

Development Control Committee



Forest Heath
District Council

Title:	Agenda									
Date:	Wednesday 4 March 2015									
Time:	6.00 pm									
Venue:	Council Chamber District Offices College Heath Road Mildenhall									
Full Members:	<p style="text-align: center;">Chairman Chris Barker</p> <p style="text-align: center;">Vice Chairman Andy Drummond</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="vertical-align: top;"><u>Conservative Members (13)</u></td> <td style="vertical-align: top;">Michael Anderson Bill Bishop John Bloodworth David Bowman Rona Burt Warwick Hirst</td> <td style="vertical-align: top;">Warwick Hirst Carol Lynch Tony Simmons Eddie Stewart Tony Wheble Vacancy</td> </tr> <tr> <td style="vertical-align: top;"><u>Opposition Group Members (2)</u></td> <td style="vertical-align: top;">Simon Cole</td> <td style="vertical-align: top;">Tim Huggan</td> </tr> <tr> <td style="vertical-align: top;"><u>Independent Members (2)</u></td> <td style="vertical-align: top;">Simon Cole Roger Dicker</td> <td style="vertical-align: top;">David Gathercole</td> </tr> </table>	<u>Conservative Members (13)</u>	Michael Anderson Bill Bishop John Bloodworth David Bowman Rona Burt Warwick Hirst	Warwick Hirst Carol Lynch Tony Simmons Eddie Stewart Tony Wheble Vacancy	<u>Opposition Group Members (2)</u>	Simon Cole	Tim Huggan	<u>Independent Members (2)</u>	Simon Cole Roger Dicker	David Gathercole
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<u>Independent Members (2)</u>	Simon Cole Roger Dicker	David Gathercole								
<p>A SITE VISIT WILL BE HELD ON MONDAY 2 MARCH 2015 AT THE FOLLOWING TIME:</p> <ol style="list-style-type: none"> 1. Planning Application DC/14/2209/FUL - Brickfields Cottages, Cemetery Hill, Newmarket - Construction of horse walker and re-location of previously approved menage. Site visit to be held at 10.00am 										
Substitutes:	Named substitutes are not appointed									
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.									

Quorum:	Five Members
Committee administrator:	Helen Hardinge Committee Administrator & FHDC Scrutiny Support Tel: 01638 719363 Email: helen.hardinge@westsuffolk.gov.uk

DEVELOPMENT CONTROL COMMITTEE AGENDA NOTES

Notes

Subject to the provisions of the Local Government (Access to Information) Act 1985, all the files itemised in this Schedule, together with the consultation replies, documents and letters referred to (which form the background papers) are available for public inspection.

All applications and other matters have been considered having regard to the Human Rights Act 1998 and the rights which it guarantees.

Material Planning Considerations

1. **It must be noted that when considering planning applications (and related matters) only relevant planning considerations can be taken into account. Councillors and their Officers must adhere to this important principle which is set out in legislation and Central Government Guidance.**
2. **Material Planning Considerations include:**
 - Statutory provisions contained in Planning Acts and Statutory regulations and Planning Case Law
 - Central Government planning policy and advice as contained in Circulars and the National Planning Policy Framework (NPPF)
 - The following Planning Local Plan Documents

Forest Heath District Council	St Edmundsbury Borough Council
Forest Heath Local Plan 1995	St Edmundsbury Borough Local Plan 1998 and the Replacement St Edmundsbury Borough Local Plan 2016
The Forest Heath Core Strategy 2010, as amended by the High Court Order (2011)	St Edmundsbury Borough Council Core Strategy 2010
Emerging Policy documents	Emerging Policy documents
Joint Development Management Policies	Joint Development Management Policies
Core Strategy – Single Issue review	Vision 2031
Site Specific Allocations	

- Supplementary Planning Guidance/Documents eg. Affordable Housing SPD
- Master Plans, Development Briefs
- Site specific issues such as availability of infrastructure, density, car parking
- Environmental; effects such as effect on light, noise overlooking, effect on street scene
- The need to preserve or enhance the special character or appearance of designated Conservation Areas and protect Listed Buildings
- Previous planning decisions, including appeal decisions
- Desire to retain and promote certain uses e.g. stables in Newmarket.

3. The following are **not** Material Planning Considerations and such matters must not be taken into account when determining planning applications and related matters:
 - Moral and religious issues
 - Competition (unless in relation to adverse effects on a town centre as a whole)
 - Breach of private covenants or other private property / access rights
 - Devaluation of property
 - Protection of a private view
 - Council interests such as land ownership or contractual issues
 - Identity or motives of an applicant or occupier
4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission shall be determined in accordance with the Development Plan (see table above) unless material planning considerations indicate otherwise.
5. A key role of the planning system is to enable the provision of homes, buildings and jobs in a way that is consistent with the principles of sustainable development. It needs to be positive in promoting competition while being protective towards the environment and amenity. The policies that underpin the planning system both nationally and locally seek to balance these aims.

Documentation Received after the Distribution of Committee Papers

Any papers, including plans and photographs, received relating to items on this Development Control Committee agenda, but which are received after the agenda has been circulated will be subject to the following arrangements:

- (a) Officers will prepare a single Committee Update Report summarising all representations that have been received up to 5pm on the **Thursday** before each Committee meeting. This report will identify each application and what representations, if any, have been received in the same way as representations are reported within the Committee report;
- (b) the Update Report will be sent out to Members by first class post and electronically by noon on the **Friday** before the Committee meeting and will be placed on the website next to the Committee report.

Any late representations received after 5pm on the **Thursday** before the Committee meeting will not be distributed but will be reported orally by officers at the meeting.

Public Speaking

Members of the public have the right to speak at the Development Control Committee, subject to certain restrictions. Further information is available on the Councils' websites.

DEVELOPMENT CONTROL COMMITTEE DECISION MAKING PROTOCOL

The Development Control Committee usually sits once a month. The meeting is open to the general public and there are opportunities for members of the public to speak to the Committee prior to the debate.

Decision Making Protocol

This protocol sets out our normal practice for decision making on development control applications at Development Control Committee. It covers those circumstances where the officer recommendation for approval or refusal is to be deferred, altered or overturned. The protocol is based on the desirability of clarity and consistency in decision making and of minimising financial and reputational risk, and requires decisions to be based on material planning considerations and that conditions meet the tests of Circular 11/95: "The Use of Conditions in Planning Permissions." This protocol recognises and accepts that, on occasions, it may be advisable or necessary to defer determination of an application or for a recommendation to be amended and consequently for conditions or refusal reasons to be added, deleted or altered in any one of the circumstances below.

- Where an application is to be deferred, to facilitate further information or negotiation or at an applicant's request.

- Where a recommendation is to be altered as the result of consultation or negotiation:
 - The presenting Officer will clearly state the condition and its reason or the refusal reason to be added/deleted/altered, together with the material planning basis for that change.

 - In making any proposal to accept the Officer recommendation, a Member will clearly state whether the amended recommendation is proposed as stated, or whether the original recommendation in the agenda papers is proposed.

- Where a Member wishes to alter a recommendation:
 - In making a proposal, the Member will clearly state the condition and its reason or the refusal reason to be added/deleted/altered, together with the material planning basis for that change.

