

<b>Committee(s):</b>	<b>Date(s):</b>
Open Spaces and City Gardens Policy and Resources	7 <sup>th</sup> October 2013 10 <sup>th</sup> October 2013
<b>Subject:</b> Planning Commitments for City of London Open Spaces	<b>Public</b>
<b>Report of:</b> Director of Open Spaces	<b>For Decision</b>

### **Summary**

The City of London's Open Spaces are currently affected by a number of developments in planning policy. Increased housing demand has led to development pressure on land adjacent to, or otherwise affecting, the City's Open Spaces.

Planning authorities are also developing Local Plans, which require significant input from a range of local residents and landowners, including the Open Spaces. Additionally, many authorities are reviewing their Local Development Frameworks.

Officers at the Open Spaces are required to engage extensively with planning authorities in order to protect Open Spaces and ensure plans recognise the impacts of development on the quality of visitor services, heritage and biodiversity and the risk of fragmentation of landscapes and habitat.

### **Recommendation(s)**

Members of the Policy and Resources Committee are asked to agree:

- Option Two outlined in this report: to allocate an additional £50,000 to be charged to City's Cash and met from the Policy and Resources Committee's contingency 2013/14 and 2014/15, split into two annual contributions of £25,000 for planning consultancy to aid the protection of the Open Spaces from development pressures through working with Planning Authorities to shape Local Plans.

## **Main Report**

### **Background**

1. Many of the local planning authorities that affect the City's Open Spaces are now developing the 'local element' of their core strategies and plans. These Local Plans will set out how developments will be delivered over the next decade and beyond, on land in close proximity to the Open Spaces. While the

City of London does not oppose new housing and development in general, it is important that development in the vicinity of the Open Spaces is appropriate and does not negatively impact on the sites. There exists an opportunity for the City of London to influence these Local Plans so that harm to the open spaces is minimised and/or mitigated. This will require input from local officers and require use of local risk budgets to seek specialist advice and to fund research.

2. Most of the City of London's Public Open Spaces are founded by legislation which pre-dates the Town and Country Planning system introduced in 1947, and therefore the sites do not enjoy the statutory protections in planning extended to National Parks, Areas of Outstanding Natural Beauty (AONBS) and World Heritage Sites (WHS) which were all designated after 1949. Engagement with local planning authorities is therefore essential to protecting the City of London's open spaces.

### **Current Position**

3. Many of the Open Spaces are already addressing a variety of planning issues in their local areas and there have been consequential impacts on local resources. There is also a shortage of specialist planning skills within the Open Spaces Department.
4. Whilst some of the cost of planning work has been reduced by partnership working and resource sharing between the City of London and the various Planning Authorities, it is evident that there is a requirement for additional resources in the short term to meet this unexpected demand.
5. A particular area where activity is required is ensuring Planning Authorities take into account the Conservation of Habitats and Species Regulations 2010 (The Habitats Regulations). This sets out a legal requirement to protect SACs (Special Areas of Conservation) from harm. This includes the control of development that may be having a detrimental impact on the SAC 'either alone or in combination with other developments'.
6. The Regulations make it clear that Planning Authorities, as the controlling influence on development, are the Competent Authority and as such can be held responsible by law for causing harm to the site.
7. Given the range of Planning Authorities with which sites engage, the differing conservation requirements and the different site designations, the demands on officers in each area differ. These are outlined below:

### **Burnham Beeches**

8. Burnham Beeches is a highly protected Open Space being a Site of Special Scientific Interest, National Nature Reserve and Special Area of Conservation – the latter providing responsibility for its protection under EU law both to the landowner and any other organisation or individual who is developing a plan that is likely to have a significant likely effect upon the SAC. As such, the

decisions of four local planning authorities have the potential to have a direct or indirect impact on the Beeches SAC. These are:

- South Bucks District Council (SBDC),
  - Royal Borough of Windsor and Maidenhead (RBWM),
  - Slough Borough Council (SBC),
  - Wycombe District Council (WDC).
9. In recent years, the Superintendent has been involved in the development of the local Core Planning Strategies. Each authority has an understanding of the relevant EU Habitats Directives and the potential each planning application has to cause harm to the Beeches.
  10. The Superintendent of Burnham Beeches and Stoke Common is actively working with SBDC to progress their Development Management Local Plan (DMLP) to prevent significant harm to the site (alone or in combination with all other local developments). It is the Superintendent's view that the final version of the DMLP should set limits to the type and amount of development in the vicinity of the Beeches and to ensure that those that do go ahead contribute to the long term care and maintenance of the site (as mitigation).
  11. This approach demands evidence of 'likely significant impact upon the SAC'. Unfortunately, the science is largely absent and resources are required to fund work that will help justify the case. As such the Superintendent is working in partnership with SBDC to establish baseline data to support the case to protect the site. To date in 2013/14 this has cost £20,000 and is providing basic demographic and hydrological data. An additional £5000 cost has been accrued in staff time. South Bucks District Council has contributed a similar amount (although the ratio of funding of research and staff time is different).
  12. To ensure appropriate development in the long-term it is clear that additional evidence will be required. It is very likely that research costs will grow over the next two years or so.
  13. There is also a need to seek specialist counsel if we are to be content that the final version of the DMLP is sufficiently robust in its defence of the Open Space. It is unlikely that this expertise exists in house and additional costs are foreseen.
  14. It is likely that the process will commence with the remaining named local authorities and whilst the research costs should diminish over time the impact on the Superintendent and his senior team in terms of time dedicated to the issue is likely to grow.

