

## Planning Committee

14 July 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>Mrs Teresa Lipinska</b> <b>77 Saffron Platt, Guildford, GU2 9XY</b></p> <p><b>20/P/01915</b> – The development proposed is a single storey rear extension and insertion of new rooflights, following the demolition of the existing rear conservatory.</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 of the proposed development on the living conditions of the occupiers of 75 Saffron Platt, with particular regard to whether the development would appear overbearing, or result in material loss of light.</li><li>• The proposed extension would project over 7 metres beyond the back of the existing built form, and over 4 metres beyond the rear of the conservatory at 75 Saffron Platt. However, the rear gardens of both properties slope downwards away from the dwellings, and the proposal would be set at a lower level than the rest of No 77, and at a significantly lower level than No 75's conservatory. The roof of the proposed extension has also been kept low, so as to minimise any impact on the neighbouring property. As a result of all of the above, there would be no loss of light into No 75's conservatory resulting from the proposed extension, and neither would the extension appear overbearing, when seen from inside No 75.</li><li>• The proposed extension would have a greater impact on No 75's rear garden. At present, the boundary between the two properties is marked by a low fence, topped by trellising. The view from No 75's rear garden, towards the site of the proposed extension, is of a shed and a number of large shrubs, rising behind the boundary fence.</li><li>• The extension would be a more solid structure than the existing shed and shrubs, and would stretch for some distance behind the boundary between the two dwellings. The outlook from No 75's rear garden would be harder and have a more urban feel than it does now. However, the fact that the roof of the extension has been kept low would help to reduce the overbearing impact of the extension, that might otherwise arise.</li><li>• I am also aware that the occupiers of No 75 have written a letter in support of the appeal, and say that they do not consider that the proposed extension would appear overbearing or cause any loss of light to their conservatory, patio or rear garden. In a case such as this, when any overbearing impact is marginal, I consider that I can attach weight to the</li></ul>	<p><b>*ALLOWED</b></p>
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	<p>views of the affected neighbours. This tips the balance in favour of the proposal.</p> <ul style="list-style-type: none"> <li>• I therefore conclude that the proposal would not have an unacceptable effect on the living conditions of the occupiers of 75 Saffron Platt, and would comply with saved Policy G1(3) of the Guildford Borough Local Plan 2003, which requires that the amenities enjoyed by occupants of buildings are protected from unneighbourly development in terms of privacy, access to sunlight and daylight, noise, vibration, pollution, dust and smell.</li> </ul>	
2.	<p><b>Langham Homes</b>  <b>Oldlands, Burnt Common Lane, Ripley, GU23 6HD</b></p> <p><b>19/P/02191</b> – The proposal is for the erection of 30 no. residential dwellings with the associated vehicular pedestrian access via Burnt Common Lane, car parking, secure cycle storage and landscaping on land off Burnt Common Lane, Ripley.</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 effect of the proposal on the character and appearance of the surrounding area; and the Thames Basin Heaths Special Protection Area.</li> <li>• The appeal site forms part of a housing allocation which has recently been removed from the Green Belt. It is a strip of primarily undeveloped land with a wide frontage on to Burnt Common Lane, which runs adjacent to the site from north to south.</li> <li>• The existing built up frontage exhibits inherent variety. Houses are not set on a consistent building line, and architecturally, they differ. Some properties are set back from the road, some are closer, and some are angled towards it. In addition, there is a variety of detached and semi-detached houses, and gaps between buildings are not consistent.</li> <li>• the appeal site also forms part of a broader allocation for housing development, and accordingly, its character and appearance will evolve and change over time.</li> <li>• The proposal would introduce 30 new dwellings onto the site. To the south, Oldlands would be retained and an arc of four houses would run from the retained dwelling towards the highway. Opposite Oldlands, plots 5 and 6 would look towards the retained dwelling and into the proposed development.</li> <li>• Accordingly, these dwellings would present their rear elevation and amenity space to the existing highway. This would contrast with the prevailing nature of the surrounding development as houses generally front, or at least run perpendicular to, Burnt Common Road. However, despite this, the proposal details that existing trees and landscaping would be retained at this location and the retention of these features would soften the appearance of plots 5 and 6.</li> <li>• The dwellings themselves would include a mixture of detached and semi-detached houses, with some short terraces also proposed. In my view, such an arrangement compares favourably with the surrounding grain, and for the reasons identified above, I am also satisfied that it would connect in an appropriate manner with the local street scene.</li> <li>• The Council refer to what they perceive as a lack of a special over-arching story for the new settlement and that the proposal would introduce uniform and standardised design that would not reflect the local vernacular.</li> </ul>	* <b>ALLOWED</b>

