

DEVELOPMENT CONTROL PANEL

16 December 2020

Item: 4

Application No.:	20/02570/FULL
Location:	Broadlands Bagshot Road Ascot SL5 9JN
Proposal:	Landscape works: Two ponds, ground re-profiling, two timber jetties, two bridges and planting.
Applicant:	Mrs Zhmotova
Agent:	Mr Romain Bardin
Parish/Ward:	Sunningdale Parish/Sunningdale And Cheapside
If you have a question about this report, please contact: Jo Richards on 01628 682955 or at jo.richards@rbwm.gov.uk	

1. SUMMARY

- 1.1 Permission is sought for various groundworks and minor engineering operations on land associated with the residential dwellinghouse Broadlands. The land which forms the application site excludes the main house and formal residential curtilage but includes extensive land under the same ownership. The works to the land includes the creation of two ponds (an upper and lower pond), ground re-profiling, two timber jetties, two bridges and planting.
- 1.2 The proposed works constitute exceptions to inappropriate development within the Green Belt which would preserve the openness of the Green Belt and not conflict with the purposes of the Green Belt and therefore are deemed as appropriate development under paragraph 146 of the NPPF.
- 1.3 Given the limited nature of the works the proposed development would not be visible to the street scene or wider area. No objections are raised from a highways point of view or with regard to impact on neighbouring properties.
- 1.4 The proposal has been found acceptable with regard to impact on important trees, including veteran trees, impact on flooding and drainage and ecological considerations. The application is supported by all statutory and non-statutory consultees subject to conditions.

It is recommended the Panel grants planning permission with the conditions listed in Section 12 of this report.

2. REASON FOR PANEL DETERMINATION

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application in the way recommended; such decisions can only be made by the Panel.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The application site comprises grounds associated with the residential property Broadlands. It is considered that the land to which this proposal relates is land within the applicant's ownership but not necessarily part of their residential curtilage which is normally the area of land confined to that surrounding the dwellinghouse. The site comprises open undeveloped land, trees, woodland and two ponds (an upper and a

lower pond). The site lies entirely within the Green Belt. The site also lies within an Environment Agency flood zone 1. The site is not within a Conservation Area.

- 3.2 It was clear from the site visit that the land suffers from surface water drainage problems with much of land ground boggy and the two ponds dry.

4. KEY CONSTRAINTS

- 4.1 Green Belt
Area TPO
Close proximity to Local Wildlife site
Protected species

5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 Permission is sought for various groundworks and minor engineering operations on land associated with the residential dwellinghouse Broadlands. The land which forms the application site excludes the main house and formal residential curtilage but includes extensive land under the same ownership.
- 5.2 The works to the land include the upgrading and enlargement of two ponds and ground re-profiling to manage the flow of water so that the site does not become waterlogged and so that the lower-lying neighbours' gardens do not become inundated. Two timber jetties, two bridges and planting is also proposed
- 5.3 The application follows a previous similar application which was refused on grounds that the proposed works would result in an unacceptable impact on important trees, including veteran trees within the site and the loss of these trees would be harmful to the character of the area.
- 5.4 The current application differs to the previous application in that the extent of engineering works has been reduced and the two ponds are not proposed to be connected by a cascade. The Arboricultural and flooding information supporting the proposal has been updated accordingly.

6. DEVELOPMENT PLAN

Adopted Royal Borough Local Plan (2003)

- 6.1 The main Development Plan policies applying to the site are:

Issue	Adopted Local Plan Policy
Design in keeping with character and appearance of area	DG1
Impact on the Green Belt	GB1 and GB2
Highways	P4 and T5
Trees	N6

These policies can be found at <https://www.rbwm.gov.uk/home/planning/planning-policy/adopted-local-plan>

Adopted Ascot Sunninghill and Sunningdale Neighbourhood Plan (2011-2026)

Issue	Neighbourhood Plan Policy
Design in keeping with character and appearance of area	DG1, DG2 and DG3
Highways	T1
Trees	EN1

These policies can be found at <https://www.rbwm.gov.uk/home/planning/planning-policy>

7. **MATERIAL PLANNING CONSIDERATIONS**

National Planning Policy Framework Sections (NPPF) (2019)

