

Report for: Planning Committee

Date of Meeting: 20th July 2022

Subject: Proposed Amendments to the Conservation Area Advisory Committee (CAAC) Constitution.

Responsible Officer: David Hughes, Planning Policy Manager
Lucy Hail, Principal Conservation Officer

Exempt: No

Wards affected: All wards

Enclosures: Appendix 1 – CAAC constitution with recommended amendments
Appendix 2 – Harrow Hill Trust’s request to omit Harrow School from CAAC membership
Appendix 3 – Original Harrow Hill Trust request
Appendix 4 – Harrow School’s response

Section 1 – Summary and Recommendations

This report sets out the recommended response to the Harrow Hill Trust's proposal to omit Harrow School from the Conservation Area Advisory Committee (CAAC), and suggested amendments to the CAAC's Constitution aimed at boosting active membership of the Committee.

Recommendations:

The Planning Committee is requested to consider the following recommendations with regard to the CAAC's Constitution:

- 1) Agree to retaining Harrow School on the list of organisations that can nominate members.
- 2) Change the criteria for membership so that:
 - A) should any of the listed organisations fail to nominate a member of that organisation to be part of the Committee, the Committee can co-opt a member of that organisation to be part of the Committee.
 - B) omit the Stanmore and Harrow Historical Society from the list of organisations that can nominate members (the organisation closed in June 2022 and so no longer exists), add the London Historic Parks and Gardens Trust (known as London Gardens Trust), add the Gardens Trust, add the Open Spaces Society, and change 'Any other organisation – 1000+ members' in the list to 'any other organisation that CAAC deem relevant following any national guidance'.
- 3) Add that the CAAC can provide feedback on Listed Building Consent applications (where works are external and affect a conservation area) and Advertisement Consent applications, not just Planning Applications.
- 4) Change the month for the CAAC AGM to October (usually), but also allow CAAC to change to one month either side as they agree by majority thereafter if required to suit circumstances.
- 5) Omit reference to the 'Department of Environment's Circular 8/97' and replace with reference to 'any relevant current Government guidance'.

The above recommended amendments are shown in Appendix 1.

Section 2 – Report

Background

- 2.1 The Council has a statutory duty under section 69(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Act”) to ‘determine which parts of their area are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance and shall designate those areas as conservation areas’. There is a further legal duty for the Council to keep any designation under review. Section 72 (1) of the Act deals with the Council’s general duty as respects conservation areas in exercising its planning function that: ‘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’.
- 2.2 Conservation Area Advisory Committees (CAACs) are designed to assist the Local Planning Authority with the stated general duty under section 72 of the Act by providing consultation responses on planning applications within conservation areas from those with an interest in local heritage. It should be noted that there is no statutory duty on the Local Planning Authority to operate or facilitate CAACs, nor national adopted government guidance on how these should be organised, operated or on the composition of their membership. CAACs are independent of the Council.
- 2.3 However, Historic England are the Government’s advisors on heritage and statutory consultees. Their website as of 30th June 2022 at this link <https://historicengland.org.uk/advice/hpg/has/conservation-areas/> states that: ‘Local planning authorities may set up conservation area advisory committees which should consist mostly of non-local authority people who represent the interests of residents and businesses and who are able to bring expertise or understanding of the area’s history and amenity.’
- 2.4 Harrow have had a CAAC since at least 7th March 1991 when its Constitution was first agreed by the Development and Planning Committee. This was subsequently updated and agreed again on 7th July 1997 (adding the Hatch End Association to the list of possible organisations represented on CAAC) at the Development and Planning Committee with slight amendment, and most recently in June 2006 with a new slight amendment (allowing new members of CAAC to be co-opted at any meeting throughout the year, not just at the AGM) at the same Committee.
- 2.5 The Committee is a group made up of members of local and national groups that hold regular meetings for the following purposes as defined in the present Constitution (which is attached as appendix 1):
 - i) To advise the Council on applications which would affect the character or appearance of the conservation areas.
 - ii) To assist in the formulation of policies for conservation within the borough by commenting upon draft policy statements.

