

Reference:
16/01492/FUL

Site:
Lion Lodge South
The Avenue
Warley
Essex
CM13 3RZ

Ward:
Warley

Proposal:
Proposed new access road

Plan Number(s):
1:1250 LOCATION PLAN; MB.DJA 1 OF 1;

Applicant:
Mr M Bryan

Case Officer: Ms Tessa Outram

The application site is Council owned land and the decision level is at Planning and Licensing Committee.

1.0 DESCRIPTION OF PROPOSAL

Permission is sought for the construction of a new vehicular access track to serve a residential property at the entrance of Thorndon Park. The access track would extend approximately 63 metres long and 2.4m wide adjacent to the west boundary of the property, and would be modelled to navigate around a mature oak tree. The materials proposed are concrete cellular pavements.

2.0 SITE DESCRIPTION

The application site is within a Site of Special Scientific Interest (SSSI) and adjacent to a Conservation Area. It is adjacent to the west boundary of Lion Lodge South, a private residential dwelling.

Lion Lodge South is also a Grade II Listed Building that together with Lion Lodge North forms a pair of Historic Gate Houses at the principle entrance of the Grade II* Listed Park and Garden of Thorndon Country Park.

The land to the west of the Park entrance gates (the site) is owned by Brentwood Borough Council. In their consultation response, Natural England describe the SSSI as being noted for its particular tree species and its outstanding invertebrate assemblage associated with the many veteran trees and pollards on the site, making the area particularly sensitive to development.

3.0 RELEVANT HISTORY

- 15/00744/FUL: Proposed new access road. -Application Withdrawn

4.0 SUMMARY OF CONSULTATION RESPONSES

Detailed below is a summary of the consultation responses. The full version of each consultation response can be viewed on the Council's website via Public Access at the following link: <http://publicaccess.brentwood.gov.uk/online-applications/>

- **Natural England-** Natural England objects to this proposal. As submitted we consider it will: damage or destroy the interest features for which Thorndon Park Site of Special Scientific Interest (SSSI) has been notified and would result in a direct loss or damage of ancient woodland (or other irreplaceable habitat).
- **Essex Wildlife Trust-** No comments received at the time of writing this report.
- **Highway Authority-** The section of road fronting Lion Lodge South is not adopted, therefore From a highway and transportation perspective the Highway Authority has no comments to make on this proposal.
- **Historic Buildings And Conservation Officer-** I raise fundamental objection on Conservation Grounds to the proposal. The listed building sits prominently as one of a pair of nationally important gatehouses - this open approach to the listed building from The Avenue, is framed by a lawned area together with mature landscaping, the landscaping positively contributing to the setting of the listed building and the overall character and appearance of the Conservation Area and Listed Park and Garden. I advise, as with the previously withdrawn application, the introduction of this access road will result in material harm to the setting of the listed building, the Conservation Area and the Grade II* listed Park and Garden. There are no public benefits which would outweigh the harm of these proposals. I recommend this application is refused.

- **Arboriculturalist-** The proposal constitutes an operation likely to damage the special interest of the area. The applicant was asked to provide a implication and method statement as to how the construction of the track would protect the trees on the area. This was not forthcoming and therefore no judgement can be made as to the effect on the trees . However general principles mean that no such structure can be input without detriment to the health and ultimately the safety of the existing trees without the benefit of that prior consideration. This is a very specialized field and I believe that the proposal is ill sited and should be refused . I am furthermore skeptical that any solution is possible within this sensitive area.
- **Historic England-** The proposed road whilst constructed from a semi-permable concrete paviour will have some visual impact on the setting of the listed lodge and registered landscape park, causing some harm. Grass rarely succeeds on semi-permeable paving and will therefore be visible on a principle entrance to the park. Concerns are also raised on the detrimental impact on the roots of mature trees.
- **Assets Manager-** Essex County Council have confirmed the owner has a legal right of way across land in the ownership of the County Council therefore there is no need for the development on the Brentwood Council Land other than to protect the owners property from development. The applicant has made the choice that he prefers an access across Brentwood Council Land which we will not permit access over.

