



Appeal Decision

Site visit made on 2 October 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2025

Appeal Ref: APP/K3605/W/25/3369396

Land to the rear of 18 Frelands Road, Cobham KT11 2ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Pat Franey of Immortal Developments Ltd against the decision of Elmbridge Borough Council.
 - The application Ref is 2025/0071.
 - The development proposed is the erection of a single storey dwelling with parking for two cars following demolition of existing buildings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey dwelling with parking for two cars following demolition of existing buildings at Land to the rear of 18 Frelands Road, Cobham KT11 2ND in accordance with the terms of the application, Ref 2025/0071, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal was accompanied by a deed of unilateral undertaking under s106 of the Town and Country Planning Act 1990 to secure affordable housing provision along with mitigation measures aimed at protecting the integrity of the Thames Basin Heaths Special Protection Area. The deed was subsequently revised at the Council's request to omit affordable housing provision, as the Council no longer seeks affordable housing contributions on small sites of less than ten dwellings, in accordance with government guidance.
3. I do not consider that any parties have been prejudiced by the submission of an amended planning obligation at appeal stage. I have therefore determined the appeal on the basis of the appellant's deed of unilateral undertaking.

Main Issue

4. The main issue in this appeal is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal site comprises a parcel of land to the rear of existing dwellings on Frelands Road. The site contains a workshop, hardstanding and various smaller buildings, and has its own access from Frelands Road.

6. I am mindful that two previous appeals have been dismissed on the site, for a pair of semi-detached dwellings¹ and a bungalow² respectively, which are material considerations which carry weight in relation to the current appeal.
7. The appeal site is located to the east of Cobham town centre in an area characterised by detached and semi-detached dwellings dating from the early part of the twentieth century. The Council's Design and Character Supplementary Planning Document Companion Guide: Cobham, Oxshott, Stoke D'Abernon & Downside places the site within the Tartar Hill sub-area. Tartar Hill is described as possessing regular, relatively modest plots and long front gardens in the area, with the shared architectural characteristics of the houses giving a cohesion to the streets.
8. The appeal site was laid out at approximately the same time as the houses on Freelands Road, with the dwelling to the front of the appeal site being constructed some years after the other houses in the road. The appeal site is a long established and integral part of the area's character, and the fact that it does not share the prevailing characteristics of Freelands Road does not diminish the contribution it makes to the area's character and history.
9. The adjacent property at 20 Freelands Road has lock-up garages and hardstanding to the rear, which the appellant advises are in separate ownership to the main house. Although these elements appear to be more recent than the appeal site, they are a further indication that the immediate area is not as homogenous as it appears from the road.
10. The buildings currently on the site have a traditional appearance and are modest in scale and ground coverage, as a consequence of which they are not widely visible and manage to blend into the area. Although the appeal site does not have the depth of existing residential plots in Freelands Road, it is wider than most of the nearby residential plots, and thus large enough to accommodate a dwelling with a suitably-sized private garden and adequate parking provision.
11. The proposed bungalow would have a larger footprint than the combined footprint of the existing buildings, but it would be centrally placed on the site with parking to the front and a garden to the rear, and would be offset from the side boundaries. Like the existing workshop, the bungalow would be single storey in height, with a gable fronted pitched roof. By these means, the proposal would positively respond to the site's existing character, and overcome the concerns of the most recent Inspector regarding excessive ground coverage and the crown roof design of the appeal scheme.
12. However, whilst a dwelling on the site would represent an evolution of the site's existing character, it would introduce a dwelling to the rear of a cohesive row of dwellings where currently no dwellings are located. As a consequence, it would deviate from the prevailing pattern of development and conflict with the existing urban grain. It would as a result cause a moderate degree of harm to the character and appearance of the area.
13. For these reasons, I conclude that the proposal would harm the character and appearance of the area, in conflict with policies CS10 and CS17 of the Elmbridge

¹ PINS reference APP/K3605/W/21/3275015

² PINS reference APP/K3605/W/23/3317170

Core Strategy July 2011 (CS) and policies DM2 and DM10 of the Elmbridge Local Plan Development Management Plan April 2015 (DMP), which together require high quality design that integrates with and enhances the local character of Cobham. It would also conflict with the aim of the National Planning Policy Framework (the Framework) of achieving well-designed places which are visually attractive and sympathetic to local character.

