

Information Report for Planning Committee – Appeal Decisions Received between 01 July 2023 and 31 December 2023

Appeals Report

This is the latest information report summarising appeal decisions received between 1 July 2023 and 31 December 2023. Overall, 29.2% of appeals were allowed within the reported period.

Data period: 01/07/2023 to 31/12/2023

Decision	Number of appeals	Percentage
Withdrawn	1	4.1%
Dismissed	16	66.7%
Allowed	7	29.2%
Total	24	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 period, Planning Inspectors did not allow any appeals that were 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, affected by nutrient neutrality, are being determined. It also provides a comparison for housing appeals that are located outside the catchment area and which are not required to achieve nutrient neutrality.

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	3 (37.5%)	1 (20%)
Dismissed	5 (62.5%)	4 (80%)

Live planning appeals

As of 1 January 2024, the Council are currently involved with 25 appeals on planning applications; and 4 appeals on enforcement notices. These figures relate to valid appeals, which have received a start date from the Planning Inspectorate. The table

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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	24	1	0
Enforcement Notices	3	1	0

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Appeals Summary

Table A: Appeals Allowed

#	Application reference	Location	Proposal summary	LPA Decision Level
1	21/01442/AS	Monkery Bottom, Faversham Road, Charing, Ashford, TN27 0NR	Retrospective application for siting of additional, third mobile/caravan.	Delegated refusal
1 cont'd	<p>Brief Summary of Inspector's reasons</p> <p>The Inspector considered that there were two main issues for the appeal – the effect of the development on the character and appearance of the Kent Downs Area of Outstanding Beauty (AONB) and the effect of the development on the nearby ancient woodland.</p> <p>The Inspector concluded that the scheme would not create significant harm on the AONB or the ancient woodland, as the Inspector considered that the additional caravan would not be visually intrusive and would not constitute an urbanising form of development. It was therefore concluded that the scheme is compliant with Local Plan Policies SP1 (<i>Strategic Objectives</i>), ENV1 (<i>Biodiversity</i>), ENV3b (<i>Landscape Character and Design in the AONBs</i>) and HOU16 (<i>Traveller Accommodation</i>). The Inspector also gave substantial weight to the unmet need for Gypsy & Traveller accommodation within the borough.</p> <p>Overall, the Inspector concluded that the scheme was in accordance with the Development Plan and was allowed.</p> <p>Stodmarsh N/A</p>			
2	19/01004/AS	Chequer Tree Paddock, Colliers Hill, Mersham, Ashford, TN25 7HT	Retrospective change of use of land to a private gypsy and traveller caravan site consisting of a single pitch containing 1 no. mobile home, 1 no. dayroom, 1 no. touring caravan and associated works	Delegated refusal
2 cont'd	<p>Brief Summary of Inspector's reasons</p>			

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#	Application reference	Location	Proposal summary	LPA Decision Level
			<p>The Inspector considered that there were 6 main issues for the appeal, including the effect of the development on the character and appearance, nutrient neutrality, and the need for Gypsy and Traveller accommodation.</p> <p>The Inspector considered that the development, with suitable landscaping mitigation, would have less than moderate harm on the landscape character of the area. It was concluded that the scheme would be compliant with Local Plan Policies SP1 (<i>Spatial Objectives</i>), SP6 (<i>Promoting High Quality Design</i>), ENV3a (<i>Landscape Character and Design</i>) and HOU16 (<i>Traveller Accommodation</i>). The Inspector also gave substantial weight to the unmet need for Gypsy & Traveller accommodation and stated that it had not been reasonably established that there were suitable alternative sites available.</p> <p>Overall, the Inspector concluded that the proposal accords with the Development Plan as a whole and the appeal was allowed.</p> <p>Stodmarsh</p> <p>The Inspector concluded that as the application was retrospective and the development was on the site prior to 2020, that an Appropriate Assessment was not required and that there would be no impact on the Stodmarsh Lakes.</p>	
3	22/00859/AS	22 Scotton Street, Wye, Ashford, Kent, TN25 5BZ	(Retrospective) Proposed damp proof works to include: kitchen - chemical damp proof course into lower mortar bed, damp proof membrane to walls, batten to membrane, plasterboard to battens. Lounge - chemical damp proof course into lower mortar bed, damp proof membrane to walls, batten to membrane, plasterboard to battens, cut out and replace floorboards.	Delegated refusal
3 cont'd	<p>Brief Summary of Inspector's reasons</p> <p>The Inspector considered that the main issue for the appeal was whether the works preserved the listed building.</p> <p>It was concluded that public benefit of securing the building's optimum viable use as a residential dwelling outweighed the less than substantial harm that has been caused to the significance of the building by the retrospective works.</p>			