 - In the interest of clarity and accuracy and for the minutes, the presenting officer will restate the amendment before the final vote is taken.

 - Members can choose to
 - delegate the detailed wording and reason to the Head of Planning and Regulatory Services;

- delegate the detailed wording and reason to the Head of Planning and Regulatory Services following consultation with the Chair and Vice Chair(s) of Development Control Committee.
- Where Development Control Committee wishes to overturn a recommendation and the decision is considered to be significant in terms of overall impact; harm to the planning policy framework, having sought advice from the Head of Planning and Regulatory Services and the Head of Legal and Democratic Services (or Officers attending Committee on their behalf)
 - A final decision on the application will be deferred to allow associated risks to be clarified and conditions/refusal reasons to be properly drafted.
 - An additional officer report will be prepared and presented to the next Development Control Committee detailing the likely policy, financial and reputational etc risks resultant from overturning a recommendation, and also setting out the likely conditions (with reasons) or refusal reasons. This report should follow the Council's standard risk assessment practice and content.
 - In making a decision to overturn a recommendation, Members will clearly state the material planning reason(s) why an alternative decision is being made, and which will be minuted for clarity.
- In all other cases, where Development Control Committee wishes to overturn a recommendation:
 - Members will clearly state the material planning reason(s) why an alternative decision is being made, and which will be minuted for clarity.
 - In making a proposal, the Member will clearly state the condition and its reason or the refusal reason to be added/deleted/altere, together with the material planning basis for that change.
 - Members can choose to
 - delegate the detailed wording and reason to the Head of Planning and Regulatory Services
 - delegate the detailed wording and reason to the Head of Planning and Regulatory Services following consultation with the Chair and Vice Chair(s) of Development Control Committee

- Member Training
 - In order to ensure robust decision-making all members of Development Control Committee are required to attend annual Development Control training.

Notes

Planning Services (Development Control) maintains a catalogue of 'standard conditions' for use in determining applications and seeks to comply with Circular 11/95 "The Use of Conditions in Planning Permissions."

Members/Officers should have proper regard to probity considerations and relevant codes of conduct and best practice when considering and determining applications.

Agenda

Procedural Matters

Part 1 - Public

- 1. Apologies for Absence**
- 2. Substitutes**
- 3. Minutes** **1 - 6**

To confirm the minutes of the meeting held on 4 February 2015 (copy attached).
- 4. Planning Application NMA(1)/14/1289 - The Gym Mildenhall, District Offices, College Heath Road, Mildenhall** **7 - 14**

Report No: **DEV/FH/15/008**

Non-Material Amendment to planning permission DC/14/1289/R4LA – addition of new fire exit on north elevation.
- 5. Planning Application DC/14/2209/FUL - Brickfields Cottages, Cemetery Hill, Newmarket** **15 - 26**

Report No: **DEV/FH/15/009**

Planning Application - Construction of horse walker and re-location of previously approved menage.
- 6. Review of Framework for Shared Planning Services** **27 - 34**

Report No: **DEV/FH/15/010**
- 7. Urgent Business**

Such other business which, in the opinion of the Chairman, should be considered as a matter of urgency to be specified in the minutes.

Development Control Committee



Forest Heath
District Council

Minutes of a meeting of the **Development Control Committee** held on **Wednesday 4 February 2015** at **6.00 pm** at the **Council Chamber, District Offices**, College Heath Road, Mildenhall IP28 7EY

Present: **Councillors**

Chairman Chris Barker

Vice Chairman Andy Drummond

Michael Anderson
Bill Bishop
John Bloodworth
David Bowman
Rona Burt
Simon Cole
Roger Dicker

David Gathercole
Warwick Hirst
Carol Lynch
Tony Simmons
Tony Wheble
Bill Sadler

14. **Apologies for Absence**

Apologies for absence were received from Councillors Geoffrey Jaggard and Eddie Stewart.

Councillor Tim Huggan was also unable to attend the meeting.

15. **Substitutes**

Councillor Bill Sadler attended the meeting as substitute for Councillor Geoffrey Jaggard.

16. **Minutes**

The minutes of the meeting held on 7 January 2015 were accepted by the Committee as an accurate record, with 13 voting for the motion and with 2 abstentions, and were signed by the Chairman.

17. **Update Report on DC/13/0408/OUT - Hatchfield Farm, Fordham Road, Newmarket (Report No. DEV/FH/15/007)**

The Chairman advised that this item had been withdrawn from the agenda pending further legal advice.

18. **Planning Application DC/14/2236/FUL- Land at Lakenheath Hotel, 124 High Street, Lakenheath (Report No. DEV/FH/15/002)**

Construction of three dwellings and re-positioning of existing vehicular access.

This application was referred to the Development Control Committee following consideration at the Delegation Panel and because the Parish Council had raised concerns.

A Member site visit had been held prior to the meeting. Officers were recommending that planning permission be granted as set out in Paragraph 36 of Report No DEV/FH/15/002.

The Senior Planner drew attention to Paragraph 24 of the report and, in order to prevent any confusion, clarified that the final sentence which referred to a "modern style of development" was referring to neighbouring Pintail Close, and not the proposed development in the application.

Councillor David Gathercole spoke on the application, as Ward Member for Lakenheath, and echoed the concerns raised by the Parish Council (as set out in Paragraph 14 of the report).

He proposed that the application be refused as it was contrary to Policies DM16 (Listed Buildings), DM18 (Conservation Areas) and CS3 (Landscape Character and the Historic Environment). This was duly seconded by Councillor Tony Wheble.

The Lawyer advised that the final wording of the resolution would be agreed between the Chairman, Head of Service and Portfolio Holder.

Upon being put to the vote and with 10 voting for the motion, 2 against and 3 abstentions, it was resolved that:

Planning permission be **REFUSED** as the application was contrary to Policies DM16 (Listed Buildings), DM18 (Conservation Areas) and CS3 (Landscape Character and the Historic Environment).

The final wording of the resolution was to be agreed between the Development Control Committee Chairman, the Head of Planning & Growth and the Portfolio Holder for Planning, Housing & Transport.

Speakers: Councillor Hermione Brown (Lakenheath Parish Council) spoke against the application.

Mr Steven White (Applicant) spoke in support of the application.

19. **Planning Application DC/14/2238/LB - Land at Lakenheath Hotel, 124 High Street, Lakenheath (Report No. DEV/FH/15/003)**

Application for Listed Building Consent – demolition of attached single storey outhouse at rear of hotel.

This application was referred to the Development Control Committee following consideration at the Delegation Panel and because the Parish Council had raised concerns.

A Member site visit had been held prior to the meeting. Officers were recommending that planning permission be granted as set out in Paragraph 16 of Report No DEV/FH/15/003.

Councillor Bill Sadler proposed that the application be approved and this was duly seconded by Councillor Tony Simmons, and with the vote being unanimous it was resolved that:

Consent be **GRANTED** subject to the following conditions:

1. Time limit
2. Details of making good the existing gable end wall
3. Compliance with approved plans

Speaker: Councillor Hermione Brown (Lakenheath Parish Council)
spoke against the application.

