

Planning Committee

1 December 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>Mr Alexander Stewart Clark Valentines Farm, Rose Lane, Ripley, Woking, GU23 6NE</p> <p>19/P/01881 – The development proposed is the enclosure of Barn B and change of use of the whole barn (comprising Barn A and Barn B) from light industrial use to a mix of general industrial (B2) and storage and distribution (B8) uses, the division of the barns into 8 No. separate units (4 No. units in Barn A and 4 No. Units in Barn B) and the installation of 2 No. extractor fan chimneys on the south-facing roof of Barn A.</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 proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.• The effect on the character and appearance of the area,• The effect of development related traffic on highway safety,• The effect on the living conditions of neighbouring occupiers in relation to noise, disruption and fumes.• The enclosure of Barn B with cladding and the sub-division of both barns amounts to alterations to the building. These alterations have not increased the internal floor area of the building nor its mass. As a result, these alterations do not amount to disproportionate additions over and above the size of the original building and the development falls within this stated exception.• I have been provided with a number of references to appeal and High Court judgements: notably, <i>Lee Valley Regional Park Authority, R (on the application of) v Epping Forest DC and another</i> and ; <i>Bromley LBC v SSCLG judgement [[2016] EWHC 595]</i> and; appeal decision <i>Ref APP/G2245/W/19/3243177</i>. In the <i>Lee Valley</i> judgement it was determined that “<i>once a particular development is found to be, in principle, appropriate, the question of the impact of the building on openness is no longer an issue.</i>”• I conclude on this issue that there is no need to further assess the effects of the development in relation to openness and that the development is not inappropriate within the Green Belt.	<p>*ALLOWED</p>
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- The enclosure of Barn B, the subdivision of both barns and the likely associated greater activity outside the building does not result in a material change to the character and appearance of the site or to a material adverse impact on the rural surrounds. The proposal does not therefore conflict with Policy D1 of the LPSS or with those parts of Saved Policy G1 of the Guildford Borough Local Plan (2003) (GBLP) that require development to reflect the distinct local character of an area. Neither would there be conflict with the parts of LPSS Policy E5 and the Framework that support economic growth including within rural areas.
- The Council has referred to changes in character arising from significant storage associated with the uses, the ever increasing expansions to the south and west and the metal enclosure of the barns as opposed to the timber cladding shown on the plans for the change of use. It would be possible to control external storage with a planning condition as with the implemented permission. If there are breaches of planning control associated with the present appearance of the site, then it is open to the Council to consider the expediency of appropriate enforcement action, but the site nonetheless now has an industrial character.
- Paragraph 111 of the Framework states that “*development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*”. The impacts would not be unacceptable in my judgement. The proposal would not be contrary to section nine of the Framework, to the objectives of Policy ID3 of the LPSS or to the third Surrey Local Transport Plan (2011) in relation to highway safety.
- The nearest residential properties are The Cottage, a detached house close to the access on to Rose Lane, and The Paddocks, a caravan site on the opposite side of the access track. Vehicles accessing the appeal site would pass near to these residences but even allowing for some change in the number and nature of these vehicle movements, the impact in relation to increased noise and disruption is unlikely to be materially different from that arising in relation to the lawful industrial use of the site.
- The barns are sited a considerable distance from these nearest residences. Traffic noise from the adjacent busy A3 would to some degree mask any noise arising from activities within the barns, even with the doors to individual units open. The B2 general industrial activities proposed have the potential to result in a greater level of noise and disturbance than the lawful B1(c) light industrial use which by definition would be compatible with location within a residential area. But the site is not located within a residential area and the distance to the nearest residences is such that some increase in noise at the barns would be most unlikely to significantly affect the living conditions within these residences.
- The paint spray booth installed in one unit could affect occupiers of the nearest residences through odour or fumes, but any such nuisance would be likely to be much greater for other users of the barns due to their proximity. However, a planning condition could be used to mitigate such impacts as the Council has suggested in the event that the appeal is allowed. Conditions could also be used to control operating hours in the units, the times of deliveries to and dispatch from the site and to mitigate noise within the units to protect the living conditions of the nearest residential occupiers.
- The development is not therefore be contrary to Saved Policy G1(3) of the GBLP that seeks to protect the amenities enjoyed by the occupiers of

