

Planning Committee

SUPPLEMENTAL AGENDA

DATE: Wednesday 14 January 2015

AGENDA - PART I

10. PLANNING APPLICATIONS RECEIVED (Pages 1 - 20)

Report of the Divisional Director, Planning.

Note: In accordance with the Local Government (Access to Information) Act 1985, the following agenda item has been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-

<u>Agenda item</u>	<u>Special Circumstances/Grounds for Urgency</u>
10. Planning Applications Received	<p>At the Committee meeting held on November 19th 2014, the Planning Committee resolved to grant planning permission for works at the Site of Summerhouse Lake, Bentley Priory, The Common, Stanmore, subject to planning conditions and completion of a S106 agreement by 16th January 2015.</p> <p>However, the Council's Legal Team have drawn the following matter to our attention:</p> <p>Bentley Priory (the land to which this application relates) is solely owned by the Council. Planning obligations are legally</p>

enforceable against the owner(s) and any person that has an interest (including their successors in title) in the land to which they relate. This means that only owners and those having an interest in the land can enter into obligations. The Environment Agency, only have a right granted by the Council under a Deed of Grant dated 11 August 2008 to flood land at Summer House Lake, Bentley Priory, Common Road, Stanmore. They do not have a legal interest in the land for the purposes of section 106 of the Town and Country Planning Act 1990.

AGENDA - PART II - NIL

MAJOR APPLICATIONS

ADDRESS SITE OF SUMMERHOUSE LAKE, BENTLEY PRIORY, THE
COMMON, STANMORE

REFERENCE P/4038/13

DESCRIPTION PERMANENT WORKS - CONSTRUCTION OF AN ACCESS
TRACK FROM MASEFIELD AVENUE TO SUMMERHOUSE LAKE
FOR USE BY ENVIRONMENT AGENCY VEHICLES TO ACCESS
SUMMERHOUSE LAKE, A STATUTORY RESERVOIR UNDER
THE RESERVOIRS ACT 1975; REPLACEMENT ENTRANCE
GATES AT MASEFIELD AVENUE; LOWERING OF CONCRETE
RAMP WHICH PASSES OVER THE EXISTING CULVERT AT
MASEFIELD AVENUE; LAYING OF SERVICES

TEMPORARY WORKS - ALTERNATIVE ENTRANCE FOR
WALKERS AT EAST OF EXISTING ENTRANCE GATES;
CONTRACTORS COMPOUND AND MATERIALS STORE

WARD STANMORE PARK

APPLICANT MR BRIAN IZZARD

AGENT ATPEC LTD

CASE OFFICER OLIVE SLATTERY

EXPIRY DATE 15th MAY 2014

RECOMMENDATION

GRANT planning permission for the development described in the application and submitted plans, subject to condition(s).

INFORMATION

This application is reported to the Planning Committee as the application site is owned by the Council and the site area exceeds 100m². The application therefore falls outside Schedule 1 of the Scheme of Delegation.

Statutory Return Type: E(18) Minor Development

Council Interest: The Council is the landowner.

Gross Floorspace: 0 sqm

Net additional Floorspace: 0 sqm

GLA Community Infrastructure Levy (CIL) Contribution (provisional): N/A

Site Description

- The site outlined in red is located on Bentley Priory, which is a Grade II Listed Registered Historic Park and Garden. It is also a Site of Specific Scientific Interest.

- The site has an irregular shape. The site extends northwards from Masefield Avenue before extending westwards. The northernmost part of the site is located south east of Summerhouse Lake.
- Summerhouse Lake is not within the red line boundary. However, as discussed in the next section of this report, it is integral to the current proposal. Summerhouse Lake is an amenity lake that also acts as a flood storage reservoir. It is operated and continuously monitored by the Environment Agency.
- Existing vehicular access to Summerhouse Lake is from Clamp Hill, via Lower Priory Farm.
- The site is located within the Green Belt, the Harrow Weald Ridge Area of Special Character and a Site of Importance for Nature Conservation.

Proposal Details

- The current application relates to only a small part of Bentley Priory Historic Park and Garden.
- The application proposes the construction of a permanent access track from Masefield Avenue to Summerhouse Lake.
- The proposed access track would provide vehicular access to Summerhouse Lake for heavy good vehicles (HGV's) which are needed at the reservoir on occasion if unusually high or low lake levels are recorded by the Environment Agency (EA).
- This proposed route would be 225m long and would closely follow an informal route used by walkers.
- The submitted Design and Access Statement advises that the existing access track, which leads from Clamp Hill through Lower Priory Farm, is inadequate in width to accommodate HGV traffic.
- The proposed access track would be available for use by walkers and it is likely that it would rarely be needed by the EA.
- The proposed access track would be 4m wide and would be comprised of self-binding gravel.
- In addition to the proposed access track, replacement entrance gates are proposed at the Masefield Avenue entrance to Bentley Priory. The proposed entrance gates would be 1.5m high and 4m wide.
- A steep concrete ramp currently passes over a culvert at the Masefield Avenue entrance to the site. The current applicant proposes to replace this with a lower ramp.
- It is proposed to lay service drains at either side of the access track to prevent the ground below the track from becoming saturated.
- In addition to the above permanent works, a number of temporary works are also proposed. These include:
 - An alternative entrance for walkers at the east of the existing entrance gates. This is required as walkers will not be able to use the existing entrance to Bentley Priory from Masefield Avenue during the construction works.
 - A contractors compound and store surrounded by Heras security fencing

Relevant History

No recent planning history relating to the site outlined in red.