- iii) To make positive proposals for the enhancement and general care and maintenance of conservation areas.
- 2.6 Under the present constitution, the committee consists of one nominee from each of the following possible local and national groups, societies or organisations:

National appointments: RIBA
RTPI
Landscape Institute

Historical societies: Georgian Group
Victorian Society
Ancient Monuments Group
20th Century Society
SPAB

Local: Harrow Hill Trust
The Pinner Association
Stanmore Society
Harrow School
Pinner Local History Society
Stanmore and Harrow Historical Society
Hatch End Association
Any other organisation – 1000+ members

- 2.7 The constitution includes the following declarations: the AGM will be held annually in September each year, notes 'all is to be in accordance with the Department of Environment's Circular 8/97' and that the committee shall comment on planning applications but does not specify Advertisement Consent or Listed Building Consent applications, though allowing for additional subjects to be introduced at the Chair's discretion.

Current situation - Status of Harrow School on the CAAC:

Request by the Harrow Hill Trust

- 2.8 On 12th November 2021, the Harrow Hill Trust submitted a formal request for a change to the CAAC Constitution so that Harrow School is no longer a listed as a possible member in the Constitution. The request, and the Trust's justification for it is in their letter of that date, is included at appendix 2 and references specific examples of their concerns. This followed a similar request by the previous Chairman of the Harrow Hill Trust, Dr Simon Less, in November 2020. This is included at appendix 3.
- 2.9 In summary the reasons provided relate to the School being unlike other CAAC members:
- 1) Harrow School is a major owner/ developer of property within the Harrow Hill conservation areas so cannot give independent advice. Conversely, there is local knowledge without an interest to declare from other CAAC members. Where that may not be the case, the

- CAAC would point out to the Council any relevant lack of local knowledge by their members in providing their comments.
- 2) As a major landowner, it is unclear when Harrow School should declare an interest and not partake in discussions, so the safeguard of the constitution fails.
 - 3) Harrow School has its own Supplementary Planning Document ('SPD'), and any different approach adopted by the CAAC creates a conflict. The Committee are not party to the future plans of the School so cannot identify a conflict of interest.
 - 4) Harrow School objected to the proposed Harrow on the Hill Neighbourhood plan which would have incorporated conservation area protection policies into Local Plan level as opposed to just at SPD level, thereby strengthening conservation area status. This is despite it having support from 94% of respondents.
 - 5) The School has (in the Trust's opinion) submitted planning applications which harm conservation areas, a view upheld by the Council's Planning Committee, the Mayor of London and by Inspectors at a Public Inquiries.
 - 6) On occasions when considering Harrow School proposals, a verbal representation by the School's attendee at CAAC was not confined to factual information but was opinionated. No other developer is allowed that opportunity.
 - 7) Harrow School has number of S106 legal agreements with the Council so cannot be independent on the CAAC.
 - 8) Harrow School has responsibilities under the Local Plan so cannot be independent on the CAAC.
 - 9) Conclusion: In order to ensure that the CAAC is, and is also seen to be, providing independent advice without conflict of interest, and to uphold good governance, the Constitution needs to be amended as proposed to omit Harrow School.

Harrow School's response

2.10 The Council requested the School to respond to the Harrow Hill Trust's letter and this is set out in an email sent on 16th June 2022. This was provided by the present Harrow School representative on CAAC, Wayne Simpson. It is included as appendix 4 and explains why the School believes that it should continue to be represented on the CAAC as follows:

'Clearly membership of the CAAC is decided by Harrow Council and therefore a constitutional change is a matter for the Council to consider and no one else. When considering how it will respond to the letter, we invite the Chair of the Planning Committee to consider:

1. Harrow Council chose Harrow School to be a member of the CAAC. As far as our records show Harrow School have been a member of the CAAC for more than 20-years.
2. We believe Harrow School has made a positive contribution assisting the Council in protecting and preserving heritage assets in the London Borough of Harrow. We respect Harrow Council's decision should they no longer value our contribution.
3. I attended the CAAC meetings that Harrow Hill Trust refer to in their letter. Rather than spending time discrediting Harrow Hill Trust's superstition only then to be labelled I invite the Chair of the Planning

Committee to ask the Chair of the CAAC, you as CAAC Secretary and the CAAC members who attend these meetings whether the claims made in the letter are factually correct and indeed appropriate’.

