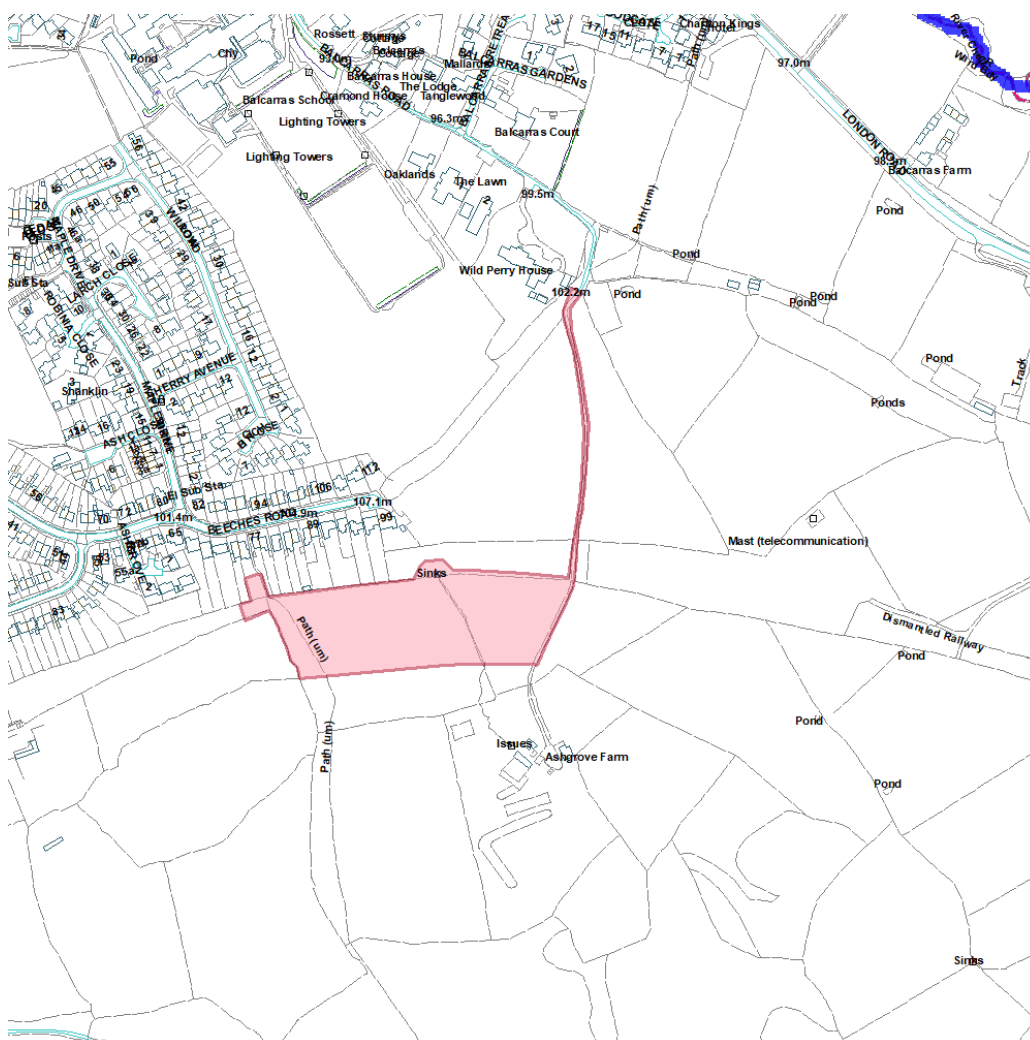


APPLICATION NO: 19/01890/FUL		OFFICER: Michelle Payne
DATE REGISTERED: 24th September 2019		DATE OF EXPIRY: 24th December 2019
DATE VALIDATED: 24th September 2019		DATE OF SITE VISIT:
WARD: Charlton Kings		PARISH: Charlton Kings
APPLICANT:	Cheltenham Borough Council	
AGENT:	Jacobs	
LOCATION:	Hearne Brook Flood Relief, Charlton Kings, Cheltenham	
PROPOSAL:	Site B (land south of Beeches Road) - formation of a low level bund and shallow grassed swale with small diameter piped outfalls to the exiting watercourse channel to address fluvial and overland flooding of residential property	

