

Planning Committee

2 December 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>Co-operative Food Group Limited 120-124 Ash Street, Aldershot, Guildford, GU12 6LL</p> <p>19/P/00851 – The development permitted is the proposed erection of a two-storey building comprising a convenience store (Class A1) and three residential apartments (Class C3) with associated plant, parking, landscaping and access works following demolition of the existing building.</p> <p>The condition in dispute is No. 12 which states that: The use hereby permitted shall not operate other than between the hours of 07:00 to 23:00 Mondays to Sundays (inclusive) including Bank or National Holidays for the first twelve months. After twelve months of operation the hours of use shall revert to between 07:00 to 22:00 Mondays to Sundays (inclusive) including Bank and National Holidays, unless otherwise agreed in writing by the Local Planning Authority.</p> <p>The reason given for the condition is: To safeguard the residential amenities of neighbouring properties. To allow the LPA to monitor the situation.</p> <p>Officer Recommendation: To Approve Planning Committee: 14 August 2019 Decision: Approved, subject to condition amendment.</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none">• The main issue is the effect of the proposal on living conditions for local residents.• Having regard to the content of the condition and its reason and development plan policies which seek to protect residential amenity cited by the Council I shall assess the condition in the context of the National Planning Policy Framework. This sets out that conditions should only be imposed when necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects.• The appeal site includes a vacant two-storey building, formerly a local police station and a section house along with a detached garage and outbuilding and car parking to the rear of the building, with a landscaped garden area and a larger area of open soft landscape to the road frontage.• The area is primarily residential in character with a mix of property types; a semi-detached house lies to the immediate west whilst flats are to the east. There are some business premises further to the west on Ash Street and this road has bus routing and is classed as the A323.	*ALLOWED
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	<ul style="list-style-type: none"> • The planning permissions as issued has an inherent range of amenity safeguards and this is important. • The plans do not allow for shop related customer parking or access down the side of the premises abutting the most private and quieter rear parts of the adjoining residential premises. • Whilst the area is predominantly residential in nature the previous use of the site was not wholly domestic. • The A323 is a relatively busy main road, in places with commercial use, and the immediate ambient environment is not one of total peace. • There is some separation of parking spaces from immediate neighbours and the layout is effectively set up which should minimise manoeuvring. The shop is intended to meet convenience needs and these do not run through the evening. • I am acutely aware of the need to preserve residential amenity. However, given the factors in the above paragraph I just do not fathom or support the idea of a trial period and an automatic reduction of one hours trading. • This only to be set aside through an unspecified performance target with the appellant convincing the Council via some form of written process at a point towards the end of the initial 12 months that the reduction should not stand. I am satisfied that in all of the circumstances opening until 23:00 hours will not unreasonably impinge upon local living conditions. • I conclude that there would not be conflict with development plan policies cited by the Council and seeking to protect residential amenity if the development was allowed to operate as requested by the Appellant. • I conclude that the condition the subject of this appeal is not necessary to protect amenity and it was also unreasonably restrictive towards and added uncertainty for the Appellant's operating regime in the future. • I conclude that the proposal to vary the condition should be allowed. 	
<p>2.</p>	<p>Mr Andrew Gay 2 Willow Way, Guildford, GU1 1PF</p> <p>18/P/02406 – The development proposed is change of use of premises from house in multiple occupation (use class C4) to a large house in multiple occupancy accommodating up to 7 people (use class Sui Generis).</p> <p>Officer Recommendation: To Refuse Planning Committee: 4 December 2019 Decision: Refused</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none"> • The main issues are the effect of the development on the Thames Basin Heaths Special Protection Area; and highway safety. • The appeal site lies within a buffer zone, between 400m and 5km of the Thames Basin Heaths Special Protection Area (the SPA), which is an internationally designated site of nature importance. It provides a habitat supporting breeding populations of three protected bird species, Nightjar, Woodlark and Dartford Warbler. • The use as an HMO for 7 unrelated occupants increases the population living at the property when compared to the pre-existing situation and so it is highly likely that there would be additional recreational activity within the 5km buffer zone of the SPA. • There is no mechanism before me to provide a financial contribution towards the avoidance and mitigation set out in the Avoidance Strategy. Furthermore, there are no alternative solutions before me which would 	<p>DISMISSED</p>

