1. This new application has been received in order for the Council to re-consider the application and address the reasons why a previously approved identical scheme (2018/1199) was quashed following a Judicial Review.

2. The Judicial Review argued that the previous officer’s report contained the following errors and/or omissions:
   - The report identified the planning application site as falling within the ‘Oxshott Way Environs’ character area (COS06), and not the ‘Crown Estate’ sub area COS10 which the site is within.
   - The report did not reference the site’s status as a Priority Habitat (Deciduous Woodland)

3. The application is identical but has been submitted by a new applicant.

4. An updated ecology report which identifies Priority Habitat as a constraint on the site has been received. An updated Landscape Management Plan and Landscape Strategy Plan have been submitted to address the site’s Priority Habitat constraint. An updated Arboricultural Report has also been submitted.

Description

5. The application site is located on the western side of Princes Drive. The site is currently occupied by a two-storey detached house.

6. The site is within the ‘Crown Estate (Birds Hill Estate) and Bevendean’ character area (COS10) as outlined in the Cobham, Oxshott, Stoke D’Abernon and Downside Companion Guide to the Design and Character SPD. The SPD identifies area is characterised by houses are set within very large plots often completely obscured from view by mature beech hedges and trees. However, there are examples of large visible replacement dwellings in this street, and others in the wider area. The houses are generally between two and three storeys, they vary in orientation and location within the plot.
Constraints

7. The relevant planning constraint are:

- Special Low Density Residential Area
- Priority Habitat (Deciduous Woodland)
- Strategic View

Policy

8. In addition to the National Planning Policy Framework and the National Planning Practice Guidance, the following local policies and guidance are relevant to the determination of this application:

Core Strategy 2011
CS1 – Spatial Strategy
CS10 – Cobham, Oxshott, Stoke D’Abernon and Downside
CS14 – Green Infrastructure
CS15 – Biodiversity
CS17 – Local Character, Density and Design
CS26 - Flooding

Development Management Plan 2015
DM1 – Presumption in favour of sustainable development
DM2 – Design and amenity
DM6 – Landscape and trees
DM7 – Access and parking
DM8 – Refuse, recycling and external plant
DM20 - Open Space and views
DM21 – Nature conservation and biodiversity

Design & Character SPD 2012
& Companion Guide: Cobham, Oxshott, Stoke D’Abernon and Downside

9. Relevant Planning History

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Decision</th>
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| 2018/1199  | Detached two-storey house with rooms in the roof space, dormer windows, rear balcony, rear raised terrace and attached garage following demolition of existing house | Granted Permission. However, this permission was quashed following to a Judicial Review on the following grounds:  
  a) No mention was made of the site’s designation as a national priority habitat.  
  b) The erroneous classification of the site as within Oxshott Way Environs character area, instead of its true classification within the Crown Estate Character Area |

Proposal

10. Planning permission is sought for the erection of a detached two-storey house with rooms in the roof space, dormer windows, rear balcony, rear raised terrace and attached garage following demolition of existing house.
11. The proposed building would be sited broadly in the same position as the existing house. It would be sited over 17m from the frontage to Princes Drive, 2.3-3.4m to the side boundaries and 45m to the rear boundary.

12. An updated ecology report which identifies Priority Habitat as a constraint on the site has been received. Updated Landscape Management Plan, Landscape Strategy Plan and Arboricultural Report have also been received.

13. Amended plans have been received to correct minor discrepancies in the submitted plans, namely minor differences in annotated heights and the removal of a low wall on the flank of the dwelling which was not shown on the site plan. Neighbours have been notified of these amended plans and any representations received will be reported to members at the committee meeting.