RECOMMENDATION: Permit, subject to no Highway objection being raised



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 This is a full application for flood relief works in the Hearne Brook area within Charlton Kings parish.
- 1.2 The Hearne Brook is an ordinary watercourse which rises from the Cotswold escarpment in the south-east of Cheltenham. The brook flows north to north-west through Charlton Kings for approximately 1.5km to its confluence with the River Chelt, a Main River.
- 1.3 In March 2013, planning permission was granted for flood relief works within Beeches Playing Field (Site A). The scheme was approved by the Environment Agency and subsequently implemented. The Design and Access Statement which accompanies this application sets out that the *“works comprised a single flood defence area within the playing field in order to guide flows into the drainage network. The embankment was designed to prevent overtopping by flows associated with a flood event with a 1 in 50 (2%) chance of occurring each year. During a flood event the embankment diverts excess surface water from the playing fields into the channel at a slow rate thus protecting the downstream properties whilst not causing excess flows”*. Trash screens at Timbercombe Gate have also been re-constructed to current EA design standards.
- 1.4 The site to which this application relates (Site B) is located on land south of Beeches Road and originally formed part of the previous application but was withdrawn prior to determination. Despite the implementation of the approved works at Site A, and trash screen improvement works, localised flooding issues are still present at the base of the Cotswold escarpment, Site B. The application proposes the formation of a low level bund and shallow grassed swale with small diameter piped outfalls to the exiting watercourse channel to address fluvial and overland flooding of residential property.
- 1.5 The swale would be formed using a balanced cut and fill process which eliminates the need to import fill material, and utilises the existing ground profile; ground levels along the northern edge of the swale would be increased by between 500mm and 600mm.
- 1.6 The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB) and part of the site is designated as a Key Wildlife Site (KWS).
- 1.7 The application is before planning committee as the application has been submitted by Jacobs of behalf of Cheltenham Borough Council; Jacobs having been commissioned by Geoff Beer, the Council's Principal Engineer - Flood Risk Management.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Airport safeguarding over 10m
Landfill Site boundary
Principal Urban Area
Smoke Control Order

Relevant Planning History:

12/01547/FUL

PERMIT

22nd March 2013

Hearne Brook flood relief works at Beeches Playing Field

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 14 Meeting the challenge of climate change, flooding and coastal change

Section 15 Conserving and enhancing the natural environment

Saved Local Plan (LP) Policies

CP 3 Sustainable environment

GE 5 Protection and replacement of trees

GE 6 Trees and development

Adopted Joint Core Strategy (JCS) Policies

SD6 Landscape

SD7 The Cotswolds Area of Outstanding Natural Beauty

SD9 Biodiversity and Geodiversity

SD14 Health and Environmental Quality

INF2 Flood Risk Management

4. CONSULTEE RESPONSES

Tree Officer

24th October 2019

Whilst the Design and Access Statement states that one tree is to be removed to facilitate this, and modifications to the design are in place to minimise impact, there appears to be significant shrub/scrub along the northern end of this proposal (either side of the existing ditch) which would likely be impacted during his proposal. However, this appears to be low amenity scrub, and it is anticipated that this will regrow following completion of the works.

Please could a suitable Tree Protection Plan be submitted and agreed which would give protection to the line of trees north of this proposed earth mounding during earth moving operations and any other trees within the sphere of influence of the site. This can be done through a pre-commencement condition attached to any planning permission. This TPP should be of the robust nature as described in Fig 2 of BS 5837 (2012).

Gloucestershire Centre for Environmental Records

14th October 2019

Biodiversity report available to view

GCC Local Flood Authority (LLFA)

2nd October 2019

I write with reference to the above mentioned planning application received by the Lead Local Flood Authority (LLFA) on 25th September 2019 for comment on the management of surface water.

Whilst I am satisfied that the proposed flood alleviation scheme will not increase the impermeable area within the proposed site and consequently there will be no increase in runoff rates or volumes necessitating mitigation, there are a number of points requiring clarification before I can recommend approval of this application, as follows:

1. The LLFA would recommend that appropriate temporary measures are taken to mitigate against any adverse impact on flood risk during construction of the scheme. Please can the applicant provide clarification in this respect.
2. I notice that the climate change allowance for this scheme is 20%, which may possibly directly relate to the proposed lifetime of the scheme, however the LLFA would normally expect a 40% climate change allowance. Please can the applicant provide an explanation.
3. It is not clear from the submitted documentation that exceedance has been considered and designed for. The FRA indicates that the scheme has been designed to manage flows up to and during the 1 in 50 year +CC event, therefore exceedance should be considered for flows above the 1 in 50 year + CC event. Please can the applicant provide clarification in this respect.

In addition, it should be noted that the applicant should apply to the LLFA for a consent to carry out any works on or near the ordinary watercourse that will affect the flow.