Formal Pre-Application Discussion

- Yes - HA\2012\ENQ\00309

Applicant Submission Documents

- Heritage Statement

- Extended Phase 1 Ecological Assessment
- Design and Access Statement
- Construction Management Plan
- Arboricultural Report

Consultations

- Environment Agency – No objections
- English Heritage - No objections subject to the applicant contributing to the cost of clearance works to restore historic views as mitigation for the harm caused.

- Natural England –

- Initial Comments - Although the applicant proposes to create access to Summerhouse Lake through the least sensitive route, the proposal would nonetheless create some residual impact which would need to be mitigated. Agree in principle to measures that would mitigate the impacts of the proposed development:

- 1) removal of scrub to the north of the lake and the re-instatement of species rich acid grass land in this location;
- 2) removal of trees to the north of the lake to re-establish views from Bentley Priory House towards the lake.

Objection to the proposal on the basis of the lack of any detailed mitigation plan coming forward.

- Final Comments - Objection removed, subject to the following measures being secured via a section 106 or appropriately worded conditions:

- § The loss of SSSI grassland shall be mitigated through the measures.
- § All contractors shall submit a Method Statement (including timing of works) which shall be agreed in writing by the Local Planning Authority and Natural England prior to commencement of works (both for the access track and the SSSI mitigation).
- § All turf/topsoil should be retained on site, unless agreed in writing with Natural England.

- Conservation Officer – Agree with comments from English Heritage.
- Highways Authority - No objections
- Landscape Architect – No objections, subject to a number of conditions
- Tree Officer – No objections
- The Greater London Authority - No comments to make on the application
- Drainage Department – No objections
- Biodiversity Officer – No objections, subject to a number of conditions securing
 - 1) the removal of scrub at the north of the lake and the re-instatement of species rich acid grass land in this location
 - 2) the removal of trees at the north of the lake to re-establish views from Bentley Priory House towards the lake
- Bentley Priory Nature Reserve Management Committee were not formally consulted as part of the Planning process. However, the proposal was discussed at a meeting of the committee held on 7th May, 2014. This meeting was attended by the Councils Biodiversity Officer who then advised the case officer dealing with

the application that the Bentley Priory Nature Reserve Management Committee agreed with the proposed mitigation measures proposed. This is documented in the minutes of this meeting.

Advertisement

General Notification: 03/04/2014

Expiry: 24/04/2014

Date Site Notice Posted: 07/04/2014

Expiry: 29/04/2014

Notifications

Sent: 18

Replies: 0

Expiry: 11.04.2014

Re-Notification

Sent: 5

Replies: 0

Expiry: 04.06.2014

Summary of Responses

- None

APPRAISAL

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that:

'If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.'

The Government has issued the National Planning Policy Framework [NPPF] which consolidates national planning policy and is a material consideration in the determination of this application.

In this instance, the Development Plan comprises The London Plan 2011 [LP] and the Local Development Framework [LDF]. The LDF comprises The Harrow Core Strategy 2012 [CS], Harrow and Wealdstone Area Action Plan 2013 [AAP], the Development Management Policies Local Plan 2013 [DMP], the Site Allocations Local Plan [SALP] 2013 and Harrow Local Area Map 2013 [LAP].

MAIN CONSIDERATIONS

- 1) Principle of the Development –Development in the Greenbelt
- 2) Impact on Green Belt Openness, the Purposes of the Green Belt, the Visual Amenities of the Green Belt and the Area of Special Character
- 3) Impacts on Heritage Assets
- 4) Impacts on Biodiversity
- 5) Residential Amenity
- 6) Traffic and Drainage
- 7) Equalities and Human Rights
- 8) S17 Crime & Disorder Act
- 9) Consultation Responses

1) Principle of the Development – Development in the Greenbelt

The application site is located within the Green Belt. The National Planning Policy Framework (2012) consolidates previous National Planning Policy Statements and

Guidance, including Planning Policy Guidance 2 'Green Belts'. Paragraphs 79 – 92 of the NPPF provide policy guidance in relation to 'Protecting Green Belt Land', stating that the fundamental aim is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. Policy 7.16 of the London Plan supports the aim of the NPPF and states that 'the strongest protection should be given to London's Green Belt...Inappropriate development should be refused except in very special circumstances.' This is further supported by Policy CS1.F of Harrow's Core Strategy which seeks to safeguard the quantity and quality of the Green Belt from inappropriate or insensitive development.

Paragraph 87 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF goes on to inform the determination of whether any particular development in the Green Belt is appropriate or not, by stating in paragraph 89 that 'a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt' unless it falls within one of six specified exceptions that are set out under paragraph 89. The current application does not propose the construction of any permanent buildings within the Green Belt. The contractor's compound and store and Heras security fencing are proposed during the construction process only. Given the temporary nature of these works (eleven weeks), there is no objection in principle to these elements of the proposal.

Paragraph 90 of the NPPF goes on to state that other forms of development are not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. This paragraph goes on to specify five forms of development that are not inappropriate, including 'engineering operations'. The proposal to provide a new access road, to lower the access ramp that passes over the culvert at the Masefield Avenue entrance and to lay service drains are considered to be engineering operations, and as such are supported by the NPPF, subject to there being no conflict with Green Belt policy (this is discussed in section 2 of this appraisal).

