



Forest Heath
District Council

DEV/FH/19/004

Development Control Committee 6 February 2019

Planning Application DC/18/1167/FUL – La Grange House, Fordham Road, Newmarket

Date Registered: 16.07.2018 **Expiry Date:** EoT: 08.02.2019

Case Officer: Ed Fosker **Recommendation:** Refuse

Parish: Newmarket Town Council **Ward:** Severals

Proposal: Planning Application - 1no. dwelling

Site: La Grange House, Fordham Road, Newmarket

Applicant: Mr Worlsey

Synopsis:

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

Recommendation:

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

CONTACT CASE OFFICER:

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Background:

This application is referred to the Development Control Committee after consideration by the Delegation Panel and at the request of Ward Members Councillors Andrew Appleby and Ruth Allen.

The application is recommended for REFUSAL and the Town Council also object.

Proposal:

1. Planning permission is sought for the erection of 1no. three bedroom, single storey flat roofed dwelling and associated access within the grounds of La Grange House. The existing access for the main house is utilised for the proposed dwelling with the driveway positioned behind existing vegetation and the front boundary of the site.
2. The scheme differs from the previous approval (F/2012/0627/FUL which expired on the 11.03.2016) in that the dwelling now has an internal courtyard, smaller curtilage with the existing swimming pool area now being left within the remaining grounds of La grange house and not included within the proposed site. In addition, the western elevation is now straight and therefore is in closer proximity to the large beech tree.

Application Supporting Material:

3. The following documents have been submitted with the application:
 - Site location plan
 - Existing and proposed plans and elevations
 - Tree Survey
 - Proposed and Existing Tree Layout
 - Design & Access Statement

Site Details:

4. The site is within the settlement boundary and Conservation Area of Newmarket, located within the eastern part of the grounds of La Grange House. The property known as La Grange has a large garden, along with a tennis court, pool and pool house. The tennis court and swimming pool are situated behind a mature tree belt and are somewhat segregated from the main dwelling itself.

Planning History:

5.

Reference	Proposal	Status	Decision Date
F/2012/0627/FUL	Erection of a single storey dwelling	Approved	11.03.2013

Consultations:

6. Highway Authority: (Verbal with SB) No objection, subject to condition.

7. Conservation Officer: (Verbal with CJ) – Would not object unless the proposal was likely to have a negative impact on the large Beech Tree which is of very high amenity value within the conservation area.
8. Tree Officer: I have a number of concerns regarding the potential arboricultural impact of the proposed development. The main issue, which is of significant concern, is the conflict between T013 and the new dwelling. The Beech is a very large and prominent specimen, and is of great arboricultural value (being classed as A1 within the arboricultural report). An immediate threat to the tree is the proposed root pruning, which shows a significant incursion within the root protection area (RPA). It is noted that the construction of the existing tennis court is likely to have involved the disturbance of the root system in this area, however, this is likely to have involved shallow excavations in order to accommodate the hard surfacing. Given that the majority of roots are considered to be within 600mm of the surface, I believe that the necessary root pruning in order to accommodate foundations will involve significant root loss. This could impact heavily on both tree health and potentially the structural integrity of the tree.

A medium to long term adverse impact on T013 is likely to arise from significant future pressure due to the conflict between the dwelling and the Beech. The tree is in very close proximity on the western side of the proposed dwelling. This is likely produce significant shading, which will not only be undesirable for the future homeowner due to a restriction of natural light into the home and internal courtyard, but also for the solar panels shown on the submitted drawings. Other conflicts are likely to ensue from leaf fall, which in my opinion, is likely to be a significant (non-legal) nuisance for the future occupier. For these reasons, I believe any planning permission for a new dwelling in this location would result in significant pressure for the removal of a high amenity value tree in the Newmarket Conservation Area, and on this basis, I would like to raise an objection to the planning application.

How the advantages and disadvantages of trees are perceived varies greatly. Pressure arising from aforementioned issues is a common justification for applications for tree works. This potential future pressure may come from both the future occupant of the new dwelling, and any future owners of La Grange. It has been assessed that it would be difficult to resist such pressures in this instance due to the relationship between the proposed dwelling and mature beech.

Root Protection Area - (as defined in BS 5837:2012) 'layout design tool indicating the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as a priority.' By definition, this shows the importance of encroachment into this area. I respectfully disagree with the stated likelihood of minimal rooting underneath the existing tennis court.

It is the recommendation of the arboricultural consultant that this should be submitted alongside the arboricultural impact assessment. This should not be relied upon as a condition because if this type of construction is not achievable, the arboricultural impact is likely to be significantly increased.

Shading is a highly subjective matter, but it is a common reason for applications for inappropriate tree works and tree removal. I dispute that it is 'within the realms of commonly accepted standards'. How this is perceived varies but I would consider it likely to negatively impact on amenity within the proposed dwelling and therefore contribute to significant future pressure.

