

Wrotham	561130 159270	6 August 2007	(A) TM/07/03032/FL
Wrotham		10 August 2007	(B) TM/07/03033/CA

Proposal: (A) Demolition of Court Lodge Cottage and the creation of a courtyard development consisting of eight dwellings within three new buildings together with new access to London Road
(B) Conservation Area Consent: Demolition of Court Lodge Cottage

Location: Court Lodge Cottage Old London Road Wrotham Sevenoaks Kent TN15 7DL

Applicant: Fairways Property Investment

1. Description (A) and (B)

- 1.1 These applications relate to the demolition of a detached dwelling and its replacement by 8 dwellings comprised of a terrace of 4 x 3 bed houses and 1 x 4 bed house, a pair of 3 bed semi-detached houses and a single 1 bed apartment.
- 1.2 The proposal includes a hipped pitched roof garage block of 6 garages and 9 parking spaces. This provides 2 spaces per dwelling apart from the apartment which has 1 space.
- 1.3 The terrace and the apartment and garage block are arranged to form a courtyard.
- 1.4 The terrace is generally on the site of the existing house that is to be demolished and its patio, but will have rear gardens that project into the garden of Court Lodge, a Grade II Listed Building.
- 1.5 The rear walls of the garage block and the apartment above will be set between 1 and 2m from the walled north-eastern boundary of the site with London Road.
- 1.6 The application includes closing the existing access point at London Road and constructing a new one 40m further to the west. It is envisaged that the new access will also serve a recently permitted residential redevelopment of the neighbouring listed building itself.
- 1.7 The density is 32 dph.
- 1.8 This application is being reported to Committee at the request of Cllr Coffin, as this property is important to Wrotham and needs a proper debate.

2. The Site (A) and (B):

- 2.1 The site is a detached dwelling which is no longer in the curtilage of Court Lodge itself, the 2 properties now being in separate ownership.

- 2.2 Court Lodge to the west is a substantial listed house, built in 1801-02 by Samuel Wyatt. It and various outbuildings have a recent planning permission and Listed Building consent for conversion provide 7 no. dwellings, with new vehicular access and footway to Old London Road. This has not yet been implemented.
- 2.3 The site includes an area of mature trees on the London Road frontage and a lawned front garden to Court Lodge Cottage.
- 2.4 The application site includes an area of approx. 24m by 10m of the garden of Court Lodge, to serve as rear gardens for 4 of the houses in this application.
- 2.5 The north-eastern frontage to London Road consists of an attractive ragstone wall, 2.6m high with a concrete panelled fence on the northern frontage.

3. Planning History (A) and (B):

TM/88/10259/FUL Grant with conditions 10 June 1988
(TM/88/600)
Erection of new garage and entrance porch.

TM/95/50803/FL Grant With Conditions 14 September 1995

Porch/utility room single storey lean-to construction to kitchen.

TM/06/01574/FL Grant With Conditions 23 November 2006

Demolition of single storey side addition, erection of replacement building and conversion of Court Lodge to provide 7 no. dwellings, with new vehicular access and footway to Old London Road.

TM/07/01252/CA Application Withdrawn 10 July 2007

Conservation Area Application: Demolition of Court Lodge Cottage.

TM/07/01255/FL Application Withdrawn 10 July 2007

Demolition of Court Lodge Cottage and the creation of a courtyard development consisting of nine dwellings within three new buildings together with new access to London Road.

4. Consultees (A) and (B):

- 4.1 PC: The Parish Council supports these applications, as the development is sympathetic both with the Listed Building and the street scene adjacent to the High Street and Old London Road, where the majority of properties have a direct frontage to the street. We note with pleasure that the development proposes to close off the substandard access to the High Street on the east side of the

proposed development. The Parish Council acknowledges that there is a ready market for this smaller type of property in the village. We also appreciate the new pavement that extends from the High Street through to Court Meadow. The proposed development is a distinct improvement in appearance over the existing 1950 / 60's development, which is quite out of keeping with the character of the Listed Building and street scene in general.

