

7.4 Case Officer: Mark Russell

Due Date: 23/12/2015

CHANGE OF USE

Site: Old Heath Recreation Pavilion, Recreation Road, Colchester

Application No: 152344

Date Received: 28 October 2015

Agent: Mr Lee Spalding, Colchester Borough Council

Applicant: Mr Aaron Hunter

Development: Redevelopment of the Old Heath Tennis Pavilion into a community cafe.

Ward: New Town

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Colchester Borough Council is the applicant.

2.0 Synopsis

- 2.1 It is explained that the existing sports pavilion is no longer needed and that proposal is to convert it in to a community café. No objections have been received and approval is recommended subject to Sport England not objecting.

3.0 Site Description and Context

- 3.1 The building in question is a former sports pavilion on Recreation Road and near the south-eastern corner of the Recreation Ground at Old Heath. Close by are tennis courts and a children's play area. Opposite the site are the residential properties of Recreation Road.

4.0 Description of the Proposal

- 4.1 The proposal is for a change of use from changing facilities to a community café.
- 4.2 Also proposed is a small extension (store) to the front. It is also intended to internally reconfigure the building with the central section (currently housing toilets and washing facilities) being removed and the space inside being opened up to form a seating area.
- 4.3 The rear section (previously showers) is to be closed off and used for back of house functions (office, store, kitchen, cleaner's store), with three toilets and baby-changing facilities being provided off to the left-hand-side.
- 4.4 To the front it is proposed to install a glass door and screen inside the external doors and to insert two new windows (one either side of the door).

- 4.5 Externally it is proposed to provide a paved seating area to the side (west) of the building. This would be sand bedded, small element concrete with flag paving

5.0 Land Use Allocation

- 5.1 Public Open Space

6.0 Relevant Planning History

- 6.1 None

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD3 - Community Facilities

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP4 Community Facilities
DP10 Tourism, Leisure and Culture

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

n/a

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

n/a

8.0 Consultations

- 8.1 Sport England has been consulted as a statutory body whose views cannot be overridden. Its response is awaited at the time of going to press.

- 8.2 Highway Authority: No comments

- 8.3 Environmental Control: No objection, requested conditions limiting hours of opening and delivery and also that no external amplified music should be permitted.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

- 9.1 n/a

10.0 Representations

- 10.1 One letter was received from a resident at Worsnop House, not objecting but raising points for consideration:

In principle I have no objection to the plan as proposed. However, there are currently no WC facilities on the Recreation grounds. Will those just visiting to use the playground be allowed to use the WC facilities in the proposed cafe without purchasing anything? At present, children using the swings, etc. go behind the bushes next to the fence bordering Worsnop House when needing a WC.

There are a number of health and safety risks arising from this. This has been reported to Council officials who have visited Worsnop House in the past but we have not received any feedback as to a solution to this. Also, I trust that no alcoholic beverages will be sold from the proposed cafe.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

- 11.1 n/a

12.0 Open Space Provisions

- 12.1 n/a

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Development Team and Planning Obligations

- 14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Principle

- 15.1 This building is no longer required in its former primary function as a sporting facility. This matter has been clarified by our Community Initiatives Officer as follows:

The old tennis pavilion used to operate as a changing room and open on a regular basis for formal football matches via booking.

Formal football matches via bookings have now been transferred to other pitches within the borough.

The recreation ground football pitch has not been removed, it is still there but is now only used on an informal basis by the community.

The old tennis pavilion is now no longer used as a changing room and following public consultation and subject to planning permission it is hoped that the building can be used as a community café with toilets for users of the Recreation Ground.

The facility will be run by a local community interest company CIC and it is hoped that the building will be used to host a number of events and sporting activities during its operation.

- 15.2 The proposed use is still community-based and is going to be run by GO4 (the group which also currently trades from Holy Trinity Church). Our Community Initiatives Officer has confirmed:

“The community café is intended for the use of community not for profit companies and groups only. It is an agreed arrangement that community groups will be allowed to use the café seating areas and toilet facilities.

Go4 Enterprises upon signing a lease will have the sole and exclusive use of the kitchen area within the community café.”

- 15.3 It is, therefore, a positive proposal and can still be described as a community facility rather than just being a change of use where an asset is lost to the community.

Design and Layout

- 15.4 The proposed external changes to the building are largely cosmetic as described above. The main change to the physicality would be the placing of tables and chairs outside and the laying of paving slabs to facilitate this.

Impact on the Surrounding Area

- 15.5 The above element means that activities would have a public presence. Tables and chairs would be visible to the right hand side of the building (as seen from the recreation ground) and would be visible from Recreation Road.

Impacts on Neighbouring Properties

- 15.6 Given the separation from and orientation away from the building to residential properties, it is unlikely that residential amenity will be harmed. The nearest measurement is about 24 metres to the houses opposite and this is to the front of those properties.
- 15.7 It is noted that there have been no neighbour objections and Environmental Control has not objected either. Its proposed hours of use (by condition) tally with those sought by the applicant and are within sociable times of day (07:30 – 20:00).
- 15.8 Hours of delivery are also to be restricted - Weekdays: 07:00-19:00, Saturdays: 07:00-19:00 Sundays and Public Holidays: No deliveries.

Other Matters

- 15.9 The matter of toilets has been raised. The applicant has confirmed that the toilets within the building will be made available to all parties during the hours of opening.
- 15.10 It is also proposed to place a personal condition on the site to prevent a general A3 use developing. It is also necessary to place an additional condition removing permitted development changes of use (without this, the building could become a shop, estate agents or office without the need for Planning permission).

16.0 Conclusion

- 16.1 The proposal is a positive, community-based re-use of an existing community building and raises no issues of residential amenity or highway safety. Therefore approval is recommended, subject to no objection from Sport England.

17.0 Recommendation

- 17.1 APPROVE subject to no objection from Sport England

18.0 Conditions

1 - Time Limit for Full Permissions

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 - Non-Standard Condition/Reason

The development hereby permitted shall comply in all respects with the approved plans CBH/1415/7005 02 revision A, 03 revision A, 05 revision A, 06, 07 and 08 revision A, 09, 10 and 11.

Reason: For the avoidance of doubt as to the scope of this permission.

3 - Non-Standard Condition/Reason

The materials used shall match those on the submitted application.

Reason: For the avoidance of doubt as to the scope of this permission.

4 - Non-Standard Condition/Reason

The community cafe hereby permitted shall be for the use by community not for profit companies and groups only; community groups shall be allowed to use the cafe seating areas and toilet facilities.

Reason: In the interests of retaining this building as a community asset as this is the basis on which permission has been granted.

5 - Non-Standard Condition/Reason

Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, the change of use hereby approved shall be restricted to the A3 (restaurant) use applied for and for no other use.

Reason: To ensure that the use does not benefit from permitted development rights which would be inappropriate for this location.

6 - *Restriction of Hours of Operation

The use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 07:30-20:00

Saturdays: 07:30-20:00

Sundays and Public Holidays: 07:30-20:00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

7 - *Restricted Hours of Delivery

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 07:00-19:00

Saturdays: 07:00-19:00

Sundays and Public Holidays: No deliveries.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

8 - Non-Standard Condition/Reason

No external amplified music shall be permitted at any time.

Reason: In the interests of residential amenity.

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission. Please pay particular attention to these requirements.

20.0 Positivity Statement

20.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.