

**TO:** PLANNING & REGULATORY COMMITTEE –  
BY DELEGATION

**DATE:** April 2008

**BY:** PLANNING MANAGER

**DISTRICT(S)** MOLE VALLEY DISTRICT COUNCIL

**ELECTORAL DIVISION(S):**  
Dorking & The Holmwoods  
Mr Cooksey

**PURPOSE:** FOR DECISION

**GRID REF:** 516279; 149319

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**TITLE:** SURREY COUNTY COUNCIL PROPOSAL MO08/0291

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## **APPLICATION DETAILS**

### ***Site Address***

Land at Dorking Nursery School, West Street, Dorking

### ***Proposed Development***

Erection of 2 shade sails over outdoor play areas.

### ***Applicant***

Dorking Nursery School Sure Start Children's Centre

### ***Date application valid***

8 February 2008

### ***Period for Determination***

4 April 2008

### ***Amending Documents***

Email dated 27 March 2008 from the Applicant amending the colour of the proposed sails

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## **BACKGROUND**

### ***Site Description and Planning History***

- 1 Dorking Nursery School was established on the current site in 1970, initially occupying about half of the former St Martin's C of E First School, with the other portion comprising the Surrey Performing Arts Library. When that library moved to the Denbies Wine Estate north of Dorking in 2000, the Nursery School took over the remainder of the building. In 2007 the school was designated as a Children's Centre by the Department for Children, Schools and Families. This means that the age range will be expanded to provide sessional education and care for two year olds and that the work with families in the community will also be extended.

- 2 The provision of high quality outdoor play opportunities is essential for the development of young children and is a key part of the Government's new statutory curriculum framework. This provision is particularly important for the current generation of children, which has far fewer opportunities to explore the outdoors than previous generations. Adequate protection from the sun is needed for children, parents and carers. Such protection is especially vital for the 29 per cent of the children at the school who have significant and often long term special needs, including children with limited mobility.
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## THE PROPOSAL

- 3 This proposal is for two porous sails over sandpits. The sails have been designed to provide maximum shade from the sun without detracting from the school building or the area in which they are situated. The sail fabric would be light green/beige heavy duty knitted shade cloth and each sail would be supported by four pre-galvanised steel posts. The steel posts (as opposed to wooden poles) are needed to provide sufficient strength and durability and would have a life span of at least 50 years. The footprints of the sails would be approximately 7 metres by 5 metres and 6 metres by 6 metres. Each sail would have a maximum height of approximately 3.9 metres.
- 4 The proposed development would not result in any increase in pupil or staff numbers.
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## CONSULTATIONS AND PUBLICITY

### *District Council*

- 5 Mole Valley District Council : No objection subject to the colour of the sails being amended

### *Consultees (Statutory and Non-Statutory)*

- 6 County Highway Authority –  
Transportation Development Control : No objection
- 7 Heritage Conservation Team –  
Historic Buildings Officer : No objection
- 8 Heritage Conservation Team –  
Archaeological Officer : No objection

### *Parish/Town Council and Amenity Groups*

- 9 None

### *Summary of publicity undertaken and key issues raised by public*

- 10 The application was publicised by the posting of 2 site notices. A total of 196 owner/occupiers of neighbouring properties were directly notified by letter. No representations were received from members of the public.
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## PLANNING CONSIDERATIONS

- 11 The school is located in the Dorking Conservation Area. The proposal is to be judged in terms of the need for the development, impact on the conservation area, on archaeology and on local amenity, and design and access issues.

- 12 Pursuant to Section 38(2) of the Planning and Compulsory Purchase Act 2004, a planning authority must determine a planning application in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. In this case the Development Plan comprises the policies of the Surrey Structure Plan 2004 and the policies of the Mole Valley Local Plan 2000.

### **Need for the Development**

#### ***Mole Valley Local Plan 2000***

##### ***Policy CF2 – Provision of New Community Facilities***

- 13 Mole Valley Local Plan 2000 Policy CF2 (Provision of New Community Facilities) permits the development or expansion of premises for community facilities in built-up areas subject to a number of criteria including the development not detracting from the character and appearance of the property and surrounding area, the scale of the development is appropriate to the needs of the local community and the development would not have an adverse impact on the amenities of the locality, especially those of neighbouring properties. The proposed shade sails are needed to provide protection from the sun for children, parents and carers, including the nearly 30 per cent of pupils with special needs, some of whom have limited mobility. The development would enable the school to fulfil its obligation to provide high quality outdoor play for the children in accordance with curriculum requirements. On this basis, Officers are satisfied that there is a justified need for the proposed development. The aspects of impact on the area and on neighbouring amenity are considered below. Officers therefore consider that the proposal complies with this Development Plan policy.