5.0 SUMMARY OF NEIGHBOUR COMMENTS

This application has been advertised by way of individual neighbour notification letters, press advert and public site notice which has been displayed nearby.

Detailed below is a summary of the neighbour comments. The full version of each neighbour response can be viewed on the Council's website via Public Access at the following link: <http://publicaccess.brentwood.gov.uk/online-applications/>

- The applicant could construct a lower impact, less invasive access route into his garden directly from the Park Road where there is a legal right of way into the site.
 - The applicant will park wherever he wants including along the proposed access road if approved and would allow for a row of parking to develop alongside the building.
 - The vehicles on the proposed access will be intrusive to the Lodge and Gates
 - The ancient footpath is not a precedent for forming a driveway.
 - Lion Lodge North's access is well screened
 - The access would impact upon the SSSI and add further urban encroachment
 - The access may lead to traffic and safety issues.
- Ward Member Councillor Jill Hubbard has provided the following observations:

- The design and access statement clearly states that there will not be a tarmac-ed road. The plan is for a 'block pavior' to be set into the soil which would allow grass & other flora etc to grow through it.
- The intention is to reinstate an old track leading to an original gate so it will have minimal impact on the surrounding area or the country park. It will not be any more visible than the track which is alongside Lion Lodge (North) opposite it.
- Refusal would entail the applicants cutting down the screen of trees to the north of their property and having to make another planning application for a gate etc through into their garden. This would spoil the current leafy access to Thorndon North.

6.0 POLICY CONTEXT

The starting point for determining an application is the development plan, in this instance, the Brentwood Replacement Local Plan (RLP) 2005. Applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application are the following RLP policies, the National Planning Policy Framework (NPPF) 2012 and National Planning Policy Guidance (NPPG) 2014.

RLP Policy:

CP1 General Development Criteria

C5 – Retention and Provision of Landscaping and Natural Features in Development

C9 – Ancient Landscapes and Historic parks and gardens

C14 – Development Affecting Conservation Areas

C16- Development within the vicinity of a listed building

NPPF Sections: Chapter 7 (requiring good design), Chapter 11 (conserving and enhancing the natural environment) , Chapter 12 (conserving and enhancing the historic environment)

Local Development Plan:

The Local Development Plan is currently at the Draft Stage (Regulation 18) and as there are outstanding objections to be resolved, only limited weight can be given to it in terms of decision making, as set out in paragraph 216 of the National Planning Policy Framework. As the plan advances and objections become resolved, more weight can be applied to the policies within it. Nevertheless the draft Local Plan provides a good indication of the direction of travel in terms of aspirations for growth in the Borough and where development is likely to come forward through draft housing and employment allocations. The next stage of the Local Plan is the Pre-Submission Draft (Regulation 19) which is currently anticipated to be published in early 2017. Following this, the Draft LDP will be submitted to the Secretary of State for an Examination in Public. Provided the Inspector finds the plan to be sound it is estimated that it could be adopted in late 2017 or early 2018.

7.0 ASSESSMENT

The key issues for consideration are :-

- Is the development appropriate for the Green Belt?
- Effect on the character and appearance of the area
- The effect of the proposal on the heritage assets (Grade II listed building and Grade II* Park and Garden)
- The effect on the SSSI
- The impact if any on Ecology and trees
- Any other considerations

Is the development appropriate in the Green Belt?

Paragraph 79 of the National Planning Policy Framework attaches great importance to Green Belts. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open; one of the essential characteristics of Green Belts is their openness and their permanence. Inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. The exceptions to inappropriate development are listed in paragraphs 89 and 90 of the NPPF, and includes engineering operations, provided they are not harmful to the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.

