



## Appeal Decision

Inquiry held on 17 to 20 September 2013

Site visit made on 20 September 2013

by **A U Ghafoor BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 November 2013

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**Appeal Ref: APP/H3510/A/13/2197077**

**Meddler Stud, Bury Road, Kentford, Newmarket CB8 7PT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Ms Ann Gurney on behalf of Meddler Properties Limited and Agora Developments Limited against Forest Heath District Council.
  - The application Ref F/2012/0766/OUT is dated 11 December 2012.
  - The development proposed is described in the application form as follows: '*Outline planning application for erection of 133 dwellings including associated access arrangements and open space provision*'.
  - The Inquiry sat for four days.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The original outline planning application with all matters reserved apart from access was for 133 houses. The statement of common ground (SoCG) confirms that the scheme was amended to 102 dwellings<sup>1</sup>. Indicative drawings were submitted with the application which had been amended to reflect the reduced number of the proposed dwellings. The Council failed to determine the outline planning application within the statutory period, but it would have been refused on two principal grounds; impact upon the horse-racing industry ('the HRI') and prematurity.
3. A planning obligation pursuant to section 106 of the Town and Country Planning Act 1990 as amended is submitted. This includes provision for the following: 31 affordable homes, contributions for education including pre-school facilities, contributions towards libraries, pedestrian/cycle routes, a bus stop, public open space and local healthcare facilities. The details of the financial contributions are set out in section 7 of the SoCG and the appeal Parties agree that they satisfy the relevant CIL regulations<sup>2</sup>; I have no reason to disagree as they meet the relevant tests. The planning obligation is a material consideration.

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<sup>1</sup> SoCG signed by the appeal parties dated 12 September 2013. See paragraph 4.1 of the SoCG.

<sup>2</sup> In particular, see regulation 122 of the Community Infrastructure Levy Regulations 2010.

## **Kentford and the appeal site**

4. Kentford village is situated along the Bury Road (B1506), which runs to Newmarket and it has a population of 1,184<sup>3</sup>. The village's linear settlement pattern is an important feature of its layout and overall character, which is emphasised by its distinct eastern and western parts.
5. The appeal site is 7.16 hectares in size and is known as the Meddler Stud. It is located between the eastern and western parts of the village beyond the built framework where restrictive countryside planning policies apply to new residential development. The site is bound by the following features: agricultural land, Bury Road, residential properties and the River Kennet. It is mainly well screened by mature trees and vegetation especially around its perimeter.

## **Main Issues**

6. These are the following:
  - Firstly, the effect of the proposed development upon the HRI
  - Secondly, whether there is a deliverable five year supply of housing land
  - Thirdly, whether the proposals are sustainable development to which the presumption in favour, identified by paragraph 14 of the National Planning Policy Framework, applies, and
  - Fourthly, notwithstanding my findings on the foregoing whether, in any event, the proposals are so premature so as to require the withholding of planning permission.

## **Reasons**

### *The HRI*

7. In and around Newmarket and the District, the HRI is an important industry which has been recognised in local planning policies. Policy 12.4 of the Forest Heath Local Plan 1995 (LP) states that the change of use of racehorse training establishments ('RTEs') will not be permitted. Any development which would adversely affect their operation will not be allowed. Contrary to the appellant's assertion, LP Policy 12.4 does not relate to the supply of housing and this is reinforced by its justification text. The LP was adopted in 1995 though some of its Policies, including 12.4, are saved by Direction of the Secretary of State. Nonetheless, the recent change in national planning policy means I need to consider what weight to attach to Policy 12.4.
8. The Council has prepared a joint Development Management Policies Document (DMP), which it intends to submit to the Secretary of State for examination in January 2014. Of direct relevance to this particular issue is Policy DM48. It states that any proposal within or around Newmarket which is likely to have a material adverse impact on the operational use of an existing site within the HRI, or which would threaten the long term viability of the HRI as a whole, will not be permitted. Also relevant is Policy DM49, which relates to the redevelopment of existing sites relating to the HRI. It states that the change of use of land and buildings, presently or previously relating to racehorse training yards, stud farms, the racecourses, horse training grounds or other HRI related uses will not be permitted other than in exceptional circumstances, for instance, alternative uses that are directly related to the HRI.

