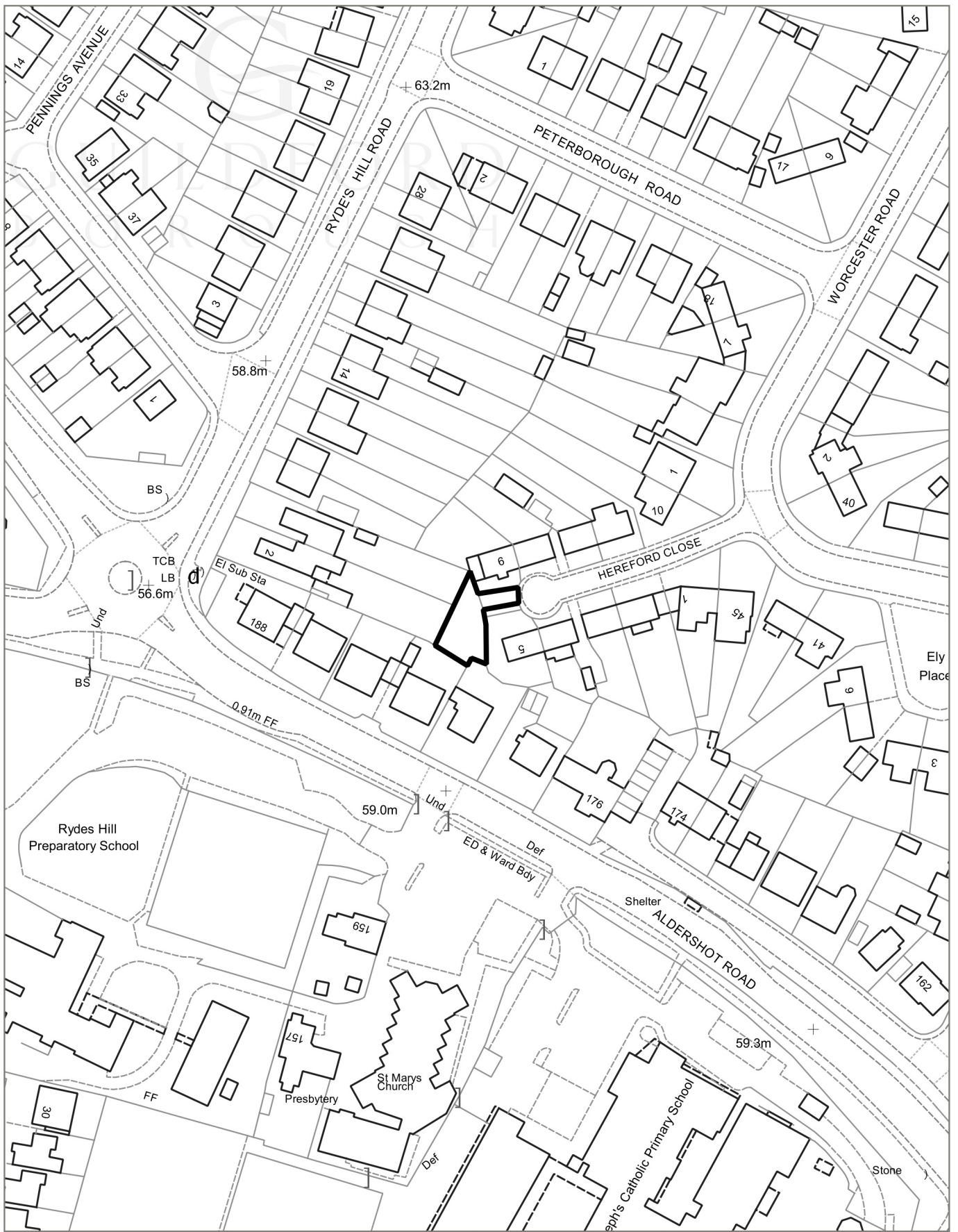


20/P/00585 - Commercial Yard, Hereford Close, Guildford



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Print Date: 13/11/2020



Not to Scale



GUILDFORD
BOROUGH

20/P/00585 Commercial Yard, Hereford Close, Guildford



Not to scale



App No: 20/P/00585
Appn Type: Full Application
Case Officer: Carolyn Preskett
Parish: Westborough
Agent : Ms Wunderlich
Paradigm Planning Ltd
PM House
Riverway Estate
Old Portsmouth Road
Guildford
GU3 1LZ

