
Appeal Decision

Site visit made on 2 December 2025

by **L Reid BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 March 2026

Appeal Ref: APP/K3605/W/25/3374058

The Warehouse, 47 Thames Street, Weybridge, Surrey KT13 8JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Nick Jones against Elmbridge Borough Council.
 - The application Ref is 2025/1040.
 - The development proposed is described as basement + new entrance gates.
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Decision

1. The appeal is allowed and planning permission is granted for basement with car lift and new entrance gates at The Warehouse, 47 Thames Street, Weybridge, Surrey KT13 8JG in accordance with the terms of the application, Ref 2025/1040, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Nick Jones against the decision of Elmbridge Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The description of development used in my formal decision above is taken from the appeal form as it more accurately describes the proposed development. This description has also been used by the Council when undertaking the public consultation on the application.

Procedural Matters and Main Issues

4. The appeal is submitted on the basis that the Council failed to give notice of its decision within the statutory period. It is evident from the information before me that the Council's failure to give notice of its decision has arisen because the application was not validated.
5. Following the submission of the application, the Council informed the appellant that the application was incomplete for various reasons, some of which related to the application fee and outdated documents, including the noise addendum, preliminary environmental risk assessment, ground investigation report, and archaeology letters (the technical reports). The appellant subsequently paid the fee and provided some of the requested details but did not update the technical reports. The crux of the validation issue relates to this.
6. In subsequent email exchanges, the appellant disputed the Council position, setting out their reasoning as to why they considered updated technical reports

were not necessary or proportional for the application to be validated, which included the fact that the same technical reports were submitted with applications 2016/1428 and 2024/1824 and were both validated, and that the Council's validation checklist did not require new or updated reports. Subsequently, they requested that the application be validated. This was effectively a notice under the validation dispute process set out in Article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the DMPO). As the Council maintained their position, this exchange culminated in an email from the appellant requesting a formal written refusal under 'Regulation 12' of the DMPO so that they may pursue an appeal.

7. The Council's subsequent response to the appellant's request reiterated that updated technical reports were required, and that if these reports were not provided, the appellant had the right to appeal. Such correspondence represented a Non-Validation Notice under Article 12 of the DMPO. The outcome is that the application is classified as a non-validated application, and the time periods for decisions set out under Article 34 of the DMPO apply. This enables an appeal to be made.
8. The statutory time period will be considered to have begun at the point where the Council has received the fee, documents and other information necessary to validate the application, but excluding the disputed information specified in the Article 12 notice¹. The Council has indicated that the statutory determination date for the application was 8 July 2025. Although an earlier non-validation appeal² was submitted and subsequently rejected, the appeal before me was lodged on 2 October 2025, which is after the statutory period had expired.
9. When determining an appeal, it is essential to ensure that the correct notification has been carried out; this is regardless of whether it is a non-determination or non-validated application. The requirements are the obligatory, minimum requirements designated by statute and there is no permissible deviation from them within the statutory framework, even if it was never accepted by the Council that the application was valid. The Council has carried out its consultation duty and complied with the requirements under Article 15 of the DMPO. Subsequent consultation responses have been considered accordingly in my decision.
10. In cases such as this, the appeal will consider both the merits of the validation dispute and the appeal itself³. Therefore, the appeal determination must first resolve the dispute about the need for the required information and the validity of the application before going on, if necessary, to consider whether a grant of planning permission is justified.
11. I have identified the main issues in this appeal having regard to the above as well as the Council's Appeal Statement, which sets out its main concerns should it be determined that a valid application was in fact made.
12. The main issues are therefore:
 - Whether or not the application should have been validated by the Council; and if I find that it should have been validated,

¹ PPG Paragraph: 053 Reference ID: 14-053-20140306

² APP/K3605/W/25/3366592

³ PPG Paragraph: 053 Reference ID: 14-053-20140306

- The effect of the proposed development on the character and appearance of the area.

Reasons

Validation

13. Section 62(3) of the Act sets out that a local planning authority may require that an application for planning permission must include such particulars as they think necessary, and such evidence in support of anything in or relating to the application as it thinks necessary. The particulars or evidence the authority require to be included in the application should be reasonable having regard, in particular, to the nature and scale of the proposed development, and about a matter which it is reasonable to think will be a material consideration in the determination of the application in line with Article 34(6)(c) of the DMPO.
14. The application submitted was a 'Householder Application for Planning Permission for works or an extension to a dwelling', and the Council has confirmed that they were satisfied with the type of application submitted. The Council's published validation requirements set out the information needed for each application type, and for a householder application, details relating to noise or contamination are not required.
15. Although the Council expressed concerns regarding the age of the technical reports and suggested that site conditions would have changed since they were undertaken, it has not provided any robust justification explaining how these reports relate to any material considerations that must be addressed prior to submission. Furthermore, the Council's identified issues on the planning merits of the proposed development relate to character and appearance, which do not appear to be matters to which the technical reports are directly relevant.
16. Having regard to the nature and scale of the proposed development and based on the information before me, including the appeal submission documents and the published version of the Council's validation requirements, I find that updated technical reports were not reasonable requests. The application would have been valid without these technical reports, and the Council should have proceeded to validate and determine it.
17. In conclusion, the application was valid. In these circumstances, it is necessary to consider the planning merits of the proposed development.

Character and appearance

18. The appeal site is in a predominantly residential area, consisting of two-storey houses of different designs and some flats which vary in age. The front boundary treatment is varied and consists of a mixture of brick walls, railings, hedges and metal gates. Most of the nearby houses do have a relatively open frontage. The appeal property is a large former warehouse, and it differs significantly in design from its neighbours.
19. The proposal seeks planning permission for a basement providing car and bicycle parking, with internal access via a lift and external access via a scissor lift. It is also proposed to erect entrance gates at the front of the site. The Council have raised no concerns with the proposed basement works, and I have no reason to reach a contrary view.

