

Development Control Committee 4 September 2019

Planning Application DC/19/1046/FUL – Kentford Lodge, Herringswell Road, Kentford

Date Registered:	16.05.2019	Expiry Date:	11.07.2019
Case Officer:	Savannah Cobbold	Recommendation:	Refuse Application
Parish:	Kentford	Ward:	Kentford And Moulton
Proposal:	Planning Application - Installation of 6 x 2 Tonne Underground LPG Tanks including pipework network serving 60 properties (Retrospective)		
Site:	Kentford Lodge, Herringswell Road, Kentford		
Applicant:	Matthew Homes Ltd		

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:

The application is referred to Development Control Committee following consideration by the Delegation Panel on 13 August 2019.

The application was originally called into Delegation by Ward Member Councillor Roger Dicker whose view differs with the Case Officer's recommendation of REFUSAL.

Proposal:

1. The application seeks planning permission for the installation of 6 x 2 tonne underground LPG tanks, which includes a pipework network to serve 60 properties. The application is retrospective and the network was installed in 2016.

Application Supporting Material:

2.
 - Application form
 - Anchor slab details
 - Excavation details
 - Tank area layout details
 - Location plan
 - LP gas system layout
 - Installation details
 - Method statement and specifications

Site Details:

3. The application site is located outside of any settlement boundary within Kentford. The site comprises a recently completed housing development which was approved in 2015.

Planning History:

4.

Reference	Proposal	Status	Decision Date
NMA(1)/13/0061	Non-material amendment to F/2013/0061/HYB - (i) Amendments to garden boundaries on Plots 4 - 9 (ii) Repositioning of double garage and driveway for Plot 5 (iii) Areas shaded grey on Plan 015-011-002 to be retained within Kentford Lodge	Application Granted	08.10.2015
DCON(1)/13/0061	Discharge of Conditions for Condition 19 (Archaeological Investigation), 28 (Ecological enhancement) and 29 (Recommendation from ecological survey) of F/2013/0061/HYB	Application Granted	16.03.2017

DCON(2)/13/0061	Discharge of condition 7 (Materials) of planning permission F/2013/0061/HYB	Application Granted	03.03.2016
DC/15/2108/CLP	Application for Lawful Development Certificate for Proposed Use or Development - Construction of a electricity substation building (being the revised siting of a similar substation building formerly approved under F/2013/0061/HYB)	Pending Consideration	
DCON(3)/13/0061	Discharge of condition 10 (Contamination) of planning permission F/2013/0061/HYB	Condition(s) of Part Discharged	08.02.2016
DCON(4)/13/0061	Discharge of conditions 15 (hard landscaping), 16 (soft landscaping), 17 (landscape management plan), 26 (fire hydrants), 31 (play area proposals) & 33 (construction and site management programme) of planning permission F/2013/0061/HYB	Application Granted	15.03.2017
DC/15/2577/FUL	Planning Application - (i) Proposed Development of 21 no. dwellings (including 9 no. affordable dwellings) and garages/carports (ii) Creation of a new access onto Herringswell Road and the upgrading of an existing access onto Herringswell Road (iii) Provision of amenity space and associated infrastructure	Application Granted	10.07.2017
DCON(5)/13/0061	Discharge of conditions 12 (details of estate roads) 13 (discharge of surface water) and 27 (surface water drainage) of F/2013/0061/HYB	Application Granted	13.10.2016
DCON(6)/13/0061	Application to discharge conditions 14 (Boundary treatment) and 18 (Refuse bins provision) of F/2013/0061/HYB	Application Granted	13.12.2016
DCON(7)/13/0061	Application to Discharge condition 25 (cycle access	Application Granted	05.04.2017