8 Wk Deadline: 04/12/2020

Ward: Westborough
Applicant: BLOCC Investments Ltd
Coopers Place Industrial
Estate
Combe Lane
Wormley
GU8 5SZ

Location: Commercial Yard, Hereford Close, Guildford, GU2 9TA
Proposal: Erection of a building containing 1 one-bedroom dwelling and 1 one bedroom flat with bin and cycle stores. (amended plans received 14 August 2020, amended description)

Executive Summary

Reason for referral

This application has been referred to the Planning Committee by Councillor White for the following reasons:

- Policies D1 of the adopted local plan and G5(2) and (3) of the saved policies from the 2003 local plan. In addition reference to the Residential Design Guide SPD Spaces around Buildings and scale, proportion and form.

Key information

The proposal is for the erection of a building containing 1 one bedroom dwelling and 1 one bedroom flat with bin and cycle stores.

Summary of considerations and constraints

The proposed development for 1 one bedroom dwelling and 1 one bedroom flat is considered to be in keeping with the scale and character of the surrounding area. The proposed dwelling would have an acceptable relationship with neighbouring properties. The County Highway Authority have raised no objections subject to the imposition of suitable conditions. The proposals are considered to be in accordance with Policy G1(3) of the saved local plan and Policy D1 of the newly adopted Local Plan.

The application is recommended for approval subject to a s106 legal agreement to secure SANG and SAMM payments.

RECOMMENDATION:

(i) That a S106 Agreement be entered into to secure the provision of: SANG and SAMM Contributions.

If the terms of the S106 or wording of the planning condition are significantly amended as part of ongoing S106 or planning condition(s) negotiations any changes shall be agreed in consultation with the Chairman of the Planning Committee and lead Ward Member.

(ii) That upon completion of the above, the application be determined by the Director of Planning and Regeneration.

Approve - subject to the following condition(s) and reason(s) :-

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

Reason: 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. The development hereby permitted shall be carried out in accordance with the following approved plans: P20-010-P-001 REV A, P20-010-P-002 REV B, P20-010-P-101 REV B, P20-010-P-102 REV C, P20-010-P-103 REV B, P20-010-P-301 REV B, P20-010-P-302 REV B received on 14 August 2020.

Reason: To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.

3. No development above slab level shall take place until details and samples of the proposed external facing and roofing materials including colour and finish have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and samples.

Reason: To ensure that the external appearance of the building is satisfactory.

4. No development above slab level shall take place until an energy statement shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of how energy efficiency is being addressed, including benchmark data and identifying the Target carbon Emissions Rate TER for the site or the development as per Building Regulation requirements (for types of development where there is no TER in Building Regulations, predicted energy usage for that type of development should be used) and how a minimum of 20 per cent reduction in carbon emissions against the TER or predicted energy usage through the use of on site low and zero carbon technology shall be achieved. The approved details shall be implemented prior to the first occupation of the development and retained as operational thereafter.

Reason: To reduce carbon emissions and incorporate sustainable energy in accordance with Policy D2 of the Guildford Borough Local Plan: Strategy and Sites 2015 - 2034 (adopted 25 April 2019) and the Council's Climate Change, Sustainable Design, Construction and Energy SPD (2020).

5. The development hereby permitted must comply with regulation 36 paragraph 2(b) of the Building Regulations 2010 (as amended) to achieve a water efficiency of 110 litres per occupant per day (described in part G2 of the Approved Documents 2015). Before occupation, a copy of the wholesome water consumption calculation notice (described at regulation 37 (1) of the Building Regulations 2010 (as amended)) shall be provided to the planning department to demonstrate that this condition has been met.

Reason: To improve water efficiency in accordance with the Council's Climate Change, Sustainable Design, Construction and Energy SPD (2020).

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, dormer windows, rooflights, doors or other form of openings other than those shown on the approved plans, shall be inserted in any elevation.

Reason: In the interests of residential amenity and privacy.

6. The first floor windows in the side elevation of the development hereby approved shall be glazed with obscure glass and permanently fixed shut, unless the parts of the window/s which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and shall thereafter be permanently retained as such.

Reason: In the interests of residential amenity and privacy.