	<p>However, for the reasons identified above, in my judgement the proposal would retain important landscaping which would provide a somewhat spacious setting for the development. This would aid the transition from the existing semi-rural environment to what will become a larger housing development.</p> <ul style="list-style-type: none"> <li>• Paragraph 127 of the National Planning Policy Framework (the Framework) establishes a series of criteria to help achieve well-designed places. In addition, the National Design Guide places distinct emphasis on context, identity and built form. For the reasons identified above, there is nothing compelling in the evidence to persuade me that the proposal would not represent an appropriate layout for the site, or that it would not complement the surrounding character and appearance of the area. Consequently, the proposal would provide a sensible transition between the existing settlement and the broader housing allocation. I therefore conclude that the proposal would not harm the character and appearance of the area. On this basis, there would be no conflict with Policy D1 of the Guildford Borough Local Plan: Strategy and Sites (2019) and Saved Policy G5 of the Guildford Borough Local Plan (2003), as well as Paragraph 127 of the Framework. Taken together, these require all new developments to achieve high quality design that responds to distinctive local character.</li> <li>• The appeal site is located within the buffer zone of the Thames Basin Heaths Special Protection Area (SPA). The SPA is designated due to the presence of breeding populations of Dartford Warblers, Woodlarks, and Nightjars and due to the location of the appeal site, the requirements of the Conservation of Habitat and Species Regulations 2017 apply (the Regulations).</li> <li>• Based on the evidence before me, I am satisfied that the obligations within the legal agreement would enable the delivery of suitable mitigation that would address the level of harm likely to be caused by the development. In this respect, the agreement is entirely compliant with Regulation 122 of the CIL Regulations 2010. Accordingly, subject to the necessary mitigation, I conclude that the proposal would not result in a significant harmful effect on the integrity of the SPA.</li> <li>• The appeal should be allowed, and planning permission be granted.</li> </ul>	
<p>3.</p>	<p><b>Mr and Mrs Waygood</b>  <b>Land rear of Catherine, Frimley Road, Ash Vale, GU12 5NS</b></p> <p><b>20/P/00513</b> – The development proposed is the erection of a detached dwelling house with detached double garage.</p> <p>Delegated Decision – To Refuse</p> <ul style="list-style-type: none"> <li>• The main issue is whether the development would have a significant adverse effect on the Thames Basin Heaths Special Protection Area.</li> <li>• The Thames Basin Heaths Special Protection Area has been designated to protect rare ground nesting bird species which are vulnerable to predation by cats, rats and crows, and to disturbance from informal recreational use, especially walking and dog walking. The Council has adopted an avoidance strategy, which sets out its approach to preventing new development, either individually or cumulatively, having a significant adverse effect on the integrity of the Special Protection Area.</li> <li>• A core principle of the strategy is that within 400m of the Special Protection Area there is a presumption against net new residential development. This</li> </ul>	<p><b>*ALLOWED</b></p>

is due primarily to the potential for pet cats to reach the Special Protection Area, and the inability to prevent increased recreational pressure, within 400m being the optimum walking distance for people to visit it.

