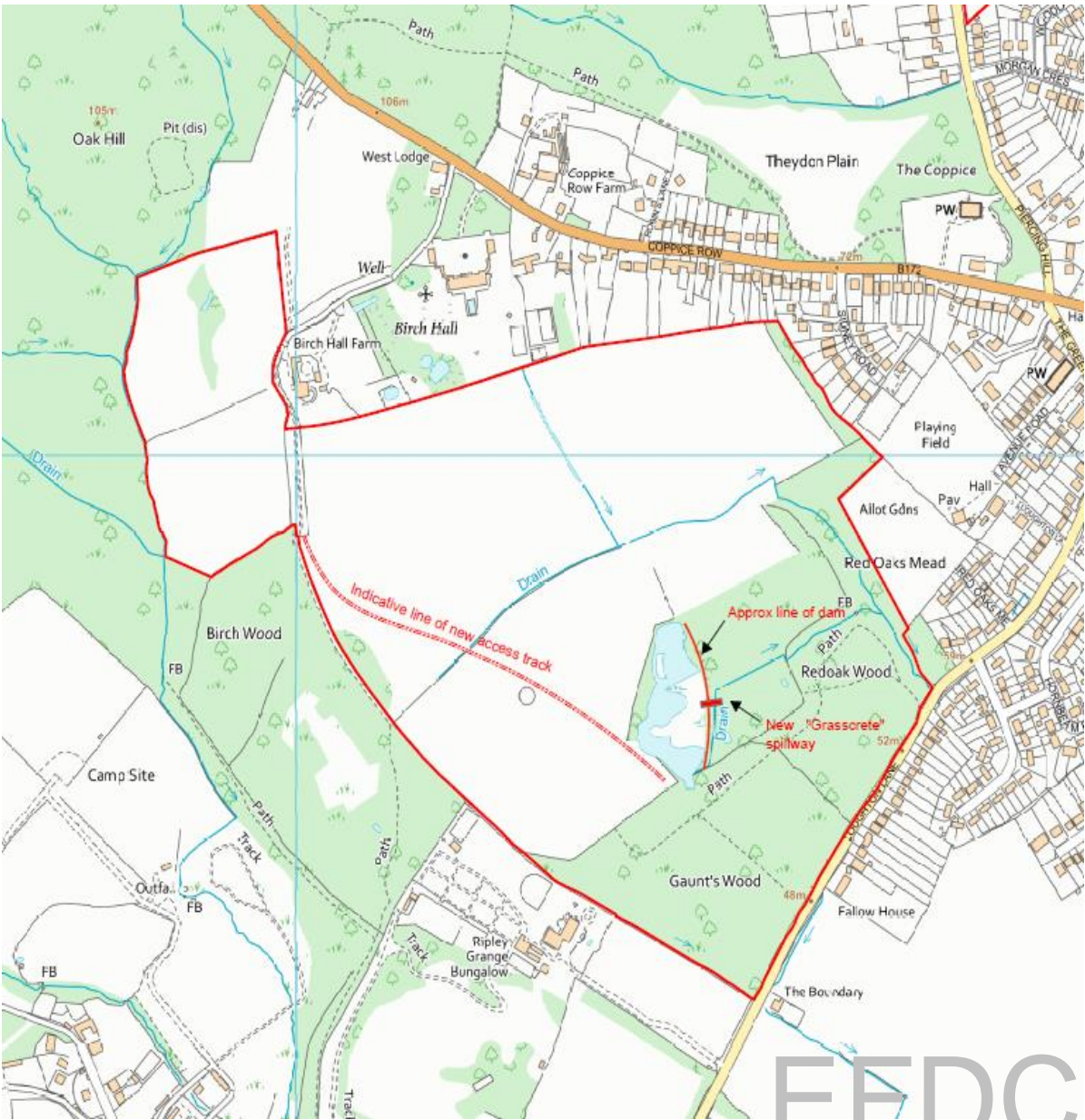




Epping Forest District Council



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Application Number:	EPF/0659/20
Site Name:	Land lying to the South of Coppice Row, Theydon Bois CM16 7DR
Scale of Plot:	1:10000

