

## Planning Committee

8 September 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 and Mrs De Speville</b></p> <p><b>8 Blackwell Avenue, Guildford, Surrey, GU2 8LU</b></p> <p><b>20/P/00996</b> – The use for which a certificate of lawful use or development is sought is the change of use from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule.</p> <p>Delegated Decision: To Refuse</p> <p><b>Summary of Inspector's Conclusions:</b></p> <ul style="list-style-type: none"><li>• The change of use of the dwelling from a use within Class C3 (dwellinghouses) to a use within Class C4 (houses in multiple occupation) would normally comprise permitted development under Class L, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, the Council suggest that the change of use would not be lawful until they have granted approval under Regulations 75-78 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) confirming that the proposed development would not adversely affect the integrity of the Thames Basin Heaths Special Protection Area (TBHSPA).</li><li>• The main issue in this appeal is whether the Council's decision to refuse to grant the LDC for this reason was well-founded.</li><li>• The site is located within 5km of the TBHSPA, the zone of influence, where the Avoidance Strategy sets out that some forms of development would have a significant effect on the integrity of the TBHSPA in combination with other plans or projects.</li><li>• Paragraphs 2.10 and 2.14-2.15 of the TBHSPA Avoidance Strategy 2017 Supplementary Planning Document (the Avoidance Strategy) suggest development that can have a significant effect on the integrity of the TBHSPA include houses in multiple occupation.</li><li>• In this case, the proposal would contain six bedrooms and the Avoidance Strategy makes a clear assumption that this would accommodate an additional person beyond the numbers in an equivalent dwellinghouse. These assumptions are not backed up by evidence as the Avoidance Strategy states that occupancy data for homes larger than five bedrooms is not available.</li><li>• However, taking into account the precautionary principle, it is not an unreasonable assumption and no evidence has been presented to dispute</li></ul>	<b>DISMISSED</b>
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	<p>it. I understand that Natural England agreed the Avoidance Strategy prior to adoption. On that basis, the Avoidance Strategy assumes there is likely to be a significant effect in combination with other plans or projects.</p> <ul style="list-style-type: none"><li>• consider it is likely that there would be a significant effect on the TBHSPA, either alone or in combination with other plans or projects, such that approval is required under regulation 77 of the Habitats Regulations. As no approval has been given under that regulation, the change of use of the property from use class C3 (dwellinghouses) to use class C4 (houses in multiple occupation) cannot comply with the requirements of article 3(1) of the GPDO. Consequently, such a change of use cannot be lawful.</li><li>• For these reasons, I conclude that the Council's decision to refuse to grant the LDC was well-founded.</li></ul>	
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