

Planning Committee

30 January 2019

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 2003 (as saved by CLG Direction on 24 September 2007) 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 particular decision letter, they should contact Sophie Butcher (Tel: 01483 444056)

1.	<p>Mr Erik Meyer 12 Warwicks Bench Road, Guildford, GU1 3TL</p> <p>18/P/00758 - The development proposed is a new timber terrace / decking to the rear garden, reduced by 1m depth with screening added.</p> <p>Delegated Decision – To Refuse</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none">• The main issue is the effect of the use of the proposed terrace / decking on the living conditions for the occupiers of No.14, the adjoining property to the east, as regards privacy.• The Council's concern is that because No.14 is at a lower land level than No.12 and because of the proximity of the eastern end of the terrace and its staircase to the boundary there would be the potential for overlooking and a loss of privacy to the occupiers of No.14.• However, I saw at my visit that in the area of No.12's garden closest to the 4m depth decking there is mature planting on the boundary between the two properties that because of its height and density at most only allows glimpses of No.14, its own decking and the back garden.• There are more open views of No.14 from further down the rear garden of No.12 but these are not relevant to the appeal scheme.• The appellant has suggested a condition to increase the screening effect through further planting and I consider this is reasonable and necessary to allay any fears of the neighbours that they would be overlooked.• It may also be necessary to provide additional and / or replacement planting to the extent that the existing vegetation has to be trimmed back to allow the construction of the decking and particularly the staircase to and from the garden.• The appellants have also indicated that a condition would be acceptable to provide an extension of the 1.8 high opaque screening along the full length of the staircase. However, whilst I consider that an additional metre length at the top of the staircase would be helpful to prevent any possibility of overlooking, to extend it along the full length of the staircase would be inappropriate.• It would appear as an obtrusive addition when seen from the appellant's garden, and secondly it is unnecessary because of the lower height of the steps would decrease the opportunity for views into the garden of No.14.• I also consider that anyone climbing or descending the staircase is far more likely to be preoccupied with looking where they are going than peering	<p>*ALLOWED</p>
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	<p>through the boundary planting toward No.14.</p> <ul style="list-style-type: none"> • I consider that with the implementation of the conditions I have outlined, there would not be a loss of privacy to the occupiers of No.14 Warwick's Bench Road as a result of the use of the decking proposed in the appeal application. Accordingly, there would be no harmful conflict with policies H8 and G1(3) of the Guildford Borough Local Plan 2003 or with paragraph 127(f) of the Framework. • I therefore allow the appeal. • I have noted that the neighbour at No.14 refers to overshadowing from the decking, but as the structure would be at a lower level than the boundary vegetation I do not consider that this would occur. 	
2.	<p>Mr Chris McHale The Granary, Foxburrow Hill Road, Bramley, GU5 0BP</p> <p>17/P/02288 - The development proposed is the erection of a single storey link extension.</p> <p>Delegated Decision – Non-determination</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none"> • The main issues are whether or not the development proposed would be inappropriate in the Green Belt by virtue of representing a disproportionate addition and the effect of the proposal on local character and appearance. • The Granary is a substantial recently-constructed property accessed via a driveway off Foxburrow Hill Road, a comparatively narrow carriageway rural in character. At the fringes of the village of Bramley, the site falls within the Green Belt and a locally-established Area of Great Landscape Value (AGLV). • The Council's argument is that the 'original building' after 1 July 1948 should be that which initially stood before any subsequent replacement which I refer to as an 'initial building'. If a replacement building is not materially larger than an initial building, it is reasonable to assume that its effects on the Green Belt would be comparable. By consequence, there is limited logic to preventing replacement buildings from extending proportionately. • Moreover, the Council's position will present a conundrum in many cases where an initial building has been replaced. A judgement would have to be made as to whether an extension proposed in the present would represent a disproportionate addition to a building, which no longer exists. I accept that floorspace figures are a convenient benchmark for such an assessment. However, they are at best crude. They cannot capture the qualitative aspects that inevitably form part of the planning judgement as to whether an extension would be disproportionate. • There is limited information before me in respect of the initial dwelling replaced by Granary Lodge as it now stands. Moreover, the Council acknowledges that there is some ambiguity in the accuracy of the information regarding the floorspace supporting planning permission ref 13/P/01332 (the first consent related to a replacement dwelling). That underscores the practical difficulty of comparing development proposed now with an uncertain historic situation. • It is the Council's intention to bring forward the approach in the LP2003 into the emerging LP2017. Emerging policy P2 intends to clarify that if no building existed on 1 July 1948, the original building is considered to be 'the first building as it was originally built after this date.' However, the emerging 	*ALLOWED