Section 4- Decision-making

Section 9- Promoting Sustainable Transport

Section 12- Achieving well-designed places

Section 13- Protecting Green Belt land

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

Borough Local Plan: Submission Version

Issue	Local Plan Policy
Appropriate Development in Green Belt and acceptable impact on Green Belt	SP1, SP5
Design in keeping with character and appearance of area	SP2, SP3
Manages flood risk and waterways	NR1
Trees, Woodlands and Hedgerows	NR2
Nature Conservation	NR3

Borough Local Plan: Submission Version Proposed Changes (2019)

Issue	Local Plan Policy
Appropriate Development in Green Belt and acceptable impact on Green Belt	SP1 and QP5
Design in keeping with character and appearance of area	QP1, QP3
Natural Resources	NR1, NR2 and NR3

- 7.1 The NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation. The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. Following this process the Council prepared a report summarising the issues raised in the representations and setting out its response to them. This report, together with all the representations received during the representation period, the plan and its supporting documents was submitted to the Secretary of State for independent examination in January 2018. The Submission Version of the Borough Local Plan does not form part of the statutory development plan for the Borough.
- 7.2 In December 2018, the examination process was paused to enable the Council to undertake additional work to address soundness issues raised by the Inspector. Following completion of that work, in October 2019 the Council approved a series of Proposed Changes to the BLPSV. Public consultation ran from 1 November to 15

December 2019. All representations received have been reviewed by the Council and the Proposed Changes have been submitted to the Inspector. The Inspector has resumed the Examination of the BLPSV with hearings ongoing. The BLPSV and the BLPSV together with the Proposed Changes are therefore material considerations for decision-making. However, given the above both should be given limited weight.

Other Local Strategies or Publications

7.3 Other Strategies or publications material to the proposal are:

- RBWM Townscape Assessment

More information on these documents can be found at:

<https://www.rbwm.gov.uk/home/planning/planning-policy/planning-guidance>

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

10 occupiers were notified directly of the application.

The planning officer posted a notice advertising the application at the site on 13th October 2020 and the application was advertised in the Local Press on 8th October 2020.

2 letters were received objecting to the application, summarised as:

Comment		Where in the report this is considered
1.	The proposed ponds would be fed using bore holes and the spring which would have an adverse impact on access to groundwater within the surrounding area.	See section vii which discusses flooding and groundwater
2.	Adverse impact on mature, protected trees as the ponds will take from groundwater needed to feed the trees. Damage to trees from lack of water could cause trees which line Bagshot Road to fall on the road causing a traffic hazard	See section v
3.	New landscaping will also take from groundwater. If deep rooted they will aggravate the water table	The Tree Officer is satisfied that new landscaping would be appropriate within the site.
4.	There may be chemicals in the water used to fill the ponds which could be detrimental to aquatic life	The ponds are to be filled from groundwater and rainwater
5.	The use of tap water to fill the ponds could have an impact on the local water network	The ponds are to be filled from ground and rain water

6.	Older ponds in the area could drop in level or dry up if the proposed ponds take excessively from groundwater	The applicant will need a groundwater abstraction licence from the EA
7.	The Council must ensure that the application is assessed thoroughly by environmental experts	Environmental experts have been consulted and provided comments on the application

Statutory consultees

Consultee	Comment	Where in the report this is considered
Environment Agency	No objections, subject to an informative advising the applicant that they will likely need a groundwater abstraction licence.	See section vii
LLFA	No objection subject to condition	See section vii

Consultees

Consultee	Comment	Where in the report this is considered
Parish Council	None received	Noted
Trees	No objection subject to conditions relating to tree protection and landscaping.	See section v
Ecology	No objections subject to conditions relating to a Construction Environmental Management Plan (CEMP), a Japanese Knotweed eradication strategy and Biodiversity Enhancements	See section vi
Berkshire Archaeology	No objection subject to a condition requiring the submitted programme of archaeological work to be carried out.	See section viii
Highways	No objection	See section iv

9. EXPLANATION OF RECOMMENDATION

9.1 The key issues for consideration are:

- i Green Belt
- ii Impact on the Character of the Area
- iii. Impact on Residential Amenity
- iv. Highways and Public Rights of Way
- v. Trees
- vi. Ecology
- vii. Flooding/drainage
- viii Archaeology