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#	Application reference	Location	Proposal summary	LPA Decision Level
	Overall, the Inspector considered that the proposals were in accordance with Local Plan Policy ENV13 (<i>Conservation and Enhancement of Heritage Assets</i>), and the appeal was allowed.			
	Stodmarsh N/A			
4	PA/2022/2440	The Cloth Hall, Water Lane, Smarden, Ashford, TN27 8QB	Proposed single-storey extension	Delegated refusal
4 cont'd	This is the Listed Building Consent associated with the PA/2022/2142 planning application (see below).			
	Brief Summary of Inspector's reasons			
	The Inspector considered that the main issues for the appeal included whether the proposal would preserve the special interest of the Grade II* listed building and the impact on the character and appearance of the Smarden Conservation Area.			
	The Inspector considered that the extension would be positioned in a location which is not prominent in the Conservation Area, so the views into the Conservation Area would remain unaffected. Therefore, the Inspector concluded that the proposal would preserve the Grade II* listed building and the character and appearance of the Conservation Area.			
	It was concluded that the development would accord with Local Plan Policies SP1 (<i>Strategic Objectives</i>), SP6 (<i>Promoting High Quality Design</i>), HOU8 (<i>Residential Extensions</i>), ENV13 (<i>Conservation and Enhancement of Heritage Assets</i>), and ENV14 (<i>Conservation Areas</i>). On this basis, the appeal was allowed.			
	Stodmarsh N/A			
5	PA/2022/2142	The Cloth Hall, Water Lane, Smarden, Ashford, TN27 8QB	Proposed single-storey extension	Delegated refusal
5 cont'd	This is the planning application associated with the PA/2022/2440 Listed Building Consent (see above).			
	Brief Summary of Inspector's reasons			
	The Inspector considered that the main issues for the appeal included whether the proposal would preserve the special interest of the Grade II* listed building and the impact on the character and appearance of the Smarden Conservation Area.			

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#	Application reference	Location	Proposal summary	LPA Decision Level
			<p>The Inspector considered that the extension would be positioned in a location which is not prominent in the Conservation Area, so the views into the Conservation Area would remain unaffected. Therefore, the Inspector concluded that the proposal would preserve the Grade II* listed building and the character and appearance of the Conservation Area.</p> <p>It was concluded that the development would accord with Local Plan Policies SP1 (<i>Strategic Objectives</i>), SP6 (<i>Promoting High Quality Design</i>), HOU8 (<i>Residential Extensions</i>), ENV13 (<i>Conservation and Enhancement of Heritage Assets</i>), and ENV14 (<i>Conservation Areas</i>). On this basis, the appeal was allowed.</p> <p>Stodmarsh N/A</p>	
6	PA/2022/2851	Land East of Ashford Road Kingsnorth Ashford	Outline application for up to 15 dwellings, a replacement Medical Centre and Pharmacy, together with all necessary infrastructure	Non determination
6 cont'd				

Brief Summary of Inspector’s reasons

This development was subject of a non-determination appeal. If the Council had been able to determine the appeal, it would have granted planning permission, subject to the scheme achieving nutrient neutrality. Stodmarsh and nutrient neutrality, was considered by the Inspector as the main issue for the appeal.

Character and appearance

The Inspector comments that the development would erode the undeveloped green characteristics of the site and the gap between Kingsnorth and the development at the South of Ashford Garden Community. This harm was considered as moderate and that the development would be contrary to Local Plan Policies SP1 (*Strategic Objectives*), SP2 (*The Strategic Approach to Housing Delivery*), SP6 (*Promoting High Quality Design*), SP7 (*Separation of Settlements*), S4 (*Land North of Steeds Lane and Magpie Hall Road*), HOU5 (*Residential windfall development in the countryside*) and EMP1 (*New Employment Uses*).