The replacement entrance gates proposed at the Masefield Avenue entrance to Bentley Priory would be permanent in nature. Boundary treatment does not fall within any of the specified exceptions and so must be regarded as inappropriate development in the Green Belt. However, as discussed in section 2 of this appraisal, these entrance gates would replace existing entrance gates, and are therefore considered not to conflict with Green Belt policy.

2) Impact of the Proposal on Green Belt Openness, the Purposes of the Green Belt, the Visual Amenities and Character of the Green Belt and the Area of Special Character

In order for the proposed access road and associated development to be considered as appropriate development in the Green Belt, the NPPF (under paragraph 90) requires two criteria to be satisfied;

- (i) Preservation of Green Belt openness;
- (ii) No conflict with the purposes of including land in the Green Belt.

Furthermore, section B of Policy DM16 of Harrow's Development Management Policies Local Plan requires development proposals in the Green Belt to have regard to the visual amenity and character of the Green Belt.

Policy DM6 of Harrow's Development Management Policies Local Plan seeks to protect Areas of Special Character.

§ Impacts on Green Belt openness:

Unlike PPG 2, the NPPF does not give specific guidance on how to assess impacts on Green Belt openness. The London Plan is also silent on this matter. However, at local level, section A of Policy DM16 of Harrow's Development Management Policies Local Plan requires the assessment of Green Belt openness to have regard to:

- a. the height of existing buildings on the site;
- b. the proportion of the site that is already developed;
- c. the footprint, distribution and character of existing buildings on the site; and
- d. the relationship of the proposal with any development on the site that is to be retained.

The current application does not propose the construction of any permanent buildings within the Green Belt, and there are no existing buildings on the application site. Although the proposed access road would result in a change to the existing situation on site, it is considered that it would not impact on the openness of the Green Belt.

Replacement entrance gates are proposed at the Masefield Avenue entrance to Bentley Priory. These proposed entrance gates would be 1.5m high and 4m wide. They would be similar to the existing entrance gates on site, and the ramp in front of these gates would be lower than the existing ramp. For this reason, it is considered that the proposed entrance gates and lowered access ramp would not have a greater impact on the openness of the Green Belt than the existing situation.

It is proposed to lay service drains at either side of the access track to prevent the ground below the track from becoming saturated. These services would be located below ground and would not be visible from public viewing points. As such, it is considered that they would not unduly impact on the openness of the Green Belt.

It is acknowledged that the proposed temporary works, including the proposed contractors compound and store and Heras security fencing would have an impact on openness during the construction process. However, given the temporary nature of these proposed works (estimated eleven weeks), they would not have any long term impacts on Green Belt openness. A condition is suggested requiring the removal of these structures and the restoration of the land in accordance with an approved landscape strategy, within one month of the completion of the permanent development works. On this basis, it is considered that the proposed temporary works would not unduly impact on the openness of the Green Belt and are therefore considered to be acceptable.

§ Impacts on the Purposes of including land in the Green Belt:

Paragraph 80 of the NPPF states that the Green Belt serves five purposes and these are set out in the form of bullet points. In order to consider if the current proposal would impact on the purposes of including the application site within the Green Belt, it is therefore necessary to consider the proposal in the context of each of these bullet points.

- 1) **To check the unrestricted sprawl of large built-up areas:** The proposal would not lead to unrestricted sprawl of large built-up areas, as there are no permanent

buildings proposed under the current application.

- 2) **To prevent neighbouring towns merging into one another:** The lack of connection between the application site and town centres would prevent this from happening. The proposal would not therefore exacerbate the merging of neighbouring towns into one another.
- 3) **To assist in safeguarding the countryside from encroachment:** As stated previously, the proposed access road would result in a change to the existing situation on site. It would introduce hardstanding to an undeveloped site. As such, the proposal would give rise to some encroachment to the Green Belt.
- 4) **To preserve the setting and special character of historic towns:** This is not relevant to the circumstances of this site.
- 5) **To assist in urban regeneration, by encouraging the recycling of derelict and other urban land:** This is not relevant to the circumstances of this site.

Policy DM17 of Harrow's the Development Management Policies Local Plan supports beneficial uses within the Green Belt. The site outlined in red is located within the Bentley Priory Nature Reserve, which is open all year round to visitors. In the main, these visitors use the Bentley Priory for walks and passive recreational uses. Notwithstanding the likely encroachment that would arise from the current proposal (as set out above), it is considered that the proposal would unduly impact upon these main uses of Bentley Priory Nature Reserve.

§ Impacts on the Visual Amenities and Character of the Green Belt

The NPPF states (paragraph 64) that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. The London Plan (2011) policy 7.4B states, inter alia, that all development proposals should have regard to the local context, contribute to a positive relationship between the urban landscape and natural features, be human in scale, make a positive contribution and should be informed by the historic environment. Core Strategy policy CS1.B states that 'all development shall respond positively to the local and historic context in terms of design, siting, density and spacing, reinforce the positive attributes of local distinctiveness whilst promoting innovative design and/or enhancing areas of poor design'. Policy DM1 of Harrow's the Development Management Policies Local Plan requires all development proposals to achieve a high standard of design and layout.