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<sup>3</sup> This figure is undisputed and is taken from Thomas Smith's (TS) Proof of Evidence (POE) paragraph 3.1.

9. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework. LP Policy 12.4 is in strict form and does not include an exception test. Although RTEs are not identified on the LP Proposals Map, Policy 12.4 identifies the use in respect of those parcels of land to which it applies.
10. Paragraph 22 of the Framework states that planning policies should avoid the long term protection of sites allocated for employment use [my emphasis] where there is no reasonable prospect of a site being used for that purpose. Where this is so, applications for alternative uses of land, or buildings, should be treated on their merits having due regard to market signals and the relative need for different land uses to support sustainable local communities. The terms of paragraph 22 are clear; it is applicable to policies which continue to 'allocate' land for employment use where there is no reasonable prospect of the land being used for this purpose. It goes on to exhort Councils to regularly review allocations and to treat applications for non-business uses in relation to allocated land upon their own planning merits. While RTEs may well generate jobs, there is nothing in the paragraph, or the Framework, to support the appellant's argument that paragraph 22 should be applied by way of analogy to other more general planning policies such as LP Policy 12.4.
11. There are over 3000 horses in training in Newmarket; there was broad agreement that in this part of the country the HRI is essential to the long-term economic, social and environmental sustainability of the town and District. Land used in connection with the HRI around the periphery of Newmarket provides a source of valuable studs or RTEs. LP Policy 12.4 seeks to protect, enhance or develop the HRI in and around Newmarket. Those aims and objectives are broadly consistent with the sustainable development theme that features as a golden thread in the Framework. Therefore, Policy 12.4 carries significant weight insofar as it is consistent with the Framework's aims and objectives.
12. The appellant's planning agents have raised objections to Policy DM48 and DM49 through the local plan process, but these relate to the need to bring these Policies in line with the Framework. This would broaden the range of alternative uses that might be considered in the event that equine land protected by other policies is incapable of being viably utilised. That argument relates to the need to provide an exception test, but these objections do not go to the heart of the aims and objectives of the Policies, which seek to protect land used in connection with the HRI.
13. The DMP is likely to be submitted to the Secretary of State in January 2014 for independent examination. Nevertheless, the direction of travel indicates that Policies seeking to protect equine uses, similar to the aims and objectives found in LP Policy 12.4, will remain. Given the advanced stage of the DMP, and applying paragraph 216 of the Framework to the emerging Policies, I attach some weight to Policies DM48 and DM49.
14. The history of the site, its management and the enterprises are set out in the written evidence. The agricultural parts of the land were sold by the landowner and the stud buildings and some land remained; the useful parts of the stud land being bought by neighbouring studs. The landowner was left with a rump of buildings. Essentially, the site was rendered useless for stud

uses and subsequently bought by Copthorne Developments as a development site. Its owners were tempted by a successful horse into having a go at running it as a stud and RTE. Mr and Mrs Reed were appointed to manage the enterprise and to facilitate this £180,000 or so was spent acquiring and laying out the necessary gallops within hacking distance.

