

**ALL APPEAL DECISIONS RECEIVED 2010 - 2011**

PINS REF	CASE NO:	TEAM	LOCATION	SBC DECISION	PINS DECISION	PINS DEC DATE	COSTS*	* See Below for Category	Major/Minor or Other	Comments
A/09/2109923	118	SHEP	Unit 9 Fletcher Battery, Swanley Farm, Warden Road, Eastchurch	R	ALLOWED	04.12.09	NCAC			Despite similar proposals on 4 occasions being dismissed on appeal , the Inspector in this instance decided to give significant weight to tourism use.
A/09/2109315/NWF	3577	FAV	Thunder Hill Farm, Hickmans Green, Boughton	R	ALLOWED	12.01.10	NCAC			Appeal against condition imposed by Members which the Inspector determined in his opinion was not reasonable as it would be difficult to monitor and overly onerous and he varied the wording very much in line with original recommendation.
A/09/2112845	1939	SHEP	The Burrows, Swanley Farm, Warden Road, Eastchurch	R	ALLOWED	03.02.10	CAC = £2,647.50			The Inspector allowed the appeal despite concluding it was contrary to Council's rural restraint policies. Also Inspector concluded that the Council was wrong in refusing the application on basis of site being suitable for gypsies as it would have an insignificant effect on the endeavours being made to increase their number in Swale. Partial costs awarded against Council in respect of one issue - relating to the loss of a potential gypsy site. decisions made despite referring to the Council's difficult position of trying to achieve the necessary and suitable sites for gypsies and travellers.
F/09/2110569	18062	FAV	Former St John Evangelist Church, Church Road, The Brents, Fav	ENF	ALLOWED	15.02.10	NCAC	ENF	ENF	A split decision against a listed building enforcement notice where the Inspector agreed the installation of a false ceiling and insulation within the nave had a detrimental impact on the listed building and so dismissed this part of the notice. However inspector allowed the part of the appeal requiring the replacement of either the original organ casing /visible pipes or replicas. She considered that listed building consent ought to be granted on the basis that the instrument had already been removed and the Council had accepted a residential use for the building.
C/09/2109260	6213	FAV	Stuppington Farmhouse, Straight Hill, Norton	ENF	ALLOWED	16.02.10	NCAC	ENF	ENF	The Inspector considered that the particular circumstances of the site allowed for a new drive and access across open field being safer than the existing adequate field access.
D/10/2119830	7392	SIT	2 Oakwood Farm Cottages, Ruins Barn Road, Tunstall	R	ALLOWED	01.03.10	NCAC			Despite being in contravention of the Council's Local Plan policy and the adopted SPG on modest extensions in the countryside ,Inspector considered that proposed extension would be screened by extensions on adjoining properties and by trees along nearby road to have minimal impact on objectives to protect countryside policies.

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C/09/2105095	22774	SIT	Conyer Marina, North Quay, Conyer	ENF	ALLOWED	18.03.10	CAC = £???????	ENF	ENF	Lost due to a technicality of the serving of an enforcement notice where Mr E W Spears senior lived next door to Mr E W Spears junior. The inspector in this case concluded that in serving the notice in error on junior , the senior Mr Spears had been substantially prejudiced by the proceedings. The appeal and costs claimed succeeded on this limited basis. New enforcement notices have been served on the landowner , his son and on the site itself and new appeals are expected to be submitted.
A/09/2114379/NWF	305	SIT	40 High Street, Sittingbourne	R	ALLOWED	01.04.10	NCAC	DEL REF	OTHER	The Inspector concluded that the use was different from that nearby in High Street and existing Bingo Hall to ensure use would add to the mix of uses within the high street.He noted site was vacant for some time and considered bringing unit into use would even though not retail would benefit primary shopping area and have no harmful impact on vitality and viability of the town centre.
D/10/2122341	22524	SIT	51 Adelaide Drive, Sittingbourne	R	ALLOWED	08.04.10	NCAC	DEL REF	HH	The Inspector gave no material weight to Council's adopted SPG on retention of garage spaces and considered subsequent parking all to front of dwelling would not significantly impact on visual amenities of the existing streetscene.
C/09/2101833	23564	FAV	1 Rhode Common Cottages, Dunkirk	ENF	ALLOWED	13.04.10	NCAC	ENF	ENF	Inspector decided site was not prominent in wider landscape and the very enlarged garden area had little impact on quality of Special Landscape Area
A/09/2110619/NWF	23520	SHEP	New Hook Farm, Lower Road, Minster	R	ALLOWED	28.04.10	CAC	AG OFF REC	OTHER	Member overturn where officers had recommended approval of the application. Contrary to local residents, Members and parish councillors opinions, the Inspector concluded that there was no material harm to highway safety or traffic flows resulting from this scheme. Partial costs awarded against the Council as Inspector considered that Members had taken their decision on the application without any any basis of fact and which could not be substantiated. This action the Inspector felt had caused the appellants unnecessary costs in defending this aspect of the appeal. When overturning officer's recommendations members must ensure that robust evidence exists if they are to formulate an alternative view from the officers.

