Planning Committee: 14 September 2021 **Item Number: 8**

Application No: W 21 / 1023

Registration Date: 22/07/21
Town/Parish Council: Leamington Spa **Expiry Date:** 16/09/21
Case Officer: Helena Obremski
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Victoria Park, Archery Road, Leamington Spa, CV31 3PT
Proposed new 5.8 metre tree house within playground. FOR Warwick District Council

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This application is being presented to Committee because Warwick District Council is the applicant.

RECOMMENDATION

It is recommended that Planning Committee GRANT planning permission, subject to the conditions listed in the report.

DETAILS OF THE DEVELOPMENT

The applicant seeks planning permission for the proposed erection of a new 5.8 metre tree house within an existing children's playground area contained within Victoria Park.

SITE & LOCATION

The application site relates to an existing children's play area within Victoria Park, a Grade II Registered Historic Park situated within the Royal Leamington Spa Conservation Area. The application site is within Flood Zone 3.

PLANNING HISTORY

There are various previous applications on this site, however, none are considered directly relevant to the assessment of this application.

RELEVANT POLICIES

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- BE1 - Layout and Design
- BE3 - Amenity
- HS2 - Protecting Open Space, Sport and Recreation Facilities
- FW1 - Development in Areas at Risk of Flooding
- FW2 - Sustainable Urban Drainage
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- HE4 - Archaeology

- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- Royal Leamington Spa Neighbourhood Plan 2019-2029
- RLS3 - Conservation Area
- RLS8 - Protecting Local Green Space
- RLS11 - Leisure, Sport and Recreation Facilities
- RLS15 - Canal and Riverside Development

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council: Supports application as an appropriate and welcome enhancement of the play facilities. Disappointed to see no mention of relevant Neighbourhood Plan policies, which the development is considered to be in accordance with.

Conservation Officer: No objection, recommend that consideration be given to coating the stainless steel slide in black, or an alternative dark colour, in order to prevent an industrial look.

CAF: generally supportive of the scheme and appreciated that the colour scheme had been toned down from the initial proposals. A stainless steel slide was considered to be an incongruous feature that would not enhance the conservation area. It was felt that in the sunshine this would be appear extremely shiny from some distance away, giving it an industrial appearance. It was suggested that a slide that was painted green, or similar, would fit far more comfortably. An existing stainless steel slide in Abbey Fields, Kenilworth, was given as an example of where this has had a negative impact on its sensitive context.

Tree Officer: No objection.

Historic England: No objection.

WCC Ecology: No objection, subject to advisory notes.

The Gardens Trust: No objection.

WCC LLFA: No objection.

WCC Archaeology: No objection.

Public Responses:

1 Support: wonderful and much enjoyed addition to the park, if only if it were even bigger and better.

1 Neutral: supports enhanced play facilities, but considers that the treehouse should be enlarged as much as possible to provide as much opportunity for play and enjoyment for local population as possible.

Friends of Victoria Park: supports application, the Tree House that is the specific focus of this planning application is the flagship structure offering the adventure, challenge, and social interaction that a new play area for a destination park requires. The sole disappointment is that the original design for the Tree House - taller and more colourful and with greater child-appeal - has been modified, apparently to meet stringent "heritage" criteria.

Friends of Victoria Park propose that the Planning Committee should not merely approve this application but add a condition of use that the design of the Tree House should be optimised for child play appeal subject to a height constraint of 7.5 metres. thereby helping to ensure that Victoria Park remains a uniquely exciting and much-loved Leamington amenity for many years to come.

Assessment

The matters which are considered to be relevant to the assessment of this application are as follows:

- Principle of the Development
- Impact on Heritage Assets / Design
- Archaeological Impact
- Impact on Neighbouring Amenity
- Ecological Impact
- Impact on Trees
- Flood Risk / Drainage
- Other Matters

Principle of development

Local Plan policy HS2 states that development on, or change of use of open spaces and sport and recreation facilities will not be permitted unless certain criteria are met. Royal Leamington Spa Neighbourhood Development Plan (RLSNDP) policy RLS11 echoes these requirements. RLSNDP policy RLS8 designates Victoria Park as a local green space and development will not be supported in this location other than in very special circumstances.

The provision of a treehouse within the children's play area (which replaces existing children's play equipment) is not considered to result in a change of use of the park, or development which would prejudice the aims of the aforementioned Local Plan and Neighbourhood Plan policies. It is considered to represent the enhancement of the facilities provided within the park, which would encourage greater use and enjoyment of the play area.

It is also noted that the Town Council supports the proposal as an appropriate development which meets the requirements of the Neighbourhood Plan and a welcome enhancement of the play facilities. Members of the public also welcome the development in principle.

Therefore, the proposed development is considered to be acceptable in principle.

Design and layout / Impact on Heritage Assets

Section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area.

Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

RLSNDP policy RLS3 states that proposals which directly affect a Conservation Area must assess and address their impact on their heritage significance. Proposals must demonstrate that the proposed building type, style, materials and colours in relation to the character area in which it is located and its distinguishing features; the relationship of the layout with the existing road pattern, plot size, and balance between buildings and garden sizes; building height, scale and rooflines sympathetic to the local setting; how the development interfaces with and respects non-designated heritage assets; retention or enhancement of gardens, trees and where possible planting of new trees; retention, restoration and reinstatement of period details; retention and creation of off street parking; and, use of hard and soft landscaping and suitable boundary treatments.

