

Planning Committee

6 October 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>Rockwood Homes Ltd Burpham Court Farm, Clay Lane, Jacobs Well, Guildford GU4 7NA</p> <p>20/W/00060 –The development proposed is described in the application form as ‘conversion of existing agricultural buildings (referred to as buildings 1 to 4) to form 4 no. residential dwellings’.</p> <p>Delegated Decision: To Refuse</p> <p>Summary of Inspector’s Conclusions:</p> <ul style="list-style-type: none">• The main issue is whether the proposals constitute permitted development under the GPDO, taking account of the relevant limitations and conditions, having particular regard to: (i) the extent of the proposed works and (ii) flood risk.• Overall, the proposed conversion works would be reasonably necessary to convert the buildings to dwellinghouses in each case. The internal works would not significantly alter the main structure of the buildings and the external works would be fairly limited in their nature and within the permitted criteria of Class Q(b), being to the extent reasonably necessary for each of the buildings to function as a dwellinghouse.• The proposals would not, whether considered individually or cumulatively, amount to a rebuild of the existing buildings that goes beyond what is reasonably necessary for conversion to residential use. Furthermore, the works would not amount to either a complete or substantial re-building of the pre-existing structures, or in effect, the creation of a new building or buildings.• The proposed building operations would be reasonably necessary to convert the buildings to dwellinghouses and would fall within the scope of works allowed under Class Q (b).• Three of the proposed buildings to be converted would be located in Flood Zone 3(b) with the remaining building in Flood Zone 3(a). The proposed change of use would introduce a ‘more vulnerable’ residential use for the buildings in comparison to the previous ‘less vulnerable use’. In such cases, the PPG₂ states that the applicant will need to show that future users of the development would not be placed in danger from flood hazards throughout its lifetime and that, depending on the risk, mitigation measures may be needed.• Drawing upon the Officer’s report and in the absence of any subsequent planning appeal statement, the Council’s main objection appears to relate to there not being a satisfactory access/egress route from each dwelling	*ALLOWED
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	<p>and the lack of sufficient details of an evacuation plan, along with the enforceability of the conditions suggested by the EA.</p> <ul style="list-style-type: none"> • As referred to above, the Council has recently granted planning permission for the conversion of building 1 into a residential dwelling. This building is located the furthest of the appeal buildings from Flood Zone 1. As such the practicality of access and egress from other buildings would be no worse than that for building 1 as recently permitted by the Council. Whilst this building is located in Flood Zone 3a rather than 3b the appellant has demonstrated that, through raised ground floors, buildings 2, 3 and 4 would be likely to be safe from flooding of the habitable areas of the buildings whilst also providing a safe refuge during any significant flooding. • I am satisfied that, subject to the imposition of the conditions discussed above the proposals would be appropriately flood resilient and would not be likely to result in unacceptable flooding risks at the site or elsewhere. • The site is located within 5km of the Thames Basin Heath Special Protection Area. Article 3(1) of the GPDO grants planning permission for permitted development subject to Regulations 75-78 of the Conservation of Habitats and Species Regulations 2017. Although not a matter for consideration in this appeal, permitted development cannot be lawfully begun until the developer has made a Regulation 77 application and the local planning authority is satisfied that the development would not have an adverse effect on the integrity of the protected habitat. • The proposal satisfies the requirements of the GPDO for change of use from agricultural buildings to dwellinghouses, as set out under Schedule 2, Part 3, Class Q. Therefore, the appeal is allowed and prior approval is granted. 	
<p>2.</p>	<p>355 Automobile Restorations Ltd The Hayloft, Water Lane Farm, Water Lane, Albury, GU5 9BD</p> <p>20/P/00968 – The development proposed is change of use from B8 storage to B2 (Light Industrial) for classic and sports car restoration.</p> <p>Planning Committee: 6 Jan 2021 Officers Recommendation: To Approve Committee’s 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 proposal on the rural character of the area in relation to noise, fumes and vehicle movements and the living conditions of occupiers of nearby dwellings in relation to noise and disturbance. • The appeal relates to a detached rectangular building positioned between two similar buildings. These were originally agricultural buildings but have been used for storage purposes in recent years. There is a vehicular access and parking area to the southern end of the building. To the south of this and to the west of the site are dwellings. The surrounding area is rural in character comprising open fields with blocks of woodland on undulating land. The site is located within the Green Belt, within an Area of Outstanding Natural Beauty (AONB) and within an Area of Great Landscape Value (AGLV). Water Lane is narrow and in a valley bottom with rising land to both sides. • A steel extraction flue with an accelerator has been added to the northern end of the building serving an internal paint spray booth. The end of the flue 	<p>*ALLOWED</p>

