

# Forest Heath District Council

**DEVELOPMENT  
CONTROL COMMITTEE**

**3 AUGUST 2016**

**DEV/FH/16/019**

**Report of the Head of Planning and Growth**

**PLANNING APPLICATION DC/16/0179/FUL - DEVELOPMENT SITE, GAZELEY  
ROAD, KENTFORD**

## **Synopsis:**

Application under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and associated matters.

## **Recommendation:**

**It is recommended that the Committee determine the attached application and associated matters.**

## **CONTACT OFFICER**

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# Committee Report

**Date** 5<sup>th</sup> February **Expiry Date:** 1<sup>st</sup> April 2016 – EOT 4<sup>th</sup>  
**Registered:** 2016 August 2016

**Case Officer:** Kerri Cooper **Recommendation:** Approve

**Parish:** Kentford **Ward:** South

**Proposal:** Planning Application DC/16/0179/FUL - 2no. two storey dwellings as amended by drawing nos. 755/1, 2, 3, 4, 5, 6, 7 and 16 5638 10 Rev J received 20th May, 27th June and 20th July 2016 revising layout and design and omitting 1no. dwelling

**Site:** Development Site, Gazeley Road, Kentford

**Applicant:** Mr Wyncoll

## **Background:**

**This application is referred to the Development Control Committee due to the complex policy issues. The recommendation is for APPROVAL and the Parish Council raise no objections.**

## **Proposal:**

1. Planning permission was initially sought for the construction of 3no. detached dwellings, with associated landscaping and parking. The existing access into the site is to be improved.
2. The application has been amended since submission to omit 1no. dwelling and revise the site layout and design of the proposed dwellings following concerns raised by the Local Planning Authority.

## **Application Supporting Material:**

3. Information submitted with the application as follows:
  - Drawing nos. 755/1, 2, 3, 4, 5, 6 and 7 received 20<sup>th</sup> May and 27<sup>th</sup> June 2016.
  - Site Location Plan and drawing no. 16 5638 10 Rev J received 27<sup>th</sup> June 2016 and 20<sup>th</sup> July 2016.
  - Arboricultural Impact Assessment and Method Statement received 23<sup>rd</sup> May 2016.

### **Site Details:**

4. The application site is located to the rear of Regal Lodge and The Cottage, which is a new dwelling nearing completion. The site is accessed via Gazeley Road which also serves Regal Lodge. The site is situated outside of the Housing Settlement Boundary, within the Countryside on the edge of Kentford. Protected trees lie to the South and West of the site.
5. The site is surrounded by a combination of residential and business units.

### **Planning History:**

6. DC/15/0965/FUL - Planning Application - Erection of dwelling –The Cottage, Gazeley Road, Kentford – Approved
7. F/94/302 - Conversion of former hotel and outbuildings to form three dwellings and garages – Regal Lodge, Gazeley Road, Kentford - Approved

### **Consultations:**

8. Highway Authority: No objection, subject to conditions.
9. Conservation Officer: No objection.
10. Environmental Health – Public Health and Housing: No objection, subject to condition.
11. Environmental Health – Land Contamination: Prior to the application being amended, the following objection was received:
  - *The application contains insufficient information on the risk posed by potential contamination at the site.*Subsequent comments were received following re-consultation on the amended plans:
  - *The Environment Team following the revisions to the above referenced planning application. Given the development now only comprises of two dwellings and is below our threshold for requiring a full Phase One Desk Study report, we can now withdraw our objection to the application.*
12. Landscape and Ecology Officer: An initial objection was received due to impact on a TPO Beech Tree.  
  
Subsequent comments were received following re-consultation on the amended plans:
  - *House no. 2 has been repositioned outside of the Root Protection Area, therefore I have no objection subject to conditions.*
13. Policy: The following comments have been received:
  - *The Council can continue to demonstrate an up to date five year supply of housing land.*