### **City Commons**

15. The diverse landscapes and habitats of the seven City Commons represent some of the finest open spaces in the Surrey and South London area. Ashtead Common, Farthing Downs, Coulsdon Common, Kenley Common, Riddlesdown, Spring Park and West Wickham Common comprise an invaluable resource of 479 hectares (1,185 acres) of countryside in a largely suburban area.
16. Between them the Commons are covered by a number of designations that reflect their special characteristics. Ashtead Common is designated as a National Nature Reserve and a Site of Special Scientific Interest (SSSI).

Farthing Downs and Riddlesdown are also designated as SSSIs. Six of the Commons (excluding Ashtead) are classed as Sites of Metropolitan Importance for Nature Conservation and four of the Commons contain Scheduled Monuments.

17. The Superintendent works closely with the neighbouring authorities which includes three London Boroughs, two Surrey District Councils, Surrey County Council and the Environment Agency in relation to land drainage. In addition, local residents and Friends Groups help to monitor planning applications that might impact upon the Commons.
18. Currently, the Superintendent is actively seeking to protect Kenley Common in relation to the proposed development of the former Officers Mess and NAAFI. These developments could have a significant impact on Kenley Common as well as providing an opportunity to improve access around the perimeter of the airfield. The sub division and subsequent sale of Greenbelt land around Riddlesdown has increased the risk of development and consequently the amount of Officer time to monitor and comment on planning applications.
19. In addition to this the Superintendent and his team are sometimes required to get proactively involved in schemes associated with highway development to ensure that plans are shaped appropriately. The recent example of the pedestrian crossing at Riddlesdown and the proposed crossing at West Wickham demonstrate how time consuming and politically charged such schemes can be.

## **Epping Forest**

20. In addition to the protection afforded by its founding legislation, some 1,728 hectares of Epping Forest is designated as a Site of Special Scientific Interest (SSSI) under the Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, and some 1,605 hectares are assigned as a Special Area of Conservation (SAC) under the EU Habitats Directive (92/43/EEC). Epping Forest and its associated Buffer Land also contains a number of additional protected areas including Scheduled Ancient Monuments (3); Local Geological Sites (8); Grade II\* Parks on the English Heritage Register of Historic Parks and Gardens (2) and Grade II and II\* Listed Buildings (7). Similarly, Epping Forest also coincides with Conservation Areas (17); Archaeological Protection Areas (2); Groundwater Protection Areas (1) and Special Wildlife Sites/Sites of Metropolitan Interest for nature Conservation declared by Local Planning Authorities and other agencies. The latter designation provides responsibility for its protection under EU law both to the landowner and any other organisation or individual who is developing a plan that is likely to have a significant likely effect upon the SAC. Much of Epping Forest and its Buffer Land either forms part of the Metropolitan Green Belt (MGB) or is subject to Public Open Space planning designation.
21. The decisions of four Local Planning Authorities (LPAs), particularly, but not exclusively, with regard to the SAC have the potential to have a direct or indirect impact on the Epping Forest. These are:
  - Epping Forest District Council (EFDC)
  - London Borough of Redbridge (LBR)

- London Borough of Waltham Forest (LBWF)
  - London Borough of Newham (LBN)
22. In addition, Essex County Council is the Local Planning Authority for County waste and mineral matters and its own property consents, while the London Plan is the Greater London Authority's Spatial Development Framework which sets out the overall strategic plan for London, including its Open Spaces.
  23. For some considerable time, Epping Forest members of staff have been involved in comment on individual planning matters together with detailed contributions to the local Core Planning Strategies which highlight both the conservation value of Epping Forest and the important contribution made by Epping Forest to the overall Local Authority provision of Public Open Space.

