

## Planning Committee

18 May 2022

### 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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<b>1.</b>	<p><b>Mr Nick Williams</b> <b>20 Merrow Croft, Guildford, GU1 2XH</b></p> <p><b>21/P/01261</b> – The development proposed is the construction of a new 3 bedroom residential dwelling on the land to the rear of No. 20 Merrow Croft, Guildford.</p> <p>Delegated Decision: non-determination</p> <p><b>Summary of Inspector's Conclusions:</b></p> <ul style="list-style-type: none"><li>• The appeal was submitted due to the Council failing to make a decision within an agreed period of time. Based on the submitted policies, my site visit and representations from the parties; I consider the main issues to be the effect of the development on (i) the character and appearance of the surrounding area; and (ii) the Thames Basin Heaths Special Protection Area.</li><li>• The appeal site comprises land to rear of No. 20 Merrow Croft. While it has a variety of property styles and designs, Merrow Croft reads as a legible residential development due to the arrangement of street facing dwellings. The appeal site would open onto a cul de sac section of the street where properties currently line the western side of the road.</li><li>• The proposal seeks to erect a dwelling on the eastern side of the cul de sac. Although it would be close to the side boundaries of the site this is a common feature within Merrow Croft, such that it would not appear out of place or result in the site reading as cramped in context. While the Council has also raised concerns that it would obstruct views of Nos. 21 and 22 Merrow Croft, due to the positioning of the proposal within the site and the current presence of vegetation, this alone would not create a change that would significantly impact the overall character or appearance of the immediate area.</li></ul>	<b>Dismissed</b>
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- However, the proposal would result in a northwest elevation of unbroken built form rising above the boundary vegetation, which would read as a dominant and featureless addition to the streetscene. Coupled with the lack of door on the front elevation, and the fact that the proposal would be the only street facing dwelling on the eastern side of this section, this would impact the overall legibility of Merrow Croft. While this design is in part to avoid overlooking, and the side elevation would be experienced largely in passing, it would nonetheless read as an imposing and incongruous feature in the area.
- The appellant has referred to an amended scheme. While this is not the scheme that the Council based its Statement on, it appears this scheme was before the Council during the determination period of the application. This relocates the entrance door to the front elevation. However, due to the presence of hedging screening the ground floor level, the northwest elevation would still appear as a solid stretch of built form which, coupled with the dwelling position on the eastern side of the road, appears out of place.
- For the reasons given above, the proposal would have an adverse effect on the character and appearance of the surrounding area. As such, it would fail to comply with Policy D1 of the Guildford Borough Local Plan: Strategy and Sites 2015 - 2034 (adopted 25 April 2019), Policies G5 and H4 of the Guildford Borough Local Plan 2003, the Residential Design Guide Supplementary Planning Guidance July 2004, the National Design Guide and the National Planning Policy Framework, which together seek to ensure good design.
- The proposal has the potential to lead to increased use of the SPA for recreational purposes due to the additional residential unit in proximity to the SPA. This is not contested by the appellant and, in turn, the proposal could result in potential disturbance to the habitats of the protected bird species. As such, it is not possible to rule out a likely significant effect on the SPA from the proposal, either in isolation or in combination with other plans and projects.
- In terms of mitigation, the Council's Thames Basin Heaths SPA Avoidance Strategy 2009 – 2016 sets out that this would be achieved through a payment towards a Strategic Access Management and Monitoring project (SAMM) and provision of a Suitable Accessible Natural Greenspace (SANG). In this regard I note that the Council has suggested figures for such contributions, which the appellant has agreed are acceptable.
- However, as no section 106 has yet been drafted and signed, I do not have a completed planning obligation before me effectively securing a financial contribution towards a SAMM or SANG. As such, in the absence of appropriate mitigation, I conclude as the competent authority that the proposal would have significant adverse effects on the integrity of the SPA.
- Where suitable mitigation cannot be secured, planning permission should only be granted if there are no alternative solutions, there are

