

## Planning Committee

8 January 2020

### 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 particular decision

letter, they should contact  
Sophie Butcher (Tel: 01483 444056)

1.	<p><b>Mr Spencer Venn</b> <b>1 Snelgate Cottages, Old Epsom Road, East Clandon, Guildford, GU4 7RL</b></p> <p><b>18/P/02368</b> – The development for which a certificate of lawful use or development is sought is the erection of a double garage and workshop to keep two cars and several motorcycles.</p> <p>Delegated Decision – To Refuse</p> <p><b>Summary of Inspector's Conclusions:</b></p> <ul style="list-style-type: none"><li>• The main issue is whether the Council's decision to refuse to certify the proposed garage as lawful was well founded.</li><li>• The matter in dispute is whether the proposed garage and workshop is permitted under Class E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. This class of development permits the provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such.</li><li>• The Council accepts that the building would meet the technical criteria of Class E. What is at issue is whether the proposal would be used for a purpose incidental to the enjoyment of the dwellinghouse as such, and whether the development would be reasonably required for that use.</li><li>• It is proposed to remove two larger buildings and to replace them with a larger garage workshop building. The building would be substantial in size, measuring some 15m by 7m. It is proposed that it would provide garaging for two cars and storage space for 11 motorcycles, and benches for working on a further two bikes.</li><li>• The owner is a motorcycle enthusiast and has about 15 bikes on the property.</li><li>• The leading case on the scope of buildings used for purposes incidental to the enjoyment of the dwellinghouse as such is <i>Emin v Secretary of State for the Environment and Mid-Sussex District Council</i> (1989). The Court held that the nature and scale of the activities are important as there must be a prospect that they could go beyond a purpose merely incidental to the enjoyment of the dwelling house as such and constitute something greater than a requirement related solely to that use. Thus, the physical size could be a relevant consideration, but it is not by itself conducive.</li><li>• It also reinforces that incidental uses should remain at all times ancillary or subordinate to the use of the dwelling house, and that it is necessary to</li></ul>	<p><b>*ALLOWED</b></p>
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	<p>determine whether the proposed building is genuinely and reasonably required or necessary in order to accommodate the proposed use or activity and thus achieve that incidental purpose.</p> <ul style="list-style-type: none"> <li>• Whilst it would be a large outbuilding, the footprint of which would exceed that of the dwelling, it would be less than its overall floorspace.</li> <li>• I have no doubt that the size is genuinely and reasonably required to accommodate the owners cars and to facilitate his hobby, having regard to the way in which the existing collection is stored. Although large, the building would not appear disproportionate having regard to the extensive garden area of the property.</li> <li>• Collecting as a hobby can often involve owners possessing many more examples of their subject of interest than might be found in a normal home. I consider that the hobby use is subordinate to the main use of the property as a dwellinghouse. Compared to cars, the bikes are relatively small, especially those in a disassembled state.</li> <li>• Whilst the floorspace would be fairly extensive, the intensity of the use would be unlikely to be considerable in relation to the primary use as a residential dwelling. I consider that it would not be unreasonable for an owner to wish to house his collection of vintage bikes in a secure manner, and in conditions where he could carry out their restoration with a degree of convenience.</li> <li>• I am satisfied on the balance of probabilities that the purpose to which the building is intended to be put would be reasonably required for a purpose incidental to the enjoyment of the dwellinghouse as such, and that the building would be permitted under Class E.</li> <li>• The appeal is therefore allowed.</li> </ul>	
<p>2.</p>	<p><b>Mr Kris Collett of Castlemere Developments</b>  <b>Land adjacent to Grandis Cottages, High Street, Ripley, Woking, GU23 6AB</b></p> <p><b>19/P/00038</b> – The development proposed is permission in principle for 6 dwelling houses.</p> <p>Delegated Decision – To Refuse</p> <ul style="list-style-type: none"> <li>• The main issues are:</li> <li>• Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;</li> <li>• The effect of the proposal on the openness of the Green Belt;</li> <li>• The effect of the proposal on the character and appearance of the area;</li> <li>• The effect of the proposal on the TBHSPA, and;</li> <li>• If inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances to justify the proposal.</li> <li>• The appeal site is adjacent to, but outside of the defined settlement boundary for Ripley. However, both parties accept that given the relevant case law that this is not necessarily determinative as to whether it is within a village for the purposes of paragraph 145 e).</li> <li>• The appeal site comprises part of a grassed field on the south western edge of Ripley Village. When approaching the village from the south west, the row of Grandis cottages signifies the edge of the built up area on the southern side of Portsmouth Road. They denote a palpable change in character from predominantly open countryside into a built area.</li> </ul>	<p><b>DISMISSED</b></p>