Issue i - Green Belt

- 9.2 The entirety of the application site lies within the Green Belt and no part of the site can be described as previously developed land. Starting with the development plan, policy GB1 of the adopted Local plan states that within the Green Belt, approval will only be given, save for in very special circumstances, for a few limited forms of development. This includes engineering operations which maintain openness and do not conflict with the purposes of including land in the Green Belt. Furthermore, policy GB2 states that permission will not be granted for new development or for the redevelopment, change of use, or replacement of existing buildings within the Green Belt if it would, a) have a greater impact on the openness of the Green Belt or the purposes of including land in it than the existing development on the site and b) harm the character of the countryside.
- 9.3 Turning to the NPPF, paragraph 146 states that engineering operations are not inappropriate development in the Green Belt provided that they would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. The applicant also considers paragraph 145 (b) relevant, which states that the construction of new buildings for the provision of appropriate facilities for outdoor recreation is not inappropriate as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. It is considered that both paragraphs 145 (b) and 146 are relevant in this case.
- 9.4 A further consideration, albeit of limited weight, is policy QP5 of the Borough Local Plan submission version which states that the Metropolitan Green Belt will continue to be protected, as designated on the Policies Map, against inappropriate development. Permission will not be given for inappropriate development (as defined by the NPPF), unless very special circumstances are demonstrated.
- 9.5 As such, the aforementioned national and local Green Belt policy deems engineering operations to be appropriate development provided they preserves the openness and purposes of the Green Belt. This is discussed in further detail below.
- 9.6 The proposed works would cover a large area of land but the plans indicate that the works would be minimal and appear natural, particularly the upgrading of the ponds and the ground re-profiling.
- 9.7 The proposal includes alterations to ground and water levels within the site. These level changes range from approx. 0.5m to 2.5m, which spread out over a large surface area, would ensure that the site remains naturally landscaped in its appearance and therefore these works would not harm the openness of the Green Belt in spatial or visual terms
- 9.8 These ground works are considered to constitute engineering operations which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it and are therefore appropriate development.
- 9.9 The proposed hard-landscaped structures including the timber jetties and bridges are more engineered in appearance however would be very limited in terms of their projection out of the ground - the plans indicating that a large proportion of the structures would either be below ground level or water level thereby having no impact on openness. The works are described as follows; The jetties would be 350mm off ground level (450mm off water level). The flat bridge would have a flat deck with a simple lightweight handrail. The deck would be above the water level but below ground level so only the posts and handrail would be visible from further away within the site. The Monet bridge would be curved with a thin deck and simple non-solid, largely open

side. It is considered that these works are small in scale and low in height, such that they would appear as very subservient structures within the landscape. These works could be said to preserve the openness of the Green Belt both spatially and visually. Since the determination of previous application ref: 19/02204/FULL there has been further consideration of appeal decisions on this subject matter and the Local Planning Authority consider that it is more appropriate to define these hard-landscaped structures as buildings within the Green Belt rather than engineering operations. Given the use of these structures it is considered that there could be deemed as appropriate facilities for outdoor recreation thus complying with paragraph 146 (b) of the NPPF as appropriate development within the Green Belt. Whilst the application site is not part of the residential curtilage of the dwellinghouse known as Broadlands, the occupiers of Broadlands already use this land for outdoor recreation. The erection of these very limited structures would not enable any increase in intensity or domestication of the application site and therefore it is considered appropriate to assess the development in this way,

- 9.10 Regarding impact on purposes of the Green Belt, the proposal would not involve a change of use of the land and the grounds would remain in private ownership in association with the dwellinghouse, Broadlands, but not curtilage land. As such, the proposed works would not result in an encroachment on the countryside.

Issue ii - Impact on the character of the area

- 9.11 Given the nature of the works and the mature screening within the site and on the site boundaries, the proposed works would not be visible from outside the site. The impact on the trees and the landscape character of the area is discussed at section v below.

Issue – iii Impact on Neighbouring Amenity

- 9.12 It is considered that there would be minimal impact on neighbouring occupiers due to the nature of the works. Indeed, the proposed structures would not be visible from outside the application site.

Issue iv - Highway consideration and parking provision.

- 9.13 The proposal would not have any highways implications or result in the need for additional parking provision at the dwellinghouse. The proposed development is to be used solely by the owners of the existing dwellinghouse.