15. The enterprise failed with Copthorne Developments and Meddler Bloodstock going into liquidation and a creditor, D.O. Investments, ending up holding the property. Mrs Reed was given a rent-free period of three years to produce backers, none of which delivered, and she, too was declared bankrupt. D.O. Investments allowed another occupier to run his establishment of three/five horses<sup>4</sup> and that is generally the current situation.
16. The exact nature or scope of the businesses operating from the site since 2001 is unclear. While the nearby gallops have been removed from the ownership and access is no longer possible, there are no details to show that constraints such as the quality of the buildings, the layout or size of the Meddler Stud contributed to the failure of the previous enterprises. Additionally, there is no specific information to show how or when the buildings were maintained. In my view, the presented evidence does not show that the layout, size or make-up of the site and the condition of the buildings contributed towards the historic failure of the enterprises.
17. I have noted Mr Clive's expert opinion regarding the valuation of the site, but a full and proper marketing exercise has not been done to promote the Meddler Stud as an RTE or other related establishment at an open market value. Given the absence of this type and nature of effective marketing exercise, it is difficult to draw any conclusions that Meddler Stud is no longer viable as a stud or RTE due to lack of interest. Nevertheless, the appellant's argument is that the site has no future prospect as a stud or a 40 box RTE, but there might be potential for a refurbished or rebuilt small-scale 20 box yard.
18. The Council's table of capital costs indicated that a small-scale RTE would be viable. The appellant disputed the figures because the quality of the buildings would be compromised and the facility would be at the lower end of the spectrum. The contention is that even if capital costs were removed from the equation and staffing levels were significantly reduced to a minimum, the table shows only a £12,000 surplus of income over expenditure and that excludes depreciation. The costs affect the longevity of the buildings, increased repair costs and the quality of impression needed to attract horse owners. On the other hand, in my view, the presented evidence does not show that the existing buildings are structurally unsound and cannot be refurbished or adapted to support a small-scale 20 box RTE.
19. The appellant argues that the use of the site as a small-scale 20 box RTE is not possible without exercise facilities; Meddler Stud has none though there is some type of a horse-walker. There is concern as to whether or not a potential trainer operating from the site would qualify for a British Horseracing Association (BHA) license. However, the licensing process is a discretionary one and there is nothing to suggest that the BHA guidelines should be treated as compulsory. In the case of RTEs for flat racing, applicants are expected to have gallops of approximately six furlongs within hacking distance of the

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<sup>4</sup> Evidence-in-chief and cross-examination George Windsor Clive (GWC) and see POE section 3.4 and Appendix G1 attached to the bundle of evidence and the email of 18 September 2013 from Mr Anderson.

stables. That is not possible at the Meddler Stud site, but there are out-of-centre establishments that do not have gallops of this length yet they were said to be licensed at the time of the Inquiry.

20. I had the opportunity of visiting Newmarket and seeing the type of available facilities some of which are within travelling distance of Meddler Stud. There are central gallops and other facilities in Newmarket although that would involve the boxing of horses, travelling and unloading. However that is not totally impractical nor does it render a possible RTE use of the site unviable. Just because a future trainer might depend upon the central gallops and facilities in Newmarket, the presented evidence does not necessarily show that a small-scale RTE would be unviable in such circumstances.
21. The site's topography results in constraints to the provision of exercise facilities. A 1.5 furlong trotting ring could be marked out though there is some concern about ground levels; it could not be used for canter work. However, given the size of the site, the paddocks would be capable of accommodating an exercise ring of approximately 1.25 furlongs<sup>5</sup>. The 20 box RTE might be at the lower end of the spectrum, but some kind of on-site exercise facility would be possible for a small-scale RTE.
22. I have also taken account of the view that any RTE would provide a sub-standard facility and represent a low percentage of training horses in Newmarket. There is some force behind the argument that there are better yards elsewhere, but no specific details have been submitted for my consideration.
23. I have considered all of the submissions in relation to the viability of a small-scale 20 box RTE. The presented evidence points to the probability that a 20 box RTE would have a reasonable prospect of success on the site. This is because of the site's location, the availability of the existing buildings which, subject to structural surveys, would be suitable for such an activity. On the other hand, the complete loss of the site to housing and associated infrastructure would result in the unjustified loss of a site used in connection with the HRI. Accordingly, the development would fail to comply with the main thrust of LP Policy 12.4 and emerging DMP Policies DM48 and DM49. In this regard, the development would fail advice contained in the Framework.
24. In addition to all of that, the appellant's submitted case relates to the viability of an RTE without enabling development, which is a legitimate alternative. Such an alternative should be properly and robustly assessed and evaluated.
25. For all of the above reasons, I conclude that the site's loss to residential development would have a materially harmful effect upon the HRI, because it would involve the loss of a RTE or land used in connection with the HRI.