9. Environment Team: Based on the submitted information for the above site, this Service is satisfied that the risk from contaminated land is low.

10. Public Health and Housing: No objection.

Representations:

11. Ward members:

Councillor Andrew Appleby – Does not see any tree problems and requests the application be brought before committee.

Councillor Ruth Allen – Requests that the application is called in.

12. Town Council: The Committee objected on the proposed location, the layout and density of the building, the appearance and design and materials proposed, highway safety, noise, dust, fumes from the existing neighbouring stables which will impact upon the residential amenity of the proposed dwelling, impact on character or appearance of the area and impact on the community and other services.

13. Neighbours: No representations received.

Policy:

14.

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM13 Landscape Features
- Policy DM17 Conservation Area
- Policy DM22 Residential Design
- Policy DM46 Parking Standards
- Core Strategy Policy CS5 - Design and Local Distinctiveness

Other Planning Policy:

15. National Planning Policy Framework 2018

Officer Comment:

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

- Principle of Development

- Impact on the Conservation Area
- Trees
- Impact on Visual Amenity
- Impact on Residential Amenity
- Highways considerations

Principle of Development

17. The NPPF was revised in July 2018 and is a material consideration in decision making from the day of its publication. Paragraph 213 is clear however that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework, the greater weight that may be given. The Policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provisions of the 2018 NPPF that full weight can be attached to them in the decision making process.
18. The site is located within the Housing Settlement Boundary for Newmarket and is in a position where shops and facilities are in close proximity. As such, the principle of new small scale windfall residential development in this location is considered sustainable and generally acceptable. However, consideration would also need to be given to other adopted policies and the provisions of the National Planning Policy Framework.
19. The proposed development also needs to be considered against policies DM2, DM22 and DM17 of the Development Management Policies Document which seeks to ensure that new development does not result in the loss of residential or visual amenity, their layout and design respects the established pattern and character of development in the locality and the proposal preserves or enhances the surrounding conservation area which will be considered further below.

Impact on the Conservation Area

20. Policy DM17 states that proposals for development within, adjacent to or visible from a Conservation Area should:
- preserve or enhance the character or appearance of the Conservation Area or its setting, and views into, through, and out of the area;
 - be of an appropriate scale, form, height, massing, alignment and detailed design which respect the area's character and its setting;
 - retain important natural features such as open spaces, plot divisions, boundary treatments, and trees and hedges, which contribute to the special character of the area;
 - retain important traditional features that contribute to the area's character such as original doors, windows, shop fronts and flint or clunch walls;
 - include fenestration which respects its setting;
 - use materials and building techniques which complement or harmonise with the character of the area; and
 - demonstrate a clear understanding of the significance of the Conservation Area and/or its setting, alongside an assessment of the potential impact of the proposal on that significance. The proposal should

demonstrate how the key characteristics of the character area have been addressed.

21. Whilst the Local Authority's Conservation Officer has raised no concern with regard to the size, scale and design of the proposed dwelling in this location which would in fact be well screened in the existing street scene, they have also stated that if it was considered that the scheme would impact negatively on the large Beech tree and could ultimately lead to pressure to fell, then serious concern would be raised due to the high amenity value that this tree provides to the surrounding conservation area.

Trees

22. The Haydens Tree report details that it is necessary to fell two individual trees and one landscape feature in order to achieve the proposed layout. Additionally, five trees and one landscape feature require minor surgery to permit construction space or access. The alignment of the proposed dwelling nominally intrudes within the Root Protection Areas of one tree and one landscape feature to be retained. This has only minor influence on the Root Protection Areas and as such it is considered appropriate to undertake linear root pruning, thus obviating the need for specialist construction techniques at these locations. The alignment of the proposed new vehicular access encroaches within the Root Protection Areas of eight trees and three landscape features that are to be retained, but given the use of modern "no dig" construction techniques this is not considered to be a substantial issue. The alignment of the proposed parking area nominally intrudes within the Root Protection Areas of one tree to be retained. This has only minor influence on the Root Protection Areas and as such it is considered appropriate to undertake linear root pruning, thus obviating the need for specialist "no dig" construction techniques at this location.
23. Whilst it is not welcomed, the works to the trees and the positioning of the driveway is not considered to be so significant as to recommend refusal. However the close proximity of the large Beech tree to the western side of the proposed dwelling raises many serious concerns.
24. The Beech Tree (detailed as T013) is a very large and prominent category A1 specimen (estimated to be in the region of 200 years old with an expected remaining life expectancy of at least 40 to 80 years) within the site, which offers great amenity benefits not only to the site but also the surrounding conservation area. It is a mature specimen with only minor faults identified including some minor inclusion and one major piece of deadwood to the east aspect of the tree. It appears to be in healthy condition and is considered to be of great arboricultural value.
25. It is clear from the daylight analysis that a significant proportion of sunlight hours would be lost, it is also clear that one elevation is in close proximity to the Beech Tree and the layout of the proposal results in habitable rooms facing the tree. Given the close proximity, the fact that the property is flat roofed with a very modest amount of amenity space including an enclosed courtyard there is likely to be burdensome seasonal nuisance by reason of leaf litter and other detritus leading to increased maintenance costs.