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A/09/2114712	9198	SIT	Central Park Stadium, Church Road, Eurolink, Sittingbourne	R	ALLOWED	25.05.10	CAC	AG OFF REC	OTHER	Inspector concluded that it was not possible, despite the evidence provided on noise and harm to residents, to definitely state that harm to residential amenity would occur as a result of this proposal. Therefore concluded Council correct in imposing a temporary permission in which the implications of the use could be fully assessed. But Inspector considered that a 4 year period rather than 2 year as Council suggested would be appropriate when mosts of the costs of running the speedway would be paid back. Inspector has allowed a cost claim against the Council. The Council is currently considering whether to follow Counsel's advice and challenge this costs decision.
A/09/2115416	9198	SIT	Central Park Stadium, Church Road, Eurolink, Sittingbourne	against condition	ALLOWED	25.05.10	CAC		OTHER	As above
A/10/2125025/WF	19358	SIT	Hillview, 104 High Street, Newington	R	ALLOWED/DISMISSED	25.06.10	NCAC	AG OFF REC	OTHER	Inspector took unusual step of issuing split decision where he dismissed the part of the appeal for a new dwelling but allowed the part relating to the 2 storey extension which the Council had not raised any objection to.
A/09/2117254	23174	FAV	Land north west of Thanet Way (A299)/south of High Street Rd Hernhill	R	ALLOWED	28.06.10	CAC	AG OFF REC	OTHER	This was a Member overturn as officers had recommended approval. Three reasons for refusal - one relating to ecology was dropped by officers before inquiry as it was decided that this reason could not be defended due to lack of any evidence of harm to ecology or any objection from Natural England. Inspector allowed the appeal and partial award of costs in relation to ecological reason as Inspector considered that there was no evidence to justify refusal on this ground and therefore the Council had behaved unreasonable by including this refusal reason.

**NCTC** - No costs awarded to the Council

**CAC** - Costs against the Council

**NCAC** - No costs against the Council

Where Planning Appeal Ref is 'A' - Note decision - R = Refused, U = Undetermined, C = Condition

E	Enforcement appeals	Officer delegated decision to refuse (Del Ref)
H	Advert	Officer and Cmm Decision to Refuse (Cmm Ref)
E	Listed Building	Committee Decision Against Officer Recommendation (Ag Off Rec)

**Major Applications Determined After 13-week Deadline Between 1<sup>st</sup> December 2009 – 30June 2010**

<b><u>Reference</u></b>	<b><u>Address / Description</u></b>	<b><u>Reason for Missing Target</u></b>	<b><u>Response</u></b>	<b><u>Action</u></b>
SW/07/1147	war memorial – Milton Regis	Sensitive issue involving a charity applicant	Officers took a supportive / helpful approach to bring about an acceptable planning application	Action 1 - Promote pre-application service on the web site etc
SW/07/0138	Housing - Area 5d, Fulston Manor Farm	Section 106 issues	Delayed as a result of S.106 negotiations	Action 2 – Introduction of local list requirement for S.106 heads of terms at registration of application  Action 3 – An urgent need to establish through the new shared legal service quicker and more responsive procedures.
SW/09/0630	Storage building – Eurolink East	Prolonged negotiation requiring significant amendment to original planning application to enable a major employer expand their business.	Importance of obtaining a positive planning outcome to secure additional employment meant that deadline could not be met. Applicants involvement in pre application discussions may have resolved issues in advance of a planning application being submitted.	As Action 1.

SW/09/0674	Wind turbine – Chaffes Lane, Upchurch	Delay getting critical comments from Environmental Health. Application had to be withdrawn from Committee.	Need for more timely response from internal consultees	Action 4 - HoS to emphasise to consultees the importance of responding within 21 days
SW/09/0755	Haul Road to housing scheme, Iwade	Planning Committee would not determine the application in isolation, on its merits and deferred item so that it could be considered with the related housing scheme planning application.	Planning Committee not prepared to take on board officer advice.	Action 5 – establish comprehensive Member training on planning issues  Action 6 – HoS to provide strong advice to members in considering application at committee.
SW/09/0917	Housing – at Whatman’s Corner, The Charltons...	Admin / IT error – system gave 15-week deadline	Appears to have been a technical IT error.	Action 7 – HoS to investigate with IT system provider  Action 8 – The introduction of tighter project management of time frames should highlight IT error.
SW/09/1119	Sainsbury’s - Faversham	Large and contentious scheme – delayed by combination of Section 106 and EIA issues	Applications such as this will always more liable to take more than 13 weeks to determine.	As Action 2.  Action 9 - Possible use of Planning performance agreements (PPA’s) to take applications out of 13 week target.

SW/09/0093	Two buildings at Kent Science Park	Officers considered that this application should be considered in tandem with SW/09/0118 – see below and therefore unable to meet 13 week target	No response.	No Actions.
SW/09/0118	Four hectare extension to Kent Science Park	Large and contentious scheme – delayed by various complex planning issues (including highways / flood risk) with significant local opposition.	Applications such as this will always more liable to take more than 13 weeks to determine.	As Action 9.
SW/08/1124	153 London Road Sittingbourne	S106 issues – delay finalising	Local List now requires Heads of Terms at validation, which will significantly reduced potential for delays associated with s106 agreements.	As Action 2
SW/09/0756	Land east of Woodpecker Drive Iwade	Went to Planning Committee on multiple occasions – site visit, then deferred for NE issues – and complicated s106 took a long time to complete.	As above, applications of this complexity are unlikely to be dealt with within the 13 weeks.	No Action required – complex issue involving statutory agencies and Planning Committee deciding to visit site. Could consider use of PPA, but may not be of a scale normally considered.
SW/10/0188	Asda Mill Way Sittingbourne	Administrative error whereby despite application being signed off two days before the deadline, the decision notice was dated and issued the day after the deadline date.	Full investigation undertaken and procedures reviewed, with particular focus on processing “majors” to limit repeat of incidence	Action 10 – procedure Note reviewed and staff briefed to clarify process for producing and sending out decision notices making clear accountability between Planning officer and Administration officer.

SW/10/0078	Faversham Foundry	A combination of reporting to Planning Committee, resolving complex financial viability issues and completing s106 agreement delayed issue of decision.	Unusual combination of issues explain why the application took more than 13 weeks to determine.	As Action 2
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