does not rise significantly above the roof eaves. Whilst visible from close quarters the flue is not a conspicuous feature from vantage points beyond the site. No other external alterations are proposed to the building other than a small enclosure on the northern end elevation. The parking area between the building and a fence to the nearest residential garden is closely aligned to the building and would have been available for parking when the appeal site had a lawful storage use. The appearance of the site would be little changed as a result of the proposal. Its setting remains as part of a small miscellany of employment activities within a cluster of farm and former farm buildings of varying size. The physical changes involved in the proposal do not significantly change or detract from the rural appearance or character of the area.

- The appellant has explained that the restoration of customers' cars is a time consuming business and that therefore there is not a high turnover of cars. Staff are likely to drive to work but the overall volume of vehicle movements associated with the development is unlikely to be materially different from other employment activities that could lawfully take place at the site. The appellant's traffic survey indicates an average of 66 vehicle movements for a week to and from the appeal site. This is comparable to traffic movements associated with the farm and significantly lower than those associated with the totals for both dwellings and other businesses in the immediate area. The proposal is to contain noise generating activities and paint spraying within the building, matters that can be adequately controlled by planning conditions. My findings are that noise, fumes and vehicle movements associated with the development would not adversely impact on the rural character of the area, nor how it is experienced by pedestrians, cyclists and horse riders passing nearby on the network of bridleways.
- The evidence from the appellant's sound level recordings indicates that noise levels from the spray booth extractor fan, from sanding and dust extraction and from grinding and panel beating are all close to the ambient noise level in Water Lane and that traffic and in particular tractors produce higher noise levels. This corroborates the findings from my own site visit that noise from vehicles associated with other activities in the vicinity and from passing traffic exceeded that from the appellant's industrial activities. Even allowing for the proximity of the nearest dwellings, such noise levels would not result in a material nuisance for local residents.
- The proposal is for the paint spraying of vehicles to take place inside and only within the paint spray booth. I note comments made on behalf of the Council that dispersal of odours depends on wind speeds and directions but have no reason to disagree with the findings of the Council's Environmental Health Officer that subject to appropriate planning conditions there should not be material nuisance to local residents from toxic smells.
- There would not be conflict with Saved Policy G1(3) of the Guildford Borough Local Plan (2003) which requires "*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*". The impacts of pollution on health, living conditions and the natural environment referred to in Paragraph 185 of the Framework should be capable of being satisfactorily mitigated by the use of suitable planning conditions.
- The proposal, subject to suitable planning conditions would not be detrimental to the rural character of the area or to the living conditions of

	<p>occupiers of nearby dwellings in relation to noise, fumes, disturbance or vehicle movements. For the reasons given appeal should be allowed.</p>	
<p>3.</p>	<p>Mr and Mrs De Speville</p> <p>8 Blackwell Avenue, Guildford, Surrey, GU2 8LU</p> <p>20/P/00996 – 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>Summary of Inspector’s Conclusions:</p> <ul style="list-style-type: none"> • 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). • The main issue in this appeal is whether the Council's decision to refuse to grant the LDC for this reason was well-founded. • 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. • 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. • 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. • However, taking into account the precautionary principle, it is not an unreasonable assumption and no evidence has been presented to dispute 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. • 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. 	<p>DISMISSED</p>

