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Item No: 7.2

Application: 172172

Applicant: Colchester Borough Council

Proposal: The development of a Christmas attraction for Colchester including temporary structures. Incorporating vintage rides, side stalls and other attractions. Set - up: 18th November 2017, Event Operating: 25th November 2017 to 7th January 2018 (maximum, likely to be less) and Site clear: 10th January 2018

Location: Castle Park, High Street, Colchester

Ward: Castle

Officer: Alistair Day

Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

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

2.0 Synopsis

- 2.1 The key issues explored below are: the impact on designated heritage assets and the potential for the event to cause noise and disturbance to local residents. The report concludes that the proposed event will not cause significant material harm to the aforementioned material planning issues.
- 2.2 The application is subsequently recommended for conditional approval.

3.0 Site Description and Context

- 3.1 Castle Park is located to the north-east of the town centre and is effectively divided into two sections by the Roman Wall that traverses it, from east to west.
- 3.2 The application site is located in the south western quadrant of the Upper Castle Park. Museum Street, Castle Bailey, Cowdray Crescent and the Hollytrees Museum form the southern boundary of the application site. The west boundary of the site is formed by Ryegate Road. Surrounding these streets is a mixture of commercial, religious and residential properties. The northern boundary of the site is formed by the earthworks of castle rampart. The eastern boundary of the site is formed in part by the castle ramparts and in part by the footpath that runs adjacent to area of land known as Hollytrees Meadow. The east side of the Upper Castle Park is bounded by residential properties.
- 3.3 Within the application site there are a number of highly graded designated heritage assets. The Norman Castle and Hollytrees Mansion Museum are respectively listed grade I and grade II* for their special architectural or historic interest; the main Castle Park gateway and summer house are listed grade II. The majority of the park is a designated scheduled ancient monument (SAM) and this relates to the precincts of the Temple of Claudius and the Norman Castle and its associated ramparts. The Upper Park falls within the Town Centre Conservation Area (Colchester Conservation Area No.1) and the Castle Park is listed in the Register of Historic Parks and Gardens (Grade II). The application site also includes a number of mature trees that make a positive contribution to the setting of the listed buildings and the character and appearance of the area. In addition to the heritage assets within the application site, there are numerous listed and locally listed buildings located immediately adjacent to Upper Castle Park.

4.0 Description of the Proposal

- 4.1 The submitted planning application relates to a Christmas attraction comprising temporary structures incorporating vintage rides, side stalls and attraction. The supporting information explains that the site set-up will be from 18th November 2017 with the event operating from 25th November 2017 and 7th January 2018. The site will be cleared by 10th January 2018.
- 4.2 It is proposed that the event will operated between 10:00 am and 22:30 hrs, with the Castle grounds cleared by 23:00 hrs.

5.0 Land Use Allocation

- 5.1 The Upper Castle Park is identified in the adopted Site Allocations Plan as 'Open Space'.

6.0 Relevant Planning History

- 6.1 171944 - To provide Colchester with Halloween event to operate during the month of October 2017 - – Conditional Approval
- 6.2 151298 - Provision of a Winter Wonderland and Ice Rink with Germanic chalets selling traditional Christmas items – Conditional Approval

7.0 Principal Policies

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the adopted development plan comprises the adopted Core Strategy (December 2008, amended 2014), Development Plan Policies (October 2010, amended 2014) and Site Allocations Plan (October 2010)
- 7.2 The Core Strategy sets out strategic planning policies and the following are of most relevance to this application:

SD1 - Sustainable Development Locations
CE2a - Town Centre
UR2 - Built Design and Character
PR1 - Open Space
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA5 - Parking
ENV1 - Environment

- 7.3 The Development Plan Policies provide more detailed planning policy guidance and the following are of relevance to this application:

DP1 Design and Amenity
DP6 Colchester Town Centre Uses
DP10 Tourism, Leisure and Culture
DP14 Historic Environment Assets
DP17 Accessibility and Access
DP19 Parking Standards

- 7.4 The National Planning Policy Framework (the Framework) must also be taken into account in planning decisions. The Framework makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development and that there are three dimensions to sustainable development namely: economic, social and environmental.