### **Hampstead Heath and Highgate Wood**

24. Hampstead Heath is one of London's most popular open spaces, well known for its spectacular panoramas across Central London from Parliament Hill, the architectural quality of the listed Kenwood House, and the unique bathing ponds. At 275 hectares, Hampstead Heath is one of London's largest open spaces. It provides a valuable recreational and environmental resource, and attracts visitors from across London, as well as further afield. The Heath has a semi-rural character, with elements of designed landscape including Golders Hill Park, Kenwood House and the Hill Garden; it is home to a mosaic of habitats, including ancient and recent woodland; and it supports a range of formal and informal recreational and sporting activities, including the Lido and the Athletics Track.
25. Whilst the Heath falls within the boroughs of Camden and Barnet, the City of London has assumed responsibility as the custodian of the Heath following the abolition of the Greater London Council in 1986. As such, the City has a statutory duty to protect and conserve the natural aspect of the Heath. This includes understanding and preserving the special interplay between the Heath and its surroundings.
26. There are growing pressures on the Heath, its surroundings and views. This is the result of a combination of factors, including the government's current agenda to make the best use of land, a renewed interest in taller buildings; trends in residential land values, mixed use developments and the social housing sector; and the inflow of capital into London's residential property market, particularly in high value areas.
27. The formal designation of two Neighbourhood Renewal Areas (Highgate and Dartmouth Park) that have incorporated parts of the eastern side of the Heath, including the Highgate chain of ponds and Parliament Hill triangle, provide further opportunities to influence planning policies at a very local level.
28. As a result of these pressures and opportunities there is a real need for a collaborative approach between the City of London and the boroughs neighbouring the Heath to ensure that the special qualities of the Heath are appropriately protected and conserved.
29. As such, the City of London has an interest in all those planning applications that could potentially impact on the qualities of the Heath. It is recognised, however, that this interest has to be proportionate both to the scale and

- nature of the application in question, and restricted to applications that are closely relevant to the character and qualities of the Heath.
30. A series of criteria for the referral of applications from boroughs neighbouring the Heath to the City of London have been identified. These are spatial criteria, within which there are development parameters providing further guidance on the types of application to be referred. These spatial criteria are as follows:
- The immediate fringes of the Heath;
  - Sensitive viewing corridors;
  - Areas with the potential for change; and
  - Key approaches to the Heath.
31. It must be noted that these criteria are indicative only, in other words they will not catch all planning applications that could impact on the character or qualities of the Heath.
32. The City of London has developed a proactive, as well as a reactive, approach to shaping development. This means taking an active role in appropriate applications at the earliest stage, this includes concept design stages, as well as early discussions about section 106 agreements. Given the complexity and size of many applications the Superintendent increasingly has to rely on support of specialist planning and engineering consultants to support objections.
33. The Superintendent and his staff respond to some 60 applications a year with 30 requiring significant time, in the order of 50 days, at a value of £10,000.
34. The number of high profile applications is considerable; £10 - £15,000 a year is spent on consultant's fees and if applications go to appeal then it has been necessary to appoint expert witnesses and counsel to support these procedures.

## Options

35. There are two options to address the forthcoming increase in planning related work.

**Option One:** Do nothing. This would require each open space to reprioritise its existing local risk budget to fund research and other works to protect that site. Open Spaces incurred a small deficit on its budget in the previous financial year and so any transfer of budget to fund this work is likely to have an impact on the sufficiency and quality of local services. One example at Burnham Beeches would be the project to improve presentation standards and visitor safety at the main entrance to the site (£21,000) which could be delayed until 2016/17.

**Option Two:** Provide additional resources of £25,000 in financial year 2013/14 and £25,000 in financial year 2014/15 with any unspent funds to be returned. This would alleviate the financial burden in its entirety and consequently not impact on the level of service provision.

## **Proposals**

36. The second option is recommended, with a proposed additional budget of £50,000 being made available for procurement of planning consultancy services. This would allow for the acquisition of expert advice, in particular relating to local or neighbourhood plans and the EU Habitats Directive.

## **Strategic Implications**

37. The provision and preservation of the Open Spaces fulfils several elements of the City Together Strategy and delivers a range of benefits to Great London. These benefits rely on the quality of the Open Spaces and the prevention of encroaching development is central to this quality.
38. The Acts of Parliament which relate to the Open Spaces allow the City of London to use all lawful means to resist encroachments and preserve the landscape of the Open Spaces.

## **Financial and Risk Implications**

39. The Committee is requested to provide funding for planning consultancy at a cost of £50,000, split over two financial years and met from the Policy and Resources Committee's contingencies 2013/14 and 2014/15 and charged to City's Cash. The current uncommitted balance for 2013/14 is £541,000 prior to any allowances being made for any proposals on today's agenda. Substantial funds currently remain in the contingency for 2014/15.
40. Inappropriate development around the open spaces would carry with it increased visitor numbers and the potential for the sites to need more intensive and expensive management. Increased vehicle use in developed areas could lead to reduced air quality, localised pollution and impacts on hydrology. A further significant risk follows, in terms of the impact of more intensive development on the wildlife, biodiversity and heritage of the sites.
41. There is no legal risk through failure to engage with the local planning authorities. The EU Habitats Directive does not include provisions relating to the role of the City as landowner, but with the planning authority.

## **Conclusion**

42. The Open Spaces are facing considerable demand for input into the shaping of Local Plans. In order to protect the Open Spaces, it is important that Local Plans do not allow for intense development of areas around the sites. Providing effective input into the work of Planning Authorities in the short term requires significant resources. This challenge could be met by providing additional resource for the provision of planning consultancy.

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