7. The bin storage as shown on Drawing No P20-010-P-103 REV B shall be implemented prior to the first occupation of the development and thereafter maintained for the duration of the development.

Reason: In the interests of residential and visual amenity, and to encourage waste minimisation and recycling of domestic refuse, in the interests of sustainable development.

8. The development hereby approved shall not be first occupied unless and until the facilities for the secure parking of bicycles within the development site have been provided in accordance with a scheme, Drawing No.P20-010-P-101 B. Thereafter the parking for bicycles shall be retained and maintained for their designated purposes.

Reason: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

9. No development shall commence until a Construction Transport Management Plan, to include details of:
- (a) parking for vehicles of site personnel, operatives and visitors
 - (b) loading and unloading of plant and materials
 - (c) storage of plant and materials
 - (d) measures to prevent the deposit of materials on the highway
- has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

Reason: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

10. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans, Drawing No. Drawing No.P20-010-P-101 B, for a vehicle to be parked. Thereafter the parking area shall be retained and maintained for their designated purposes.

Reason: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

11. The development hereby approved shall not be occupied unless and until the proposed dwelling is provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

Reason: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

12. Before development commences, a detailed Phase One survey, including historic investigation and detail on ground conditions shall be submitted to ascertain whether the site supports any soil or water contamination. If the LPA consider that further investigation of the site is necessary, a detailed site investigation must be carried out by a suitably qualified and accredited consultant/ contractor in accordance with a Quality Assured sampling and analysis methodology. The investigation shall include relevant sub-surface, soil gas and ground water sampling together with the results of analysis and a risk assessment of the impact to receptors. Any remediation required shall be fully detailed to restore the site to a standard suitable for use, including works to address any unsuspected contamination.

Reason: To ensure any contamination of the site is remediated to a 'suitable for use' standard and to protect existing/proposed occupants of applicant site and/or adjacent land.

13. Any remediation scheme submitted in accordance with Condition 12 (above) shall be carried out as detailed in the applicants submission. Documentary proof shall be provided to the Local Planning Authority together with a quality assurance certificate to show that the works have been carried out in full accordance with the approved remediation strategy. Details of any post remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste material has been removed from the site before the development hereby permitted is occupied by any person not directly involved in constructing the development.

Reason: To ensure any contamination of the site is remediated to a 'suitable for use' standard and to protect existing/proposed occupants of applicant site and/or adjacent land.

Informatives:

1. If you need any advice regarding Building Regulations please do not hesitate to contact Guildford Borough Council Building Control on 01483 444545 or buildingcontrol@guildford.gov.uk
2. This statement is provided in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Guildford Borough Council seek to take a positive and proactive approach to development proposals. We work with applicants in a positive and proactive manner by:
 - Offering a pre application advice service
 - Where pre-application advice has been sought and that advice has been followed we will advise applicants/agents of any further issues arising during the course of the application
 - Where possible officers will seek minor amendments to overcome issues identified at an early stage in the application process

However, Guildford Borough Council will generally not engage in unnecessary negotiation for fundamentally unacceptable proposals or where significant changes to an application is required.

Pre-application advice was not sought prior to submission and minor alterations were required to overcome concerns, these were sought and the applicant agreed to the changes.

3. It is the responsibility of the developer to ensure that the electricity supply is sufficient to meet future demands and that any power balancing technology is in place if required. Please refer to:
<http://www.beama.org.uk/resourceLibrary/beama-guide-to-electric-vehicle-infrastructure.html> for guidance and further information on charging modes and connector types. Installation must be carried out in accordance with the IET Code of Practice for Electric Vehicle Charging Equipment:
<https://www.theiet.org/resources/standards/cop-electric.cfm>

4. The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).

5. The permission hereby granted shall not be construed as authority to carry out any works on the highway. The applicant is advised that prior approval must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, or verge to form a vehicle crossover or to install dropped kerbs. Please see:
www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/vehicle-cross-overs-or-dropped-kerbs.

6. Environmental Health Officers recommend controls on times to carry out works due to the potential noise nuisance from construction site activities. Demolition and construction work on site should be carried out within the following times:-
 - (a) Mon - Fri working only between 08.00 hours and 18.00 hours.
 - (b) Saturday working only between 08.00 hours and 13.00 hours.
 - (c) No work to take place on Sundays or Bank Holidays
 Note: Complaints arising from unreasonable working hours outside the times recommended will be investigated and may be regulated by Notice imposing requirements on site operations under Section 60, Control of Pollution Act 1974. If circumstances require any work to be conducted outside of the above hours you are advised to contact the Environmental Health Office tel: 01483 505050 regulatoryservices@guildford.gov.uk

Officer's Report

Site description.