	<ul style="list-style-type: none"> For these reasons, I conclude that the Council's decision to refuse to grant the LDC was well-founded. 	
4.	<p>Mr Yiu Wan 13 Epsom Road, Guildford GU1 3JT</p> <p>20/P/01877 – The development proposed is the erection of a two-storey extension and three storey addition to the existing building to form a one-bedroom flat and an additional bedsit with reconfiguration of existing two-bedroom flat to form a one-bedroom flat, following the demolition of the existing rear single storey extension. The existing ground floor commercial use is to be reduced in size and changed from A3 to A1/A2 use.</p> <p>Delegated Decision: To Refuse</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none"> The main issues are; whether the proposed development would preserve or enhance the character or appearance of the Waterden Road Conservation Area (WRCA), The effect of the proposal on the living conditions of 15 Epsom Road (No 15), with particular regard to daylight, sunlight and outlook, and Whether the proposal would affect the integrity of the Thames Basin Heaths Special Protection Area (TBHSPA). The appeal site is within a parade of retail units on the edge of Guildford town centre. The two-storey row is arranged around the junction where Epsom Road meets London Road. The parade is of a traditional design, located on a prominent corner site, and makes a positive contribution to the character and appearance of the WRCA. The two-storey element of the scheme would be of a sizeable depth and height resulting in a sizeable addition to the building. This would be disproportionate to its existing simple form of the host building. Furthermore, the second-floor roof element would add significant further mass to the existing roof with a dominant and disproportionate projecting gable roof form. The aggregated mass of both components would be substantial when taken in combination. This would be at odds with the generally discrete form of existing rear additions and would especially dominate the roof form of the terraced row. Although the proposal would include matching materials and a tiled roof, these design merits would not negate the harm that would be caused by the proposed anomalous addition within this context. Consequently, the proposed development would neither preserve nor enhance the character or appearance of the conservation area. Accordingly, the proposal would not satisfy saved policy H4, HE7 and G5 of the LP1 and policy D1 of the Guildford Borough Local Plan Strategy and Sites 2015-2034 (2019)(LP2). These policies seek, inter alia, for development to be in scale and proportion with the surrounding area and to preserve or enhance the character or appearance of the conservation area. These policies are in conformity with the Framework which seeks development to be sympathetic to local character and history. The rear elevation of No 15 includes windows that serve residential accommodation. The proposed rear extension would place a large and bulky addition within close proximity of these rear windows. This rear projection would detrimentally reduce the field of vision of occupiers of the flat and create a dominating sense of enclosure for its occupiers. This would have a 	DISMISSED

	<p>substantial and demonstrable effect on both the occupier's outlook and access to daylight.</p> <ul style="list-style-type: none"> • There is some dispute between parties as to whether the second-floor window serves a separate flat or acts as a light well to serve the first floor flat. In either event, the harm found to the living conditions would not be materially reduced whether the second-floor window serves a habitable room or not. This is because of the overall scale and proximity of the proposal and its primary and overt impact on first floor windows. • As such, the proposal would result in significant harm to the living conditions of occupiers of No 15 with respect to outlook and daylight. Consequently, the proposed development would not accord with saved policies H4 and G1(3) of the LP1 which seek development to have no unacceptable effect on the amenities of occupiers of buildings in terms of daylight. These are generally consistent with the Framework which seeks to achieve a high standard of amenity for existing and future users. • The proposal would harm the character and appearance of the area and living conditions. It would therefore conflict with the development plan when taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed. 	
<p>5.</p>	<p>Mr Paul Boag (Appeal A) and Mrs Melanie Boag (Appeal B) Land at Heath Cottage, Cuttmill Road, Shackleford, Godalming GU8 6BJ</p> <p>Appeal A is made by Mr Paul Boag and Appeal B by Mrs Melanie Boag against an enforcement notice issued by Guildford Borough Council. The breach of planning control as alleged in the notice is: <i>Without planning permission the construction of three extensions to the property in approximate locations in green and marked A, B and C [on the plan attached to the notice].</i> The requirements of the notice are:</p> <ol style="list-style-type: none"> Demolish in their entirety the unauthorised extensions in the approximate location outlined in green and labelled A, B and C; Upon demolition, reinstate the affected walls and roof of the dwellinghouse to what existed prior to the works commencing as per plan SHA 1359/3 Rev A on application 05/P/00377 which is attached to this Notice, using materials to match the existing dwellinghouse; Permanently remove from the land all materials, rubble, rubbish and debris arising from steps (i) to (ii). <ul style="list-style-type: none"> • The period for compliance with the requirements is 6 months. • Both appeals are proceeding on the grounds set out in section 174(2 (a), (f) and (g) of the Act. Since appeals have been brought under ground (a), applications for planning permission are deemed to have been made under section 177(5) of the Act. <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none"> • The main issues are whether the appeal development would be inappropriate development in the Green Belt, having regard to the Framework and the development plan, and the effect of the appeal development on the openness of the Green Belt and purposes of including land within it; • The effect of the appeal development on the character and appearance of the property; 	<p>APPEALS A AND B DISMISSED</p>