- *The application site remains outside the settlement boundary and within the countryside. The principle of development on this site would be contrary to policy CS10 of the Core Strategy as it is not within the Kentford settlement boundary;*
- *The application remains contrary to a number of policies in the Joint Development Management Document. The site continues to lie within the countryside and the proposals do not meet the criteria for development set out in policies DM5 and DM27. In respect of our previous concerns regarding any potential 'conflict' with elements of DM2 (in particular criterion d. and g.) you should assess whether (and further to our recommendation of canvassing comments from the Conservation Team in respect of potential impact on Regal Lodge and the impact on trees on the site from a tree officer) the revised submission has gone far enough in terms of addressing these,*
- *The emerging Site Allocations Local Plan Preferred Options, taking into account all available evidence at this time, is still not proposing to allocate the application site although it is proposed to extend the settlement boundary in this location (although it is recognised that whilst this plan indicates the council's preferred direction of growth, this plan is at Regulation 18 stage and therefore only carries limited weight).*
- *It remains that a boundary change to planning application DC/14/2203/OUT will need to be reflected in the next stage of the SALP along with consequential changes to the settlement boundary which would exclude the site subject of the current application.*
- *To conclude, it is for you to balance the above planning issues with the requirement of the NPPF to deliver sustainable development. However, planning law dictates that applications for planning permission must be determined in accordance with the development plan unless material considerations dictate otherwise. Irrespective of your conclusions in respect of any conflict with the provisions of Policy DM2, the revised proposal would be contrary to policies CS10, DM5 and DM27 that form part of the Forest Heath Development Plan.*

14. Natural England: No objection.

15. RSPB: No comments received.

16. Environment Agency: No objection.

17. Development Monitoring Officer: The following comments were received:

- *For this application it is a net gain of 2 dwellings, so no s106 contributions will apply, unless the dwellings have a maximum combined gross floor space of more than 1000sqm.*

18. Officer Note: the combined floor space does not exceed 1000sqm.

## **Representations:**

19. Parish Council: Prior to the amendments and re-consultation, the following comments in support of the application were received:

- *Support the application as there has been some very sensitive and thoughtful designs. As there are now 10no. houses / apartments within this development, it should count as a significant factor in the Local Plan consideration.*

20. No further comments have been received from the Parish Council.

21. Neighbours: Prior to the amendments and re-consultation, the following comments in support of the application have been received from the owner of the adjacent property:

- *I support this imaginative proposal and its use of the space available on the site to provide further high quality homes in Kentford.*

22. No further representations have been received.

**Policy:** The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:

23. Joint Development Management Policies Document:

- Policy DM1 (Presumption in Favour of Sustainable Development)
- Policy DM2 (Creating Places – Development Principles and Local Distinctiveness)
- Policy DM5 (Development in the Countryside)
- Policy DM7 (Sustainable Design & Construction)
- Policy DM12 (Mitigation, Management, Enhancement and Monitoring of Biodiversity)
- Policy DM13 (Landscape Features)
- Policy DM14 (Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards)
- Policy DM22 (Residential Design)
- Policy DM27 (Housing in the Countryside)
- Policy DM46 (Parking Standards)

24. Forest Heath Core Strategy 2010:

- Policy CS1 (Spatial Strategy)
- Policy CS2 (Sustainable Development)
- Policy CS5 (Design Quality and Local Distinctiveness)
- Policy CS10 (Sustainable Rural Communities)

## **Other Planning Policy:**

25. National Planning Policy Framework (2012)

26. Emerging Site Allocations Preferred Options

27. Forest Heath 1995 Local Plan Saved Policies

28. Strategic Housing Land Availability Assessment (SHLAA)

## **Officer Comment:**

29. The issues to be considered in the determination of the application are:

- Principle of Development
- Design and Form
- Impact on Neighbouring Amenity
- Impact on Highway
- Other Matters

## **Principle of Development**

30. At the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 12 of the NPPF states that the Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up to date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF is a material consideration.

31. Paragraph 49 of the Framework states that 'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites'.

32. Paragraph 215 of the NPPF requires the decision maker to assess the degree to which relevant policies in existing plans are consistent with the Framework: the closer they are to the policies in the Framework the more weight they should attract.

33. It has recently been held at planning appeal that the Council can demonstrate a five year supply of deliverable housing sites (APP/H3510/W/15/3070064 – Meddler Stud, Bury Road, Kentford – Appeal Decision Dated 05 May 2016). Policies relating to the supply of housing can therefore be considered up to date.

34. In terms of policies relating to the distribution of housing, the Forest Heath Core Strategy was adopted in May 2010, but was subject to a successful High Court challenge in April 2011. The judge concluded that, although the Local Planning Authority had followed the procedural stages of a Strategic Environmental Assessment, it had failed to provide adequate information and explanation of the choices made to demonstrate that it had tested all reasonable alternatives for residential growth. The judgement ordered the quashing of certain parts of Policy CS7 with consequential amendment of CS1 and CS13. The result was that the Local Planning Authority maintained the overall number of dwellings that it needed to provide land for and the overall settlement hierarchy, but no precise plans for where dwellings should be located.