20. **Planning Application DC/14/0263/FUL - Land rear of 12 Turnpike Lane, Red Lodge (Report No. DEV/FH/15/004)**

Erection of a one and a half storey dwelling and garage.

This application was referred to the Development Control Committee following consideration at the Delegation Panel.

A Member site visit had been held prior to the meeting. Officers were recommending that planning permission be refused as set out in Paragraph 17 of Report No DEV/FH/15/004.

The Senior Planner explained that the Parish Council had not submitted any comments in respect of the application. She also advised the Committee of the planning history of the site.

Councillor Roger Dicker spoke in support of the application and proposed that it be approved and this was duly seconded by Councillor Tony Wheble.

Councillor Drummond, however, supported the Officer recommendation and proposed that the application be refused and this was seconded by Councillor Bill Sadler. However, as this was a direct negative to the proposal for approval that was on the table it was not a valid motion.

The Chairman, therefore, put the motion for approval to the vote and with 4 voting for and 11 against, he declared the motion lost.

Councillor Drummond then re-proposed refusal and this was again seconded by Councillor Sadler. Upon being put to the vote and with 11 voting for the motion and with 4 against, it was resolved that:

Planning permission be **REFUSED** for the following reason:

1. In the opinion of the Local Planning Authority the proposed development would result in the intensification of use of the access. This would lead to unacceptable levels of noise and disturbance and would therefore be detrimental to the amenity of neighbouring occupiers. The application is, therefore, contrary to Policy 4.14 and 4.15 of the Forest Heath Local Plan 1995 (particularly criterion b)) and the guiding principles set out in the National Planning Policy Framework (2012).

21. **Tree Preservation Order - Forest Heath District Council: TPO 3, 2014 - 7 Bury Road, Brandon (Report No. DEV/FH/15/005)**

The Senior Planner advised the Committee that a provisional Tree Preservation Order (TPO) had been served on one Yew tree at 7 Bury Road, Brandon.

The statutory consultation period for the TPO expired on 21 November 2014, one objection had been received by the Council. It was recommended that Members confirmed the TPO.

The Officer apologised as the wrong location plan had been attached as an appendix to the report. The correct version had been circulated under separate cover and was displayed at the meeting.

With the vote being unanimous, it was

RESOLVED:

That Tree Preservation Order: TPO 3, 2014 7 Bury Road, Brandon be confirmed.

22. **Tree Preservation Order - Forest Heath District Council: TPO 2, 2014 - 50 The Street, Gazeley (Report No. DEV/FH/15/006)**

The Senior Planner advised the Committee that a provisional Tree Preservation Order (TPO) had been served on four groups of trees at 50 The Street, Gazeley.

The statutory consultation period for the TPO expired on 19 September 2014, no objections were received by the Council. It was recommended that Members confirmed the TPO.

With the vote being unanimous, it was

RESOLVED:

That Tree Preservation Order: TPO 2, 2014 50 The Street, Gazeley be confirmed.

23. **Urgent Business**

There were no items of Urgent Business raised.

The Meeting concluded at 6.56 pm

Signed by:

Chairman

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Forest Heath District Council

**DEVELOPMENT
CONTROL COMMITTEE**

4 MARCH 2015

DEV/FH/15/008

Report of the Head of Planning and Growth

**PLANNING APPLICATION NMA(1)/14/1289 - THE GYM MILDENHALL,
DISTRICT OFFICES, COLLEGE HEATH ROAD, MILDENHALL**

Synopsis:

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

Recommendation:

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

CONTACT OFFICER

Case Officer: Gemma Pannell

Tel. No: 01284 757494

Committee Report

Date 30 January 2015 **Expiry Date:** 27 February 2015
Registered:

Case Officer: Gemma Pannell **Recommendation:** Grant

Parish: Mildenhall **Ward:** Market

Proposal: Planning Application NMA(1)/14/1289 - Non-Material Amendment to planning permission DC/14/1289/R4LA – addition of new fire exist on north elevation.

Site: District Offices, College Heath Road, Mildenhall, IP28 7EY

Applicant: Anglia Community Leisure

Background:

This application is referred to Planning Committee as Forest Heath District Council own the site.

The application is recommended for APPROVAL.

Proposal:

1. Planning permission to make a non material amendment to the originally approved drawings is hereby sought. The changes relate to the insertion of a new fire exit on the north elevation of the building.

Site Details:

2. The District Offices are bounded on two sides by College Heath Road, the Western wing is the subject of this application which faces the highway and adjacent housing at Peterhouse Close. The single storey wing is built of brick with glazing on both side elevations.

Planning History:

3. The most pertinent for the purposes of this NMA is DC/14/1289/FUL - Planning Application - Conversion of part of office space (Class B1) to fitness gym and dance studio (Class D2)

Policy: The following policies of the Forest Heath Core Strategy (May 2010) and the saved policies of the Forest Heath Local Plan (1994) have been taken into account in the consideration of this application:

4. Forest Heath Core Strategy (May 2010):
 - Policy CS1: Spatial Strategy
 - Policy CS5: Design Quality and Local Distinctiveness

5. Forest Heath Local Plan (1995)
 - Saved Policy 3.1: Settlement Policy

Other Planning Policy:

6. National Planning Policy Framework (2012) core principles and paragraphs 56 – 68

Officer Comment:

Non Material amendment

7. Sec.96A of the 1990 Act (as inserted on 1st October 2009 by sec.190 of the Planning Act 2008) allows a local planning authority in England to make a change to any planning permission relating to land in its area if it is satisfied that the change is not material. In deciding whether a change is material, the authority must have regard to the effect of the change, together with any previous non-material changes, on the planning permission as originally granted. Such changes can only be made on an application made by or on behalf of a person with an interest in the land to which the planning permission relates.
8. There is no statutory definition of 'non-material'. The government has not provided a definition of "non-material" as it considers this to be a matter for local authority discretion. However, a local planning authority must be satisfied that the amendment sought is non-material in order to approve an application. Whether or not a proposed amendment is non-material will depend on the effects of the amendment, bearing in mind its context.
9. The courts have held, in borderline cases, that it is proper to assess materiality in planning terms, having regard to the possible impact on local amenity. Amenity is judged on loss of privacy, overshadowing, loss of light and of a scale and design considered to be overbearing. Having looked at case law, the approach in *Burroughs Day v Bristol City Council* [1996] in which the court held that the change in external appearance had to be judged for its materiality in relation to the building as a whole. The inspector opined that for a change to be material it had to be of significance, of substance and of consequence. "Put simply, it has to matter. That does not mean it has to be harmful." However, an obvious lack of harm in planning terms might point to a lack of consequence and in turn, of materiality. The inspector noted that the changes would not affect the size, bulk, height, footprint or position of the building, nor would they result in any change to its description, the number of units or the ratio of communal to private space. The external appearance would be altered but principally by the rearrangement of elements which had already been approved. The inspector concluded that he could not find any changes of such significance, either individually or collectively, that they could be said materially to affect or alter the permission already granted.
10. In order to assist in an assessment of what constitutes a non-material amendment, some authorities use the following criteria;
 - There would be no alteration to the application site boundary (red edge).
 - The amendment would not conflict with development plan policies or other government guidance
 - There would be no conflict with any conditions on the planning permission or introduce a requirement for additional planning conditions
 - The approved footprint/siting of the building will not be moved in any direction by more than 1m

- The proposal would not result in an extension to development already approved
- The height of the building or extension would not be increased
- The amendment would not result in any potential overlooking of any neighbouring property
- The amendments must not result in a fundamental change in the design of the building

11. The proposal seeks to amend the approved scheme by the insertion of a new fire exit on the north elevation and the additional of a new party wall separating the gym from the main building. The reason for the amendment is to allow the gym to operate as a stand alone facility without access into the main building other than from the main reception.

