

# Forest Heath District Council

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## Report of the Head of Planning and Regulatory Services

<p style="text-align: center;"><b><u>DEVELOPMENT CONTROL COMMITTEE</u></b></p> <p style="text-align: center;"><b><u>5 FEBRUARY 2014</u></b></p> <p style="text-align: center;"><b><u>DEV14/103</u></b></p>
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### **RETAIL APPLICATIONS UPDATE AND CLARIFICATION REGARDING THE DETERMINATION OF THE TESCO APPLICATION F/2012/0704/FUL**

- 1. Summary and reasons for recommendation(s)**
1. The purpose of this report is to update Members on the current situation regarding the retail proposals in Newmarket. Unex, on behalf of Asda (F/2013/0102/FUL and F/2013/0112/LBC) has appealed against their refusal notices and a Public Inquiry has been set for 25 to 28 February 2014. The consent for Morrisons (F/2011/0712/FUL) was issued on 30 December 2013 and the consent for Tesco (F/2012/0704/FUL) is close to being issued pending the completion of the S106 Obligation, which is doing its final rounds.
  2. The Council has received a letter from a solicitor acting on behalf of Unex (the applicants for the Asda site) threatening the possibility of Judicial Review of the Tesco decision (see Working Paper 1 for details) if the decision was to be issued without the Council first considering whether there is any new information contained within the appellants’ proofs of evidence which are due to be submitted on 28 January 2014 and therefore whether the Tesco resolution needs to be reconsidered by Development Control Committee as a result.
  3. The Council’s barrister and legal adviser have recommended that a verbal update be given to the Committee on 5 February 2014, once Officers have been able to digest the appellants’ proofs of evidence, which were not available at the time of writing this report.

- 2. Recommendation(s)**
- 2.1 Members are recommended to consider the verbal update and recommendation at the meeting.

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**3. How will the recommendations help us meet our strategic priorities?**

3.1 The approved schemes will contribute to the economy of the area.

**4. Key issues**

4.1 Verbal update to be given at the meeting

**5. Other options considered**

5.1 None

**6. Community impact**

6.1 **Crime and disorder impact** *(including Section 17 of the Crime and Disorder Act 1998)*

6.1.1 Crime and Disorder requirements were taken into account during the consideration of the retail applications.

6.2 **Diversity and equality impact** *(including the findings of the Equality Impact Assessment)*

6.2.1 ...There is not considered to be an adverse impact on Diversity and Equality

6.3 **Sustainability impact** *(including completing a Sustainability Impact Assessment)*

6.3.1 Each application was accompanied by a statement regarding sustainable energy and low carbon emissions and a Sustainability Officer advised on all applications.

6.4 **Other impact** *(any other impacts affecting this report)*

6.4.1 ...None.

**7. Consultation** *(what consultation has been undertaken, and what were the outcomes?)*

7.1 Internal legal advice sought.

**8 Financial and resource implications** *(including asset management implications)*

8.1 ...The appeal/inquiry will have significant cost and resource implications for the Council.

**9. Legal and policy implications**

9.1 ...Dealt with in paragraph 4 above

**10. Ward(s) affected:**

10.1 Severals and St Mary's Wards, Newmarket

## **11. Background papers**

- 11.1 Planning application details, F/2011/0712/FUL, F/2012/0704/FUL, F/2013/0102/FUL and F/2013/0112/LBC.