Medical Centre & Pharmacy

The pressing need for a new primary health care facility was identified by the Inspector and afforded significant weight. Members proposed a condition to require confirmation that funding was in place and a contract let for the construction of the medical centre and pharmacy prior to commencement of construction of the proposed housing. At the appeal hearing,

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			<p>the appellant did not agree with this condition and instead proposed a clause in their Unilateral Undertaking to require access and services to this part of the site to be provided and the transfer of the medical centre and pharmacy land to the partners of Kingsnorth Medical Practice prior to the construction of any dwellings. The Inspector agreed with the appellant's position stating that <i>"although this would not confirm the funding nor the contract for construction, nevertheless, no other body could develop the land. This provides a strong likelihood that the Medical Centre and Pharmacy would be delivered. Therefore this would be a significant benefit. As such, the UU is a suitable way to secure this requirement and therefore the condition suggested in this regard would not be necessary"</i>.</p> <p>Developer contributions</p> <p>The Inspector considered that the developer contributions for allotments, arts and creative, children's and young people's play space, indoor and outdoor sports provision, informal/natural green space, strategic parks, community learning, youth services, library services, social care and primary and secondary education were necessary. However, it was considered that contributions for the voluntary sector and waste were unnecessary.</p> <p>Stodmarsh</p> <p>The Inspector was required to undertake an Appropriate Assessment. As part of the Inspector's assessment, it was considered that the land uses stated by the applicant were correct and that the approach to nutrient calculations was sufficiently robust. Mitigation was proposed in the form of on-site Greenspace and Sustainable Urban Drainage Systems (SuDS). It was agreed to secure the mitigation using planning conditions and overall, the Inspector concluded that with SuDS mitigation the proposed development would not have a harmful effect on the Stodmarsh sites.</p> <p>Conclusion</p> <p>The Inspector identified harm from the character and appearance of the development. However, the Inspector gave significant weight to the medical centre and the pressing need for a new primary healthcare facility, the lack of the Council's five-year housing land supply, and the benefits of the affordable housing. Overall, the Inspector considered that the adverse impacts would not significantly outweigh the benefits and decided that the appeal should be allowed.</p>	
7	15/00856/AS	Land at Pound Lane, Magpie Hall Road, Bond Lane and, Ashford Road, Kingsnorth, Kent	Outline application for a development comprising of up to 550 dwellings in a mix of size, type and tenure. Provision of local	Non determination

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#	Application reference	Location	Proposal summary	LPA Decision Level
			recycling facilities. Provision of areas of formal and informal open space. Installation of utilities, infrastructure to serve the development including flood attenuation, surface water attenuation, water supply, wastewater facilities, gas supply, electricity supply (including sub-station, telecommunications infrastructure and renewable energy). Transport infrastructure including highway improvements in the vicinity of Ashford Road/Magpie Hall Road/Steeds Lane, Pound Lane and Bond Lane, plus an internal network of roads and junctions, footpaths and cycle routes. New planting and landscaping both within the proposed development and on its boundaries as well as ecological enhancement works. Associated groundworks. **SUBJECT TO AN ENVIRONMENTAL IMPACT ASSESSMENT*	
7 cont'd	<p>Brief Summary of Inspector's reasons This development was subject of a non-determination appeal. If the Council had been able to determine the appeal, it would have granted planning permission, subject to the scheme achieving nutrient neutrality. The Inspector identified the main issues for the appeal as the effect on local highways, effect on ecology, nutrient neutrality, and the scheme's viability.</p> <p>Highways and ecology The Inspector considered that the development was acceptable in terms of highway safety and ecology.</p> <p>Stodmarsh</p>			

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#	Application reference	Location	Proposal summary	LPA Decision Level
			<p>The Inspector undertook an Appropriate Assessment as part of the appeal decision. During the appeal inquiry, the Inspector heard evidence on the existing land use classifications, following concerns raised by Kingsnorth Parish Council and residents on the appellant’s classifications. The Inspector considered that the classifications were appropriate. Mitigation was proposed in the form of an onsite Wastewater Treatment Works and SuDS, which were to be secured through a combination of planning conditions and within the Section 106 agreement. Overall, the Inspector concluded that the development would achieve nutrient neutrality and would not have an adverse impact on the Stodmarsh Lakes.</p> <p>Viability and developer contributions</p> <p>The Inspector supported the Council’s flexible approach to viability and planning obligations through Local Plan Policies IMP1 (<i>Infrastructure Provision</i>) and IMP2 (<i>Deferred Contributions</i>). The development raised viability issues and sought to propose only 10% affordable housing. The Inspector agreed to include a viability review mechanism to review the viability of the scheme (to potentially increase delivery of community infrastructure) at a later stage of the development.</p> <p>A Unilateral Undertaking was also submitted with the appeal, which seeks to secure the following contributions including open space, play space, education and social care contributions, as well as 5 self-build plots. However, contributions for quality monitoring and voluntary sector were not considered necessary.</p> <p>Conclusion</p> <p>Overall, the Inspector concluded that the development is an important component of the Local Plan housing strategy and despite some harm, in terms of heritage, landscape and visual impacts, these would be outweighed by the significant benefits, including housing provision. It was concluded that the proposal is in accordance with the Development Plan and the appeal was allowed.</p>	