	<p>buildings in respect of matters including noise, vibration, pollution, dust and smell. Neither would there be conflict with the Framework which at Paragraph 130(f) promotes a high standard of amenity for existing and future users.</p> <ul style="list-style-type: none"> • For the reasons set out above, I find no conflict with the Council's relevant policies or the Government's policy set out within the Framework. As a consequence, the appeal is allowed. 	
2.	<p>Wimbledon Common Rifle Club Land to the rear of Hut 60, Queens Road, Bisley Camp, Brookwood, GU24 0NP</p> <p>20/P/01553 – The development proposed is erection of a rifle clubhouse accommodation block.</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 or not the proposal would be inappropriate development in the Green Belt as defined by the Framework and development plan policy; • the effect of the proposal on the openness of the Green Belt; and • 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. • The proposal is for purpose-built accommodation providing 2 bedrooms with shower and wc facilities to be used on a short-term basis in conjunction with the Wimbledon Common Rifle Club clubhouse, which is due to be relocated to the site of Hut 61 adjacent to the appeal site. The clubhouse, which will include a weapon range, scatt training facility, workshop, common room, office, committee room, kitchen and toilet facilities, replaced a former building, and was approved¹ on the basis that it was an appropriate facility for outdoor sport. • The appeal proposal is an amended scheme to that refused by the Council in July 2020², which was the subject of a dismissed appeal³. The appeal Inspector's decision occurred after the date of the refusal of the current appeal scheme planning application and prior to the current appeal submission, and I attach significant weight to it in reaching my decision, having regard to the similarities between the two schemes. • The appeal site lies within the Bisley National Shooting Centre (BNSC), where multi-day duration events occur throughout the year, overnight accommodation is prevalent amongst other shooting clubs, and where the Council has previously accepted, in approving other schemes, that there is a reasonable requirement for overnight accommodation in connection with the sport. The appellant's long-standing presence within the BNSC, the extensive range of facilities to be provided with the approved new clubhouse facilities to be built adjacent to the site, and the lack of any evidence to suggest that the appellant would not be participating in such multi-day events, lead me to concur with the view of the previous appeal Inspector that, in respect of the appeal site, in principle, short-term accommodation linked to shooting would provide an appropriate facility for outdoor sport and recreation in the Green Belt. • However, I need to be assured that the proposed building is appropriate for its intended use. The previous scheme failed to satisfactorily demonstrate 	*DISMISSED

this, and I have noted the previous Inspector's concerns about how the central third of the building would be used for accommodation, having regard to a disproportionately large hall, a substantial storage area and an empty mezzanine structure above.

- The current proposal has largely addressed these concerns by proposing a building with a smaller footprint/floor space in comparison to the previous scheme, together with a proposed ground floor layout which is more specifically directed towards providing overnight accommodation, including a doubling of the number of bedspaces through the provision bunkbeds, and the inclusion of a corridor access arrangement, toilet/shower facilities, and storage within the bedrooms which are appropriate for the number of beds proposed. As such, I am satisfied that the ground floor element of the building would be appropriate for short-term accommodation.
- However, I share the previous Inspector's concerns about the proposed building height. Whilst the empty mezzanine has been removed from the scheme, and the first floor element of the building has been reduced in size, there would still be a notable area of internal space at upper level. I am not persuaded that this space is reasonably required for the purpose of displaying honours boards, and that these could not be more appropriately hung in the new clubhouse. Also, whilst I have noted the appellant's supporting letter from ACT Energy which states that the roof orientation and inclination was designed to maximise the solar PV potential of the building, it does not specifically provide any justification for the proposed height of the central part of the building.
- For these reasons, and notwithstanding the changes that have been made to the previously refused scheme and my conclusions in respect of the proposed ground floor accommodation, although I am satisfied that overnight accommodation would be an appropriate facility for outdoor sport and recreation, I am not satisfied that the proposed building is entirely appropriate for this intended purpose. The proposal would therefore be inappropriate development in the Green Belt, in conflict with LP Policy P2 and the Framework.
- There are buildings associated with the BNSC complex extending close to virtually the whole length of 2 of the site boundaries. However, the appeal site itself is undeveloped. The evidence before me is that it was, until recent years, heavily vegetated and unlikely to have been associated with the commercial use of the adjacent buildings. This is characteristic of the location of the site on the southern edge of the complex of commercial and recreational facilities associated with the BNSC complex. The closest buildings to the other 2 site boundaries are in connection with a sporadically located group of residential properties set at a lower level than the appeal site, and within a wooded area surrounding the edge of this part of the BNSC site.
- The visual impact of the proposal in wider views of the site would be confined to a degree by the surrounding buildings on 2 sides and vegetation around much of the remaining site boundary. However, this would not completely eliminate the visual impact on Green Belt openness due to the three-dimensional element of the proposal.
- Also, whilst the visual impact of the loss of openness would be limited, openness in terms of the Green Belt has a spatial as well as a visual aspect. Notwithstanding the reduced size of the proposed building footprint from that previously refused, the proposal would be sited in similar position to that of the previous scheme, and would introduce built development into a previously undeveloped area of the Green Belt, beyond the current lines

