

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

**DATE:** June 2011

**BY:** PLANNING DEVELOPMENT CONTROL TEAM  
MANAGER

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

**ELECTORAL DIVISION(S):**  
Bookham & Fetcham West  
Clare Curran

**PURPOSE:** FOR DECISION

**GRID REF:** 513711; 155120

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**TITLE:** SURREY COUNTY COUNCIL PROPOSAL MO11/0083

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## **APPLICATION DETAILS**

### ***Site Address***

Land at Eastwick Infant School, Eastwick Drive, Great Bookham, Leatherhead, Surrey, KT23 3PP

### ***Proposed Development***

Erection of one square and one triangular shade sail, each mounted on galvanised steel posts 2 – 3.7m in height, with all weather surfacing beneath.

### ***Applicant***

Eastwick Infant School

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

24 January 2011

### ***Period for Determination (8 weeks)***

21 March 2011

### ***Amending Documents***

email dated 21 April 2011 from the Arboricultural Consultant with Babcock/FourS attaching a revised letter and a list of recommendations relating to tree protection  
email dated 26 April 2011 from the applicant

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## **BACKGROUND**

### ***Site Description***

1 Eastwick Infant School shares a large site with the Junior School of the same name. The site of the Infant School is approximately 0.9ha in area. This School is located in Great Bookham approximately two-fifths mile north of the A246, the Guildford to Leatherhead road. There are playing fields to the north of the Infant School, beyond which is a belt of woodland and further north still, detached residential uses. There is further residential

development to the east. The Keswick Old People's Home, a surgery and a scout hall are situated southeast of the school buildings beyond further playing fields. A sheltered housing complex called Southey Court adjoins the school site on the west. Nearly all of these uses are well screened from the school by trees and shrubs. There are additional trees on the site, including three in the vicinity of the proposed development.

- 2 The buildings of the Infant School are mostly single storey with a two storey portion. The buildings have a combination of flat and pitched roofs, and are clad in red brick. The fascias and window frames are white.

### ***Planning History***

- 3 MO04/1976 Erection of a single storey flat roof extension to existing courtyard to create a classroom and associated accommodation at Eastwick Infant School (Permitted in January 2005)
- MO01/1517 Erection of a single storey building at the Junior School to provide teaching and ancillary accommodation and construction of a hard play area and an access way for fire vehicles (Permitted in January 2002)
- MO99/0165 Improvements to pedestrian access to both schools and laying out 29 car parking spaces (Permitted in March 1999)
- MO 79/0684 Erection of unit for physically handicapped children at the Junior School (Permitted in September 1979)
- MO/78/0034 Alterations and extensions to from a unit for physically handicapped children at the Infant School (Permitted in March 1978)
- LEA/B/24507 Construction of single storey M2 unit at the Junior School, containing a workshop and classroom for home economics, science, drawing and painting (Permitted in July 1972)
- 4 Various proposals were judged to be permitted development: proposed extensions to kitchen and staff room at the Junior School (1973), revised scheme for unit for physically handicapped children at the Junior School (1980), alterations to the F unit at the Infant School and the M unit at the Junior School to provide draft screens (1981) and an extension to provide a new entrance to Eastwick Junior School (2005).

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### **THE PROPOSAL**

- 5 The proposal is for two adjoining shade sails, one square and the other triangular (the dimensions of the sides of each sail being 8m and the maximum height of the posts supporting the sails being 3.7m). The sails are proposed to be erected on five galvanised steel posts each having a post pad protector of a similar dark green colour as the sail fabric. The sails would be installed on a porous surface of synthetic turf known as Saferturf adjacent to the Reception classroom. The posts were originally proposed to range from 2 to 3m in height. The maximum height was later increased to 3.7m in order to aid the run off of precipitation.
  - 6 It is a Government requirement that infant schools have an outside classroom area for pupils in the reception classes. The previous structure in this vicinity was deemed unsafe and had to be removed for health and safety reasons. The shade sails are needed to enable the area to be used for learning in all weather conditions. The sail fabric is waterproof and would provide a 98% block on UV rays and a 91% shade factor.
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## CONSULTATIONS AND PUBLICITY

### *District Council*

7 Mole Valley District Council: No objection

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

8 County Highway Authority –  
Transportation Development Control: No objection

9 County Council Arboricultural Officer: No objection subject to conditions

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

10 Bookham Residents Association: No response received

11 Bookham Community Association: No response received

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

12 The application was publicised by the posting of 2 site notices. A total of 60 owner/occupiers of neighbouring properties were directly notified by letter. No representations were received.

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## PLANNING CONSIDERATIONS

13 The School is within the urban area of Great Bookham. The main planning issues are impact on local residential amenity, impact on trees, design aspects and access considerations.