	<p>reasons of overriding public interest, and suitable compensatory measures are secured. There is no compelling evidence to indicate that the proposal is the only solution for such a scheme. In addition, as it is for a single dwelling, imperative reasons of overriding public interest do not exist.</p> <ul style="list-style-type: none"> <li>• For the reasons given I am unable to conclude that likely significant effects on the integrity of the SPA can be excluded. As such, the proposal is contrary to NE4 of the Guildford Borough Local Plan 2003 (as saved by CLG Direction on 24/09/07) and conflicts with saved policy NRM6 of the South East Plan 2009, which seek to protect the Thames Basin Heaths SPA.</li> <li>• For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.</li> </ul>	
<p>2.</p>	<p><b>Mr Robin Lazenby</b>  <b>17 Warwick's Bench, Guildford, GU1 3SZ</b></p> <p><b>20/P/01928</b> – The development for which a certificate of lawful use for development is sought is the construction of a single storey, flat roofed, detached building to provide a garage/bike and bin store, home office and gym, following demolition of the existing garage.</p> <p>Delegated Decision – To Refuse</p> <p><b>Summary of Inspector's Conclusions:</b></p> <ul style="list-style-type: none"> <li>• The description of the development for which a certificate of lawful use or development is sought is both admirably accurate and precise, but at the same time is somewhat cumbersome. Consequently, I will shorten that description to 'outbuilding' for the purposes of my Decision, whilst keeping in mind the totality of the development that is proposed.</li> <li>• The provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such is permitted by Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), subject to the limitations set out at Classes E.1, E.2 and E.3. The Council is satisfied that the proposed outbuilding complies with the limitations at Classes E.1, E.2 and E.3, and I see no reason to take a different view.</li> <li>• The Council accepts that the proposed uses could be considered genuinely incidental to the enjoyment of the dwellinghouse as such. Again, I see no reason to take a different view. The area of dispute is therefore whether the floor space allotted to the proposed uses,</li> </ul>	<p><b>Dismissed</b></p>

individually and collectively, would be reasonably required in order to accommodate them.

- Class E provides for any building or enclosure, swimming or other pool *required* for a purpose incidental to the enjoyment of the dwellinghouse as such (emphasis added). The Oxford English Dictionary (OED) defines 'required' as 'needed for a purpose'. In relation to Class E, the Courts have interpreted 'required' as meaning 'reasonably required'. Put another way, in the context of Class E this translates as reasonably needed for that purpose.
- I have no reason to believe that the proposed garage is excessive in size, taking into account the size of modern family cars and allowing for a modicum of storage. Neither do I consider that the proposed gym is excessive in size in the context of a family dwelling. I am therefore satisfied that the garage and gym are both of a size that is reasonably required for a purpose incidental to the enjoyment of this particular dwellinghouse.
- The situation in relation to the proposed home office is less straightforward. I understand that the appellant and his wife both hold senior positions and that both work from home, one on a full-time basis and the other for the majority of the week. I also understand that these are permanent arrangements. They each require space to go about their separate professions and require ancillary space for this. The home office would also provide additional workspace where their children can study after school and in the evenings.
- The difficulty is that the space allocated for the home office in the outbuilding is quite substantial in the context of a private dwelling. It has a larger floor area than the existing study in the main dwelling. I recognise that in part this might be a result of the ancillary space referred to above, but I have not been provided with details of the respective professions undertaken by the appellant and his wife or any explanations as to why they would require that amount of ancillary space.
- Similarly, no explanation has been given as to why two desks (with computers) are shown on the application drawings when the primary use of the home office is indicated as being by the appellant or his wife in their separate professions. I note from the application drawings that there is already a study within the main dwelling. The inference I draw from the appellant's statement that "each require space to go about their separate professions" is that either the appellant or his wife would use the existing study in the main dwelling, and the other would use the home office in the proposed outbuilding. If that is not the case, then no explanation has been given as why the existing study in the main dwelling could not be used for that purpose.
- Moreover, on the basis of the application drawings, a significant proportion of the floorspace of the home office is taken up by

