

PLANNING COMMITTEE – 21st May 2026

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 – Happy Days, Bell Farm Lane, Minister-on-Sea ME12 4JB**

PINS Decision: APPEAL ALLOWED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

A Certificate of Lawfulness for the use of land as a single dwellinghouse was sought but refused on the grounds that insufficient evidence had been provided to demonstrate that the structure at the site was a building and, by extension, a dwellinghouse.

The Inspector assessed the planning history of the site, which included the site having been approved to accommodate caravans for use by a Gypsy family 2005. The Inspector went on to note that the case of the appellant revolved around the structure at the site, which had been in place since 2009, being a building rather than a caravan. The Inspector then went on to set out various important matters around procedure and the relevant definitions, noting that planning merits was not part of the assessment for the appeal as it related to an application for a Certificate of Lawfulness.

The Inspector identified that the evidence provided by the appellant showed that the structure had been brought onto the site in four parts and therefore exceeded the limit of two parts that is inherent to the definition of a caravan. The Inspector agreed with the appellant's interpretation of the means of construction of the structure being grounds to conclude that it did not represent a caravan and noted that there was no contravening evidence provided by the Council in this regard.

The Inspector also found that, consistent with the appellant's evidence, the structure would not be moveable and, therefore, the structure should be considered to not be a caravan when the 'mobility' test is applied. In this regard it was noted that there were no obvious lifting points and that the structure would have to be substantially dismantled to be moved.

Having regard to the tests of a building, it was found that the tests of size and permanence meant that it should be considered a building.

For these reasons, the Inspector concluded that the structure represented a dwellinghouse from the point that it was constructed. It was, therefore lawful in the context of either the 4 or 10 years rules that apply to matters of lawfulness, albeit the Inspector concluded that the 4 year rule was applicable in this case.

- **Item 5.2 – 58 Roseleigh Road, Sittingbourne, KENT ME10 1RR**

PINS Decision: APPEAL DISMISSED

Committee or Officer Decision : DELEGATED REFUSAL

Observations

Planning permission was sought for the erection of a single storey rear extension. The application was refused on the grounds of the impact on the living conditions of neighbouring residents in terms of light and outlook. This was the main issue that was considered by the Inspector.

The Inspector found that *“the visually overbearing impact of the rear extension in outlook, given its proposed size and close proximity to the adjoining occupiers, would diminish the enjoyment of the residential living environment, particularly that of the outdoor amenity space, for the neighbouring occupiers. This would harm the enjoyment the existing occupiers should reasonably expect to enjoy.”* However, due to the extension being to the north west of 57 Roseleigh Road, it was found that the impact on light was not unacceptable.

Whilst a list of other permissions within the area were provided by the appellant, this was not considered to be determinative by the Inspector noting that no details of the proposals had been provided and, as such, it was not possible to be certain that circumstances were similar. The Inspector noted that, in any case, the merits of each proposal would have to be considered independently. The Inspector also found that the potential for a larger home extension to be built under permitted development rights and the absence of an objection from the neighbouring resident were not grounds to conclude that the proposal should be found acceptable. Furthermore, other considerations such as design and other developments within the area, were not reason to find the proposal acceptable.

The appeal was, therefore dismissed.

- **Item 5.3 – Land North of Perry Leigh, Grove Road, Selling, Kent ME13 9RN**

PINS Decision: APPEAL ALLOWED

Committee or Officer Decision : ENFORCEMENT NOTICE

Observations

Using the ‘second bite’ approach following a previous enforcement notice being quashed, a new enforcement notice was served to address the unauthorised use of land for the siting of containers for the storage of machinery and materials associated with a pallet recycling business and the grazing of horses taking place on the land.

A Certificate of Lawfulness has previously been granted for the use of part of the site for the storage of pallets and it was accepted that the grazing of horses on the wider site was lawful. The case of the Council was that the use of the wider site had altered as a result of 14 storage containers having been positioned on the land (in addition to 3 pre-existing containers) and that the siting and use of these containers represented a change of use of land relative to the established lawful uses.

The Inspector found that the containers had been stationed on the land and, therefore, the ground B appeal (on the grounds that the alleged breach had not occurred as a matter of fact) failed.

The Ground (c) appeal (that the alleged breach did not represent a breach of planning control) was assessed on the basis of whether the alteration of the mix of uses at the site represented a material change of use of land. In this regard, the Inspector found that *“Although they take up a large volume, the storage of these items within the storage containers is reasonably necessary and proportionate to the Pallets element, the Horses element, and the maintenance of the land. They are therefore ancillary to the lawful use of the land because they have a functional relationship with the lawful use and their extent and scale are commensurate with that lawful use, considering the particular circumstances of the site (including its size, layout and location) and the way it is lawfully used (including the unique way the appellant operates the pallet business).”*

The Inspector went on to say that *“the siting of up to 17 storage containers to securely store items associated with the lawful use of the site, internally, is functionally related to that lawful use. Accordingly, no material change of use has taken place through the introduction of any additional primary use to the site.”*

An assessment was undertaken as to whether an intensification of the use of the site had occurred to the extent that a material change of use had been brought about. In this regard, the Inspector was satisfied that *“the siting of up to 17 storage containers has not led to a material change in the definable character of the use of the land”* and that *“the level of intensification has been low, and the change in appearance has not been significant enough to fundamentally change the character of the use which has been ongoing for a number of years prior to formal enforcement action being taken.”*

From this basis, the Ground (c) appeal was successful and the enforcement notice was quashed.