	route) of F/2013/0061/HYB		
DCON(8)/13/0061	Discharge of conditions for application F/2013/0061/HYB - Condition 20 - Archaeological assessment and Condition 24 - Bus stop improvements	Application Granted	26.06.2017
NMA(2)/13/0061	Non-material amendment to F/2013/0061/HYB - Amendment to wording of condition 24 to enable the occupation of the Affordable housing units and some market units	Application Granted	14.07.2017
DC/17/1689/COMP LI	Compliance of planning conditions of F/2013/0061/HYB	Application Granted	30.10.2017
DCON(9)/13/0061	Application to Discharge Condition 10 (Contamination) of application F/2013/0061/HYB	Pending Consideration	
F/2013/0061/HYB	Hybrid application: Full application - erection of 98 dwellings and garages (including 30 affordable dwellings), creation of a new access onto Herringswell Road and upgrading of existing accesses onto Herringswell Road and Bury Road, the provision of amenity space and associated infrastructure. Outline application - erection of up to 579 square metres of B1 office employment space. (Major Development, Departure from the Development Plan and Development Affecting the Setting of a Listed Building) as amended by plans received on 05.09.2013 reducing the number of dwellings to 60 (inc. 18 affordable).	Application Granted	04.06.2015
F/88/1082	Residential development comprising up to thirty dwellings with associated	Refuse	06.03.1989

	landscaping open space access and drainage works.		
F/89/307	O/A: Erection of five detached dwellings and garages with associated access	Refuse	20.06.1989
F/81/002	Proposed entrance hall	Approve with Conditions	05.02.1981

Consultations:

5. Environment Team: No comments to make on the application.
6. Environment Agency: No comments received.
7. Ward Member: It is understood that the policies may be "harmed", but on balance what is there now does not do any sensible harm to the open space idea or amenity value to residents.
 - If we insist on moving these tanks and the disruption caused and physical damage to the open space, I do not believe that this is in the public interest.
 - There would be more complaints if we decided they must be dug up and moved.
 - The developer is providing a service that the residents want, so on balance there is not sufficient harm to the policies if the tanks stayed where they are.

Representations:

8. Parish Council: The Parish Council thinks that it seems unnecessary to remove the tanks. The developer should spend money on hiding the tanks with hedges and trees etc. We do not see the area as an informal play area, being too close to the road.
9. Neighbours: A total of one representation was received in respect to this application. The following comments were received from the owner/occupier of 16 St Marys Road:
 - This is an essential amenity that has been in situ for over two years. It is positioned underground and has been implemented in-keeping with the landscaping of the estate.

Policy:

10. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single Authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by Regulation. The Development Plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies document (which had been adopted by both Councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved Forest Heath District Council.

11.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:

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places – Development Principles and Local Distinctiveness
- FCS5 Design Quality

Other Planning Policy:

12.National Planning Policy Framework (2019)

The NPPF was revised in February 2019 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 provision of the 2019 NPPF that full weight can be attached to them in the decision making process.

Officer Comment:

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

- Principle of Development
- Impact on residential amenity
- Impact on street scene/character of the area
- Other Matters

Principle of development

14.Policy DM2 states that proposals for all development should, as appropriate, recognise and address key features, characteristics, local distinctiveness and special qualities of the area. It must also maintain or create a sense of place and local character, nor involve the loss of open, green or landscaped areas which make a significant contribution to the character and appearance of a settlement.

15.In this case, this housing development was granted planning permission in 2015 and the layout was carefully designed specifically with an area of open space at the entrance, acting as a focal point, along with the SUDS basin, with the dwellings set orientated towards and around this. The effect was the creation of an area with a distinctiveness and sense of place, and of an otherwise attractive open area, providing a feeling of an arrival point upon entering the estate. Whilst this area at the entrance of the development might not otherwise have been used for amenity, in terms of formal play, there would have been some limited opportunity of informal play. It clearly also sought to provide a very strong visual amenity for the development. The caps and fencing, along with the other utilitarian associated infrastructure apparatus, located in such a visually prominent location, intrude into this area in a way that is considered harmful, otherwise materially and detrimentally eroding this strong sense of place, contrary to

the requirements of policy DM2 and to those of the NPPF, revised in 2019, seeking to ensure good design.

Impact on residential amenity

16. In terms of material planning considerations, the majority of the development is set underground, and therefore would not impact upon the residential amenity of nearby occupants. Above ground, six caps are visible set on ground level along with an LPG tank. Again, given the small scale of this, no harm is considered upon the residential amenity of nearby occupants.