12. The changes proposed will not significantly alter the appearance of the proposed development to a sufficient level that it would be necessary to conclude that the impacts upon the wider character and appearance of the development or the area would be materially different to what had been previously approved.

Conclusion:

13. In conclusion, the proposed changes are considered non material within the context of the extant approved development.

Recommendation:

14. It is recommended that the non-material amendment be **GRANTED**.

Documents:

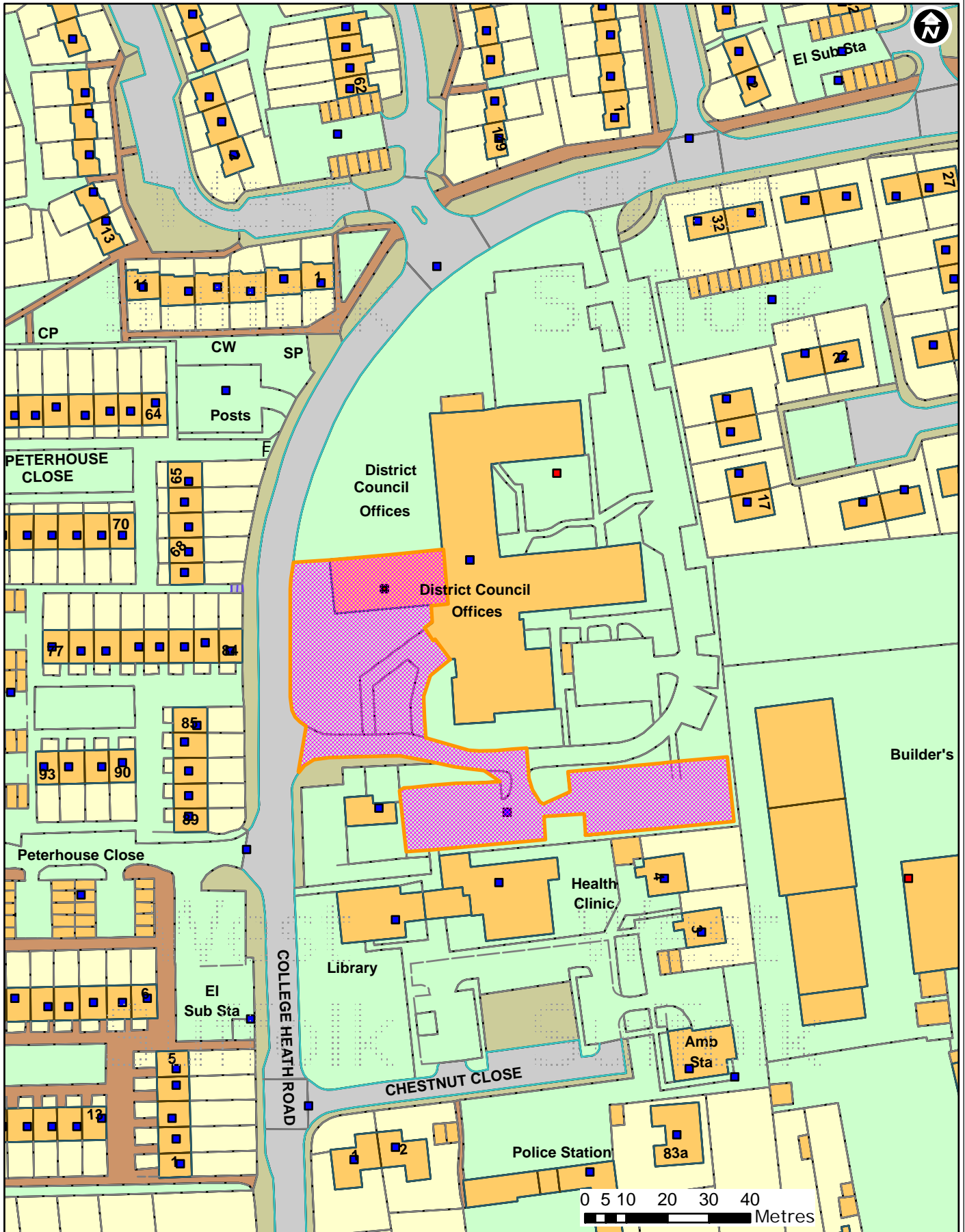
All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NISLPDPD02L00>

Alternatively, hard copies are also available to view at Planning, Planning and Regulatory Services, Forest Heath District Council, District Offices, College Heath Road, Mildenhall, Suffolk, IP28 7EY.

NMA(1)/14/1289

The Gym Mildenhall, FHDC, College Heath Road, Mildenhall



Forest Heath • St Edmundsbury

West Suffolk
working together

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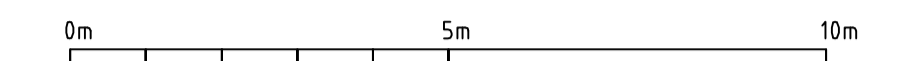
Scale: 1:1,250
Date: 18/02/2015