Core Strategy policy CS1.F states that 'The quantity and quality of the Green Belt, Metropolitan Open Land, and existing open space shall not be eroded by inappropriate uses or insensitive development'. Section B of Policy DM1 of Harrow's Development Management Policies Local Plan requires all proposals for the redevelopment or infilling of previously-developed sites in the Green Belt to have regard to the visual amenity and character of the Green Belt.

The current application does not propose the construction of any permanent buildings within the Green Belt, and there are no existing buildings on the application site. As stated previously, the proposed access road would result in a change to the existing situation on site and would result in some encroachment to the Green Belt. It is considered that this would, in turn, give rise to some impacts to the visual amenities of

the Green Belt and the character of the Green Belt. However, it is considered that these impacts would be somewhat reduced by the proposal for self-binding gravel in a sandy golden colour, which would mature over time.

Replacement entrance gates are proposed at the Masefield Avenue entrance to Bentley Priory. These proposed entrance gates would be 1.5m high and 4m wide. They would be similar to the existing entrance gates on site, and the ramp in front of these gates would be lower than the existing ramp. For this reason, it is considered that the proposed entrance gates and lowered access ramp would not unduly impact on the visual amenities of the Green Belt or the character of the Green Belt.

It is proposed to lay service drains at either side of the access track to prevent the ground below the track from becoming saturated. These services would be located below ground and would not be visible from public viewing points. As such, it is considered that they would not unduly impact on the visual amenities of the Green Belt or the character of the Green Belt.

It is acknowledged that the proposed temporary works, including the proposed contractors compound, store and Heras security fencing would have an impact on the visual amenities of the Green Belt and the character of the Green Belt. However, these proposed works would be temporary in nature (estimated eleven weeks) and they could be easily removed from site once construction is complete. As previously stated, a condition is suggested requiring the removal of these structures and the restoration of the land in accordance with an approved landscape strategy, within one month of the completion of the permanent development works. On this basis, it is considered that the proposed temporary works would not have any long term impacts on the visual amenities of the Green Belt or the character of the Green Belt and are therefore considered to be acceptable.

§ Impacts on the Harrow Weald Ridge Area of Special Character

The strategic value of the Harrow Weald Ridge Area of Special Character is that it provides an elevated horizon of tree cover and open countryside across the north of the Borough. Policy DM6 of Harrow's Development Management Policies Local Plan seeks to protect this from inappropriate development.

One of the main characteristics of this Green Belt site and its surroundings is the large number of trees and woodland cover, which make an overall substantial positive contribution. Policy DM22 of Harrow's Development Management Policies Local Plan seeks to protect trees of significant amenity value unless it can be demonstrated that the loss of trees is outweighed by wider public benefits of the proposal.

An arboricultural report has been submitted as part of the application documents. It advises that 38 individual trees and six groups of trees and hedgerows were surveyed along the existing access track. The report concludes that each of these trees and tree groups would suffer some adverse impact if the existing track was widened. In the main, this is because of the close proximity of the trees and root protection areas (RPA's) to the existing track. Such adverse impacts would include complete loss of trees, root damage and / or crown damage. The extent of these impacts would vary depending on which side the track was widened. Almost all of the trees and groups would be lost if the track was widened to the south side. If the track was widened to the north side, less individual trees would be lost but a vast amount of vegetation would be lost. In addition to this, the widening of the track to the north side would

result in the need to relocate a drainage ditch, which would be likely to encroach onto the ancient woodland within the Bentley Priory Site of Special Scientific Interest.

Under the current application, the layout of the access track is proposed in order to minimise the loss of trees and the current application would result in the loss of significantly less trees than the widening of the existing access track.

It is therefore considered that the proposal for a new access track rather than the widening of the existing access track represents a favourable proposal as it would protect significant trees from both removal and damage, thereby preserving both the Harrow Weald Ridge Area of Special Character and the Green Belt.

§ Very Special Circumstances

As stated, it is considered that the proposed development would give rise to some encroachment to the Green Belt, and this would in turn give rise to some impacts to the visual amenities of the Green Belt and the character of the Green Belt.

Paragraph 88 of the NPPF states that *'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'*. This is supported by policy DM16 of the Development Management Policies Local Plan which states that proposals for inappropriate development which would harm the Green Belt will be refused in the absence of clearly demonstrated very special circumstances.

In this particular instance, it is considered that 'Very special circumstances' do exist to justify harm to the Green Belt. These comprise the 'management of flood risk'.

The Flood Risk Regulations (2009) and Flood & Water Management Act (2010) requires local authorities to take on a leadership role in local flood risk management. Paragraph 100 of the NPPF seeks to avoid flood risk to people and property and to manage any residual risk. It requires local plans to use opportunities offered by new development to reduce the causes and impacts of flooding. Policy DM 9 of Harrow's Development Management Policies Local Plan seeks to manage and reduce flood risk.

The proposed access track is required to provide vehicular access to Summerhouse Lake. Summerhouse Lake is an amenity lake and also acts as a flood storage reservoir, to reduce flood risk through Stanmore and downstream. It is operated by the Environment Agency and holds in excess of 25,000m³ water above the lowest adjacent ground level and thus falls within the remit of the Reservoirs Act 1975. This requires regular statutory inspections to ensure that the lake and its dam remain safe. The lake levels are continually monitored and if unusually high or low water levels are measured, an alarm is raised within the Environment Agency. Depending on the cause of the change in levels, remedial action requiring heavy equipment may be needed at Summerhouse Lake.

