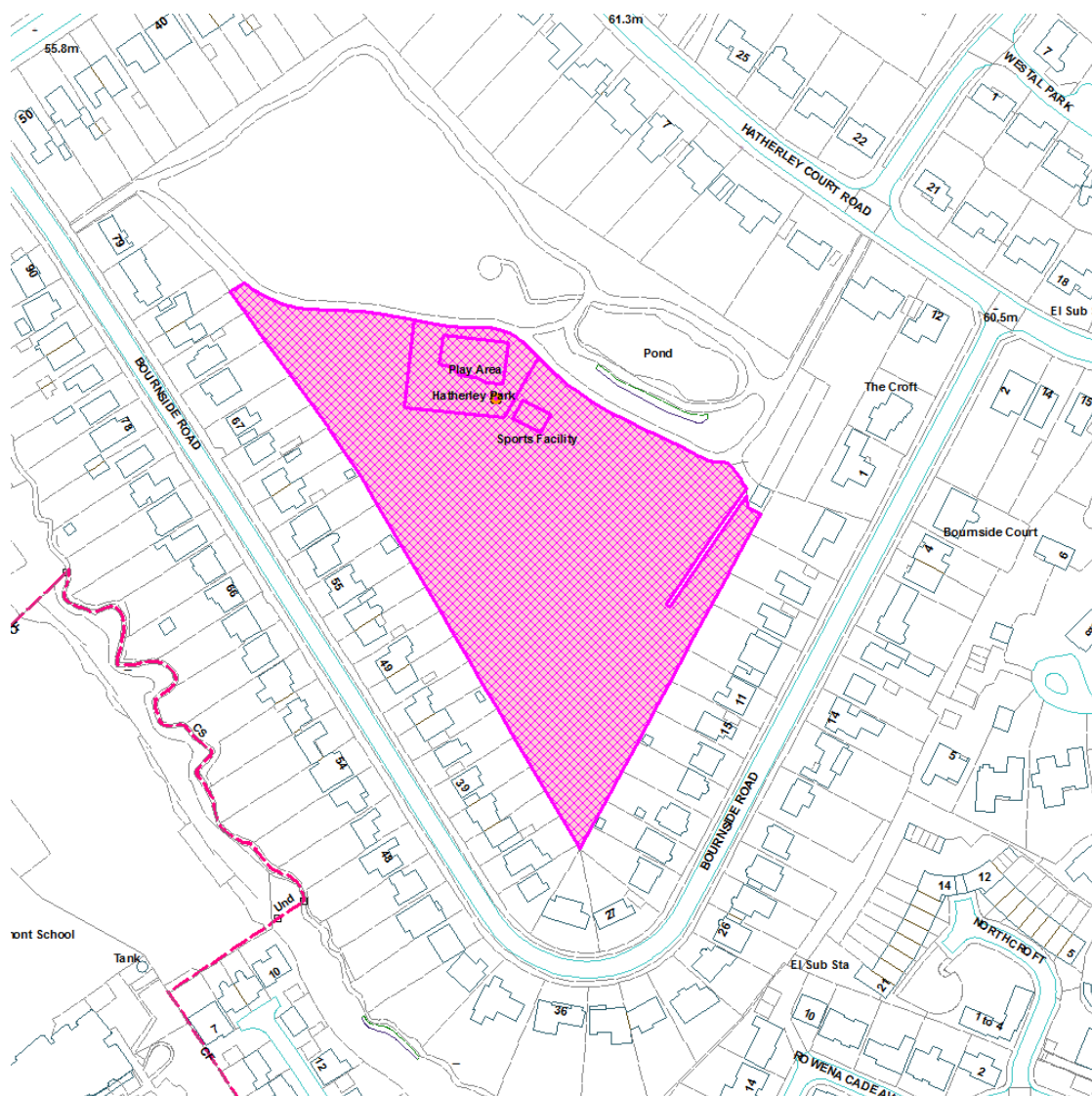


APPLICATION NO: 21/00483/FUL		OFFICER: Miss Claire Donnelly
DATE REGISTERED: 9th March 2021		DATE OF EXPIRY: 4th May 2021
DATE VALIDATED: 9th March 2021		DATE OF SITE VISIT:
WARD: Park		PARISH: n/a
APPLICANT:	Mr Jay Adler	
AGENT:	n/a	
LOCATION:	Hatherley Park, Hatherley Court Road, Cheltenham	
PROPOSAL:	Siting of a temporary structure on a purpose built hard standing area within Hatherley Park to serve refreshments	

RECOMMENDATION: Permit



This site map is for reference purposes only. OS Crown Copyright. All rights reserved Cheltenham Borough Council 100024384 2007

1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application relates to a small area of Hatherley Park adjacent to the existing play area. The site is within the Park ward and is not in a conservation area.
- 1.2 The applicant is seeking planning permission for the siting of a temporary structure on a purpose built hardstanding to serve refreshments.
- 1.3 The application is at planning committee as the proposed structure is on council owned land.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport Safeguarding over 45m
Conservation Area
Principal Urban Area
Public Green Space (GE36)
Residents Associations
Residents Associations
Youth and Adult Play Area

Relevant Planning History:

89/01571/PF 18th January 1990 PER

Resiting Of Childrens Play Area And Replacement Of Equipment

15/02082/FUL 22nd January 2016 PER

Construction of a gravel path

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 2 Achieving sustainable development
Section 4 Decision-making
Section 6 Building a strong, competitive economy
Section 8 Promoting healthy and safe communities
Section 12 Achieving well-designed places

Adopted Joint Core Strategy Policies

SD4 Design Requirements
SD14 Health and Environmental Quality

Cheltenham Plan Policies

D1 Design
SL1 Safe and Sustainable Living

4. CONSULTATIONS

Building Control

25th March 2021

No comments to be made.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	n/a
Total comments received	3
Number of objections	3
Number of supporting	0
General comment	0

- 5.1 The proposed development was advertised by site notice only; 2no. site notices were erected, 1no. at the Hatherley Court Road entrance and 1no. at the Bournside Road entrance. As a result of the advertisements, three responses have been received, all of which object to the proposal.
- 5.2 The main comments raised in the objections include, but are not limited to, the following;
- Idyllic location 'despoiled',
 - Parking and increase in traffic,
 - Park now a destination/meeting place,
 - Lack of facilities.