- An application for a dwelling on the site was refused planning permission<sup>2</sup> and dismissed on appeal<sup>3</sup> on the grounds that the site was within 400m of the Special Protection Area and that it had not been adequately demonstrated that the proposal would not harm its ecological integrity. It was felt that predation by cats could not be discounted, even given the presence of a railway line and canal between the site and the Special Protection Area. This decision was reached in the knowledge that Natural England had withdrawn an objection to the scheme, and that in practical terms the site was some 700m from the Special Protection Area by the nearest walking route.
- The current proposal is the same as the earlier scheme but proposes a legal agreement to prevent future occupants from owning cats and dogs, preventing the completion of a dwelling for which planning permission has been granted and which is also within 400m of the Special Protection Area, and securing a financial contribution towards mitigation of potential harm to the Special Protection Area.
- In the case of the obligation preventing future occupants from owning cats and dogs, I consider that such a restriction would not be reasonable because it could not, in any practical way, be enforced by the Council. Cats are not required to be licensed and periodic inspection of the site, which itself would be an unduly onerous responsibility on the Council, would not necessarily detect such a pet. I therefore give this obligation little weight.
- The planning obligation preventing the completion of the dwelling permitted on land adjacent to Vale Furnishers<sup>5</sup> would result in no net additional dwellings being located within 400m of the Special Protection Area. I accept this site is some distance from the appeal site and is unrelated to it other than through the submitted planning obligation. However, the fact that the two sites are some distance from one another does not prevent the benefit of offsetting one residential dwelling for another resulting in there being no net new dwellings within 400m of the Special Protection Area. This would satisfy the relevant core principle of the avoidance strategy.
- The obligation would not prevent a new application from being submitted for residential development on the Vale Furnishers site in the future. However, such a development would require planning permission, and the Council would therefore retain control over how that site might be developed. The unilateral undertaking would be a charge on the land and would be a material consideration were any such proposal to come forward.
- The consequence of the obligation would be that the proposed development would have a neutral impact on the integrity of the Special Protection Area. I therefore give this obligation weight in my decision.
- The third obligation in the legal agreement secures financial contributions towards mitigation of recreational pressure on the Special Protection Area. The contributions would help fund the provision of suitable alternative natural green space and implementation of a strategic access management and monitoring plan. The site is within 700m walking distance of the Special Protection Area by the most direct route. Future occupants may choose to visit the Special Protection Area on occasion and the contributions would go towards mitigating any such recreational pressure as well as providing or improving alternative green space. I therefore give this obligation weight in my decision.
- For development that has the potential to have a significant adverse effect

	<p>on the integrity of the Thames Basin Heaths Special Protection Area, the Conservation of Habitats and Species Regulations 2010 requires me to carry out an appropriate assessment.</p> <ul style="list-style-type: none"> <li>• I consider the obligations that secure no net new residential accommodation within 400m of the Special Protection Area, and mitigation of recreational pressure from residential development within a wider zone of influence, when taken together would prevent any significant adverse harm being caused to the ecological integrity of the Special Protection Area. The circumstances of the development, in particular the offsetting of the development against one that already has extant planning permission but has not been implemented, would prevent this case setting a precedent for general residential development within 400m of the Special Protection Area.</li> <li>• I conclude that, subject to the unilateral obligations noted above, the development would not have a significant adverse effect on the Thames Basin Heaths Special Protection Area. It would therefore accord with Policy P5 of the Guildford Local Plan: Strategy and Sites 2015-2034, Policy NE4 of the Guildford Borough Local Plan 2003, and Policy NRM6 of the South East Plan 2009, which all seek to protect the integrity of the Special Protection Area.</li> <li>• For the reasons given above I conclude that the appeal accords with the provisions of the development plan, and there are no material considerations that indicate an alternative decision should be made. I therefore conclude that the appeal should be allowed.</li> </ul>	
<p>4.</p>	<p><b>Mr and Mrs Charles and Ms Anna Cade</b>  <b>Land to rear of 20 Guildown Avenue, Guildford, GU2 4HB</b></p> <p><b>20/P/01414</b> – The application sought planning permission for ‘variation of conditions 2 (approved plans), 3 (site levels), 4 (materials samples), 5 (energy efficiency), 6 (water efficiency), 7 (arboricultural method statement), 8 (access), 9 (retention of parking and turning), 10 (construction transport management report) and 11 (electric vehicle charging points) of planning permission 18/P/01569, approved 27/02/2019 to allow changes to the approved scheme’ without complying with a condition attached to planning permission Ref 19/P/01083, dated 12 August 2019.</p> <p>The condition in dispute is No 2 which states that:  <i>“The development hereby permitted shall be carried out in accordance with the following approved plans: b121b, b122c, Sht-1-2 and Sht-4 received on 8 August 2018 and plans: b100d, b120e and b125 received on 17/06/2019”.</i>  The reason given for the condition is:    <i>“To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning”.</i></p> <p>Delegated Decision – To Refuse</p> <ul style="list-style-type: none"> <li>• The appellants sought to vary condition No 2 on approved application Ref 19/P/01083 by replacing the approved plans with amended plans. In summary, the amendments would enable the provision of different gates to both the vehicle and pedestrian access to the new property.</li> <li>• The main issue is the effect that the proposed amendments would have on the character and appearance of the surrounding area including the adjacent Surrey Hills Area of Great Landscape Value.</li> </ul>	<p><b>DISMISSED</b></p>