	<p>of development on the Bisley Camp and the immediate cluster of buildings. The new building would cover a large part of the undeveloped appeal site. As such, I find that the proposal would amount to encroachment into the undeveloped area, resulting in a loss of spatial openness of the Green belt.</p> <ul style="list-style-type: none"> • For the reasons above, the proposal would fail to safeguard the countryside from encroachment, one of the 5 purposes of the Green Belt, and would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open, as set out in the Framework. • In conclusion, I have identified that the scheme comprises inappropriate development in the Green Belt as defined by the Framework. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there are adverse impacts on the openness of the Green Belt and the purpose of safeguarding the countryside from encroachment. Substantial weight should be given to harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are outweighed by other considerations. • As explained above, I conclude that very special circumstances to outweigh this harm do not exist here. The proposal would therefore be contrary to Policy P2 of the LP and Chapter 13 of the Framework which seek to protect Green Belt land. • I conclude that the appeal should be dismissed. 	
<p>3.</p>	<p>Denton Homes Land to the rear of 5 Send Barns Lane, Guildford, Surrey, GU23 7BT</p> <p>19/P/02149 – The development proposed is 28 dwellings with associated landscaping and parking following the demolition of 5 Send Barns Lane. Creation of a new access off Send Barns Lane.</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 appeal scheme on the character and appearance of the area; • Whether the appeal scheme makes an appropriate contribution towards affordable housing; and • Whether the appeal scheme would provide adequate mitigation for the TBHSPA. • The appeal site is located on the northeast side of Send Barns Lane and comprises the site of a detached two-storey house which fronts onto, and has vehicular access from, the road, together with a large, land-locked, irregular-shaped area of undeveloped and largely overgrown land to the rear. The host property forms part of a ribbon development of residential properties extending along both sides of Send Barns Lane, including dwellings to both sides of the site. The site is bounded by the rear gardens of residential properties in Send Marsh Road and Send Barns Lane as well as undeveloped open countryside, reflecting the prevailing semi-rural nature of the area. The Council has confirmed that the site has been inset from the Green Belt. • The area is characterised by residential development directly fronting Send Barns Lane, Send Marsh Road and Send Hill, together with tributary short residential roads leading off these village spine roads. This residential 	<p>*ALLOWED</p>

development is set within a green backdrop of undeveloped land, to which the majority of the appeal site currently contributes, so that the area has a strong semi-rural character. A loose-knit urban grain exists within the village, with a variety of dwelling types and a prevalence of soft landscaping within plots, reflecting the proximity of the built development to open countryside.

- The indicative layout plan proposes to introduce an urbanising form of development onto the site, which would be strongly at odds with the semi-rural character of the area. The proposed straight, dense and regular arrangement of the majority of the new dwellings within a long L-shaped access road would be out of keeping with the more informal, loose-knit, spacious layout of built development which prevails within the locality.
- The amount of building footprint of the proposed dwellings and the significant amount of space taken up by the access road, parking and turning areas, means that built development would dominate the scheme, to the detriment of the semi-rural character of the area. This would be particularly evident within the street scene, since a large number of the dwellings would have frontages which are dominated by hardsurfaced parking, with little room for any meaningful frontage landscaping. Parking would also dominate the approach to the flats block in the northernmost corner of the site, with parking and hardstanding 'wrapping around' plots 7 – 10. In addition, it appears from the evidence before me, that it is likely that the development will require additional visitor car parking, of an amount which has not yet been determined by the Council.
- Tandem parking to the side of a number of the dwellings would result in built development extending across the full width of a number of the plots. This, combined with the semi-detached nature of the majority of the houses, and the narrow spacing between these houses and their side boundaries, would give rise to a cramped and formal arrangement of buildings. This would be incongruous within the surrounding more spacious ad-hoc layout of built development, where dwellings are set in spacious and soft-landscaped plots, so that built development sits comfortably within a semi-rural environment without being visually dominant.
- It has not been satisfactorily demonstrated through the submitted documents, that a less formal alternative arrangement of dwellings to the proposed angular L-shaped cul-de-sac arrangement would be possible on the site, and that the site could be developed with the number of dwellings proposed in a manner that would reflect that of neighbouring built development, and would not contrast strongly with the adjacent open undeveloped fields against which it would be closely located. As such, the proposal would introduce a discordant feature within this edge of settlement location, which would be at odds with the prevailing pattern of development.
- Whilst some new tree planting is shown adjacent to the road entrance, the narrow width of the remainder of the road and its lack of pavements would restrict the ability of the scheme to provide a tree-lined new street, as required by the Framework. The appellant's intention to plant a number of new large individual specimen trees is noted. However, the illustrative layout does not include any meaningful green communal open space within the development, and I am not persuaded that the proposed amount of hardsurfacing of buildings, roadway and parking would provide sufficient space for effective tree planting that would benefit the public realm.
- I acknowledge that the illustrative layout which is the subject of the appeal, has arisen following changes to previously proposed layouts in response to advice received from the LPA, including the relocation of some built form