#### *Five year supply of housing land*

26. Policy CS 1 of the Core Strategy Development Plan Document 2001 – 2026 2010 (CS) sets out a spatial strategy. Policy CS 6 sets out considerations related to sustainable economic and tourism development. Policy CS 7 sets out the overall housing provision and Policy CS 13 relates to infrastructure and development contributions. The CS was subject to a successful High Court challenge which resulted in the quashing of the majority of Policy CS 7 and

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<sup>5</sup> See Appendix R to GWC's bundle of evidence which include the necessary earth works.

consequential amendments to Policies CS 1 and CS 13. The quashing of parts of Policy CS 7 has removed the spatial housing distribution though the level of housing remains in place. Policy CS 7 requires the provision of 6,400 dwellings in the period 2001 – 2021 and a further 3,700 homes in the period 2021 – 2031.

27. To address the shortcomings identified by the High Court, the Council is in the process of undertaking a Single Issue Review (SIR) of the CS in relation to the distribution of housing. It is also reconsidering the evidence base that underpinned the housing requirement figures to evaluate whether or not the level of growth remains appropriate. The Site Specific Allocations Development Plan Document (DPD) is also in the process of preparation; it is acknowledged that the documents are at an early stage. For example, at the time of the Inquiry, both of these documents were in preparation. Given the advice contained in paragraph 216 of the Framework, I attach limited weight to these documents. This is because they are at an early stage of preparation; they may change in the future as a result of public consultation and the examination in public by an independent Inspector.
28. Paragraph 14 of the Framework states that at its heart is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. A core principle of the Framework is that planning decisions should be plan led.
29. Paragraph 47 to the Framework says that to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their LP meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. In addition, authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five-years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Paragraph 49 says 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 [my emphasis].
30. The undisputed evidence is that the Council cannot demonstrate a five-year supply of deliverable housing sites<sup>6</sup>. There is broad agreement that sites outside existing settlement boundaries may be required to make up the shortfall. The annual monitoring report shows that generally housing supply has increased since 2001<sup>7</sup>. This is borne out in the record of housing delivery as shown in the statistics in Table 3 – *housing completions in Forest Heath District*<sup>8</sup>. For this reason, I am not persuaded by the appellant's argument that there has been a persistent under delivery of housing and so a 20% buffer is not justified in this particular case.
31. Nonetheless, as at March 2012 a total of 3,089 dwellings have been completed since 2001. In order to meet the 6,400 requirement 3,311 dwellings would

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<sup>6</sup> For this agreement, see paragraph 6.5 of the SoCG.

<sup>7</sup> See paragraph 9.10 of TS and 4.12 to Marie Smith's (MS) POE.

<sup>8</sup> See paragraph 9.10 to TS' POE.

need to be built to March 2021. This equates to around 367 dwellings annually or 1839 over the five-year period. The Council state that they have a 3.6 year land supply from a base date of March 2012, however, by applying the 5% buffer this would represent a 3.4 year land supply.

32. The Council favour a residual method of spreading the shortfall to 2021, but, in my view, given the general thrust of guidance contained in the Framework, the shortfall should be made up as soon as possible. On that basis, the evidence shows that there is a housing land supply of around 3.15 years<sup>9</sup>. The Council cannot demonstrate a supply of deliverable housing sites in the short-to-medium term.
33. Notwithstanding the reasons behind them, in particular, CS Policies CS 1 and CS 7 (part not subject to the High Court's quashing order) have a bearing on the supply of housing and must, for the purposes of the Framework, be considered out-of-date given the fact that the Council cannot demonstrate a five-year supply of housing land. In this context, these Policies are inconsistent with the Framework. In these circumstances, greater weight would need to be attached to the Framework<sup>10</sup>. In my view, this finding attracts significant weight in support of the development, because of the Government's aim to boost the supply of housing and to stimulate the economy.
34. There was broad agreement that even if CS Policies relevant to the supply of housing are found to be out-of-date, the level of housing remains in place. However, the Council's assertion that the shortfall in deliverable housing sites could be made up within the next five years through the strategic housing land availability assessment (SHLAA) housing sites, is not borne out by the presented evidence because these sites are not available now<sup>11</sup>. They may not be deliverable or developable to meet the five-year requirement. Additionally, I attach weight to the argument that, given the current economic conditions, there is no information to suggest that these sites would be viable.
35. For all of the above reasons, the lack of a deliverable five-year supply of housing land goes in favour of the grant of planning permission for the development.

