

Planning Committee

19 August 2020

Planning Appeal Decisions

The following appeal decisions are submitted for the Committee's information and consideration. These decisions are helpful in understanding the manner in which the Planning Inspectorate views the implementation of local policies with regard to the Guildford Borough

Local Plan: strategy and sites 2015 - 2034 and the National Planning Policy Framework (NPPF) March 2012 and other advice. They should be borne in mind in the determination of applications within the Borough. If Councillors wish to have a copy of a decision letter, they should contact

Sophie Butcher (Tel: 01483 444056)

1.	<p>Bakersgate Developments Limited Kings Yard, Burrows Lane, Shere, Guildford, GU5 9QE</p> <p>19/P/01282 – The application was approved on 4 December 2019 and planning permission was granted subject to conditions. The development permitted is variation of condition 5 (hours of work) of planning permission 06/P/00548 approved on 25/04/2006, to ensure that the hours of work refer to the whole site and not to one specific unit, and condition 16 (approved plans) to allow the installation of dormer windows on Block 2, Block 3 and Block 4 (amended plan received 14 October 2019).</p> <p>The condition in dispute is No 5 which states that “The use hereby permitted shall not operate other than between the hours of 8am-5:30pm Mondays to Fridays (inclusive) and 9am-4:30pm Saturdays and shall not operate at all on Sundays or Bank or National Holidays.”</p> <p>The reason given for the condition is “To safeguard the residential amenities of neighbouring properties”.</p> <p>Planning Committee – 4 December 2019 Decision – Approved (subject to retaining the hours of work condition agreed as part of application 06/P/00548) Recommendation – To Approve</p> <p>Summary of Inspector’s Conclusions:</p> <ul style="list-style-type: none">• The main issue is the effect that varying the working hours of all the units would have on the living conditions of neighbouring residents, with particular regard to noise and disturbance.• The appeal site is in a rural location outside of a settlement area. It is located on the western side of Burrows Lane and is accessed via an existing drive which serves the site and neighbouring residential properties.• There is a bus stop close to the appeal site but in the absence of evidence put before me to indicate the frequency or times of public transport to and from the site, future employees would mainly travel to the site using private motor vehicles.• The addition of dormer windows which the Council calculate will result in a small increase in floor space at first floor level totalling around 15m² across blocks 2, 3 and 4. However, I consider the additional floor space is not so significant that it would result in any material increase in the number of people that could work at the site at any one time.	<p>*ALLOWED</p>
----	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------

- The proposed extended working hours would allow greater flexibility in the working patterns of future employees at the site. The potential therefore exists for noise and disturbance associated with the arrival and departure of motor vehicles during the proposed extended working hours to adversely affect those living nearby. Given the number of objections to the proposal, this is clearly a concern for neighbouring residents.
- I have not been presented with any substantive evidence to indicate that the proposed extended working hours would result in any material increase in the number of motor vehicles arriving and departing the site nor increase the associated parking arrangements.
- Consequently, although the proposal would extend the working day to around eleven and a half hours on Mondays through to Fridays, it would not result in any material increase in noise and disturbance arising from the number of vehicle movements either on or in the vicinity of the site.
- Taking into account that the working hours would only be slightly extended and that there would already potentially be some disturbance resulting from the headlights of motor vehicles associated with the already permitted working hours, I do not consider that the proposal would result in a material increase in disturbance in this regard.
- Concerns have been raised that the proposed extended working hours would result in disturbance from internal office lights and external site lighting for longer periods of time in the mornings and evenings during the darker winter months.
- However, notwithstanding that there is no street lighting, I have not been presented with any compelling evidence that the artificial light coming from the windows of the office units would be so great that it would adversely affect the living conditions of neighbouring residents.
- In regard to external lighting, irrespective of the proposal to extend the working hours, the planning permission granted includes a condition (No 3) restricting the installation of any such lighting on the site.
- I have taken into account the concerns raised by interested parties, which I take very seriously. The proposal would only slightly extend the working hours at the site on Mondays through to Fridays and would not extend the working hours very late into the evening.
- I find that to vary condition 5 to extend the working hours of all the units across the site on Mondays through to Fridays to between 0730 and 1900 would not have a harmful effect on the living conditions of neighbouring residents with regard to noise and disturbance.
- It therefore follows that I find no conflict with Policy G1(3) of the Guildford Borough Local Plan 2003 which, amongst other things, seeks to ensure that the amenities enjoyed by occupants of buildings are protected from unneighbourly development in terms of noise.
- I conclude that the appeal should succeed.