14 Pursuant to Section 38(6) 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 South East Plan May 2009, the Mole Valley District Council Local Development Framework (LDF) Core Strategy 2009 and the Mole Valley District Local Plan 2000.

### **Impact on Local Residential Amenity**

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

Policy CF2 - Provision of New Community Facilities

Policy ENV22 - General Development Control Criteria

15 Local Plan Policy CF2 requires development proposals for community facilities to meet a series of criteria, including one requiring that development should not have an adverse impact on the amenities of the locality, especially those of neighbouring properties. The supporting text for the policy notes that such facilities can be acceptable in residential areas on suitable sites where the use would not have a significant impact on nearby residential properties. Policy ENV22 requires that where the principle of the development accords with other policies with the Local Plan, the design and layout of a proposal should not significantly harm the amenities of the occupiers of neighbouring properties by reason of overshadowing, overlooking, noise, traffic or other environmental impact.

16 The development area is located approximately 55m from Southey Court (sheltered housing) and more than 60m from the nearest residential property on the east side of Eastwick Park Avenue (and more than 80m from the house on that property). The development would be screened from these and other residential properties to the east and

southeast of the school site by the existing school buildings and by trees and bushes which virtually surround the school site. In addition there is a clump of trees adjacent to the development area on the north and west which is to be retained and which provide further visual screening. Officers consider that the proposal would have no adverse effect on the visual amenity of neighbouring properties. It is also the view of Officers that any impact from noise resulting from more intensive use of the development area would be minimal because of the distances involved. Officers consider that the proposal has no detrimental impact on the amenities of residential properties and therefore that the development complies with these Development Plan policies.

## **Impact on Trees**

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

#### **Policy ENV53 – Trees in the Built-up Areas**

- 17 The Local Plan recognises the substantial contribution that trees make in built-up areas. Local Plan Policy ENV53 seeks to preserve and enhance existing tree cover in these areas through the use of development control powers.
- 18 The applicant has sought the advice of an Arboricultural Consultant to ensure that the trees in the vicinity of the development area continue to thrive after the project is completed. He has advised that there are five semi-mature coniferous trees in the vicinity of the proposed development, three of which (one English yew and two Lawson's Cypress) are impacted by the proposal. The application includes a letter and a list from the Arboricultural Consultant which outline requirements. A subsequent email from the Consultant stipulates revised and additional requirements. The requirements are as follows: 1) protecting tree roots above 25mm in diameter; 2) digging holes for posts by hand; 3) digging no such holes within 2m of the base of a tree trunk; 4) laying all materials for the all weather surface by hand; 5) when installing the all weather surface around the bases of existing trees, care is needed not to damage the bark, cambium and buttress roots; 6) no machinery or plant being allowed within 8m of a tree trunk; 7) storing all toxic and non-toxic materials only on the existing hard play surface so as not to contaminate or compact the soil in the rooting areas around trees; 8) if grass needs to be killed before the installation of the synthetic turf, using a selective herbicide that only kills grass; 9) if required, the sand base layer for the all weather surface can be compacted with a compaction plate, but not passing over the area more than twice; 10) laying heavy gauge plastic on the ground around post holes to contain any spillage of toxic materials; 11) lining the pits with this plastic to prevent any seepage of concrete into the surrounding soil and tree roots; 12) the Arboricultural Consultant overseeing the excavation of the post holes; 13) keeping any pruning of tree roots to a minimum; and 14) the Arboricultural Consultant undertaking any such pruning.
- 19 The County Council's Arboricultural Officer has no objection to the application. He has recommended the imposition of planning conditions requiring the applicant to adhere to the recommendations of the Arboricultural Consultant and that the positions of the shade sails be agreed and marked on the ground by the contractor and the Arboricultural Consultant before any work begins on the project. Appropriate planning conditions are included in this report. The proposed development complies with the Development Plan policy relating to the protection of trees.