	<ul style="list-style-type: none"> <li>• The position of the former agricultural buildings at Hurst Farm, due to their functional rural appearance and distance from Grandis Cottages, with intervening open land, do not, in my view, signify the edge of the settlement as they are commensurate with the rural character of the open countryside.</li> <li>• Whilst the residential development of Georgelands opposite the appeal site extends further to the south west, it is well screened by an established hedgerow along the northern side of Portsmouth Road. In this context, this reinforces the appearance of Grandis Cottages as the start of the built up area of the village on the southern side of the road.</li> <li>• Due to the surrounding pattern of development, my observations lead me to find that the appeal site is not in the village of Ripley but rather is located on its edge.</li> <li>• The appeal site represents a significant gap between the dwellings on the southern side of Portsmouth Road and the former agricultural buildings some distance to the south west.</li> <li>• To the north east of the appeal site there is clearly identifiable built up frontage arising from a line of dwellings with regular plots and set back to the road. The built frontage stops at 14 Grandis Cottages with a considerable intervening gap that is devoid of built form.</li> <li>• As a result, the detached former agricultural buildings to the south west of the appeal site, even accounting for the mixed use and permitted residential conversion of one of them, read as sporadic rural buildings rather than being part of a built-up frontage or group of buildings in the village. Consequently, the proposed development would not fall within the definition of limited infilling.</li> <li>• I find that the proposal would not constitute limited infilling in a village, and I have not seen evidence that it would fall within any of the other exceptions listed in the Framework. As such it would constitute inappropriate development in the Green Belt to which I must attach substantial weight.</li> <li>• The proposal would have an obvious adverse spatial and visual impact on the openness of the Green Belt. However, given the relatively minor scale of the proposal for 6 dwellings, the degree of harm would be moderate.</li> <li>• I find that the proposal would harmfully diminish the rural character and appearance of the area and hence, would conflict with policy D1 of the LP, which amongst other matters, requires new development to achieve high quality design that responds to distinctive local character by reinforcing locally distinctive patterns of development.</li> <li>• The proposal would conflict with policy P5 of the LP and saved policy NRM6 of the South East Plan which seeks to prevent development which would give rise to adverse effects on the TBHSPA. Additionally, it would run counter to saved policy NE4 of the 2003 LP which seeks to prevent harm to protected species.</li> <li>• The appeal should be dismissed.</li> </ul>	
<p>3.</p>	<p><b>Mr Simon Percival</b>  <b>Mulberry House, Burrows Lane, Gomshall, GU5 9QE</b></p> <p><b>19/P/00716</b> – The development proposed is a timber framed garage with storage area.</p> <p>Delegated Decision – To Refuse</p> <ul style="list-style-type: none"> <li>• The main issues are whether or not the proposal is inappropriate development within the Green Belt for the purposes of the NPPF and development plan policy;</li> </ul>	<p><b>DISMISSED</b></p>