Issue v - Trees

- 9.14 The site is covered by an Area Tree Preservation Order. Previous application ref: 19/02204/FULL was refused on grounds that the proposed works, including the changes to ground levels and the hydrology of the site arising from the works, would be harmful to these important trees and potentially lead to their demise. The on-site trees are protected because they are important features within the local landscape and their loss was considered to be harmful to the landscape character of the area. Additionally the harm to veteran trees would have resulted in the loss or deterioration of irreplaceable habitat as set out in the NPPF.
- 9.15 The current application has been amended in terms of the scale and nature of the proposed works and the supporting Arboricultural information has been updated accordingly. The application demonstrates that the works would be carried out outside the root protection areas (RPA) of retained trees. Furthermore, there would be no alterations to soil levels within the RPA of retained trees.

- 9.16 Regarding impact on hydrology, a revised flood risk assessment and water impact assessment has been submitted which sets out that soil moisture as a result of the proposed development would remain at pre-development level and there is no increase in ground water flooding. The harm to trees as a result of changes to hydrology is therefore minimal.
- 9.17 The plans and supporting documents have been scrutinised by the Council's Tree Officer and no objections are raised to the amended application subject to tree protection measures being implemented and a full landscaping scheme to be submitted. (These matters are to be dealt with via condition 2 and 3 respectively).

Issue vi - Ecology

- 9.18 The amended plans submitted with the current application are unlikely to have any additional impact on ecology than the previous proposal, application 19/02204/FULL, to which the Ecologist did not raise objection subject to condition.
- 9.19 The proposals are overall likely to result in enhancements for biodiversity and there is a low risk that badgers, reptiles and nesting birds could be present on site during works. Non-native invasive plant species are present on site and there is a risk that the proposed works could facilitate the spread of these species. Works should therefore be undertaken in accordance with an approved Construction Environmental Management Plan for Biodiversity to be secured by condition 4. In addition, a condition ensuring eradication of Japanese Knotweed from the site has been recommended (Condition 5). Finally a condition is attached to ensure biodiversity enhancements are carried out in line with the ecology report (condition 6).

Issue vii - Flooding/Drainage

- 9.20 The site suffers from extensive surface water flooding and this is the driver behind the proposal. The Environment Agency has no hydrological concerns over the development but have advised that the applicant must be made aware that they will likely need a groundwater abstraction licence. Such a licence is required if the applicant abstracts more than 20 cubic metres of water per day from a surface water source or from underground strata (via borehole or well). The licence is dependent on available water resources. The impact on groundwater resource has been raised by residents and the applicant will be advised on the need for a licence via informative.
- 9.21 The Lead Local Flood Authority has commented on proposal and is satisfied that the proposal is acceptable from a surface water drainage point of view. They have requested a surface water drainage scheme is submitted via condition to ensure the proposed development is safe from flooding and does not increase flood risk elsewhere.

Issue viii – Archaeology

- 9.22 The site lies within an area of archaeological potential, particularly for, but not limited to, Roman remains. The potential impacts of the development can be mitigated through a programme of archaeological work which has been defined within the submitted Written Scheme of Investigation. A condition is attached to ensure works are carried out in accordance with this Written Scheme of Investigation.

10. PLANNING BALANCE AND CONCLUSION

- 10.1 The proposed works are considered to have minimal impact upon the openness of the Green Belt and the character of the area.
- 10.2 Despite two objections from neighbours, the plans and supporting documents have been scrutinised by Environmental experts including the Council's Tree Officer and Ecologist, the Lead Local Flood Authority, the Environment Agency and Berkshire Archaeology. The proposal has been found acceptable with regard to impact on flooding, drainage, groundwater, trees, ecology and archaeology subject to conditions.
- 10.3 In line with paragraph 11 of the NPPF the development should therefore be approved without delay.

