

20/P/01755 - Merrow Centre For Remedial Education, 41 Down Road, Guildford



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Not to Scale



GUILDFORD
BOROUGH

20/P/01755 – Merrow Centre for Remedial Education



Not to scale

App No: 20/P/01755
Appn Type: Full Application
Case Officer: Katie Williams
Parish: Merrow
Agent : Mr Lewis
CF.Architects Ltd
South Lodge
Wierton Hill
Boughton Monchelsea
Maidstone
ME17 4JS

8 Wk Deadline: 09/12/2020

Ward: Merrow
Applicant: Mr Walker
Merrow Centre
41 Down Road
Guildford
GU1 2PZ

Location: Merrow Centre For Remedial Education, 41 Down Road, Guildford, GU1 2PZ

Proposal: Variation of condition 2 (approved drawing numbers) of planning application 16/P/02402 approved 15/11/2017 so that new drawings 167(P)_001_rev1, 167(P)_003_rev1 & 167(P)_004_rev0 may be substituted to reflect the as built parking layout.

Executive Summary

Reason for referral

This application has been referred to the Planning Committee because more than 20 letters of objection have been received, contrary to the Officer's recommendation.

Key information

The proposal is for the variation of condition 2 (approved drawing numbers) of planning application 16/P/02402 approved 15/11/2017 so that new drawings may be substituted to reflect the 'as built' parking layout.

The revised parking layout (subject of this application) shows a reduction in the number of parking spaces from 7 to 6. A larger bin store has been relocated to where one of the parking spaces was originally proposed to be to the rear of the site.

This is a retrospective application and reflects the parking layout which has been built out on site.

This application does not propose any changes to the buildings themselves.

Summary of considerations and constraints

Whilst the proposal would result in the parking provision for the development being slightly less than required by the Council's adopted parking standards, each of the 3 bed units would have two parking spaces and each of the 2 bed units would have one parking space. The proposed parking provision would be an improvement compared to previous use of the site which had no off street parking provision.

As such, together with the relatively sustainable location of the site, it is considered that the proposed revision would not have an unacceptable impact on parking provision in the locality.

The application is therefore recommended for approval, subject to the revised drawing numbers condition and the relevant conditions from the 2006 permission being reapplied.

RECOMMENDATION:

(i) That a S106 Agreement be entered into to secure the provision of: SANG and SAMM Contributions in accordance with the updated tariff;

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 Planning Development Manager.

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

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

167(P)002/D, 010/D, 011/D, 015/D, 016/D, 022/2, 027/2, 029/2, 031/2 received on 30 November 2016 and amended plans: 167(P)025/3, 026/3, 030/3, 032/3, 020/4, 021/4 received on 20 December 2016.

167(P)001_rev1 and 167(P)004_rev0 received 14 October 2020.

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

2. The external materials shall be in accordance with the details as agreed under Condition 3 of 16/P/02402.

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

3. All new external joinery, including windows and door frames, shall accord with the details agreed under Condition 4 of 16/P/02402.

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

4. The existing original windows within the locally listed building shall be

retained and the repair works shall thereafter be carried out in accordance with the details approved under Condition 5 of 16/P/02402.

Reason: In order to safeguard the special architectural and historic interest of the locally listed building.

5. The boundary treatment shall be maintained in perpetuity in accordance with the details agreed under Condition 6 of 16/P/02402.

Reason: To safeguard the visual amenities of neighbouring residents and the locality.

6. The development hereby approved shall not be first occupied unless and until the proposed vehicular access to Down Road has been constructed and provided with visibility zones in accordance with the approved plans (Drawing No. 167(P)003) and thereafter the visibility zones shall be kept permanently clear of any obstruction measured from 0.6m above the road surface.

Reason: In order that the development should not prejudice highway safety or should it inconvenience other highway users.

7. 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. 167(P)004_rev0) for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.

Reason: In order that the development should not prejudice highway safety or should it inconvenience other highway users.

8. The development hereby approved shall be carried out in accordance with the 'precautionary working methodology' detailed within the Discussion and Recommendations section of the 'Bat Survey Letter of Report' dated 23 December 2016.

Reason: To mitigate against the loss of existing biodiversity and nature habitats.

9. The development hereby approved shall be carried out in accordance with the biodiversity recommendations and enhancements set out in the 'Letter of Report: 40 Down Road, Guildford' (by Wychwood Environmental) dated 23 December 2016.

Reason: To increase the biodiversity of the site and mitigate any impact from the development.

10. The details of energy efficiency as agreed under Condition 13 of 16/P/02402

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 the Council's Sustainable Design and Construction SPD 2011.