35. The detailed settlement boundaries are set out in the 1995 Local Plan as Inset Maps. Local Plan policies which provide for settlement boundaries (and, indirectly, the Inset Maps of the 1995 Local Plan) were replaced by

Policy CS1 of the Core Strategy upon adoption in 2010. Whilst Policy CS1 (and other Core Strategy policies), refer to settlement boundaries, the Core Strategy does not define them. Settlement boundaries are included on the Policies Map accompanying the Joint Development Management Policies Document (2015) and therefore do have Development Plan status. The settlement boundaries are illustrated at a small scale on the Policies Map and it is difficult to establish their detailed alignment. Accordingly it is reasonable to read the Policies Map and Local Plan Inset Maps together to establish the precise locations of the settlement boundaries.

36. The settlement boundaries included on the Policies Map were not reviewed prior to adoption of the Joint Development Management Policies Document and thus have not been altered from the 1995 Local Plan Inset Maps. Core Strategy Policy CS10 confirms the settlement boundaries will be reviewed as part of the emerging Site Allocations Development plan Document.
37. Officers consider the requirement in Core Strategy CS10, combined with the fact that settlement boundaries and policies underpinning them, have not been reviewed since the introduction of the NPPF, means the current settlement boundaries are to be afforded reduced weight (but are not to be overlooked altogether) in considering planning applications. They will be attributed greater weight as the Site Allocations Plan progresses towards adoption. The Planning Inspector at the Meddler Stud confirmed this approach, noting that there is no up to date development plan for housing provision (APP/H3510/W/15/3070064 – Meddler Stud, Bury Road, Kentford – Appeal Decision Dated 05 May 2016).
38. On the basis that settlement boundaries and the policies underpinning them pre-date the NPPF, Paragraph 14 of the NPPF and Policy DM1 of the Joint Development Management Policies Document is engaged. These state that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
39. The proposal does offer societal 'benefit' in terms of contributing to Forest Heath's housing stock and granting permission would have a positive, (albeit very slight), bearing on the Authority's housing land supply status. In addition, it is feasible that the current proposal, to some extent, could help support 'local' services and amenities within Kentford and elsewhere, were it to be permitted. Further, the proposal would give rise to economic benefits in the construction phase and would make more efficient use of the site in housing density terms. However, the benefits brought by two private dwellings are modest and therefore, carry less weight in the overall balance.
40. The application site lies outside, but adjacent to the southern edge of the Kentford Housing Settlement Boundary as defined on Inset Map 11 'Kentford Development Boundary' in the 1995 Local Plan. The application site is therefore classified as 'Countryside'. The 1995 Local Plan shows the application site as lying outside of the Kentford settlement boundary. In the emerging Site Allocations Local Plan (SALP) Preferred Options, the

settlement boundaries have been reviewed. Paragraph 13.1 of the emerging Local Plan states;

*'The settlement boundary is a planning tool – a line on a map that defines the main built form of the settlement. The line on the map is based on recognisable boundaries, such as walls, trees and hedgerows, and groups of buildings, and the review includes new development and planning permissions that have been built or granted since 1995. They will include shops, schools, churches, buildings used for a variety of employment uses, houses, and in most cases they will exclude open spaces and farms, sporadic development that does not relate well to the built form of the settlement and other features that local people may consider to be part of the village'*

