

This Report will be made public on 2 December 2024

**DC/24/44**

**To:** Planning and Licensing Committee  
**Date:** 16<sup>th</sup> July 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 report to the Planning and Licencing Committee, together with commentary on each.

**RECOMMENDATION:**

**That Members note the report.**

**1. DECISIONS RECEIVED**

1.1. The following appeals were determined by the Planning Inspectorate (PINs) on behalf of the Secretary of State since 1<sup>st</sup> July 2024:

- A. 23/2077/FH – 5 The Corniche, Sandgate – ALLOWED
- B. 23/1366/FH/PIP - Land at The Coppice, Saltwood – DISMISSED
- C. 22/1501/FH – Land west of 10 Gainsborough Close – DISMISSED (COSTS CLAIM REFUSED)
- D. 22/1936/FH – Static caravan adjacent to Jo’s Cafe – DISMISSED
- E. 22/1194/FH – 122 Enbrook Valley, Folkestone – DISMISSED
- F. 21/2389/FH – The Old Laundry, rear of 20 Darlinghurst Road – ALLOWED
- G. 23/0895/FH - Sainsburys, 19 Military Road, Hythe – ALLOWED
- H. 21/2525/FH – Land adj to High Knocke Farm, Dymchurch – ALLOWED
- I. 23/0690/FH – Palmarsch Garage, Dymchurch – ALLOWED
- J. 24/0098/FH – 10 Grimston Avenue, Folkestone – DISMISSED
- K. 23/1789/FH – The Beach House, 73 Coast Drive, Greatstone – DISMISSED

- L. 23/1270/FH – Lower Rydal Mount, Cliff Road, Hythe – DISMISSED
- M. 23/0186/FH & 23/0187/FH – Flat 2, 96 Black Bull Road, Folkestone – APPEAL A ALLOWED, APPEAL B DISMISSED

**A. 23/2077/FH – 5 The Corniche, Sandgate – ALLOWED**

- 1.2. The Inspector disagreed with the Council and concluded that the proposed extension (which increases the size of the projecting garage both upwards and outwards) as modest, would not erode the open character to the frontage of the house or result in an unbalancing effect (considering development within the area to not be identical).
- 1.3. The decision is attached at **Appendix A**.

**B. 23/1366/FH/PIP - Land at The Coppice, Saltwood – DISMISSED**

- 1.4. The Inspector agreed with the Council noting that whilst the proposal would contribute to housing supply and delivery, the site is not suitable for the proposed development. The resulting overly urban appearance would erode the character of the site and where the proposal would be highly visible within the immediate area, the proposal would be at odds with the verdant and intimate character of the site.
- 1.5. The appeal decision is attached at **Appendix B**.

**C. 22/1501/FH – Land west of 10 Gainsborough Close – DISMISSED, COSTS CLAIM REFUSED**

- 1.6. The Inspector concurred with the Council that the erection of a detached two-storey, three-bedroomed dwelling on the site would have a harmful effect on the character and appearance of the area. The dwelling would be in a prominent location and due to the constrained size and shape of the site, would display a piecemeal form markedly in contrast with other larger dwellings in the vicinity. Large expanse of blank elevations were also of concern, failing to provide active frontages onto the street.
- 1.7. The appellant's claim for an award of costs was refused. The Inspector considered that the Council did not behave unreasonably resulting in unnecessary or wasted expenses for the appellant noting that an award of costs was not justified.
- 1.8. The appeal and costs decisions are attached at **Appendix C**

**D. 22/1936/FH – Static caravan adjacent to Jo's Cafe – DISMISSED**

- 1.9. The Inspector concurred with the Council that the site is not a suitable location for the proposed development. There was no indication that the caravan is essential to the running of the business nor that the café would close in the event of the removal of the caravan.
- 1.10. The decision is attached at **Appendix D**.

#### **E. 22/1194/FH – 122 Enbrook Valley, Folkestone – DISMISSED**

- 1.11. The application the subject of the appeal sought a Certificate of Lawful Development for sleepers and a decking area. The Inspector concluded, in accordance with the Council's decision, that the development required the grant of planning permission and dismissed the appeal accordingly..
- 1.12. The decision is attached at **Appendix E**.