	<p>have a lesser effect, or avoid an adverse effect, on the integrity of the SPA. The provision of an additional bedroom is not sufficient to amount to a reason of overriding public interest to override the harm to the site.</p> <ul style="list-style-type: none"> • Therefore, the development has a significant adverse effect on the SPA, contrary to saved Policy NE4 of the Guildford Borough Local Plan 2003, policies P5 and ID4 of the Guildford Borough Local Plan : Strategy and Sites 2015-2034 (the Local Plan 2015 – 2034) and saved policy NRM6 of the South East Plan. These policies require new residential development to provide appropriate mitigation for impacts on the SPA and to protect and enhance biodiversity. • The appeal property is served by an existing vehicular crossover that intersects a grass verge and provides access to a block paved driveway which wraps around the front and side of the building. The driveway expands the full width of the plot and it has an open frontage. • I have had regard to the objection from the Highway Authority. This states that when the parking area is full, a vehicle parked on the far left of the site would need to reverse out over part of the grass verge, which could lead to conditions prejudicial to highway safety. Nevertheless, it appears that the crossover and driveway were in place long before the change of use of the property to a larger HMO. The appeal scheme proposes no changes to the extent of the onsite parking area, and I do not consider that the provision of one additional bedroom causes a material increase in parking demand or intensification of the use of the access. • I conclude that the development is not harmful to highway safety and accords with policy ID3 of the Local Plan 2015-2034. • I conclude that the appeal should be dismissed. 	
<p>3.</p>	<p>Mr C Light Lux Domus, Fort Road, Guildford, GU1 3TE</p> <p>20/P/00078 – The development proposed is alterations to the roof to form an additional storey/roof terrace and a proposed lift at the rear together with other minor internal alterations.</p> <p>Delegated Decision – To Refuse</p> <p>Summary of Inspector’s Conclusions:</p> <ul style="list-style-type: none"> • The main issue is the effect of the proposed development on the character and appearance of the host property and the surrounding of Fort Road. • Fort Road is characterised by large detached houses in extensive plots. The houses are individually designed in a mix of styles some traditional in design. • Generally, the houses in the immediate vicinity of the appeal site are 2 and 3 storey properties with the third storey often in the roof space in the traditional pitched roof properties. • Because of the change in level from south to north on the north side of the road, the front elevations in many properties are taller than those to the rear. • Lux Domus has been designed with a full 3 storeys to the Fort Road frontage. The appeal proposal seeks to construct a fourth storey on top of the existing house on a slightly smaller footprint than the existing house allowing space for a roof terrace to front and rear which would be screened by obscure glazed balustrades. • The introduction of an additional storey would appear in design terms as an afterthought, altering the simple form and changing the horizontal 	<p>DISMISSED</p>

	<p>character.</p> <ul style="list-style-type: none"> • Fort Road is an attractive street where the mass and height along the frontage is broadly comparable, there is a coherence to the streetscene. • Given the consistency in the streetscene, to introduce additional height on Lux Domus alone would result in a building noticeably higher than its neighbours and be an unduly dominant intrusion on the streetscene to the detriment of its character. • The design objectives of policies D1, G5 and H8 and the SPD would not therefore be achieved by the proposal and it would be unacceptable in terms of the impact on the character and appearance of Lux Domus itself as the host dwelling and of Fort Road. • With regard to whether the additional storey would be overbearing on the garden of No 19 Fort Road the additional height would have some impact on the section of garden closest to it. However, as the proposal would have little effect on the outlook from the dwelling itself and other parts of its garden, it would not unacceptably harm the living conditions of the occupiers of 19 Fort Road. • The appeal should be dismissed. 	
<p>4.</p>	<p>Mr M Hackett (MJ Props Ltd) 1 and 2 Send Parade Close, Send, GU23 7EY</p> <p>19/P/01648 – The development proposed is construction of 6 dwellings following demolition of Nos 1 and 2 Send Parade Close.</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 proposed development on the character and appearance of the area; trees and living conditions of future occupiers, with particular regard to outlook and overshadowing. • The appeal site is located to the rear of Send Parade Local Shopping Parade. It comprises of a pair of semi-detached bungalows and includes servicing for the shops. There are bungalows and 2-storey dwellings in the vicinity, which display varying architectural styles. They are generally set back from the road and have gardens set to the rear. • The 2-storey scale of the proposal would be compatible with surrounding buildings, and the architectural detailing would provide an acceptable appearance. • Nevertheless, the footprint of the building, combined with the access road and parking areas, would cover a significant proportion of the site, which would limit opportunities for soft landscaping. • The public realm would be dominated by the access road, servicing and parking areas, which would not provide a high-quality environment. The rear gardens of the proposed dwellings would be small compared to the typical sizes in the vicinity of the site. • There would be a communal area, however this would not provide an attractive space as a result of its position adjacent to a parking area and the rear fence of the private gardens. • Taken together, these factors are indicative of a cramped development that would not respect the green and spacious character of the area. I appreciate there would be limited views of the proposal in the street scene, however, this does not obviate the need to achieve good design. • I conclude that the proposed development would be harmful to the 	<p>DISMISSED</p>