	<p>plan does not appear to expressly explain the rationale for alternative phrasing to that of the NPPF. In any event the LP2017 cannot yet be accorded full weight.</p> <ul style="list-style-type: none"> • In my view whether or not an extension is disproportionate should be determined relative to buildings which lawfully exist, and I have assessed the proposal on that basis. That reasoning is consistent with other inspectors who have considered similar issues. • The 2013 permission enabled the replacement of an initial building within the appeal site of approximately 279 square metres with one of approximately 398 square metres. However, it is not possible to establish the floorspace of the dwelling 'as built' directly pursuant to that consent because of subsequent permissions. • Those subsequent permissions allowed for alterations to the roof form of the dwelling permitted via the 2013 permission, thereby enabling greater useable internal floorspace amounting to approximately 468 square metres. • Consequently, even where the existing outbuilding is to be counted in terms of additional floorspace resulting from the proposal, the scheme would result in the extension of the Granary by less than a third in terms of floorspace and by way of visually subservient elements largely occluded from public view. • I therefore conclude that the development proposed is not inappropriate development in the Green Belt with regard to NPPF paragraph 145, notwithstanding the provisions of LP2003 policy H9 and emerging LP2017 policy P2. • In general terms the visual impact of the proposal would be minimal. Provided appropriate finishes are used the proposal would result in a modest additional element of the property, complementary to it in design. • Whilst arrived at independently, that finding is similar to that of the Council, who are of the view that there would be no adverse effect arising to the AGLV. I therefore conclude that the proposal would have an acceptable effect on the character and appearance of the area in accordance with LP2003 policies RE6 and G5 and NPPF paragraph 127 which seek to ensure that all development integrates appropriately with its surrounding built and natural context. • Having considered the development plan as a whole, the approach in the NPPF, and any other relevant considerations, I conclude that the appeal should be allowed. 	
<p>3.</p>	<p>Mr Alex Williamson 27 Newark Lane, Ripley, Woking, GU23 6BS</p> <p>18/P/00900 - The development proposed is the installation of feathered oak cladding on the side elevation and to extend the roof horizontally by 15-30cm.</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 proposed cladding and roof extension would preserve or enhance the character or appearance of the Ripley Conservation Area. • The appeal property is a 2 storey end of terrace dwelling constructed of brick with a slate roof and had been identified as a building of positive townscape merit within the Ripley Conservation Area Appraisal. • The special interest and significance of Newark Lane is noted as being an 	<p>*ALLOWED</p>