8.0 Consultations

- 8.1 The stakeholders have been consulted and their response is summarised below. More information may be set out on our website.

Landscape Officer

- 8.2 No objection.

Archaeological Officer

- 8.3 I can confirm that I am now satisfied with the proposal from an archaeological perspective. Given the similarity of the proposed structure to the ice rink (albeit over a slightly larger area), and the very limited impact which the ice rink had, and the protection measures that are being undertaken elsewhere with the project, I do not have any further concerns with the proposal.

Environmental Protection

- 8.4 Should planning permission be granted Environmental Protection wish to make the following comments:-

Site boundary noise levels (for amplified sound, machinery and equipment)

Amplified sound, machinery and equipment shall not exceed a noise level of 15-min Laeq of 55dB at the site boundary.

Amplified sound shall be directed away from residential properties.

Generators

Generators should be of the silent type.

Lighting

Lighting should be directed away from residential properties and no light shall shine into residential properties.

Hours of operation

We therefore recommend that the event finishes at 22:00 as applied for.

Tree Officer

8.5 At the time of writing this report no comments have been received.

8.6 Historic Building Officer

No Observations have been received

Highway Authority

8.7 No Objection.

Historic England

8.8 This application concerns the development of a temporary Christmas attraction within the bailey of Colchester Castle., a nationally important Norman castle keep which over lies the remains of the Roman temple of Claudius. A similar event was successfully held in 2016 following the grant of planning permission and scheduled monument consent. Providing the detailed method statements and close monitoring of the event are complied with, Historic England advises the development would not cause harm to the designated heritage assets. The current proposals are in line with those previously consented and scheduled ancient monument consent for this event has been granted by the Secretary of State.

Garden History Society

8.9 We have considered the information provided in support of the above application and on the basis of this, do not wish to comment on the proposals at this stage. We would however emphasise that this does not in any way signify either our approval or disapproval of the proposals.

9.0 Parish Council Response

9.1 The application site is not located with a parish.

10.0 Representations from Notified Parties

10.1 Consultation have been carried out with third parties including neighbouring properties. A single representation was received from a local resident. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

10.2 The park [that subject is subject to the application] will be accessible after dark; reassurance is required that the entire park will be policed and monitored during this event.

10.3 The attraction is to be active until 22:00; what reassurance can be given regarding noise pollution from this attraction up to 22:00 and the prompt cessation of noise pollution at 22:00.

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 located within the town centre Air Quality Management Area but is not considered to have any significant impact on air quality in the long term

14.0 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 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

The Proposal

15.1 The submitted planning application relates to a Christmas attraction comprising vintage rides, side stalls and attractions set against the backdrop of Colchester Castle. The supporting information explains that the site set-up will be from 18th November 2017 with the event operating between the 25th November 2017 and 7th January 2018. The site will be cleared by 10th January 2018.

15.2 It is proposed that the event will operate between 10:00 am and 22:00 hours.

The Principle of Development

15.3 The application site is located in the south western quadrant of the Upper Castle Park; the Castle Park is located immediately to the east of the heart of the town centre.

15.4 The proposal to hold a Christmas event in Colchester town centre accords with CS Policy SD1 and the Framework which promote development in sustainable locations.

- 15.5 The Upper Castle Park is identified in the Site Allocations Plan as 'Open Space'. The proposal to hold a Christmas event for a limited period is not considered to conflict with this land-use designation or the function of the park.

