

This report will be made public on 08 January 2024.

Report number: **DCL/23/35**

**To:** Planning and Licensing Committee  
**Date:** 16<sup>th</sup> January 2024  
**Status:** Non key Decision  
**Responsible Officer:** Llywelyn Lloyd, Chief Planning Officer

**Subject:** Appeals Monitoring Report January 2020 to December 2023

**SUMMARY:** This report is for information only. It sets out the number and decisions on appeals determined since the previous monitoring report was presented to Members in 2019, together with commentary on a number of notable appeal decisions made by the Planning Inspectorate.

**RECOMMENDATION:**

**That Members note the report.**

## 1. INTRODUCTION

1.1. Some Members may recall that, prior to 2020, information relating to appeal decisions was presented on a quarterly basis to the Planning and Licencing Committee. This practice ceased during the pandemic and the remote Committee Meetings which took place, and as such, Members have not received updates on appeal decisions for some time. Given the length of time that has elapsed since appeal monitoring information was last reported to Members, a significant number of appeals have been determined, and as such this report will set out broad trends in decisions received together with detailed commentary on a number of decisions which may be of interested to Members.

## 2. PERFORMANCE

2.1. Over the period January 2020 to December 2023, 133 appeals were determined. Of these, 94 were dismissed and 39 were allowed – 71% dismissed, 29% allowed..

2.2. These figures are broadly in line with the national average – over the period October 2020 to September 2022, 71% of appeals for non-major applications nationally were dismissed.

2.3. The performance by calendar year is shown in the table below:

Year	Total Decisions	Dismissed	Allowed
<b>2020</b>	35	30 (86%)	5 (14%)
<b>2021</b>	41	33 (69%)	13 (31%)
<b>2022</b>	41	25 (64%)	15 (36%)
<b>2023</b>	16	11 (69%)	5 (31%)

## 3. NOTABLE APPEAL DECISIONS

3.1 The appeal decisions referred to below (and where applicable any associated cost decisions) are attached as Appendices A – E to this report.

[Appendix A - APP/L2250/W/21/3272712 & APP/L2250/X/19/324203 - 87 Coast Drive, Greatstone](#)

3.2 This site saw enforcement action being taken and two appeals submitted in relation to the unauthorised construction of a dwelling in the rear garden.

3.3 The appellant initially sought to argue that the new dwelling did not require the grant of planning permission due to the lawful use of the site. The Inspector carefully considered this argument and concluded, having regard to the history of the site and the fact that the building was the subject of an enforcement notice, that the building was not lawful and dismissed the appeal accordingly.

3.4 The appellant subsequently sought to argue, on a separate appeal, that planning permission should be granted for the building. In a comparatively short decision, the Inspector concluded that the building harmed the character and appearance of the area, and dismissed the appeal.

Appendix B - APP/L2250/C/19/3221881 - Land adjoining 76-78 High Street, Dymchurch

- 3.5 This appeal relates to the service of an enforcement notice in respect of car sales, storage of cars, storage of touring caravans and trailers. This was a complicated case, which was the subject of a public inquiry with evidence being given under oath and both the Council 's witnesses and the appellants being cross examined. The appellants sought to argue simultaneously that the land had never been used for these purposes and such a use had taken place "at all times" and that it had the benefit of planning permission.
- 3.6 The Inspector considered the complex historical use of the site, the nature of the uses the subject of the notice and evidence from the appellants and the Council and dismissed the appeal, concluding that the use was not lawful, and that it required the express grant of planning permission.

Appendix C - APP/L2250/W/21/3275546 – Tesco Car Park, Cheriton High Street, Folkstone

- 3.7 The application, subject of this appeal, sought planning permission for the erection of a fast food drive thru restaurant. A particularly controversial scheme, it was reported to the Council's Planning and Licencing Committee recommended for approval. The Committee resolved to refuse the application on the basis that the development would harm residential amenity due to increased vehicle movements to and from the site, that the proposal harmed highway safety and that the use of the car by customers made the development inherently unsustainable.
- 3.8 The Inspector concluded that, due to the design of the proposed restaurant, the layout of the site and screening, the proposal would not give rise to a harmful increase in light pollution. It was noted, in respect of noise and disturbance, that the Council's Environmental Health Officer did not raise objection to the scheme, and that the appellant had provided substantial evidence relating to noise and disturbance, demonstrating that the proposal would not be harmful in this respect. Finally, the Inspector noted that KCC Highways and Transportation considered the proposed development acceptable both in terms of highway safety and capacity.
- 3.9 The Inspector allowed the appeal and made an award of costs against the Council in relation to the issue of noise and disturbance. In defending the appeal, noting that the Council's own expert advisor considered the scheme acceptable in respect of noise generation, officers were unable to present evidence to the Inspector which effectively countered that submitted by the appellant. The Inspector concluded that the refusal of permission on this basis was unreasonable, and had resulted in wasted expense for the appellants in producing further information to address the reason for refusal.

Appendix D - APP/L2250/W/22/3290982 - 11 Clifton Crescent, Folkestone

- 3.10 These appeals related to the installation of uPVC windows in a listed building. The works had already been carried out, and the Inspector fully supported the Council's refusal of planning permission and listed building consent, setting out in detail the harm that such materials can and do cause to the historic and architectural importance of listed buildings, and that the limited benefits arising from the development did not outweigh this harm.

Appendix E - APP/L2250/21/3285174 - Land adjacent to A259, Old Romney, Romney Marsh

- 3.11 This appeal relates to an unauthorised gypsy and traveller caravan site adjacent to the A259 in Old Romney. As well as assessing the impact of such development on visual and residential amenity, highway safety and other common material considerations, applications and appeals for gypsy and traveller accommodation also must include detailed consideration of any unmet need for pitches within the District, the supply of available alternative sites for the appellants, together with their personal circumstances.
- 3.12 In this instance, the Inspector considered that there was minimal evidence of unmet need within the District, and that the personal circumstances of the appellants were not sufficient to warrant the grant of planning permission. The appeal was, accordingly, dismissed, with the Inspector supporting the decision of the Council.