	<p>historic lane leading northwards from the High Street and lined mainly by two storey cottages and modestly sized houses.</p> <ul style="list-style-type: none"> • However, No.27 is not specifically mentioned in the appraisal and the grounds of appeal point out that the property is only an end of terrace dwelling as a result of a 1940 war time bomb destroying the neighbouring dwelling. This has resulted in an interior single skin wall of porous bricks to the height of the low point of the eaves becoming an exterior wall. • In my view, because the wall is not part of the original exterior of the 1850 built dwelling, this significantly affects the assessment and appraisal of its current contribution to the conservation area. • Furthermore, because an interior wall with no cavity is exposed to the prevailing south westerly wind is unable to prevent damp and cold penetrating the house with its consequences for the degradation of its fabric and the adverse living conditions for the occupiers, there is an urgent need for a solution. • It is considered that the appeal scheme's proposal of the attachment of timber cladding and the associated building works would provide an adequate and lasting remedy. • As regards the effect of the proposed cladding on the character and appearance of the conservation area, the officer's report acknowledges that the properties in the surrounding area have a variety of external finishes, including tile hanging, rendering and a mix of coloured brickwork. • There are also examples of timber cladding on the neighbouring property of 29 Newark Lane and the garage of No.59, whilst there is additional timber cladding on other properties in the conservation area. The grounds of appeal also refer to the fact the appeal dwelling (and indeed Nos. 29 and 33) have previously had timber cladding at No.27 itself removed in 1983. • I conclude that the appeal proposal would preserve the character and appearance of the Ripley Conservation Area. Accordingly, there would be no harmful conflict with policies G5 and HE7 of the Guildford Borough Local Plan 2003 and Section 16: 'Conserving and Enhancing the Historic Environment' of the NPPF 2018. • In allowing the appeal I shall impose a condition to tie the permission to the submitted plans for the avoidance of doubt. The Council's suggested conditions for the submission and approval of the scheme's details will safeguard the character and appearance of the building and the conservation area. 	
<p>4.</p>	<p>Raj Manek of Loungers Ltd Cosy Club, 14 Tunsgate Quarter, Guildford, GU1 3QY</p> <p>18/P/00975 - The advertisement proposed is the installation of 1 no. fascia panel.</p> <p>Planning Committee: 12 September 2018 Planning Officer's Recommendation: To Approve Decision: To Refuse</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none"> • The effect of the proposed fascia panel on the amenity of the surrounding area by reason of its effect on the character and appearance of the Guildford Town Centre Conservation Area. • The Cosy Club is located within Tunsgate Quarter, a modern shopping mall to the rear of buildings fronting the High Street in Guildford. 	<p>*ALLOWED</p>

	<ul style="list-style-type: none"> • The section of the High Street of which Tunsgate Quarter forms part is a cobbled road with a mix of commercial buildings directly to the rear of the pavement and forming a busy shopping street within the town centre. It is within the wider Town Centre Conservation Area, whose character is of a mix of buildings within a traditional, densely developed town centre with a high proportion of listed buildings. • Most other advertisements on shop fronts within the town centre are not illuminated, which preserves the traditional form and character of the conservation area. • However, Tunsgate Quarter is set to the rear of two timber framed frontage buildings, with a narrow access route between them. The entrance to the shopping mall glass doors to the front, with glazed first floor and glazed gable above. • The glazing allows significant light from the building onto the entrance alleyway, but the narrowness of the alley limits the effect on the High Street. • The proposed large fascia sign results in additional artificial light, but is set back in the narrow alley entrance to Tunsgate Quarter. In addition, only the lettering is internally lit, and is it at a high level between the first floor windows and gable windows. • As a result, the amount of additional lighting from the signage is limited and it has limited visibility other than within the alley and directly outside in the High Street. It is not visible in the wider High Street or Conservation Area. • I conclude that the proposed fascia panel would preserve the character and appearance of the Guildford Town Centre Conservation Area and would not harm the amenity of the surrounding area. • It would not conflict with policies G8 and HE8 of the Guildford Local Plan that seek to ensure advertisements respect the general characteristics of the locality and features of historic interest, and resisting advertisements that would materially detract from the character and appearance of the conservation area. It would also not materially conflict with general guidance contained within the Signs and Advertisements Supplementary Planning Guidance for the reasons set out above. • I conclude that the appeal should be allowed. 	
<p>5.</p>	<p>Mr Mike Mellstrom Leas View, Epsom Road, West Horsley, Leatherhead, KT24 6AP</p> <p>18/P/01342 – The development proposed is a new two storey west side elevation.</p> <p>Delegated Decision: To Refuse</p> <p>Summary of Inspector’s Conclusions:</p> <ul style="list-style-type: none"> • The main issues are (i) whether the proposal would be inappropriate development in the Green Belt having regard to the NPPF 2018 and any relevant development plan policies and (ii) if the development were to be inappropriate development, 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’ needed to justify the development. • The Council’s Officer’s Report says that including the garage, the original building had a floorspace area of 159.3sqm and that taking account of previous additions the appeal scheme would result in a building, again including the garage, of 251sqm – a cumulative increase of 58% in its size. • For the appellant it is argued that a covered area and a shed merit being 	<p>DISMISSED</p>

regarded part of the original building and that this would reduce the overall floorspace increase including the appeal extension to almost 48%, some 10% less than the Council's figure.