Representations


15. 14 letters of objection from 10 addresses received, the contents of which are summarised below:

- Inadequate separation distance to the side boundaries
- The development is contrary to Policy COS10 and DM2 Crown Estate Specific Guidance
- The development would set a precedent
- Loss of light
- Overdevelopment
- Harm to the character of the area
- Removal of trees and vegetation to facilitate the development
- The development is identical to the previous application (2018/1199)
- A condition should be used to require extensive planting of trees to replace the ones removed from the site and to preserve distances from the boundaries with nos. 16 and 20 Prince Drive
- Loss of deciduous woodland
- Cramped form of development
- The development does not comply with Natural England’s standing advice
- The development would have overbearing impact on the neighbouring occupiers
- The development would appear bulky and incongruous in the street scene
- The development does not respect the scale, mass, height, prevailing pattern of built development
- Impact on strategic view
- More native plants should be provided
- Overlooking
- The proposed balcony is inappropriate and out of keeping with the character of the area
- The application should be considered on its own merit
- The submitted sun study is inadequate
- Overshadowing
- The ecological report should be unredacted
- Inconsistencies on drawings and boundaries
- The proposal would exacerbate surface water flooding in the area. A detailed surface water should be submitted.
- A planning condition should be used to prevent a second driveway entrance
- Impact on natural habitat

Consultations

16. Natural England – Stated that they have no comments to make on the application as it is not likely to result in significant impact on nature conservation.
17. Surrey Bat Group – Raised no objection to the proposal subject to condition.

18. Surrey Wildlife Trust – Raised no objection to the proposal’s impact on the Priority Habitat subject to implementation of appropriately detailed landscape management plan which includes adequate details of the features to be managed and created, including measures to compensate for the loss of trees.

19. Tree Officer – Raised no objection to the proposal subject to tree protection and pre-commencement inspection conditions.

Positive and Proactive Engagement

20. The National Planning Policy Framework requires local planning authorities to work with the applicant in a positive and proactive manner to resolve problems before the application is submitted and to foster the delivery of sustainable development. This requirement is met within Elmbridge through the availability of pre-application advice.

21. No pre-application advice was sought prior to submission of the application.

Planning Considerations

22. The main planning considerations in the determination of this application are:

- The design of the proposal and its impact on the character and appearance of the street scene
- The impact on the residential amenities of the neighbouring occupiers and future occupiers
- The impact on parking demand, pedestrian and highway safety
- The impact on trees and biodiversity

The design of the proposal and its impact on the character and appearance of the street scene

23. Policy CS17 of the Core Strategy requires new development to be high quality and inclusive sustainable design. Policy DM2 of the Development Management Plan requires all new development to be high quality design, respond to local area and have positive impact on the street scene.

24. The site is within the ‘Crown Estate and Bevendean’ character area (COS10) as outlined in the Cobham, Oxshott, Stoke D’Abernon and Downside Companion Guide to the Design and Character SPD, which identifies the area is characterised by houses are set within very large plots often completely obscured from view by mature beech hedges and trees. However, there are examples of large visible replacement dwellings in this street, and others in the wider area. The houses are generally between two and three storeys, they vary in orientation and location within the plot. The guide also indicates proposals should have regard case study (CS1) in relation to replacement dwellings.

25. The officer report on the previous application (2018/1199) incorrectly identified it within the ‘Oxshott Way Environ’ COS06 character area and not the ‘Crown Estate’ sub area COS10.

26. The siting of the proposed replacement building would be closer to the front boundary by virtue of the projecting garage but would still retain over 12m separation and no closer to the neighbouring property at No. 16 Princes Drive than existing, but would be closer to No. 20 Princes Drive, the neighbouring dwelling to the south. The existing building is sited 2-5m away from the side boundary with No. 16 and approximately 13m with the side boundary with No. 20. The proposed building would be sited 2.3-8.9m away from the side boundary with No. 16 and 3-3.4m away from the side boundary with No. 20. These would be less than the recommended separation distance of 6m in the Design and Character SPD CS1 Case Study. However, as previously identified, the existing separation distance to the side boundary of No. 16 is less than 6m. Furthermore, the separation distance to the side boundaries would be
comparable to other dwellings in the area (example Nos. 1, 3, 5 and 7 Princes Drive) including recently approved schemes at Nos. 8, 31 and 43 Princes Drive, and it is noted No 37’s separation to the boundary is 1.64m These proposed separation distances together with the existing planting on the boundary would be sufficient therefore to ensure that the building does not appear overly prominent in the street scene which would cause harm to area’s character. The distance to the rear boundary would be 45m which would exceed the recommended 15m in the Design and Character SPD guide. The spacing around the proposed building would also be sufficient to ensure that it does not appear cramped.