### **Impact on Local Amenity**

#### ***Mole Valley Local Plan 2000***

##### ***Policy ENV22 – General Development Control Criteria***

##### ***Policy DTC11 – Tree Planting, Proposed Archway Place Local Nature Reserve and Vincent Walk Amenity Area***

- 14 Mole Valley Local Plan 2000 Policy ENV22 (General Development Control Criteria) requires the design and layout of development which accords with the other policies of the Plan to meet various criteria, including being appropriate in terms of scale, form, appearance and external materials; not significantly harming neighbouring amenity; respecting the character and appearance of the locality; and having regard to attractive features such as walls or buildings that contribute to local character. In terms of scale, the sails would occupy an area of approximately 7 metres by 5 metres and 6 metres by 6 metres and would be a maximum height of approximately 3.9 metres. The Supporting Statement indicates that both areas where the sails are proposed are enclosed by high walls and are partially screened by trees. The easternmost sail would be adjacent to an existing brick wall of about 2 metres in height and would be visible only from the upper floor of the adjoining Gilliams House, a block of flats. The sail proposed in the south west corner of the school site would not be visible from any neighbouring residential properties, being hidden by the existing school building and due to the intervening 3.2 metre high wall and adjacent partially treed vacant land. This land is also owned by the County Council and is designated as Amenity Space in the Mole Valley Local Plan 2000, with Policy DTC11 indicating that the District Council will investigate the creation of an amenity area (known as Vincent Walk) in that location. The easternmost sail would be slightly visible from the currently vacant former County Library Headquarters building to the north of the school site, with the view of the other sail being blocked by the school building. Officers therefore consider that the proposed development would have no significant adverse impact on the amenity of neighbouring properties.

- 15 In terms of appearance, form and materials, the sails would be square and rectangular, made of light green/beige shade cloth and supported by pre-galvanized steel posts. Mole Valley District Council consider that the yellow colour of the sails is inappropriate in a conservation area and recommend a change to a more muted tone such as beige. The applicant has amended the colour to a light green/beige mix, as advised by e-mail. Officers consider these details to be appropriate and therefore conclude that the proposal meets these policy requirements. Also Officers consider that the proposal would have no adverse impact on local character because of the relatively small scale of the development and because local features, particularly the brick walls, are being retained. Consequently, Officers consider that the proposal complies with these Development Plan policies.

### **Impact on the Conservation Area**

#### ***Surrey Structure Plan 2004 Policy SE5 – Protecting the Heritage***

#### ***Mole Valley Local Plan 2000 Policy ENV39 – Development in Conservation Areas***

- 16 Surrey Structure Plan 2004 Policy SE5 (Protecting the Heritage) states that Surrey's valuable cultural heritage of buildings, sites and landscapes will be conserved and enhanced. Mole Valley Local Plan 2000 Policy ENV39 (Development in Conservation Areas) requires development in conservation areas to preserve or enhance their character and appearance. Such development is to be of a high standard of design and well detailed so as to reflect local historic character, scale, and quality of buildings, settlement form and materials. The policy also requires features which contribute to local character, including walls, to be retained. In addition the design of spaces between buildings is to be treated sensitively.
- 17 The Supporting Statement notes that proposed development is anticipated to have no adverse impact on the historic character of the area. This view is shared by the County Council's Historic Buildings Officer who considers that the sails would not diminish the special character or appearance of the area that justified its being designated as a conservation area. In fact he sees the development as being of benefit to the character of the area by keeping the school in educational use. As noted above the colour of the sails has been changed on the advice of the District Council. Overall Officers consider that the proposal meets the requirements of these Development Plan policies.