26. Haydens comment that "it is considered appropriate to undertake linear root pruning, thus obviating the need for specialist construction techniques at these locations". The Root Protection Area is - (as defined in BS 5837:2012) 'a layout design tool indicating the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as a priority.' By definition, this shows the importance of encroachment into this area.
27. Together with the loss of sunlight hours, burdensome seasonal nuisance, also the likely heightened perception of risk from falling branches to future occupants due to the size and age of the tree in close proximity to the dwelling, are likely to lead to future pressure to significantly lop or fell the Beech tree. Should this occur, the significant contribution that the tree does and could continue to make to the overall character and appearance of the conservation area would be lost, in conflict with policies DM2, DM13 and DM17 of the Joint Development Management Policies and the provisions of the National Planning Policy Framework 2018 in so far as they seek to maintain local character and require new development to address key features and characteristics of an area.

Impact on Visual Amenity

28. In accordance with policies DM2, DM22 and CS5, the proposal should maintain or create a sense of place and respect the character, scale, density and massing of the locality. Setting aside concern with regard to trees, the design of the property itself raises little concern. However due to the close proximity to the large beech tree which is a very large and prominent category A1 specimen within the site, offering great amenity benefits not only to the site but also the surrounding conservation area, and as discussed the future pressure this trees would face, it is considered that the proposal does not comply with the provisions of the NPPF which emphasises the importance of planning positively for the achievement of high quality design and states that planning decisions should aim to ensure that developments respond to local character and reflect the identity of local surroundings.
29. The NPPF makes it clear in paragraph 124 that 'good design' is a key aspect of sustainable development, creating better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential to achieving this. In this case, it has not been demonstrated that the proposal would comply with this criteria.

Impact on Residential Amenity

30. Due to the single storey nature of the proposed dwelling and the distances of separation involved, there is not likely to be any loss of residential amenity to any neighbouring properties by reason of overlooking or overbearing impact. It is clear from the daylight analysis that a significant proportion of sunlight hours would be lost, it is also clear that one elevation is in close proximity to the Beech Tree and the layout of the proposal results in habitable rooms facing the tree. Given the close proximity, the fact that the property is flat roofed with a very modest amount of amenity space including an enclosed courtyard, not only is

there likely to be a burdensome seasonal nuisance by reason of leaf litter and other detritus, the occupiers of the proposed dwelling itself are likely to experience a significant loss of residential amenity by reason of loss of light, contrary to what is sought to be safeguarded through policy DM2.

31. Policy DM22 states that development should be of high architectural merit, meaning that they are fit for purpose and function well, providing adequate space, light and privacy. Whilst the design of the dwelling raises no concerns, it is the positioning in such close proximity to the large beech tree which would seriously impact on the amount of light available to habitable rooms.

Highways

32. The existing vehicular access off Fordham Road for the main house is utilised for the proposed dwelling with the driveway positioned behind existing shrubs, trees and front boundary of the site. Whilst the positioning of the driveway and works to the trees in this area are not welcomed they are not considered to be so significant as to recommend refusal. Also the Highways Authority have raised no objection to this arrangement which provides three off street parking spaces and turning area, subject to condition to control the provision of this area in compliance with policy DM46.

Other Issues

33. Concerns have been raised by the Town council with regard to noise, dust and fumes from the existing neighbouring stables, impacting upon the residential amenity of the proposed dwelling; however public Health and housing have raised no objection with regard to these issues.

Conclusion:

34. In conclusion, the principle of the development is not considered to be in accordance with both local and national policy and as such, the application is unacceptable and recommended for refusal.

Recommendation:

35. It is recommended that planning permission be **REFUSED** for the following reason:
 1. The position of the large Beech Tree (detailed as T013), which is a prominent category A1 specimen, would lead to a significant loss of sunlight hours that the proposed dwelling would otherwise enjoy and be a burdensome seasonal nuisance due to leaf drop and other detritus. The presence of the Beech tree is also likely to lead to a heightened perception of risk from falling branches to future occupants due to the size and age of the tree in such close proximity to the dwelling. Consequently, these matters are all likely to lead to future pressure to lop or fell the Beech tree. Should this occur, the significant contribution that the tree does and could continue to make to the overall character and appearance of the conservation area would be lost. The proposal would therefore be in conflict with policies DM2, DM13 and DM17 of the Joint Development Management Policies Document 2015, Policy CS5 of the Forest Heath Core

Strategy 2010 and the provisions of the National Planning Policy Framework 2018 which seek to maintain local character and require new development to address key features and characteristics of an area.

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=PACPE6PDGWR00>