

Bishop's Waltham Society



Past • Present • Future



**Proposals that Bishop's Waltham
Palace and its grounds should be
purchased on behalf of the community**



**A consultation guide prepared by the Bishop's Waltham Society
May 2017**

A guide to proposals that Bishop's Waltham Palace and its grounds should be purchased on behalf of the community

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Introduction

In early 2015, Bishop's Waltham Parish Council registered the Palace and its grounds as "an asset of community value" with Winchester City Council. This action took advantage of the provisions within the Localism Bill (2011) that give local groups a right to nominate a building or other land for listing by the local authority as such an asset.

The purpose is to ensure that when such a listed asset is to be sold, local community groups will have a fairer chance to make a bid to buy it on the open market because a "moratorium" can be triggered which precludes the sale of the asset for a period of six months. This period is designed to allow the local group to raise sufficient funds to make an offer for the asset. There is no obligation on the owner to accept this offer if a better offer is available on the open market.

Palace House in Bishop's Lane, Bishop's Waltham, has recently been placed on the market with Knight Frank. The Palace ruins and the grounds are included in the sale and the Parish Council has therefore been notified that this 'asset of community value' is to be sold.

The Parish Council has six weeks (the 'interim moratorium') during which it may express interest in purchasing the asset. If such an interest is expressed within that period then the full six month moratorium is triggered. Both periods are deemed to have started when notification of the sale was made to the Parish Council.

The first meeting of the Parish Council, after the notification was received, will be held on Tuesday 13th June. This will be the only meeting available during the 'interim moratorium' period for the Council to make a decision. Since time precludes a full consultative process across the whole community, the Council has asked local community groups, such as the Bishop's Waltham Society, to provide representative views. These will need to be known by the Parish Council before their meeting on 13th June.

At this stage, the only question is whether the Society and its members would wish the Palace and its grounds to be in 'community ownership' (however defined) or to remain in private hands (the new owners of Palace House). If it is the former then the Parish Council may decide to express its interest and trigger the longer moratorium period (in order to look fully at the possibilities and/or problems of ownership and how/where to raise money). There is no onus on the Council to have funds available when it expresses this initial interest or to actually make a bid during the six month period.

This document has been put together as quickly as possible for the guidance of Society members. It does not constitute legal or consultative advice. Members should express their own views to the committee (details below) who will collate them and provide the relevant information, in numerical form only, to the Parish Council before their meeting on 13th June.

Background Information

1. What is the Palace's status?

Bishop's Waltham Palace and its grounds are a Scheduled Ancient Monument and are Grade 1 listed. This is the highest category of definition in the listing system for historical or archaeological sites in England. "*Scheduled monuments are designated in order to secure their*

legal protection in the national interest, and to secure their long term preservation in situ - as far as possible in the state in which they have come down to us.”

There are just under 20,000 scheduled monuments in England, most are inconspicuous archaeological sites but some are large ruins¹. The Palace at Bishop’s Waltham is also classified as a “Magnate’s Residence”. *“A magnate’s residence (medieval) is a very high-status residence of domestic rather than military character. Such residences were the palaces or houses of royalty, bishops and the highest rank of nobility who were usually closely linked to the monarch.”*

There are only 150 “Magnate’s Residences” in the country and thus this is a relatively rare type of archaeological site. Historic England’s Heritage Monument Class Description classes a Magnate’s Residences as a ‘Rarity’. The Department of Culture, Media and Sport (DCMS), in their non-statutory guidelines for scheduling states: *“Rarity - there are some monument categories which are so scarce that all surviving examples which retain some archaeological potential should be preserved”*.²

2. Who owns the Palace and its grounds?

The Palace and its grounds are privately owned by Mr and Mrs Alan Lovell as part of the property called Palace House. Knight Frank describe them in its sales literature as “Ruins of the 12th Century Bishop’s Palace, a Grade I listed and Scheduled Ancient Monument.”

3. Deed of guardianship

Admiral Cunningham and his wife bought Palace House before the Second World War. In 1946 he retired as First Sea Lord to live in Bishop’s Waltham. In 1952, as the owner of the Palace and its grounds, he entered a deed of guardianship for the Monument with the then Ministry of Works. This deed of guardianship has continued through the subsequent ownership of both the Martineaus and the Lovells, and will continue with any new owner.