### **Impact on Archaeology**

#### ***Surrey Structure Plan 2004 Policy SE5 – Protecting the Heritage***

#### ***Mole Valley Local Plan 2000 Policy ENV49 – Areas of High Archaeological Potential***

- 18 Policy SE5 (Protecting the Heritage) of Surrey Structure Plan 2004 addresses the conservation and enhancement of Surrey's valuable cultural heritage, requiring prior archaeological assessment, and if necessary evaluation, of development sites in Areas of High Archaeological Potential. Policy ENV49 (Areas of High Archaeological Potential) states that where significant development proposals fall within such an Area, the developer will be required to provide an initial assessment of the archaeological value of the site. The sail proposed to be located east of the school building is within an Area of High Archaeological Potential but the County's Archaeological Officer has no objection to the development because of the limited ground works involved in creating holes for the four poles supporting the sail. Officers therefore consider that the proposed development complies with these Development Plan policies.

## **Design and Access Issues**

### ***Surrey Structure Plan 2004***

#### ***Policy SE4 – Design and the Quality of Development***

### ***Mole Valley Local Plan 2000***

#### ***Policy ENV22 – General Development Control Criteria***

#### ***Policy ENV28 – Building Detailing and Materials***

#### ***Policy ENV30 – Access for Disabled People to Non-Domestic Buildings and Their Sites***

- 19 In design terms Surrey Structure Plan 2004 Policy SE4 (Design and the Quality of Development) requires the design of buildings and their integration with their surroundings to both be of a high standard. Policy ENV22 (General Development Control Criteria) of the Mole Valley Local Plan 2000 requires development to be of appropriate scale, form, appearance and materials and to respect the character and appearance of the locality. Mole Valley Local Plan 2000 Policy ENV28 (Building Detailing and Materials) states that development should not detract from the identity and character of the locality, and that the nature and quality of external materials should harmonise with surrounding buildings and the area. Traditional materials are normally required to be used in conservation areas. In the context of access, Mole Valley Local Plan 2000 Policy ENV30 (Access for Disabled People to Non-Domestic Buildings and Their Sites) development for educational purposes to normally provide suitable access for people with disabilities. Article 4(c) of the Town and Country Planning (General Development Procedure) Order 1995 (as amended) requires submission of a Design and Access Statement demonstrating integrated design and addressing external access issues. Government guidance on the contents of the Statement is contained in Circular 01/2006, Guidance on Changes to the Development Control System.
- 20 The Supporting Statement indicates that the proposed sails have been planned and designed to provide maximum sunshade without detracting from the area in which they would be situated or from the school building. As noted in paragraph 17, the County Council's Historic Buildings Officer and Mole Valley District Council have no objection to the proposed development in design terms, particularly in the context of the conservation area. The Supporting Statement notes that all users will have equal and convenient access to the areas covered by the sails. The supporting poles will not impede access to the sand pits or other parts of the playground. This is in line with the school's disability access plan which treats equality of access and opportunity as essential. Therefore, Officers consider that the proposal complies with the above mentioned Development Plan policies and with Government advice on design and access.

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## **HUMAN RIGHTS IMPLICATIONS**

- 21 The Human Rights Act Guidance for Interpretation, found at the end of this report, is expressly incorporated into this report and must be read in conjunction with the following paragraph.
- 22 Officers consider that the proposed development would have no adverse impact on local amenity. Therefore the proposal would not interfere with any Convention right and has no Human Rights implications.
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## **CONCLUSION**

- 23 This proposal is for two fabric shade sails in the playground of Dorking Nursery School. The sails would cover areas of approximately 7 by 5 metres and 6 by 6 metres. Each sail would be supported by four steel posts. The sails would provide protection from the sun for pupils, nearly a third of whom have special needs, and adults. The development would help the school to meet curriculum requirements by providing high quality outdoor play opportunities. All consultees have no objection to the proposal. No representations have been received. Officers consider that the proposed development complies with the Development Plan policies. Consequently, Officers recommend the development for approval subject to conditions.

## **RECOMMENDATION**

That pursuant to the provisions of Regulation 3 of the Town and Country Planning general Regulations 1992, application number MO08/0291 be PERMITTED subject to the following conditions:

Conditions:

1. The development to which this permission relates shall be begun not later than the expiration of 3 years beginning with the date of this permission.
2. The development hereby permitted shall be carried out and completed in all respects strictly in accordance with the terms of this permission, the submitted documents and plans contained in the application, and in accordance with such details as are subsequently approved by the County Planning Authority, and no variations or omissions shall take place without the prior approval in writing of the County Planning Authority.
3. The shade sails and any replacement material shall be light green/beige in colour.