The construction of the new access would be an engineering operation, would have a neutral effect on the openness of the Green Belt and would result in a very limited encroachment into the Green Belt. It is therefore considered that the proposal does not constitute inappropriate development in the Green Belt.

Effect on the Character and Appearance of the Area

The area immediately approaching Lion Lodge South is grassed lawn, with low level scrub. The flank wall of the property is therefore exposed to public view for a length of around 13m before reaching the more dense wooded area of the park. When approaching the site from The Avenue, the proposed track surface would be seen only when relatively close to the house; although the applicant states that vegetation is designed to grow through the cellular blocks, its success is likely to depend on the number of traffic movements and how often they occur.

It is noted that a vehicular track has evolved to the west of Lion Lodge North opposite the site, which the occupants use to access a parking area to the rear of that property. No hardstanding is evident and it appears to have been created through repetitive, causal use rather than as a result of calculated development. It is largely screened from view because of the denser vegetation and matures trees to the front of the property. Nevertheless, it is not considered to be a good precedent for a similar development to the south, where the track and its use by vehicles would be much more apparent.

The comments of the Conservation Officer are set out above and there is no need to repeat them in full here but in summary she considers that the current landscape and setting contributes positively to the appearance of the area and that any intervention would have a negative impact on its character. Although not within the conservation area, it is immediately adjacent to it. Policy C14 of the Brentwood Adopted Local Plan states at criterion (v) that proposals will only be permitted where they do not affect any buildings, open spaces, trees, views or other aspects which contribute to the special character of the (Conservation) area.

Based on the comments of the Conservation Officer, it is considered that the introduction of a new vehicular access track in this location would have a detrimental impact on the special character of the area in conflict with Local Plan Policies C14 (v) and CP1 (i).

Impact on Heritage Assets

The heritage assets are considered to be the Grade II* Park and Garden, the Grade II Listed Building, Lion Lodge South and the adjacent Thorndon Park Conservation Area.

Part 12 of the NPPF sets out the approach that Local Planning Authority's should take in assessing the impact of new development on heritage assets. The Council's Heritage Officer has provided an assessment on the significance of the heritage assets (see above). She considers the setting of the listed building including its surrounding

landscape to be highly significant. Historic England has commented that the new access will have some visual impact on the setting of the listed building and the registered landscape park. On the basis of these objections, it is considered that while there would be less than significant harm to the heritage assets that harm is not outweighed by any public benefit provided by the proposal, and is therefore in conflict with local plan policies C14 (v), C16 and with paragraph 134 of the National Planning Policy Framework.

The impact on the Site of Special Scientific Interest (SSSI)

Proposed development within an SSSI is addressed within Part 11 of the NPPF and sets out that where it is likely to have an adverse effect on a SSSI, permission should not be permitted unless the benefits outweigh the impact on the special features of the site and any broader impacts on the national network of SSSI. Local plan policy C9 is broadly consistent with these aims and objectives, and therefore carries considerable weight.

Natural England consider that the proposed access road would result in a direct loss of the woodland habitat for which the SSSI is noted; even if the existing trees are retained the woodland habitat would still be lost as the full woodland structure is integral to its condition (including the canopy, understory and ground flora).

No ecological survey or ecological impact assessment has been submitted as part of the application and it is not considered that a condition attached to any permission would be able to address the harm caused by the proposal.

In terms of whether the proposal would provide benefits that overcome the identified harm, the applicant states that the access road is *“to greatly enhance the owners ability to enjoy the amenity of their property while, at the same time, facilitating the parking of vehicles at a remote distance from the historic house to the visual benefit of the estate and park entrance”*.

Even if this were to be the case, it is not considered that this benefit would outweigh the significant and demonstrable harm identified by Natural England. This would be contrary to local plan policy C9 and paragraph 118 of the NPPF.