	<ul style="list-style-type: none"> <li>• The appeal site is to the rear of 20 Guildown Avenue and is accessed off the south side of The Mount which adjoins the Surrey Hills Area of Great Landscape Value (AGLV). By virtue of the vegetation and trees along both of its sides, in combination with the low density of development on its southern side compared to that closer to the urban centre of Guildford, The Mount is distinctly rural in character and so forms a verdant woody transition between the open fields of the AGLV to the north and the residential properties to the south. Access gates to properties along this section of The Mount are predominantly wooden and so visually are not materially at odds with the aforementioned rural character of the surroundings.</li> <li>• The proposed pair of swing-opening gates and pedestrian gate would be reflective of the materials and appearance of the new house in so far as they would be constructed using powder coated grey aluminium. However, whilst the gates would be similarly proportioned to other access gates along this section of The Mount, as a result of the proposed material treatment and colour they would be at odds with most other gates in the locality which are predominantly wooden and so significantly more rural in character.</li> <li>• In the context of the verdant woody character of The Mount the gates would represent an alien form of development and appear incongruous in comparison with most other gates that provide access to properties along the south side of The Mount. Moreover, as a result of their aforementioned design characteristics the gates would appear stark and unsympathetic to their rural surroundings and so would detract from the sensitive rural landscape setting of the AGLV.</li> <li>• For the above reasons, I conclude that the proposed amendments would harm the character and appearance of the area including the setting of the adjacent AGLV. Consequently, in this regard, the proposal would not accord with saved Policy G5 of the Guildford Borough Local Plan (2003) and Policies P1 and D1 of the Guildford Borough Local Plan: Strategy and Sites (2019). These policies collectively, amongst other things, seek to ensure that all new development achieves high quality design that responds to distinctive local character (including landscape character) of the area in which it is set.</li> <li>• I conclude that the appeal should be dismissed.</li> </ul>	
5.	<p><b>Mr Allen</b>  <b>Oakmead Farm, Ockham Lane, Ockham, KT11 1LY</b></p> <p><b>20/P/00127</b> – The use for which a certificate of lawful use or development is sought of land for ancillary residential purposes to the main dwelling.</p> <p>Delegated Decision – To Refuse</p> <ul style="list-style-type: none"> <li>• In order to succeed, the appellant must show on the balance of probability that the land subject to this appeal has been used for residential purposes ancillary to the main dwelling known as Oakmead Farm continuously for a period of ten years from the date on which the application was made. The relevant date for this purpose is therefore 23 January 2010.</li> <li>• The Statutory Declaration provided by the appellant, Mr Anthony Allen, confirms that he has been the owner/occupier of Oakmead Farm since June 2015 and has known the land since April 2015. He goes on to confirm that he has lived at Oakmead Farm continuously since June 2015 and states that the land has been used as a residential garden since that date. Given that Mr Allen has had first-hand knowledge of the use of the appeal</li> </ul>	<b>DISMISSED</b>

site since June 2015, this evidence points strongly to the claimed use having taken place continuously since that time.