Report Item No: 9

APPLICATION No:	EPF/0659/20
SITE ADDRESS:	Land lying to the South of Coppice Row, Theydon Bois CM16 7DR
PARISH:	Theydon Bois
WARD:	Loughton St Johns Theydon Bois
APPLICANT:	The City of London Corporation
DESCRIPTION OF PROPOSAL:	a) Construction of a reinforced grass / concrete block spillway to the earth embankment dam b) A permanent lowering of water levels in the lake, to mitigate leakage issues c) Regrading the varying dam crest levels to a common datum, with construction of a gravel emergency access track along the dam crest to include geogrid reinforcement so as to form a root protection platform for construction and future maintenance vehicles. d) Construction of an approx. 700m long gravel haul road through the site, for the purposes of construction access and future maintenance access to the dam.
RECOMMENDED DECISION:	Grant Permission (With Conditions)

Click on the link below to view related plans and documents for this case:

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=635153

CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: 100-82800006- 01A, 02, 03, 04A, 05, 06 and 07, and Location of Works plan 30 July 20.
- 3 Prior to the commencement of the development, details of surface water drainage and a scheme for the introduction of natural flood management measures between the dam subject of the application and the existing open watercourse abutting Loughton Lane, including measures for the clearance / regrading of the open watercourse, shall be submitted to and approved in writing by the Local Planning Authority. The agreed works shall be fully implemented prior to the completion of all of the works to the lake hereby approved.

- 4 Tree protection, methodology for construction adjacent to trees and Arboricultural site supervision shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement unless the Local Planning Authority gives its prior written approval to any alterations. Tree protection shall be implemented as described within the submitted Tree Assessment Report prior to any machinery or vehicles accessing the Deer Sanctuary to undertake the proposed works. It shall remain in place until the completion of the project.
- 5 The access road hereby permitted shall be constructed as shown on City of London Highway Design and Construction drawing number 100-82800006-04 rev A dated Feb 2020 unless the Local Planning Authority gives its written consent to any variation.
- 6 If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
- 7 The access road hereby permitted shall be used for purposes relating to monitoring and maintenance of the land on which it is located and for no other purposes.

This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council which is material to the planning merits of the proposal, and the Local Council confirms it intends to attend and speak at the meeting where the application will be considered (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)).

Description of Site:

The application site lies between Coppice Row to the north and west and Loughton Lane to the east and south. The land area comprises around 45.6ha and is accessed from the north west corner by Birch Hall Farm. The site is known locally as the Deer Sanctuary or Birch Hall Park. Much of the south eastern portion of the site is heavily wooded, ground levels naturally falling towards Loughton Lane, while the remainder comprises mostly open fields. The lake subject of the main works in the application lies on the edge of the main wooded area and covers around 0.9 ha. At its closest point it is around 200m from Loughton Lane.

The site lies within the Green Belt, and much of the wooded area to the south and east is covered by area Tree Preservation Orders.

Description of Proposal:

The application seeks approval to works in relation to the current and future maintenance of the lake. The works comprise:

- a. Construction of a reinforced grass / concrete block spillway to the earth embankment dam
- b. A permanent lowering of water levels in the lake, to mitigate leakage issues

- c. Regrading the varying dam crest levels to a common datum, with construction of a gravel emergency access track along the dam crest to include geogrid reinforcement so as to form a root protection platform for construction and future maintenance vehicles.
- d. Construction of an approx. 700m long gravel haul road through the site, for the purposes of construction access and future maintenance access to the dam.

The works all relate to improving the function of the lake as an attenuation for flooding in the adjacent drainage channels into which the lake drains. The lake is not a natural feature and the dam to it has been found to have eroded over time, likely due to the impact on tree roots and natural erosion from water topping the dam crest during periods when the outfall pipe has been unable to cope with the volume of water. The works are designed to:

- Providing a weir and spillway of sufficient width to protect against water levels rising above the dam crest level and overtopping
- Setting the new weir level below the level of previous dam leakage
- Rationalising the dam crest to a common value to provide a consistent safeguard against overtopping along the full length of the dam

The proposed access road is intended to serve the lake. Its route has been designed to minimise disruption to trees and flora on the site. At present, access to the lake is across existing tracks through the field, and access is therefore weather and ground condition dependent. The applicants comment that the absence of a dedicated access impacts their ability to respond to emergency flood risk associated with the lake.

Relevant History:

None

Policies Applied:

Adopted Local Plan:

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006).