- However, Local Plan paragraph 5.39 supporting Policy H9 says that it is not desirable to give a maximum size for an extension before it becomes disproportionate to the original building and that 'the principal consideration will be the potential impact of the extension itself on the openness of the Green Belt and its visual amenities of the Green Belt in terms of its size, scale, design, materials and character.
- Whilst size is clearly still relevant, it is more of a combined qualitative and quantitative approach that is the determining issue. I consider that whether the figure is 48% or 58% it is sufficient for me to simply conclude that the size of the original building would be increased by about half.
- As regards the impact of the proposal on the host dwelling, the side extension would have an element of subordination though the lower ridge line and the almost 2m set back from the existing front wall.
- However, when seen from the public realm in Epsom Road the building would readily be perceived as being substantially wider than at present, with the additional bulk above the eaves level given emphasis by a third different element of roof form.
- I accept that the draft Residential Extensions and Alterations SPD 2018 says that a width of half the original building would be acceptable, but this qualified by the phrase 'as a general rule' and Section 1.4 of the draft includes a reminder that extensions in the Green Belt must be assessed on their individual merits.
- To the rear, the two storey form of the side extension would project over 4m beyond the existing rear elevation into the rear garden, albeit I acknowledge this is in part due to the required set back from the front. When taken overall, I consider that the Council is correct to conclude that the extension would add substantial bulk and mass and thereby not be sufficiently sympathetic to the scale, size and proportions of the existing dwellings to avoid harm to its character and appearance in conflict with Local Plan Policy H9.
- The consequence would also have an effect on the openness of the Green Belt. The dwelling is positioned at the western end of an enclave of buildings. Because it is positioned away from the site boundary with the large open area of the Cranmore School sports field, the additional width of the building, particularly at first floor and roof level effectively results in the encroachment of the more built up area of West Horsley into a much more open Green Belt area.
- In addition, the increased depth of the first floor would reduce openness within the appeal site to the rear of the building.
- I agree with the Council that these factors would have only a limited effect on the character and appearance of the surrounding area (other than openness) including its designation as an Area of Great Landscape Value, but in this particular case the concept of openness is more demanding in terms of the acceptability of development.
- Overall, I find that the proposal would be a disproportionate addition to the building contrary to Local Plan policies RE2 and H9 and therefore inappropriate development in the Green Belt.
- I find that other considerations in this case do not clearly outweigh the totality of harm that I have identified as a result of the development being inappropriate development in the Green Belt and having an adverse effect on openness, with the resultant conflict with the aforementioned policies in