Tree and Landscaping Considerations

The applicant has declined to provide an arboricultural impact assessment and it is therefore considered that the proposed vehicular access track would be detrimental to the health and safety of existing trees adjacent to the site.

The proposal is therefore in conflict with Local Plan Policies C5, and paragraph 118 of the NPPF.

Impact on Neighbour Amenity

Whilst the proposed access road would lead to increase vehicle activity to the front of the site it is not considered the noise or disturbance generated from the access road would lead to a detrimental impact on the living conditions of neighbouring occupiers at Lion Lodge North.

Parking and Highways Considerations

It is not considered that there is any significant highway safety or parking issues arising from the proposal.

Other Considerations:

Ownership:

The applicant has stated the proposed access will emulate a historic track that once ran alongside the property. In support of this claim they have provided a mid -19thC map that appears to show a track or pathway leading to the existing gates but does not appear to extend to the north where the access road is proposed. The Conservation Officer is of the view that this would have been a woodland footpath, not a vehicular track, evidenced by the number of other similar 'tracks' shown on the map that trail through the heart of the woodland. The changes in the classification of the woodland since the production of that map do not support the introduction of a new vehicular access in this location, and therefore officers do not consider that the proposal represents a reintroduction of an existing track.

Land ownership issues are dealt with between the relevant parties and are not material to the planning decision but it has been confirmed by Essex County Council that the applicant has right of access to their property from the Park as an alternative means of vehicular access.

Natural England indicate that as the site is on land registered as common land and any grant of permission will require specific consent from the Secretary of State.

Representations:

The report has dealt with most of the comments submitted; should the application be permitted, the use of conditions could not prevent the parking of cars along the track; the use of block paviour does not guarantee that grass and flora will flourish; it is not considered that it will reintroduce a previous established track; refusal would not result in the removal of trees that add visual value to the Thorndon Park.

8.0 CONCLUSION

The proposed access and its associated use is visually harmful to the character and appearance of the area, the setting of the Grade II listed building and the setting of the Grade II* Listed Park and Garden. There are no identified public benefits arising from

the development that would outweigh that harm. Furthermore, it is considered that the development would be harmful to the special features including mature trees and woodland habitat, of the SSSI. There are no other considerations considered to outweigh this harm and officers do not consider that there are any conditions that could be attached to a permission to mitigate that harm.

The proposal therefore conflicts with Local Plan Policies CP1, C14, C5, C9 and C16 and parts 7, 11 and 12 of the National Planning Policy Framework.

9.0 RECOMMENDATION

The Application be REFUSED for the following reasons:-

1. The proposed access road by way of its siting, design and detail is not sympathetic within its location and would detract from the character and appearance of the area and its landscaped setting contrary to Brentwood Replacement Local Plan Policies CP1 (i) and C14 (v). Furthermore, it would be harmful to the setting of the adjacent Grade II listed building and the primary entrance of the Grade II* Listed Park and Garden. Although that harm would be less than substantial there would be no public benefit outweighing the harm, in conflict with paragraph 134 of the National Planning Policy Framework and policy C16 of the Local Plan.
2. It has not been demonstrated that the proposal would not result in the loss of the woodland habitat for which the Site of Special Scientific Interest (SSSI) is noted; the application as submitted without specific detailing would result in detrimental harm to the existing trees, ecology and habitat that form part of the SSSI woodland. There would be no exception that would clearly outweigh both the impacts that the proposal it is likely to have on the features of the site that make it of special scientific interest that would justify the grant of planning permission. This would be in conflict with Local Plan policies C6, C9, CP1 (viii) and with paragraph 118 of the NPPF.

Informative(s)

- 1 The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: CP1, C9, C5, C14, C16 the National Planning Policy Framework 2012 and NPPG 2014.

- 2 The drawing numbers listed above are relevant to this decision

- 3 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development. Details of the pre-application service can be found on the Council's website at www.brentwood.gov.uk/preapplicationadvice

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:
www.brentwood.gov.uk/planning