41. The application site is not proposed as a preferred allocation in this emerging Plan and the site is not included within the proposed settlement boundary. The application site boundary for the neighbouring development at The Cock Inn PH (DC/14/2203/OUT) has been amended, to exclude the land at South Lodge. This boundary change was made to protect the trees which attributes to the character and surroundings of Regal Lodge. Now that a decision notice has been issued for this application, a boundary change to Preferred Option SALP site reference K1 (b) will follow in the next consultation, along with a consequential change to the settlement boundary to ensure the protection of the trees and surroundings of Regal Lodge.
42. Paragraph 55 of the NPPF states that *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby....."*.
43. Policy DM5 states that *'areas designated as countryside will be protected from unsustainable development.'* The policy goes on to state that *'a new or extended building will be permitted, in accordance with other policies within this plan, where it is for a small scale residential development of a small undeveloped plot, in accordance with policy DM27'*.
44. Policy DM27 states that proposals for new dwellings will be permitted where the development is within a closely knit cluster of 10 or more existing dwellings adjacent to or fronting a highway or the scale of the development consists of infilling a small undeveloped plot by one dwelling or a pair of semi detached dwellings, commensurate with the scale and character of existing dwellings.
45. In this case, the position of the proposed dwellings is behind that of 'Regal Lodge' and 'The Cottage'. Therefore, it does not comply with the above criteria in that it does not front a highway, nor does it infill a small undeveloped plot with a pair of semi-detached dwellings. This conflict with policy must be taken as a factor which weighs against the scheme. However, this part of Kentford accommodates more than ten dwellings and is clearly a 'cluster', which further limits any harm in principle.



46. Policy DM2 states that proposals should recognise and address key characteristics, landscape and special qualities of the area and buildings, not involve the loss of gardens and important open space which contribute to the character and appearance of a settlement.
47. The site does not provide a visually important gap, as public views from Gazeley Road are obscured by existing landscaping to the east and south of the site. Moreover, the proposal does not cause any highway safety issues or have an adverse impact on the environment.
48. The principle of development in this case is therefore contrary to the Development Plan policies identified above. This alone weighs heavily against the scheme in the balance of considerations. Furthermore, and in any event, any 'presumption in favour' is only offered in relation to 'sustainable' development, not any development per se. Sustainability is a judgement that is only informed by consideration of matters of detail as well as principle.

### **Design and Form**

49. Policy DM22 states that residential development proposals should maintain or create a sense of place and/or character by utilising the characteristics of the locality to create buildings and spaces that have a strong sense of place and distinctiveness, using an appropriate innovative design approach and incorporating a mix of housing and unit sizes that is appropriate for the location.
50. As previously detailed, the original scheme comprised of 3no. dwellings. These were link detached and two storey in nature. The proposed dwellings were large in scale and bulky in appearance and therefore visually prominent, intrusive and urban in this context. They formed a continuous two storey terrace that is out of character in this location. It was concluded that the proposals would be detrimental to the amenities of the Countryside and would result in substantial change.
51. Consequently, the application has been amended to encompass 2no. detached, two storey dwellings. The attached garages have been removed and the dwellings have been repositioned in the site to create a minimum separation distance of 10 metres. The proposed dwellings have been designed to mirror one another and incorporate sympathetic detailed features. The roof design has also changed and now appears less bulky. It is now considered that the proposed development fits in with the varied pattern of development in the locality which consists of large historic properties to smaller modern semi-detached dwellings and modest bungalows. The surrounding dwellings utilise different accesses with no clear building line or linear arrangement. On this basis, it is not considered that the proposed location of the dwellings would be detrimental to the character of the area. Whilst the new dwellings would not benefit from a clear road frontage, their character, form and layout adds further interest to this area of development in Kentford. To ensure that the external appearance of the development is satisfactory, facing and roofing

materials can be secured by condition.

### **Impact on Neighbouring Amenity**

52. There is a minimum distance of 10 metres between 'The Cottage' and the proposed dwelling 'House no. 1'. One window is proposed at first floor level in the side elevation of 'House no. 1' to serve the bathroom. A mature tree line is located to the west and south of the site. There is a minimum distance of 20 metres between 'The Cottage' and the proposed dwelling 'House no. 2'. The front elevation of 'House no. 2' faces 'The Cottage'. Parking to serve both properties is located along the northern boundary of the site. Existing boundary fences and hedges are to be retained where existing, with the exception of the north east boundary fronting on to the approved development where a new close boarded fence will be provided and planted with semi-mature planting on the south eastern side. Whilst a greater amount of activity will take place in this location, it is used as a garden and therefore, there is no restriction on its use.

53. Due to the separation distance between the dwellings and the positioning of established landscaping and fencing on the common boundaries, it is not considered that the existing occupants would experience any loss of light, overshadowing or significant disturbance from the proposed dwellings and as such, their residential amenity will be retained.

### **Impact on Highway**

54. The County Highway Authority is satisfied with the visibility splays achievable from the existing access along with the onsite parking provisions and as such, has raised no objections to the proposal, subject to conditions.