At present, the only access to the Summerhouse Lake is from Clamp Hill (to the west) via Lower Priory Farm. Part of this access is along a track bordering the southern edge of the Site of Special Scientific Interest, where there is woodland. Part of this track (to the west of the Summerhouse Lake access), is only just wide enough for

vehicles equivalent to the size of a Land Rover. There are 38 individual trees and 6 groups of trees and hedgerows on both sides of this track, the majority of which would be lost if the track was to be sufficiently widened to be safely used by heavy goods vehicles. This has been discussed in detail above. In order to protect existing trees, the current application therefore proposes an alternative route (of sufficient width) from the public highway (Masefield Avenue) to Summerhouse Lake.

The rationale behind the current application is clear and it is considered that the need to provide access for heavy goods vehicles to Summerhouse Lake (a flood storage reservoir) at times of unusually high or low water levels amount to the "Very Special Circumstances", as required by the NPPF to justify inappropriate development in the Green Belt.

Conclusion

On the basis of the above assessment, it is considered that the proposal would not result in an unacceptable adverse impact upon the openness of this part of London's Metropolitan Green Belt or on the Harrow Weald Ridge Area of Special Character. However, it is considered that the proposal for a new access road would have an undue impact on the purposes of the Green Belt and on the visual amenities of the Green Belt, due to encroachment. Nonetheless, and as set out above, it is considered that 'Very special circumstances' do exist in the form of the 'management of flood risk' to justify the proposed development. On this basis, the proposal is therefore considered to comply with the National Planning Policy Framework (2012), policy 7.16 of the London Plan (2011), Policy CS1.F of Harrow's Core Strategy (2012) and Policy DM16 of Harrow's Development Management Policies Local Plan (2013).

3) Impact on Heritage Assets

In determining Planning applications, paragraph 131 of the National Planning Policy Framework (2012) requires Local Planning Authorities to take account of 'the desirability of sustaining and enhancing the significance of heritage assets....and the desirability of new development making a positive contribution to local character and distinctiveness'.

Policy 7.8D of The London Plan (2011) states that 'Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail'. Policy CS1.D of the adopted Harrow Core Strategy 2012 states that proposals that would harm the significance of heritage assets including their setting will be resisted. Policy DM7 of the Development Management Policies Local Plan states that all proposals that secure the preservation, conservation or enhancement of a heritage asset and its setting, or which secure opportunities for sustainable enjoyment of the historic environment, will be approved.

The site outlined in red is located on Bentley Priory, which is a Grade II Listed Registered Historic Park and Garden. This park and garden originally formed part of the house and grounds of Bentley Priory, but was separated when the house was occupied by the RAF and used as an operation centre during the Battle of Britain in the Second World War. This Grade II Listed Registered Historic Park and Garden to the south of Bentley Priory house now forms the Bentley Priory Nature Reserve.

A Heritage Statement has been submitted as part of the application documents. The

application was referred to English Heritage who have advised that views from Bentley Priory House to Summerhouse Lake formed an important part of the design of the wider landscape. In their response to consultation, English Heritage have advised that the current proposal would cause some harm to the historic environment but that they do understand the need to access Summerhouse Lake. On this basis, English Heritage have not raised any objections to the current application, subject to the restoration of historic views from Bentley Priory House to Summerhouse Lake in order to mitigate any harm that would arise from the current proposal. The Councils Conservation Officer is in agreement with this approach. Subject to an appropriately worded Grampian condition to address matter (suggested condition no. 4), there is no objection to the current proposal from a conservation point of view.

4) Impact on Biodiversity

Policy context

The NPPF states that the planning system should contribute to and enhance the natural environment (paragraph 109) recognising that distinctions should be made between the hierarchy of international, national and locally designated sites so that protection is commensurate with their status (paragraph 113). The NPPF also applies the following principles to the determination of planning applications (paragraph 118):

- if significant harm cannot be avoided, adequately mitigated or (lastly) compensated, then permission should be refused;
- if an adverse effect on a Site of Special Scientific Interest (SSSI) is likely, either individually or in combination with other developments, the development should not normally be permitted;
- opportunities to incorporate biodiversity should be encouraged; and
- development resulting in the loss or deterioration of irreplaceable habitats should be refused unless the need for, and benefits of, the development in that location clearly outweigh the loss.

Policy 7.19.C of the London Plan requires development proposals to make a positive contribution to the protection, enhancement, creation and management of biodiversity, wherever possible. Policy CS1 of the Harrow Core Strategy seeks to safeguard ecological interests and, wherever possible, provide for their enhancement. Policies DM20 and DM21 of the Development Management Policies DPD seek the protection and enhancement respectively of biodiversity and access to nature.

Bentley Priory is a Site of Special Scientific Interest (SSSI), a national statutory designation. It is clear that the current proposal would result in the direct loss of SSSI and it is also considered that the construction phase of the proposed development is likely to give rise to impacts upon this designated site.

The application was referred to Natural England who advised that the current proposal would result in the direct loss of SSSI grassland. Although the applicant proposes to create access to Summerhouse Lake through the least sensitive route, Natural England consider that the proposal would nonetheless create some residual impact which would need to be mitigated.