- The effect of the proposal on the character and appearance of the Surrey Hills Area of Outstanding Natural Beauty (the 'AONB') and Area of Great Landscape Value (the 'AGLV'); and
- If the proposed development constitutes inappropriate development in the Green Belt, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations which amount to very special circumstances required to justify a grant of planning permission for the alleged development.
- The appeal site comprises a detached 'replacement' two-storey dwelling to which the three appeal extensions have been added to the rear and sides. There is also a detached timber garage/store building and a detached pool house that have been erected, but these do not form part of the appeal before me. The dwelling occupies a large plot surrounded by woodland and accessed via a private track through woodland off Cuttmill Road, which is a rural lane. There is some sporadic housing along the road. As the site is surrounded by woods and fields it clearly occupies a countryside location. It is also located within the Metropolitan Green Belt and the Surrey Hills AONB.
- At the Hearing the appellants accepted the Council's position that the previous dwelling on the site was the 'original building' for the purposes of the Framework and Policy P2 of the new Local Plan, rather than the replacement dwelling as it was first built. In the High Court Consent Order of 2019 submitted by the Council it was conceded by the Secretary of State² that for the purposes of interpreting Policy P2 [only] the 'original building' is the one that existed on the site on 1 July 1948, and not the replacement building.
- There is no dispute between the parties that the combined floor area of the three appeal extensions A, B and C is circa 287 sqm. This gives the 'existing' dwelling a total floor area of about 530 sqm, compared with a floor area of approximately 243 sqm as built. This more than doubles the floor area of the approved replacement dwelling, which is already more than double the floor area of the pre-1948 dwelling. Therefore, based on floor area alone the three extensions represent a substantial enlargement of the dwelling.
- Taking account of all these components, alone and in combination, I conclude the appeal development amounts to a substantial enlargement of the dwelling that represents disproportionate additions over and above the size of the previous and replacement dwelling as originally built. Consequently, the development constitutes inappropriate development in the Green Belt.
- The appeal site may be small in area compared to the overall size of the Metropolitan Green Belt, but the appeal extensions nonetheless, individually and in combination, are physically present and occupy space on the ground that was previously free of built development. They also have volume and have changed the shape and massing of the dwelling. The extensions have therefore significantly reduced the spatial and visual openness of the Green Belt.
- Furthermore, whilst the appeal extensions are sited within the private garden and curtilage of the property, they physically extend the footprint of the dwelling and take built form further towards the adjacent woodland and surrounding countryside. As such, the appeal development also fails to safeguard the countryside from encroachment.
- I find the appeal development represents disproportionate additions over and above the size of the previous or replacement dwelling as originally built. As such the development does not fall within the exception set out in paragraph 149c) of the Framework. It is therefore inappropriate development in the