20. The proposed gates would enclose the front of the appeal site due to their height and solid appearance, which contrasts with the more open frontages of neighbouring houses. However, the appeal site is an anomaly within the streetscene, reflecting its former warehouse use and distinct design. Its relationship with the street therefore differs from that of surrounding housing, making it appropriate for the site to retain its own architectural identity. As a result, the proposed gates would integrate well with the open character of the street.
21. Although I am not aware of their planning status, I observed during my site visit that some nearby houses have metal gates within their frontage. The accesses to the more recent developments along Farnell Mews and Lincoln Grove also have metal gates, and similar gates are present at the nearby school. These examples demonstrate that gated frontages are an established feature in the area. The proposed gates would therefore not appear as an incongruous feature, as they would reflect a boundary treatment already evident in the wider streetscene.
22. For these reasons, I conclude that the proposed development would not cause harm to the character and appearance of the area. Accordingly, it would comply with Policies CS4 and CS17 of the Elmbridge Core Strategy 2011 and Policy DM2 of the Elmbridge Local Plan Development Management Plan 2015. These policies, amongst other things, require development to integrate sensitively with and preserve or enhance the local character.

Other Matters

23. The Council has provided evidence of who was consulted on the application, and I am therefore satisfied that the relevant public consultation has been carried out. Planning decisions must be based on the planning merits of the individual scheme, not solely on whether a precedent exists.
24. Although the excavation required for the basement and scissor lift is a substantial engineering operation, such works are not uncommon in residential areas and are regulated through the building regulations regime, which operates outside the planning system but safeguards neighbouring houses. The Council's Land Contamination Officer raised no objections, and there is no technical evidence before me to reach a different view. A planning condition could also be imposed to ensure that appropriate procedures are followed should any contamination be identified.
25. The gates would be set back from the pavement, and the basement turning area would allow vehicles to enter and exit in a forward gear. Even if a vehicle were to exit in reverse, the Council has not indicated that the visibility splays demonstrate inadequate sightlines. Visibility for drivers leaving the site would be comparable to that of neighbouring houses and would enter the road under similar conditions. Any brief pause in the road caused by a vehicle waiting while the scissor lift is in use would be momentary and would not result in harmful congestion.
26. With only two parking spaces proposed, the frequency of vehicle movements would be low. The Council's Environmental Health Officer has raised no concerns regarding light pollution, noise or disturbance. In addition, a planning condition could require a noise assessment to identify any necessary mitigation measures for equipment-related noise from the development. Furthermore, the similar development approved in 2016 demonstrates that noise mitigation can be addressed by planning condition. There is no evidence before me to indicate that

the local noise environment has changed to such an extent that suitable mitigation could not now be achieved.

27. Installing an EV charging point in a basement would be required to comply with the relevant electrical and building safety regulations. The chimney on the side elevation would serve the basement and has no features that would enable overlooking to the neighbouring house. Scissor lifts can be used in residential settings without posing risks to the public or animals when installed in accordance with safety requirements. The swimming pool and doorway to the courtyard form part of the existing building, as shown on the existing plans. The applicant's previous applications or works outside this submission are not material to the assessment of the current proposal, and any matters relating to the CIL form fall within the Council's responsibilities as charging authority.

Conditions

28. The Council has supplied a list of suggested conditions. I have considered these in light of the tests in the National Planning Policy Framework and the Planning Practice Guidance. Where appropriate, I have adjusted the wording of the conditions to improve relevance, precision and enforceability.
29. I have imposed the statutory implementation condition [1], along with a condition listing the approved plans to provide certainty [2]. In the interests of the character and appearance of the area, it is necessary to impose a condition requiring the materiality of the gates to be agreed by the Council [3]. To ensure risks from land contamination are identified and remediated as necessary, a ground contamination condition is imposed [4].
30. To protect neighbouring residents from disturbance, it is necessary to impose a condition requiring a noise assessment to be undertaken to identify any required mitigation measures before any plant, machinery or equipment associated with the development is installed. These mitigation measures must then be implemented prior to the equipment being brought into use [5]. While I note the appellant's concerns regarding this condition, the Council has a duty to determine any future application to discharge it, and legislation provides a defined process for the appellant to follow should the Council fail to issue a decision within the relevant statutory timescale. Furthermore, as this is not a pre-commencement condition, it does not prevent the development from starting.

Conclusion

31. For the reasons given above, the appeal should be allowed.

L Reid

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos
3015-05 Issue C – Location & Block Plans,
3015-03 Issue C – Proposed Plans,
3015-04 Issue C – Proposed Elevations.
- 3) Prior to installation, samples of materials to be used for the entrance gates hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) If, during development, ground contamination is found to be present at the site it must be reported immediately to the Local Planning Authority. Development must be halted and an investigation shall be agreed, in writing, with the Local Planning Authority. The investigation shall be carried out by a competent person, to assess the condition of the land with respect to contamination.

In the event that remediation is required, a written method statement detailing how the identified contamination shall be dealt with and risks mitigated shall be submitted to the Local Planning Authority for written approval. The agreed remediation method statement shall be implemented prior to occupation or the development being brought into use.

Upon completion of the remediation, and prior to the development being brought into use, a written report providing verification that the required works with regards to remediation of contamination have been carried out in line with the agreed method statement shall be submitted to the Local Planning Authority for written approval. The 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) Prior to the installation of any fixed plant, machinery, or air moving extraction or filtration equipment serving the development hereby permitted, a noise assessment identifying any required mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation measures shall be implemented in full prior to the equipment being brought into use and shall thereafter be maintained.

END OF SCHEDULE