A meeting was held with both English Heritage and Natural England to discuss possible mitigation measures to compensate for the loss of SSSI grassland. This meeting followed a discussion with the Bentley Priory Open Space Management Committee. All parties agreed that the following measures would be acceptable in

order to mitigate the impacts of the proposed development:

- 1) removal of scrub to the north of the lake and the re-instatement of species rich acid grass land in this location;
- 2) removal of trees to the north of the lake to re-establish views from Bentley Priory House towards the lake.

These mitigation measures would be secured through appropriately worded planning conditions which the applicant has agreed to in principle. Following this meeting, Natural England objected to the proposal on the basis of the lack of any detailed mitigation plan coming forward.

However, Natural England subsequently advised that they are satisfied that the loss of SSSI grassland can be mitigated through appropriately worded planning conditions and that they no longer object to the proposal. These conditions require all contractors to submit a Method Statement (including timing of works) prior to the commencement of works (both for the access track and the SSSI mitigation). They also require the Method Statement to be agreed in writing by the Local Planning Authority (suggested conditions no. 3 and 4) A further condition has been suggested to address the requirement that all turf/topsoil should be retained on site, unless agreed in writing with Natural England (suggested condition no. 11)

An Extended Phase 1 Ecological Assessment to ascertain the potential presence of protected habitats and species within the site has been submitted for consideration. It's findings and recommendations can be summarised as follows:

- The habitats along the proposed vehicle access track comprise neutral cattle grazed grassland with scattered scrub and trees.
- The site supports a number of trees with a moderate potential for roosting bats.
- The site provides potential habitat for hibernating reptiles along the edges of the existing vehicle access track.
- The site is considered to have the potential to support dormouse and a Phase 2 survey is recommended to confirm presence or likely absence on the site.
- The risk of encountering great crested newt on site cannot be discounted and therefore further surveys are recommended.
- The site is likely to be utilised by foraging and commuting badgers, however, the species does not reside within the site. Mitigation for this species is recommended during the construction phase.
- The site supports good quality habitat for nesting birds. Should works need to be carried out during the nesting bird season, which extends from March to August inclusive, an ecologist will need to undertake a check of all suitable nesting bird habitat adjacent to the site prior to works taking place.

The application has been referred to the Councils Biodiversity Officer who has not raised any objections to the proposal, subject to the recommendations within the biodiversity report being undertaken. On this basis, the Extended Phase 1 Ecological Assessment has been included in the approved documents list under condition no. 2 which requires the applicant to carry out the development in accordance with this document, amongst other plans and documents.

5) Residential Amenity

Policy DM 1 of the Development Management Policies DPD states that:

'All development and change of use proposals must achieve a high standard of privacy and amenity. Proposals that would be detrimental to the privacy and amenity of neighbouring occupiers, or that would fail to achieve satisfactory privacy and amenity for future occupiers of development, will be resisted.'

The closest residential properties to the application site front onto Masefield Avenue. Given the nature of the proposed development, it is considered that there would be no impact to the occupiers of these properties in terms of loss of light, loss of outlook or harm in terms of overshadowing impacts.

It is acknowledged that there would be some disruption to the amenities of the occupiers during the construction process. However, in the longer term, any disruption is likely to be minimal given the likely low level of traffic movements associated with the proposed access road. A Construction Management Plan has been submitted which proposes measures to minimise disruption to residential amenity during construction.

In conclusion, it is considered that no significant harm to the residential amenities of neighbouring occupiers would occur as a result of the current proposal.

6) Traffic and Drainage

The London Plan, the adopted Core Strategy and the Development Management Policies Local Plan encourage and advocate sustainable modes of travel and requires that each development should be assessed on its respective merits and requirements. Policy DM43 of the Development Management Policies Local Plan states that 'Proposals that fail to satisfactorily mitigate the transport impacts of development will be resisted'.

The submitted Design and Access Statement advises that although the proposed access track is essential, it will only be used when remedial action requiring heavy equipment is needed at Summerhouse Lake. Such usage is anticipated to be rare. As such, the operational development is unlikely to give rise to undue impacts to highway safety.

A Construction Management Plan has been submitted which seeks to minimise disruption to the local public realm during the construction process. The subject planning application has been referred to the Highways Authority who have not raised any objections to the proposal.

The access track rises gradually from Masefield Avenue to Summerhouse Lake and there will be no low points where water can collect. Also the finished level of the track will be flush with the adjacent land, so that no surface water will be ponded against the track. However to prevent the ground below the track from becoming saturated, drains will be installed at either side of the track, discharging to the drainage ditch at Masefield Avenue. The drains are not intended to intercept surface water, but rather to keep groundwater levels below the track base to maintain its strength. The top of the pea shingle surround to the drains will be covered with 100mm of topsoil. The discharge from the drains into the drainage ditch at Masefield Avenue will therefore be attenuated.

The current application has been referred to the Council's Drainage Engineer and the

Environment Agency, who have not raised any objections to the current proposal.

7) Equalities and Human Rights

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Section 149 of the Equalities Act 2010 created the public sector equality duty.

Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups of people.

It is considered that this application would not have any impact in terms of the above rights.

8) S17 Crime & Disorder Act

Policies 7.3.B and 7.13.B of The London Plan and policy DM1 of the Development Management Policies Local Plan require all new developments to have regard to safety and the measures to reduce crime in the design of development proposal.