NOTE 1: The Lead Local Flood Authority (LLFA) will give consideration to how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency.

NOTE 2: Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through suds@gloucestershire.gov.uk e-mail address. Please quote the planning application number in the subject field.

GCC Local Flood Authority (LLFA) – revised comments

16th October 2019

I refer to the above application received by the Lead Local Flood Authority (LLFA) on 25th September 2019 and the subsequent clarification provided by the applicant in their email dated 14th October 2019 in response to the questions raised in my last correspondence.

I have reviewed the subsequent information provided and can confirm, on behalf of the LLFA, that I am satisfied the applicant has answered all the concerns raised in my response and provided adequate reassurance in this respect. On behalf of the LLFA, I therefore confirm that the proposals for the flood relief scheme at this location are acceptable and the LLFA recommends approval of this application in respect of drainage and surface water management.

NOTE 1: The Lead Local Flood Authority (LLFA) will give consideration to how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency

NOTE 2: Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through suds@gloucestershire.gov.uk e-mail address. Please quote the planning application number in the subject field.

At the Committee meeting, the Committee noted the concerns of the Lead Local Flood Authority (LLFA) and would ask that these be addressed prior to consent been given.

However, we note that after the Public Meeting the Lead Local Flood Authority (LLFA) concerns have been addressed and therefore we have no objection to the scheme.

5. PUBLICITY AND REPRESENTATIONS

5.1 Letters of notification were sent to 18 nearby properties. In addition, a site notice was posted at the foot of the hill in Balcarras Road, and an advert published in the Gloucestershire Echo. One representation has been received in response to the publicity from the residents of 75 Beeches Road, objecting to the proposals for the following reasons:

- the water draining from the hill would be directed into their garden bringing a risk of flooding
- impact on house insurance
- visual appearance and impact of works proposed within their garden
- impact on property value

6. OFFICER COMMENTS

6.1 Determining issues

6.1.1 The main considerations in determining this application relate to the principle of development; landscape impact; and ecology. Other considerations include any potential impact on neighbouring land users; and highway safety during construction.

6.2 Principle of development

6.2.1 Adopted JCS Policy INF2 acknowledges that parts of Cheltenham are at risk from surface water flooding, particularly during intense rainfall events. JCS paragraph 5.3.11 advises that *"The JCS authorities will, in principle, support measures proposed by the Environment Agency and other to reduce flood risk"*. Additionally, paragraph 118 of the NPPF requires planning decisions to *"recognise that some undeveloped land can perform many functions, such as...flood risk mitigation"*.

6.2.2 The submitted Design and Access Statement advises that *"Observations and records by residents confirm that receptors within the study area have suffered from flooding on a number of occasions, most recently in 2004 and 2007...Questionnaires circulated to residents in May 2010 confirmed that at least 16 properties suffered flooding during these events with at least 4 from the site B area...Several properties on the southern side of Beeches Road experience flooding as a result of overland flow directly from the escarpment"*.

6.2.3 The proposed development comprises local drainage improvement measures to address fluvial and overland flooding, and will improve the standard of protection to the 1 in 50 year plus climate change flood event, by formalising existing low-lying areas susceptible to ponding at times of flood.

6.2.4 The proposals have been reviewed by the Lead Local Flood Authority (LLFA) who, following receipt of additional information, recommend approval from a drainage and

surface water management perspective. As such, officers consider the principle of the proposed development to be acceptable subject to the material considerations below.

6.3 Landscape impact

6.3.1 Adopted JCS policy SD6 requires development to protect landscape character and, with particular regard to development within the AONB, policy SD7 requires development proposals to conserve, and where appropriate, enhance its landscape.

6.3.2 The Design and Statement advises that given the location of the site within the AONB, landscape planning was considered during the design process, and that the development has been designed to blend in with the current landscaping. The application is accompanied by a Landscape Plan.

6.3.3 The swale would be fully grassed, with seeding carried out to match the surrounding ground. Additionally, the sides of the swale would be no steeper than 1 in 4, and would be slightly shallower in places in order to make it look more natural and less man made. Any new fencing would be similar in design to the existing fencing, and the site access and field access gates are proposed to be reused or replaced with similar.

6.3.4 The proposed earthworks would require the removal of one existing tree; however, new mitigation tree planting is proposed. The Tree Officer has reviewed the proposals and raises no objection subject to the inclusion of a condition requiring a robust Tree Protection Plan to be submitted and agreed, should permission be granted.

6.3.5 Given the nature and scale of the proposed development, officers are satisfied that the works would not harm the visual amenity of the landscape nor result in harm to the natural beauty of the AONB.

