

This report will be made public on 12 February 2024



Report number: **DCL/23/41**

To: Planning and Licensing Committee
Date: 20th February 2024
Status: Non key Decision
Responsible Officer: Llywelyn Lloyd, Chief Planning Officer

Subject: Appeal Decisions Received

SUMMARY: This report is for information only. It sets out the appeals determined since the previous Meeting of the Planning and Licencing Committee, together with commentary on each.

RECOMMENDATION:

1. That Members receive and note report DCL/23/41.

1. DECISIONS RECEIVED

APP/L2250/W/23/3314153 - Pemberton Court, Hospital Hill, Hythe – APPEAL DISMISSED

- 1.1. The decision is attached at **Appendix A**. The Inspector on behalf of the Secretary of State (SoS) fully supported the Council's decision to refuse to grant prior approval to add two additional storey (comprising 8 flats) to this already imposing building. The Inspector concluded that the proposed development would cause significant harm to the character of the building and the appearance of the wider area.

APP/L2250/W/22/3312303 - Land adjoining 39 Victoria Road West, Littlestone – APPEAL ALLOWED, AWARD OF COSTS AGAINST THE COUNCIL REFUSED

- 1.2. The appeal and costs decisions are attached at **Appendix B**. Some Members may recall this application being reported to the Planning and Licencing Committee in July 2022, recommended for approval. The application sought approval for reserved matters pursuant to the outline planning permission granted for the residential development of the site with up to 80 dwellings in 2020.
- 1.3. The Committee resolved to refuse the application on the basis that the proposal amounted to an over-intensive use of the site, giving rise to development which was significantly out of character with that in the vicinity, harmful to the visual amenities of the area.
- 1.4. The Inspector, whilst noting that the development would differ from the existing development in the area, sets out that this does not amount in itself to a reason for refusal. The Inspector carried out a detailed appraisal of the proposed development against national and local policies and guidance (in paragraphs 9 to 16 of the decision) and concluded that the scheme was acceptable, allowing the appeal accordingly.
- 1.5. The appellants submitted a claim for an award of costs against the Council. The claim was refused, and the Inspector ultimately concluded that the reason for refusal did not amount to "unreasonable behaviour" on the part of the Council (one of the tests which determine whether an award of costs should be made).
- 1.6. The appellants did though provide the Inspector with a transcript of the Committee discussion of the application, and it should be noted (at paragraph 3 of the costs decision) that the Inspector raises concern with the content and structure of the member debate. In particular, the Inspector was concerned that the Committee's starting point for discussion was that the scheme should be refused, with consideration of what harm arose from the development not coming until much later in the debate.
- 1.7. This decision provides a useful reminder to this Committee that Members should be mindful, when discussing, proposing, or voting on, a motion to refuse an application, that it is imperative that material planning harm should be identified at an early stage and that this should form the main part of any such debate.

APP/L2250/C/21/3278430 & APP/L2250/W/21/3273843 - Land adjoining The Cottage, Canterbury Road, Selsted - APPEALS DISMISSED, ENFORCEMENT NOTICE UPHeld

- 1.8. The decision is attached at **Appendix C**. In dismissing both appeals, the Inspector concurred that the use of the site and associated development would cause significant harm to the character and appearance of the Kent Downs National Landscape (formerly the AONB).
- 1.9. As is required, the Inspector also had regard to the need for and supply of sites within the District, the personal circumstances of the appellants and the impact that dismissing both appeals would have. It was concluded that the material planning harm and conflict with national guidance and local planning policies was such that they outweighed the impact on the appellants in this instance, and further considered that in the circumstances the period specified in the enforcement notice for the site to be cleared was reasonable.
- 1.10. The decisions here reflect the strong position the Council currently retains regarding the provision of the gypsy and traveller sites. At present officers are therefore able both to demonstrate a pragmatic approach to granting permission for well designed sites in appropriate locations, and to defend decisions to refuse permission for and/or take enforcement action against poorly located, visually intrusive sites.