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NO DIMENSIONS TO BE SCALED FROM THIS DRAWING

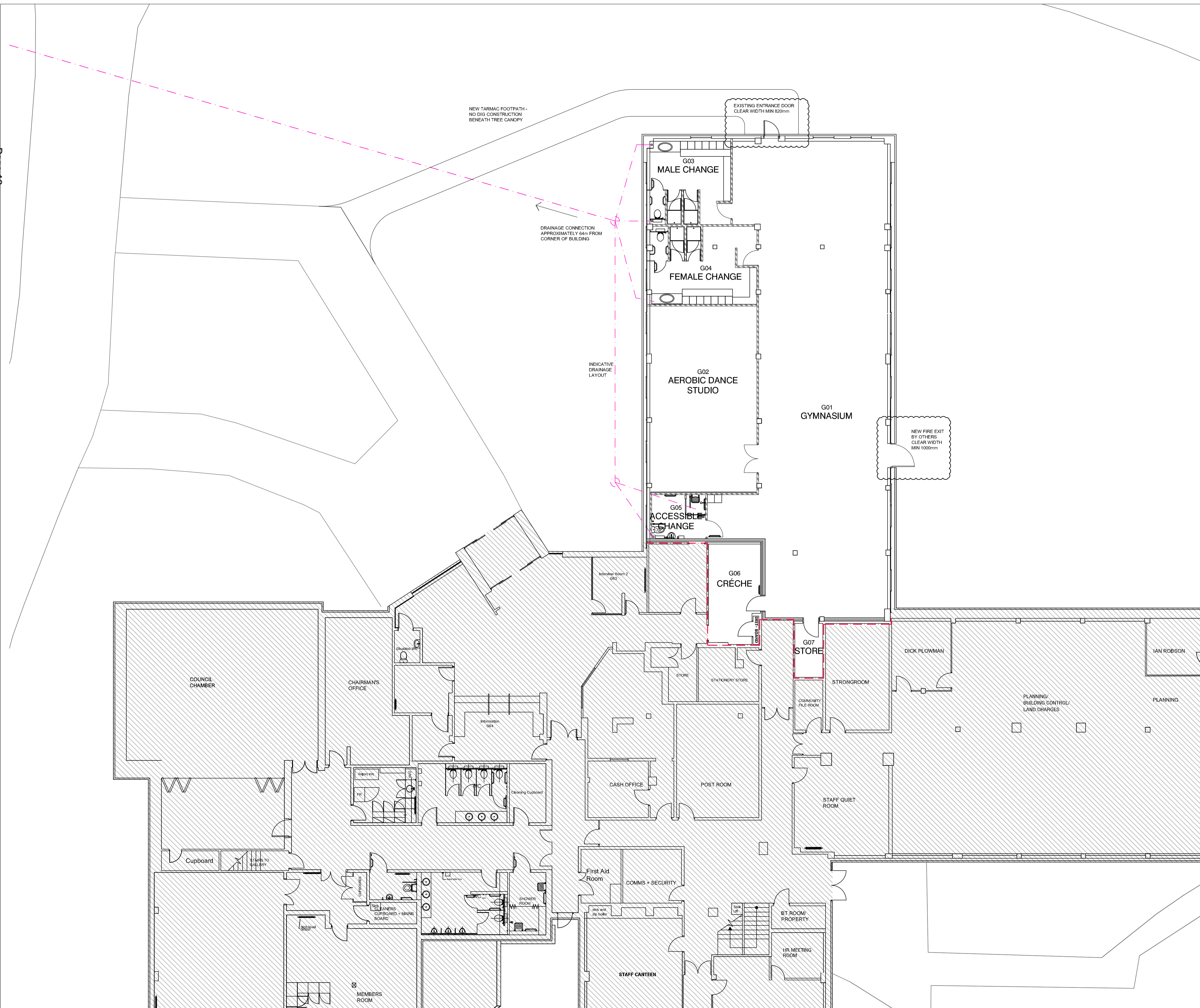
This drawing is issued for the sole and exclusive use of the named recipient. Distribution to any third party is on the strict understanding that no liability is accepted by Pick Everard for any discrepancies, errors or omissions that may be present, and no guarantee is offered as to the accuracy of information shown

CDM - RESIDUAL RISKS
There are considered to be no significant risks relevant to this drawing.



KEY:
- - - - - LINE INDICATING EXTENT OF NEW GYM

NOTES:
Refer to drg. 011 for scope of works.



Revisions	Date	Drawn	Chk'd
P06	09.01.15	IC	KP
P05	20.10.14	IC	KP
P04	01.10.14	IC	KP
P03	18.09.14	IC	KP
P02	04.09.14	IC	KP
P01	19.08.14	BMR	IC

CLIENT
Anglia Community Leisure & Abbeycroft Leisure

Architects
Consulting Engineers
Project Managers
Surveyors

PICK EVERARD
Weaver House
9 Looms Lane
Bury St Edmunds
Suffolk
IP33 1HE
Phone 01284 760331
Fax 01284 761433
buryoffice@pickeverard.co.uk
www.pickeverard.co.uk

PROJECT
Pop-up Gym
Forest Heath DC
Mildenhall

DRAWING TITLE Proposed Building Layout	PICK EVERARD PROJECT No. 140796
	SCALE - unless otherwise stated 1:100 at A1
DRAWING NUMBER 000-PE-XX-ZZ-DR-A-0012	STATUS PURPOSE OF ISSUE TENDER
	REV P06

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Forest Heath District Council

**DEVELOPMENT
CONTROL COMMITTEE**

4 MARCH 2015

DEV/FH/15/009

Report of the Head of Planning and Growth

**PLANNING APPLICATION DC/14/2209/FUL - BRICKFIELDS COTTAGES,
CEMETERY HILL, NEWMARKET**

Synopsis:

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

Recommendation:

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

CONTACT OFFICER

Case Officer: Gemma Pannell
Tel No: 01284 757494

Committee Report

Date 9 December 2014 **Expiry Date:** 3 February 2015

Registered:

Case Officer: Gemma Pannell **Recommendation:** Approve

Officer:

Parish: Newmarket **Ward:** Severals

Proposal: Planning Application DC/14/2209/FUL- Construction of horse walker and re-location of previously approved menage

Site: Brickfields Cottages, Cemetery Hill, Newmarket

Applicant: Mr Silvestre DeSousa

Background:

This application is referred to Planning Committee following consideration by the Delegation Panel.

Newmarket Town Council object to the application and raise concerns about the close proximity of the horse walker to residential properties.

The application is recommended for APPROVAL.

Proposal:

1. This planning application proposes the erection of a horse walker measuring approximately 11 metres in diameter with a maximum roof height of 4.5 metres and an eaves height of 3.5 metres. The structure will be constructed of a galvanised steel frame with mesh sides and rubber paving.
2. In addition, a 30 x 40 metre menage is proposed in a revised position to that granted last year due to flatter ground further east. This will be contained by a post and rail fence and will not include any lighting.
3. The application has been amended since its initial submission, relocating the proposed horse walker behind the existing stables.

Application Supporting Material:

4. Information submitted with the application as follows:
 - Location plan
 - Drawings – block plan, floor plans and elevations – as amended
 - Information regarding the horse walker

Site Details:

5. The site lies to the rear of 1 Brickfields Cottage, on the border of Newmarket with Exning. The site is currently used as paddock land and contains horses belonging to the applicant. Access is via the applicant's rear garden or from Exning Road to the west. Studlands residential area is located to the east of the application site with a terrace of houses facing towards the paddock. The boundary consists of a post and beam fence, sporadic trees and a newly planted row of landscaping which is yet to become established.

Planning History:

6. DC/14/2065 - Relocation of stables from garden to adjoining paddock for horse breeding and stud purposes (part retention of) - Approved
7. DC/14/1661/FUL - Relocation of stables from garden to adjoining paddock - Withdrawn
8. DC/13/0121/FUL - Erection of stable block consisting of 8 boxes, 2 storage units, feed room & tack room and a menage - Approved, only muck heap constructed
9. F/2012/0093/FUL - Formation of menage within existing paddock - Approved not implemented

Consultations:

10. Highways Authority - The Highway Authority does not wish to restrict the granting of permission. The site is well set back from the highway and does not impact on highway safety.

Representations:

11. Town Council: Object to the position of the horse walker being too close to a residential area and recommend it is moved away.
12. Councillors Hirst and Anderson (ward members) have requested the application be discussed at Delegation Panel.
13. Four letters of representation have been received, their comments can be summarised as:
 - Horse walker will be an eyesore
 - Noise pollution from horse walker and horses kicking
 - No information about noise levels
 - Concern over lighting
 - Moving parts of horse walker would cause a distraction
 - Would lose outdoor amenity space due to noise and smell
 - Concerns over parking for employees and further congestion on Exning Road

- No mention of parking or access for waste removal, horse transportation, farriers, feed etc
- Concerns regarding width of access road and turning space for visiting vehicles
- Recommends hours of use are imposed
- A footpath is located adjacent to the boundary which provides views of the field

14. A letter of support has been received from a local resident stating I'm pleased that the Paddocks are to be used for what they were intended... Horses. I wish the owners well in their venture.