4.2 EH: No comments.

4.3 Fire & Rescue Services: Access for fire engines is satisfactory.

4.4 KCC (Highways): The proposal is for eight dwellings being served by two off street parking spaces each that is acceptable. The parking is to be provided in the form of garages and courtyard parking. The applicant is advised that bays are to be a minimum of 2.5m (width) x 5.0m (length). The preferred size for a single garage is 3.6m (width) x 5.5m (length), this to accommodate the needs of the disabled. Scaling from the drawing the proposed garages are adequate in width but only scale 5.0m in length.

4.4.1 Access to the public highway is to be by way of a new access onto Old London Road the same access as detailed in a previous application for residential development at Court Lodge, along with other highway works. All works are subject to further detail. The existing one is to be permanently closed off. I am satisfied that this access is suitable to accommodate the traffic generated by this proposal and the adjacent development totalling some 17 dwellings.

4.4.2 The applicant will need to liaise with the Local Authority regarding refuse storage and collection. All works affecting the public highway will be done to the Highway Managers specification and satisfaction, be subject to a legal agreement and the safety audit process. Surface water from private areas is not to discharge onto the public highway. A number of highway conditions are needed.

4.5 DHH (housing). In accordance with the policy contained within the LDF Core Strategy, the number of units (8) triggers the affordable housing policy. There will, therefore, be an expectation for the delivery of 40% affordable on site. Based on a 40% yield I would expect 3 units of affordable housing. In keeping with the policy I would expect 2 units for rent (both 3 beds) and 1 for shared ownership (2 bed). (NB: A 2 bed unit is not proposed and we would welcome further consideration by the applicant on the scope for providing this unit which better meets identified housing needs).

4.5.1 (Noise): A noise study should be undertaken before planning permission is given to establish the NEC and satisfactory insulation details in accordance with PPG 24 and P3/17 of the TMBLP.

4.5.2 (Refuse): The scheme needs to take account of the Council's refuse collection policy.

5. Determining Issues (A) and (B):

- 5.1 The site is in the rural settlement of Wrotham, in a Conservation Area and AONB. It adjoins and partly includes the garden of a Grade II Listed Building.
- 5.2 The main issues relate to the siting within the Conservation Area, the setting of the Listed building, whether the design and layout are in character, amenity, highway safety and affordable housing.
- 5.3 Policy CP13 of the CS restricts new development in the confines of rural settlements to minor development appropriate to the scale and character of the settlement. From an environmental sustainability point of view, redevelopment should not increase the trip generation unless there is a significant improvement in the appearance of the settlement or it meets an exceptional local need for affordable housing.
- 5.4 Policy QL6 of the KMSP and PPG15 require the character and appearance of Conservation Areas to be preserved or enhanced.
- 5.5 PPG15 states that LPAs should have special regard to the desirability of preserving any Listed Building or its setting.
- 5.6 Policy QL1 of the KMSP and CS Policy CP24 set out the general criteria for all new development including a provision that development must respect the site and its surroundings and will not be permitted where it would be detrimental to the built environment and amenity of a settlement.
- 5.7 Saved Policy 3/17 of the TMBLP requires residential development to have an acceptable acoustic environment.
- 5.8 Policy CP17 of the CS relates to the provision of affordable housing.
- 5.9 In terms of the principle of the development assessed against CS Policy CP13, I am of the view that despite the level of development being a net gain of 7 dwelling units, the redevelopment does bring about a sensitive housing scheme in place of a nondescript dwelling in a prominent location in the Conservation Area. The potential for improved conditions of highway safety, involving the closure of the existing access and creation of a new access would also be a factor in favour of the development which is not in an ideal location for new housing due to the relative lack of environmental sustainability compared to a town or rural service centre. Therefore, although it is a matter of judgement as to whether strict adherence to policy CP13 is achieved, there are other issues that might legitimately be brought to bear.
- 5.10 The layout of the development involves the main terrace being sited overlapping the footprint of the building to be demolished. The apartment block backs onto London Road and the garage block also backs onto London Road. I am satisfied

that the juxtaposition of the courtyard arrangement of the development with the 2.6m high ragstone wall boundary does not harm the character and appearance of the Conservation Area.