#### *Sustainable development*

36. The Council utilises the parish profile to accumulate information on facilities, services and characteristics of each settlement. Such data is used to outline the methodology that informed the settlement's categorisation into a hierarchy and potential growth pattern. The District includes three market towns and a number of key service centres, primary and secondary villages, and small settlements. The main land-use constraints include risk of flooding from sources such as the River Kennet, special protection areas for example, Breckland Farmland Site of Special Scientific Interest (SSSI), nature reserves, military airbases and the HRI.

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<sup>9</sup> See Table 4 page 41 of TS' POE.

<sup>10</sup> For further guidance on the implementation of the Framework see paragraph 214 and 215.

<sup>11</sup> To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable – for further details see footnote 11 of the Framework.

37. For local planning policy purposes, Kentford is categorised as a primary village (PV), because of the type and nature of the available amenities. However, these have been the subject of investigation and assessment through the Infrastructure and Environmental Capacity Appraisal (IECA), which has informed the local plan process. The report considered the environmental capacity and the need for and means of providing and maintaining social, physical and environmental infrastructure to support growth in the District. The appellant has not challenged the report's findings and it is the best available evidence regarding infrastructure capacity within settlements such as Kentford<sup>12</sup>.
38. Overall, the IECA indicates that, currently, Kentford has a very poor range of services. Many of the local key services are absent including sports pitches, non-pitch sports, allotments, playgrounds, library and many of the identified key local services. The nearest primary school is in Moulton a short distance away. There are no health facilities in the village although it is not, currently, large enough to support a surgery. The nearby substation is nearing capacity though Newmarket wastewater treatment works has headroom. The transport network has the potential to be good, particularly with the proximity of the A14 and the existing railway station. There is a good bus service to Bury St Edmunds and Newmarket. There is a Post Office/local store and two public houses<sup>13</sup>.
39. The IECA considers settlement infrastructure tipping points, which can be utilised to evaluate infrastructure impact. The report indicates that environmental capacity exists for 240 – 440 new dwellings in Kentford, but that is subject to significant infrastructure improvements in line with growth. There is a real concern that any physical expansion of Kentford without infrastructure improvements would have an impact upon existing facilities, which are already at tipping point. The report indicates that even 50 to 100 new homes would have a significant impact<sup>14</sup>.
40. In isolation, the development would provide an additional 102 dwellings with associated infrastructure secured by planning obligation. However, the proposed infrastructure improvements and financial contributions would mainly address concerns about the impact of this particular development. Yet the Council is considering other planning applications which would, cumulatively, result in some 300 new homes in Kentford. When considered in isolation or cumulatively, the scale of the development would potentially have a negative effect upon existing infrastructure given that the existing facilities are already under severe pressure, irrespective of the improvements and contributions identified in the planning obligation.
41. The development has a number of positive aspects that weigh in its favour. The illustrative master plan shows that a satisfactory layout can be achieved. The design would be capable of meeting with the principles of good design while respecting the character and appearance of the locality. Together with residential amenity considerations, such matters would be subject to detailed drawings at reserved matters stage should planning permission be granted for

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<sup>12</sup> Prepared by Nathaniel Lichfield and Partners (2009) attached at Appendix 16 to MS and Appendix L to TS's bundle of evidence. The terms of the report are set out in paragraphs 1.5 to 1.14.

<sup>13</sup> See paragraph 5.17 of the IECA report.

<sup>14</sup> See paragraph 5.17 – 5.18 of the IECA report.



the scheme. The village lacks a clear centre and open space provision. That would, to some extent, be addressed by the scheme.