The following policies within the current Development Plan are considered to be of relevance to this application:

CP1	Achieving sustainable development objectives
CP2	Protecting the quality of the rural and built environment
GB2A	Development in the Green Belt
GB7A	Conspicuous development
HC12	Development affecting the setting of Listed Buildings
RP5A	Adverse environmental impacts
U2A	Development in Flood Risk Areas
U3A	Catchment effects
U3B	Sustainable drainage systems
DBE2	Effect on neighbouring areas
DBE9	Loss of Amenity

LL10 Adequacy of provision for landscape retention
ST2 Accessibility of development

NPPF (February 2109):

The revised NPPF is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

(a) approving development proposals that accord with an up-to-date development plan without delay; or

(b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following paragraphs of the NPPF are considered to be of relevance to this application:

- 13 Protecting Green Belt land – paragraphs 134, 143, 144, 145, 146
14 Meeting the challenge of climate change, flooding and coastal change – paragraphs 149, 157, 163.

Epping Forest District Local Plan (Submission Version) 2017:

On 14 December 2017, the Council resolved to approve the Epping Forest District Local Plan (2011-2033) – Submission Version ("LPSV") for submission to the Secretary of State and the Council also resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

The Council submitted the LPSV for independent examination on 21 September 2018. The Inspector appointed to examine the LPSV ("the Local Plan Inspector") held examination hearings between 12 February and 11 June 2019. As part of the examination process, the Council has asked the Local Plan inspector to recommend modifications of the LPSV to enable its adoption.

During the examination hearings, a number of proposed Main Modifications of the LPSV were 'agreed' with the Inspector on the basis that they would be subject to public consultation in due course. Following completion of the hearings, in a letter dated 2 August 2019, the Inspector provided the Council with advice on the soundness and legal compliance of the LPSV ("the Inspector's Advice"). In that letter, the Inspector concluded that, at this

stage, further Main Modifications (MMs) of the emerging Local Plan are required to enable its adoption and that, in some cases, additional work will need to be done by the Council to establish the precise form of the MMs.

Although the LPSV does not yet form part of the statutory development plan, when determining planning applications, the Council must have regard to the LPSV as material to the application under consideration. In accordance with paragraph 48 of the Framework, the LPAs "may give weight to relevant policies in emerging plans according to:

- a) The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given)."

Footnote 22 to paragraph 48 of the NPPF explains that where an emerging Local Plan is being examined under the transitional arrangements (set out in paragraph 214), as is the case for the LPSV, consistency should be tested against the previous version of the Framework published in March 2012.

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional MMs, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework.

The following policies in the LPSV are considered to be of relevance to the determination of this application, with the weight afforded by your officers in this particular case indicated:

POLICY	WEIGHT AFFORDED
SP1 Presumption in favour of sustainable development	Significant
SP6 Green Belt and District Open Land	Some
SP7 The Natural Environment, landscape character and green infrastructure	Significant
T1 Sustainable transport choices	Significant
T2 Safeguarding of routes and facilities	Significant
DM1 Habitat protection and improving biodiversity	Significant
DM2 Epping Forest SAC and Lee Valley SPA	Significant
DM3 Landscape Character, Ancient Landscapes and Geodiversity	Significant
DM4 Green Belt	Significant
DM5 Green and Blue Infrastructure	Significant
DM7 Heritage Assets	Significant
DM9 High Quality Design	Significant
DM15 Managing and reducing flood risk	Significant
DM16 Sustainable Drainage Systems	Significant
DM19 Sustainable water use	Significant
DM21 Local environmental impacts, pollution and land contamination	Significant
DM22 Air quality	Significant

Consultation Carried Out and Summary of Representations Received

Date of site visit: 12 November 2020
Number of neighbours consulted: None
Site notice posted: 23 October 2020
Responses received: No response received from neighbours.
Parish Council: Theydon Bois Parish Council have objected to the application as under:

The Planning Committee noted the proposal to undertake improvement works in relation to the dam. However, a number of concerns were raised, after it was brought to the Committee attention that the area through which the new road would be constructed may traverse two Local Wildlife Sites, and no assessment would appear to have been made as to the potential impact on these. It was questioned whether EFDC Country Care Team had been consulted and whether an assessment has been made by them.

In addition, Councillors raised concern over the extensive length of the haul road proposed, being some 600m in length, which would only partially be screened, and which would dissect this open Green Belt site, running from the eastern entrance to the Deer Sanctuary to the far west of the wider site. Whilst Paragraph 146 (b) of the NPPF, 2019 may allow for some forms of engineering works, if they preserve the openness of the Green Belt, the retention of this road, on a permanent basis, was considered to be detrimental to such openness. Since there has been no indication of requiring the construction of such a hard - core based permanent access previously, it was felt that this should be temporary and removed after construction work has been completed.