	<p>away from the eastern site boundary. However, this does not justify or overcome the harm I have identified in respect of the appeal scheme.</p> <ul style="list-style-type: none"> • For the above reasons, I therefore conclude that the appeal scheme would result in material harm to the character and appearance of the area. As such, it would conflict with Saved Policies G1 and G5 of the <i>Guildford Borough Local Plan (2003)</i> (the GBLP) and Policy D1 of the <i>Guildford Borough Local Plan: Strategy and Sites 2015 – 2034 (2019)</i> (the LPSS). These policies, amongst other things, require new development to achieve a high quality design that responds to the distinctive local character of the area in which it is set, respect established street patterns, enhance existing natural features on the site, minimise the visual impact of traffic and associated access and parking, ensure that buildings and spaces at pedestrian level provide visual interest and a sense of place and identity, ensure that new spaces created through development have an attractive and identifiable character, and provide a high quality public realm. • The submitted UU confirms that the appellant is prepared to provide either 10 or 11 affordable housing units within the development. 11 units accords with the requirements of LPSS Policy H2 and 10 units is the figure put forward in the appellant’s supporting viability appraisal, which the appellant proposes to provide should I accept the appellant’s viability case. Given my conclusion in respect of the first main issue, I am not satisfied that the site is capable of accommodating the proposed number of dwellings without materially harming the character and appearance of the area. As such, there is no requirement for me to consider the viability of the scheme to provide affordable housing as part of the determination of this appeal, since this will not affect the outcome of the appeal, and addressing my concerns in respect of the first main issue, is likely to result in changes to the scheme which would impact on its viability. • The site is within 5km of the TBHSPA, where a net increase in housing development, either alone or in combination with other plans and projects in relation to urbanisation and recreational pressure effects, has the potential to significantly adversely impact on the integrity of the TBHSPA. The Council has carried out an Appropriate Assessment (AA) under the Habitats Regulations, concluding that the adverse impacts would be avoided if mitigation is provided through the payment of a financial contribution towards the provision of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) in accordance with the Council’s adopted TBHSPA Avoidance Strategy. Payment would be secured by means of a financial contribution secured by a section 106 Legal Agreement. • Therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations, including the Framework. • I conclude that the appeal should be dismissed. <p>COSTS DECISION</p> <ul style="list-style-type: none"> • Application made by Denton Homes against Guildford Borough Council for an award of costs. • The applicant’s claim on procedural grounds relates to the Council’s behaviour during the determination of the planning application, particularly in regard to the length of time taken to process the planning application and 	<p>REFUSED</p>
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the nature of communication with the applicant, which culminated in an appeal against non-determination.