The application site is situated within the urban area of Guildford. The site is a commercial yard at the far western end of Hereford Close, a residential cul de sac. The site extends to 0.02ha. The site was formerly used as a commercial yard operated by Guildford Trailer Centre from the early 1960s until late 2018.

Proposal.

Erection of a building containing 1 one-bedroom dwelling and 1 one-bedroom flat with bin and cycle stores. (amended plans received 14 August 2020, amended description)

Relevant planning history.

GUI/6243	Storage and garage	1962	
GUI/6348/19993 02/01/1963	Erection of three lock up garages for cars		Approved
04/P/01996 21/10/04	Outline application for a detached dwelling		Refused

Consultations

Statutory consultees

County Highway Authority: Recommend conditions

Internal consultees

Head of Environmental Health and Licensing: Recommend conditions

Refuse and recycling: No objection

Third party comments:

17 letters of representation have been received raising the following objections and concerns:

- No provision for parking
- proposed building footprint occupies 75% of the site
- cramped and oppressive
- out of keeping
- previous application for a smaller building refused in 2004
- characterisation of houses in Hereford Close as mostly multiple occupancy is false
- problems with traffic coming to and from premises
- noise and disturbance
- highway safety concerns
- overdevelopment
- effect on character and neighbourhood
- disturbance during construction
- family homes are needed not more student accommodation
- poor visibility and access
- concerns over bin storage and refuse collection
- bats nesting possible to building site. (Officer note: No buildings currently exist on the site)

Following the receipt of amended plans 5 additional letters have been received reiterating the original comments and making the further points that the amended plans do not overcome the original concerns.

(Officer note: The additional letters were all from objectors that had objected to the original set of plans)

Planning policies.

National Planning Policy Framework (NPPF) 2019:

Chapter 1. Introduction

Chapter 2. Achieving sustainable development

Chapter 4. Decision Making

Chapter 5. Delivering a sufficient supply of homes

Chapter 12. Achieving well designed places

Chapter 15. Conserving and enhancing the Natural Environment

South East Plan 2009:

NRM6 Thames Basin Heath Special Protection Area

Guildford Borough Local Plan : Strategy and Sites 2015-2034 (adopted 25 April 2019)

The Guildford Borough Local Plan: Strategy and Sites was adopted by Council on 25 April 2019. The Plan carries full weight as part of the Council's Development Plan. The Local Plan 2003 policies that are not superseded are retained and continue to form part of the Development Plan (see Appendix 8 of the Local Plan: strategy and sites for superseded Local Plan 2003 policies).

As a recently adopted plan and in accordance with paragraph 74 of the NPPF, the Council is able to demonstrate a five year housing land supply with an appropriate buffer. This supply is assessed as 5.93 years based on most recent evidence and referred to in the Local Plan Inspector's Report at paragraph 45. In addition to this, the Government's recently published Housing Delivery Test indicates that Guildford's 2018 measurement is 75%. For the purposes of NPPF footnote 7, this is therefore greater than the threshold set out in paragraph 215 (25%). Therefore, the Plan and its policies are regarded as up-to-date in terms of paragraph 11 of the NPPF.

S1	Presumption in favour of sustainable development
S2	Spatial development Strategy
P5	Thames Basin Heath Special Protection Area
H1	Homes for All
D1	Place shaping
D2	Sustainable Design, construction and energy
D4	Development in urban areas and inset villages
ID3	Sustainable transport for new developments
ID4	Green and blue infrastructure

Guildford Borough Local Plan 2003 (as saved by CLG Direction 24 September 2007):

G1	General Standards of Development
G5	Design Code
H4	Housing in Urban Areas
NE4	Species Protection

Supplementary planning documents:

Thames Basin Heaths Special Protection Area Avoidance Strategy 2017
Vehicle Parking Standards 2006 SPD
Planning Contributions SPD (2011)
Residential Design Guide July 2014
Climate Change, Sustainable Design, Construction and Energy SPD (2020)

Planning considerations.