Policy: The following policies of the Forest Heath Local Plan, Forest Heath Core Strategy (May 2010) and the Forest Heath & St Edmundsbury Joint Development Management Policies Document have been taken into account in the consideration of this application:

15. Forest Heath Local Plan (1995)

- Saved Policies: 12.3 and 12.5: The Studs

16. Forest Heath Core Strategy (May 2010):

- Policy CS3: Landscape Character and the Historic Environment
- Policy CS5: Design Quality and Local Distinctiveness

17. Forest Heath & St Edmundsbury Joint Development Management Policies (Submission Document October 2012):

- Policy DM1: Presumption in favour of sustainable development
- Policy DM2: Creating Places – Development Principles and Local Distinctiveness
- Policy DM47: Development relating to the Horse Racing Industry

Other Planning Policy:

18. The principles of the National Planning Policy Framework (2012) and guidance contained within National Planning Policy Guidance have been taken into consideration.

Officer Comment:

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

- Principle of Development
- Impact on Visual Amenity
- Impact on Residential Amenity

Principle of Development:

20. The site lies on the edge of Newmarket, to the rear of Studlands residential area. The site was previously part of Brickfield Stud which was divided and sold off several years ago. As such, the land is classified as part of a registered horse racing establishment, albeit no longer in association with Brickfield Stud. This use has recently been confirmed with the erection of a stable block to be used by the applicant as part of a new stud business.

21. Due to the land forming part of an established stud it falls to be considered under retained policies in chapter 12 of the Local Plan. Policy 12.3 defines this land as an area of local landscape value and restricts development to that which will not affect the appearance of the landscape setting of the town. In a similar vein, retained policy 12.5 identifies that within the racehorse training establishments, new development or redevelopment will be allowed only where it is essential for the purposes of that training establishment.
22. Regard should also be had to the emerging suite of Development Management, policies, including DM47, as these pertain to proposals for development which affect the horse racing industry. Whilst the emerging policies (at the time of writing the report) have not yet been adopted they must be given weight in the assessment of the current application as the Inspector has found them sound. The Development Management policies do offer a clear indication of the Authority's 'direction of travel' which has remained largely unchanged insofar as it promotes development which is required to support the industry providing it is in keeping with the character of surrounding areas, is acceptable to the Highways Authority and is not detrimental to the operational use of an existing equine site.
23. In this case, the facilities proposed are considered necessary in order for the business to perform its function to breed and train racehorses and as such, complies with the principles of above policies.

Impact on Visual Amenity

24. The menage and horse walker are common sights within equine yards and the menage was previously granted planning permission last year with this proposal moving it in a north easterly direction. Therefore, the general principle of its installation is acceptable within this area. In terms of visual amenity, the menage represents a minimal change to the rural character and appearance of the area which is not considered to be detrimental to the surrounding landscape. No lighting is proposed to serve the menage and as such, its impact on the rural environment is modest.
25. The horse walker proposed has been re-located from the originally submitted position to behind the existing stable block. Considering the eaves height of the horse walker at 3.5 metres and a total height of 4.5 metres, against the dimensions of the approved and built stable block at 3.2 metres, views from dwellings to the East at Royal Palace Close will be limited. This location allows much of the structure to be obscured by existing development ensuring it does not appear prominent in neighbouring occupant's views. The location of all related structures (stables, horse walker, menage, muck heap) within a cluster at the south eastern corner of these paddocks allows them to be visible from the applicants dwelling providing a degree of security and easy access.
26. The menage and horse walker proposed are modest in scale and height and will not have a significant impact on the appearance of the wider landscape. Therefore, they are considered to comply with the above policies in that they

will protect the special character of the horse racing establishment, contribute to the overall breeding and training establishments in the town and protect the land for the future.

Impact on Residential Amenity

27. The structures are positioned close to the boundary of the site with Royal Palace Close, which comprises some sporadic landscaping and newly planted hedging, although this is yet to become established. Adjacent dwellings face onto the site and are separated by a small area of council owned land which is rented by the residents. The separation distance between the site boundary and the adjacent dwellings ranges from approximately 20-24 metres and as such, the impact of this development on their residential amenity is a material consideration in the determination of this application.
28. Whilst generally horse walkers are not considered overly noisy and are often located in residential areas they do contain a motor to control movement within the walker. The relocation of the horse walker away from the boundary will allow the stable block to act as a noise buffer, helping to reduce any sound arising from the development, in addition to rubber mats which will reduce sound from the movement of horses. Whilst it is acknowledged that a degree of activity will take place within this location, the revised position will contain views and noise and reduce any disturbance to neighbouring properties. In addition, no lighting is proposed to serve the menage and as such, its impact on the reasonable residential amenity of adjacent neighbours is thought modest.
29. Taking into consideration the location of the proposed facilities in relation to adjacent dwellings, the existing use of the paddock, boundary treatment and the separation distance this is considered a satisfactory relationship that will not cause demonstrable harm to residential amenity.
30. Concerns have been raised regarding access to the site and parking provision. The applicant has recently provided an access through their own rear garden into the paddocks which will be used by all visitors. In addition, the road serving the site is privately owned and as such, can accommodate parking as well as having sufficient space to manoeuvre. The Highway Authority has not raised any objections.

Conclusion:

31. The proposed facilities are considered modest in scale and appearance and have been located where they will not have a significant impact on the reasonable residential amenity of adjacent occupants. The continued use of the site for equine purposes is in accordance with adopted policy which seeks to safeguard the horse racing industry and enhance Newmarket's unique character.
32. For these reasons, the application is considered to accord with policies 12.2 and 12.5 of the Forest Heath Local Plan (1995), CS3 and CS5 of the Forest Heath Core Strategy (2010), DM1, DM2 and DM47 of the Joint Development

Management Policies document and guidance contained within the National Planning Policy Framework that seeks to deliver sustainable development.