11. 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) and in accordance with the copy of the wholesome water consumption calculation notice (described at regulation 37 (1) of the Building Regulations 2010 (as amended)) for the development submitted in relation to Condition 14 of 16/P/02402.

Reason: To improve water efficiency in accordance with the Council's Supplementary Planning Guidance 'Sustainable Design and Construction' 2011.

12. The first floor window(s) in the south east side elevation of the existing building to be converted and the north west side elevation of the new dwelling 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.

Informatives:

1. 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.

In this case pre-application advice was not sought prior to submission and the application was acceptable as submitted.

2. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. The contact number is 0800 009 3921.
3. Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you email a scaled ground floor plan of your property showing the proposed work and the complete sewer layout to developer.services@thameswater.co.uk to determine if a building over / near to agreement is required.
4. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
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 to install dropped kerbs.
www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/vehicle-cross-overs-or-dropped-kerbs
6. The applicant is advised that any telegraph poles that need to be re-located, will be done so at the applicant's expense.

Officer's Report

Site description.

This site is located in the urban area of Guildford and 400m-5km buffer of the Thames Basin Heaths Special Protection Area (TBHSPA).

The application site comprises a former school building that is locally listed, this has been previously extended and previously had a hardstanding play area to the side of the building on the eastern side of Down Road. Planning permission was recently granted for the conversion of the former school building into three flats and the erection of a new detached dwelling to the northern side of the site where the playground used to be located. This development has now been built out.

Down Road comprises predominantly Victorian semi-detached dwellings with narrow front gardens in elongated plots. This is predominantly a residential area.

Proposal.

Variation of condition 2 (approved drawing numbers) of planning application 16/P/02402 approved 15/11/2017 so that new drawings 167(P)_001_rev1, 167(P)_003_rev1 & 167(P)_004_rev0 may be substituted to reflect the 'as built' parking layout.

Condition 7 of 16/P/02402 also needs to be changed to reflect the revised drawing numbers.

The revised parking layout (subject of this application) shows a reduction in the number of parking spaces from 7 to 6. A larger bin store has been relocated to where one of the parking spaces was originally proposed to be to the rear of the site.

This is a retrospective application and reflects the parking layout which has been built out on site.

This application does not propose any changes to the buildings themselves.

Relevant planning history.

Reference:	Description:	Decision Summary:	Appeal:
16/P/02402	Proposed change of use of existing building (unoccupied school - use class D1) to two x two-bed and one x three-bed flats (use class C3). One new two storey detached dwelling and provision of seven off street parking spaces, cycle and recycling storage; dropped kerb for access, landscaping and associated works.	Approve	N/A

16/P/01005	Proposed change of use of existing building (unoccupied school - use class D1) to four x two bed. residential units (use class C3) and erection of a detached two storey building providing two x two-bed units; addition of dormer window on south-east elevation of existing building. Provision of six off-street parking spaces, cycle and recycling storage and dropped kerb for access onto Down Road.	Refuse 10/08/2016	N/A
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Consultations.

Statutory consultees

County Highway Authority:

- No objection, subject to recommended condition.
- The reduction of parking to six spaces, from seven, is deemed to not have a detrimental impact on the surrounding highway network.
- A previous application, 16/P/01005 for this site for 6 x 2 bedroom dwellings proposed six parking spaces to which the CHA raised no objections, the current proposal is a reduction in dwellings compared to 16/P/01005.
- As noted in the previous application, the previous use of the site did not provide any off street parking and therefore the proposal could be seen as an improvement in regards to parking.
- The proposed development is not likely to have a severe impact on the local highway network. Subject to the recommended condition being imposed, the County Highway Authority has no requirements.

Amenity groups/Residents associations

Marrow Residents Association:

- a reduction of 1 space to 6 off-street parking spaces is contrary to GBC Parking Standards. *[Officer note: GBC Parking Standards require the provision of 7 parking spaces for the dwelling mix proposed]*
- there is an acute shortage of parking in Down Road, which necessitates overflow parking in Daryngton Drive. This is compounded by other overflow parking already from Boxgrove Gardens, also caused by insufficient local parking provision. Any increase in the level of overflow parking could lead to unacceptable tensions between local residents, which should be avoided. There are other areas on the site that can be used to site bins without encroaching on the parking spaces.
- this retrospective design change would set a precedent for other developments
- the amenities of the new occupants/residents in the development will be adversely affected, due to inadequate parking spaces within. Consequential double parking would be problematic

and unacceptable for all.

- the GBC long established Parking Standards are no longer realistic. The number of vehicles should not be counted as say 1.5 when it's likely that 2 vehicles will be owned for a 2 bed dwelling.