	<p>Green Belt for the purposes of Policy P2 and the Framework. There is also a reduction in openness and conflict with one of the purposes of including land within the Green Belt contrary to paragraphs 137 and 138 of the Framework, respectively.</p> <ul style="list-style-type: none"> • By not following the guidance in the design SPD, I find Extensions A and Chave caused unacceptable harm to the character and appearance of the dwelling. Accordingly, they are in conflict with saved Policy G5 of the old Local Plan and Policy D1 of the new Local Plan, which collectively seek to ensure development is of a high quality that respects the context, scale, proportions and materials of the surrounding environment. • Extension B is a simple single storey extension on the rear elevation that does not interfere with the front elevation of the property. Whilst it is has a sizeable footprint, it is a relatively lightweight structure that is subservient to the dwelling. In isolation, Extension B does not adversely affect the character or appearance of the dwelling to contravene saved Policy G5 of the old Local Plan and Policy D1 of the new Local Plan or the guidance in the design SPD, whose aims are outlined above. • There was originally a dwelling on site. The approved replacement dwelling was double in size and the appeal extensions effectively double the size of the replacement dwelling. Whilst there are no public views of the site and the materials used for the extensions harmonise with the dwelling and are of a high design quality, the extensions nonetheless represent a sizeable amount of built development, with the carer's wing appearing as a separate dwelling. • For the reasons given I conclude that the appeals should not succeed. I shall uphold the enforcement notice with variation and refuse to grant planning permission on the deemed applications. 	
<p>6.</p>	<p>Mrs Ann Thomas Oak End, Oak Tree Close, Jacob's Well, Guildford, Surrey GU4 7PU</p> <p>20/P/00541 - The development proposed is erection of three dwellings following demolition of existing dwelling and outbuildings.</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 development on (a) the character and appearance of the area in relation to the site's layout and the scale of built form, and (b) the integrity of a Special Protection Area (SPA). • Oak End is a detached bungalow on a deep plot at the southern end of Oak Tree Close, a private road parallel to Woking Road and separated from it by a belt of trees. There are detached and semi-detached dwellings with comparable long back gardens to the eastern side of the Close. To the south of the site is more recent housing built to a higher density. Adjacent to Oak End are semi-detached houses 1 and 2 Finglebridge Cottages and at Malvern and Evesham which have shorter back gardens; vehicular access is direct from Woking Road. To the rear of these houses are semi-detached and terraced houses in Brookside, also with modest rear gardens. To the rear of Brookside and the appeal site is a vacant former commercial yard. • There are several similarities between the proposed dwellings and the more recent developments to the south. The front and rear walls to the proposed frontage houses would align with those of 1 and 2 Finglebridge Cottages and there would also be alignment between the proposed rear detached dwelling and the adjacent semi-detached houses fronting 	<p>DISMISSED</p>

Brookside. The back to back facing distances between the proposed dwellings would be similar to that on the adjacent dwellings and garden sizes would be comparable. The massing of the proposed dwellings would be a little smaller than those of adjacent buildings, but there are variations in design, size and form in the immediate vicinity. The larger house proposed to the rear of the site would reflect the size of detached frontage dwellings to the north.

- But there would also be several differences between the proposed dwellings and those to the south of the site, mainly arising from access arrangements. Whereas the adjacent dwellings all have vehicular accesses to their frontages, the proposed detached house would rely on a tandem access arrangement with a driveway to the side of the house on plot 1 leading to parking and turning areas between the dwellings. This would increase the proportion of hard surfaced areas required and constrain the width of land otherwise available for the houses on plots 1 and 2.
- The driveway would also pass close to the side entrance and back garden to 'Edgewood' the adjacent house to the north, previously known as 'Grouville'. Edgewood is set deeper within its plot than the proposed frontage houses and there would be a closer overlooking relationship between the rear windows at Edgewood and the front bedroom window to the proposed detached house. A garden tree has been removed that would have helped to filter these views and to soften the appearance of the development. The scale of the proposed dwelling at the rear of the site would be similar to that of some dwellings fronting Oak Tree Close to the north, but its context as a backland dwelling with modest garden areas would not reflect the more generous setting of these larger dwellings.
- In all these respects, the proposed development would result in a relatively cramped layout with a greater proportion of hard surfaced areas and a harsher appearance compared with neighbouring developments. Whilst views of the area between the proposed building would be mainly private rather than from public land, these differences would nonetheless detract from the pleasant residential character of the area.
- The proposal would thereby conflict with Policy D1 of the Guildford Borough Local Plan: Strategy and Sites (adopted 2019) which requires all new development to achieve high quality design that responds to the distinctive local character (including landscape character) of the area in which it is set. There would also be conflict with parts of Saved Policy G5 of the Guildford Borough Local Plan 2003 (GBLP) relating to respect for the context of the development, space around buildings and the layout of the site.
- The application site is located within the 400m – 5km buffer zone of the Thames Basin Heaths Special Protection Area (TBHSPA) within which Natural England advise that new residential development has the potential to significantly impact on the integrity of the site through increased dog walking and recreational use. The appellant has entered into a S.106 Agreement with the Council to mitigate impacts in accordance with an adopted TBHSPA avoidance strategy. This would involve paying contributions towards "Strategic Access Management and Monitoring" (SAMM) and "Suitable Accessible Natural Green Space" (SANGS).
- These contributions would satisfy the three tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations (2010) and would address the Council's concerns in its second refusal reason. However, I have not undertaken an Appropriate Assessment in respect of the Habitat Regulations as the appeal is to be dismissed for other reasons.