6.4 Ecology

6.4.1 Adopted JCS policy SD9 seeks to conserve and enhance biodiversity and geodiversity, and states that proposals within Key Wildlife Sites will not be permitted where they would have an adverse impact, and harm cannot be satisfactorily mitigated. The policy is consistent with Section 15 of the NPPF.

6.4.2 The application is accompanied by a Preliminary Ecological Appraisal (PEA) carried out by a member of the Chartered Institute of Ecology and Environmental Management (CIEEM).

Key Wildlife Site

6.4.3 As previously noted, part of the application site through which the construction access is proposed, is designated as a Key Wildlife Site (KWS); namely, the Ashgrove Farm Meadows KWS which supports MG5a neutral grassland.

6.4.4 Access to the site during construction would be provided via an existing track leading from Balcarras Road; this access track passes through the KWS leading to Ashgrove Farm. The PEA acknowledges that the construction works have the potential to impact on the grasslands within the site if it is widened or re-enforced; however, officers suggest that this detail can be adequately controlled as part of a Construction Method Statement which would need to be submitted and agreed prior to the commencement of works.

Protected species

Badgers

6.4.6 The PEA identifies that habitats within the site are suitable for badgers and their setts. It is therefore recommended that a badger survey is undertaken at least six months prior to any works commencing, preferably in the winter months; this can be secured by of a condition. Any mitigation requirements would be informed by the results of the survey.

Bats

6.4.7 There are a number of trees within the site that have been identified within the PEA as having the potential to support roosting bats. Therefore, it is recommended that bat roost inspections are undertaken for any trees that are to be removed; this can again be secured by condition.

6.4.8 As an overall enhancement measure, the PEA recommends that bat boxes are installed on retained mature trees within the site.

Other species

6.4.9 The PEA also makes a number of recommendations in respect of amphibians, birds, dormice, reptiles and hedgehogs; these measures can again be secured by condition.

6.5 Impact on neighbouring land users

6.5.1 The proposals include the construction of a headwall with the rear garden of no. 75 Beeches Road where the pipe would outfall to pass flows into the existing ditch.

6.5.2 The residents of this neighbouring property object to the proposed development; however, whilst their concerns have been duly noted, they do not give rise to any amenity concerns that would suggest planning permission should be refused.

6.5.3 Members will be aware that by granting planning permission this does not negate the need to obtain the land owners consent.

6.6 Recommendation

6.6.1 At the time of writing this report, a response from the County Highways Development Management team is still awaited. However, subject to no Highway objection being raised, officers are minded to grant planning permission subject to the following schedule of conditions:

7. SUGGESTED CONDITIONS / INFORMATIVES

- 1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

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

- 3 Not less than six months prior to the commencement of development, a badger survey shall be undertaken by a suitably qualified ecologist and the results of the survey and any mitigation measures proposed shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard protected species that could be adversely affected by the development and to ensure that adequate mitigation measures are provided, having regard to adopted policy SD9 of the Joint Core Strategy (2017) and paragraphs 8 and 170 of the National Planning Policy Framework. This information is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species at the beginning of construction.

- 4 Prior to the felling of any trees, bat roost inspections shall be undertaken by a licensed ecologist and the results of the inspections and any mitigation measures proposed shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard protected species that could be adversely affected by the development and to ensure that adequate mitigation measures are provided, having regard to adopted policy SD9 of the Joint Core Strategy (2017) and paragraphs 8 and 170 of the National Planning Policy Framework.

- 5 Prior to the commencement of development, a Tree Protection Plan (TPP) to BS 5837:2012 (or any standard that reproduces or replaces this standard) shall be submitted to and approved in writing by the Local Planning Authority. The TPP shall include the methods of tree and /or hedge protection, the position and specifications for the erection of tree protective fencing, and a programme for its implementation. The works shall not be carried out unless in accordance with the approved details, and the protective measures specified within the TPP shall remain in place until the completion of the construction process.

Reason: To safeguard the existing tree(s) in the interests of visual amenity, having regard to saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006). Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 6 The development hereby permitted shall be carried out in strict accordance with the recommendations set out in paragraphs 5.2 – 5.4 of the Preliminary Ecological Appraisal dated November 2018 submitted with the planning application.

Reason: To safeguard important species that could be adversely affected by the development and to ensure that adequate mitigation measures are provided, having regard to adopted policy SD9 of the Joint Core Strategy (2017) and paragraphs 8 and 170 of the National Planning Policy Framework.

INFORMATIVES

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

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority

publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

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