Impact on street scene/character of the area

17. Paragraph 124 of the revised NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 seeks to ensure development establishes or maintains a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcome and distinctive places to live, work and visit.

18. As discussed above, the estate was designed carefully, with an area of open space towards the front of the space, which provides a focal point when entering the estate. The provision of gas tanks and their associated above ground infrastructure in such a prominent location materially and harmfully erode the character and appearance of this area, proving harmful to the otherwise strong visual amenities of the area. Therefore, the proposal conflicts with policy DM2 as well as with the provisions of the NPPF in relation to good design

Other Matters

19. The aim of the development was to provide a centralised mains gas supply to residents. The benefit of this in planning terms is limited, and was a decision taken, in advance of formal planning approval, it would appear largely for commercial benefit in selling the houses. As a carbon based fossil fuel there is little in the wider planning balance that would offset this manifest harm, and the clear failure of the scheme to meet the provisions of DM2 and the requirements of the NPPF in relation to good design weighs very heavily against the proposal therefore.

20. It is now government planning policy that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. The written ministerial statement announcing this policy stated that it applied to all new planning applications and appeals received since 31 August 2015. Officers consider that the development was carried out in the knowledge that planning permission was required. It was intentional unauthorised development which must therefore weigh against the grant of planning permission.

21. No details, even indicatively, were offered of this facility at the time the housing estate was approved, and the site was indicated as being public open space, set in a very attractive fashion at the entrance to the site. By any objective measure the works undertaken without the benefit of

permission are clearly not de minimus. This was an error made by the developer and the LPA asserts that this indicates intentional unauthorised development. The nature of the works undertaken do not fall within the parameters, in the opinion of the LPA, of development which might otherwise have been undertaken by mistake, or in ignorance, noting the extent of the facility installed. The only conclusion that can be drawn in this position therefore is that the development that this application is now seeking to retain is 'intentional unauthorised development'.

22. The decision to install this facility was taken unilaterally by the developer, in advance of planning permission being granted. Any difficulties associated with the subsequent removal of such are not material planning considerations and no weight should be attached to such.

23. In presenting this matter the ministerial statement (reference HCWS423) advises that *'the government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time consuming enforcement action.'*

24. The materiality of this statement in the balance of considerations is a matter for the decision maker. In the opinion of the LPA the development undertaken on this site can be considered as nothing other than intentional unauthorised development, noting the circumstances. It follows consequentially that weight against this proposal must therefore be attached to this fact in the balance of considerations. Noting the conclusions reached above with regards to the unacceptability otherwise of the proposal, this matters adds further weight in favour of refusal.

Conclusion:

25. In conclusion, the principle and detail of the development is not therefore considered to be acceptable and not in compliance with relevant development plan policies nor with the provisions of the 2019 National Planning Policy Framework

Recommendation:

26. It is recommended that planning permission be **REFUSED** for the following reason:

1. Policy DM2 states that proposals for all development should, as appropriate, recognise and address key features, characteristics, local distinctiveness and special qualities of the area. It must also maintain or create a sense of place and local character, nor involve the loss of open, green or landscaped areas which make a significant contribution to the character and appearance of a settlement.

The housing development was granted planning permission in 2015 and the layout was carefully designed specifically with an area of open space at the entrance, acting as a focal point, along with the SUDS basin, with the dwellings set orientated towards and around this. The effect was the creation of an area with a distinctiveness and sense of place, and of an

otherwise attractive open area, providing a feeling of an arrival point upon entering the estate. Whilst this area at the entrance of the development might not otherwise have been used for amenity, in terms of formal play, there would have been some limited opportunity of informal play. Regardless, it also clearly sought to provide a very strong visual amenity for the development. The caps and fencing, along with the other utilitarian associated infrastructure apparatus, located in such a visually prominent location, intrude into this area in a way that is considered materially harmful, otherwise materially and detrimentally eroding this strong sense of place, contrary to the requirements of policy DM2 and to those of the NPPF, revised in 2019, seeking to ensure good design.

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=PRJM8NPDG4Y00>