27. The proposed building would be two storeys with rooms in the roof space. The design, massing and roof-scape of the proposed building would be appropriate for the area. The overall height of the proposed building would be consistent with the existing development pattern.

28. Matters raised in the representations received includes a concern that the proposed development does not comply with the Design and Character SPD guide which requires new development to maintain the established building line of the street, separation to side boundaries and the general spacing in the street. However, the proposed building would not be sited forward of the existing front building line and the separation to the side boundaries would be comparable to existing dwellings in the area. The Case Study (CS1) in the Design and Character SPD refers to 6m separation to the side boundaries. However, some of the dwellings in the area have less than 6m separation to distance to the side boundaries as referred above. Consequently, the lack of compliance to the 6m separation distance, which is, itself, guidance and not a ‘rule’ is not considered harmful or out of keeping with the existing development pattern in the locale.

29. The proposed building would be approximately 27m in width, 10-14m in depth and approximately 10.8m in height (to the ridge). Whilst the proposed replacement dwelling would be wider, deeper and higher than the existing, it would be proportionate to plot and would not harm the character of the area or adversely impact the street scene. There are various examples of replacement modern dwellings in the Princes Drive and in the other streets within the local area, and it is considered the proposed development would be comparable to these.

30. The proposed external facing materials consist of slate tiles for the roof, white render for the walls and timber for the windows. These are considered appropriate for the area.

31. The siting, height and design of the proposed rear balcony would not dominate the proposed building or unduly detract from the character and appearance of the area.

32. The site lies within designated Strategic View. Policy CS14 (2) of the Core Strategy requires new development to protect and enhance strategic views. Policy DM20(C) of the Development Management Plan requires development within Strategic Views or affecting Key Landmarks will be permitted provided that it has been well designed to take account of the setting, character and amenity value of the view or landmark. The proposed development would not adversely affect the views through the site, and it would sit comfortably in the area which consists of large detached dwellings.

33. Consequently, the layout, siting, scale and design of the proposed development would be acceptable. It would have no undue impact on the character and appearance of the area. The proposal would thereby accord with Policies CS17 and CS14 of the Core Strategy and Policies DM2 and DM20 of the Development Management Plan, the Elmbridge Design and Character SPD 2012 and the NPPF.

34. Policy DM2 (e) requires all new development to protect the amenity of adjoining and potential occupiers and users. It requires development proposals to offer an appropriate outlook and provide adequate daylight, sunlight and privacy.
35. Nos. 16 and 20 Princes Drive are the nearest adjoining dwelling to the north and south respectively. The attached garage and the main building would be sited at least 11m and 19m respectively from the side and rear elevation of No. 16 Princes Drive which is more than the existing separation distance and is considered acceptable. The proposed building would be sited closer to the side boundary with No. 20 Princes Drive than the existing building, but the separation distance to the boundary would be at least 3m (over 25m to the main flank wall) which is considered acceptable. Nos 25-39 Princes Drive and the dwellings to the rear of the site are well separated from the application site. Therefore, there would be no undue impact on the neighbouring properties by reason of overbearing impact, loss of light or impact on outlook.

36. Evidence submitted with the application demonstrates that there would be no undue impact on the sunlight enjoyed by neighbouring dwellings. The worst-case scenario is the winter solstice, however at this time of year the sun is low and weak and unlikely to cast a strong shadow. In terms of daylight, the evidence shows that there would be no material loss of daylight.

37. The proposal includes flank windows and rear windows at both ground and first floor levels. However, given the siting, separation distance and the existing relationship, no adverse overlooking beyond that already experienced would occur.

