

**Planning Committee:** 14 August 2018

**Item Number: 8**

**Application No:** [W 18 / 0893](#)

**Town/Parish Council:** Warwick  
**Case Officer:** Lucy Hammond  
01926 456534 lucy.hammond@warwickdc.gov.uk

**Registration Date:** 10/05/18  
**Expiry Date:** 05/07/18

**Warwick Castle and Grounds, Castle Hill, Warwick**

Retrospective application for the development of a Maze attraction, including a Viking ship and other themed structures, pathways, landscaping and associated infrastructure FOR Merlin Attractions Operations Ltd

-----

This application is being presented to Committee due to an objection from the Town Council having been received.

**RECOMMENDATION**

That planning permission be approved subject to the conditions set out at the end of this report.

**DETAILS OF THE DEVELOPMENT**

Retrospective planning permission is sought for the construction of a maze that sits on the site of the former Rose Garden. The maze consists of:-

1. Pathways surfaced with a permeable resin bound rubber crumb material.
2. The Maze predominantly comprises Portugal Laurel hedge, no more than 2.1 metres in height.
3. Parts of the Maze comprise 1.8 metre high walls made out of sandbags with a timber roof for the "Frightful First World War" area.
4. Shaped willow walling with a central green willow arch cover for the Witches area.
5. Signs and lighting.
6. Accessories such as large scales, kegs, trunks across each historical area.
7. A Viking boat (7m long) set on gravel and concrete paving slabs in the "Vicious Vikings" area.

It is important to note that many of the features listed above do not, in isolation, require planning permission either because they do not constitute development under the provisions of S.55 of the Town and Country Planning Act (for example accessories such as kegs, trunks etc, willow walling and any other planting/landscaping), or because the works constitute permitted development and as such do not require planning permission (for example means of enclosure under 2m in height).

The key feature which does require planning permission is the Viking boat play structure.

It is acknowledged that an application has been submitted by the Castle, retrospectively, for the maze in its entirety for completeness. However, a planning assessment can only be made of the elements which require formal planning permission.

### **THE SITE AND ITS LOCATION**

Warwick Castle is Grade I listed; there are other buildings within its grounds which are Grade II listed and the site as a whole is within the Warwick Conservation Area as well as being partly designated a Scheduled Ancient Monument and Registered Park and Garden.

The part of Warwick Castle affected by these proposals is an outside space, i.e. the original rose garden and now maze. It is therefore not listed but does form part of the wider Registered Park and Garden and still forms part of the setting of the Grade I listed castle.

### **PLANNING HISTORY**

While there is extensive history across the wider Castle site, there is no directly relevant planning history to the site of the retrospective maze.

### **RELEVANT POLICIES**

- National Planning Policy Framework
- The Current Local Plan
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- PC0 - Prosperous Communities (Warwick District Local Plan 2011-2029)
- CT1 - Directing New Meeting Places, Tourism, Leisure, Cultural and Sports Development (Warwick District Local Plan 2011-2029)
- CT6 - Warwick Castle and St Mary's Lands, Warwick (Warwick District Local Plan 2011-2029)
- H9 - Compulsory Purchase of Land for Gypsy and Traveller Sites (Warwick District Local Plan 2011-2029)

### **SUMMARY OF REPRESENTATIONS**

**Warwick Town Council:** Objection for the following reasons:

- the Town Council are shocked that permission was not sought before the works were carried out
- the rose garden was Warwick's link to Princess Diana and should be restored and maintained

**WDC Conservation:** No objections overall to the development; the local planning authority does not have control over the loss of planting, or control over the planting of a new maze, and as such consideration needs to be limited to the new structures and to what impact, if any, they have upon the setting of the Castle, the Registered Park and Garden and features within it, and the Warwick Conservation Area. Neither support nor object to the application.

**Historic England:** No comments to make; recommend the application is determined in line with the specialist advice from the Conservation Officer and Archaeologist (where applicable).