	<p>circulation space and/or what appear to be storage units. No explanation has been provided to justify what appears from the application drawings to be a profligate use of space for a home office. This is exacerbated by the floor space allocated for the store and the WC which, whilst neither is unreasonable in the context of a private dwelling, are both on the generous side of being reasonable.</p> <ul style="list-style-type: none"> <li>• In appeals against the refusal of an LDC, the burden of proof is on the appellant to show that, on the balance of probability, the development proposed would have been lawful on the date on which the application was made. In this case, the information provided by the appellant is not sufficient to discharge that burden. Consequently, for the reasons given above, I conclude that on the balance of probability the Council's refusal to grant a certificate of lawful use or development in respect of the construction of a single storey, flat roofed, detached building to provide a garage/bike and bin store, home office and gym, following demolition of the existing garage at 17 Warwicks Bench, Guildford GU1 3SZ was well-founded and that the appeal should not succeed. I will exercise the powers transferred to me in section 195(2) of the 1990 Act as amended.</li> </ul>	
<p>3.</p>	<p><b>Mr Daniel Talbot</b>  <b>Greystones, Hogs Back, Seale, Farnham, Surrey, GU10 1JX</b></p> <p><b>21/P/00686</b> – The development proposed is the removal of existing conservatory/W.C &amp; replacement rebuild at ground floor level &amp; porch. Proposed first floor (attic style) extension with dormer/skylight windows.</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 whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan.</li> <li>• The main issues are:</li> <li>• Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the NPPF and development plan policy;</li> <li>• The effect of the proposal on the openness of the Green Belt;</li> <li>• The effect of the proposal on character and appearance of the host dwelling and surrounding area;</li> <li>• if the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.</li> <li>• The appeal property comprises a vacant detached bungalow located on the north-western side of Hogs Back within a small grouping of dispersed residential dwellings in the Green Belt. The property is set back from the road and is accessed via a gravelled driveway. It</li> </ul>	<p><b>Dismissed</b></p>

features a hipped roof and a small conservatory. On my site visit I observed that land levels within the plot rise sharply along the north-western, northern and north-eastern boundaries of the site.

- Paragraph 149 of the NPPF states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. Policy P2 of the *Guildford Borough Local Plan: Strategy and Sites 2019* (LPSS) is consistent with this in that it gives a list of forms of development that are not inappropriate. One exception is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Having regard to extensions to buildings, Policy P2 of the Local Plan states that the “original building” shall mean the building as it existed on 1 July 1948.
- Whilst the Council states that the proposed extensions would represent an 82.8% increase in floorspace over the original building, the appellant contends the total uplift in floorspace would only represent 34.3%. In having regard to the appellant’s calculations, I note that the Gross Floor Area (GFA) of the existing attic space had been included in the total existing GFA by the appellant, despite there being no evidence that the area amounted to usable or readily accessible and habitable floorspace. This consideration would explain the discrepancy between the two figures quoted above. I have therefore found the Council’s calculations to be a more accurate reflection of the increase in floorspace, and have utilised these in my decision-making.
- Whilst the development plan does not refer to a defined way of assessing and measuring proportionality, national guidance does give some guidance on measuring ‘proportionality’. The NPPF refers to ‘size’ which can, in my view, refer to volume, height, external dimensions, footprint, floorspace or visual perception.
- The proposed uplift in floorspace would be significant with the resultant GFA being almost double that of the existing. An increase in floorspace of this scale would not be considered to be proportionate. In any case, the increase in built form at first floor level of the dwelling would result in greater visual bulk. Although the appellant considers that the extensions would be proportionate, the considerable alterations to the roof structure and expansion of roofscape would be excessive. I acknowledge the footprint of the dwelling would not expand and the ridge height of the roof would not be raised however the resultant building would nevertheless still appear significantly larger in volume. Therefore, I find that the scale of the extensions would subsume the original dwelling and would therefore appear to be disproportionate.
- On the basis that the proposed extensions would result in disproportionate additions over and above the size of the original dwelling, I therefore find the proposal would be inappropriate development in the Green Belt and would conflict with Paragraph

149(c) of the NPPF, as detailed above, and Policy P2 of the LPSS which seeks to resist inappropriate development in the Green Belt.