#### **F. 21/2389/FH – The Old Laundry, rear of 20 Darlinghurst Road – JUDICIAL REVIEW**

- 1.13. This appeal relates to the proposed redevelopment of this site to provide 3 one-bedroomed flats. Planning permission was refused on the basis of poor internal and external amenity space.
- 1.14. In allowing the appeal, the Inspector gave little weight to whether or not the flats met the minimum standard for floorspace, attributed arguments to the Council that were not made, and stridently criticised the Council for failing to justify its decision making both during the course of the application and in refusing planning permission.
- 1.15. Legal advice was sought on the basis of the reasoning set out in the Inspector's decision, and the advice received concluded that the Inspector had erred in law and that, notwithstanding this, it was evident that the Inspector had not fully read or appreciated the Council's appeal statement, nor the comments of consultees in relation to the application the subject of the appeal.
- 1.16. Having regard to the advice received, the Council is seeking a judicial review of the Inspectors decision. The matter is therefore before the Planning Court. Members will be advised of the outcome in due course.
- 1.17. The decision is attached at **Appendix F**.

#### **G. 23/0895/FH - Sainsburys, 19 Military Road, Hythe – ALLOWED**

- 1.18. A disappointing decision. The Council considered that the proposed retail pod within the car park of Sainsburys supermarket would be out of keeping within its surroundings. The Inspector acknowledged that the pod would be visible from Military Road and from here would occupy an elevated position behind the existing fencing. However, the Inspector concluded that the pod would be seen and understood in the context of the adjacent retail store.
- 1.19. The decision is attached at **Appendix G**

#### **H. 21/2525/FH – Land adj to High Knocke Farm, Dymchurch – ALLOWED**

- 1.20. The proposal sought outline planning permission for the residential development of the above site. The Council refused permission on grounds that the site falls outside of the established settlement boundary and that this coupled with the scale of the development, would have an adverse urbanising impact on the countryside.

- 1.21. The Inspector noted that the proposal would introduce a considerable amount of built form across the site, filling the gap in development. He also acknowledged that the development would result in a significant change in the character of the site but that the visual effect on the wider landscape would be limited given the context of the adjacent site (Urban area of Dymchurch). Consequently, the proposal would not result in an incursion into the open countryside and the indicative details suggest that the future residential development of the site would not be disproportionate in scale given the overall size of the settlement of Dymchurch.
- 1.22. The Inspector concluded that the proposal would not have an unacceptable effect on the character and appearance of the area. The appeal was allowed.
- 1.23. The decision is attached at **Appendix H**.

**I. 23/0690/FH – Palmarsh Garage, Dymchurch – ALLOWED**

- 1.24. This application was subject of an appeal against non-determination of the Council. The supporting documentation provided by the Council in response to the appeal demonstrated that the proposal would have been considered favourably. The appeal was subsequently allowed, and permission has been granted subject to condition for the removal of an existing mobile unit and installation of canopies to provide hand car wash and valeting service including staff office and customer facilities at the above site.
- 1.25. The decision is attached at **Appendix I**

**J. 24/0098/FH – 10 Grimston Avenue, Folkestone – DISMISSED**

- 1.26. The Inspector agreed that the close boarded fencing to the frontage of this corner plot would be harmful the character and appearance of the street scene and Conservation Area..
- 1.27. The decision is attached at **Appendix J**.

**K. 23/1789/FH – The Beach House, 73 Coast Drive, Greatstone – DISMISSED**

- 1.28. The Inspector agreed with the Council's position in respect to the harmful impact the proposal would have on the character and appearance of the area. The Inspector also agreed that the proposal failed to provide adequate living conditions for its occupiers, with specific reference to the inadequate provision of amenity space.
- 1.29. The decision is attached at **Appendix K**.

**L. 23/1270/FH – Lower Rydal Mount, Cliff Road, Hythe – DISMISSED**

- 1.30. The Inspector agreed with the Council's position in respect of the harmful impact the proposal would have on the character and appearance of the area. The Inspector also agreed that the proposal would fail to provide adequate living conditions for its

occupiers, with specific reference to noise and disturbance. It was also noted that the proposal's impact on land stability had not been appropriately demonstrated,.

1.31. The decision is attached at **Appendix L**.

**M. 23/0186/FH & 23/0187/FH – Flat 1, 96 Black Bull Road, Folkestone –  
APPEAL A ALLOWED, APPEAL B DISMISSED**

1.32. These were appeals against non-determination for ground and first floor rear infill extensions, alterations to a dormer window and a new dormer.

1.33. The appeal relating to the ground floor extension (Appeal A) was allowed, with the Inspector concluding that the proposed development was of an acceptable scale and would not harm the character and appearance of the building or those of the wider area.

1.34. The appeal relating to the first floor extension and works to the roof was dismissed. The Inspector considered that the development would have an incoherent design, harmful to the character and appearance of the existing building and the wider area.

1.35. The decisions are attached at **Appendix M**.