	the development plan and the Framework.	
6.	<p>Mr A Al-Mehairi Rowley Cottage, White Lane, Guildford, GU4 8PS</p> <p>18/P/01045 – The development proposed is the formation of a balcony (replacing existing porch canopy) to rear of house. New porch to front entrance. Changing materials to roof and elevations of dwellings 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 whether the proposal would be inappropriate development in the Green Belt having regard to the NPPF 2018 and any relevant development plan policies and (ii); • If the development were to be inappropriate development, 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’ needed to justify the development. • I therefore consider that the Local Plan adopts both a quantitative and qualitative approach plus the effect on openness for any decision whether an extension is inappropriate development, with the qualitative analysis including the matters raised in the second and third reasons for refusal. • These are both the effect of the proposed changes of materials, enlarged rear balcony and front porch on the character and appearance of the host dwelling, and the consequential effect on the landscape and character of the surrounding countryside designated as an Area of Outstanding Natural Beauty (AONB) and an Area of Great Landscape Value (AGLV). • The Council has assessed the appeal scheme as resulting in a proposed floor space increase to the existing building of over 80% over and above the size of the original building. This is considered to be a disproportionate addition comprising inappropriate development in the Green Belt and also consistent with the Framework. The same view is taken with a 60% increase in floor space if the ‘release’ of the basement floor from an earlier permission is excluded. • In my view, in purely quantitative terms the increase in the size of the building would not be disproportionate within the meaning of Local Plan policies RE2 and H9; emerging policy P2, and national policy in paragraph 145 of the Framework. • The officer’s report makes only a passing reference to the effect on openness of the Green Belt, but a specific assessment is nonetheless necessary. • Overall, on openness I conclude that the appeal proposal would have an adverse effect on this important aspect of the Green Belt, but that the harm would be limited given that both proposed structures retain some openness and are modest in size compared with the scale of the overall building. • The front porch would be in itself of a modest scale and essentially an infill of part of the front elevation. Nonetheless, by obstructing the extensive area of glazing with a brick edged roof and ornamental columns, it would appear as a ‘heavy’ addition of traditional design at odds with the ‘light’ and contemporary design of the existing entrance. • As the Council points out the loss the clear views through the house to the Downs, would result in the loss of a particularly attractive feature of the existing dwelling. However, because of its low position relative to White 	DISMISSED

	<p>Lane and the presence of the detached outbuilding there would be little effect on the surrounding landscape and countryside.</p> <ul style="list-style-type: none"> • I do consider that whereas the building currently blends with the countryside, the proposed porch / balcony would appear as an obtrusive addition resulting in a more conspicuous building in the protected landscape. This would be given further emphasis by the proposed basement glazing. • I have noted the Council's Landscape Assessment that the houses along the ridge of White Lane are generally well screened and that the appellant intends to carry out further planting that could be regulated by condition. However, I do not consider that such measures would sufficiently ameliorate my concerns on the visual impact of the proposal. • The existing dwelling's contemporary architectural integrity and appropriate external materials that pleasingly blend with the landscape would be diminished by a somewhat contrived objective of the appellant's wish for Rowley Cottage to have an appearance that more closely matches the two neighbouring buildings also in his ownership. It seems to me that it is this aspiration that has led the appeal scheme rather than an assessment of the existing appearance and context of the building and a measured response hereto. • Overall, on this issue, I conclude that the appeal scheme would have a harmful effect on both the character and appearance of the existing building and its landscape and countryside setting, with particular regard to their AONB and AGLV designations. • As regards quantum, I find that in terms of their cumulative increase in the size of the original building, the alterations and additions would not be disproportionate. I also consider that there would be an adverse effect on the openness of the Green Belt, but the harm caused would be limited. • In respect of the quality of the proposed development, I conclude that the proposed alterations and external materials would have a harmful effect on the character and appearance of the existing building and its surroundings, including countryside with the protection of AONB and AGLV designations. The fact that the increase in size would not be disproportionate does not outweigh the other harm that would result. • When assessed overall, these effects comprise a finding that the appeal proposal would be inappropriate development in the Green Belt, which paragraph 143 of the Framework says is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. • I find that there are no other considerations in this case that clearly outweigh the totality of harm I have identified as a result of the development being inappropriate development in the Green Belt. 	
<p>7.</p>	<p>Khristos Oliver, Insite Poster Properties National Tyres and Autocare, Woodbridge Road, Guildford, GU1 1EG</p> <p>17/P/02641 – The advertisement proposed is the erection of a 48 sheet digital display measuring 6m by 3m.</p> <p>Delegated Decision: To Refuse</p> <p>Summary of Inspector's Conclusions:</p> <ul style="list-style-type: none"> • The main issue is the effect of the proposed digital display on the amenity of the surrounding area by reason of character and appearance. • Woodbridge Road is a major route into the centre of Guildford from the A25. National Tyres and Autocare is located close to the junction with the A25, 	<p>DISMISSED</p>