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Table B: Appeals Dismissed

#	Application reference	Location	Proposal	Stodmarsh	LPA's Decision Level
1	21/00655/AS	Smeeth Hill House, Hythe Road, Smeeth, Ashford, Kent, TN25 6ST	Retrospective application for stationing of a static caravan (mobile home) for residential annexe use by the groundsman for a temporary period of 3 years and installation of septic tank (permanent).	Yes	Delegated refusal
2	22/00909/AS	2A Hollington Place, Ashford, Kent, TN24 8UN	Demolition of existing building.	No	Delegated refusal
3	22/00099/AS	Tayes Barn, Silks Farm, Amage Road, Wye, Ashford, TN25 5DE	Proposed replacement of existing wooden front door and window unit which is in a state of disrepair with a black aluminium glazed unit.	No	Delegated refusal
4	21/01135/AS	Land west of Viaduct Terrace, Warehorne Road, Warehorne, Kent	Erection of 6 dwellings and one block of 6 apartments with associated parking.	No	Planning Committee
5	21/00174/AS	Buildings A and B, Rook Toll, Faversham Road, Boughton Aluph, Kent	Works of conversion to facilitate change of use to create two dwellings following prior approval granted under application reference 19/00191/AS (Notification for prior approval for a change of use from premises in light	Yes	Delegated refusal

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#	Application reference	Location	Proposal	Stodmarsh	LPA's Decision Level
			industrial use class B1(c) and land within its curtilage to two dwelling houses).		
6	21/02181/AS	Hill Foxes, Ravensdane Wood, Stalisfield Church Road, Charing, Ashford, TN27 0NJ	Demolition of existing concrete barn and garage; erection of part one storey/part two storey dwelling and associated works and access.	No	Delegated refusal
7	PA/2022/2085	Costa Cottage, Bromley Green Road, Ruckinge, Ashford, TN26 2EQ	Proposed detached double garage.	No	Delegated refusal
8	22/00085/AS	1 Durrant Green, Ashford Road, High Halden, Ashford, Kent, TN26 3BU	Proposed dwelling & detached garage.	No	Delegated refusal
9	22/00884/AS	Orlestone Rise, Ruckinge Road, Hamstreet, Ashford, Kent, TN26 2NW	Construction of a single detached dwelling with associated parking and amenity space.	No	Delegated refusal
10	21/02142/AS	Land north of 14 and 15, Kirkwood Avenue, Woodchurch	Erection of 3 bungalows and the provision of new public amenity space, together with associated access, parking and landscaping.	No	Delegated refusal

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#	Application reference	Location	Proposal	Stodmarsh	LPA's Decision Level
11	PA/2022/2390	Mai Barn, Romden Road, Smarden, Ashford, TN27 8QZ	Retrospective erection of oak framed garden room (revision to lapsed planning permission 15/00743/AS).	No	Delegated refusal
12	PA/2022/2929	Beult Barn, Ashford Road, Great Chart, Ashford, TN23 3DH	Erection of 3 dwellings.	Yes	Delegated refusal
13	PA/2023/0555	Mersham Manor Church Close, TN25 6NR	Variation of condition 5 and removal of Condition 6 on planning permission 22/00602/AS (Variation of condition 9 (approved plans) on planning permission 19/01602/AS to alter the materials, height and footprint of the annexe) to alter approved drawings retaining oak effect joinery.	No	Delegated refusal
14	PA/2022/2065	Lodge Farm, Bowl Road, Charing, TN27 0HB	Removal of Condition 3 of planning permission 15/01636/AS to allow use of ancillary accommodation as a single independent dwelling.	Yes	Appeal on non-determination
15	PA/2022/2068	Bridgewood Farm, Watery Lane, Westwell, TN25 4JJ	Change of use of the land for the stationing of 3 mobile homes for Gypsy / Traveller occupation. Occupation ancillary to the existing site permitted under application 12/00932/AS.	Yes	Delegated refusal
16	PA/2023/0957	25 Cheesemans Green Lane, Kingsnorth, Ashford, TN25 7EX	Vehicle crossover, parking, and single storey side extension to form garage.	Yes	Delegated Refusal