COSTS DECISION

Bakersgate Developments Limited Kings Yard, Burrows Lane, Shere, Guildford, GU5 9QE

- A full award of costs was sought by the applicant for the following reasons; firstly, that members of the committee were provided with inaccurate information directly caused as a result of the Council's earlier mistakes.
- Secondly, the Council did not provide sufficiently clear reason for why they decided not to approve the variation to the condition, and finally that the Council behaved unreasonably and inconsistently in refusing to allow the

***ALLOWED**

	<p>variation to condition No5 of the application.</p> <ul style="list-style-type: none"> • The Council confirmed that Council members had all of the information before them but that the applicant had chosen to submit a fresh s73 application on which the Councillors were entitled to reach a view which differed from the officers' recommendation. • At it's meeting on 4 December 2019, the Planning Committee resolved to approve the planning application but retain the working hours as approved as part of the original 2006 planning permission. • It seems clear to me that members of the Planning Committee were fully apprised of the situation in regard to the consented working hours at the site. I have not been presented with any compelling evidence to indicate that they were not made aware of all the facts in respect of the Council's acknowledged mistake. • The minutes of the Planning Committee meeting clearly state that the proposal would result in a detrimental impact upon the neighbouring resident's enjoyment of their amenities. Consequently, I find that the Council did provide sufficiently clear reason for why they decided not to approve the proposed variation to the condition and keep the working hours as originally approved in 2006 I am satisfied that the Council's decision notice reflects the actual decision made by members of the Planning Committee. • It is evident from the record of committee proceedings that members of the Planning Committee did not have any material concerns with the proposed dormer windows in regard to the level of activity at the site. Furthermore, the minutes of the Planning Committee state that the installation of a dormer window was accepted given it did not significantly increase the overall floor area. • The Council had conceded the point that the variation of condition No 5 agreed under the 2018 planning permission should have been across all the blocks and not just block 2. • It seems to me that there was no legitimate difference between the 2018 and 2019 applications to justify the Council taking a different position in regard to this application to vary condition No 5 of the 2006 planning permission to the decision that it took in 2018. • The Council was not consistent in their determination of the planning application in so far as refusing to vary condition 5 (hours of work) of the 2006 planning permission to allow extended working hours on Mondays through to Fridays to between 0730 and 1900 for all of the units at the site. It therefore follows that the Council behaved unreasonably contrary to the PPG and the applicant had=s been faced with the unnecessary expense of lodging an appeal and a full award of costs is justified. 	
<p>2.</p>	<p>Mr Richard Hastings Pond Place, Woodhouse Lane, Holmbury St Mary, RH5 6NN</p> <p>18/P/01477 – The development proposed is described as infill extension to form 'Granny Annexe' family-use only accommodation.</p> <p>Delegated Decision – To Refuse</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none"> • The appeal site is within the Green Belt, and so the main issue is whether the development proposed would be inappropriate development in the Green Belt, including its effect on openness, having regard to the National Planning Policy Framework and any relevant development plan policies. 	<p>*ALLOWED</p>