The main planning considerations in this case are:

- the principle of development
- the impact on the character of the site and surrounding area
- the impact on neighbouring amenity
- living environment
- highway/parking considerations
- refuse provision
- trees and landscaping
- contamination
- climate change and sustainability
- Thames Basin Heath SPA
- Legal Agreement Requirements

The principle of development

There is no in principle objection to the construction of new residential dwellings within the Urban Area. The site is previously developed land in a sustainable urban location. The proposal is therefore deemed to be acceptable in principle, subject to compliance with the local and national policies.

The site is in a sustainable location within the Urban Area, in close proximity to local amenities and public transport routes.

The impact on the character of the site and the surrounding area

The immediate surrounding area in the cul de sac is characterised by two storey semi-detached dwellings, some of which are in multiple occupation. To the north west of the site there are two semi-detached houses and 2 bungalows in Rydes Hill Road. To the west of the application site there are bungalows in Aldershot Road. The proposed development has been amended during the course of the application and as amended is for 1x 1 bedroom flat and 1x 1 bedroom dwelling. The proposed development would have one car parking space and two motorcycle spaces. The parking area would consist of Grass Crete to give a soft appearance and were the parking not required for residents it is envisaged by the applicant that it could be used as additional outdoor space. The one bedroom dwelling would be allocated the parking space. Bin and cycle stores would be provided at the site.

The proposed building would be a part single and part two storey building with a traditionally styled pitched roof. The dwellings would have brick and rendered elevations and grey slate roof tiles. The windows and doors would be aluminium. Each of the residential units would have a very modest area of amenity space. The boundaries to the site would be marked with a 2m high timber fence. The design of the proposed new buildings would be traditional and sympathetic to the character of the surrounding area.

The proposed development would fill the majority of the site and would complete the cul de sac utilising an area of land that is currently not being used. The current lawful use of the site is as a commercial yard and if operated to its full extent would have a greater detrimental impact on the character of the area than the proposed new dwellings.

The proposed building would have both single storey and two storey elements and has been designed to act as a transition between the houses in Hereford Close and the bungalows in Aldershot Road and the dwellings in Rydes Hill Road. The scale and character of the proposed building would be in keeping with the existing context and character of the adjacent buildings and the surrounding area.

A condition to ensure appropriate proposed external facing and roofing materials is recommended. It is considered appropriate that these details can be submitted prior to the development being above ground as at the moment it is not certain what materials will be available due to the current pandemic.

The impact on neighbouring amenity

The NPPF requires that planning should secure a good standard of amenity for all existing and future occupants of buildings. Similar aims and objectives are achieved locally through policies D1, H4 and the remaining elements of policies G1 and G5 which require a design that takes account of various matters, including impact on neighbours.

The neighbouring properties to the application site are 5 and 6 Hereford Close, numbers. 2 and 4 Rydes Hill Road and numbers 180 and 182 Aldershot Road.

The plans have been designed to take into account the modest size of the application site and the relationships with existing properties that surround the site. There are no first floor windows on the south-west elevation which face the bungalows in Aldershot Road and the two-storey element of the building is set back from the rear elevation of number 182 Aldershot Road. The distance to the bungalow number 182 Aldershot Road to the south-west of the site is 8.895m.

On the north-west elevation of the new building there is just one first floor window which is narrow, obscurely glazed and will serve a bathroom. On the north-east elevation which faces towards the dwellings in Rydes Hill Road there are similarly no first floor windows. These rear gardens in Rydes Hill Road are a minimum of 23m deep. There will be a separation distance of 0.9m between the flank wall of the north-west and south-west elevations of the building and the site boundaries. The distance to neighbouring two-storey dwellings in Rydes Hill Road to the north-west are 23.445m 28.330m and 32.255m respectively. The distance to the bungalow number 182 Aldershot Road to the south-west of the site is 8.895m.

There are first floor windows openings on the south east elevation serving a bedroom. These windows would look along Hereford Close and would not directly overlook any of the existing dwellings in the road.

The existing lawful use of the site as a commercial yard is an important consideration when assessing the impact of the proposed development on the existing area. If the commercial yard were to be used to its full capacity it is most likely to have a greater impact on the amenity of neighbouring properties than two new one-bedroom residential properties.

Given the existing lawful use of the site as a commercial yard and the modest scale of the proposals it is considered that neighbouring amenity would not be unduly affected in terms of loss of light, loss of privacy or overbearance.