Conservation Area Advisory Committee’s consideration:

2.11 The CAAC reviewed the Harrow Hill Trust’s request and Harrow School’s response. Representatives of the CAAC then met on Teams at 4pm on Thursday 23rd June to discuss and reach a recommendation as to whether Harrow School should remain on the CAAC.

2.12 Trevor Gray (representative of the Stanmore Society) and John Orchard (representative of the Harrow Heritage Trust) were not present and did not partake in the meeting discussions since the former used to work for Harrow School and the latter rents from Harrow School. In addition, the representatives of the Harrow Hill Trust who made the request and the representative of Harrow School were not present. Those present were the remaining members of CAAC ie Pat Clarke (Pinner Local History Society), Alan Flint (Hatch End Association), Dr Brent Elliot (Victorian Society) and Christine Wallace (Pinner Association).

2.13 The CAAC discussions concluded as follows:

‘The Harrow Hill Trust has objected to Harrow School being represented on the CAAC, on the grounds that it is a landowner within the CA, and therefore has a vested interest in certain applications; that the School’s behaviour over issues affecting the CA has been deleterious in the past (its refusal to engage in the Neighbourhood Plan); and that its status is in many respects problematic and unique.

On the question of principle, we acknowledge that if the CAAC were being created now, we would probably not allow the School to be represented on the Committee, for the reasons above. But it has been represented on the Committee for a long time, and most of that period has been devoid of trouble. The practical advantages of having the School represented outweigh the problems.

The behaviour of the School over issues affecting the CA is a matter that is outside the administration of the CAAC itself. Harrow School would most likely have refused to support the idea of the Neighbourhood Plan regardless of whether it was represented on the CA, and its refusal caused no problems relating to the Committee’s casework agenda. When cases related to the School’s properties arise, the School’s representative leaves the room, or at least does not vote; and if a case arose over a property with which the School shared a boundary, the same requirement could be insisted on. We have not seen any case in which this arrangement has been an insufficient safeguard. There is a clash of personalities on the CAAC, but that should not be an intractable problem.

On this current issue, we can only be concerned with the effect of the School’s membership on the conduct of the Committee’s casework, and on that point we see no necessity for Harrow School to be removed from the CAAC membership list’.

Officer recommendation 1: Maintain Harrow School on CAAC:

- 2.14 There is no statutory guidance on the composition of CAACs. National guidance on the Historic England website states they: 'should consist mostly of non-local authority people who represent the interests of residents and businesses and who are able to bring expertise or understanding of the area's history and amenity.' Harrow School's membership follows this guidance.
- 2.15 Also, Harrow School has been represented on the CAAC since inception with no known complaint raised concerning the principle of this in over 20 years.
- 2.16 The Trust are concerned that the School may not declare an interest where it should do, but given the School is an extensive landowner on the Hill, and has obligations under section 106 agreements and the Local Plan, and their own Supplementary Planning Document, it will be required to do so. The Trust also note that Harrow School have produced plans that they consider will cause harm to the conservation areas on the Hill. But where any CAAC member has an interest they are required to declare it under the constitution and withdraw from the meeting. We are required to trust that they (or any other member) do so appropriately. For example, architects on CAAC may be working on projects anywhere within the borough, and we must trust that they declare an interest appropriately.
- 2.17 The Trust comments that Harrow School once provided biased, rather than neutral, comments to help explain to CAAC one of their planning applications on the agenda. However, even if this did take place, the correct implementation of the constitution going forward would ensure that this would not be repeated i.e. ensuring Harrow School declare an interest and withdraw from discussions when a planning application they have an interest in comes up.
- 2.18 Also, given a quorum in the constitution is five people, it is unlikely that the opinion of one would sway the view of four others where there is objectionable heritage harm to comment on.
- 2.19 Accordingly, taking all representations received and following national guidance from Historic England (the government's advisors on heritage) which leaves membership criteria quite open, the officer recommendation is for Harrow School to remain on CAAC. The school is an organisation that is 'able to bring expertise or understanding of the area's history and amenity' given its long history within the borough and experience in managing a significant number of heritage assets.

Additional Recommended Changes to the CAAC Constitution:

Officer recommendation 2: Change the criteria for membership:

- A) should any of the listed organisations fail to nominate a member of that organisation to be part of the Committee, the**

Committee can co-opt a member of that organisation to be part of the Committee.

