

PLANNING COMMITTEE – 19 MARCH 2020

PART I – DELEGATED

20/0108/RSP - Part Retrospective District Council Application: Refurbishment of existing play area including the installation of new equipment and the relocation and erection of fencing at SWILLETT PLAY AREA, HERONSGATE ROAD, CHORLEYWOOD (DCES)

Parish: Chorleywood Parish

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 20 March 2020

Case Officer: Lauren Edwards

Recommendation: That Planning Permission be Granted

Reason for consideration by the Committee: The application has been submitted by Three Rivers District Council.

1 Relevant Planning History

- 1.1 19/1421/FUL - District Council Application: Refurbishment of existing play area including the installation of new equipment and the erection of boundary fencing – Permitted and part implemented.

2 Description of Application Site

- 2.1 The application site comprises of a play area and playing fields sited at the rear of the residential dwellings along Heronsgate Road and Bullsland Lane. The recreational grounds as a whole occupy an area of approx. 11,000sqm with the existing play area located to the north western edge occupying an area of 1300sqm.
- 2.2 The site has pedestrian access from Heronsgate Road and does not have a vehicular access other than for service vehicles from Bullsland Lane. To the south east of the site are Allotments.
- 2.3 Works have commenced pursuant to planning permission 19/1412/FUL.
- 2.4 The application site is located within the Metropolitan Green Belt.

3 Description of Proposed Development

- 3.1 This application seeks part retrospective planning permission for the refurbishment of existing play area including the installation of new equipment and the erection of boundary fencing.
- 3.2 The location plan submitted for application reference 19/1412/FUL did not accord with the approved block plan. Therefore part of the extended play area (approx. 200sqm) fell outside of the red line on the location plan which outlines the application site.
- 3.3 The fence line to the northern side of the site is now splayed from between No.19 and No.23 Bullsland Lane.
- 3.4 The Play Area would be increased in area to 2100sqm (as previously permitted via application reference 19/2421/FUL) to allow for the introduction of additional play equipment. The proposed Play Area would have 15 pieces of play equipment including a sand pit, Farmer's House, Multi Tower, Seesaw, Dutch disc, Swings, Treble Bars, Mini pump track, Trampoline and stepping stones. Benches, cycle racks and dog tethering point will also be provided.

3.5 A new metal rail fence would enclose the Play Area and would have two access gates.

4 Consultation

4.1 Statutory Consultation

4.1.1 Chorleywood Parish Council: No response received.

4.1.2 National Grid: No response received.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 15

4.2.2 No of responses received: 1

4.2.3 Summary of response received:

- Question as to why the plans were not correct in the first place
- Poor management and execution of project
- Gone on too long
- State of path and park not acceptable
- Damage to fence
- Poor clearance of rubbish
- Not sure how else to voice total un-satisfaction with project

Officer comment: The points raised above are not material planning considerations, however, these points have been raised separately with the Council's Leisure department.

4.2.4 Site Notice: Expires 25.02.2020

Press notice: Not required

5 Reason for Delay

5.1 Not applicable.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that "existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework".

The NPPF states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP9, CP10, CP11, CP12 and PSP2.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM2, DM6, DM8, DM11 and DM13 and Appendix 5.

The Site Allocations Local Development Document (SALDD) was adopted on 25 November 2014 having been through a full public participation process and Examination in Public. Policy SA5 is also relevant.

6.3 Other

Open Space, Amenity and Children's Play space Supplementary Planning Document (December 2007).

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 **Planning Analysis**

7.1 Principle of Development

- 7.1.1 Strategic Objective 11 of the Core Strategy is to provide accessible and varied opportunities for leisure, arts, sport and recreational activities in order to promote healthy lifestyles and identifies that the provision of suitable open space, children's play space and sports facilities can increase opportunities to exercise as part of a healthy lifestyle.
- 7.1.2 Policy DM11 of the Development Management Policies document refers specifically to Open Space, Sport and Recreation Facilities and Children's Play space and states that open spaces, sports and recreation facilities and children's play spaces perform important functions within communities and contribute significantly to quality of life. The Policy advises that proposals for new open space, sport and recreation facilities and Children's Play space will be encouraged if located in the main urban areas subject to the protection of the character of the area and amenity.
- 7.1.3 The site is within a designated open space and Policy SA5 of the Site Allocations document sets out that sites allocated as open space will generally be safeguarded as open spaces. The proposed play area would be located within existing play and open space. It is not considered that the development would result in change of use of the land.
- 7.1.4 The proposed play area would serve the local community and would improve and enhance an existing play and open space area. Impact on character and amenity are discussed in the relevant sections below but in principle, the proposed development would be in