Third party comments:

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

- Down Road has no space for overflow parking from this development
- revised drawings show a bike store and gate into the alleyway but these have not been constructed, the garden has been extended into this space
- will create parking and safety issues for residents of Down Road
- would add to the cumulative impact of on-street parking
- the use of the amenity space to the rear of the flats, solely for the use of the rear flat, fails to provide outdoor amenity space for each flat.

[Officer note: this is not a change from the approved plans. The original application showed a single amenity space to the rear of the rear flat and there are no conditions which state this has to be made available to all flats]

- concerns regarding brickwork pointing and materials don't blend in

[Officer note: This application only relates to revisions to the parking layout]

- will not accord with parking standards
- will exacerbate problems of overflow parking in Daryngton Drive
- the developers have already caused a lot of disruption to residents during construction
- there is alternative space on site where the bins could be stored

Planning policies.

National Planning Policy Framework 2019 (NPPF):

- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 12. Achieving well-designed places
- 16. Conserving and enhancing the historic environment

South East Plan 2009:

NRM6 Thames Basin Heath Special Protection Area

Guilford Borough Local Plan: strategy and sites 2019 (Local Plan 2019):

The Guilford 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).

The Council is able to demonstrate a five year housing land supply with an appropriate buffer.

This supply is assessed as 6.42 years based on most recent evidence as reflected in the GBC LAA (2020). In addition to this, the Government's recently published Housing Delivery Test indicates that Guildford's 2020 measurement is 90%. For the purposes of NPPF footnote 7, this is therefore greater than the threshold set out in paragraph 215 (75%). Therefore, the Plan and its policies are regarded as up-to-date in terms of paragraph 11 of the NPPF.

D1	Place shaping
D3	Historic environment
ID3	Sustainable transport for new developments

Following the adoption of the Guildford Borough Local Plan: strategy and sites, until the local plan Development Management Plan Policies DPD is produced and adopted some of the policies (parts of the policies) contained within the Guildford Borough Local Plan 2003 (as saved by CLG Direction on 24 September 2007) remain part of the development plan.

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

G1	General Standards of Development
G5	Design Code
NE4	Species Protection

Supplementary planning documents

Vehicle Parking Standards SPD (2006)

Surrey County Council Vehicular and Cycle Parking Guidance (2012)

Thames Basin Heath Special Protection Area Avoidance Strategy (2017)

Planning considerations.

This application is submitted under Section 73 of the Town and Country Planning Act (as amended). The provisions of Section 73 relate to the variation or removal of planning conditions attached to a grant of planning permission. The intention is that such matters would represent a minor material change to the original grant of planning permission.

The application must be determined on the basis of the effect of varying/removing the specified conditions. No other matters can be taken into account for example the principle of the original permission cannot be re-visited. Additionally it is not appropriate to dismiss a proposal simply on the grounds that conditions were originally proposed and therefore by default should be retained. The local planning authority must consider whether any planning harm would result from the variation.

Section 73, gives two options when considering such applications:

- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

Under Section 73(a) officers should not limit themselves to assessing just the specific variation or

removal suggested by the applicant. If an alternative change to the conditions would be acceptable then permission should be granted to that effect.

Part of the assessment under Section 73(b) should also be whether this would cause more than a minor material change to the original permission. In such cases permission should also be refused.

In this instance the application suggests the variation of condition 2 of planning permission 16/P/002402 which relates to drawing numbers, so that new drawings may be substituted to reflect the as built parking layout. The revised parking layout shows a reduction in the number of parking spaces to serve the development from 7 to 6 parking spaces now proposed.

The application states that the revision is a result of a requirement by the applicant for a larger bin store than originally proposed which is now positioned to the rear of the site, in place of the 7th parking space.

No changes are proposed to the converted school building or new build dwelling.

The primary considerations resulting from this change would be:

- highway / parking considerations
- scale and character
- Thames Basin Heath SPA
- legal agreement requirements
- retrospective application

Highway / parking considerations

Para 109 of the NPPF states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

Firstly, it is acknowledged that there is high demand for on-street parking within Down Road as few properties have off-street parking. Third party representations have also raised concerns that the road is also used for overflow parking from neighbouring Boxgrove Gardens. However, it is also important to note that there was no off-street parking associated with the previous use of the site as a school and associated playground. The site is also located in a sustainable location, within walking distance of bus routes in Guildford Town Centre which run along Epsom Road and approximately 1 km from the nearest Local Shopping Centre in Merrow.

Planning application 16/P/02402 granted planning permission for the conversion of the former school building into 1 x 3 bedroom flat and 2 x 2 bedroom flats and the erection of a new detached 3 bedroom dwelling to the side of the school building. The approved plans showed the provision of 7 parking spaces.

The Council's adopted parking standards require the provision of 2 parking spaces per 3 bed dwelling and 1.5 spaces per 2 bedroom dwelling. This equates to a requirement of 7 parking spaces for the development which was shown on the plans approved under 16/P/02402.