	<p>an area comprising large commercial units, mainly showrooms or large out of town stores.</p> <ul style="list-style-type: none"> • As a result, there are significant numbers of adverts of various styles in the vicinity, including freestanding adverts of a totem style in varying heights and sizes, some of which are lit. • In addition, there is the road signage of this busy junction, some of which is large. This results in a busy and cluttered streetscape of advertisements varying in size, design and competing for attention. • The proposal would introduce a digital display of considerable size facing toward the junction with the A25. It would be significantly larger than other freestanding advertisements, albeit there are other large store front signs, and set back from the highway adjacent to, but lower than, the building. • It would display static images changing regularly, but would not contain moving images or flashing illumination and the intensity of illumination would be controlled. • Nevertheless, it would add further clutter to the area and, given its size, would dominate the smaller surrounding advertisements and the streetscape in this area. • For these reasons, I conclude that the proposed digital display would harm the character and appearance of the surroundings that would adversely affect the amenity of the area. As such it would be contrary to Policy G8 of Guildford Local Plan that seeks to ensure advertisements respect the general characteristics of the locality. • I note that conditions have been suggested to restrict the intensity of illumination, the minimum display time for advertisements and the interval between displays, restricting special effects, sequencing of messages and advertisements should be frozen in the event of malfunction. • Such conditions would restrict the effect of the proposed digital display to some extent, but I do not consider that they would overcome the harm that I have identified. • I conclude that the appeal should be dismissed. 	
<p>8.</p>	<p>Ms Andrea Larter High Brambles, Park Corner Drive, East Horsley, KT24 6SE</p> <p>17/P/01693 – The advertisement proposed is the demolition of a bungalow and the erection of a pair of semi-detached houses.</p> <p>Delegated Decision: To Refuse</p> <p>Summary of Inspector’s Conclusions:</p> <ul style="list-style-type: none"> • The main issue is the effect of the development proposed on the character and appearance of the area. • High Brambles is a detached bungalow and appearing inter-war in origin. It is within the settlement boundary for the village of East Horsley, which is also in the Green Belt. • High Brambles is set generously back from, and at a higher ground level than, Park Corner Drive and benefits from a spacious rectangular plot. • High Brambles as it stands is significantly more modest in overall scale and maximum height than either adjacent neighbouring property. • The age, scale and design of nearby property varies. Of 19 homes along Park Corner Drive, including Corner Cottage and Marlow by Ockham Road South, I saw that all bar four are detached. That results in a similar proportion of detached properties here as characterises East Horsley as a whole. 	<p>DISMISSED</p>

	<ul style="list-style-type: none"> • As with High Brambles, other properties nearby are set within similarly, if not more, generous plots some distance back from Park Corner Drive with established planting between them. Collectively the characteristics described give the area an open, low density and harmonious feel to the area, which results in a comfortable visual transition to the village's more rural surroundings. • At present, East Horsley is washed over by the Green Belt, however, High Brambles sits foursquare between properties either side fronting Park Corner Drive and to the rear accessed via Lower Peryers and Manor Close. Moreover, the village of East Horsley is proposed to be inset i.e. excluded from the Green Belt via the LP2017. • Whilst not wholly out-of-keeping, semi-detached properties would nonetheless not reflect the predominant layout of dwellings nearby. The plots that would result from the proposal would be narrower than the prevailing norm, including those of semi-detached properties nearby. • The proposal would result in an incongruous level of density relative to its surroundings and to that of the village, which would be exacerbated were new planting or boundary features distinguishing the two plots established. • The dwellings would be set-in from the current plot boundaries of High Brambles, and I acknowledge that the cat-slide roof form has been arrived at in order to provide for visual separation with neighbouring properties. However, as viewed in the street scene, the dwellings proposed would appear to reach a greater maximum height than neighbouring Two Steps and Windover, and would have a comparable ridgeline to Juniper. • I acknowledge that the roof form and depth of dwellings proposed would be largely occupied from public vantage points. However, it is the visual bulk of the dwellings proposed in combination with the limited width of the intended plots that would nevertheless result in the proposal appearing unduly cramped, dominant and detrimental to the broadly harmonious low density character of the area described above. • For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, and any other relevant material considerations, I conclude that the appeal should be dismissed. 	
<p>9.</p>	<p>Mr and Mrs P Wallin 22 Applegarth Avenue, Guildford, GU2 8LY</p> <p>18/P/00084 – The development for which a certificate of lawful use or development is sought is the construction of a single storey outbuilding.</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 Council's decision to refuse to grant an LDC was well-founded. • Class E of Part 1 of Schedule 2 of the GPDO sets out that the provision within the curtilage of a dwellinghouse "any building..required for a purpose incidental to the enjoyment of the dwellinghouse as such is permitted development. • For an outbuilding to be PD under Class E it must be used and reasonably required for a purpose incidental to the enjoyment of the dwellinghouse – and not be for a primary residential use. • I need to consider whether in this particular case, it has been shown that the proposed outbuilding is reasonably required for the purposes incidental 	<p>DISMISSED</p>