## **Design Aspects**

### ***The South East Plan May 2009***

#### **Policy BE1 – Management for an Urban Renaissance**

### ***Mole Valley District Council Local Development Framework (LDF) Core Strategy 2009***

#### **Policy CS14 – Townscape, Urban Design and the Historic Environment**

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

Policy ENV22 – General Development Control Criteria

*Policy ENV23 – Respect for Setting*

Policy CF2 – Provision of New Community Facilities

- 20 Regional Plan Policy BE1 requires new development to promote and support design solutions relevant to the local context and which build upon local character and distinctiveness and sense of place. Policy CS14 of the Mole Valley LDF Core Strategy requires all new development to respect and enhance local character. The policy states that there will be resistance to development of a poor quality of design. Local Plan Policy ENV22 states that where the principle of proposed development accords with the Development Plan, design and layout will be required to satisfy several criteria including ensuring the proposal is appropriate to the site in terms of its scale, form and appearance and external building materials; and that the development respects the character and appearance of the locality. Respect for the setting of development is also expressed within Local Plan Policy ENV23, which states that development will normally be permitted where it complies with a number of criteria. The relevant criterion here requires that consideration be given to scale, character, bulk, proportions and materials of the surrounding built environment. Local Plan Policy CF2 sets out criteria to be applied to proposals for community facilities, the applicable criterion being that the development proposal should not detract from the character and appearance of the property and surrounding area.
- 21 The proposal comprises two shade sails, mounted on five 2m to 3.7m high galvanised steel posts with a lacquer finish. The sails and post protector pads would be dark green to blend with nearby trees. Officers consider the design and materials to be appropriate to the development proposed and not to harm the character and appearance of the site, its buildings or the surrounding area. Therefore, it is the view of Officers that the proposal complies with the Development Plan policies on design.

Access Considerations

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

Policy ENV30 – Access for Disabled People to Non-domestic Buildings and their Sites

- 22 Local Plan Policy ENV30 states that applications for the development of buildings open to the public and buildings used for education purposes will be required to provide suitable access for people with disabilities. The applicant has advised that there would be level access to the area underneath the shade sails, from adjoining pathways. Consequently, Officers are satisfied that the proposal complies with the Development Plan policies relating to access by ensuring that the new access will be suitable for disabled people and users with buggies.

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## **HUMAN RIGHTS IMPLICATIONS**

- 23 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.
- 24 Officers consider that the proposed development would have no detrimental impact on local amenity. Therefore, the proposal would not interfere with any Convention right.
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## CONCLUSION

- 25 Officers consider that the proposed shade sails and the all weather surface beneath them would have no adverse impact on local residential amenity. The proposed design and materials are considered to be suitable to the purpose of the development and its context. A planning condition is recommended to ensure the protection of nearby trees. The development would be fully accessible. All relevant planning policy tests are considered to have been met. The proposal is recommended for permission subject to conditions.

## RECOMMENDATION

That pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992, application number MO11/0083 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 three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the terms of this permission and the following plans:

Location Plan received on 24 January 2011

Site Plan received on 24 January 2011

Drawing No. PS-1-001 Rev. A, Shade Sail Plan Layout, dated 18 November 2010

3. The development hereby permitted shall be carried out in accordance with the measures specified in the letter dated 27 September 2010 and the email dated 21 April 2010 from the Arboricultural Consultant with Babcock/FourS, as well as the following requirements:
  - 1) prior to any soil excavation or related works, the contractor and the Arboricultural Consultant shall agree and mark out on the ground the location and extent of the shade sails;
  - 2) construction materials shall only be stored on the existing hard play surface;
  - 3) all materials used for the all weather surface shall be laid by hand;
  - 4) no machinery or plant shall be used within 8m of any tree, except for a compaction plate applied to compact the sand base layer for the all weather surface, and subject to the ground not being traversed more than twice.

Reasons:

1. To comply with Section 91 (1)(a) 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 District Local Plan Policy CF2.
3. To ensure the protection of existing trees in the interests of the amenity of the school site and the surrounding area pursuant to Policy ENV53 of the Mole Valley District Local Plan.

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 approval under the Building Regulations 2000 or for the purposes of any statutory provision whatsoever.
2. The attention of the applicant is drawn to the requirements of Sections 7 and 8 of the Chronically Sick and Disabled Persons Act 1970 and to Design Note 18 'Access for Disabled

People to Educational Buildings' published in 1984 on behalf of the Secretary of State, or any prescribed document replacing that note.

3. The applicant is advised that care is needed when installing the all weather surface so as not to damage the bark, cambium and buttress roots of existing trees.

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## **THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010**

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

The development

- 1 will have the following benefits: it will provide protection from the weather to enable the outside classroom area to be used in all weather conditions;
- 2 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:

#### **The South East Plan May 2009**

Policy BE1 – Management for an Urban Renaissance

#### **Mole Valley District Council Local Development Framework (LDF) Core Strategy 2009**

Policy CS14 – Townscape, Urban Design and the Historic Environment

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

Policy CF2 – Provision of New Community Facilities

Policy ENV22 – General Development Control Criteria

Policy ENV23 – Respect for Setting

Policy ENV30 – Access for Disabled People to Non-domestic Buildings and their Sites

Policy ENV53 – Trees in Built-up Areas

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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**

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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: The South East Plan May 2009, the Mole Valley District Council Local Development Framework (LDF) Core Strategy 2009 and the Mole Valley District Local Plan 2000

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