Heritage and Design Considerations

- 15.6 Castle Park forms part of the grounds of Colchester Castle and the Hollytrees Mansion and is divided into an upper and lower park by the town wall. The Upper Castle Park includes the following listed buildings: the dual designated Norman castle (listed grade I for its special architectural or historic interest and a scheduled ancient monument), Hollytrees Mansion Museum (listed grade II*) and the main entrance gates to the Park and summer house (all listed grade II). The grounds of the Upper Castle Park are designated a Schedule Ancient Monument which covers the precincts of the Temple of Claudius and the Norman Castle with its associated ramparts. The Upper Castle Park also falls within the town centre conservation area and is a Registered Historic Park and Garden. In addition to the above heritage features, there are numerous listed and locally listed buildings that surround the Castle Park site.
- 15.7 Under s.66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (P(LBCA)A) there is a statutory duty to protect from harm listed buildings and their settings and to preserve or enhance the character or appearance of a conservation area. The Ancient Monuments and Archaeological Areas Act 1979 and subsequent amendments make provision for the Secretary of State to protect Scheduled Ancient Monuments (SAMs). The CS Policy ENV 1 and DPD Policy 14 seek to protect the historic environment and thus reflect the provision of the P(LBCA)A. The aims of the Framework are also generally consistent with the requirement of the P(LBCA)A. With regard to design, CS Policy UR2 and Development Plan Policy DP1 seek to promote and secure high quality design. Section 12 (paragraphs 126 to 141) of the Framework deals with conserving and enhancing the historic environment.
- 15.8 The application site is one of the most historically sensitive locations in Colchester and, therefore the potential impact that the proposal will have on the identified heritage assets (both direct and indirect) is a fundamental consideration.
- 15.9 In terms of direct impacts, the primary consideration is whether the proposal will result in damage being caused to features of archaeological importance notably the remains of the precincts of the Temple of Claudius and/or the Norman Castle and its associated earthworks. A mitigation strategy has been put forward for the protection of the archaeological features and the Council's Archaeological Officer has confirmed that this is acceptable.

- 15.10 All works affecting a SAM or its setting require scheduled ancient monument consent (SAMC). Members may wish to note that Historic England has been consulted separately on the requirement for Scheduled Ancient Monument Consent. Historic England has also been consulted on this application. Historic England has advised that the development would not cause harm to the designated heritage assets and that the proposals are in line with the scheduled ancient monument consent that has been granted by the Secretary of State.
- 15.11 The indirect impacts associated with this application relate to the setting of the identified heritage assets. The proposed Christmas event will change the existing setting of the castle and its immediate environment during the course of its operation. That said, the change to the setting of the Upper Castle Park will be of a temporary nature and provided appropriate controls are put in place to prevent damage to features of acknowledged importance, it is considered that the proposal will not result in any significant harm being caused.

Trees and Landscape

- 15.12 CS Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in Section 11 of the Framework.
- 15.13 Upper Castle Park contains a number of mature trees and ornamental flower beds that make a positive contribution to the setting of the nearby listed and the character and appearance of the area. It is considered important to ensure that existing trees are appropriately protected to avoid any potential damage to their long term health. To this end, the proposed temporary buildings will be sited outside tree protection zones and temporary matting will be used to help mitigate against wear and tear and compaction.
- 15.14 Given the above, it is considered that the proposal would not result in harm to the landscape of Castle Park and would not result in the loss of important trees. The current planning application is therefore considered to accord with CS Policy ENV1 and policies DP1 and DP21 that require development schemes to protect existing landscape features.

Residential Amenity

- 15.15 DPD Policy DP1 states that all development must be designed to avoid unacceptable impacts on amenity. Part III of this policy seeks to protect existing public and residential amenity, particularly with regard to (amongst other things) noise and disturbance, pollution (including light and odour pollution).

- 15.16 The application form states that the event will operate between 25th November 2017 and 7th January 2018. The opening hours will be between 10:00 and 22:00. All visitors to the event will need to purchase a ticket (either in advance or on the gate).
- 15.17 It is acknowledged that large scale events in Castle Park have the potential to cause disturbance to nearby residents. The Environmental Protection Team is satisfied that the proposed hours of operation of the Christmas event will not result in undue nuisance being caused to local residents.
- 15.18 With regard to noise levels generated by amplified sound, machinery and equipment, Environmental Protection has recommended that all generators are of the 'silent type', amplified music and lighting is directed away from residential properties and that the noise from equipment does not exceed a noise level of 15-min Laeq of 55dB at the site boundary. These requirements have been discussed with the applicant and they are considered acceptable to them. Conditions covering these elements have been recommended to safeguard the amenity of nearby residents. The applicant has also advised that stewards will police the event to prevent anti-social behaviour.
- 15.19 Subject to safeguard mentioned above, it is not considered that the proposed development would have a significant adverse effect on the living conditions of the neighbouring residential properties. In view of this, the proposed development is not considered to conflict with DPD Policy DP1