38. A large rear balcony is proposed at first floor level. To prevent undue overlooking of the neighbouring properties at Nos. 16 and 20 Princes Drive, a condition is recommended to require provision of 1.8m privacy screen on both sides of the balcony.

39. Consequently, the proposal would have no undue impact on the residential amenities of the neighbouring occupiers. It would offer an appropriate outlook and provide adequate daylight, sunlight and privacy. It would thereby comply with Policy DM2 of the Development Management Plan.

40. The amenity space for the proposed dwelling would be commensurate with the prevailing garden sizes in the locality. As such, it is considered acceptable.

**The impact on parking demand, pedestrian and highway safety**

41. Policy DM7 states that parking provision should be appropriate to the development and not result in an increase in on-street parking stress. Provision has been made for a double garage and front drive which provides adequate parking spaces. The property is on a private road and therefore no consultation has been carried out with the highway authority.

42. The existing vehicular access would be utilised to provide access onto the site. The access and parking arrangement would be acceptable.

43. Concern has been raised regarding likely creation of a second access point. However, none is proposed as part of this application.

**The impact on trees and biodiversity**

**Trees**

44. There are a number of trees on and around the site. Some of the mature trees were removed from the site prior to submission of the application. The trees removed were not protected by Ancient Woodland designation, Tree Preservation Order, Conservation Area coverage, or previous planning conditions. Their removal was not breaking any planning restrictions albeit their removal had a significant impact on the character of the site.

45. Arboricultural impact assessment and method statement with tree protection details have been submitted with the application outlining how all the retained trees will be afforded an adequate level of protection throughout the development process. Furthermore, substantial tree new planting is proposed as part of landscaping of the site. Implementation of the proposed planting would be secured through a suitably worded condition.
46. The Council’s tree officer has raised no objection to the proposal subject to the inclusion of conditions requiring implementation of protection plan and pre-commencement inspection. The suggested conditions are considered acceptable.

Biodiversity

47. Impact on biodiversity was another ground for the Judicial Review, where it was found the application had not taken account of the Priority habitat designation. An updated preliminary ecological appraisal and bat survey were submitted with the application. It identifies Priority Habitat as a constraint on the site.

48. Policy CS15 of the Core Strategy states that the Council will seek to avoid loss and contribute to a net gain in biodiversity across the region and the objectives of the Surrey Biodiversity Action Plan (BAP) by, amongst others, protecting and enhancing BAP priority habitats and species and seeking to expand their coverage. Policy DM21 (a and b) of the Development Management Plan also states the following:

a) In accordance with Core Strategy policy CS15 – Biodiversity, all new development will be expected to preserve, manage and where possible enhance existing habitats, protected species and biodiversity features. The Council will work in partnership to explore new opportunities for habitat creation and restoration.

b) Support will be given to proposals that enhance existing and incorporate new biodiversity features, habitats and links to habitat networks into the design of building themselves as well as in appropriate design and landscape schemes of new developments with the aim of attracting wildlife and promoting biodiversity. Conditions will be used to secure the provision of mitigation measures, as appropriate.

49. The update ecological appraisal includes avoidance, mitigation measures to be incorporated into the proposed works programme, updated Landscape Management Plan and Landscape Strategy Plan.

50. The trees removed from the site prior to submission of the application are from an area of deciduous woodland within the proposed development site boundary. The deciduous woodland is designated as Habitat of Principal Importance for the purpose of conserving biodiversity in England, in line with the provisions of Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006.

51. The Landscape Management Plan and Landscape Strategy Plan indicate that 29 new native trees will be planted in order to compensate for the loss of at least 20 trees from the site. Details in terms of the management, maintenance and monitoring are also provided within the Landscape Management Plan.