2.20 Currently membership is only nominees from groups listed in the constitution. On the 29th June 2022 the CAAC Chair suggested the constitution in relation to membership be modified to make provision for finding members by routes other than membership nomination:

‘The constitution of the CAAC (attached) lists a number of organisations which are invited to nominate representatives; the purpose of this was to ensure that the full range of relevant interests, local and national, is represented on the Committee.

In recent years, however, we have noticed an increasing tendency for organisations (e.g. the RIBA, Georgian Group, Twentieth Century Society) to decline to make nominations. This trend, if continued, will not only make it difficult to maintain the size of the Committee, but will deprive the Committee of some of the different forms of expertise it requires.

Should the constitution therefore be modified to make provision for finding members by other routes than membership nomination?’

2.21 Accordingly, a meeting was held on 4th July 2022 and it was agreed by CAAC that it be requested that the criteria for membership be amended so that the Committee can co-opt a member of that organisation to be part of the Committee if any organisation fails to make a nomination.

2.22 This request is supported by officers and forms a recommendation of this report as it is a practical way forward.

B) Omit the Stanmore and Harrow Historical Society from the list of organisations that can nominate members (the organisation folded in June 2022), add the London Historic Parks and Gardens Trust (known as London Gardens Trust), add the Gardens Trust, add the Open Spaces Society, and change ‘Any other organisation – 1000+ members’ in the list to ‘any other organisation that CAAC deem relevant following any national guidance’

2.23 The officer recommendation to remove the Stanmore and Harrow Historical Society from the list of organisations that can nominate members is due to this organisation folding in June 2022.

2.24 The Gardens Trust are a large heritage landscape organisation who have a statutory role in commenting on planning applications. Naming them in the list of organisations that can nominate members, is therefore prudent as it follows Government guidance and brings additional expertise to the Committee. The London Historic Parks and Gardens Trust (known as London Gardens Trust) are a charitable organisation affiliated with the Gardens Trust so again it is prudent to include them. The Open Spaces Society is a campaign group that works to protect public rights of way and open spaces in the United Kingdom, such as common land and village greens. It is Britain's oldest national conservation body and a registered

charity. The Society's inclusion is relevant and would be beneficial to the Committee.

2.25 The CAAC has concerns over maintaining sufficient membership numbers and have requested that the following is omitted from the constitution's list of organisations that can nominate members: 'Any other organisation – 1000+ members' and it is changed to 'any other organisation that the CAAC deem relevant following any national guidance'. This change would allow greater flexibility in nominations being accepted and the increasing difficulty in getting members nominated for CAAC and CAAC's concerns that local organisations increasingly having fewer members. It would also comply with national guidance on membership as this simply states that 'Local planning authorities may set up conservation area advisory committees which should consist mostly of non-local authority people who represent the interests of residents and businesses and who are able to bring expertise or understanding of the area's history and amenity.'

Officer recommendation 3: Add to the constitution that the CAAC can provide feedback on Listed Building Consent applications (where works are external and affect a conservation area) and Advertisement Consent applications, not just Planning Applications

2.26 The existing constitution allows for this but the change in wording provides clarification. This is prudent since such applications can affect conservation areas in the same way as planning applications.

Officer recommendation 4: Change the date for the CAAC AGM so it is normally held in October, but also allow CAAC to change to one month either side as they agree by majority thereafter if required to suit circumstances.

2.27 CAAC have recognised that it can be difficult to ensure all members can attend some months, so this change would accommodate this possibility.

Officer recommendation 5: Omit reference to the 'Department of Environment's Circular 8/97' and replace with reference to 'any relevant current Government guidance'.

2.28 This circular is no longer relevant and so it is recommended that it be omitted as new relevant Government guidance could be released at any time.

Legal Implications

2.29 There is no statutory requirement to create a CAAC and so the changes proposed to the Constitution would not be subject to any statutory controls. The CAAC has an advisory role to the Council. However, the amendments proposed to the Constitution should be in accordance with the rules and procedure of the CAAC Constitution and relevant

government guidance should be taken into consideration, such as, Historic England.