	<p>to the enjoyment of the dwellinghouse.</p> <ul style="list-style-type: none"> • The Council's view is that due to its size, the building cannot be considered incidental. The drawings submitted with the application show a building with an approximate floor area of 80m² comprising a gym, a home office, a reptilium and a domestic store. • In this case, a gym, home office, a reptilium and domestic store are uses not usually part of primary living accommodation. They are capable in principle of being incidental to the enjoyment of the dwellinghouse. However, no floor plan has been provided and it has not been shown that these uses are reasonably required or that they could not be accommodated within the main dwellinghouse. • Moreover, the appellants acknowledge that the proposed outbuilding would be large and would provide spacious accommodation. • Having regard to size it has not been shown that the uses could not be accommodated in a building of more modest proportions. • Whilst size is not itself decisive it is a material consideration. According to the Council's measurements, the proposed building footprint, which reflects the spacious internal accommodation, would represent approximately 70.6% of the footprint of the main dwellinghouse. It would have almost the same depth and its width would be greater than half the width of the main dwellinghouse. These measurements are not disputed by the appellants. I therefore consider that the proposed outbuilding would be disproportionate in scale to that of the main dwellinghouse. • The evidence presented does not show on the balance of probabilities that the proposed building is reasonably required for a purpose incidental to the enjoyment of the dwellinghouse. As such, it would not comply with the limitations of Class E and therefore would not be PD. • Even if I were to find the use of the outbuilding would be incidental due to its height and proximity to the garden boundaries, the proposal would not comply with paragraph E.1.(e)(ii) of the GPDO. Thus it would not be PD falling within Class E of the GPDO. • I conclude that the Council's refusal to grant a certificate of lawful use of development in respect of the construction of a single storey outbuilding at 22 Applegarth Avenue was well-founded and that the appeal should fail. 	
<p>10.</p>	<p>Ms Michaela Mercer Land at the New Barn, Perry Hill, Worplesdon, Guildford, GU3 3RE (Referred to the Secretary of State for Housing, Communities and Local Government)</p> <p>Appeal A 17/P/01527 – The Planning Inspector confirmed the withdrawal of the planning appeal by Balmoral Homes Ltd on 13 June 2018. The appeal was against Guildford Borough Council's refusal of planning permission 17/P/01527 dated 27 September 2017 for part retrospective application for the erection of a detached four bedroom dwelling (revision of planning permission 15/P/00409 approved 13/08/2015), on land described above.</p> <p>Appeal B The Planning Inspector confirmed on 7 June 2018 the withdrawal of the enforcement notice issued by Guildford Borough Council dated 19 July 2017. The notice alleged a breach of planning control, on the above mentioned land by: "The breach of condition 2 of planning approval 15/P/00409</p>	<p>COSTS APPLICATION REFUSED</p>

Specifically that the ridge height and eaves height is greater than approved.

- The half hip elements on the south west elevation have been replaced with gable ends.
- Reposition of roof lights in south-west elevation.
- Addition of window at ground floor in south-west elevation.
- Increase in size of window at first floor in north-east elevation.
- Addition of two roof lights in north-east elevation.
- Increase in size of window at ground floor on north-west elevation.