52. Natural England and Surrey Wildlife Trust were consulted on the application. Natural England stated that they have no comments to make on the application and referred to their standing advice which makes clear that any application supported by surveys or reports and require that the local planning authority take any associated impact into consideration. Surrey Wildlife Trust have raised no objection to the proposal and have stated the following:

"The submitted Landscape Management Plan (LMP) and Landscape strategy plan (Revision E) are appropriate in scope and methodology and have taken into account our previous comments. In these documents it is indicated that 29 new native trees will be planted in order to compensate for the loss of at least 20 trees from an area of deciduous woodland (designated Habitat of Principal Importance) within the proposed development site and the existing hedgerows will be enhanced with native species. Furthermore, the locations of 2 bat boxes and 2 bird boxes are provided at the retained mature trees. Details in regard to the management, maintenance and monitoring are provided within the LMP."
We therefore advise that, should the Council be minded to grant planning permission for the proposed development, any development to proceed in line with the actions as outlined in the above-referenced Landscape Management Plan and updated Landscape strategy plan (Revision E) in order to compensate for the loss of habitat and achieve a net gain for biodiversity.

53. The recommended measures are considered acceptable and would be secured by a suitably worded condition. Officer's are satisfied that subject to the suggested conditions as referred above, the development would satisfy the requirements of Paragraph 175 of the NPPF. This identifies that if harm cannot be avoided (in this instance as the trees were removed prior to the submission of this and the previous application) then permission should be refused unless this loss can be adequately mitigated, or as a last resort, compensated for. In this instance the replacement of the felled trees with 29 new trees (to be secured via condition) is considered to constitute suitable compensation, having regard to the fact their loss cannot be mitigated for as their loss has occurred prior to the submission for this application. The trees removed were not classified as ancient woodland, or ancient/veteran trees. the proposal is therefore considered to sufficient address the Priority Habitat consideration which led the first permission (2018/1199) to be quashed.

54. The bat survey recorded the emergence of a single brown long-eared bat during one of two surveys. The survey proposes implementation of mitigation and enhancement measures such as retention and protection of most of the boundary vegetation, use of native species and installation of bat boxes which are considered acceptable and would be secured by a suitably worded condition.

Matters raised in Representations

55. The matters raised in the representation received include concern regarding increase in the number of large developed houses that are unsold in the estate. However, this concern is not relevant to the application.

56. The matters raised in the representation received also include lack of flood risk assessment and inaccurate information on the application form. However, the application site is outside flood risk area including surface water flooding.

57. Inconsistencies with the submitted plans has been addressed via submission of amended plans.

58. All the other matters raised in the representation received have been addressed above.

Conclusion

59. On the basis of the above, and in light of any other material considerations, the proposal is considered to be in accordance with the development plan. It is considered the grounds found to quash the first permission 2018/1199 have been sufficiently addressed. Accordingly, the recommendation is to grant permission

The proposed development does require a CIL payment of £72,321.43

Recommendation: Grant Permission

Conditions/Reasons

1 TIME LIMIT (FULL APPLICATION)
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 51 of Part 4 of the Planning and Compulsory Purchase Act 2004.

2 LIST OF APPROVED PLANS

Reason: To ensure that the development is carried out in a satisfactory manner.

3 MATERIALS - APPROVED
The development shall not be erected other than in the following materials slate tiles for the roof, white render for the walls and timber for the windows or such other materials as have been approved in writing by the borough council.

Reason: To ensure that a satisfactory external appearance is achieved of the development in accordance with Policy DM2 of the Elmbridge Development Management Plan 2015.

4 ADDITIONAL WINDOWS
The development hereby permitted shall have no windows or other openings (other than those shown on drawing number FD17-1527 -100 Rev C, FD17-1527 -105 Rev B and FD17-1527 -115 Rev C ) inserted into the northern and southern elevations unless planning permission has first been granted by the Borough Council.


5 BALCONY SCREEN
Prior to the first use of the terrace hereby approved, 1.8m high balcony screen shall be erected on both side and maintained permanently.

Reason: To preserve the privacy of neighbouring residents in accordance with Policy DM2 of the Elmbridge Development Management Plan 2015.

