

## Planning Committee

2 September 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><b>Mr Max Harle</b> <b>Land at 34 Merrow Woods, Guildford, GU1 2LH</b></p> <p><b>EN/19/00128</b> – The breach of planning control as alleged in the notice is without planning permission the erection of a single storey extension.</p> <p>19/P/00017: Delegated Decision – To Approve</p> <p><b>Summary of Inspector's Conclusions:</b></p> <ul style="list-style-type: none"><li>• The appeal site is a detached bungalow. Planning permission was granted for a single storey side extension with a flat roof, which would be roughly level with the eaves of the bungalow.</li><li>• A side extension has been built with a higher flat roof with a parapet wall. Planning permission has been refused for the extension as built.</li><li>• The ground of appeal is that planning permission should be granted. Having regard to the reasons for issuing the enforcement notice, the main issue is the effect of the development on the character and appearance of the site and surrounding area.</li><li>• This part of Merrow Woods is a residential cul-de-sac which mainly consists of bungalows, with some taller chalet type bungalows around the turning head. The bungalows are set a similar distance from the road behind front gardens, but have a variety of designs.</li><li>• There is therefore no prevailing built form but there is nonetheless a degree of uniformity due to the position of the bungalows in their plots and the generally consistent overall ridge heights.</li><li>• The bungalow on the appeal site has a front facing gable with a projecting overhang and white bargeboards. The single storey side extension has an unusual appearance due to its high parapet wall, taller than the eaves height of the main bungalow, and contrasting with its pitched roof form.</li><li>• However, the extension is set slightly behind the projecting overhang of the main bungalow gable and the garage to the neighbouring house and is significantly lower than the overall height of the bungalow. As a result, it is not prominent in the streetscene. It appears as a contrasting feature that has added visual interest to the bungalow, and I do not agree that it is incongruous or out of character in this setting.</li><li>• I therefore do not find that the development is harmful to the character and appearance of the site or surrounding area. It is therefore not in conflict with Policy D1 of the Guildford Borough Local Plan 2019, or Policies G5 and H8 of the Guildford Borough Saved Local Plan 2003, insofar as they seek to ensure that new development achieves high quality design that</li></ul>	<p><b>*ALLOWED</b></p>
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	<p>responds to the distinctive local character of the area in which it is set, and that extensions to dwellings are not harmful to the scale and character of the dwelling. It also does not conflict with the guidance in the Residential Extensions and Alterations Supplementary Planning Document 2018 and the National Planning Policy Framework.</p> <ul style="list-style-type: none"> <li>• I conclude therefore that the appeal should succeed.</li> </ul>	
<p>2.</p>	<p><b>Mr McKay (St Patrick's (Potters Lane) Ltd)</b>  <b>90 Potters Lane, Send, GU23 7AL</b></p> <p><b>19/P/00918</b> – The development proposed is the demolition of existing dwelling (90 Potters Lane): erection of 5 dwellings (2 x 3, 3 x 4 bed) with associated vehicular and pedestrian access and parking.</p> <p>Delegated Decision – To Refuse</p> <p><b>Summary of Inspector's Conclusions:</b></p> <ul style="list-style-type: none"> <li>• The main issues are the effects of the proposal on (a) the character and appearance of the area, (b) the living conditions of the occupants of 82, 86, 88 and 92 Potters Lane, having regard to outlook, privacy, noise and disturbance, (c) the safety of the highway users of the proposed access drive and Potters Lane.</li> <li>• The appeal site and the surrounding area are characterised by varied residential design but a strong linear pattern of development, along with spacious, landscaped and countryside setting qualities. Such qualities contribute to a locally distinctive character and appearance in the area.</li> <li>• The scale and layout of the development would be overly cramped and incongruous which would be evident from the occupiers and users of surrounding land within and outside the designated corridor.</li> <li>• The development would be greatly unsympathetic to local character, including the surrounding built environment and landscape setting. It would not be appropriate innovation or change, being markedly at odds with the rural and largely undeveloped nature of the Corridor.</li> <li>• The development would not result in a well-designed place and would harm the character and appearance of the area including the River Wey designated Corridor. The proposal would conflict with policies G5 and G11 of the LP and policy D1 of the Guildford Borough Local Plan: strategy and sites 2015-2034 (LPSS) (2019).</li> <li>• The first floor and roof of the remaining new dwelling would still be overbearing by reason of substantial scale and extent. At No.92, there would be two substantial sized dwellings alongside their side boundary and garden which would be overbearing for similar reasons. There would be a significant loss of outlook for these neighbouring residents using their gardens.</li> <li>• The development would not result in an unacceptable impact on highway safety nor would the residual cumulative impacts on the road network be severe. Accordingly, the proposal would accord with policy ID3 of the LP.</li> <li>• There would be harm to the character and appearance of the area and the living conditions of residents in conflict with policies of the LP and LPSS and the development plan taken as a whole. The proposal should be determined in accordance with the development plan that it conflicts with. There are no material considerations of sufficient weight or importance to indicate otherwise and the proposal should be refused planning permission.</li> <li>• I conclude that the appeal should be dismissed.</li> </ul>	<p><b>DISMISSED</b></p>