Whilst the concerns expressed by neighbouring properties relating to parking provision are noted the application site does lie in a sustainable location and for the reasons explained in the highway/parking considerations paragraph of this report, any impact on neighbouring amenity in relation to parking provision would not be so great as to warrant a refusal of planning permission.

The proposed development would be in accordance with policy G1(3) of the 2003 Guildford Borough Local Plan and policy D1 of the Guildford Borough Local Plan: Strategy and Sites (adopted 25 April 2019).

Living Environment

The proposed sizes of both units would meet with the DCLG's Technical Housing Standards - Nationally described Space Standards (March 2015) and the requirements of Policy H1 of the new local plan. The dwellings would have only very limited amenity space. Each unit would have a very small garden area enough for residents to sit out in. In addition, the parking area would be grass crete to give a soft appearance and if the parking area is not utilised by residents it could be used as additional garden space. Whilst it is acknowledged that the amenity space is very small, the units are also very small. As such it is considered that a satisfactory environment in terms of outlook, privacy and adequate garden / amenity space would be provided with a suitable internal layout.

Highway/parking considerations

The (updated 2018) Surrey County Council standards are relevant to this application. The recommended guidance recommends for a 1-bedroom flat in a suburban location 1 space per unit. However, the guidance also advises that "*Reduced or even nil provision may be appropriate in support of demand management and the most efficient use of land.*"

The proposal shows the provision of 1 parking space and space for two motorcycles. In addition a cycle storage would be provided for each dwelling for two cycle spaces. Whilst this falls below the Council's adopted standards, it is held that the site is in a sustainable location within walking distance of the local shops and public transport routes and as such a reduced parking provision is acceptable.

The County Highway Authority has assessed the proposals on safety, capacity and policy grounds and subject to the imposition of conditions ensuring parking areas are retained and maintained for their designated use, the provision of an electric fast charge socket, and an appropriate Construction Transport Management Plan is submitted and approved they have no objections to the proposals.

A Construction Transport Management Plan is considered justified in this case due to the location of the site on a constrained site. The applicant has agreed a pre commencement condition relating to a Construction Transport Management Plan.

It is concluded that the proposal would not have an adverse impact on highway safety nor would the impact on parking provision in the locality be so great as to warrant a refusal of planning permission on these grounds given the sustainable location of the application site. As such, the proposals are considered to be in accordance with Policy ID3 of the New Local Plan.

Refuse provision

The plans show a bin store for each of the proposed properties. The Council's recycling and waste team has raised no objection.

Trees and landscaping

There are no trees on the site.

Contamination

There is evidence of a degree of commercial activity at the site and accordingly Environmental Health have recommended conditions to ensure that the extent of contamination is adequately investigated prior to its development. A pre commencement condition relating to a Phase One survey, including historic investigation and detail on ground conditions is recommended.

The applicant has agreed a pre commencement condition relating to a Phase one survey, including historic investigation and detail on ground conditions.

Climate Change and sustainability

A Sustainability Report dated October 2020 has been submitted by the applicant's agent following a request from the case officer. The design development has included due consideration on sustainable and renewable energies for the site. In addition the statement goes on to say:

"Notwithstanding the approach to ensuring sustainable materials for the construction of the building, it has been a focus to ensure the choice of materials and finishes lend themselves to sustainable options for the energy and developed utility supply for the buildings."

A proposed slate roof has developed the potential for unobtrusive and integrated photovoltaic roof tiles for the building and given the orientation of the building these can be included on the south facing slope of each independent unit for single source energy supply from these tiles to each dwelling.

Simple rain water harvesting for the management of the modest garden spaces would be implemented via the use of controllable rain water vats for each unit in appropriate locations. Compliance with a low water use standard of 110 litres per person per day would be achieved by the use of low volume fixtures and fittings including water efficient taps, water efficient toilets, low output showers, flow restrictors to manage water pressures all to achieve optimum levels and water meters would be fitted to the houses to prove this.

In addition to the proposed measures listed above, the design of the development would include compliant cloakrooms at ground floor level, parking with 2 x EV charge units and managed cycle parking in close proximity to each dwelling with level access entrances, ample accessible corridors, appropriate window cill levels and switches at accessible heights and levels.