- Openness is identified in the NPPF as one of the Green Belt's essential characteristics. The additional bulk and mass as a result of the extensions would materially impact on openness in a spatial aspect resulting in limited harm to the Green Belt. Furthermore, the significant increase in the volume of Roofscape means the proposal would also have a greater visual impact on the openness of the Green Belt although this would be limited as there is thick vegetation affording good screening along much of the site's boundaries. The southern approach to the house from the front gate remains open however, and the resultant dwelling would be easily visible from Hogs Back.
- For these reasons, the proposed development would result in an adverse impact on the spatial and visual openness of the Green Belt.
- The surrounding area is characterised by large two-storey properties set within spacious and verdant plots. The appeal property appears to be fairly innocuous given its simple design and low-lying roof profile. Whilst I recognise that the proposed design has attempted to draw inspiration from neighbouring properties such as Downhill Lodge to the south-east of the site by including a hip to gable roof extension and dormer windows, I am not satisfied the resultant roof profile ties in with the character of the host dwelling and surrounding area. Indeed, the roof alterations would be considerable and would result in a clumsy and top-heavy building. I concur with the Council in that the combination of a hip to gable alteration, a large pitched roof extension, and the erection of three dormers, would be excessive and would dominate the host dwelling and appear contrived in respect of the resultant design.
- Furthermore, whilst the new front porch would have an attractive traditional design and would match the design of two of the dormers, it would not match the design of the dormer as proposed within the northern elevation. This would accentuate the disordered appearance of the proposed dwelling.
- The appearance of the resultant property would be readily visible to surrounding occupiers as well as from Hogs Back. The extensions would be read as disproportionate and would constitute incongruous additions that would have an adverse visual impact on the character and appearance of the area as well as that of the host dwelling.
- It would conflict with Policy D1 of the LPSS, Saved Policies H8 and G5 of the Guildford Local Plan (2003), the NPPF and the 'Residential Extensions and Alterations' Supplementary Planning Document (SPD) which together seek to ensure proposals are well designed and contribute positively to the character and appearance of the surrounding area in which they lie.
- I consider that the development causes harm to the Green Belt by way of its inappropriateness and to its openness, and substantial weight

	<p>must be given cumulatively to this harm. There would also be an adverse impact on the character and appearance of the area and the host dwelling. The weight attributed to the other consideration in this case is limited and does not outweigh the substantial harm I have identified. I conclude therefore there are no very special circumstances to justify the development.</p> <ul style="list-style-type: none"><li>● <b>Costs Decision</b></li><li>● Mr T Shea for a full award of costs against the Council.</li><li>● As there is an extensive planning history associated with the application site, the applicant contends in this case that in coming to a decision that the Council relied on previous assessments of the site. Moreover, that a site visit was not carried out by the Council to assess any visual impacts of the proposed development, particularly in respect of new planting on the site. As such, the applicant suggests that his application was prejudiced by previous applications and appeals; the consequence of which led to an unnecessary and costly appeal submission.</li><li>● While the Council acknowledge that a site visit did not take place due to the personal circumstances of the allocated case officer, the applicants' submission is nonetheless rebutted by the Council. The Council argue that alongside its' previous knowledge of the site that the new planting at 'Christmas Hill' was also taken into consideration during the course of the application. Furthermore, even if a site visit had been carried out it would not have resulted in an alternative decision. It follows then that the Council does not accept that it has acted unreasonably or caused the applicant to incur unnecessary or wasted expense.</li><li>● It is understandable that the day to day practise of the Council was likely to have been compromised during the height of the Covid pandemic. However, given the spatial and visual elements that were under scrutiny as part of not only the planning application, but previous applications and appeals, it is unlikely that the Council could have fully appreciated to what extent the effect of the revised proposal would or would not have on the character and appearance of the area and the Area of Great Landscape Value. Therefore, in this particular case, notwithstanding prior knowledge of the site, it would have been unreasonable for the Council to rely solely upon the planning history of the site and desk-top type information when coming to a decision.</li><li>● Accordingly, I conclude that the Council has acted unreasonably and caused the applicant to submit the appeal resulting in the applicant incurring unnecessary and wasted expense.</li><li>● I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described by the PPG, has been demonstrated and that a full award of costs is justified.</li></ul>	<p><b>*Allowed</b></p>
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