As set out above, as a result of a larger bin store being provided than originally proposed, the bin

store is now positioned on one of the originally approved parking spaces at the rear of the site. The parking provision has subsequently been reduced to 6 parking spaces. This equates to 2 spaces for each of the 3 bed units and 1 parking space for each of the 2 bed units. This revised parking provision therefore falls slightly short of the Council's adopted parking standards requirements.

The County Highway Authority (CHA) has raised no objection to the application subject to a condition to ensure the parking provision now proposed is retained.

The CHA has advised that the reduction of parking to six spaces, from seven, is deemed to not have a detrimental impact on the surrounding highway network. A previous application, 16/P/01005, for this site proposed six parking spaces to which the CHA raised no objections. This previous proposal was for 6 x 2 bedroom dwellings and therefore in order to accord with Council's parking standards would have required the provision of 9 parking spaces. The current proposal is a reduction in dwellings compared to this previous application (16/P/01005). Also, as noted by the CHA in the previous applications (16/P/01005 & 16/P/02402), the previous education use of the site did not provide any off street parking and therefore the proposal could be seen as an improvement in regards to parking.

The role of the CHA is primarily to advise on highway safety matters and transportation implications and it has confirmed that the proposed development is not likely to have a severe impact on the local highway network.

The concerns raised by residents regarding the high demand for on-street parking in Down Road are fully acknowledged. However, given that the parking provision now proposed would still be an improvement from the parking provision associated with the previous use of the site, the relatively sustainable location of the site and that 1 parking space will still be provided for each of the 2 bedroom units, with 2 spaces for each of the 3 bedroom units, it is considered that the revised parking layout is acceptable in this instance and would accord with the requirements of Policy ID3 of the 2019 Local Plan and Para 109 of the NPPF.

Scale and character

The only external change from the approved plans is the positioning of a larger bin store in place of a parking space to the site. The approved plans showed a smaller bins set to the rear of the amenity area to the rear of the converted former school building. The revised bin store will be more visible, however it will be modest in height and read against the backdrop of the fencing to the rear boundary of the site. As such, there are no concerns with regard to the impact of the revised proposed on the scale and character of the site or the surroundings.

Thames Basin Heaths SPA

The site is within the 400m to 5km buffer zone of the Thames Basin Heath SPA.

The proposed development may adversely impact the TBHSPA due to the net increase in residential units at the site. The Council's adopted TBHSPA Avoidance Strategy 2017 requires a SANG contribution and an Access Management (SAMM) contribution to avoid any adverse impact in line with the tariff within the annual updating of the off-site contributions document.

As part of the application process the Council has undertaken an Appropriate Assessment (AA),

which concluded that the development would not affect the integrity of the European site either alone or in combination with other plans and projects in relation to additional impact pathways subject to the application meeting the mitigation measures set out in the TBHSPA Avoidance Strategy.

A S106 agreement was entered into under the original application (16/P/02402) to secure the necessary contributions. However, since the original application was approved, there has been an increase in the contributions required in line with the annually updated tariff. Therefore a deed of variation is required to secure the increased financial contribution required. The applicant has agreed to enter into a legal agreement to secure the necessary contributions. As such, 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.

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.

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

Retrospective application

A ministerial planning policy statement on 31 August 2015 introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. This has been supplemented by a written answer to the House of Commons on 19 October 2018 confirming that the remains a potential material consideration.

The statement does not advise the level of weight it that should be applied, neither does it override Section 73A of the Town and Country Planning Act 1990 (as amended) which provides the legal basis for submitting a retrospective application. The NPPG also confirm the use of an application as a legitimate means of regularising a breach of planning control. Given these factors it is unlikely that where development accords with the provisions of the Development Plan that refusal could be justified only on the grounds that it was unauthorised.

In considering this current application, which seeks to regularise unauthorised development, the

local planning authority has given weight to the fact that the application is retrospective. However, in the absence of any evidence to demonstrate that the applicant intentionally sought to breach planning legislation, or any detailed guidance from central government on the level of weight that should be applied in such circumstances, the fact that this application is retrospective is only considered to weigh against granting planning permission to a limited degree.

Conclusion.

Whilst the proposal would result in the parking provision for the development being slightly less than required by the Council's adopted parking standards, each of the 3 bed units would have two parking spaces and each of the 2 bed units would have one parking space. The proposed parking provision would be an improvement compared to previous use of the site which had no off street parking provision. As such, together with the relatively sustainable location of the site, it is considered that the proposed revision would not have an unacceptable impact on parking provision in the locality.

All of the relevant conditions from the previous application will be reapplied.