- Although the joint Statutory Declaration indicates that the property affords views over the appeal site, there is a considerable distance between Upton Farm and the appeal site. Furthermore, although I was not able to view the appeal site from Upton Farm itself, I noted during my site visit to the appeal property that there is some intervening vegetation between the two properties that partially obscures that view. For those reasons, I am not persuaded that the occupiers of Upton Farm were in a good position to be fully aware of the activities taking place on the appeals site during the relevant period, and accordingly attach only limited weight to that evidence.
- The appellant has referred me to a planning application for a shed to provide storage for motor vehicles and workshop together with an access road (Council Ref: 18/P/0157). The appellant explains that the application was accepted by the Council under the category of "Alterations/extensions to a single dwelling house, including works within the curtilage".
- The appellant indicates that this application relates to the same piece of land as that now subject to this appeal and draws the inference from the above that the Council accepts the use of this land as being residential.
- The Council confirm that the application was accepted as a householder application but dispute the appellant's interpretation of the outcome. The Council explain that the Officer's Report for this application indicates that the change of use would be to commercial, but without specifying being from residential. Neither the Council nor the appellant have provided a copy of the Officer Report for that application, such that I am not able to verify which version is correct. However, with the burden of proof falling upon the appellant, I have no foundation on which to accept the appellant's version of events.
- In any event, I am not persuaded that the mere acceptance by the Council of this application as a 'householder application' is evidence that the lawful use of the land is residential. Again, I have not been provided with any details, but it is likely that the Council would have accepted the application on the basis on which it was presented to it.
- The appellant has provided a copy of the location plan submitted with planning application 99/P/0344 approved, as I understand it, in April 1999 (the 1999 permission). The location plan covers all of the land to which the appeal relates but also encompasses the paddock immediately to the south. The appellant has not provided a copy of that planning application or the formal decision made by the Council, but I understand that the development proposed was the conversion of stables into ancillary residential accommodation. The appellant does not indicate whether that permission was implemented or not
- from the limited information available to me, it appears that the planning permission granted was for the conversion of *stables* to ancillary residential accommodation (my emphasis). There is no indication in the description of development provided by the appellant that the planning application sought permission for the change of use of the surrounding land or that planning permission was granted for any such change of use.
- Secondly, the location plan submitted with that application covers both the appeal site and the paddock. Logically, if the appellant is correct in his assertion that the 1999 permission grants planning permission for use of the land as ancillary residential accommodation, that would apply equally to the paddock and the land subject to this appeal. However, it is no part of the appellant's case that this permission granted planning permission for

use of the paddock as ancillary residential accommodation. The appellant does not explain why it is considered that the 1999 permission applies to the land subject this appeal but not to the adjoining paddock.

