

PLANNING COMMITTEE – 2nd April 2026

PART 5

Report of the Head of Planning

PART 5

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



Planning Inspectorate

Appeal Decision

Site visit made on 23 October 2025

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2026

Appeal Ref: APP/V2255/W/25/3365951

Land North of Nelson Avenue, Minster-On-Sea, Sheerness, Kent ME12 3SF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Michael Piper against the decision of Swale Borough Council.
 - The application Ref is 24/503886/OUT.
 - The development proposed is erection of 31 residential dwellings.
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Decision

1. The appeal is not determined, for the reasons set out below.

Preliminary Matters

2. Section 79(1) of the Town and Country Planning Act 1990 (the Act) allows the Secretary of State to deal with an appeal as if it had been made to him in the first instance and s79(6) confirms that if during the determination of an appeal in respect of an application for planning permission, the Secretary of State forms the opinion that planning permission for the development could not have been granted by the local planning authority, he may decline to determine the appeal. Section 65 of the Act sets out requirements with respect to giving notice of applications for planning permission and s65(5) is clear that a local planning authority shall not entertain an application for planning permission unless any requirements imposed by this section have been satisfied. This is reiterated in the Planning Practice Guidance (PPG) which confirms that an application is not valid and therefore cannot be determined by the local planning authority unless the relevant certificate has been completed. The PPG also provides guidance on which ownership certificate should be signed. Similar provisions apply to appeals.
3. Article 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (the Regulations) confirms that an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates. It also sets out that 'where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so', the submission of the application should be advertised by the applicant 'by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated'.
4. Both certificates A and B were signed on the application form. This would not be fatal to the application as the ownership position was understandable from the

forms. In any event, the matter was clarified on the appeal form, where Certificate B only was completed.

5. However, in the consideration of the planning obligation submitted with the appeal, it became apparent that there was an area of unregistered land within the site. This consequently leads to the realisation that the ownership certificates submitted were not accurate, as not all of the landowners had been notified of the application. Nor had the requisite steps, as set out in Articles 13 and 36 of the Regulations been taken for when details of the landowner is not known.
6. There is a discretion to allow an appeal to proceed notwithstanding a failure to comply with the statutory requirements. This discretion should only be exercised following full regard to all the circumstances¹. While the appellant refers to legal experts advising that subsequent discovery of a different landowner does not invalidate the application, I have not been referred to any examples.
7. In this case, the failure to take the specified steps for notification has the potential to cause prejudice to any unknown landowner. Additional consultation to address this matter could give rise to further issues which may be relevant to the other interested parties in this case. I could not be certain that there would not be prejudice to those interested parties were further representations to be made.
8. I have no reason to believe the appellant was acting in anything other than good faith during the application and appeal process when carrying out notification and signing the associated certificates. I acknowledge there has been a previous application and appeal of which the site formed part, and that a substantial amount of time and expense has been spent on the appeal, particularly by the appellant. I observed at my site visit that the unregistered land was not fenced off or otherwise identifiable as being different to the remainder of the appeal site. While it sits adjacent to the Nelson Road properties, and many of those occupiers have commented on the proposal, I cannot assume that those residents would be owners of the unregistered land. Nor do the comments of the Lower Medway Internal Drainage Board provide any comfort with respect to ownership.
9. I have found that the planning application the subject of this appeal was not validly made as the necessary steps where all landowners are not known were not taken and the correct ownership certificate was not signed. There would be the potential for prejudice to any owner of the unregistered land were the appeal to progress without this matter being further addressed. There would also be potential for prejudice to interested parties were measures taken to address this issue during the appeal process. I therefore decline to determine the appeal.

Jennifer Wallace

INSPECTOR

¹ Maximus Networks Ltd v SSHCLG & Others [2018] EWHC 1933 (Admin)