Comments have also been submitted by the Theydon Bois and District Rural Preservation Society. The response notes an ongoing consultation by the City of London over closure of the Deer Sanctuary. The Society also raise concerns at the permanent retention of the maintenance access road, suggesting this should be temporary for construction due to its potential impact on the Green Belt and EFSAC, and its impact on the landscape character and appearance of the land.

Main Issues and Considerations:

The site lies within the Green Belt and the impact of development on the character of the surrounding area is the primary issue. It appears from the representations that the main concern is the provision of the access road and the implications thereof.

National policy finds that most development within the Green Belt is inappropriate, unless very special circumstances override such conditions, or where the works meet the list of exceptions set out at paragraph 146 of the NPPF. Paragraph 146 b refers specifically to engineering operations but is not prescriptive as to what this may constitute.

Information contained in the applicant's drainage statement has been assessed and the site has been visited by the Council's Environmental Protection and Drainage Team. The works to the lake are recognised as being necessary to remedy changes that have occurred naturally as a result of increasing natural damage to the surrounds from water overspill and resultant erosion. The overspill may increase in coming years as a result of climate change and from continued lack of maintenance, potentially increasing flood risk to the south and east on lower ground through which the land otherwise drains. As such, officers are satisfied that the works to the lake constitute reasonably required engineering works consistent with paragraph 146b.

This then raises the issue of how the area is accessed for future maintenance and in an emergency. The dam is required to be inspected twice a year and routine repairs are

undertaken. Access is often hampered by ground conditions, much of the area is clay which becomes difficult to cross during extended wet periods. Increased understanding of the impact of flood risk to downstream areas (in this case Loughton Lane and environs) suggests that the likelihood of emergency situations including the need to bring in pumping equipment at times of very high risk are likely to increase. Accordingly, there is a strong case for retaining the access on a permanent basis.

The access road proposed measures around 700m from the end of the existing track to the north end of the lake. Members will note the route is not the most direct, which would measure around 470m. However, the route has been devised following a detailed tree study to avoid the extended rooting areas of the veteran and mature oaks on the land. The route passes across open fields, away from protected woodlands to the west and utilises a bridge over an existing drainage ditch bisecting the land. The route is recognised as the least disruptive to the site taking account of the existing habitat and wildlife interests and the wider natural environment and landscape.

In considering whether the access road has an impact on the wider Green Belt, it should be noted that following the existing contours means there are no raised elements or kerbs required that may increase the visual prominence of the route to an unacceptable degree. This ensures that the works have a limited visual impact and provide little disruption to the general open aspect of the Green Belt at this point. A condition is recommended if

In terms of the broader landscape impact, the works to the lake will result in the loss of nine trees, 5 of which are in poor physical or structural condition. The works take place within a densely wooded part of the site where the loss has limited impact on the overall character of the space, in a location not readily visible from any public place. Thus, subject to appropriate conditions, the overall impact on the tree environment is minimal.

The Parish Council raise concerns at potential wildlife areas. It is noted that the land includes areas of pasture which are separately identified by natural divisions within, a public right of way and a drainage channel. The function of the pasture land is not affected by the works.

The local amenity society objection raises concerns at the impact on the EFSAC. The lake requires ongoing maintenance through arising from regular inspections and potential emergency works, and access is currently unrestricted other than by ground conditions. Nothing in the application suggests that additional vehicle movements will be required for these purposes as a result of providing a permanent surface.

Conclusion:

Officers are satisfied that the primary works amount to engineering operations which the NPPF considers to be not inappropriate in general terms. The works to the lake arise from natural erosion caused by years of water penetration into the dam boundaries, issues which will only get worse with climate change if not adequately treated. Such works require regular monitoring and maintenance and access to the lake is an integral part of this. As such, a case of very special circumstances is also established. Notwithstanding, the works have a minimal impact on the openness of the Green Belt.

Safeguards are in place in identifying the route of the access to protect established trees on the site hence the additional length over a more direct route across the site. Trees to be lost across the whole scheme are as a result kept to a minimum.

The proposal therefore complies with relevant planning policy and it is recommended that planning permission be granted

Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the Monday preceding the meeting at the latest:

***Planning Application Case Officer: Ian Ansell
Direct Line Telephone Number: 01992 564481***

***or if no direct contact can be made please email:
contactplanning@eppingforestdc.gov.uk***