	<ul style="list-style-type: none"> • The proposal would result in the net increase of two dwellings which would contribute towards the general need for additional homes. I note that the Council can demonstrate a five year housing land supply, so the tilted balance at Paragraph 11 of the Framework does not apply. In my judgement, the benefit of two additional homes does not outweigh the harm arising to the character and appearance of the area. The development would result in an overly cramped layout that would be detrimental to the character and context of the surrounding area. • I conclude that the appeal should be dismissed. 	
<p>7.</p>	<p>COSTS APPEAL Mr W Gong Appeal Withdrawn against Guildford Borough Council for refusal of application 20/P/01719 32 Queen Eleanors Road, Guildford</p> <p>20/P/01719 - Conversion of the dwelling house to create 1 additional residential unit.</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none"> • All the available evidence has been carefully considered. Although the Council are seeking a full award of costs it has not been alleged that the appeal was unreasonably made at the outset and that it did not have a reasonable prospect of success. The decisive issue is considered to be whether or not the appellant acted unreasonably, with the result that the Council were put to unnecessary expense, by withdrawing the appeal when he did. The guidance at paragraphs 052 & 054 of the costs policy guidance is relevant. Paragraph 054 states that if an appeal is withdrawn without any change in the planning authority's case, or any other material change in circumstances relevant to the planning issues arising on the appeal, an award of costs may be made against the appellant. The relevant circumstances, leading to the withdrawal of the appeal, have therefore been carefully examined. • It is noted that the appeal was submitted on 8 February 2021 and was accompanied by a statement of case which included an application for an award of costs against the Council. The Inspectorate's procedural "start date" letter of 12 April 2021 explained that the appeal would be decided via an exchange of written representations and that arrangements would be put in hand for a site inspection by a Planning Inspector. A timetable was set for the submission of appeal documentation. The Council was required to submit a completed appeal questionnaire and a statement of case. The letter to the appellant drew attention to the guidance on awards of costs and warned that withdrawal of the appeal, at any stage of the proceedings without good reason, might result in a successful application for an award of costs. • The Council proceeded to submit the appeal questionnaire, their statement of case and a response to the appellant's costs application. The appellant submitted final comments on 25 May 2021 and, on 26 May 2021, he provided the Inspectorate with confirmation that the relevant Planning Inspector would be able to gain access, to carry out a site inspection, on 10 June 2021. However, by letter dated 23 June 2021 the appellant informed (without explanation) of the decision to withdraw the appeal. • Having noted the reasons stated above it is concluded that the appeal was not withdrawn as a result of a material change in the Council's case or any other material change in circumstances relevant to the planning issues 	<p>COSTS AWARDED TO GUILDFORD BOROUGH COUNCIL</p>

arising on the appeal. It was withdrawn in the light of perceived changes in the housing market and to pursue alternative proposals with the Council. However, these are not matters which are considered to constitute “good reason” for withdrawal. The decision to appeal should not be taken lightly and the appellant should have been sure of his position and commitment, from the outset, to pursue the appeal to a formal determination. The perceived changes to the housing market and decision to pursue alternative proposals with the Council does not amount to a material change in circumstances. The withdrawal of the appeal was therefore unreasonable with reference to paragraph 054 of the costs policy guidance and caused the Council to incur wasted expense in the appeal proceedings.

- In the circumstances described an award of costs is considered justified. As to the extent, a partial award of costs is being made from 26 April 2021 (inclusive). This allows a nominal period of 2 weeks for the appellant to fully consider the warning on costs contained in the Inspectorate’s procedural letter of 12 April 2021 and to decide whether or not to proceed with the appeal. If he had withdrawn at that stage of the appeal proceedings the Council’s expense would have been minimised.
- For these reasons it is concluded that a partial award of costs against the appellant, on grounds of “unreasonable” behaviour resulting in unnecessary or wasted expense, is justified in the particular circumstances.
- Accordingly, the Secretary of State for Housing, Communities and Local Government in exercise of his powers under section 250(5) of the Local Government Act 1972, and sections 78 and 322 of the Town and Country Planning Act 1990, and all other powers enabling him in that behalf, **HEREBY ORDERS** that Mr W Gong shall pay to Guildford Borough Council their costs of the appeal proceedings before the Secretary of State limited to those costs incurred from 26 April 2021 (inclusive); such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in paragraph 1 above.