



## Appeal Decision

Site visit made on 16 March 2026

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20<sup>th</sup> March 2026

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**Appeal Ref: APP/A3655/W/25/3375305**

**2A Eden Grove Road, Byfleet, West Byfleet, Surrey, KT14 7PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Nick Constable against Woking Borough Council.
  - The application Ref is PLAN/2025/0396
  - The application sought planning permission for the change of use from an E3 industrial unit to two C3 residential units without complying with a condition attached to planning permission Ref Plan/2024/0295.
  - The condition in dispute is No 4 which states that: notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and Article 3, Schedule 2, Part 3 and Classes E(c) and E(g) of The Town and Country Planning (General Permitted Development) Order 1995 (or any Orders revoking or re-enacting these Orders with or without amendments) the premises shall only be used as the following uses:
    - E(c)(i) - financial services
    - E(c)(ii) - professional services (other than health or medical services)
    - E(c)(iii) - other appropriate services in a commercial, business or service locality.
    - E(g)(i) - offices to carry out any operational or administrative functions
    - E(g)(ii) - research and development of products and processes
    - E(g)(iii) - any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
  - The premises shall be used for no other purpose without the prior written consent of the Local Planning Authority.
  - The reason given for the condition is to restrict the use of the premises to one which is compatible with the surrounding area and the neighbouring amenities and to comply with the Policies of the Woking Borough Local Plan.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appellant sought an extension of time in order to submit amended plans to the Council in support of his application. However, an appeal was lodged ahead of the Council's determination. Subsequently, the proposed amendments were not accepted by the Council. Nonetheless, when the appeal before me was made, the appellant requested that I make my decision on the revised plans.

3. Annexe M of the Procedural Guide, Planning Appeals, England (2019) and the national Planning Practice Guidance (PPG) advise that the appeal process should not be used to evolve a scheme to overcome the Council's reasons for refusal, rather a fresh planning application should usually be made. Moreover, it is important that the evidence which is considered by the Inspector is essentially the same as that which has been considered by the Council, and on which interested parties' views were sought. Indeed, in line with the Wheatcroft principles<sup>1</sup>, there would be differences between the proposal that was considered by the Council and the revised scheme. As such, it is my view that the appeal must be determined on the basis of the plans as originally submitted to the Council and upon which it based its decision and have also been subject to consultation. To do otherwise would prejudice not only the interests of the Council but also interested third parties and consultees, who may have observations to make on the revised scheme.
4. Therefore, while noting the revised elements of the proposal suggested or completed by the appellant, and notwithstanding that the Council has brought to my attention that the submitted plans are less than ideal, I have determined the appeal on the basis of the plans as originally submitted.

### **Main Issues**

5. Accordingly, the main issues in this appeal are:
  - the standard of the proposed residential accommodation, with specific reference to privacy, outlook, daylight and sunlight and amenity; and,
  - the effect of the proposal on the Thames Heath Basic Special Protection Area (SPA).

### **Reasons**

6. My attention has been drawn to a number of proposals<sup>2</sup> and a permission for a change of use<sup>3</sup> on the site, the latter of which included a condition (Condition 4) that restricted use of the site for no other purpose than for those which fall within Class E3 as set out in the banner heading above. However, the appellant contends that Condition 4 was not necessary or proportionate and that it hinders future decision making, in this case for C3 use on the appeal site. To the contrary, the condition was imposed by the Council to ensure that the use of the site was compatible with its location and neighbouring amenity as it relates to the stated Class E3 uses relevant to the permitted change of use. As this complies with the Use Class Order 1987 (as amended), which is contained in the published national Planning Policy Guidance (PPG), I find this to be reasonable. Therefore, I do not concur with the appellant that Condition 4 should be varied to include C3 use.
7. That said, as the site is located in an established residential area, subject to adherence to relevant development plan policies and the absence of planning harm, the principle of residential development on the appeal site is accepted by the Council. As such, while mindful of a previous appeal for a similar scheme<sup>4</sup> on the site, for certainty and completeness, I have considered the proposal on its own planning merits for two residential units on the appeal site.