<p>3.</p>	<p><b>Mr and Mrs M Walton</b>  <b>Sugar Baker House, Lombard Street, Shackleford, Godalming, Surrey,</b>  <b>GU8 6BH</b></p> <p><b>Appeal A</b>  <b>19/P/00820</b> – The development for which a certificate of lawful use or development is sought is proposed development for outbuilding to be used for incidental domestic purposes (home office and games room).</p> <p>Delegated Decision – To Refuse</p> <p><b>Appeal B</b>  <b>19/P/01412</b> – The development for which a certificate of lawful use or development is sought is proposed development for outbuilding to be used for incidental domestic purposes (home office and games room).</p> <p>Delegated Decision – To Refuse</p> <p><b>Summary of Inspector’s Conclusions:</b></p> <ul style="list-style-type: none"> <li>• The main issue in each appeal is whether the Council’s decision, or intended decision, to refuse to grant certificates of lawful use or development was well founded.</li> <li>• The appeal site is a large detached house set in extensive grounds where there are ‘several outbuildings’. The appellants propose to erect an outbuilding in the rear garden, which slopes away from the house, to be used for leisure purposes as a games room (described on the plans as a ‘Party barn and games room’) and as a home office. The drawings show a building with essentially two main rooms. The smaller of the two would be the home office room and would be situated on higher ground than the larger games room below it. The building in Appeal A is larger than in Appeal B but the layout of the rooms is basically the same.</li> <li>• The Council’s reason for refusal in respect of Appeal A is that the proposal would not constitute permitted development (PD) under Class E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). This is on the basis that the height of the building would exceed the 4m limit set out in Class E and it would not be reasonably required for purposes incidental to the enjoyment of the dwelling.</li> <li>• On the evidence before me, I am not satisfied, as a matter of fact and degree, that the totality of the proposed outbuilding in either Appeal A or B is genuinely and reasonably required to achieve the purpose of accommodating the proposed incidental activities. Furthermore, the proposed building in each appeal fails, for the reasons set out above, to meet the size limitations within Class E, Part 1, Schedule 2 to the GPDO. Accordingly, they would not have been lawful at the time of the LDC applications.</li> <li>• Appeal A</li> <li>• I conclude that the Council’s refusal to grant a certificate of lawful use or development in respect of an outbuilding to be used for incidental domestic purposes (home office and games room) was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.</li> <li>• Appeal B</li> <li>• For the reasons given above I conclude that the Council’s deemed refusal</li> </ul>	<p><b>DISMISSED</b></p> <p><b>DISMISSED</b></p>
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	<p>to grant a certificate of lawful use or development in respect of an outbuilding to be used for incidental domestic purposes (home office and games room) was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.</p>	
4.	<p><b>Ms A O'Donnell</b>  <b>11 Collins Gardens, Ash, Guildford, GU12 6EP</b></p> <p><b>19/T/00314</b> – The relevant Tree Preservation Order (TPO) is Land at Manfield County First School Grange Road Ash Tree Preservation Order Number 15/1993 which was confirmed 12 April 1994.</p> <p>Delegated Decision – Tree Application Refused</p> <p><b>Summary of Inspector's Conclusions:</b></p> <ul style="list-style-type: none"> <li>• The main issue in this case are the effect of the works on the character and appearance of the area and whether sufficient justification has been demonstrated for the felling of the tree identified as T4 (Silver Birch).</li> <li>• Collins Gardens is a cul-de-sac development and No 11 is the last house at the end of the road.</li> <li>• The appeal tree, although set back from the head of the cul-de-sac is clearly seen in views from the open playing fields, between the houses in Grange Road and at the head of the cul-de-sac looking towards the property. In my view, it is an attractive and prominent tree which contributes positively to the character and appearance of the area. Consequently, any works need to be fully justified.</li> <li>• The appellant refers to her three children who play outside regularly and that she is concerned about the risk of injury from the tree if it should fall.</li> <li>• The appeal tree appears healthy and stable and there are no signs of obvious disease or decay.</li> <li>• Although the appellant refers to arboricultural advice in relation to drought conditions and waterlogged ground increasing the risk of the tree falling, it does not demonstrate that the risk of the appeal tree falling is significant or highly probable, such that it would justify the removal of a tree that has no underlying issues. There is no evidence of movement by the appeal tree or of any specific issue with its health or stability. I therefore find that there is insufficient justification for the felling of Tree T4.</li> </ul>	<b>DISMISSED</b>
5.	<p><b>Mr and Mrs Ascione</b>  <b>The Retreat, 38 Wood Street Green, Wood Street Village, GU3 3EU</b></p> <p><b>19/P/01467</b> – The development proposed is the erection of a first-floor extension.</p> <p>Delegated Decision – To Refuse</p> <p><b>Summary of Inspector's Conclusions:</b></p> <ul style="list-style-type: none"> <li>• The main issue in relation to the Green Belt is:</li> <li>• Whether the proposal would be inappropriate development in the Green Belt;</li> <li>• The effect of the proposal on the openness of the Green Belt; and</li> <li>• If there is harm by reason of inappropriateness, or loss of openness, would it be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.</li> </ul>	<b>DISMISSED</b>