**The Gardens Trust:** Objection for the following reasons:

- the Horrible Histories maze, with its laurel hedges and Viking boat is not in keeping with the setting
- the Registered Park and Garden is a highly selective designation
- Warwick is one of only 145 internationally important Grade I designated landscapes in England

**Warwickshire Gardens Trust:** Objection for the following reasons:

- the construction is unworthy of its setting and is an unwelcome intrusion into the Grade I Warwick Castle gardens and is detrimental, particularly through the destruction of the rose garden
- although the rose garden was a modern re-creation of an historic feature it is included in the HE description and is within the curtilage of the Grade I castle

**The Victorian Society:** Objection for the following reasons:

- regrettably the rose garden has been entirely removed and replaced without consent; it should be re-instated
- the loss of the rose garden and the replacement structures have a negative impact on the character and appearance of the Grade I registered park and garden

**Conservation Advisory Forum (CAF):** Objection for the following reasons:

- there is concern about this setting a precedent in the event it should be granted
- the scheme is extremely inappropriate given the highly sensitive location
- although the development is hidden from public view it should not diminish the Council's duty to preserve the setting of the heritage assets
- the maze impacts on important views and is visible from the towers of Warwick Castle
- there is little public benefit in the scheme and CAF is concerned that management of the site places the site's entertainment value over the site's special architectural and historic interest of international significance
- CAF considers the development is contrary to relevant policies of the Local Plan.

**Public Response:** 1 third party letter of objection raising the following concerns:

- the value and benefit the Castle brings to Warwick and the neighbouring areas is recognised and valued, however, this should not come at the expense and destruction of the heritage significance of the site
- Warwick Castle is a living historic monument not a theme park
- Merlin has not demonstrated the relevance or connection between the site's historic and heritage significance with the retrospective development including a Viking ship.

## **ASSESSMENT**

The main issues relevant to the consideration of this application are as follows:

- The principle of development;
- The impact on heritage assets;
- The impact on residential amenity;

### Principle of development

Policy CT6 of the Local Plan relates specifically to Warwick Castle (and St Mary's Lands) and states that development at the Castle will be permitted where it is brought forward in line with an approved Masterplan setting out the development principles and broad areas for development, indicating the type of uses proposed and a Conservation Plan for the historic asset. The Masterplan will provide the framework within which planning applications will be determined and will:

- a) Identify the physical and economic context;
- b) Identify the development principles to underpin future development proposals;
- c) Identify the significance of heritage assets within the vicinity, setting out how these will be sustained and enhanced;
- d) Identify the location of developments, demonstrating how proposals will relate to the heritage assets and how they will enhance the positive contribution the asset makes to sustainable communities and to the character and distinctiveness of the area; and
- e) Identify how the proposals support the vitality and viability of the local economy.

Work is currently ongoing towards the approval of a new Masterplan for the Castle. Having regard to the provisions of Policy CT6 and the criteria set out above, it is acknowledged that this application has been brought forward in advance of any masterplan being approved.

The explanatory text to the policy, at 3.135, however states that should other development proposals for the castle site be promoted, these will be considered in light of points a) to e) set out within the policy, where relevant and appropriate to the scale and nature of the development proposed and other policies within the Local Plan.

Notwithstanding the absence of an approved Masterplan for the Castle, the application must be considered on its merits having regard to the provisions of Policy CT6. Since the policy relates primarily to the economic benefits and the significance of the heritage assets and the development's impacts upon them,

both of these are considered in detail in the following sections of this report, all of which is intrinsically linked to the principle of development.

### The impact on heritage assets

Considerable importance and weight should be given to the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, when making decisions that affect listed buildings and conservation areas respectively. These duties affect the weight to be given to the factors involved.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, "In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Policy HE1 of the Local Plan expects development proposals to have appropriate regard to the significance of designated heritage assets. Where any potential harm may be caused, the degree of harm must be weighed against any public benefits of the proposal.

