

## Planning Committee

16 June 2021

### 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

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1.	<p><b>Mr &amp; Dr Jayaswal</b> <b>17 Romans Close, Guildford, GU1 2ST</b></p> <p><b>19/P/01796</b> – The development proposed is described as “raise adjoining land to, and incorporate with, the existing garden level. Change of use of additional land from amenity to Residential.”</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 is the effect on the character and appearance of the area.</li><li>• The development would result in a reduction in the open character that the appeal site contributes to the surrounding area. However, the raised land would be concealed behind a hedgerow that would itself contribute to the overall landscaped character of the street scene.</li><li>• The development would therefore result in a change to the character of the site, but the proposed hedgerow would conceal the raised land and be in keeping with the landscaping that is publicly visible in the surrounding area.</li><li>• The development would consequently not result in unacceptable harm to the character and appearance of the area. It would accord with policies G1 and G5 of the Guildford Borough Local Plan 2003 and Policy D1 of the Guildford Borough Local Plan: strategy and sites 2015-2034 adopted 2019 (the LP).</li><li>• Collectively, these policies require that new development respects established street patterns and established views and reinforce locally distinct patterns of development.</li><li>• I have imposed conditions requiring approval of a detailed scheme of landscaping prior to commencement of the works, its implementation and the retention or otherwise replacement of all planting after the works are complete.</li><li>• The appeal therefore succeeds.</li></ul>	<p><b>*ALLOWED</b></p>
2.	<p><b>Bellway Homes Ltd (South London)</b> <b>Land to the West of the Street, Tongham, Guildford, GU10 1DG</b></p> <p><b>19/P/02102</b> – The proposal is for a reserved matters application pursuant to outline application 16/P/00222 to consider appearance, landscaping, layout and scale in respect of the erection of 254 dwellings and associated car parking, open space and infrastructure.</p>	<p><b>*ALLOWED</b></p>

Officer Recommendation – To Approve  
Planning Committee – 8 July 2020  
Committee Decision – Refused

**Summary of Inspector's Conclusions:**

- The main issues are the effect of the proposed development on the character and appearance of the area; and
- Whether the proposal would amount to sustainable development having regard to the development plan and national policies and with particular regard to sustainable design and construction methods.
- In summary, the development would be of a scale that creates its own identity and would find a reasonable balance between absorbing characteristics of local built form without employing an artificial historical style.
- Consequently, the proposed development would complement the character and appearance of the area. The proposal would satisfy policy D1 of the Guildford Borough Local Plan: Strategy and Sites 2015-2034 (LPSS). This policy seeks for new development to respond to the distinct local character of an area and reinforce locally distinct patterns of development.
- The proposal would also satisfy saved policy G5 of the Guildford Borough Local Plan (2003) (LP). This policy includes the requirement for development to respect the relationship of other buildings and reinforce the identity and character of an area. These policies are also broadly consistent with the NPPF which seeks development to be sympathetic to local character.
- The Council's Climate Change SPD follows the Council's declaration of a climate change emergency in 2019. The SPD adds detail to the requirements of policy D2. This defines the information required to be included within a Sustainability Statement and Energy Statement. The SPD explains that these should inform emerging proposals and help steer them towards sustainable outcomes. An Energy Statement is required to demonstrate how reductions in carbon emissions would be achieved and to quantify the total reduction.
- The appellant's Energy Strategy (2020) identifies that the development would achieve a carbon emission reduction of 20% against the Building Regulations TER. This document has been agreed by the Council in satisfaction of the requirements of condition 11 of the outline approval, which only sought a 10% reduction. This therefore satisfies the heightened requirements of Policy D2(9); a policy which was adopted after the outline approval. Consequently, the agreed 20% reduction would meet a key objective of the policy.
- A substantial number of dwellings would benefit from passive solar gain a corresponding reduced need for artificial lighting due to their orientation.
- I therefore find that an appropriate balance has been found between making the best use of passive solar gain and the creation of a wholistic design across the development. Measures to reduce energy consumption through both design and construction methods have been adequately addressed by the proposed scheme.
- Consequently, the proposal would amount to sustainable development with particular regard to sustainable design and construction methods. As a result the proposal would satisfy policy D2 of the LPSS and the Council's Climate Change SPD. These require for a proposal to illustrate how sustainable design and construction practice will be incorporated including the use of landform, layout, building orientation, massing and landscaping

