

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

Appeals Report

This is the latest information report summarising appeal decisions received between 1 January 2023 and 30 June 2023.

The Department for Levelling Up, Housing and Communities (DLUHC) set National Performance Indicators. These National Indicators specify that no more than 40% of appeals against the Council's refusal of planning permission should be allowed. Overall, 30.0% of appeals were allowed within the reported timeframe and so, the Council currently sit well within the required threshold.

Data period: 01/01/2023 to 30/06/2023

Decision	Number of appeals	Percentage
Withdrawn	2	10.0%
Dismissed	12	60.0%
Allowed	6	30.0%
Total	20¹	100.0%

The report identifies decisions made by the Planning Committee and highlights any decisions made contrary to officer's original recommendation.

Within the reported timeframe Planning Inspectors allowed one appeal (21/00627/AS – Land rear of 7 to 14, Harmers Way, Egerton) that was refused by Planning Committee contrary to officer's recommendation.

In cases where the Planning Inspector has allowed an appeal contrary to the Council formal decision, a summary of the Inspector's reasons for doing so have been provided.

Impact of nutrient neutrality on planning appeals

In July 2020, Natural England issued advice to the Council regarding the poor water quality at the Stodmarsh Lakes. This stipulated that qualifying developments within the Stour catchment area must achieve nutrient neutrality to ensure that there are no adverse effects on the protected habitats at the Lakes. As a result of the 'Stodmarsh issue', a number of developments have not been able to progress without identifying suitable nutrient mitigation.

The table below sets out broadly how housing appeals within the borough, which are affected by nutrient neutrality, are being determined. It also provides a comparison for housing appeals that are located outside the catchment area and are not required to achieve nutrient neutrality.

¹ Please note there are two developments which have been part allowed and part dismissed. Each part decision have been recorded separately.

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

Breakdown of housing appeal decisions compared by location within or outside the Stour catchment

Decision	Housing appeals within the Stour catchment	Housing appeals outside the Stour catchment
Allowed	0 (0%)	2 (50%)
Dismissed	2 (100%)	2 (50%)

Live planning appeals

As of July 2023, the Council are currently involved with 23 appeals on planning applications; and 7 appeals on enforcement notices. These figures relate to valid appeals, which have received a start date from the Planning Inspectorate. The table below presents this information by the different appeal categories, based on the format of the appeal.

Breakdown of current live appeals by format

	Written Representations	Hearings	Inquiries
Planning applications	18	4	1
Enforcement Notices	2	1	4

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

Appeals Summary

Table A: Appeals Allowed

#	Application reference	Location	Proposal summary	LPA Decision Level
1	20/01000/CO ND/AS	The Nutmeg Cafe, 51 High Street, Ashford, TN24 8SG	Discharge condition 3 (a),(b),(c),(d),(e),(f) (full details)	No decision made (Appeal on non-determination).
1 cont'd	<p>Stodmarsh N/A</p> <p>Brief Summary of Inspector's reasons The development proposed is part of a Grade II* listed building therefore the main issues for the appeal were regarding whether the details would preserve the listed building. Details submitted pursuant to discharging condition 3(a), 3(b) (stairs only), 3(c) and 3(d) were considered acceptable and undisputed. For the remaining conditions, the Inspector considered the details were sufficient to preserve the listed building and its special interest.</p>			
2	21/00627/AS	Land rear of 7 to 14, Harmers Way, Egerton, Kent	Erection of 13 dwellings together with all necessary infrastructure	Officer recommendation - approve Committee decision - refuse
2 cont'd	<p>This appeal resulted as a consequence of a committee overturn.</p> <p>Stodmarsh N/A</p> <p>Brief Summary of Inspector's reasons</p>			

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

#	Application reference	Location	Proposal summary	LPA Decision Level
			<p>The Inspector considered that there were two main issues for the appeal – whether the proposed development would be in a suitable location and the effect on the character and appearance of the surrounding area.</p> <p>The Inspector considered that even when considered alongside the Local Plan site allocation and current applications that are supported in the Neighbourhood Plan, the development would be compatible with the overall housing strategy for the borough, and that the scale of development would be commensurate to the services available in Egerton. Overall, the development would accord with Local Plan Policies HOU5 (<i>Residential windfall development in the countryside</i>) and SP2 (<i>The Strategic Approach to Housing Delivery</i>).</p> <p>The Inspector noted the pleasant, green setting of the appeal site and that the proposal would change the existing character of the currently undeveloped site, but concluded that the site is not within one of the key views and vistas set out in the Egerton Neighbourhood Plan and the housing would not be unduly dominant given their context. Therefore it was considered that the proposed development would not harm the character and appearance of the surrounding area.</p> <p>The Inspector noted that the Council was unable to demonstrate a five year housing land supply, which had been affected by the impact of nutrient neutrality, but noted that the delivery of 13 homes in the borough would positively contribute towards addressing the shortfall.</p> <p>Overall, the Inspector concluded that the development was in accordance with the Development Plan and the appeal was allowed.</p>	
3	21/00478/AS	Honeysuckle Cottage, Bethersden Road, Woodchurch, Ashford, TN26 3PU	Proposed replacement dwelling with detached garage	Delegated refusal
3 cont'd	<p>Stodmarsh N/A</p> <p>Brief Summary of Inspector's reasons</p>			