From the submitted Heritage Statement and listing description for the Registered Historic Park and Garden, it is evident that the site of the rose garden was historically part of the town of Warwick, but in the mid to late 18th century rows of properties on the site were demolished and this area was incorporated into the Castle grounds, forming part of a wider enhancement scheme. A rose garden was created on the site in the 1860s and a rock garden was constructed against an enclosing bank in 1900.

The Victorian rose garden was lost to a twentieth century tennis court but was re-created in its original location in 1984 with a series of box-edged geometric beds cut into areas of lawn, with gravel paths, and a number of cast metal pergolas/arbours were introduced. It became a Princess Diana Memorial Garden. The Horrible Histories Maze that recently replaced the 1980s rose garden includes structures such as a Viking ship and walls of sandbanks, which are intended to appeal to children.

The local planning authority does not have control over the loss of planting, or control over the planting of a new maze, and as such consideration needs to be limited to the new structures and to what impact, if any, they have upon the setting of the Castle, the Registered Park and Garden and features within it, and the Warwick Conservation Area.

The new structures are largely screened by the vegetation of the maze itself and existing mature planting. Some of the cast metal pergolas/arbours associated

with the 1980s rose garden have been retained, which is welcomed from a heritage point of view. No historic features, e.g. the rockery, or ice houses, or the significance of the Registered Park and Garden itself, has suffered substantial harm from the development. Any less than substantial harm caused to any heritage assets is considered to be minor and offset in any case by public benefits, for example, a new attraction and educational resource that is popular with young people along with the contribution of this feature to the wider appeal of the Castle (and therefore Warwick) as a tourist destination including all of the resulting economic benefits.

In making this assessment, regard has been had to the weight that should be given to the desirability of preserving the special interest and setting of the heritage assets.

The development is therefore considered to be in accordance with Policy HE1 of the Local Plan.

#### The impact on residential amenity

In view of the siting of the maze and the associated structures, there would be no harmful impacts arising on the residential amenity of neighbouring properties, the closest ones being approximately 45m to the east of the site boundary (in Mill Street). The development therefore accords with Policy BE3 of the Local Plan which requires development to have an acceptable impact on the amenity of nearby uses and residents.

#### Other matters

It is noted that the number of objections received from the amenity societies (e.g. Victorian Society, Gardens Trust etc) have all based their objections on the loss of the original rose garden and made reference to the fact this was Warwick's link with Princess Diana who officially opened the rose garden in the early 1980's. While this point is acknowledged and understood, it is equally important to acknowledge that the Local Planning Authority has no control over the removal of landscaping features such as planting, shrubbery and in this case the original rose garden which pre-dated the maze. No consent would have been required for its removal and similarly no consent is required for its replacement with different forms of landscaping. The only features over which the Local Planning Authority does have control are built structures; in this case the Viking Ship for which retrospective permission is sought.

Therefore, while the loss of the 'Princess Diana Rose Garden' is regrettable and understood, this is beyond the control of the planning system and the consideration of this application therefore is based solely on the structures in the new maze which require the benefit of planning permission.

#### **SUMMARY/CONCLUSION**

The development which includes many features which don't require planning permission (the loss of former planting, the replacement of new planting and

landscaping, means of enclosure under 2m in height etc) has been considered in the context of the principle policy in the Development Plan which relates to Warwick Castle (Policy CT6). The development is considered by officers to be acceptable in principle subject to an assessment being made of the other relevant material considerations.

The application has been given detailed consideration in terms of its impact on heritage assets and their respective settings, and is considered not to result in substantial harm to the setting of the heritage assets, principally, the setting of the Grade I listed Castle and the Registered Parks and Gardens. There is no harm arising from the development to the amenity of residential properties or other nearby land uses. Overall the development is considered to be acceptable having regard to the relevant provisions of the Development Plan and for these reasons it is recommended that planning permission be approved.

### **CONDITIONS**

- 1 The development hereby permitted shall be maintained strictly in accordance with the details shown on the site location plan and approved drawings 353/20 1, 353/20 2, 353/20 4 and 353/20 11, and specification contained therein, submitted on 10 May 2018. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1, BE3 and HE1 of the Warwick District Local Plan 2011-2029.

-----