accordance with Core Strategy Strategic Objective 11 and Policy PSP2 of the Core Strategy (adopted Oct 2011) and Policy DM11 of the Development Management Policies LDD (adopted July 2013).

7.2 Green Belt

- 7.2.1 The application site is within the Metropolitan Green Belt. Local and National Planning policies seek to maintain the openness of the Green Belt. Policy DM2 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, "the most important attributes of Green Belts is their openness".
- 7.2.2 Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the NPPF states that local authorities should regard the construction of new buildings as in appropriate. Exceptions to this include the provision of appropriate facilities for outdoor sport and outdoor recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of the land within it.
- 7.2.3 Policy DM2 states that; "within the Green Belt, except in very special circumstances, approval will not be given for new buildings other than (for example), (ii) 'essential facilities for outdoor sport and recreation; for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with purposes of including land in it'.
- 7.2.4 The permitted scheme (19/1421/FUL) was considered acceptable for the reasons outlined below. It is not considered that the amended red line or boundary fence would change this assessment.
- 7.2.5 The proposal would provide an improved playground, and it is considered that this would be compliant with Policy DM2 as it would be providing an essential facility for sport and recreation. No significant level changes are proposed. In terms of preserving the openness of the Green Belt; there is an existing playground which would be replaced. Whilst additional equipment would be provided, increasing the coverage of the site and increasing the overall width of the play area however when considered within the context of the site it would not result in the significant spread of development into the playing fields. Nevertheless the provision of play areas and outdoor recreation is considered an appropriate use within the Green Belt. It would not adversely affect the openness of the Green Belt.
- 7.2.6 It is not considered that the proposed play area would conflict with any of the purposes of Green Belt land as outlined with Paragraph 134 of the NPPF. Furthermore, it is considered that the openness of the Metropolitan Green Belt would be maintained. The development is considered to accord with Local and National Planning policies that seek to protect the openness and visual amenities of the Metropolitan Green Belt.

7.3 Impact on Character and Street Scene

- 7.3.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.

- 7.3.2 The permitted scheme (19/1421/FUL) was considered acceptable for the reasons outlined below. It is not considered that the amended red line or boundary fence would change this assessment.
- 7.3.3 The proposed play area would occupy an area of 2100sqm which would be surfaced with a combination of grass, lawn grating mats, tarmacadam and sand. The proposed play equipment would be a mix of timber, PVC and metal. Given that the existing play equipment includes similar materials and is painted in a variety of colours and that there is existing rubber matting it is not considered that the new play equipment would result in harm to the character and appearance of the area.
- 7.3.4 Whilst the existing fencing around the play area is timber and would be replaced by metal fencing given that it would be relatively low in height (1.2m) and would have gaps between the railings it is not considered that the new fence would appear at odds around the perimeter of the play area.
- 7.3.5 The overall area covered by the play area would be larger than existing however a large area of playing fields would be retained with large areas of grass within the play area itself.
- 7.3.6 The proposal is therefore considered acceptable in accordance with Core Strategy Policies CP1 and CP12.
- 7.4 Impact on amenity of neighbours
- 7.4.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'
- 7.4.2 The permitted scheme (19/1421/FUL) was considered acceptable for the reasons outlined below. It is not considered that the amended red line or boundary fence would change this assessment.
- 7.4.3 It is acknowledged that the Play Area is immediately adjacent to the rear gardens of residential neighbours along Heronsgate Road and Bullsland Lane and particularly No.40b Heronsgate Road which is the closest dwelling to the Play Area. However there is an existing Play Area within this location and whilst the additional equipment and refurbishment could result in additional activity it is not considered that this would result in harm to neighbouring amenity compared with the existing Play Area. The raised equipment closest to the boundary is the slide which is an existing piece of equipment. The Multi Tower would have a raised platform however this is sited off the boundary with the neighbour along Bullsland Lane by 11m from the and furthest towards the south east away from No.40a.
- 7.4.4 The proposal would therefore be acceptable in this regard in accordance with Core Strategy Policy CP12.
- 7.5 Wildlife and Biodiversity
- 7.5.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.
- 7.5.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.

