

PLANNING COMMITTEE - 10 DECEMBER 2020

PART I – DELGATED

8. 20/1870/FUL - Installation of a circular cycle path around the perimeter of the recreation ground at SWILLETT PLAY AREA, HERONSGATE ROAD, CHORLEYWOOD. (DCES)

Parish: Chorleywood Parish

Ward: Chorleywood South and Maple Cross

Expiry of Statutory Period: 24.11.2020

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.
- 1.2 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 – Permitted.

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.
- 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 A new play area has been installed to the north of the site which was approved via application 20/0108/RSP earlier this year.
- 2.4 The application site is located within the Metropolitan Green Belt.

3 Description of Proposed Development

- 3.1 This application seeks planning permission for the installation of a circular cycle path around the perimeter of the recreation ground.
- 3.2 The cycle path would be accessed via the existing path to the north east of the site off Heronsgate Road. It would have a total length of approximately x m around the perimeter of the recreation ground and would be 1.2m wide. There would be 10 x 0.1m high mounds located around the track. The track would be constructed of SUDS-BOND surfacing which will be black with lighter granules of rubber bonding.

4 Consultation

4.1 Statutory Consultation

- 4.1.1 Chorleywood Parish Council: [Objection]

*The Committee have Concerns with this planning application on the following grounds:-
Should the plans change or our Objections have been addressed, please advise the Parish Council so our comments can be amended.*

There are concerns relating to the impact on the root protection zone of existing trees and it is requested that an Arboricultural Impact Assessment is submitted so the impact of the proposal on existing trees can be understood.

Request that the letters of concerns from neighbouring residents are taken into account and addressed.

4.1.2 National Grid: No response received.

4.1.3 Landscape Officer: [Objection]

The application has included a document entitled 'method statement for tree protection'.

The document lacks sufficient detail to be of any practical use, and does little to support the application. It cites recommendations which state that equipment should be located outside the root protection area (RPA) of existing trees, but does not provide the RPA of any trees. The track appears to have been placed outside the generic crown spread, not the actual crown spread, of trees, so offers little in the way of meaningful protection.

If the applicant is unwilling to calculate the RPAs of existing trees, then the track would need to be a minimum of 15m from the trunk of any tree, to avoid RPA encroachment. It is usual for the location and specification of tree protection fencing to be submitted as part of the application, but providing there are no RPA encroachments this detail could be provided as a pre-commencement condition.

In light of the above, and lack of information demonstrating that there is no RPA encroachment, or suitable distance from accurately positioned trees, I am compelled to raise objections at the current time.

Officer comment: As discussed below, the Landscape Officer has now visited the site and has been able to confirm that all works would be outside of the Root Protection Areas.

4.2 Public/Neighbour Consultation

4.2.1 Number consulted: 36

4.2.2 No of responses received: 6 (Objections)

4.2.3 Summary of response received:

- Play area has already taken up part of the field
- Play area is now much busier
- No parking
- Cycle path will take away field
- Concerns it will encourage skateboards/ electric scooters
- Dangerous
- Queries regarding new locations for benches
- Noise
- Safety concerns
- Cycle track not needed
- Track will make other activities difficult
- Construction disruption
- Cost vs need

- Queries regarding quality of the track and ongoing maintenance
- Footpath not shown correctly on site plan

4.2.4 Site Notice: Expired 16.11.2020 Press notice: 30.10.2020

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, DM9, 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.

At a meeting of Full Council on Tuesday 20 October 2020, the Council agreed that the Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020) should proceed to referendum on 6 May 2021 (as required by Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020). A Decision Statement was subsequently published on 21 October. In accordance with Planning Practice Guidance relating to

Neighbourhood Planning, the Chorleywood Neighbourhood Development Plan can now be given significant weight in decision making, so far as the plan is material to the application. Policy 2 is 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 cycle track would be an appropriate use on an existing open space. It is not considered that the development would result in change of use of the land.

7.1.4 The proposed cycle track 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 inappropriate. 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 proposal would provide a cycle track within an existing recreation ground, and it is therefore considered to be compliant with Policy DM2 as it would be providing a facility for sport and recreation. No significant level changes are proposed. In terms of preserving the openness of the Green Belt; whilst the track would result in the introduction of a more urbanising feature within the existing open field, it would still be viewed in the context of the existing play area. 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.
- 7.2.5 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 Policy 11 of the Chorleywood Neighbourhood plan notes that the Swillett Recreation Ground is designated as Local Green Space and development will be managed in accordance with policies for manage development within the Green Belt and should take into account the setting of the Local Green Space and the Special Characteristics of the Area.
- 7.3.3 Whilst the proposed cycle track would result in the provision of additional hard surfacing this would not appear at odds within the setting of a recreation ground. As such it is not considered that it would result in harm in this respect.
- 7.3.4 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 Policy DM9 outlines that planning permission will not be granted for developments which have an unacceptable impact on existing developments by virtue of noise disturbance

7.4.3 The proposed cycle track would be set in a minimum of 2.7m from the rear boundaries of the neighbours along Bullisland Lane, the majority of these neighbours have rear gardens over 15m in depth. These neighbours have fencing or hedging across their rear boundaries providing some screening. It is acknowledged that the cycle track may encourage additional usage of the recreation ground however the proposal would not result in any change of use of the land. As such whilst there may be some intensification of use it is not considered to result in such additional disturbance so as to result in demonstrable harm to neighbouring amenity.

7.4.4 No lighting has been shown around the track and as such this would limit when the facility could be used and its peak hours of use will be during the hours of daylight.

7.4.5 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. The proposed track would be located on an existing recreational field which is mowed and maintained regularly and as such the proposed development would not result in any harm in this respect. 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 however there are no trees with a TPO on or near the site. 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 Following their initial comments, the Landscape Officer has now made a site visit and has been able to confirm that the track will be wholly outside of the root protection area of all adjacent trees. As such the proposed development would not result in any harm to the long term health of any trees. A plan has been submitted indicating temporary fencing to protect the trees during construction and a condition will also be added to require this to be implemented and maintained during works.

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 track would be constructed of SUDs-bond surfacing which is considered appropriate and would be maintained by the Council's ground maintenance team.
- 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 cycle track will be constructed on a permeable material it is not considered that it would result in harm in this respect.

8 **Recommendation**

- 8.1 That PLANNING PERMISSION BE GRANTED and is subject to the following conditions:
- C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.
- C2 The development hereby permitted shall be carried out in accordance with the following approved plans: TRDC 001 (Location Plan), TRDC 002 (Proposed cycle path plan), TRDC 003 (Proposed Mound Section), TRDC 004 (Proposed cycle path) and TRDC 005 (Tree Plan)
- 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, DM9 and DM11 of the Development Management Policies LDD (adopted July 2013).
- C3 Prior to the commencement of any works on site the tree protection measures shall be installed in accordance with the locations shown on TRDC 005 (Tree Plan).
- The protective measures, including fencing, shall be undertaken in full accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained 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: This condition is a pre commencement condition to ensure that no development takes place until appropriate measures are taken to prevent damage being caused to trees during construction, to protect the visual amenities of the trees, area 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:

- 11 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.