- Finally, even if the appellant's interpretation of the 1999 permission was correct, none of the above would be relevant unless the planning permission was correctly implemented. I have no information to show that this was the case.
- In the absence of a full copy of the Title Deeds, I am unable to ascertain the meaning of the blue, red and yellow shading on the Title Plan. Neither I am able to assess whether the conclusion drawn by the appellant that the land falls within the curtilage of Oakmead Farm has any credence. Similarly, not having had sight of the full Title Deeds, I cannot discount the possibility that there is information in that document that weighs against the appellant. Consequently, in the absence of a copy of the full Title Deeds, I attached very little weight to this piece of evidence and the conclusion drawn from it by the appellant.
- There is a further typed note in Appendix B below the Land Registry extract which purports that this entry clearly shows that the land would now fall within the residential curtilage of the Oakmead Farm. Two points flow from this. Even if the appellant is correct in claiming that the yellow shaded area can be regarded as forming the curtilage of main dwelling, that yellow shaded extends beyond the appeal site and into the paddock immediately to the south. It is again no part of the appellant's case that the paddock should be regarded as ancillary residential accommodation to the main dwelling, and no explanation is given as to why the assumption made by the appellant in relation to the yellow shaded area would not apply equally to the paddock. Moreover, as indicated above, the concept of curtilage is not a use of land. The appellant's argument is therefore flawed in both these respects.
- On the basis of these aerial photographs, it appears to me that the demarcation between the paddock and the appeal site took place at some point between 2012 and 2018. Up until that point, it appears from these aerial photographs more likely than not likely that the area of the appeal site to the west of the main dwelling was used in conjunction with the paddock and/or formed part of it. I therefore consider that this series of aerial photographs does not support the appellant's case.
- The appellant has provided a number of photographs that show the appeal site, both in summer and in winter. These photographs show, amongst other things, people exercising on the land, dogs in the garden area, a mowed lawn area and garden furniture in situ.
- Whilst it is clear that these photographs were taken from various points around the appeal site, none of them are dated. It is reasonable to conclude that these photographs were all taken at some point after the appellant purchased the property in June 2015, such that they point towards use of the land for purposes ancillary to the main dwelling from that time. However, because the appellant only took up occupation of the property approximately half-way through the relevant ten-year period, these photographs provide no evidence to show that the use claimed has taken place continuously over the whole of that period.
- The Statutory Declaration provided by Mr Allen, the various photographs provided by him showing use of the land and the sales particulars all point towards the appeal site being used for purposes ancillary to the main dwelling since around 2014.
- However, the aerial photograph taken in 2018 casts an element of doubt



over this use across the whole of the appeal site. That photograph shows an area in the north-west corner of the appeal site that is of a distinctively different appearance to the remainder of the site and which appears to be linked to the paddock. The appellant has not explained why that part of the site is of a different appearance to the remainder. I acknowledge that this land could still have been being used for purposes ancillary to the main dwelling at the time the photograph was taken. Similarly, the difference in appearance could be result of a temporary activity or works. But equally the difference in appearance could be the result of a use not connected to the main dwelling. Consequently, in the absence of any explanation from the appellant, I am unable to conclude that the whole of the appeal site has been used for purposes ancillary to the main dwelling use since 2014.

- However, in my judgement, the aerial photograph taken in 2009 (and therefore just before the start of the relevant ten-year period) and that taken in 2012 (within the early part of relevant ten-year period) clearly show that the area immediately to the west of the tennis courts is of the same appearance as and is contiguous with the paddock. This leads me to the conclusion that, more likely than not, the use of this part of the appeal site was more associated with the paddock than with the main dwelling, or indeed possibly formed part of it.
- In summary, this is not a situation where the local planning authority has no evidence of its own to contradict that of the appellant or make his version of events less than probable. On the contrary, I find that the appellant's evidence is not sufficiently precise to counter the photographic evidence produced by the Council and the written evidence of the Parish Council, such that the appellant has not discharged the burden that falls upon him. I conclude that, on the balance of probability, the whole of the appeal site has not been used for residential purposes ancillary to the main dwelling known as Oakmead Farm continuously for a period of ten years beginning from the date of the application. It follows that the appeal cannot succeed on the terms originally submitted.
- It appears to me that, on the balance of probability, it is likely that an area of land to the south of Oakmead Farm could be regarded as having been in residential use for purposes ancillary to the main dwelling continuously for a period of ten years beginning from the date of the application. In other circumstances, I might have been prepared to issue an LDC for that part of the site.
- However, from the appeal documents that are before me, I understand that there is an ancillary residential unit known as 'The Cottage' to the north of the main dwelling. I have been provided with no details of that dwelling, either in terms of its location or any land associated with it. In addition, there is a degree of uncertainty over the area in the north-west corner of the appeal site which, on the face of it, appears at some point in time to have been linked to the paddock rather than the main dwelling. In the absence of information relating to these areas of land, I am not in a position to specify with sufficient precision the land which may properly be considered as having been used for residential purposes ancillary to the main dwelling known as Oakmead Farm. It follows that I am not able to issue an LDC for part of the appeal site.
- For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of use of land for ancillary residential purposes to the main dwelling 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.