4. What is guardianship?

The concept of Guardianship was first introduced by the Ancient Monuments Act 1882 and has been developed and refined by subsequent legislation. The basic principle is that by accepting guardianship a guardian takes on full responsibility for the repair and maintenance of an ancient monument and gains extensive rights of ‘control and management’; these, however, fall short of outright ownership of the property.³

The guardian also takes a responsibility to provide public access and visitor facilities. Associated land may also be taken into guardianship⁴. Guardianship agreements are a voluntary arrangement but only the Secretary of State (DCMS), Historic England (see 5 below) and local authorities have the power to become guardians of ancient monuments.

Approximately two-thirds of properties in the care of Historic England are under guardianship arrangements. Bishop’s Waltham Palace and its grounds are one such property.

5. What role does English Heritage play?

After 1983 the Historic Buildings and Monuments Commission for England became known as English Heritage. In this role English Heritage has been fully responsible for the repair and maintenance of the Palace and its grounds and has simultaneously acquired extensive rights of ‘control and management’ for the site.

At the start of April 2015, English Heritage separated into two different bodies. A new charity retaining the name English Heritage now looks after the National Heritage Collection - the stone circles, castles, abbeys, historic houses and all the other sites that were in English Heritage’s

¹ “Scheduled Monuments”, DCMS March 2010

² Peter Wardle, The Historic Environment Consultancy, Letter to Secretary of State DCMS 3rd May 2012 on behalf of Bishops Waltham Action Group

³ Ceri Pemberton, Head of Legal Department, English Heritage, Conservation bulletin, Issue 54, Spring 2007

⁴ <https://historicengland.org.uk/advice/hpg/HAR/ownership-guardianship/>

direct care. A newly named organisation called Historic England continues the statutory role of planning and scheduling, giving expert advice to owners, local authorities and the public, and championing the wider historic environment.

In this context, English Heritage remains the guardian and manager of Bishop's Waltham Palace and its grounds whilst ownership currently resides with the Lovells.

6. Continuity of guardianship

Ceri Pemberton, Head of Legal Department at English Heritage, wrote in 2007 that "For many years, guardianship took effect in perpetuity, similar to the National Trust's power to hold land inalienably. The intention was to give assurance to the owner placing a monument into guardianship that the future of their property was secure.

The Ancient Monuments and Archaeological Act 1979 introduced for the first time the possibility of rescinding guardianship in certain closely specified circumstances, although no guardianship has been terminated to date. In view of the historical nature of some guardianships it may even be difficult to identify the current freehold owner of some monuments let alone consider returning responsibility for the monument to them, and English Heritage will therefore continue to safeguard these properties for public enjoyment and education."⁵

These specified circumstances, under Section 14 of the Act, preclude a private owner from terminating a guardianship deed since they are not qualified "to establish guardianship of the monument under section 12 of this Act" and are, in any case, "bound by the guardianship deed". The provisions seem to be designed for a local authority, who has come into ownership of a monument, to become the guardian themselves. There seems no prospect that a private owner could rescind the deed of guardianship.

The Executive Committee's conclusions

On the basis of the above, it seems certain that whoever owns the Palace and its grounds - whether it be a new private owner or a community body - the deed of guardianship will continue. As a result English Heritage will retain its statutory duty to maintain the monument and continue to have very wide powers to exercise control and management of it. They will also still be responsible for providing public access and any visitor facilities.

Should a community body buy the monument it is unlikely to incur future repair or maintenance costs (covered by English Heritage) but neither will it acquire any different level of control over the site. Nor is it likely that there will be any future revenue stream to defray the capital cost of the purchase - English Heritage can charge for the asset's use and for their own costs incurred in manning the site when it is in use (for instance at Bishop's Waltham Festival events).

Any purchase cost must therefore be seen as a sunk cost with no prospect of repayments or income for the community body in the future. There will, almost certainly, be additional hidden costs of continuing liaison with English Heritage over the years.

Your view

We have tried to set out the situation as dispassionately as we can, but do please note we have not been able to take legal or other professional advice in the time available. **Now... please let us know what you think by Thursday 8th June!** Provide us with a simple 'yes' or 'no' to the idea of trying to take the Palace and its grounds into community ownership. You may wish to provide your name but in any circumstance please provide us with your postcode so we can check that you come from the area.

Please email your views to info@bishopswalthamsociety.org.uk or write and send a letter or postcard to BWS Chairman, Gable House, Bank Street, Bishop's Waltham, SO32 1AE. **BUT PLEASE DO SO AS QUICKLY AS POSSIBLE! THANK YOU...**

⁵ Conservation bulletin, Issue 54, Spring 2007