2.30 While the CAAC is not part of the Council's formal constitutional structure, its Constitution has previously been considered and endorsed by the previous Development Control Committee. The deliberations and comment on the range of matters within CAAC's ambit are important considerations for the Council in the context of its position as local planning authority.

2.31 Any decisions by the Council where listed buildings and their settings and conservation areas are a factor must address the statutory considerations of the Planning (Listed Buildings and Conservation Areas) Act 1990 (see in particular sections 16, 66 and 72 of the Act) as well as applying the relevant policies in the development plan and the National Planning Policy Framework (paragraphs 189 to 208 Conserving and enhancing the historic environment) (with Planning Practice Guidance – Historic Guidance).

Financial Implications

2.32 There are no cost implications. The cost of holding CAAC is contained within existing planning budgets.

Risk Management Implications

Risks included on corporate or directorate risk register? **No**

Separate risk register in place? **No**

The relevant risks contained in the register are attached/summarised below. **Yes**

Risk Description	Mitigations	RAG Status Column
Not formally agreeing to retain Harrow School within the Constitution (recommendation 1) would put CAAC at risk of further accusations that the CAAC should not have Harrow School as a member on the CAAC for the reasons given by the Harrow Hill Trust. The recommendations ratify and justify the inclusion of a member of Harrow School on CAAC, given this has recently been questioned.	<ul style="list-style-type: none">• The full justification in this report and formal resolution (Recommendation1) is an open, formal and full way to acknowledge and address the Harrow Hill Trust's comments.• Should the Planning Committee concur with the Trust's concerns and not officers' recommendation, deletion of Harrow School from the CAAC constitution would also mitigate the risk.	Amber

Risk Description	Mitigations	RAG Status Column
A risk of not removing Harrow School from the constitution is that the Harrow Hill Trust member withdraws as they are unsatisfied with the outcome of their request.	<ul style="list-style-type: none"> The full justification in this report is an open, formal and full way to acknowledge and address the Harrow Hill Trust's comments. There would still be enough CAAC members to form a quorum and thus a functioning committee. 	Amber
Not agreeing recommendations 2 and 4 would risk the CAAC not having enough members to make a quorum, and therefore CAAC needing to fold. This would undermine the ability of the Local Planning Authority to comply with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states with regards to the planning function that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'. The recommendations enable more flexibility on the criteria for membership.	<ul style="list-style-type: none"> Amending the constitution as set out in the recommendations 	Amber

Equalities implications / Public Sector Equality Duty

Was an Equality Impact Assessment carried out? No

If no, state why an EqIA was not carried out below:

The report is not a relevant report being presented to Cabinet for a decision requiring an Equality Impact Assessment. The recommendations of this report allow for wider inclusion of members on the CAAC i.e. no longer requiring an organisation to nominate an individual to represent them but instead where an organisation declines to nominate someone, to allow the CAAC to co-opt a member of that organisation to sit on the CAAC. Allowing greater scope for members to join the Committee is considered to have positive impact on all equality groups.

Section 3 - Statutory Officer Clearance

Statutory Officer: Jessie Man

Signed on behalf of the Chief Financial Officer

Date: 5 July 2022

Statutory Officer: Baljit Bhandal

Signed on behalf of the Monitoring Officer

Date: 6 July 2022

Chief Officer: Dipti Patel

Signed by the Corporate Director

Date: 7 July 2022

Mandatory Checks

Ward Councillors notified: NO, as it impacts on all Wards (impacts are indirect)

Section 4 - Contact Details and Background Papers

Contact: Lucy Haile, Principal Conservation Officer, 02087366101
lucy.haile@harrow.gov.uk

Background Papers:

Development Control Committee report 28th June 2006
<https://moderngov.harrow.gov.uk/documents/g3309/Public%20reports%20pack%20Wednesday%2028-Jun-2006%2019.30%20Development%20Control%20Committee.pdf?T=10>

Development Control Committee minutes 28th June 2006
<https://moderngov.harrow.gov.uk/documents/g3309/Public%20minutes%20Wednesday%2028-Jun-2006%2019.30%20Development%20Control%20Committee.pdf?T=11>

Historic England guidance on CAACs:
<https://historicengland.org.uk/advice/hpg/has/conservation-areas/>