	<p>character and appearance of the area. The proposal would therefore be contrary to saved policies G5 and H4 of the Guildford Borough Local Plan 2003 and policy D1 of the Guildford Borough Local Plan: Strategy and Sites 2015-2034 (the Local Plan 2015 – 2034).</p> <ul style="list-style-type: none"> • The proposed parking spaces and access road would be within the root protection zone of various trees that are of a high quality and contribute positively to the visual amenity of the area. • The arboricultural report is a survey rather than an arboricultural impact assessment and so it does not assess the effect of the proposal on the trees or provide details of any necessary tree protection measures. In the absence of such information, the proposal could cause harm to the health of trees. • I therefore conclude that the proposal would harm the amenity value of the mature trees and contrary to saved policy G1 (12) of the Guildford Borough Local Plan 2003, which seeks to safeguard and enhance the characteristic landscape of the locality and existing natural features on the site, such as trees which are worthy of protection. • Whilst there are mature trees adjacent to the rear boundary, the canopies overhang the appeal site only to a limited degree. Given the level of separation to the trees, the rear gardens and habitable rooms of the proposed dwellings would benefit from adequate levels of light and outlook. • I therefore conclude that the proposed development would provide acceptable living conditions for future occupiers. • I conclude that the appeal should be dismissed. 	
5.	<p>Pavilion Trustees Limited 5 Guildford Business Park, Guildford Business Park Road, Guildford, GU2 8XG</p> <p>19/P/00407 – The development proposed is redevelopment to provide purpose-built student accommodation including 360 bed spaces, support ancillary student services (such as study spaces, gymnasium, games room, lounge areas, student hub) car and cycle parking, access and landscaping arrangements.</p> <p>Officer Recommendation: To Refuse Planning Committee: 29 January 2020 Decision: Refused</p> <p>Summary of Inspector’s Conclusions:</p> <ul style="list-style-type: none"> • The main issues are whether the proposed development would result in the loss of a site that should continue to be available as a strategic employment site and whether it would make adequate provision for local infrastructure improvements. • It is common ground between the appellant and the Council that the appeal site, currently used as surfaced car parking, is defined within the Guildford Local Plan as forming part of a Strategic Employment Site (SES) and that the proposed development would result in the loss of employment land from it. • In such circumstances, Policy E3 of the Local Plan indicates that change of use to a non-employment use will only be acceptable if evidence is provided of active and comprehensive marketing. • The evidence put forward appears to focus on marketing the site for development of the extant planning permission for office use, which in this regard is comprehensive. 	DISMISSED

- The site being available for other uses as part of an ‘All Enquiries’ approach is not consistent in the evidence, in particular with the published marketing material.
- The marketing undertaken in respect of alternative uses appears to lack prominence and consistency and therefore falls short of being regarded as adequate as part of a comprehensive and active exercise.
- The appeal site is currently used as a surfaced car park. As such, existing employment floor space would not be lost due to the proposed development. However, it would result in the loss of employment land from the SES that has been allocated in the Local Plan to meet the needs of the area looking forward, with a consequent loss of diversity in the provision of employment land.
- Permissions granted for development of other buildings on the business park do not adequately mitigate the loss of the appeal site within the SES to a housing use, due to the overall effects of the proposed development on the availability of employment land.
- The proposed development would result in the loss of a site that should continue to be available as a strategic employment site. Consequently, I find conflict with policy E3 of the Local Plan, which includes the requirement for a comprehensive and active marketing exercise that includes alternative suitable B class and other employment uses.
- It is proposed that financial contributions would be made towards the delivery of a footbridge over the railway line to link the Guildford Business Park to the University of Surrey and is the subject of a separate extant planning permission. A mechanism is also proposed to prevent practical operation of the development prior to the footbridge being in place and to restrict its future use.
- In conclusion, the overall aims of the submitted obligation would make adequate provision for local infrastructure improvements. Consequently, I do not find conflict with the objectives of policies H1,D1 and ID3 of the Local Plan in relation to promoting high quality places with appropriate connections between spaces and sustainable transport choices.
- I find harm in relation to the loss of a site that should continue to be available as a strategic employment site and consequent conflict with Local Plan policy.
- The benefit afforded by additional student housing and possible wider public use of the footbridge do not outweigh the harm that would result from loss of employment land from the SES, given the purpose of the designation to provide for the current employment needs of the area and looking forward.
- The Covid-19 pandemic is likely to have a number of far reaching effects going forwards, which may include demand for employment space and also different types of housing provision. As the long-term effects of the pandemic cannot be reasonably judged at present, I am unable to afford this consideration significant weight.
- The appeal is therefore dismissed.