In the main, it is considered that the current application does not pose any threat to safety and security. The applicant proposes replacement entrance gates at the Masefield Avenue entrance to Bentley Priory, which would be 1.5m high and 4m wide. The applicant has advised that the design of the entrance gates has been chosen as they would be robust and would sufficiently secure Bentley Priory Historic Park and Garden. There is no reason to disagree with this view. Overall, it is considered that the current proposal would not adversely affect crime risk.

9) Consultation Responses

Responses have not been received as a result of the neighbour consultation process. Responses received from both internal and external statutory consultees have been summarised, included and addressed in the relevant sections of this appraisal.

CONCLUSION

The siting and layout of the proposed access track seeks to protect existing trees within the Bentley Priory Grade II Listed Registered Historic Park and Bentley Priory Garden and Site of Special Scientific Interest. Officers consider that the proposal would not have a greater impact on Green Belt openness than the existing situation, but would give rise to some encroachment to the Green Belt, and to some impacts on the visual amenities of the Green Belt and the character of the Green Belt. Notwithstanding this, it is considered that 'Very Special Circumstances' do exist to justify inappropriate development in the Green Belt. This relates to 'management of flood risk in the Borough'. Officers are of the opinion that this is capable of amounting to 'Very Special Circumstances' that would justify a departure from Green Belt

planning policies. In terms of Green Belt Policy, the proposal is therefore supported.

Subject to a number of planning conditions, the biodiversity and heritage impacts of proposed development would appropriately be mitigated.

For these reasons, weighing up the development plan policies and proposals, and other material considerations including comments received in response to notification and consultation as set out above, it is considered that the development is justified in this instance and the application is recommended for grant.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Construction Management Plan (dated 7th March 2013), Heritage Statement (dated May 2013), Extended Phase 1 Ecological Assessment (dated September 2013), BPA 195B, Design and Access Statement (March 2013), BPA 220A, BPA 110D, BPA 115, BPA 120L, BPA 130B, BPA 185C, BPA 186, BPA 188, BPA 189, BPA 210B, Arboricultural Survey – 2nd Draft (13 pages), Arboricultural Report – Western Access Route (dated June 2013)

REASON: For the avoidance of doubt and in the interests of proper planning

3. No development shall take place until a plan identifying land between the north of Summerhouse Lake and Bentley Priory Mansion House has been submitted to, and approved in writing by, the local planning authority. This plan shall identify the following mitigation measures:

- § Removal of scrub to the north of the lake and its replacement with species rich acid grass land;
- § Removal of trees to the north of the lake to re-establish views from Bentley Priory House towards the lake.

These mitigation measures shall be carried out by the applicant prior to the commencement of development.

REASON: To ensure that the impacts of the development on the Bentley Priory Site of Special Scientific Interest are properly mitigated, in accordance with Policy DM20 of the Development Management Policies Local Plan 2013.

4. No development shall take place until a Method Statement (including timing of works) for the access track and the SSSI mitigation measures identified in condition no. 3 above have been submitted to and approved in writing by, the local planning authority.

REASON: To ensure that the impacts of the development on the Bentley Priory Site of Special Scientific Interest are properly mitigated, in accordance with Policy DM20 of the Development Management Policies Local Plan 2013.

5. The development hereby permitted shall not be commenced until there has been submitted to, and approved in writing by the local planning authority, a scheme of hard and soft landscape works for the:

- Temporary 'site compound' area and the 'temporary material storage' area shown on approved drawing no. BPA 120L;
- 'Temporary public access to park area' shown on approved drawing no. BPA 185C;

Soft landscape works shall include: planting plans, and schedules of plants, noting species, plant sizes and proposed numbers / densities. Within one month of the completion of the permanent development works hereby permitted, the temporary development works hereby permitted shall be removed and the land restored in accordance with the approved details and shall thereafter be retained.

REASON: To safeguard the openness and visual amenities of the Green Belt, in accordance with policy 7.16 of The London Plan (2011), policy CS1.F of the Harrow Core Strategy (2012) and policy DM16 of the Councils Development Management Policies Local Plan (2013)

6. The materials to be used in the external surfaces of the new lowered concrete ramp at the Masefield Avenue entrance hereby permitted shall match those of the main access track which shall be comprised of self-binding gravel in a sandy golden shade.

REASON: To safeguard the visual amenities of the Green Belt, in accordance with policy 7.16 of The London Plan (2011), policy CS1.F of the Harrow Core Strategy (2012) and policy DM16 of the Councils Development Management Policies Local Plan (2013)

7. No site works in connection with the development hereby permitted shall commence until the trees that have been surveyed and are proposed for retention (as shown on drawing no. BPA 220A) are surrounded by 1.8 metres high welded mesh "Heras" tree protection fencing. Such fencing shall remain for the entire duration of the construction works.

REASON: To protect the trees of significant amenity value and to safeguard the appearance of the locality, in accordance with policy DM22 of the Councils Development Management Policies Local Plan 2013.

8. If the development hereby permitted commences during the bird breeding season (March to August) inclusive, the trees that have been surveyed (as shown on drawing no. BPA 220A) shall be examined for nests or signs of breeding birds. Should an active bird's nest be located, the advice of a suitably qualified ecologist shall be sought without delay and implemented accordingly.

REASON: To safeguard the ecology and biodiversity of the area in accordance with policy DM20 of the Councils Development Management Policies Local Plan 2013.

