



## **1.0 Reason for Referral to the Planning Committee**

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

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact that the proposed development would have on the identified heritage assets and the character and appearance of the area.
- 2.2 The application is subsequently recommended for conditional approval.

## **3.0 Site Description and Context**

- 3.1 The application relates to the alteration and extension of the café pavilion in Castle Park. The café is positioned fairly centrally within Upper Castle Park at the eastern end of an avenue of trees that includes the grade II listed band stand. To the south of the avenue are formal planting beds; to the north the ground falls away and contains an open grassed area, flanked by groups of mature trees. To the east of the café there is a children's play area.
- 3.2 The application site is situated in Colchester Castle Park, a Grade II Registered Park. It is also located within the boundary of the Scheduled Monument "Colchester Castle and the Temple of Claudius", as well as a close to number of listed structures within Castle Park. The site is also within Colchester Conservation Area No. 1.

## **4.0 Description of the Proposal**

- 4.1 It is proposed to alter and extend the café pavilion in Castle Park to provide additional public toilets and changing facilities.

## **5.0 Land Use Allocation**

- 5.1 Open Space

## **6.0 Relevant Planning History**

- 6.1 None directly relating to this application

## **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 be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:
- SD1 - Sustainable Development Locations
  - SD3 - Community Facilities
  - UR2 - Built Design and Character
  - PR1 - Open Space
  - ENV1 - Environment
- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
- DP1 Design and Amenity
  - DP14 Historic Environment Assets
- 7.4 Submission Colchester Borough Local Plan 2017-2033  
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

## **8.0 Consultations**

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

### **8.2 Environmental Protection**

No comment

### **8.3 Historic Buildings Officer**

The planning application seeks permission for the construction of an extension to the café building in Castle Park. The size of the addition should not raise particular issues and the expected public benefits outweigh any harm caused.

### **Gardens Trust**

8.4 We have considered the information provided in support of the application and on the basis of this confirm we 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 Not Parished

## **10.0 Representations from Notified Parties**

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. One letter of representation has been received. This states:

This is an excellent proposal and well thought out. I am pleased with the design and how much it will help the residents of Colchester who have assisted and complex sanitary needs. The dignity it will bring to residents with disabilities can never be overstated. Well done Colchester Borough Council.

## **11.0 Parking Provision**

11.1 N/a

## **12.0 Open Space Provisions**

12.1 N/a

## **13.0 Air Quality**

13.1 The proposal will not generate significant impacts upon the zones.

## **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**

### Principle

15.1 The application site occupies a broadly central position in Upper Castle Park; the Castle Park is located immediately to the east of the heart of the town centre.

15.2 The proposed alteration and extension of the toilet facilities at the café are considered to accord with CS Policy SD1 and the Framework which promote development in sustainable locations. The Castle Park is identified in the Site Allocations Plan as ‘Open Space’ and the current application is not considered to conflict with or undermine this land use designation.

### Design and Heritage Consideration

15.3 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting. S72 of the same Act requires special regard to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. CS Policy ENV 1 and DPD Policy DP 14 seek to protect the historic environment. With regard to design, CS Policy UR2 and DPD DP1 seek to promote and secure high quality design.

15.4 Paragraph 194 of the NPPF (2018) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 195 and 196 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 15.5 The café is a relatively modern building and is a split level structure which takes advantage of the change in ground levels. The west part of the building (the public café) is single storey; the eastern part of the building is two storey (kitchen and storage on the upper level with storage at the lower level). It is proposed to add a small extension on south elevation by building over the existing store and the internal remodeling of the existing toilets to create a changing facility and a wheel chair accessible toilet (the latter will serve the café). The extension is modest in scale and its general design is intended to reflect the character of the host building. The existing store is also to be remodeled internally to create new male and female toilets and a wheelchair accessible and baby changing facility. Minor alterations are proposed to east elevation which involve the insertion of high level windows.
- 15.6 The main heritage consideration generated by this application is the impact that the development would have on the character and appearance of the Conservation Area, the setting of the Registered Park and Garden and that of nearby listed buildings, notably the bandstand. The proposed extension, by virtue of its size, scale and general design is not considered to have an adverse impact on the identified heritage. Any harm that may be caused, is outweighed by the public benefits of provided improved public toilet and changing facilities. The proposed alteration and extension of the pavilion will not have a direct impact on existing trees.
- 15.7 Members may wish to note that the proposed works will involve some ground disturbance works (drainage runs and access ramp) and that Scheduled Ancient Monument Consent has been granted for these works.
- 15.8 For the reasons given above, the current planning application is considered to accord with the aforementioned local plan, national guidance and statutory provisions that require development schemes to protect heritage assets.

#### Residential Amenity

- 15.9 Development plan policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. Part III of this policy seeks to protect existing public and residential amenity.
- 15.10 The proposal represents the upgrading and extension of existing toilet facilities in Castle Park. The building occupies a central position within the park and is located well away from neighbouring residential properties.
- 15.11 It is possible that construction works could cause some disturbance to local residents; however it is considered that this can be adequately controlled by a condition (hour of construction work).

- 15.12 Given the above, it is not considered that the proposed development would have a significant adverse effect on the living conditions of the nearby residential properties and will not therefore conflict DPD Policy DP1.

#### Highway Considerations

- 15.13 CS Policy TA1 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy. Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car travel and make the best use of the existing network.
- 15.14 The proposed development constitutes an improvement of an existing facility within Castle Park and, as such, it is not considered to generate any significant highway issues. Moreover, Castle Park's position in the heart of the town centre means that it is highly accessible by a various sustainable modes of transport. Visitors to the park will continue to use the existing town centre car parks, if coming by car, or travel by public transport, by foot or cycle.
- 15.15 Given the scale of the proposed development, construction traffic will be limited. Construction vehicles will access the park via the Castle Road entrance (as per existing maintenance traffic) and works will take place during the existing opening times of the park. The movement of construction vehicles associated with this development will not have a significant impact on the highway network.
- 15.16 For the reasons given above, it is considered that the proposed development would accord with relevant development plan policies and national planning policy guidance set out in the Framework.

### **16.0 Conclusion**

- 16.1 To summarise, the proposed alteration and extension of the Café pavilion is considered to accord 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 to the Committee**

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

### **1. ZAA - 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. ZAM - Development to Accord With Approved Plans\***

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers

- Block Plan COR 351258 011
- Elevations Proposed – COR 351258 108
- Lower Level Proposed COR 351258 105
- Upper Level Proposed COR 351258 106
- Upper Level Proposed COR 351258 109

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

### **3. ZBB - Matching Materials**

The external facing, roofing materials and rainwater goods to be used shall match in colour, texture and form those used on the existing building.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.

### **4. Non Standard Condition - Details of Windows and Doors**

Notwithstanding the details submitted, additional drawings that show details of new windows and doors) by section and elevation, at scales between 1:50 and 1:1, as appropriate shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: Insufficient detail has been submitted to ensure the architectural detailing is of a high quality and where such details are considered important to the character of the building in this historically sensitive site.

### **5. Non Standard Condition - Hours of Construction**

No construction works or construction deliveries shall take place outside the standard hours of opening of Castle Park.

Reason: To safeguard the amenities of nearby residential properties.



## 6. Non Standard Condition - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

## 18.0 Informatives

18.1 The following informatives are also recommended:

### 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](http://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.