- 5.11 The new access to London Road and the pair of semi-detached houses are proposed to be sited in a less domestic area of the site and will involve the loss of some trees. The access road position already has planning permission under ref TM/06/01574/FL (relating to development of the main listed house).
- 5.12 The new houses at plots 7 and 8 will require the removal of one holly tree although several other holly/sycamores are shown to be removed from the proposed rear amenity areas for these units. The submitted tree report advises that they are all suppressed or specimens of poor growth form and no objections are raised on this basis.
- 5.13 The rear gardens of plots 1-4 include land that is currently garden of the Listed Building. There is an issue with land levels here as the land level drops significantly. However, I am satisfied that appropriate levels and boundary treatment can be secured by condition such that the domestic use of the land for amenity areas will not adversely affect the setting of the neighbouring Listed Building. I have also suggested removal of certain permitted development rights to plots 1-4 in order to safeguard the setting of the Listed house.
- 5.14 In terms of residential amenity, there are no issues identified within the site layout. One issue highlighted by DHH is the impact of road noise, the M20 being just over 200m to the north-east of the application site. In this particular case, I have suggested a condition to be imposed requiring adequate acoustic protection measures following the carrying out of a noise study.
- 5.15 There are no highways concerns and the parking provision is considered to be adequate for the size and mix of dwellings proposed.
- 5.16 The final issue is the requirement for affordable housing that has arisen from the adoption of the Core Strategy on 25 September 2007. Policy CP17 is triggered by a development of this size in a rural area. The agent does not wish for this requirement to be sought, his comments being summarised below:
- *On the 20th June I set out in an email the points that we had discussed in the meeting earlier in the day and to which you added the point about the treatment of rear gardens. I appreciate that all officer advice is offered without prejudice, but nothing was said at the further meeting on the 2nd July that added to, or contradicted, the position discussed.*
 - *My client decided to withdraw planning application TM/07/01255/FL and to submit a further planning application, TM/07/03032/FL, on the 31st July.*

- *Affordable housing was not raised as an issue before your email on the 28th September. I also note that the Core Strategy was adopted on the 25th September, that the Housing Strategy and Enabling Officer's Memorandum is dated the 27th September and that the statutory period for determination of this application expired on the 1st October*
- *It is unreasonable in this case, where it appears that a decision would have been made on or before the 1st October, to impose a requirement for the provision of affordable housing at such a late stage*
- *The facts set out above amount to strong reasons (material considerations) justifying a decision otherwise than in accordance with Core Strategy Policy CP17.*

5.17 Members will note that the agent has not made any economic justification for not wishing to provide any affordable housing. There are no other obligations for financial contributions being imposed on the scheme. Due to separate ownership, there is no connection between funds generated by this scheme and the upkeep or retention of the Listed Building, that is, this is not "enabling development".

5.18 The main point made by the agent is that the application was submitted before the adoption of CP17 and subject to not having been called in to Committee, could have been determined before the adoption of CP17 (i.e. before 25 September 2007).

5.19 It is the case that the affordable housing policy became adopted after the application was received although the Inspector's report stating that the policy was "sound" was received on 16 August 2007. Of course, as CP18, a policy in this form was in the Core Strategy submission draft since September 2006.

5.20 The affordable housing policy CP17 was not part of the Development Plan when the previous application was submitted and withdrawn. However, it is a statutory requirement that at the time of determination, decisions must be made in accordance with the Development Plan unless otherwise justified. There is no economic argument submitted in mitigation and this is a net gain of 7 units in a relatively unsustainable location. Therefore, in the light of CP13 and CP17 now being adopted policies, I am of the view that there is no justification for setting aside a requirement for affordable housing.

5.21 I am of the opinion that the application for planning permission and Conservation Area consent for demolition can be supported subject to conditions.

6. Recommendation:

(A) TM/07/03032/FL:

6.1 **Grant Planning Permission** as detailed by Letter dated 06.08.2007, Certificate B dated 06.08.2007, Notice dated 06.08.2007, Transport Assessment DMC/GD04521 dated 06.08.2007, Tree Report dated 06.08.2007, Design and Access Statement dated 06.08.2007, Site Layout S200 dated 06.08.2007, Location Plan S201 dated 06.08.2007, Site Plan P200 A dated 06.08.2007, Site Plan P201 A dated 06.08.2007, Floor Plans And Elevations P202 dated 06.08.2007, Elevations P206 A dated 06.08.2007, Floor Plans And Elevations P205 A dated 06.08.2007, Floor Plans And Elevations P204 A dated 06.08.2007, Floor Plans And Elevations P203 dated 06.08.2007 subject to the following conditions:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2 A condition requiring the submission of a scheme of affordable housing. (The detailed wording of this condition will be set out in a Supplementary Report, in light of the most up-to-date policy position).