6 LANDSCAPING IMPLEMENTATION
All hard and soft landscaping works shall be carried out in accordance with the approved details shown on drawing no. L90-200 Rev.E. 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 Local Planning Authority. Any trees or plants whether new or retained which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species in the same place.

Reason: To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality.

7 TREES PRE-COMMENCEMENT MEETING
No development including groundworks and demolition shall take place and no equipment, machinery or materials shall be brought onto the site for the purposes of the development until a pre-commencement meeting has been held on site and attended by a suitable qualified arboriculturist, representative from the Local Planning Authority and the site manager/foreman. To agree working procedures and the precise position of the approved tree protection measures or/and that all tree protection measures have been installed in accordance with the
approved tree protection plan(s) Arb Consultancy Limited 18 Princes Drive Oxshott Leatherhead Surrey KT22 0UP Tree Protection Plan Drawing No. 19 1670 TPP 001 12/06/2019. The tree protection measures shall be maintained for the course of the development works. To arrange a pre-commencement meeting please email tplan@elmbridge.gov.uk with the application reference and contact details.

Reason: To protect and enhance the appearance and character of the site and locality and reduce the risk to protected and retained trees. This is required to be a pre-commencement condition as the details go to the heart of the planning permission.

8 TREES PROTECTION MEASURES
After the agreed tree protection measures have been installed in accordance with the approved plans, all tree protection measures shall be maintained for the course of the development works. The development thereafter shall be implemented in strict accordance with the approved details and method statements contained in Arb Consultancy Limited Arboricultural Planning Report for 18 Prince’s Drive Oxshott Leatherhead Surrey KT22 0UP Report Ref 19 1670 dated 12/06/2019.

Reason: To protect and enhance the appearance and character of the site and locality and reduce the risk to protected and retained trees.

9 TREES RETENTION
All existing and trees, hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the first occupation of the development.

a) no retained tree, hedge or hedgerow shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning shall be carried out in accordance with British Standard 3998: 2010 (tree work) and in accordance with any approved supplied arboricultural information.

b) if any retained tree, hedge or hedgerow is removed, uprooted or destroyed or dies, another tree, hedge or hedgerow of similar size and species shall be planted at the same place, in the next available planting season or sooner.

Reason: To protect and enhance the appearance and character of the site and locality and reduce the risk to protected and retained landscape features.

10 TREES PLANTING & MAINTENANCE
Prior to first occupation or the completion of the development hereby permitted, whichever is the sooner; full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. Details are to include species, sizes, locations, planting pit design, supports, and guards or other protective measures to be used. Details shall also include planting times and maintenance schedules for aftercare to ensure good establishment. If within a period of 5 years from the date of the planting of any tree, that tree, or any planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of same size and species shall be planted at the same place, in the next available planting season or sooner. The development shall be completed in accordance with the approved details.

Reason: To protect and enhance the appearance and character of the site and locality.

11 BIODIVERSITY MITIGATION
The development shall be carried out in accordance with the conclusions and recommendations in the Preliminary Ecological Appraisal (by Enzygo Ltd - dated 16th May 2019), Bat Report (by A Ae - dated 12 June 2018) and Landscape Management Plan (dated 19th June 2019) including the biodiversity enhancements.

Informatives

1 COMMUNITY INFRASTRUCTURE LEVY

The development permitted is subject to a Community Infrastructure Levy (CIL) liability for which a Liability Notice will be issued as soon as practical after the day on which planning permission first permits development.

To avoid breaching the CIL regulations and the potential financial penalties involved, it is essential a prior commencement notice be submitted. The notice is available at www.planningportal.co.uk/cil

For the avoidance of doubt commencement of demolition of existing structure(s) covering any part of the footprint of the proposed structure(s) would be considered as commencement for the purpose of the CIL regulations.
Proposal for 18 Princes Drive, Oxshott, Surrey

SITE LOCATION PLAN

1:1250 A3 MARCH 18

18 PRINCES DRIVE

REV A

FD 17 1527 -50

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