11. APPENDICES TO THIS REPORT

- Appendix A - Site location plan and site layout
- Appendix B – Plan and elevation drawings

12. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

- 1 The development hereby permitted shall be commenced within three years from the date of this permission.
Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The erection of fencing for the protection of any retained tree and any other protection specified shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site, and thereafter maintained until the completion of all construction work and all equipment, machinery and surplus materials have been permanently removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the Local Planning Authority.
Reason: To protect trees which contribute to the visual amenities of the site and surrounding area. Relevant Policies - Local Plan DG1, N6.
- 3 The development shall not be occupied until the hard and soft landscaping scheme has been implemented within the first planting season following the substantial completion of the development in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The development shall be retained in accordance with the approved details. If within a period of five years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity.
Reason: To ensure a form of development that maintains, and contributes positively to, the character and appearance of the area. Relevant Policies - Local Plan DG1.
- 4 No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.(a) Risk assessment of potentially damaging construction activities.(b) Identification of "biodiversity protection zones".(c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce

impacts during construction, including precautionary measures for nesting birds and an invasive-species method statement.(d) The location and timing of sensitive works to avoid harm to biodiversity features.(e) The times during construction when specialist ecologists need to be present on site to oversee works.(f) Responsible persons and lines of communication.(g) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To minimise impacts on biodiversity in accordance with paragraphs 170 and 175 of the NPPF.

- 5 No development hereby permitted shall commence until a Japanese Knotweed eradication strategy has been submitted to, and approved in writing by the Council. The strategy shall include details of and timescales for knotweed eradication, and, if the knotweed has not been eradicated at the time of commencement of works, details of the measures to be put in place to ensure that works do not cause its spread. The eradication strategy shall be carried out in accordance with the approved details unless the local planning authority gives written approval for any variations.

: Japanese knotweed, is an invasive weed that can have a significant adverse effect on biodiversity - this condition will ensure that it is controlled and not spread.

- 6 Prior to the occupation of the development, details of biodiversity enhancements, to include bird and bat boxes, tiles or bricks appropriately situation on trees or buildings around the site, and native and wildlife friendly landscaping (including planting of lake and pond margins with native aquatic marginal vegetation as recommended in the ecology report (The Environmental Dimension Partnership Ltd, July 2019, ref: edp5106_r001a), shall be submitted to and approved in writing by the Council. The biodiversity enhancements shall thereafter be installed as approved.

:To incorporate biodiversity in and around developments in accordance with paragraph 175 of the NPPF.

- 7 Prior to commencement (excluding demolition) a surface water drainage scheme for the development, based on the submitted sustainable drainage strategy, shall be submitted to and approved in writing by the Local Planning Authority. Details shall include:

- Full details of all components of the proposed surface water drainage system including dimensions, location, gradients, invert level, cover levels and relevant construction details.

- A layout showing how exceedance flow will be managed on site and the routes

- Details of the maintenance arrangement relating to the proposed surface water drainage system, confirming who will be responsible for its maintenance and the maintenance regime to be implemented

The surface water drainage system shall be implemented and maintained in accordance with the approved details thereafter.

Reason: To ensure compliance with the National Planning Policy Framework and the Non-Statutory Technical Standards for Sustainable Drainage Systems, and to ensure the proposed development is safe from flooding and does not increase flood risk elsewhere.

- 8 The development shall take place in line with the programmed or archaeological work as defined within the approved Written Scheme of Investigation submitted alongside the development application.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programmed set out in the Written Scheme of Investigation approved under condition and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

: The site lies within an area of archaeological potential, particularly for, but not limited

to, Roman remains. The potential impacts of the development can be mitigated through a programme of archaeological work. This is in accordance with national and local plan policy.

- 9 The development hereby permitted shall be carried out in accordance with the approved plans listed below.

Reason: To ensure that the development is carried out in accordance with the approved particulars and plans.

Informatives

- 1 If you intend to abstract more than 20 cubic metres of water per day from a surface water source or from underground strata (via borehole or well) for any particular purpose, including to fill up the ponds, then you will need an abstraction licence from the Environment Agency. There is no guarantee that a licence will be granted as this is dependent on available water resources and existing protected rights. The documentation shows there are two existing deep boreholes within the site boundary. We have no record of these boreholes and they also don't appear on the BGS Borehole Records database. When carrying out a hydrogeological assessment for a potential abstraction licence, as a minimum, we would need to know the following information:- Borehole Depth- Construction Details (casing type; depth)- Target AquiferIt's the landowner's responsibility to apply for a licence if and when one is needed. It's an offence to abstract or impound water without a licence.
- 1 The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.