

PLANNING COMMITTEE – 18 NOVEMBER 2021

PART I - DELEGATED

- 11A. 21/2343/RSP - Retrospective: Erection of two temporary buildings for a period of twenty-four months (2 years) at TENNIS COURTS, MAPLE CROSS RECREATION GROUND, DENHAM WAY, MAPLE CROSS, HERTFORDSHIRE (DCES)**

Parish: Non-Parished

Ward: Chorleywood South & Maple Cross

Expiry of Statutory Period: 07.12.2021

Case Officer: Tom Norris

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: The application site is on land under the ownership of Three Rivers District Council.

1 Relevant Planning and Enforcement History

- 1.1 21/1311/FUL - Erection of temporary building for a period of twenty-four months (2 years) – 12.08.2021 – Permitted, Committee Decision

2 Description of Application Site

- 2.1 The application site is comprised of a section of land at Maple Cross Recreation Ground, Denham Way, Maple Cross. The main part of the site is positioned to the southern side of the tennis courts and measures approximately 80sqm in total area. The area around the tennis courts forming the application site is grassed however also includes existing mesh flooring which allows disabled access to the courts.

3 Description of Proposed Development

- 3.1 This application seeks retrospective planning permission for the erection of two buildings to be sited adjacent to the tennis courts for a temporary period of 24 months.
- 3.2 The buildings are sited adjacent to one another with a narrow gap between them and serve an ancillary use to the tennis courts, including storage and indoor shelter whilst refurbishment works are carried out to the existing pavilion building which currently serves the above uses.
- 3.3 Permission was recently granted for the construction of a single building of a similar footprint to the two buildings now in-situ. The supporting statement submitted by the applicant notes that the two container buildings are placed side by side as a single building, as two joined containers, could not be sourced.
- 3.4 The buildings is sited approximately 4.0m from the tennis courts and each has a width of 9.5m, a depth of 3m and are spaced 1.0m from one another. The buildings have a flat roof with an overall height of 2.3m. The buildings are painted a dark green colour.

4 Consultation

4.1 Statutory Consultation

- 4.1.1 National Grid: [No objection]

- 4.1.1.1 *“Your planning application – No objection, informative note required*

We have received a notification from the LinesearchbeforeUdig (LSBUD) platform regarding a planning application that has been submitted which is in close proximity to our medium

and low pressure assets. We have no objection to this proposal from a planning perspective, however we need you to take the following action.

What you need to do

To prevent damage to our assets or interference with our rights, please add the following Informative Note into the Decision Notice:

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions

Prior to carrying out works, including the construction of access points, please register on www.linesearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

Your responsibilities and obligations

Cadent may have a Deed of Easement on the pipeline, which provides us with a right of access for a number of functions and prevents change to existing ground levels, storage of materials. It also prevents the erection of permanent/temporary buildings, or structures. If necessary Cadent will take action to legally enforce the terms of the easement.

This letter does not constitute any formal agreement or consent for any proposed development work either generally or related to Cadent's easements or other rights, or any planning or building regulations applications.

Cadent Gas Ltd or their agents, servants or contractors do not accept any liability for any losses arising under or in connection with this information. This limit on liability applies to all and any claims in contract, tort (including negligence), misrepresentation (excluding fraudulent misrepresentation), breach of statutory duty or otherwise. This limit on liability does not exclude or restrict liability where prohibited by the law nor does it supersede the express terms of any related agreements.

If you need any further information or have any questions about the outcome, please contact us at plantprotection@cadentgas.com or on 0800 688 588 quoting your reference at the top of this letter."

4.2 Public/Neighbour Consultation

4.2.1 Neighbours consulted: 3

4.2.2 Responses received: 0

4.2.3 Site Notice posted: 14.10.2021, expiry date: 04.11.2021

4.2.4 Press notice not required

5 Reason for Delay

5.1 None

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In July 2021 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 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 CP1, CP9, CP10, CP11 and CP12.

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, DM7, DM8, DM9, DM11, DM13 and Appendix 5.

6.3 Other

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 Impact on the Metropolitan Green Belt

7.1.1 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans. They help to protect the countryside, be it in agricultural, forestry or other use.

7.1.2 Paragraph 147 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 148 goes on to state that when considering any planning application, local

planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

- 7.1.3 Paragraph 149 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. An exception to this includes 'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it'.
- 7.1.4 Paragraph 150 of the NPPF states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes material changes in the use of land (such as changes of use for outdoor sport or recreation).
- 7.1.5 Policy CP11 of the Core Strategy (adopted October 2011) sets out that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purposes of including land within it. Policy DM2 of the Development Management Policies LDD (adopted July 2013) relates to development within the Green Belt and states that, as set out in the National Planning Policy Framework, the construction of new buildings in the Green Belt is inappropriate.
- 7.1.6 The proposed development is for the construction of two ancillary buildings to serve the existing tennis courts within the recreation ground. When considering the harm to openness, the PPG sets out that the assessment of a proposal on the openness of the Green Belt requires a judgement based on the circumstances of the case. It states that the courts have identified a number of matters which may need to be taken into account in making this assessment, which include, but are not limited to the spatial and visual aspects of a development and the degree of activity. The duration of the development and its remedially are also of relevance, taking into account any provisions to return land to its original state or to an equivalent or improved state of openness.
- 7.1.7 The application site as pre-existing was free of any development and was therefore visually and spatially open. Notwithstanding, the proposed development is considered to constitute an appropriate facility in connection with an existing use; in this case the buildings would serve an ancillary use to the existing tennis courts. In addition, the buildings would be a temporary measure whilst works are carried out to refurbish the existing facilities. It is considered that the building appear ancillary in their scale as well as their use. The buildings would be relatively wide however would have a low-profile flat roof height which would serve to reduce their prominence from more wider and long distance views. Planning permission was previously granted for a single building of a similar footprint to the two proposed. Furthermore, the siting of the buildings would last for only two years, after which the buildings would be removed from the site. Planning conditions can be used (both reasonably and necessarily) to ensure that following the removal of the containers, the land is restored to its former condition.
- 7.1.8 In summary, given the above, the proposed development would be appropriate development in the Green Belt and considered acceptable in accordance with Policy CP11 of the Core Strategy, Policy DM2 of the Development Management Policies DPD and the NPPF.