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

#	Application reference	Location	Proposal summary	LPA Decision Level
	<p>The Inspector considered that the main issue was the effect of the replacement dwelling upon the intrinsic character and beauty of the countryside. As the footprint of the proposed dwelling was similar to the existing building, it was considered that the replacement dwelling and garage would not result in cumulative visual harm. Furthermore, the Inspector considered that the site was sufficiently screened by mature landscaping which reduced the visual impact on the street scene.</p> <p>As part of the appeal, the Inspector also removed a number of conditions relating to external lighting, provision of a rainwater butt, solar panels and removal of permitted development rights, as it was not considered that the conditions were necessary or that there was sufficient justification for the conditions.</p> <p>Overall, the Inspector concluded that the development would accord with Local Plan Policies SP1 (<i>Strategic Objectives</i>), SP6 (<i>Promoting High Quality Design</i>), HOU7 (<i>Replacement dwellings in the countryside</i>), ENV3a (<i>Landscape Character and Design</i>).</p>			
4	21/01672/AS ²	Frogs Hole Farm, Frogs Lane, Rolvenden, TN17 4QB	Two single storey rear extensions; new porch; erection of new partition walls; new window and changes to fenestration	No decision made (Appeal on non- determination).
4 cont' d	<p>Stodmarsh N/A</p> <p>Brief Summary of Inspector's reasons The appeal is allowed in part and dismissed in part. The appeal is dismissed in respect of the orangery and listed building consent is refused. The appeal is allowed and the listed building consent is granted in respect of the kitchen/dining extension and the front porch.</p>			

² This appeal has been allowed in part and dismissed in part. The appeal is dismissed in respect of the orangery. The appeal is allowed in respect of the kitchen/dining extension and front porch.

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

#	Application reference	Location	Proposal summary	LPA Decision Level
			<p>The Inspector concluded that the proposed extensions and front porch would have no appreciable visual impact and the original dwelling would not be significant affected.</p> <p>The Inspector then concluded that the proposal to add an ‘orangery’ to the rear of the older part of the building would appear incongruous and out of character with the 18th/19th century element. It would be clearly visible from the road, distracting and detracting from the simple appearance and heritage significance of the listed building. There is no public benefit that would outweigh the ‘less than substantial harm’ that would occur.</p> <p>Overall, the Inspector considered that the orangery would conflict with Local Plan Policies SP1 (<i>Strategic Objectives</i>), SP6 (<i>Promoting High Quality Design</i>), ENV13 (<i>Conservation and Enhancement of Heritage Assets</i>) and Rolvenden Neighbourhood Plan policies RNP1 and RNP3. Whereas the kitchen extensions and porch would not conflict with the development plan policies by conserving the architectural character and historic interest of the listed building.</p>	
5	21/01714/AS 3	Frogs Hole Farm, Frogs Lane, Rolvenden, TN17 4QB	Two single storey rear extensions; new porch	No decision made (Appeal on non-determination).
5 cont’d	Stodmarsh N/A		<p>Brief Summary of Inspector’s reasons</p> <p>The appeal is allowed in part and dismissed in part. The appeal is dismissed in respect of the orangery and planning permission is refused. The appeal is allowed and the planning permission is granted in respect of the kitchen/dining extension and the front porch.</p> <p>The Inspector concluded that the proposed extensions and front porch would have no appreciable visual impact and the original dwelling would not be significant affected.</p>	

³ This appeal has been allowed in part and dismissed in part. The appeal is dismissed in respect of the orangery. The appeal is allowed in respect of the kitchen/dining extension and front porch.

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

#	Application reference	Location	Proposal summary	LPA Decision Level
	<p>The Inspector then concluded that the proposal to add an 'orangery' to the rear of the older part of the building would appear incongruous and out of character with the 18th/19th century element. It would be clearly visible from the road, distracting and detracting from the simple appearance and heritage significance of the listed building. There is no public benefit that would outweigh the 'less than substantial harm' that would occur.</p> <p>Overall, the Inspector considered that the orangery would conflict with Local Plan Policies SP1 (<i>Strategic Objectives</i>), SP6 (<i>Promoting High Quality Design</i>), ENV13 (<i>Conservation and Enhancement of Heritage Assets</i>) and Rolvenden Neighbourhood Plan policies RNP1 and RNP3. Whereas the kitchen extensions and porch would not conflict with the development plan policies by conserving the architectural character and historic interest of the listed building.</p>			
6	20/01743/AS	Coldharbour Farm, Knock Hill, Stone, Tenterden, Kent, TN30 7JX	Provision of a mixed agricultural and tourism office, together with a single holiday let accommodation above to Barn B (Alternative scheme to Barn B approved under Planning Permission Ref: 10/01421/AS - Erection of 4 buildings for agricultural purposes)	Delegated refusal
6 cont'd	<p>Stodmarsh N/A</p> <p>Brief Summary of Inspector's reasons The Inspector's main issue for consideration was the effect of the proposed development on the character and appearance of the area, including the High Weald AONB.</p> <p>The Inspector considered that given the varied character of buildings across the wider site, the development would not cause harm or appear visually incongruous in this setting. Overall, the proposal would sit comfortably within the character of the wider site, and would conserve and enhance the landscape character. It was concluded that the</p>			

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

#	Application reference	Location	Proposal summary	LPA Decision Level
			development would comply with Local Plan Policies ENV3b (<i>Landscape Character and Design in the AONBs</i>) and EMP11 (<i>Tourism</i>). It was also considered that there was no conflict with the objectives of the AONB Management Plan.	