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<sup>1</sup> Bernard Wheatcroft Ltd v Secretary of State for the Environment (JPL, 1982, P37)

<sup>2</sup> PLAN/2025/0012, PLAN/2023/1059, PLAN/2023/0622, and PLAN/2023/0290

<sup>3</sup> PLAN/2024/0295

<sup>4</sup> APP/A3655/W/25/3367668

### *Standard of accommodation*

#### *a) Privacy, outlook, and daylight and sunlight*

8. The appeal site is located on Eden Grove Road close to the junction with Brewery Lane. The appeal building is a single storey structure facing Squires House that lies directly adjacent to the footway that runs towards the main highway. To the western side of the building there is an open space with a timber store to the rear that is bounded by a low hoop-top metal fence.
9. While the two dwellings would meet nationally described space standards, and notwithstanding that the recessed entrance door to the front has been completed, the fact remains in the absence of any separation from the footway passersby would be able to look into the dwellings. This would erode the privacy within the accommodation.
10. Moreover, while window coverings could be deployed to mitigate the curiosity of those using the kerbside location, the coverings whether blinds or curtains would diminish an already compromised outlook from within the accommodation. Indeed, even if the internal layouts were to be altered to include kitchens to the front, the repositioning of the windows to a higher location as marked on the existing elevations would further erode the outlook from both units. Furthermore, despite the outlook from the dwelling to the west onto the outdoor space, the required inclusion of waste, recycling and cycle storage in this area would be likely to make this aspect of limited appeal.
11. In addition, even if rooflights were to be installed, the coverings on the limited fenestration to the front of the building, combined with the rise and fall of sunlight and daylight experienced throughout the course of the day and year would diminish the light available within the accommodation and create gloomy spaces beyond.

#### *b) Amenity*

12. The proposed amenity space lies to the western side of the building where the main entrance to the adjacent unit can be found. Therefore, while the Council accept that communal outdoor areas are generally suitable for smaller households, the absence of direct access to the communal space by the unit to the east would negate its desirability for leisure opportunities for the second household, particularly as it would be overlooked by the users of the adjacent unit.
13. Moreover, as there would be bulky storage structures on the outdoor space, combined with the open nature and direct relationship with the adjacent public realm, even though the area would benefit from its westerly orientation, it is very likely that the space would be unattractive for residential activities. For example, sitting out, drying laundry or other private and/or leisure purposes. Landscaping and/or screening would not be adequate mitigation.
14. Overall, I conclude that the accommodation would not be of an acceptable standard. It follows then that the proposal would be contrary to Policy CS21 of the Woking Core Strategy (2012), which say, amongst other things that new development should provide appropriate levels of public and private amenity space.

## SPA

15. The appeal site is located in the SPA and is therefore, subject to the Habitat Regulations which protect it. If I had come to a different conclusion, it would have been necessary for me as a competent authority to undertake an 'Appropriate Assessment' and the likely effectiveness of any mitigation measures or the acceptability of any financial contribution in respect of that mitigation.
16. However, as I have found that the proposal would not be acceptable for other reasons, and therefore planning permission is to be refused, it is not necessary for me to consider these matters or their form and acceptability to the Council any further in this case.

## Other Matters

17. The appellant has brought the neighbouring Squires House to my attention as it does not appear to have outdoor spaces other than mown grassed areas, and that some dwellings in the Borough have no outside space at all. However, whether occupation of the dwellings is a matter of choice or not, as Squires House is of some vintage that is likely to have been determined under a different development plan, and as I have limited details of other schemes in the Borough, I give these matters very little weight.
18. I also give minimal weight to the provision and benefits of 2 new dwellings against the Council's Housing Land Supply.

## Conclusions

19. I have found that Condition 4 should be retained without variation as it is necessary, relevant and proportionate to planning and the permission granted. Moreover, as the standard of the proposed residential accommodation would conflict with the development plan taken as a whole, and as there are no material considerations of sufficient weight to indicate that a decision should be made other than in accordance with the development plan, I conclude that the appeal should be dismissed.

*J E Jolly*

INSPECTOR