42. A safe access to the site would be achieved and the development would not result in any adverse impact upon highway safety. Moreover, safe pedestrian and cycle links would be provided which would, potentially, improve connectivity across the settlement. Any local highway improvements would be subject to the planning obligation.
43. The development would not result in any adverse impact on archaeology, ecology, biodiversity, landscape or trees. Concerns raised by Natural England about the cumulative effect of the development in association with other proposals in Kentford upon the SSSI have also been adequately assessed<sup>15</sup>.
44. Additionally, the indicative layout shows that the scheme would be located within Flood Zone 1 and sustainable drainage systems and flood mitigation measures would be incorporated in detailed designs to address risks from flooding.
45. Furthermore, the development would provide economic benefits which have been quantified<sup>16</sup>. Briefly, these economic benefits include the creation of short-term jobs, local spending likely to be generated by an estimated 422 residents, and monies from the new homes bonus payments.
46. Drawing all of the above threads together, the scheme seems to me to be the kind of development which paragraph 14 of the Framework supports in a drive to boost housing provision. On the other hand, there are genuine planning concerns about the long-term implications upon Kentford's infrastructure because of the location and scale of the development. Therefore, it is necessary to consider whether or not the grant of planning permission for the development would predetermine the local planning process.

#### *Prematurity*

47. The mere fact that the Council is undertaking a review of the housing needs and strategic allocations, does not automatically mean that all planning applications for residential development have to be put on hold; a planning decision is still required taking into account all relevant material planning considerations<sup>17</sup>.
48. The Council argue that the grant of planning permission for the development would predetermine the SIR and Site Specific Allocations DPD, but I have already concluded that limited weight can be given to these emerging plans as they are at an early stage.
49. Nonetheless, prematurity is a relevant consideration. Policy guidance on prematurity is found in the document titled: '*The Planning System: General Principles*' (PSGP), which was published in 2005. Paragraphs 17 and 18 state that a refusal of planning permission may be justifiable in some circumstances, on the grounds of prematurity, where a DPD is being prepared or is under review, but has not been adopted. However, only ... *where a proposed development is so substantial, or where the community effect would be so*

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<sup>15</sup> Ecological report submitted on behalf of the appellant.

<sup>16</sup> See Paragraphs 8.22 to 8.25 of TS' POE and Appendix I and J.

<sup>17</sup> See the case of *Stratford on Avon District Council v Secretary of State for Communities and Local Government & others* [2013] EWHC 2074.

*significant, that granting planning permission could prejudice the DPD by predetermining decisions about the scale, location or phasing, of new development which are being addressed in the policy in the DPD... A proposal for development which has an impact on only a small area would rarely come into this category... Otherwise, refusal of planning permission on grounds of prematurity will not usually be justified...*

50. Any refusal of planning permission, on the grounds of prematurity, has to be set against other policy imperatives. For example, paragraph 47 of the Framework makes it clear that Councils should be aiming to boost significantly the supply of housing. This has been emphasised by the Secretary of State and Government Ministers, in recent statements, where the provision of more housing is seen as a means for encouraging much needed economic growth.
51. The SHLAA identifies sites that may be suitable for housing development within the District; given the stage at which the SIR and Site Specific Allocations DPD have reached, it is unclear as to the exact amount and location of housing in the short, medium or long term for the District or in PVs. There is broad agreement that PVs are likely to receive some kind of housing allocation though the location and scale is unknown.
52. The development is small in comparison to the District's overall housing requirement. The scheme would contribute to the housing figures; provide affordable homes and other economic benefits. However, there are genuine concerns about the location and scale of the development given the findings of the IECA. Kentford is subject to other land-use constraints such as the SSSI, flood risk, and land used in connection with the HRI. Therefore, it is reasonable to consider the prematurity implications of granting planning permission for the development within the context of Kentford itself.
53. Kentford is the smallest PV and the introduction of 102 new homes would represent a significant increase of the village given its size. The scale of the development would, in my view, increase considerably pressure upon existing facilities that are already said to be at tipping point. In line with growth of the village, there is a need to plan infrastructure improvements for Kentford as a whole rather than in isolation. That needs to be properly investigated and assessed through the local planning process whereas the grant of planning permission for this scheme would predetermine that process.
54. The SHLAA identifies Meddler Stud as a deferred site<sup>18</sup> given land-use constraints such as the risk of flooding and its previous use in connection with the HRI. In comparison, there might well be other sites within the village that may be suitable and sustainable for residential development. I consider that, without proper investigation of the infrastructure improvements required in Kentford to accommodate its future expansion via the local planning process, the development would potentially predetermine the location of new development within Kentford in an uncoordinated and unsustainable manner. To my mind, that goes against the grain of good planning and the Government's localism agenda.

