

PLANNING COMMITTEE – 23 JUNE 2022

PART 5

Report of the Head of Planning

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Decisions by County Council and Secretary of State, reported for information

- **Item 5.1 – 11 Challenger Close, Sittingbourne**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

This decision relates to an application for a lawful development certificate. The Inspector supported the Council's case that a planning condition restricted use of the garage for purposes other than car parking – and that conversion of the garage to habitable space requires planning permission.

- **Item 5.2 – Iris Cottage, Elmley Road, Minster**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

An unusual decision. This was also an appeal seeking a lawful development certificate for occupation of a dwelling without compliance with an agricultural occupancy condition. The Inspector noted that the dwelling had been constructed long after the planning permission had expired, and that on this basis he could not conclude that a breach of the condition was lawful, if that condition had died with the planning permission. The appeal was dismissed on this basis.

- **Item 5.3 – Kemsdale Stud Farm, Kemsdale Road, Hernhill, Faversham**

APPEAL DISMISSED

DELEGATED REFUSAL

Observations

This appeal relates to the removal of an occupancy condition restricting the occupancy of the dwelling to the management of the stud farm use of the site. The inspector concluded that in the absence of any significant evidence to show the level of demand for the dwelling tied with the stud farm, it would not be appropriate to remove the restrictive occupancy condition. The inspector considered that such an unrestricted open market dwelling would create a harmful piecemeal erosion of the countryside contrary to Local Plan policies and paragraph 80 of the NPPF.

- **Item 5.4 – New Acres Spade Lane Hartlip**

APPEAL A ALLOWED

APPEAL B DISMISSED AND COSTS REFUSED

DELEGATED REFUSAL

Observations

A disappointing decision on a high-profile case. The Inspector agreed that the site was significantly harmful in planning terms. However he gave significant weight to the lack of a five year supply of Gypsy sites and the lack of alternative sites available. As a consequence, and due to concern that the outcome of the appeal could leave the occupants homeless in conflict with human rights and the best interests of children, he granted a temporary permission for a further period of 3 years.

Although Appeal B was dismissed, this related to an appeal against refusal of details relating to a planning condition attached to the previous temporary permission granted by PINS at the site. By the time the appeal was heard, the temporary permission had expired, as had the condition in question. On technical grounds the appeal was dismissed on this basis. Although the Council sought costs on the basis that the appeal served no useful purpose and was made on legal principles rather than planning arguments, the Inspector did not consider the submissions amounted to unreasonable behaviour and refused the application for costs.