7.2 Impact on the character and appearance of the area and the street scene

- 7.2.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness. Policy CP12 of the Core Strategy 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.'

7.2.2 Policy CP1 of the Core Strategy also sets out that the Council will take into account the need to protect and enhance existing community, leisure and cultural facilities and provide new facilities while Policy CP12 of the Core Strategy states that the Council will expect development proposals to provide convenient, safe and visually attractive areas for the parking of vehicles and cycles without dominating the development or its surroundings.

7.2.3 The proposed development is not considered to amount to harm to the character and appearance to the wider area. The proposed building has a clearly ancillary appearance to the tennis courts by virtue of its scale and siting and does not appear out of character or harmful to the area in this regard. The buildings are painted green which blend well with the backdrop of the boundary hedging and are largely unnoticeable from longer distance views.

7.2.4 In summary, it is not considered that the development adversely affects the character and appearance of the area and is acceptable in accordance with Policies CP1 and CP12 of the Core Strategy (adopted 2011).

7.3 Impact on amenity of neighbours

7.3.1 Policy CP12 of the Core Strategy states that the 'Council will expect all development proposals to protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'. Policy DM9 of the Development Management Policies LDD also states that planning permission will not be granted for development which has an unacceptable adverse impact on the indoor and outdoor acoustic environment of existing or planned development.

7.3.2 The proposed development is in a location that does not result in any harm to the residential amenities of any surrounding neighbouring properties. The scale and use of the building does not result in any noise and disturbance of the closest neighbouring properties.

7.4 Impact on Sports Facilities

7.4.1 Policy DM11 of the Development Management Policies DPD deals with Open Space, Sport and Recreation Facilities and Children's Play Space.

7.4.2 The proposed development is within the public playing fields. Given the position and small extent of the application site, and the temporary nature of the proposed development, it is not considered that the development would reduce the sporting capability of the site, but would support the use of the existing tennis courts. The proposal would not result in the loss of, or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site. The proposed development is therefore acceptable in this regard.

7.5 Highways, Access & Car Parking

7.5.1 Core Strategy Policy CP10 requires development to provide a safe and adequate means of access and to make adequate provision for all users, including car parking.

7.5.2 The existing access to the existing car park has not changed as a result of the development. It is therefore considered that the proposed development is acceptable in this regard. No intensification of use is proposed that would require additional parking.

7.6 Trees & Landscape

7.6.1 Policy DM6 of the Development Management Policies LDD sets out that development proposals should seek to retain trees and other landscape and nature conservation

features, and that proposals should demonstrate that trees will be safeguarded and managed during and after development in accordance with the relevant British Standards.

7.6.2 The proposed development has not required the removal or resulted in any harm to trees

7.7 Biodiversity

7.7.1 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. The Habitats Directive places a legal duty on all public bodies to have regard to the habitats directive when carrying out their functions.

7.7.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of this application in accordance with Policy CP9 of the Core Strategy and Policy DM6 of the Development Management Policies document. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications where biodiversity may be affected prior to the determination of a planning application. A Biodiversity Checklist was submitted with the application and states that no protected species or biodiversity interests will be affected as a result of the application.

8 **Recommendation**

8.1 That RETROSPECTIVE PLANNING PERMISSION BE GRANTED subject to the following conditions:

C1 The limited period for the use or development hereby permitted shall be 2 years from the date of this permission; on or before the expiration of which period the use shall be discontinued, buildings removed, and the land restored to its former condition on or before the date of this decision in accordance with a scheme of work, to be first submitted to and approved in writing by the Local Planning Authority, within three months of the use ceasing.

Reason: Based on the submitted information it is acknowledged that a two year period is required and justified for the refurbishment of the existing facilities on site and the proposal is considered acceptable in accordance with Policies CP1, CP6, CP9, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2 of the Development Management Policies LDD (adopted July 2013).

C2 The development hereby permitted shall be maintained in accordance with the following approved plans: 001, 002, 003, 004B, 005B

Reason: For the avoidance of doubt and in the proper interests of planning and in the interests of the visual amenities of the locality, the residential amenity of neighbouring occupiers and the openness of the Metropolitan Green Belt in accordance with Policies CP1, CP9, CP10, CP11 and CP12 of the Core Strategy (adopted October 2011) and Policies DM2, DM6, DM7, DM8, DM9, DM11, DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

C3 The proposed development hereby permitted, shall be permanently maintained in their current finish material, painted green, and no external materials shall be used other than those approved.

Reason: In the interests of the visual amenity of the area in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

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) - If your development is liable for CIL payments, it is a requirement under Regulation 67 (1) 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.