Reasons:

1. To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.
2. To ensure the permission is implemented in accordance with the terms of the application and to enable the County Planning Authority to exercise planning control over the development pursuant to Mole Valley District Local Plan 2000 Policy ENV22 (General Development Control Criteria).
3. To preserve the character and appearance of the conservation area in accordance with Surrey Structure Plan 2004 Policy SE5 (Protecting the Heritage) and Mole Valley Local Plan 2000 Policy ENV39 (Development in Conservation Areas).

Informatives:

1. This approval relates only to the provisions of the Town and Country Planning Act 1990 and must not be taken to imply or be construed as an approval under the Building Regulations 2000 or for the purposes of any statutory provision whatsoever.

## **THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) (ENGLAND) (AMENDMENT) ORDER 2003**

### **Reasons for the grant of planning permission and development plan policies/proposals relevant to the decision.**

- 1 The development will have the benefit of providing protection from the sun in two areas of the school playground;
- 2 The development is in accordance with the development plan policies so far as they are relevant to the application and there are no material considerations which indicate otherwise; and
- 3 Any harm can be adequately mitigated by the measures proposed in the application and the conditions subject to which planning permission is granted.

### **The proposal has been considered against the following development plan policies/provisions:**

#### **Surrey Structure Plan 2004:**

Policy SE5 – Protecting the Heritage

Policy SE4 – Design and the Quality of Development

#### **Mole Valley Local Plan 2000:**

Policy CF2 – Provision of New Community Facilities

Policy ENV22 – General Development Control Criteria

Policy DTC11 – Tree Planting, Proposed Archway Place Local Nature Reserve and Vincent Walk Amenity Area

Policy ENV39 – Development in Conservation Areas

Policy ENV49 – Areas of High Archaeological Potential

Policy ENV28 – Building Details and Materials

Policy ENV30 – Access for Disabled People to Non-Domestic Buildings and Their Sites

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### **HUMAN RIGHTS ACT 1998 GUIDANCE FOR INTERPRETATION**

The Human Rights Act 1998 does not incorporate the European Convention on Human Rights into English law. It does, however, impose an obligation on public authorities not to act incompatibly with those Convention rights specified in Schedule 1 of that Act. As such, those persons directly affected by the adverse effects of decisions of public authorities may be able to claim a breach of their human rights. Decision makers are required to weigh the adverse impact of the development against the benefits to the public at large.

The most commonly relied upon articles of the European Convention are Articles 6, 8 and Article 1 of Protocol 1. These are specified in Schedule 1 of the Act.

Article 6 provides the right to a fair and public hearing. Officers must be satisfied that the application has been subject to proper public consultation and that the public have had an opportunity to make representations in the normal way and that any representations received have been properly covered in the report.

Article 8 covers the right to respect for a private and family life. This has been interpreted as the right to live one's personal life without unjustified interference. Officers must judge whether the development proposed would constitute such an interference and thus engage Article 8.

Article 1 of Protocol 1 provides that a person is entitled to the peaceful enjoyment of his possessions and that no-one shall be deprived of his possessions except in the public interest. Possessions will include material possessions, such as property, and also planning permissions and possibly other rights. Officers will wish to consider whether the impact of the proposed development will affect the peaceful enjoyment of such possessions.

These are qualified rights, which means that interference with them may be justified if deemed necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Any interference with a Convention right must be proportionate to the intended objective. This means that such an interference should be carefully designed to meet the objective in question and not be arbitrary, unfair or overly severe.

European case law suggests that interference with the human rights described above will only be considered to engage those Articles and thereby cause a breach of human rights where that interference is significant. Officers will therefore consider the impacts of all applications for planning permission and will express a view as to whether an Article of the Convention may be engaged.

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## **CONTACT**

NATHAN MORLEY

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## **TEL. NO.**

020 8541 9420

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## **BACKGROUND PAPERS**

The deposited application documents and plans, including those amending or clarifying the proposal, responses to consultations and representations received as referred to in the report and included in the application file and the following:

### **The Development Plan**

Surrey Structure Plan 2004  
Mole Valley Local Plan 2000

### **Government Guidance**

Circular 01/2006 – Guidance on Changes to the Development Control System

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