	<ul style="list-style-type: none"> • The proposed extension would link the existing dwellinghouse and garage, resulting in a significant cumulative increase from the original floor area of the house. The Council and appellant differ in their suggested percentages for the increase, but I do not consider that a conclusion on disproportionateness can be reached solely by mathematical calculation. • Neither the Framework nor LP Policy P2 provides a clear definition of what constitutes disproportionate additions, and therefore it is a matter of planning judgement in each case. • A fundamental aim of the Green Belt, as recognised at paragraph 133 of the Framework, is to keep land permanently open. Openness is an essential characteristic of the Green Belt and has both a visual and a spatial aspect. • The visible mass of the house and garage would be increased by the infill extension, but it would be a subordinate addition to the existing house. • The resulting L-shaped building would not be viewed as materially larger than the existing house and garage, which are separated by only a modest distance at their nearest point. • Having regard to the ratio of the building to its plot size, it is evident that the proposal would represent only a very modest increase and would not appear disproportionate in that context. • During my site visit I saw that views of the appeal site from the road were restricted to the site entrance. The house and garage are set well back from the road on the site. • Views into the site from neighbouring properties are restricted by the mature hedgerow that surrounded the site. The loss of openness from the linking of the house and garage would therefore be limited to the immediate vicinity of the dwelling, and only from certain points therein due to the closeness of the garage and house. • I therefore find that the development proposed would not be inappropriate development in the Green Belt. It would therefore accord with the requirements of LP Policy P2 and the provisions of the Framework. • The extended house would continue to be viewed as a residential dwelling on a large plot and would not be dissimilar in proportion to many of its neighbours. In this context, I agree that there would be no harm to the AONB, and the appeal succeeds. 	
3.	<p>Mr Allen Oakmead Farm, Ockham Lane, Cobham, KT11 1LY</p> <p>19/P/00675 – The development proposed for which a certificate of lawful use or development is sought is described as ‘Proposed permitted development under Class E, Part 1, Schedule 2 of the General Permitted Development Order 2015 (as amended) for a garage and store building for cars, ancillary residential storage and garden maintenance.’</p> <p>Delegated Decision – To Refuse</p> <p>Summary of Inspector’s Conclusions:</p> <ul style="list-style-type: none"> • There are two issues of contention in this appeal. Firstly, the Council has raised objections to the proposal due to its consideration that the proposed building would fall outside the dwelling’s domestic curtilage and secondly it does not consider that the buildings stated use to be as a garage and store for cars, ancillary residential storage and garden maintenance, given its floorspace, would be incidental to the enjoyment of the dwellinghouse. The appellant argues otherwise. • In this particular instance the Council is relying on in the first instance the 	DISMISSED

	<p>historical situation involving a planning application granted permission in 1995 for the demolition of the then existing house and the erection of a replacement dwelling.</p> <ul style="list-style-type: none"> • The site, as ringed red at the time for the purposes of the application, was relatively tightly drawn, confined to roughly the north-east corner of the wider site, as apparent on the site plan. • It is proposed that the outbuilding would be erected within part of the area of land containing the small trees, referred to on the submitted drawing no17007/PL/022, as an orchard, reasonably close to both the tennis courts and swimming pool, and behind the identified, projected, front elevation line of the dwelling. • I acknowledge the Council's point as to the distance from the dwelling house and that the tennis courts act as a physical boundary. However, as a five-bedroom house, along with additional living accommodation contained in a nearby stable and store, I consider that the wider curtilage I have identified as proportionate to and moreover is also functional to this significantly sized dwelling house. • From the totality of evidence put forward by both main parties, I conclude, on balance, that the proposed development would be erected within the curtilage of the dwelling house. • It appears that the outbuilding would be far in excess of what might reasonably be required for the proposed uses. As a matter of fact, and degree, the proposed outbuilding's floorspace and its physical form would be excessively large, which I find goes beyond that which could be regarded as incidental to the enjoyment of the dwelling house as such. • In this type of case the onus of proof is on the appellant. The matter of what constitutes the residential curtilage, and its extent, I have found to be finely balanced, but slanted in favour of the appellant. However, as to the appellant proving here that the outbuilding would be incidental to the enjoyment of the dwelling house, I find there are too many doubts and uncertainties for me to find that the onus regarding this separate matter has been met. • I conclude on the evidence available, that on the balance of probability the proposal would conflict with Part 1, E(a) of Class E of the GPDO and would not therefore be permitted development. I must conclude that the Council's refusal to grant an LDC in respect of the proposed erection of a garage and store building was well founded. 	
<p>4.</p>	<p>Forays (Southern) Ltd 29 Birchcroft, Stonecrest, Alexandra Road, Ash, GU12 6PH</p> <p>19/P/01749 – The development proposed is the demolition of the existing building and the erection of three dwellings.</p> <p>Delegated Decision – To Refuse</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none"> • The main issues are the effect of the proposal on the integrity of the Thames Basin Heaths Special Protection Area (TBHSPA); the character and appearance of the area; and the living conditions of the occupants of surrounding properties, with particular regard to privacy. • The appeal site is within 5km of the TBHSPA which is a protected European site. This is an important recreational and economic resource and I consider that it is likely that occupants of the proposed development would visit it. In this regard, particularly when combined with other development 	<p>DISMISSED</p>