Recommendation:

33. It is recommended that permission is **GRANTED** subject to the following conditions:

1. Time limit
2. Boundary treatment details to be submitted and approved
3. Limit hours of use for horse walker 9am-8pm Monday – Saturday, 10am - 6pm Sundays and Bank holidays
4. No lighting to menage
5. Compliance with approved plans

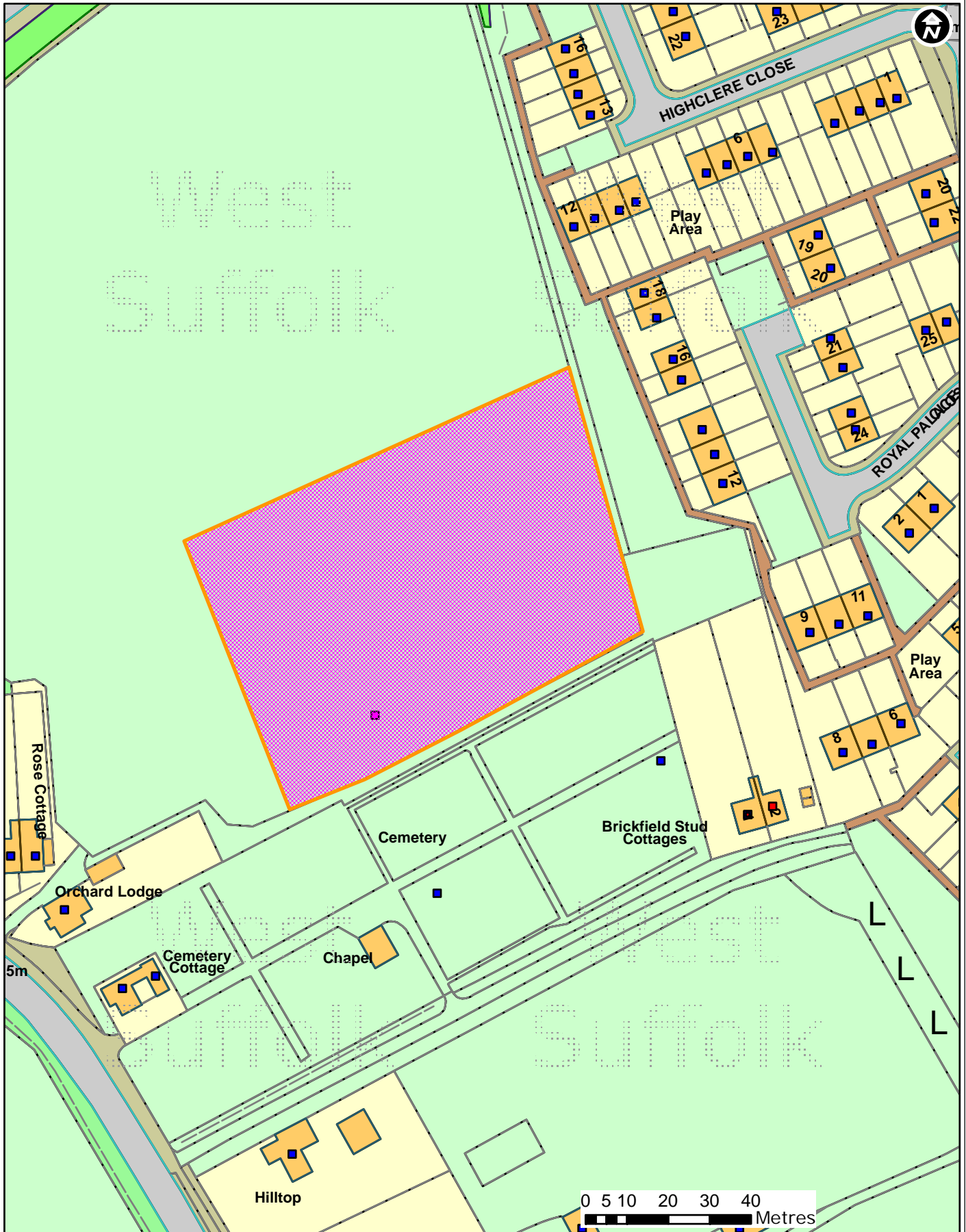
Documents:

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=NFC8THPD03H00>

Alternatively, hard copies are also available to view at Planning, Planning and Regulatory Services, Forest Heath District Council, District Offices, College Heath Road, Mildenhall, Suffolk, IP28 7EY

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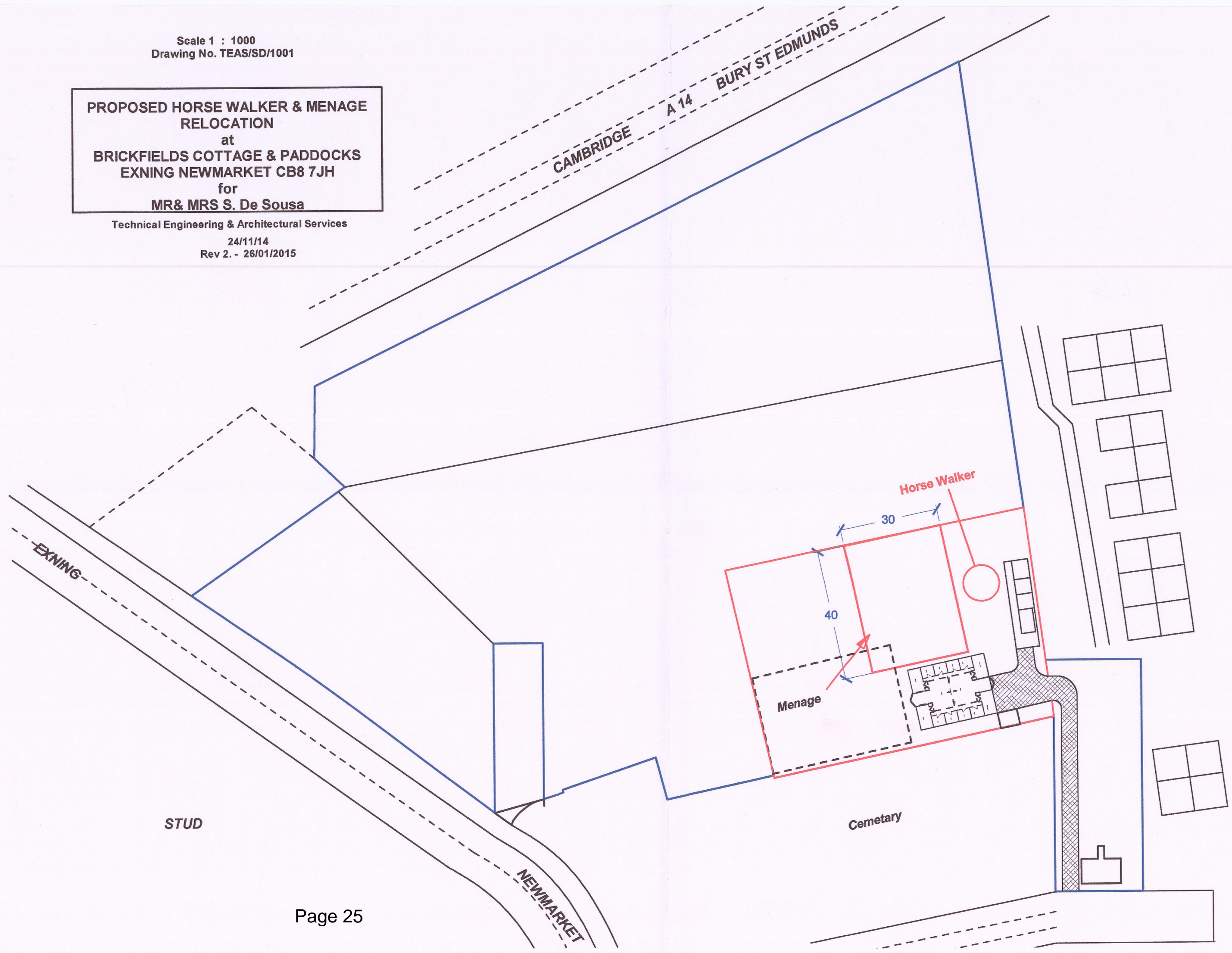


