening below 1.7m.
6. First-floor east side roof windows must have cills above 1.7m.

Final Remarks

The Inspector concluded that the proposed development would not harm the character of the area, the living conditions of neighbours, or highway safety. The appeal was, therefore, allowed and planning permission granted with conditions to mitigate potential impacts.

Appeal Decision MC/24/2564

Site Address: 211 High Street, Chatham ME4 4EB

Appellant: Wilson, Slots Trading Ltd

Proposed works: Change of use of a vacant retail unit to an arcade incorporating bingo (sui generis).

Delegated Decision

Decision Date: 5 August 2025

Appeal Outcome

The appeal is allowed and planning permission is granted, subject to the following conditions:

1. Development must commence within 3 years of the decision date.
 2. Must be carried out in accordance with the approved plans (site location plan, 24.085.PRIV.B.002).
 3. A noise management scheme must be submitted and approved prior to commencement of use, and retained thereafter.
-

Preliminary Matter

An application for costs was submitted by the appellant against Medway Council. This is addressed in a separate decision.

Main Issues Considered

1. Impact on the vitality and viability of Chatham town centre.
 2. Impact on the living conditions of nearby residents, particularly regarding noise and disturbance.
-

Inspector's Reasoning

1. Vitality and Viability of the Town Centre
 - The unit has been vacant for 21 months, and its reuse is seen as beneficial.
 - The site is in a mixed-use urban area with commercial, office, and residential uses.
 - National and local planning policies support leisure uses in town centres.
 - The proposal aligns with Medway Local Plan Policies S5 and R15, and the Chatham Centre Design Code (2024).
 - The change would result in a 0.9% shift in retail and sui generis uses along a 500m stretch of High Street.
 - There are three other arcades nearby, but their distribution and visibility reduce concerns of overconcentration.
 - The proposal would contribute to the evening economy, increase footfall, and create 7–8 full-time jobs.
 2. Living Conditions of Neighbouring Residents
 - The area is predominantly commercial, but residential properties are nearby.
 - The proposed 24-hour operation is not expected to cause significant disturbance due to low overnight activity.
 - Kent Police raised no objections, subject to crime prevention measures.
 - Noise mitigation measures (e.g., sound insulation, signage, music control) can be conditioned.
 - The proposal would not adversely affect residential amenity and complies with relevant planning policies.
-

Final Remarks

The Inspector concluded that:

- The proposal would not harm the vitality or viability of the town centre.
 - It would not adversely affect the living conditions of neighbouring residents.
 - The appeal is allowed, and planning permission is granted with conditions.
-

Costs Application MC/24/2564

The appellant applied for a full award of costs against Medway Council, citing unreasonable behaviour that led to unnecessary expense during the appeal process.

Inspector's Reasonings

1. Town Centre Vitality and Viability
 - The Council provided a delegated report with a reasonable analysis of the proposal's impact.
 - The refusal notice was specific, policy-based, and appropriately interpreted.
 - No unreasonable behaviour was found in this aspect.
 2. Living Conditions
 - The Council's justification was sparse and lacked supporting evidence.
 - No comments were provided by Environmental Health; Kent Police raised no concerns.
 - The Council's refusal to engage proactively was deemed unhelpful.
 - Suggested conditions (e.g., restricted opening hours) were inadequately explained and conflicted with the proposed 24-hour use.
 - No consideration was given to alternative mitigation measures like a noise management scheme.
-

Final remarks

- The Inspector found that while the Council acted reasonably regarding town centre impacts, it behaved unreasonably in its assessment of living conditions.
 - This led to unnecessary and wasted expense for the appellant in addressing Reason 2 during the appeal.
-

Costs Order

- A partial award of costs was granted.
 - Medway Council is ordered to pay Wilson Slots Trading Ltd only the costs incurred in responding to Reason 2 of the refusal.
 - Costs are to be assessed by the Senior Courts Costs Office if not agreed.
 - The appellant is invited to submit cost details to the Council for agreement.
-

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

		<p>single storey dwelling</p> <p>b. Remove all debris + associated materials from the property within 2 calendar months</p>			<p>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.</p>
MC/22/1002	153 Fairview Avenue	Change of use from butcher's shop to takeaway pizza shop.	Allowed	Against	<p>The applicant incurred unnecessary or wasted expense in the appeal process. Costs requested £3,500.</p>
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	<p>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.</p>

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/21/0327	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.

Appeals 2025/2026

MC/24/2564	211 High Street, Chatham	Change of use to arcade incorporating bingo (sui generis)	Allowed with conditions	Partially against	The Council's behaviour caused the applicant to incur unnecessary or wasted expense. £4,945 + VAT paid
------------	--------------------------	-----------------------------------------------------------	-------------------------	-------------------	--------------------------------------------------------------------------------------------------------