	<p>in the area, this scheme would have a likely significant effect on this habitat designation through increased disturbance as a result of recreational activity.</p> <ul style="list-style-type: none"> • In this case the Council would require contributions towards a Suitable Alternative Natural Green Space (SANG) as well as towards Strategic Access Management and Monitoring to mitigate the proposals impact upon the TBHSPA. • I have not been provided with details of the exact contributions required or the methodology for calculating them. I am therefore unable to conclude that proportionate and relevant mitigation would be delivered as a result of this development. • I therefore find that the proposal would cause harm to the integrity of the TBHSPA without clear and certain mitigation. It would conflict with Policy P5 of the Guildford Borough Council Local Plan: Strategy and Sites (2019 LP), Policy NRM6 of The South East Plan – Regional Spatial Strategy for Regulations 2017 as amended. These seek to secure the long-term protection of Special Protection Areas and mitigate any harmful impacts to them. • The current scheme would introduce fewer urbanising features, such as residential paraphernalia and areas of hardstanding, and would allow for a greater amount of soft landscaping throughout the development. On this basis the proposed ratio of built development to soft landscaping would be appropriate and would assimilate successfully with the open feel of the area. • The reduced quantum of development would ensure that dwellings would have suitably sized gardens. Overall, they would have sufficient space about them to ensure that they did not appear cramped within the site or wider context. • As there are examples of two storey back land developments nearby, I find that the scheme would integrate effectively with the character and appearance of the area. It would also appear softer and more spacious compared to the previous appeal scheme, thereby overcoming the concerns of the previous Inspector in this regard. For these reasons the proposal would not harm the character and appearance of the area. • The proposed dwellings would be a sufficient distance away from 9 Star Lane and they would not afford views of its garden. I note that each new dwelling would have a small rear dormer and could be obscure glazed by condition to prevent oblique views towards the rear elevations of 25 and 27 Star Lane. I am therefore satisfied that the privacy at nearby dwellings at Star Lane would be preserved. • The proposal would not significantly affect the living conditions of the occupants at surrounding properties in terms of privacy. It would therefore accord with Policy G1(3) of the 2003 LP insofar as it seeks to achieve a high standard of amenity for existing users. • The adverse effects would outweigh the benefits associated with the provision of three dwellings. The proposal conflicts with the development plan and there are no material considerations, including the advice of the Framework, which outweighs this conflict. • I conclude that the appeal should be dismissed. 	
<p>5.</p>	<p>Mr Santosh Paranjape 148 Aldershot Road, Guildford, GU2 8BH</p> <p>19/P/01932 – The development proposed is the erection of low level first floor</p>	<p>DISMISSED</p>

extension over existing ground floor footprint/accommodation.

Delegated Decision – To Refuse

Summary of Inspector's Conclusions:

- The main issue is the effect of the proposed development on the character and appearance of the host dwelling and the surrounding area.
- The appeal property is a 2-storey detached dwelling which is located on a corner plot in an established residential area. Whilst the footprint of the existing ground floor extension is large in relation to the main dwelling, its visual impact is limited by its single storey height.
- The proposed first floor extension would be sited above the existing ground floor extension. Whilst the proposed extension would be designed with a hipped roof that would be set down from the main roof of the host dwelling, the increase in height above the existing ground floor extension would create a bulky appearance due to its sizeable width and depth.
- Therefore, the proposal would not appear subservient and it would fail to respect the scale of the host dwelling. Furthermore, whilst the proposed extension would be set in from the boundaries, it would nevertheless appear prominent in the street scene due to the corner plot of the site.
- For the above reasons, I conclude that the proposed development would be harmful to the character and appearance of the host dwelling and the surrounding area.
- The proposal would therefore be contrary to saved policies H8 and G5 of the Local Plan 2003, Policy D1 of the Guildford Borough Local Plan Strategy and Sites 2015 – 2034 and guidance in the Residential Extensions and Alterations Supplementary Planning Document 2018 which seek high quality design and extensions that have no adverse effect on the scale and character of the dwelling. The proposal would also be contrary to chapter 12 of the NPPF, which seeks a well-designed environment.
- I conclude that the appeal should be dismissed.