- The evidence before me is that, albeit that it was protracted, on-going engagement did take place between the Council and the applicant during the course of the planning application. This included the submission of revised and/or additional plans, viability information and supporting reports which were considered by the Council. There were several agreed extensions of time for the determination of the application, and the Council confirmed in early January 2021 that the application would be refused under delegated authority.
- I appreciate the applicant's frustration in respect of the time the Council has taken to respond to various documents and correspondence submitted during the course of the application, and to provide updates on the progress of the application. However, I have taken account of the unprecedented impact on the work environment in general associated with Covid-19. I have also noted that the applicant did not seek pre-application advice from the Council, as advocated in the *National Planning Policy Framework 2021*, the willingness of the Council to engage with the applicant during the application process and accept and respond to additional/new information submitted by the applicant, and the formal agreement of several extensions of time between the Council and the applicant.
- Accordingly, I conclude that the Council did not act unreasonably in failing to determine the application prior to the applicant submitting the appeal, which was lodged in accordance with established procedures in respect of non-determination appeals. Moreover, my appeal decision, which accompanies this costs decision, explains why I have dismissed the appeal. As such, the delay in determination has not resulted in an appeal which could have been avoided altogether.
- The Council has provided an Officer Report (OR) and refusal notice confirming the Council's reasons why planning permission would have been refused, had the applicant not appealed against non-determination. The OR was sent to ward Councillors on 28 January 2021 under a 7-day notification process, the day before the Council were aware that an appeal had been lodged. The decision notice was issued on 24 February 2021, including notification to the Planning Inspectorate and to the applicant, prior to confirmation by the Planning Inspectorate that the appeal was valid on 8 March 2021.
- I find that the Council's stated reasons for refusal, had it determined the application, as set out in the Officer Report, decision notice and subsequent appeal statement, to be complete, precise, specific and relevant to the application, and to clearly set out which development plan policies and national planning policy guidance against which the Council considers the proposal would be in conflict, and to be adequately substantiated by the Council.
- The Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs include not determining similar cases in a similar manner. The applicant considers that the Council has acted unreasonably by finding the appeal scheme layout to be unacceptable when, in the view of the applicant, it is very similar to that of a nearby approved development at Clockbarn Nursery. My accompanying decision explains why I have found notable differences between the schemes, and why, in any event, the current appeal must be determined on the merits of the scheme before me.

	<ul style="list-style-type: none"> For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. 	
<p>4.</p>	<p>Mr Sohaib Safilliu Halfpenny House, Halfpenny Lane, Guildford, GU4 8PZ</p> <p>20/P/01839 – The development proposed is a single storey side extension.</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 development is inappropriate development in the Green Belt; the effect of that development on the openness of the Green Belt; and if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. Policy P2 of the Local Plan2 concerns development in the Green Belt. It states that the construction of a new building in the Green Belt will constitute inappropriate development unless the building falls within the list of exceptions identified by the Framework. Paragraph 149 of the Framework lists the exceptions, which include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The new building would be in the same use as the building it would replace. The Officer Report sets out the difference in dimensions, floor area and volume between the current proposal and the one it would replace. The current proposal is said to represent a 50% increase in floorspace and a 96% increase in volume over the dwelling it would replace. The appellant has not disputed these figures. The previous dwelling has now been demolished and therefore, for comparison purposes, I have had to have regard to the drawings provided. These show the position and footprint of this previous dwelling and confirm that the replacement building has a significantly larger footprint and building envelope. Although the new building has a lower ridge height than the previous building, having regard to the evidence before me, I conclude that the proposal results in a materially larger building. Consequently, the dwelling would not fall within the exception listed in paragraph 149 of the Framework. I therefore conclude that it would be inappropriate development in the Green Belt, contrary to Policy P2 of the Local Plan and the Framework. By definition, inappropriate development would be harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework states that in considering a proposal substantial weight should be given to any harm to the Green Belt. Although the proposal overlaps in part with the siting of the previous dwelling, as required by Policy P2 of the Local Plan, the building has been reorientated from a predominantly north-south alignment to more of an east-west alignment. In combination with the increased floorspace and volume, the building now has greater prominence from more distant views of the site and closes the gap between the dwelling and the existing barn/outbuilding on the site. Taking these factors together with the overall floorspace and volume of the new dwelling, this would result in a significant loss of openness. 	<p>DISMISSED</p>

	<p>Accordingly, I conclude that the proposal would conflict with Paragraph 137 of the Framework.</p> <ul style="list-style-type: none">• The proposal would constitute inappropriate development in the Green Belt and would harm openness. As such, the Framework requires that the harm by reason of inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.• The weight I give to the considerations cited in support of the proposal is limited and accordingly they do not outweigh the harm the development would cause. The very special circumstances necessary to justify the proposal do not exist.• The development is contrary to the Framework and to the development plan which seek to protect the Green Belt. I have considered all other matters raised but none outweigh the conclusions I have reached.	
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