COSTS DECISION

Pavilion Trustees Ltd and Pavilion Property Trustees as joint Trustees of Eagle Unit Trust for an award of costs against Guildford Borough Council.

Summary of Inspector’s Conclusions:

- The applicant states that the Council unreasonably failed to disclose its legal advice and comply with the required appeal timetable and provide

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	<p>documents on time (including feedback on the legal agreement), which has led to unnecessary or wasted time.</p> <ul style="list-style-type: none"> • In relation to the disclosure of legal advice, the Council's reasons for refusing the proposed development, including their position on how Policy EC3 of the Local Plan should be applied is set out principally in the Officer's report and subsequent statement of case. • Whilst the applicant may disagree with it, the Council's reasoning is sufficiently clear to explain their position on the main issues and to allow them to be responded to. • Turning to compliance with the appeal timetable and provision of documents. Despite sending their initial statement of case in line with the appeal timetable, the Council neglected to also send the appendices and delayed in doing so for a number of weeks. The Council's reasoning for not acting sooner appears inadequate given the length of the delay. • Whilst the appendices may have included material that the applicant was aware of and was in the public domain, the applicant and other parties to the appeal process were entitled to have sight of documents at the same time as per the published timetable for the appeal. • Overall, the Council's actions in relation to complying with the required appeal timetable and providing documents on time (including feedback on the legal agreement) amounts to unreasonable behaviour. • The Applicant is now invited to submit to the Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. 	
<p>6.</p>	<p>Ms Carolyn Murphy Oakride Farm, Oakride Kennels and Cattery, Tithebarns Lane, Send, GU23 7LE</p> <p>19/P/01984 – The development proposed is installation of floodlights around the agility area.</p> <p>Delegated Decision – To Refuse</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none"> • The main issues in this appeal are whether the proposed development constitutes inappropriate development in the Green Belt; • Its effect on the openness of the Green Belt; • Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal. • The appeal concerns the installation of six floodlights around a dog agility area associated with Oakride Kennels. The dog agility equipment is arranged on a field close to the kennel complex. Floodlights were in place at the time of my site visit. • The Framework states that a local planning authority should regard construction of new buildings as inappropriate in the Green Belt. This is subject to the exceptions listed in the Framework at paragraph 145. • The appellant considers that the proposal accords with sub-paragraphs (b) and (g) and as such, should be considered as not inappropriate in the Green Belt. • The Council states that the dog agility facility is not considered an outdoor recreation use but exists to support the operation of a commercial business. However, the appellant contends that the agility area is used for the purposes of outdoor recreation. 	<p>DISMISSED</p>

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| <ul style="list-style-type: none">• Representations from interested parties received in connection with the appeal proposal indicate that the dog agility area is also used by local residents to train their dogs. However, in the absence of any substantive evidence regarding the level and frequency of such activity, I am unable to conclude that the floodlights are an appropriate facility for outdoor sport/recreation use. Based on the evidence before me, I find that the proposal does not fall within the exception set out in paragraph 145 (b) of the Framework.• I consider that the erection of floodlights in association with the use of a field for dog agility would not constitute limited infilling or that partial or complete redevelopment of previously developed land and as such the proposal fails to comply with the provisions of paragraph 145 (g).• I conclude that the proposal constitutes inappropriate development in the Green Belt.• Having regard to the slim line design and low height of the floodlights, I consider there would be no effect on the openness of the Green Belt.• Whilst the proposed floodlights would not have a harmful effect on openness, inappropriate development is by definition harmful to the Green Belt. For the reason given, the other considerations are not sufficient to outweigh the substantial weight that must be given to any harm to the Green Belt.• Therefore, the very special circumstances needed to justify the proposal do not exist. As such the proposal would conflict with the Framework and Policy P2 of the LP. | |
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