Other Matters

14. The appeal site is located in the 400m-5km buffer zone of the Thames Basin Heaths Special Protection Area (SPA), an internationally important heathland habitat for three rare species of ground nesting birds: Dartford warbler, nightjar and woodlark. It is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations), and as such it is incumbent upon me as competent authority to consider whether the development is likely to have a significant effect on the integrity of the site.
15. Natural England considers that the intensification of residential development up to a distance of 5km away from the SPA would result in a range of pressures, with consequent adverse effects on the protected habitat. Between 400m and 5km from the SPA, Suitable Accessible Natural Greenspace (SANG) in the form of new open space or the improvement of existing open space is required to attract informal recreation users, such as walkers and dog walkers, away from the SPA. The SANG is combined with Strategic Access Management and Monitoring (SAMM) to manage recreational pressure on the SPA itself.
16. Policy CS13 of the CS states that new residential development which is likely to have a significant effect on the ecological integrity of the SPA will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects, and that such measures must be agreed with Natural England.
17. The Council's Development Contributions Supplementary Planning Document advises that whilst the provision of SANG is delivered through the CIL process, a financial contribution towards SAMM must be secured by legal agreement prior to determination of the relevant application.
18. The appellant has completed a planning obligation in the form of a deed of unilateral undertaking under s106 of the Town and Country Planning Act 1990, to ensure that an appropriate contribution is made to SAMM, such that the impact of the proposed development can be mitigated. Having reviewed the obligation, I am satisfied that it meets the three tests of Regulation 122 of the Community Infrastructure Regulations 2010 and paragraph 58 of the Framework, namely that it is necessary to make the development acceptable in planning terms, it is directly related to the development, and it is fairly and reasonably related in scale and kind to the development.
19. I therefore consider that the relevant policy of the development plan, as noted above, has been complied with, and that there will be no likely significant effect on the Thames Basin Heaths SPA. The development therefore accords with the Habitats Regulations.

20. Interested parties have raised a concern that granting planning permission for a dwelling on the site would set a precedent for the development of other gardens. Every application is determined on its own merits, and in this instance the site has historically been separate from adjacent properties, with its own access, and contains a workshop and other buildings.
21. The Council has assessed the potential impact of the proposal on the living conditions of neighbouring dwellings and concluded that there would be no harm to them. I see no reason to disagree with this conclusion.
22. The appellant undertook a Preliminary Biodiversity Appraisal which did not find any evidence of protected species or their habitats.
23. There is no evidence that the proposal would present a fire risk.
24. The proposal is not described as a house in multiple occupation, and were that to change then any necessary permissions would need to be sought from the Council.

Planning Balance

25. The Council has acknowledged that it cannot demonstrate a five year housing land supply. A recent appeal decision supplied by the appellant³, which the Council has not disputed, indicates that the Council's current housing land supply is 0.91 years. In such circumstances, paragraph 11(d) of the Framework makes clear that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
26. The delivery of a dwelling on previously developed land would be a social benefit. The provision of a three bedroom dwelling would widen the choice of homes within the Borough, whilst the proposal for a bungalow would provide an accessible dwelling suited to those with disabilities. Economic benefits would accrue from the construction phase and from future occupiers utilising local services. The proposal would respond positively to the government's recent reiteration of its support for small housebuilders. A single dwelling is capable of being constructed quickly, which would positively contribute to the Council's housing land supply. It would boost the Council's revenue in the form of Council tax, community infrastructure levy and the new homes bonus. I therefore attach moderate weight to the benefits that the scheme would deliver.
27. The harm I have identified as arising from the proposal relates to its impact on the character and appearance of the area arising from the introduction of a new dwelling to the rear of existing dwellings, which would deviate from the prevailing pattern of development, contrary to policies CS10 and CS17 of the CS and policies DM2 and DM10 of the DMP. I attach moderate weight to this harm.
28. The Framework advises that good design is a key aspect of sustainable development, requiring planning decisions to achieve well-designed places which are visually attractive and sympathetic to local character. The appeal site is a well established part of the area's character, and whilst I have identified moderate harm to the character and appearance of the area as a result of the proposal, I consider that the proposal responds positively to the existing character of the site itself. In

³ PINS reference APP/K3605/W/24/3352866

addition, the scheme would deliver a number of benefits, against the moderate harm which I have identified.

29. I therefore conclude that the adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, and that permission should be granted.

Conditions

30. The Framework sets out that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have assessed the suggested list of conditions on this basis and made amendments where necessary to meet these tests.
31. In the interests of certainty, conditions are required imposing a time limit and listing the approved plans.
32. In the interests of highway safety, a construction transport management plan should be submitted and agreed before development commences.
33. As there is a potential for contamination on the site, a pre-commencement condition is required to ensure that site investigation is undertaken and mitigation provided if required.
34. To protect the appearance of the area, materials and landscaping should be in accordance with the approved plans. I have combined landscaping and ecological enhancements in the same condition, as the proposed ecological enhancements are shown on the landscaping plan.
35. A condition is required to ensure that there is adequate space for cars and cycles to park, and for cars to turn and leave in a forward gear.
36. I do not consider it necessary for a noise assessment to be undertaken before installing plant and equipment, since the only equipment shown on the plans is an air source heat pump, which would not be sited in close proximity to any neighbouring dwellings.
37. The provision of electric vehicle charging points is covered by the Building Regulations, and as such a planning condition is not necessary.
38. As the appeal site benefits from an existing access, there is no need to condition the provision of visibility splays.

Conclusion

39. For the above reasons, the proposal accords with the development plan, when read as a whole. Material considerations do not indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be allowed.