### **Other Matters**

55. There are a number of existing trees on the site and in the immediate vicinity. In particular there is a mature copper beech T01 located close to the southern boundary of the site which is given a BS category B rating. The tree is of amenity value and should be retained on the site. The majority of other trees appear to be in the neighbouring garden close to Gazeley Road and south of the access road.

56. The original proposal required the removal of tree T001 (for the reasons described in section 4.2.1 of the tree report). This could have potentially lead to the decline of trees to the south of the proposed entrance drive. It was therefore recommended that the layout be amended to move House no. 2 away from the tree.

57. The amended proposals reposition House no. 2 outside of the Root Protection Area, creating an acceptable distance between the proposed dwelling and T001. This enables the tree to be retained and ensure there is no harm caused to the tree as a result of the proposed development. A Tree Protection Plan, Methodology and Landscape Plan is required prior to construction and can be conditioned

58. DM7 states (inter alia) proposals for new residential development will be required to demonstrate that appropriate water efficiency measures will be employed. No specific reference has been made in regards to water consumption. Therefore a condition will be included to ensure that either water consumption is no more than 110 litres per day (including external water use), or no water fittings exceeds the values set out in table 1 of policy DM7.

59. There are no protected species within 200 metres of the proposed development site. Natural England considers, if undertaken in strict accordance with the details submitted, the proposed development is not likely to have a significant effect on the interest features for which Breckland SPA has been classified. As such, no mitigation measures in relation to biodiversity are required.

### **Conclusion:**

60. Given the policy context assessed above, this remains a balanced matter. The immediate area can clearly be considered as a 'cluster' and this limits any harm in principle.

61. Regardless, it is not considered that Policy DM27 can be satisfied in relation to this scheme. However, by reason of the design, positioning and scale of the dwellings and the landscaping on site which surrounds it, Officers consider it would be difficult to refuse the application on the grounds that it was intrusive or detrimental to the surrounding landscape character. In addition, there is no established pattern or character of development to the north, south and west of the site. On this basis, the harm arising is not considered significant enough to warrant refusal of the application on this basis.

62. Therefore, whilst the scheme is not policy compliant, and therefore is a factor which weighs against this proposal, the weight attached to such is limited by the fact that the proposed development meets the spirit of the policy and is located immediately adjacent to the Housing Settlement Boundary. The proposal is considered to represent sustainable development in accordance with the NPPF.

63. Consequently, it is considered that on balance, the proposal is acceptable and is therefore recommended for approval.

### **Recommendation:**

64. It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. 01A – Time limit detailed.
2. 14FP – Development to accord with drawing nos. 755/1, 2, 3, 4, 5, 6 and 7 received 20th May and 27th June 2016, Site Location Plan and drawing no. 16-5638 - 10 Rev J received 27<sup>th</sup> June 2016 and 20<sup>th</sup> July 2016 Arboricultural Impact Assessment and Method Statement received 23rd May 2016.

3. 04C – Facing and roof samples.
4. 18 - No other part of the development hereby permitted shall be commenced until the existing vehicular access has been improved, laid out and completed in all respects in accordance with DM01; and with an entrance width of 5.4 metres Thereafter the access shall be retained in the specified form.
5. 18 - Prior to the new dwellings hereby permitted being first occupied, the improved access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.
6. 18 - Prior to occupation details of the areas to be provided for storage of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
7. 18 - Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.
8. 18 - The use shall not commence until the area(s) within the site shown on drawing no 16-5638 - 10 Rev J received 20<sup>th</sup> July 2016 for the purposes of [LOADING, UNLOADING,] manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.
9. 18 - Before the access is first used clear visibility at a height of 0.6 metres above the carriageway level shall be provided and thereafter permanently maintained in that area between the nearside edge of the metalled carriageway and a line 2.4 metres from the nearside edge of the metalled carriageway at the centre line of the access point (X dimension) and a distance of 90 metres in each direction along the edge of the metalled carriageway from the centre of the access (Y dimension). Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
- 10.14D - The site preparation and construction works shall be carried out between 08:00 and 18:00 hours on Mondays to Fridays and between 08:00 and 13:30 hours on Saturdays and at no time on Sundays or Bank Holidays without the prior written consent of the Local Planning Authority.
- 11.23 – Tree Protection Plan & Methodology.
- 12.23 – Landscape Plan
- 13.12D - Boundary Treatment
- 14.Optional requirement for water consumption

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online.

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O1MAN3PDMR400>