Policy HE1 of the Local Plan states that development will not be permitted if it would lead to substantial harm to the significance of a designated heritage asset. Where the development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal. The explanatory text for HE1 clarifies that in considering applications relating to Conservation Areas, the Council will require that proposals do not have a detrimental effect upon the integrity and character of the building or its setting, or the Conservation Area.

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions. Furthermore, Local Plan Policy BE1 reinforces the importance of good design stipulated by the NPPF as it requires all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan calls for development to be constructed using the appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area.

The applicant entered into extensive pre-application discussions with planning officers and the Conservation Officer to ensure that an appropriate design was identified for this sensitive location within a registered park and garden, and conservation area. The scheme submitted represents the recommended scale and design which Officers consider to be sensitive to its surroundings, being of muted colour tones which ensure that the development does not stand out, or appear

incongruous in this setting. Owing to its height, it will still be visible from views across the park, but the overall design of the tree house and its colour palette help to ensure that the development blends in well with its surroundings. Historic England, the Gardens Trust, the Conservation Area Forum (CAF) and the Conservation Officer all have no objection to the proposed development.

The Conservation Officer and CAF recommend that consideration be given to coating the stainless steel slide in black, or an alternative dark colour, in order to prevent an industrial look. Officers have queried this with the applicant who has informed that this is likely to be an issue, as the slide has to comply with safety requirements; in stainless steel the manufacturer can achieve the necessary curve while keeping within the safety standard and the footprint. If the slide was in plastic it would involve the tree house being taller and taking up a larger footprint, which Officers consider would have a more harmful impact on the setting of the registered park and garden. This is because the steel slide is made in one/two sections and the diameter is smaller, whereas with a plastic slide it comes in multiple bolt on sections and the diameter needs to be bigger to achieve the necessary angles and curves to conform to the safety standard.

Also, painting the steel slide would potentially lead to maintenance issues, and the slide looking unsightly if not frequently repainted, as it is likely to experience heavy use from children playing.

It should be noted that the slide would actually face away from the main area of the registered park and garden, therefore important views are protected. On balance, given the potential maintenance issues with painting the slide, and design implications of a plastic slide, it is considered that a steel slide is acceptable.

Members of the public who have commented on the application have requested that the tree house should be larger and have questioned the perceived detrimental impact on heritage assets which a larger development would have. As set out above, the design has been negotiated carefully with the Conservation Officer. This is a highly sensitive site located in a registered park and garden. Having a larger and/or more brightly coloured structure as requested by members of the public would be incongruous in comparison to the low level and simple play equipment which is currently positioned within the park. This would impact on important views within the park.

Friends of Victoria Park request a condition to require that the design of the tree house is optimised for child play, with a height constraint of 7.5 metres. However, a condition of this nature would not be appropriate as it would conflict with the plans which are proposed for approval. It is also not considered to meet the tests of being reasonable or necessary for the purposes of the development, as the treehouse as proposed is considered to be compliant with the Local Plan, NPPF and Neighbourhood Plan.

The proposed development is considered to preserve the character of the Conservation Area and have an acceptable impact on the registered park and garden. The proposal is therefore considered to be in accordance with the aforementioned policies.

Achaeological Impact

WCC Archaeology have confirmed that they have no concerns regarding the impact of the development on items of archaeological importance. The proposal is therefore considered to be in accordance with Local Plan policy HE4.

Impact of the proposal on the living conditions of neighbouring occupiers

Warwick District Local Plan Policy BE3 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development. Development should not cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion.

Owing to the fact that the nearest neighbours to the application site area are a considerable distance away, and that this area of the park is already used as a children's play area, it is considered that the development would have an acceptable impact on neighbouring residential amenity.

Ecological Impact

WCC Ecology have commented on the application and note that the site is mostly devoid of vegetation as existing. They suggest that any vegetation which may be impacted by the works should be checked for nesting birds immediately prior to works, and that a nesting bird note should be added to any approval. They also suggest that existing trees should be protected by a suitable Root Protection Area. Finally, they recommend that amphibian, reptile and hedgehog notes are added.

The notes relating to protected species have been added. The proposal is therefore considered to be in accordance with Local Plan policies NE2 and NE3.

Impact on Trees

There are no proposals to remove or directly impact on any of the existing trees within the park. The Tree Officer has been consulted and states that the proposed new piece of play equipment will be replace an existing well-used provision and so the impact upon the soil containing the roots of the surrounding trees (from installation and subsequent use) will be marginal. He raises no objection to the development on this basis.

As trees will not be materially affected as a result of the development, it is not considered necessary to attach a condition for further information.

Flood Risk and Drainage

The application site lies within Flood Zone 3. However, the development would not result in a change of use of the site, and would replace existing play equipment. Consultation with the Environment Agency is not required for development of this nature. The Local Lead Flood Authority were consulted and have no objection or requirements for any forthcoming permission.

The proposal is therefore considered to be in accordance with Local Plan policies FW1 and FW2, as it would not result in increased risk of flooding.

Conclusion

The proposal represents the enhancement of existing childrens play facilities which would lead to health and wellbeing benefits, whilst providing an appropriately designed structure which responds to the sensitive nature of the site. There are no concerns regarding the impact on existing trees or neighbouring amenity. The application is therefore recommended for approval.

CONDITIONS

1 The development hereby permitted shall begin not later than three years from the date of this permission. **Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan submitted on 22nd July 2021 and approved drawings Top View KRS8200228 and Side View KRS8200228 submitted on 22nd July 2021, and details contained within the Design and Access Statement submitted on 24th May 2021 and specification contained therein. **Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.