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<sup>18</sup> In accordance with good practice, the SHLAA process identifies sites that offer a realistic opportunity of coming forward for development following an assessment of their suitability, availability and achievability. Deferred sites were identified because of particular constraints at the time of the assessment. While these sites could still come forward, particular constraints would need to be addressed.

55. I have considered all of the arguments about prematurity; however, the proposal would not just have an impact upon a small area. The location and scale of the scheme would have a significant community effect given the potential impact upon existing local amenities, which are said to be already under severe pressure. I find that the scale of the development would be taken as having such a harmful and negative community effect so as to invoke the terms of paragraphs 17 and 18 of the PSGP.
56. On balance, the appropriate location and scale of housing development for this small PV is a matter that should, and would, be properly and robustly addressed through the local planning process. That would allow a full testing of the planned and coordinated location and scale of growth, and address concerns about the lack of adequate infrastructure in a sustainable and long-term manner. The grant of planning permission for the scheme would predetermine that process in an unacceptable manner.
57. For all of the above reasons, I conclude that the scheme would be premature so as to require the withholding of the grant of planning permission now.

*Overall balancing exercise*

58. The lack of a deliverable five-year supply of housing land weighs significantly in favour of the grant of planning permission for the development and it would be in a generally sustainable location. There are other identified and quantified economic, environmental and social benefits of the scheme.
59. However, the development would have a materially harmful effect upon the HRI. Additionally, although Kentford is accessible by means of public transport and has some local amenities, these are already said to be at tipping point. Therefore, the sustainable location and scale of development in this PV should, and would, be properly and robustly tested through the local planning process.
60. On balance, I consider it to be of greater weight that the grant of planning permission for this scheme would materially harm the HRI and predetermine the location and scale of development within Kentford in an unplanned, uncoordinated and unsustainable manner.

**Overall conclusion**

61. Therefore, for the reasons given above, and having considered all other matters, I conclude that the appeal should be dismissed.

*A U Ghafoor*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Paul Shadarevian	Of Counsel, instructed by Forest Heath District Council Legal Services
He called Tony Kernon	Kernon Countryside Consultants
Marie Smith	Planning Manager, Forest Heath District Council

### FOR THE APPELLANT:

Christopher Boyle QC	Of Counsel, instructed by the appellant and URS Infrastructure and Environment UK Ltd
He called George Windsor Clive	Windsor Clive International
Thomas Smith	URS Infrastructure and Environment UK Ltd

### INTERESTED PERSONS:

William Gittus	Managing Director, Jockey Club Estates
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## **DOCUMENTS HANDED IN DURING THE COURSE OF THE INQUIRY**

- 1 Statement of Common Ground
- 2 Draft planning obligation
- 3 Note on prematurity from The Planning Inspectorate
- 4 Thomas Smith's Appendix K
- 5 Infrastructure and Environmental Capacity Appraisal final report
- 6 Response from George Windsor Clive to Tony Kernon's Appendix 11
- 7 Tony Kernon's rebuttal statement
- 8 Letter dated 5 September 2013
- 9 Appendices to letter from URS dated 15 May 2013 attached to appellant's bundle of evidence
- 10 URS letter dated 23 August 2013
- 11 Email communication dated 18 September 2013 – C Anderson
- 12 Email communication dated 18 September 2013 – T Poole
- 13 Email communication dated 18 September 2013 – W Gittus
- 14 Information broche Jockey Club Estates Limited
- 15 Statement - W Gittus
- 16 Aerial image Streetly End, West Wickham
- 17 Option C – recalculations
- 18 Planning obligation