7.5.3 The application has been submitted with a Biodiversity Checklist. Whilst the proposed Play Area would extend into the adjacent playing field this area appears regularly mowed and adjacent to residential gardens as such it is not considered that any additional surveys would be required. As such, the proposed development is not considered to result in any impact on local biodiversity and therefore the application is acceptable in accordance with Policy CP12 of the Core Strategy and Policy DM6 of the Development Management Policies LDD.

7.6 Trees and Landscaping

7.6.1 The application site includes a number of mature trees. Policy DM6 of the Development Management Policies LDD advises that proposals for new development proposals are expected to retain as many trees and hedgerows as possible, particularly those of local amenity and nature conservation value and that development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development.

7.6.2 The Tree Protection measures in situ will be conditioned to be retained until such time that works have been completed.

7.7 Highways, Access and Parking

7.7.1 Core Strategy Policy CP10 requires development to demonstrate that it will provide a safe and adequate means of access and to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document set out parking standards.

7.7.2 The proposal would not generate additional parking requirement. Whilst there is no existing onsite parking there would be no greater requirement than for the current play area.

7.7.3 Therefore, the proposal would be acceptable in accordance with Core Strategy Policy CP10 and Policy DM13 and Appendix 5 of the Development Management Policies LDD.

7.8 Safety and Accessibility

7.8.1 Policy CP12 of the Core Strategy states that development should design out opportunities for crime and anti-social behaviour through the incorporation of appropriate measures to minimise the risk of crime and create safe and attractive places, and that it should be accessible to all potential users.

7.8.2 The equipment to be used and the grass matting to be used is robust, easy to maintain and repair and will maintain the safety performance required. Whilst the grass will require maintenance this is an existing situation.

7.8.3 No objection is therefore raised to the proposed development in terms of safety and accessibility and it is considered acceptable in accordance with Core Strategy Policy CP12.

7.9 Flood Risk and Drainage

7.9.1 The application site is located within Flood Zone 1. Core Strategy Policy CP1 sets out that development should avoid areas at risk from flooding. Policy DM8 of the Development Management Policies document sets out that in accordance with National Policy, the Council will only permit development if it is demonstrated that there will be no adverse impact on areas at risk of flooding. Development will only be permitted where it would not be subject to unacceptable risk of flooding and would not unacceptably exacerbate the risk of flooding elsewhere.

7.9.2 Given that the site has an existing play area it is not considered that any harm would result in this respect.

8 Recommendation

8.1 That PART RETROSPECTIVE PLANNING PERMISSION BE GRANTED and has effect from the date on which the development was started and is subject to the following conditions:

C1 The development hereby permitted shall be carried out in accordance with the following approved plans: TRDC 001 (Location Plan), TRDC 002 (Existing Play Area Plan), TRDC 003 (Proposed Play Area), TRDC 004 (Existing and proposed layout), TRDC 005 (Construction set up), TRDC 006 (Existing equipment schedule).

Reason: For the avoidance of doubt, in the proper interests of planning and to maintain the openness of the Metropolitan Green Belt; in accordance with Policies PSP2, CP1, CP9, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM6, DM8 and DM11 of the Development Management Policies LDD (adopted July 2013).

C2 The protective measures in situ, as shown on TRDC 005 (Construction set up) shall be maintained as approved until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

Reason: To ensure that no development takes place until appropriate measures are taken to prevent damage being caused to trees during construction and to meet the requirements of Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM6 of the Development Management Policies LDD (adopted July 2013).

8.2 Informatives:

I1 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. It is a requirement under Regulation 67 (1), Regulation 42B(6) (in the case of residential annexes or extensions), and Regulation 54B(6) (for self-build housing) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.