	<ul style="list-style-type: none"> <li>• <b>COSTS DECISION</b></li> <li>• Mr Allen against Guildford Borough Council</li> <li>• In summary, rather than meeting the threshold of balance of probability, when that test was applied I found that the applicant/appellant's evidence failed to show that the use claimed use had taken place continuously throughout the relevant ten-year period. Indeed, in my view, the case was not even finely balanced: the appeal had no prospect of succeeding on the evidence submitted.</li> <li>• Moreover, contrary to the applicant's assertion, this was not a situation in which the Council had no evidence of its own to contradict that of the applicant/appellant or make his version of events less than probable. In fact, it was the Council that provided the only aerial photographs taken during the relevant ten-year period. Those aerial photographs, taken in 2012 and 2018, were further evidence leading to my conclusion that the claimed use had not subsisted throughout the relevant ten-year period.</li> <li>• In conclusion, I have taken into account the actions of the Council both at the time of the planning application and during the appeal process. I find that the Council did not act unreasonably at either of those times. It follows that, in the absence of any unreasonable behaviour on the part of the Council, an award of costs in favour the applicant is not justified.</li> </ul>	<b>REFUSED</b>
6.	<p><b>Sandra Wey</b>  <b>11 Coriander Crescent, Guildford, GU2 9YU</b></p> <p><b>20/T/00101</b> – The work is described as Oak T28 and Oak 30 propose to fell.</p> <p>Delegated Decision – To Refuse</p> <ul style="list-style-type: none"> <li>• The main issues in respect of this appeal are: the effect of felling the trees on the character and appearance of the area; and, whether the reasons given for their felling justifies that course of action.</li> <li>• Coriander Crescent is a cul-de-sac in a mixed housing development flanked by low evergreen hedging with some ornamental planting in front of the houses. 11 Coriander Crescent is a two-storey property in a corner plot. It has a single garage and parking area to the front with a small garden, and to the rear is a spacious lawn area with a patio and shrub borders.</li> <li>• To the rear of properties 7 to 17 Coriander Crescent grow a row of mature Oaks that form an important backdrop to the dwellings. The trees are also visible from Forster Road to the south and Knox Road to the east and north. Within the garden of No 11 there are five Oak trees, three on the eastern and two on the southern boundaries. It is two of these, T28 on the eastern boundary and T30 on the southern boundary that are the subject of this appeal.</li> <li>• Both trees have been reduced in height and had lower limbs removed in the past. The regrowth from the pruning works has now produced canopies with a natural appearance and both trees appear normally healthy. The trees are significant components of the line of trees and make an important contribution both to the group and to the character and appearance of the local area. The removal of the two trees would cause significant harm to the appearance of the group and its contribution to the character and appearance of the area and the proposed works therefore need clear and convincing justification.</li> <li>• I accept that seasonal litter from Oak trees can be a nuisance. However, issues with leaves and twigs are not uncommon and, while this may cause a maintenance inconvenience including the need to clear gutters and</li> </ul>	<b>DISMISSED</b>

gullies, it goes hand-in-hand with living in an area defined by mature trees that make the locality an attractive place to live. The felling of the two trees would not remove the nuisance caused by litter because of the other mature Oak trees that will remain to the rear of the property. Furthermore, it is not clear to me that other solutions to blocked gutters such as gutter guards have been explored.

- I acknowledge the appellant's willingness to replace the trees with new ones if I were to allow their removal. Replacement planting would improve the age range and species diversity of the area. However, the suggested replacement planting would not reach a similar stature and given that, these trees would not make a similar contribution to the character and appearance of the area. As such, replacement planting would not mitigate the harm that would arise from the loss of these two Oaks in this instance.
- With any application to fell protected trees a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case the trees, although mature, are not overly dominant and not such a source of inconvenience that justifies their felling. The removal of the two trees would result in substantial harm to the character and appearance both of the group of trees and to the area and, in my judgement, insufficient justification has been demonstrated for the proposed works. Accordingly, for the reasons set out above, the appeal is dismissed.