3 The access shall not be used until the area of land within the vision splays shown on the approved plans has been reduced in level as necessary and cleared of any obstruction exceeding a height of 1.05 metres above the level of the nearest part of the carriageway. The vision splay so created shall be retained at all times thereafter. (H001)

Reason: To ensure the safe and free flow of traffic.

4 The use hereby permitted shall not be commenced until the existing vehicular access to London Road has been closed permanently. (H006)

Reason: To ensure the safe and free flow of traffic.

5 No building shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans. (H009)

Reason: To ensure the safe and free flow of traffic.

6 Any gateway to the access shall be set back 5.0 metres from the edge of the highway. (H013)

Reason: To enable vehicles to stand off the highway whilst any gates are being operated.

- 7 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space. (P004)

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

- 8 The garage(s) shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles. (P009)

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

- 9 No development shall take place until details of existing and proposed levels of the dwellings and private gardens have been submitted to and approved by the Local Planning Authority, and the work shall be carried out in strict accordance with those details. (D008)

Reason: To ensure that the development does not harm the setting of the adjacent Listed Building nor the character and appearance of the Conservation Area.

- 10 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate and shall be so retained thereafter. (L003*)

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 11 No development shall take place until details and samples of all materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details. (D001)

Reason: To ensure that the development does not harm the character and appearance or the visual amenity of the locality.

- 12 The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:
- (a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).
 - (b) No fires shall be lit within the spread of the branches of the trees.
 - (c) No materials or equipment shall be stored within the spread of the branches of the trees.
 - (d) Any damage to trees shall be made good with a coating of fungicidal sealant.
 - (e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.
 - (f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority. (L005)

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 13 No development shall be commenced until full details of a scheme of acoustic protection of habitable rooms having windows that will be exposed to a level of road traffic noise in Noise Exposure Categories B, C or D as set out in Policy P3/17 of the Tonbridge and Malling Borough Local Plan have been submitted to and approved in writing by the Local Planning Authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels no greater than 30 L_{Aeq} dB in bedrooms and 40 L_{Aeq} dB in living rooms with windows closed. Additionally, where the internal noise levels will exceed 40 L_{Aeq} dB in bedrooms or 48 L_{Aeq} dB in living rooms with windows open the scheme of acoustic protection shall incorporate appropriate acoustically screened mechanical ventilation. Mechanical ventilation shall also be provided to bedrooms having openings into facades that will be exposed to a level of road traffic noise in excess of 78 L_{Amax} (Slow) time weighting. The approved scheme shall be implemented prior to the first occupation of the dwelling to which it relates and shall be retained at all times thereafter. (N016)

Reason: To safeguard the aural amenity of the occupiers of the dwelling(s) hereby approved.

- 14 With regard to plots 1-4 (incl), notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, B, C, E, H of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto. (R001)

Reason: In the interests of preserving the setting of a listed building.

- 15 With regard to plots 1-4 (incl), notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, C of Part 2 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto. (R001)

Reason: In the interests of preserving the setting of a listed building.

Informatives

- 1 With regard to works within the limits of the highway, the applicant is asked to consult The Highway Manager, Kent Highways, Joynes House, New Road, Gravesend, Kent, DA11 0AT. Tel: 08458 247 800.
- 2 All works affecting the public highway will be subject to a legal agreement and the safety audit process.
- 3 Surface water from private areas is not to discharge onto the public highway.

(B) TM/07/03033/CA:

- 6.2 **Grant Conservation Area Consent** as detailed by Letter received 06.08.2007, Location Plan S201 received 06.08.2007, Plan PHOTOGRAPHS AND SITE PLAN received 06.08.2007, subject to the following conditions:

- 1 The works to which this consent relates shall be begun before the expiration of three years from the date of this consent. (Z063)

Reason: In pursuance of Sections 18 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 The demolition hereby permitted shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site has been made and planning permission has been granted for the redevelopment for which the contract provides. (C004)

Reason: To ensure that the demolition is carried out as a continuous operation with the redevelopment of the site, in the interests of visual amenity.

Contact: Marion Geary