Parking and Highway Matters

- 15.20 Castle Park's position in the heart of the town centre means that it is highly accessible by a various sustainable modes of transport.
- 15.21 The applicant has advised that vehicular access to the event for the purposes of set-up, servicing and clearance will be via Museum Street. Once within the site, vehicles will follow a clockwise gyratory route around the Castle. All event set-up vehicles are to be marshalled by event staff and parking areas are to be installed at various locations using track matting to allow vehicles to unload without blocking the road way. Visitors to the event will be expected to use the town centre car parks, if coming by car, or travel to the event by public transport, by foot or cycle.
- 15.22 The Highway Authority has confirmed that they have no objection to this proposal in terms of its impact on highway safety or capacity.

Tourism

- 15.23 DPD Policy DP10 seeks to promote tourism, leisure and cultural activities within the Borough.
- 15.24 The proposed Christmas event will provide a traditional fairground rides and associated attractions with a small area of retail providing refreshment and merchandising. The event has the potential to attract significant numbers of

visitors to Colchester. The proposed event will serve to raise the regional profile of Colchester, boost the town centre economy and create potential jobs. The potential economic benefits of this proposal for the town are considerable.

Other Issues

15.25 From an operational point of view, the applicant has advised the following:

- the standard procedures for Event Application Process for the Park will be followed;
- the event will comply with the Council's Event Policy and the Castle Park Events Licence;
- An adequate bond will be put in place for reinstatement of the park after the event.
- Colchester Event Company has committed to pay for all ground reinstatement costs.

15.26 Whilst the above details are not planning matter, they will help to ensure that the event will be well managed and that the grounds are restored after the event.

16.0 Conclusion

16.1 The proposal to hold a Christmas event at the Upper Castle Park accords with local and national planning policies and with appropriate conditions it is considered that any potential harm caused by this proposal can be suitably mitigated. The application is therefore recommended for a conditional approval.

17.0 Recommendation

17.1 APPROVE subject to the following conditions

18.0 Conditions

1 – ZAA - Time Limit

The period of this permission for the operation of the Christmas event is from 18th November 2017 to 10th January 2018 unless otherwise agreed in writing by the Local Planning Authority.

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

2 – ZAM - Approved Drawings

The development hereby permitted shall be carried out in accordance with the following document / details:

- Christmas 2017 Site Map and Christmas Feature New Location Plan,
- Christmas Site Protection Method Statement
- Protection Method Statement,
- Castle Bailey-Castle Park Reinstatement Method Statement,
- Tree Protection Zone drawing.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. Non Standard Condition - Restriction of Hours of Operation

Unless otherwise agreed in writing with the Local Planning Authority, the use hereby permitted shall not be open to customers outside the hours of 10:00 to 22:00 only

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 and for the avoidance of doubt as to the scope of this permission.

4. Non Standard Condition - Restriction of Hours of Delivery

Unless otherwise agreed in writing with the Local Planning Authority, no services deliveries shall be received at the site outside of the following times:

- Monday to Sunday 08:00 to 14:00 or when the event is in operation

And all vehicles shall access the site from the Museum Street entrance

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.

5 – Non Standard Condition - Noise

All Generators should be of the 'silent' type.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of nearby residents by reason of undue noise.

6 – Non Standard Condition - Site boundary noise levels (for amplified sound, machinery and equipment)

Amplified sound, machinery and equipment shall not exceed a noise level of 15-min Laeq of 55dB at the site of boundary with residential properties.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.

7 – Non Standard Condition - Lighting

All lighting installed at a part of the event hereby permitted shall be directed away from residential properties and no light shall shine into residential properties.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue lighting emission.

8 – Non Standard Condition - Tree Protection

The fairground attractions and other attractions, marquees, support buildings and welfare structures, plant, equipment or other machinery shall be sited outside the tree protection zones as shown on the submitted Tree Protection Zone Drawing unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that existing trees are appropriately safeguarded.

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 - 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 and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

3 - ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.