	<ul style="list-style-type: none"> <li>• The Retreat is a replacement dwelling and its grounds. Whilst the appeal site is amongst the built form at the edge of Wood Street Village, it is for planning purposes outside of the village settlement boundary, within the Green Belt. The Retreat was constructed following planning permission in 2003. During construction an additional single storey lean-to was introduced at the side, west elevation, and extra accommodation was created within the roof space. The building was further extended to the rear by a single storey, pursuant to Permitted Development Rights. It is now proposed to add a first-floor extension above the east side of this rear extension.</li> <li>• Whilst the heights of the existing and previous dwellings are comparable, the massing of the current dwelling is more expansive, which would be exacerbated by the proposed first-floor extension. Therefore, the proposal would be inappropriate development in the Green Belt. It would conflict with local and national policy to protect the Green Belt.</li> <li>• The proposal, with its notably tall and steeply pitched roof, would have a significant mass and would fail to preserve the spatial openness which exists above the established rear extension.</li> <li>• Given the perceptible presence of the east flank wall of The Retreat from the adjacent highway and the village green, and the way it is read against the sky, the visual openness of the Green Belt would also be diminished by the proposal. It follows that the openness of the Green Belt would not be preserved, albeit this would be to a modest extent.</li> <li>• The scheme would amount to inappropriate development in the Green Belt in the development plan's terms, and it would also fail to preserve the openness of the Green Belt. There are no other considerations in the scheme's favour that outweigh these harms. As such, the very special circumstances necessary to justify the development do not exist.</li> <li>• I therefore conclude that the proposal would conflict with the development plan when read as a whole. The appeal is therefore dismissed.</li> </ul>	
6.	<p><b>Mr K Syed</b>  <b>Basie Cottage, 24 Roseacre Gardens, Chilworth, Surrey, GU4 8RQ</b></p> <p><b>19/P/01099</b> – The development for which a certificate of lawful use or development is sought is reposition of door and new roof to bungalow porch.</p> <p>Delegated Decision – To Refuse</p> <ul style="list-style-type: none"> <li>• I saw on my site visit that the property does not reflect the details shown on the drawings submitted with the application.</li> <li>• In particular, the roof above the front door has been altered so that it is hipped rather than gabled as shown on the drawings, and a large open sided porch has been added, as shown on the submitted photographs. The works as built do not therefore clearly reflect the proposal shown on the submitted plans. However, it is clear that the appellant is seeking a certificate of lawfulness for what has been built.</li> <li>• The certificate seeks to establish whether the works would have been lawful on the date of the application.</li> <li>• The Council refused to issue the certificate for two reasons. Firstly, the submitted plans do not reflect the configuration of the property on site; and secondly, permitted development rights for works within Class A Part 1 Schedule 2 of the GPDO have been removed through planning permission granted under reference 15/P/01759.</li> <li>• There are permitted development rights for porches under Class D Part 1</li> </ul>	<b>DISMISSED</b>

	<p>Schedule 2 of the GPDO. However, I have seen no evidence that either the works shown on the drawings or the porch and roof alteration that have been built would comply with the limitations set out in Paragraph D.1 namely that the ground area does not exceed three square metres and no part of the structure is more than three metres above ground levels. Moreover, as Class A rights have been removed, the work to reposition the front door requires planning permission, and Class D rights to build a porch outside the front door are not available.</p> <ul style="list-style-type: none"><li>• The works have been carried out therefore do not benefit from any permitted development rights and planning permission is required. Even if I made my decision on the basis of the works shown on the submitted drawings the appeal would not succeed.</li><li>• I acknowledge that the appellant was not aware that planning permission was required for the porch, and that he considers that it has not had a harmful effect on the property or surrounding properties.</li><li>• Very limited evidence has been submitted in support of the appellant's case, and it is far from being precise and unambiguous. The appellant's evidence is not sufficient to demonstrate, on the balance of probabilities, that the works are lawful.</li><li>• The appeal is therefore dismissed.</li></ul>	
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