6. OFFICER COMMENTS

6.1 Determining Issues

- 6.2 The key considerations for this application are the acceptability of the structure, the design and any impact on neighbouring amenity or the wider area.

6.3 The site and its context

- 6.4 The structure has been in place since early July 2020. The structure sought acceptance from the council as part of the temporary relaxation of enforcement for temporary structures in response to COVID-19 to support local businesses as a result of government restrictions and guidelines.
- 6.5 As a result of the success of the structure, the land has been leased to 'The Butterfly Box' after being the successful applicant for the lease. The structure is in place as it is still covered by the temporary relaxation of enforcement until 1st June 2021. However the lease runs beyond this date and therefore planning permission has been sought for the siting of the structure on a longer term basis.
- 6.6 A hardstanding has been laid due to the existing grass being churned up over winter. The surface is a rubble and stone surface which is considered to be permeable. It has also been advised that the area can be easily reverted back to grass.

6.7 Design

- 6.8 Policy SD4 of the JCS and policy D1 of the Cheltenham Plan require development to be of a high standard of architectural design that responds positively to and respects the character of the site and its surroundings. This draws from paragraph 127 of the NPPF which seeks development to be visually attractive and sympathetic to local character.
- 6.9 The application proposes a structure to be sited within Hatherley Park serving light refreshments (coffees, teas, cakes, ice creams etc.). The structure is a converted 1950s

heritage horsebox to meet the needs of the use, made from natural wooden material and has a footprint of 2m x 3m. The structure in terms of the scale, design, use and as a temporary measure is considered to be acceptable. The design is therefore considered to be appropriate and comply with policy SD4 of the JCS and policy D1 of the Cheltenham Plan as well as the guidance set out within the NPPF.

6.10 Impact on neighbouring property

6.11 Policy SD14 of the JCS and policy SL1 of the Cheltenham Plan require development not to cause unacceptable harm to the amenity of adjoining land users; this echoes section 12 of the NPPF which requires development to be of a high standard of amenity for existing and future users.

6.12 As set out above, three objections have been received; the main concerns raised relating to the structure have been summarised in section 5.2 of this report. The impact on neighbouring amenity has been assessed. It is considered that as a result of the siting of the structure there would be not harm to neighbouring amenity in terms of a loss of light or loss of privacy. It is acknowledged that as a result of the kiosk there may be more people visiting due to the refreshments provided. The opening hours of the kiosk would be 8am-6pm Monday-Sunday. It is therefore considered that there would not be any harmful impact on local residents as a result of the kiosk.

6.13 Whilst objecting neighbouring residents concerns have been duly noted, in regards to the relevant policies there would be no undue harm to amenity of adjoining land users. The proposal is therefore considered to comply with policy SD14 of the JCS and policy SL1 of the Cheltenham Plan, as well as the guidance set out within the NPPF.

6.14 Other considerations

6.15 Temporary permission

The structure is a temporary structure and is not considered to be appropriate for long term use. It is for that reason that a condition has been added permitting planning permission for the structure for 3 years. It is the council's opinion that if a kiosk is to remain long term within Hatherley Park, a more suitable and permanent building/structure should be put forward.

6.16 Parking/traffic

The issue of parking and increase in traffic has been raised by objecting neighbouring residents. Whilst this may be the case, the park is within a sustainable location and in walking distance for many residents. As such, it would seem unreasonable to refuse the application based on this when it is unclear if the kiosk itself has resulted in the rise in traffic and lack of parking.

6.17 Lease

One resident has raised a concern in regards to the lack of facilities to go alongside the use of the kiosk. The lease for the kiosk sets out that if there is a need for facilities then it is for the leaseholder to provide, run and maintain these facilities. As the structure is temporary, with a 3 year permission suggested, if the kiosk was to become a permanent facility in the park, then facilities such as toilets would likely be required.

6.18 Public Sector Equalities Duty (PSED)

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

In the context of the above PSED duties, this proposal is considered to be acceptable.

7. CONCLUSION AND RECOMMENDATION

- 7.1 For the reasons set out above, the proposed siting of a temporary structure within Hatherley Park is considered to be of an appropriate design, would not result in undue harm to neighbouring amenity and therefore is acceptable. Whilst concerns raised by neighbouring residents have been duly noted, the siting of the structure is considered to be appropriate.
- 7.2 The recommendation is to therefore permit this application subject to the conditions set out below.

8. SUGGESTED CONDITIONS / INFORMATIVES

- 1 The temporary structure hereby approved shall be removed from the site and the land restored to its former condition 3 years from the date of this permission.

Reason: The structure is of a temporary nature, and is not suitable for permanent use and therefore the Local Planning Authority wish to retain control over the structure in the interests of the visual amenities of the area.

- 2 The planning permission hereby granted shall be carried out in accordance with the approved plans listed in Schedule 1 of this decision notice.

Reason: For the avoidance of doubt and in the interests of proper planning.

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the application constitutes sustainable development and has therefore been approved in a timely manner.