9. Any pits and / or trenches created during construction works shall be securely covered outside of working hours.

REASON: To safeguard the ecology and biodiversity of the area, in accordance with policy DM20 of the Councils Development Management Policies Local Plan 2013.

10. No development shall take place until each tree which is proposed for removal, and has been highlighted as medium or greater potential for harbouring bat roosts in the ECOSA Extended Phase 1 Ecological Assessment, has been surveyed for bats. Should any tree indicate the presence of bats, that particular tree shall not be removed and the advice of a suitably qualified ecologist shall be sought without delay and the advice shall be implemented on site.

REASON: This condition is required to ensure that if bats are present then suitable measures are put into place for their protection in accordance with policy DM20 of the Councils Development Management Policies Local Plan 2013.

11. All turf/topsoil in relation to the development hereby approved, shall be retained on site, unless agreed in writing with Natural England and the Local Planning Authority.

REASON: To safeguard the ecology and biodiversity of the area in accordance with policy DM20 of the Councils Development Management Policies Local Plan 2013.

INFORMATIVES

1. The following policies are relevant to this decision:

National Planning Policy

National Planning Policy Framework 2012

The London Plan [2011]:

5.12 – Flood risk management

5.13 – Sustainable Drainage

6.3 – Assessing effects of development on transport capacity

7.2 – An inclusive environment

7.3 – Designing out crime

7.4 – Local character

7.16 – Green Belt

7.19 – Biodiversity and Access to Nature

7.21 – Trees and Woodlands

The Harrow Core Strategy 2012

CS1 – Overarching Policy

CS7 – Stanmore & Harrow Weald

Development Management Policies Local Plan (2013)

DM1 Achieving a High Standard of Development

DM6 Areas of Special Character

DM7 Heritage Assets

DM9 Managing Flood Risk

DM10 On Site Water Management and Surface Water Attenuation

DM16 Maintaining the Openness of the Green Belt and Metropolitan Open Land

DM17 Beneficial Use of the Green Belt and Metropolitan Open Land

DM20 Protection of Biodiversity and Access to Nature

DM21 Enhancement of Biodiversity and Access to Nature

DM22 Trees and Landscaping

DM43 Transport Assessments and Travel Plans

2. This decision has been taken in accordance with paragraphs 187-189 of The National Planning Policy Framework. Harrow Council has a pre-application advice service and actively encourages applicants to use this service. Please note this for future reference prior to submitting any future planning applications.

3. The applicant's attention is drawn to the requirements in the attached Considerate Contractor Code of Practice, in the interests of minimising any adverse effects arising from building operations, and in particular the limitations on hours of working.

4. The Party Wall etc. Act 1996 requires a building owner to notify and obtain formal agreement from adjoining owner(s) where the building owner intends to carry out building work which involves:

1. work on an existing wall shared with another property;
 2. building on the boundary with a neighbouring property;
 3. excavating near a neighbouring building,
- and that work falls within the scope of the Act.

Procedures under this Act are quite separate from the need for planning permission or building regulations approval.

“The Party Wall etc. Act 1996: Explanatory booklet” is available free of charge from: Communities and Local Government Publications, PO Box 236, Wetherby, LS23 7NB Please quote **Product code: 02 BR 00862** when ordering

Also available for download from the CLG website:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/133214.pdf>

Tel: 0870 1226 236 Fax: 0870 1226 237

Textphone: 0870 1207 405

E-mail: communities@twoten.com

5. Compliance With Planning Conditions Requiring Submission and Approval of Details Before Development Commences

- You will be in breach of planning permission if you start development without complying with a condition requiring you to do something before you start. For example, that a scheme or details of the development must first be approved by the

Local Planning Authority.

- Carrying out works in breach of such a condition will not satisfy the requirement to commence the development within the time permitted.
- Beginning development in breach of a planning condition will invalidate your planning permission.
- If you require confirmation as to whether the works you have carried out are acceptable, then you should apply to the Local Planning Authority for a certificate of lawfulness.

Plan Nos: Construction Management Plan (dated 7th March 2013), Heritage Statement (dated May 2013), Extended Phase 1 Ecological Assessment (dated September 2013), BPA 195B, Design and Access Statement (March 2013), BPA 220A, BPA 110D, BPA 115, BPA 120L, BPA 130B, BPA 185C, BPA 186, BPA 188, BPA 189, BPA 210B, Arboricultural Survey – 2nd Draft (13 pages), Arboricultural Report – Western Access Route (dated June 2013)

Reason for Urgency

At the Committee meeting held on November 19th 2014, the Planning Committee resolved to grant planning permission, subject to planning conditions and completion of a S106 agreement by 16th January 2015.

However, the Council's Legal Team have drawn the following matter to our attention:

Bentley Priory (the land to which this application relates) is solely owned by the Council. Planning obligations are legally enforceable against the owner(s) and any person that has an interest (including their successors in title) in the land to which they relate. This means that only owners and those having an interest in the land can enter into obligations. The Environment Agency, only have a right granted by the Council under a Deed of Grant dated 11 August 2008 to flood land at Summer House Lake, Bentley Priory, Common Road, Stanmore. They do not have a legal interest in the land for the purposes of section 106 of the Town and Country Planning Act 1990.

Equalities implications

The amendment to the Planning Committee's resolution is considered not to involve any equalities implications.

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