Costs Application

An award of costs against this Council on behalf of the appellants as made in written correspondence dated 28 June 2018 and 3 August 2018.

Delegated Decision: To Refuse

Summary of Inspector's Conclusions:

- It is noted that the Council granted conditional planning permission 15/P/00409 for the erection of a detached dwelling on the land on 13 August 2015. The appellants were subsequently refused retrospective planning permission 16/P/02446 for the variation of condition 2 of planning permission 15/P/00409 to allow a maximum of 500 mm increase in height to enable enlarged accommodation at first floor incorporating new roof lights, removal of small barn hip roof detail on south west elevation, removal of two first floor windows in north east elevation and replace with single window and alterations to exterior finishes on elevation, by the Council on 19 May 2017.
- Following the refusal, the Council proceeded to issue an enforcement notice alleging the breach of condition 2 of planning permission 15/P/00409 on 19 July 2017.
- In the meantime, the appellants' submitted a part retrospective planning application 17/P/01527 to the Council for the erection of a detached four bedroom dwelling. The application was a revision of planning permission 15/P/00409 granted approval by the Council on 13 August 2015. Planning permission was refused by the Council on 27 September 2017 and the planning appeal was made on 23 October 2017.
- All the available evidence has been carefully considered. The decisive issues are considered to be:
- Whether or not the combination of the Council's decision to refuse the appeal application, and their subsequent grant of conditional planning permission on a re-submitted planning application during the course of the appeal proceedings, amounts to unreasonable behaviour; and
- Whether the Council acted unreasonably in considering it expedient to issue the enforcement notice and then to withdraw it.
- The Secretary of State notes that the appeal application was refused on the basis that the development due to its height, scale and bulk would not respect the scale and character of the immediate surroundings and therefore represented an example of poor design in a Conservation Area.
- As such, the proposal failed to preserve or enhance the special character and significance of the Worplesdon Conservation Area and would result in less than substantial harm to this heritage asset.
- The Secretary of State considers that this was a legitimate planning

concern and that the Council acted in accordance with national and regional policy guidance regarding development in a Conservation Area.

- In their defence of the costs application the Council have referred to a material change in circumstances since the appeal application was decided that resulted in a change in their position. They say that they were able to grant planning permission for the development, as built, and confirm that they would no longer be defending the appeal following receipt of the planning Inspector's decision allowing an appeal for residential development on a neighbouring site.
- The Secretary of State considers that, having duly considered the Inspector's findings on the issue of character and appearance, it was reasonable that the Council would want to review their position in respect of the appeal and reconsider their objections to the development in light of the appeal decision.
- The Secretary of State has taken into account the appellants' argument that the Council had approved similar applications for residential dwellings in the vicinity of the appeal site. However, each case must be considered on its own individual merits.
- No reason is seen to conclude that the Council acted unreasonably in using their discretionary power to issue the enforcement notice in this case. It was issued to achieve a legitimate planning objective. Furthermore, the expediency of the decision to take enforcement action has not been tested via a formal determination of the enforcement appeal.
- It is apparent that the Council issued the notice following the refusal of a retrospective planning application of a variation of condition 2 of planning approval 15/P/00409. The Council were evidently concerned that the dwelling, as built, was a material departure from that originally approved. It is considered that there is no clear evidence to show that the Council acted unreasonably in considering it expedient to subsequently issue the enforcement notice for their stated reasons. It is also not considered uncommon for planning authorities to issue an enforcement notice pending the outcome of a retrospective planning application or appeal in order to achieve the earliest cessation of the alleged unauthorised development in the event of the planning application or appeal being refused.
- As regards the withdrawal of the enforcement notice, it is considered that the grant of planning permission for the development as built, via a resubmitted planning application by the appellants, amounted to a material change in circumstances since the enforcement notice was issued.
- The Secretary of State therefore concludes that the Council had good reason for withdrawing the enforcement notice in accordance with paragraph 047 of the PPG.
- Whilst it is regretted that the appellants have incurred wasted expense in the appeals process the Secretary of State is satisfied that, on the various grounds made, the Council did not act unreasonably in this case.