J Heppell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

- 2) The development hereby permitted shall be carried out in strict accordance with the following list of approved plans:

Block Plan in Context	A 02 Rev P 04
Site Plans	A 03 Rev P 04
Proposed Plans	A 04 Rev P 04
Existing and Proposed Elevations	A 06 Rev P 04
Proposed Elevations and Sections	A 07 Rev P 04
Landscape Plan	L 05 Rev P 04A

- 3) No development shall commence until a construction transport management plan, to include details of:

- (a) parking for vehicles of site personnel, operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials
- (d) provision of boundary hoarding behind any visibility zones
- (e) HGV deliveries and hours of operation

has been submitted to and approved in writing by the local planning authority. Only the approved details shall be implemented during the construction of the development.

- 4) To ensure the potential for contamination has been investigated and the necessary action taken to make the development site suitable for its proposed use, no demolition or construction shall be commenced until step (a) has been completed by a competent person and approved. If part (a) identifies the need for step (b) then this shall also be completed and approved before any demolition or construction commences. Furthermore, there shall be no occupation of any part of the site by any end user prior to meeting the terms of this condition in full.

- a) Preliminary Investigation of the Site

A preliminary investigation shall be carried out by a competent person prior to any site clearance or demolition, to assess the condition of the land to be redeveloped, in respect of contamination. The preliminary investigation must, as a minimum, include a complete site history, site walkover, desk-based evaluation and Conceptual Site Model and may include intrusive investigation. A written report of the investigation shall be submitted to the Council for written approval. If the Council are satisfied that there is a significant possibility that the site could pose a significant risk to future occupiers under its proposed redevelopment use as a result of contamination, then the following additional steps shall also be carried out.

- b) Site Investigation, Method Statement and Remediation

(ii) A written site-specific investigation plan using the information obtained from the preliminary investigation, providing details of the investigation for soil, gas and controlled waters where appropriate, shall be submitted to, and approved by, the Council.

(ii) The site investigation shall be undertaken in accordance with the scheme agreed by the Council. The results of the site investigation, a refined conceptual model and a risk assessment of any contamination found shall be submitted in writing to, and approved by, the Council.

(iii) A written Method Statement with verification plan, detailing any remediation requirements and how successful implementation of these requirements will be verified, shall be submitted to, and approved by, the Council.

c) Development in accordance with the Method Statement

The development of the site shall be carried out in accordance with the approved Method Statement and any addenda submitted by the developer, and agreed in writing by the Council. Any post remediation monitoring identified in the Method Statement shall be installed by the developer within the timescales identified in the Method Statement, and maintained and operated for as long as identified by the Method Statement.

d) Unsuspected Contamination

If, during development, contamination not previously identified is found to be present at the site, then no further development shall be carried out until the developer has submitted, and had approved by the Council, a written addendum to the Method Statement detailing how the unsuspected contamination shall be dealt with.

e) Piling

Development approved by this permission shall not commence unless a Foundation Works Risk Assessment for piling foundations (if piling is to be used on site) has been submitted to, and agreed in writing by, the Council. The piling shall be undertaken only in accordance with the method outlined in the approved Foundation Works Risk Assessment.

f) Imported Material

Clean, uncontaminated rock, soil, brick rubble, crushed concrete or ceramic only shall be permitted as infill material. The developer shall not import any material until a sampling programme, including appropriate import criteria for the proposed end use and frequency of sampling, has been submitted in writing to, and approved by, the Council. The Developer shall carry out the approved sampling programme to check that all imported material conforms to the agreed criteria. Where the permitted end use is residential, the sampling programme shall also include samples taken from the imported material after final placement. Written confirmation of the suitability of all imported materials shall be provided to the Council as part of step (g). This shall include both the results of the sampling programme and details of the origin, transport, final deposition and any temporary stockpiling of the imported materials.

g) Completion of Remediation and Verification Report

Verification by an independent, competent person must be carried out prior to occupation of any part of the site by any end user. Upon completion of the remediation detailed in the Method Statement, and before occupation of any part of the site by any end user, a written Verification Report shall be submitted to, and agreed in writing by, the Council, providing verification that the required remediation works and installation of post remediation monitoring have been

carried out in accordance with the agreed Method Statement and any addenda thereto. The verification report shall also provide confirmation, with appropriate evidence where applicable, that all remaining terms of the condition have been met. Verification shall be carried out and reported by an independent, competent person, stating that remediation was carried out in accordance with the approved remediation scheme and that the site is suitable for the permitted end use.

- 5) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Drawing No A 07 Rev P 04.
- 6) Hard and soft landscaping works and ecological enhancements shall be carried out in accordance with the details shown on Drawing No L 05 Rev P 04A. Arboricultural work to existing trees shall be carried out prior to the commencement of any other development, otherwise all remaining landscaping work and new planting shall be carried out prior to the occupation of any part of the development or in accordance to the timetable agreed with the Council. Any trees or plants, which within a period of five years of the commencement of any works in pursuance of the development die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species, following consultation with the Council, unless the Council gives written consent to any variation.
- 7) The development hereby approved shall not be first occupied until space has been laid out within the site in accordance with the approved plans for vehicles and cycles to be parked, to include a charging point with timer for e-bikes, and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.

End of schedule