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

Table B: Appeals Dismissed

#	Application reference	Location	Proposal	Stodmarsh	LPA's Decision Level
1	22/00580/AS	71 Essetford Road, Ashford, Kent, TN23 5BP	Two storey side extension with pitched roof	N/A	Delegated refusal
2	20/00999/AS	The Nutmeg Cafe, 51 High Street, Ashford, TN24 8SG	Change of use from cafe (A3) to two separate dwelling houses (C3)	Y	No decision made (Appeal on non-determination).
2 cont'd	<p><u>Stodmarsh</u></p> <p>The appellant prepared a nutrient assessment but has not provided any details of mitigation. As the Inspector took the view that as the appeal was unacceptable on other grounds, there was no need for further consideration to be given to the provisions of the Conservation of Habitats and Species Regulations.</p>				
3	21/01799/AS	Crowbridge Cottage, Romden Road, Smarden, Ashford, Kent, TN27 8RA	Single Storey Oak Framed Orangery Side Extension [re submission of 21/00603/AS].	N/A	Delegated refusal
4	21/01800/AS	Crowbridge Cottage, Romden Road,	Single Storey Oak Framed Orangery Side Extension [re	N/A	Delegated refusal

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

#	Application reference	Location	Proposal	Stodmarsh	LPA's Decision Level
		Smarden, Ashford, Kent, TN27 8RA	submission of 21/00603/AS]		
5	PA/2022/2163	40, Foxglove Green, Willesborough, Ashford, Kent TN24 0RJ	Single storey rear extension-retrospective	N/A	Delegated refusal
6	21/01569/AS	Honest Miller, The Street, Brook, Ashford, TN25 5PG and Land between Tryfan and Willowcroft, Troy Town Lane, Brook	Proposed refurbishment of Public House, including extensions and fenestration alterations, provision of parking area and seating area with pergola. Conversion of Coach House into a Holiday Let and the erection of 4no. dwellings with associated parking, garaging, access, landscaping and	N/A	No decision made (Appeal on non-determination).

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

#	Application reference	Location	Proposal	Stodmarsh	LPA's Decision Level
			biodiversity enhancements		
6 cont'd	<p><u>Stodmarsh</u></p> <p>The appellant prepared a nutrient report which identified that 4.7 hectares of land would need to be converted from general cropping to woodland planting, however not site for this change of use was identified. As the Inspector took the view that as the appeal was unacceptable on other grounds there was no need for further consideration to be given to the provisions of the Conservation of Habitats and Species Regulations.</p>				
7	PA/2022/2563	78 Sir John Killick Road, Ashford, Kent TN23 3TF	Retrospective permission for insertion of garage doors to car barn - Resubmission of 22/00400/AS	N/A	Delegated refusal
8	21/01412/AS	Land north east of Beacon Farm Oast, Benenden Road, Biddenden, Kent	Erection of a New Detached Dwelling, together with associated Garaging, Parking, Landscaping and Biodiversity Enhancements	N/A	Delegated refusal

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

#	Application reference	Location	Proposal	Stodmarsh	LPA's Decision Level
9	21/01672/AS ⁴	Frogs Hole Farm, Frogs Lane, Rolvenden, Cranbrook, Kent, TN17 4QB	Two single storey rear extensions; new porch; erection of new partition walls; new window and changes to fenestration	N/A	No decision made (Appeal on non-determination).
10	21/01714/AS ⁵	Frogs Hole Farm, Frogs Lane, Rolvenden, Cranbrook, Kent, TN17 4QB	Two single storey rear extensions; new porch	N/A	No decision made (Appeal on non-determination).
11	21/01020/AS	Land at the junction of The Meadows and, Poplar Road, Wittersham	Erection of 7 dwellings and associated landscaping with	N/A	No decision made (Appeal on non-determination).

⁴ This appeal has been allowed in part and dismissed in part. The appeal is dismissed in respect of the orangery. The appeal is allowed in respect of the kitchen/dining extension and front porch.

⁵ This appeal has been allowed in part and dismissed in part. The appeal is dismissed in respect of the orangery. The appeal is allowed in respect of the kitchen/dining extension and front porch.

Information Report for Planning Committee – Appeal Decisions Received between 01 January 2023 and 30 June 2023

#	Application reference	Location	Proposal	Stodmarsh	LPA's Decision Level
			access from Poplar Road.		
12	PA/2022/2091	37 Queen Street, Ashford, TN23 1RF	Replacement windows and door to front of property	N/A	Delegated refusal