	<ul style="list-style-type: none"> <li>• The effect of the development on the openness of the Green Belt; and</li> <li>• 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.</li> <li>• The appeal site is a detached dwelling situated to the south of Gomshall. There are residential dwellings to either side although generally the pattern of development is looseknit, with open land to the east, contributing to a generally rural and verdant character. The site falls within an Area of Outstanding Natural Beauty (AONB) and Area of Great Landscape Value (AGLV).</li> <li>• Given the proposed position of the building, there is no physical, and very little visual, relationship between the proposed building and the dwelling. As such I consider that it could not be regarded as a normal domestic adjunct or extension to the dwelling.</li> <li>• The appellant contends that the proposal would fall under exception b) of Paragraph 145 although this exception relates to outdoor sport, recreation, cemeteries, burial grounds and allotments. As such, I consider that the development is not covered by this exception, or the others specified within the Framework or the development plan. Consequently, it would be inappropriate development.</li> <li>• Although I acknowledge that the dwelling falls within a row of dwellings fronting onto Burrows Lane, the openness of the Green Belt is evident. Although the loss of openness directly attributable to the appeal development would not be significant in itself, it would add further to built development in this generally open context and diminish the openness of the Green Belt to at least some degree.</li> <li>• The proposal would be inappropriate development in the Green Belt and would also harm its openness. The Framework makes clear in paragraph 144 that substantial weight should be given to such harm. There would also be conflict with policy P2 of the Guildford Borough Local Plan: strategy and sites (2019), which seeks to protect the Green Belt from inappropriate development and is in line with the aims of the Framework.</li> <li>• I conclude that the appeal should be dismissed.</li> </ul>	
<p>4.</p>	<p><b>Mr Nathan Still, Infocus Public Networks Limited</b></p> <p>The development proposed in each case detailed below is the installation of an electronic communications apparatus comprising a telephone kiosk.</p> <p><b>19/P/00154</b>  <b>OS 193 High Street, Guildford, GU1 3AW</b></p> <p>Delegated Decision – To Refuse</p> <p><b>19/P/00151</b>  <b>Junction, Commercial Road, North Street, Guildford, GU1 4EH</b></p> <p>Delegated Decision – To Refuse</p> <p><b>19/P/00152</b>  <b>OS Café Nero, Junction North Street, Market Street, Guildford, GU1 4LB</b></p> <p>Delegated Decision – To Refuse</p>	<p><b>ALL  APPEALS  DISMISSED</b></p>

**19/P/00153**

**OS Barclays Bank, 19 North Street, Guildford, GU1 4AG**

Delegated Decision – To Refuse

**19/P/00155**

**OS The Friary, North Street, Guildford, GU1 4YT**

Delegated Decision – To Refuse

- The main issues are whether or not the proposals are solely for the purpose of the operator's electronic communications network and therefore form permitted development; and if they do, whether or not prior approval should be granted.
- The Westminster judgement stated that a development falls outside the scope of Part 16 Class A if it is not 'for the purpose' of the operator's network. Thus if the development is partly for some other purpose beyond that of the operator's network, it cannot be development 'for the purpose' of the operator's network as it is for a dual purpose.
- The proposed telephone kiosk is described in the appellant's Technical Specification as a 'communications hub'. The front face would provide an integrated touch screen including a hands-free phone, wayfinding and access to Council services. There would also be a USB Charger, a Defibrillator and a range of sensors for the Smart City to monitor and report on environmental conditions such as air quality, noise and pedestrian flow. It is notable that the appellant's statement of case describes the kiosk as a 'multifunctional portal'.
- The rear of the structure would consist of a glazed panel of anti-vandalism hardened toughened glass which it is stated could be used for commercial display or Council information.
- It is clear from the evidence before me that the rear of the proposed kiosk would incorporate an area specifically designed for the commercial display of advertisements or other information.
- Whilst I acknowledge that express advertisement consent is not being applied for, the key consideration is whether the proposed apparatus would have a dual purpose.
- I conclude that the proposed kiosk would not be solely for the purpose of the operator's electronic communications network. The appeal proposals would fall outside Schedule 2, Part 16, Class A of the GPDO and would not form permitted development.
- The appeals are therefore dismissed.