The combination of sustainable interventions as well as design criteria to meet accessibility requirements would provide sustainable and energy efficient dwellings accessible to all potential occupiers.

As set out in Policy D2 of the New Local Plan and the Council's Climate Change, Sustainable Design, Construction and Energy SPD (2020), there is a requirement to achieve a 20 percent reduction in carbon emissions through the use of on site low or zero carbon technologies and include water efficiency measures in line with building regulations. These measures can be secured by condition.

Thames Basin Heath SPA

The application site is located within the 400m – 5km buffer zone of the TBHSPA. Natural England advise that new residential development in this proximity of the protected site has the potential to significantly adversely impact on the integrity of the site through increased dog walking and an increase in general recreational use. The application proposes a net increase of 2 residential units and as such has the potential, in combination with other development, to have a significant adverse impact on the protected sites. Council Tax records show that the property is currently one dwelling.

The Council adopted the Thames Basin Heaths Special Protection Area Avoidance Strategy which provides a framework by which applicants can provide or contribute to Suitable Alternative Natural Green Space (SANGS) within the borough which along with contributions to Strategic Access Management and Monitoring (SAMM) can mitigate the impact of development. In this instance the development requires a SANG contribution of £7,498.54 and a SAMM contribution of £822.02 which should be secured by a Legal Agreement.

The applicant has agreed to enter into a legal agreement to secure the necessary contributions.

An Appropriate Assessment has been undertaken by the LPA. Standing advice from Natural England states that Natural England (NE) will not object to an Appropriate Assessment (AA) undertaken which concludes no adverse effects on the integrity of the TBHSPA due to measures being secured and required to be put in place through a legal agreement and accord with the provisions of the Development Plan and the adopted Guildford Thames Basin Heaths Special Protection Area Avoidance Strategy SPD 2017. An individual consultation with NE will not be required in these cases. The appropriate assessment undertaken by the LPA relating to this site concludes that there would be no adverse impact on the integrity of the TBHSPA due to the measures being secured through a legal agreement.

As such, subject to the s106 agreement to secure the necessary contributions, it is concluded that the development would not impact on the TBHSPA and would meet the objectives of the TBHSPA Avoidance Strategy 2017 and Policy NRM6 of the South East Plan 2009. For the same reasons the development meets the requirements of Regulation 61 of the Conservation of Habitats and Species Regulations 2010.

Legal agreement requirements

The three tests set out in Regulation 122(2) and 123 of The Community Infrastructure Levy Regulations 2010 require S.106 agreements to be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

Regulation 123 of The Community Infrastructure Levy Regulations 2010, as amended, states that a planning obligation may not constitute a reason for granting planning permission where the obligation provides for the funding or provision of an infrastructure project or type of infrastructure and five or more separate planning obligations for the funding or provision of that project or type of infrastructure have been entered into.

The development is required to mitigate its impact on the TBHSPA; this would be through a financial contribution to SANGS and SAMM. This would accord with the TBHSPA Avoidance Strategy and the Planning Contributions SPD. Without this contribution the development would be unacceptable in planning terms and would fail to meet the requirements of the Habitat Regulations. The contribution is necessary, directly related to the development and reasonable and therefore meets the requirements of Regulation 122.

While Regulation 123 of the CIL Regulations seeks to prevent the pooling of financial contributions from planning obligations this relates only to an obligation which “provides for the funding or provision of relevant infrastructure”. In this instance the contributions are required to improve existing SANGS and ensure they are maintained in perpetuity; the SANGS are existing infrastructure which is to be improved to ensure that they have suitable capacity to mitigate the impact of the residential development. Accordingly the contributions are not for the provision of infrastructure and therefore Regulation 123 does not prevent collecting these contributions or having regard to the obligation in decision making. The SAMM contribution does not relate to infrastructure and this also falls outside the scope of Regulation 123.

Conclusion.

The principle of the proposed development is found to be acceptable and the proposal would deliver a net increase of two new homes in a sustainable location which adds weight in favour of the application. The proposal would not have a detrimental impact on the character and appearance of the site or surrounding area and would not cause a significant impact to neighbouring amenity. The proposal is also considered to be acceptable in terms of impact on protected species and sustainability. The applicant has agreed to sign a legal agreement which secures contributions for the protection of the Thames Basin Heaths Special Protection Area.

The application is therefore recommended for approval.