	<p>to limit energy consumption.</p> <ul style="list-style-type: none"> <li>The proposal would complement the character and appearance of the area and would employ sustainable design and construction measures. Consequently, I have found that the proposed development would accord with the development plan. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. I therefore conclude that the appeal is allowed and planning permission granted subject to conditions.</li> </ul>	
<p>3.</p>	<p><b>Mr Mark Brown on behalf of Kavu 52 Beech Grove, Guildford, GU2 7UX</b></p> <p><b>20/P/00853</b> – The development proposed is ground floor extension to existing house conversion to house of multiple occupancy.</p> <p>Delegated Decision – To Refuse</p> <ul style="list-style-type: none"> <li>The main issues are the effect of the proposal on the living conditions for the occupants of No 50 Beech Grove.</li> <li>Whether the proposal would provide suitable living conditions for future occupants; and</li> <li>The effect of the proposal on the character and appearance of the area.</li> <li>The proposed extension would be located close to the shared side boundary with No.50. Despite the proposed crown roof, the addition would be substantially taller than the low side boundary enclosure.</li> <li>Due to the height and depth of the proposed extension, and the limited height of the existing boundary enclosure, the proposal would become an imposing and dominant addition to the rear of the properties. As a consequence it would be overbearing and oppressive when experienced from within the garden of No.50, as well as when viewed from the adjacent patio doors.</li> <li>Due to the depth of the proposal it would also fail the 45-degree guide identified within the Council’s Residential Design Extensions and Alterations Supplementary Planning Document (2018) (SPD). This seeks to ensure that adequate levels of daylight can be maintained.</li> <li>Due to the orientation of the appeal site and the nature of the proposal, I am satisfied that sunlight would not be unduly compromised. However, the proposal would breach the guidance in relation to daylight and accordingly, this matter also weighs against the appeal.</li> <li>The proposal would have a harmful effect on the living conditions for the occupants of No. 50. It would therefore fail to accord with saved policies G1(3) and H8 of the Guildford Borough Local Plan 2003 and guidance contained within the SPD. These seek development which has no unacceptable effect on the amenities enjoyed by the occupants of adjacent properties.</li> <li>The proposal would seek to introduce 7 bedrooms into the property all of which would have en-suite facilities. All of the bedrooms contain double beds. However, when assessed against the National Space Standards, four of the rooms would not meet the necessary requirements for two bedspaces. Nevertheless, the rooms would be acceptable for single bedspaces. The occupancy of these rooms could be restricted through a suitably worded condition.</li> <li>The proposal would therefore provide suitable living conditions for future occupants and comply with Policies H1 and D1 of the Guildford Borough Local Plan: Strategy and Sites (2019).</li> </ul>	<p><b>DISMISSED</b></p>

	<ul style="list-style-type: none"> <li>• The proposal would not harm the character and appearance of the area and comply with saved policies G5 and H8 of the 2003 LP, policy D1 of the 2019 LP and guidance contained within the SPD.</li> <li>• I have found that the proposal would not harm the character and appearance of the area. Subject to the use of a suitably worded planning condition, it would also provide suitable living conditions for future occupants. The S106 Agreement in relation to the SPA holds some weight in favour of the proposal but is not sufficient to outweigh the significant and demonstrable harm that the proposal would cause to the living conditions for the occupants of No.50, a matter to which I attach substantial weight.</li> <li>• The appeal is therefore dismissed.</li> </ul>	
4.	<p><b>Guildford Borough Council for a full award of costs against Star Oyster Ltd, by Star Oyster Ltd for a partial award of costs against Guildford Borough Council and by Star Oyster Ltd for a partial award of costs against Natural England</b></p> <p>The inquiry was in connection with an appeal against the refusal of planning permission for ‘Demolition of all existing buildings and redevelopment of the site to provide a 10-storey building plus two basement levels, for use as shop (A1) financial and professional services (A2); restaurant and café (A3); drinking establishment (A4); office (B1a); nightclub, casino (sui generis); assembly and leisure (D2 – including cinema, concert hall and bingo hall) and student living accommodation (sui generis); ancillary cycle and refuse storage; landscaping and incidental works’.</p> <ul style="list-style-type: none"> <li>• <b>The application by Guildford Borough Council against Star Oyster Ltd</b></li> <li>• It was not unreasonable for the Appellants to withdraw the appeal during the Inquiry. It was not unreasonable for the Appellants to challenge the reasons for refusal of the application relating to the alleged harm to the character and appearance of the area and to the significance of the heritage assets.</li> <li>• The Appellants were entitled to rely on the claimed expertise and experience of Architects, who are bound by Codes of Conduct of the Royal Institute of British Architects and the Architects Registration Bureau, to design a building that would, in all respects, be fit for purpose.</li> <li>• The Council cannot be expected to retain or engage professionals to interrogate the design of a major development to ensure that it is fit for purpose, particularly in terms of its fire safety credentials.</li> <li>• The design of the building should have been fit for purpose before the planning application was submitted to the Council. The design was so flawed that the revisions required far exceeded those that could be considered without consultation. In this regard the Appellant’s have acted unreasonably and the Council has incurred wasted expense in the appeal process.</li> <li>• The application for a full award of costs therefore succeeds.</li> <li>• <b>The application by Star Oyster Ltd against Guildford Borough Council</b></li> <li>• The Council did not refuse planning permission in part on the basis of a failure to undertake a sequential test. The Appellant had in fact failed to demonstrate that the sequential test could be passed in respect of this development.</li> <li>• The Council’s witness on flood risk did unreasonably and in her proof of evidence suggest that the sequential assessment should have considered accommodating the development on alternative sites ‘In part’ and</li> </ul>	<p><b>COSTS APP GRANTED</b></p>

	<p>erroneously stated that sites had been rejected on the basis of land ownership.</p> <ul style="list-style-type: none"> <li>• The Council did not act unreasonably regarding consideration of the Flood Plan.</li> <li>• The Council's planning witness did act unreasonably in drafting her proof of evidence but this has not resulted, for the Appellant's, in any wasted expense during the appeal process. The application for costs therefore fails.</li> <li>• <b>The application by Star Oyster Ltd against Natural England.</b></li> <li>• Natural England (NE) were consulted on the application in April 2020 and responded with an objection based principally on requiring compliance with the requirements of the Council's Avoidance and Mitigation Strategy for the Thames Basin Heath SPA.</li> <li>• NE are a statutory consultee but were not consulted by the Council after April 2020 until after the appeal had been submitted. It was not therefore unreasonable for NE to meet their statutory responsibilities to submit representations outside the Inquiry timetable. NE have not acted unreasonably and the application for costs therefore fails.</li> </ul>	<p><b>COSTS APP FAILED</b></p> <p><b>COSTS APP FAILED</b></p>
5.	75 Denzil Road, Guildford, GU2 7NG – appeal withdrawn by Brofam 2 Ltd	<b>APPEAL WITHDRAWN</b>