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**PROPOSED HORSE WALKER & MENAGE
RELOCATION**
at
BRICKFIELDS COTTAGE & PADDOCKS
EXNING NEWMARKET CB8 7JH
for
MR & MRS S. De Sousa

Technical Engineering & Architectural Services

24/11/14
Rev 2. - 26/01/2015



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Development Control Committee



Forest Heath
District Council

Title of Report:	Review of Framework for Shared Planning Services	
Report No:	DEV/FH/15/010	
Report to and date/s:	Development Control Committee	4 March 2015
Portfolio holder:	Rona Burt Portfolio Holder for Planning, Housing and Transport Tel: 01638 718990 Email: rona.burt@forest-heath.gov.uk	
Lead officer:	Rachel Almond Development Manager Tel: 01638 719455 Email: rachel.almond@westsuffolk.gov.uk	
Purpose of report:	To review the procedures relating to decision making introduced in January 2014 as part of the shared Planning Service with particular reference to delegated and committee procedures and protocols.	
Recommendation:	<p>It is RECOMMENDED that this report is noted and Members resolve the following matters:</p> <p>(1) Note that the Council's website will be updated to provide a plain English version of the Decision Making protocol and Officers will ensure that when the protocol is invoked, a clear summary of the deferral is given to the Committee for the benefit of members of the public at the meeting;</p> <p>(2) Agree that the Guide to Public Speaking should set out the allocation of speaking slots in one of the following ways: OPTION 1: each 3 minute slot can be shared if there is more than one person wishing to speak (as per the current joint arrangement),</p>	

	<p>OR OPTION 2: if there is more than one person wishing to speak they can refer to the first person registered for the slot to appoint a spokesperson and in the event that no agreement can be reached, the slot will be allocated on a first come first served basis (as per the previous FHDC arrangement);</p> <p>(3) Agree that previous relevant reports should continue to be reproduced as Working Papers when an item is considered again at Committee after a deferral;</p> <p>(4) Agree that policies and conditions in Committee reports are listed by name or code unless a particular policy wording needs more detailed discussion in the report or a bespoke condition is recommended; and</p> <p>(5) Agree that the Joint Task and Finish Group to consider and agree a Members Code of Conduct for Planning be convened after the elections in May 2015 including the appointment of 3 Members from each authority to sit on the Group. The Code of Conduct to then be agreed by each authority's Development Control Committee.</p>
<p>Key Decision: <i>(Check the appropriate box and delete all those that do not apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/></p>
<p>Consultation:</p>	<p>Discussed with Members at training event on 8 December 2014 and general feedback from throughout the preceding year.</p>
<p>Implications:</p>	
<p><i>Are there any financial implications? If yes, please give details</i></p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • Possibly in relation to minor changes to the procedures – some savings but some elements may cost more</p>
<p><i>Are there any staffing implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p><i>Are there any ICT implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>

<i>Are there any legal and/or policy implications? If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> There is a need for any changes to comply with planning law and in the spirit of shared services to keep the same procedures for both authorities. 	
<i>Are there any equality implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Risk of agreeing differing approaches and policies for each authority which is not consistent with the Shared Services agenda and partnership ideals of the two Councils	Medium	Ongoing review and management by Officers to ensure that delivery of the planning service (including the Development Control Committees) is aligned where possible	Low
Ward(s) affected:		All	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		<ul style="list-style-type: none"> Report No DEV13/084 (Development Control Committee – 4 September 2013) Urgent Business Report (Development Control Committee – 2 October 2013) 	

1. Key issues and reasons for recommendation(s)

1.1 Background

1.1.1 An essential part of the business case for the Shared Planning Service was to ensure that there is a single and consistent way of operating across the two Planning Authorities. In this respect joint Member workshops were held early in 2013, followed by the recommendations of these workshops being reported to the Development Control (DC) Committee in May and June 2013. The details of the single way of working followed the recommendations of the Member workshops and were agreed, subject to some minor changes at the (FH) Development Control Committee of 4 September 2013 and (FH) Council on 25 September 2013. The new scheme was introduced to both authorities in January 2014 following Member training in December 2013. Additional refresher Member training was given in March 2014.

1.1.2 A further joint Member training event was held on 8 December 2014 where Members took part in a workshop covering the procedures and protocols and made comments regarding what is working well and what could be improved. This report will review how the procedures have worked over the last year and make recommendations for the single way of working moving forward, a key factor being a clear, consistent and efficient set of procedures and protocols for the public, officers and Members alike.

1.2 Key elements of the Framework

1.2.1 The key elements of the single way of working framework which were considered and determined in September 2013 are as follows:

1. Notes to appear at front of Development Control Committee Schedule
2. Amended committee report format
3. Updated site visit protocol
4. Guide to having your say on planning applications
5. Amendment to the constitution to facilitate the creation of a Delegation Panel
6. Revised scheme of delegation
7. Minded to process and risk assessment reports
8. Decision Making Protocol
9. Members Planning Code of Good Practice
10. Quarterly monitoring reports
11. Protocol for Concept Statements, Masterplans and Development Briefs.

1.3 Impact of the procedures and protocols:

1.3.1 The new framework has been running for 14 months now. Below is a summary of the applications determined in 2014 compared to the previous year, before the new procedures were introduced:

1.3.2

FHDC	2013	2014
Total determined	649	714
Total determined at committee	43	49
Total referred to Delegation Panel	36	35
Total referred to committee from Delegation Panel	12	8
Number of site visits	30	23
Number of deferrals from committee for a site visit	0	0
Number of "minded-to" deferrals	6	3
Number of decisions contrary to officer recommendation	5	1
Percentage of decisions delegated to officers	93%	93%

1.3.3 As can be seen from the table above, whilst more applications were determined in 2014 the other figures are fairly constant and the proactive element of visiting sites in advance of the meeting works well as there have been no recent deferrals for a site visit.

2. Review of procedural changes:

2.1 At the Joint Member Workshop on 8 December 2014, Members reviewed and discussed the following topics:

- Decision making ("minded-to") protocol
- Delegation Panel
- Site visits
- Public Speaking
- Committee report content and meetings
- Miscellaneous changes

2.2 Decision making ("minded-to") protocol:

The general consensus of opinion was that the decision making protocol was working well and generally, there had been a well-balanced approach to applications where the "minded-to" process was invoked. 6% of applications determined at committee in 2014 invoked the protocol. It was considered that the protocol was a useful tool for making Members aware of significant risks in relation to planning policy or reputational and financial risks at appeal. Concern was expressed that the public and Parish/Town Councils were sometimes confused when the process was invoked. Committee papers now contain details of the protocol and the Council's website will be updated to give a plain English explanation of the protocol. It is also recommended that officers ensure that the deferral for a risk assessment report is made clear in the summing up of the committee resolution when the protocol has been invoked. The fact that not all resolutions contrary to the officer recommendation invoke this protocol was seen as a more pragmatic approach to decision making than the blanket approach of the protocol which had been applied in previous years before the procedural changes.

2.3 Delegation Panel:

The Delegation Panel meets fortnightly and is attended by the Chair and Vice-Chair of the DC Committee. Ward Members are also able to attend and discuss the items they are interested in. The Delegation Panel determines the route by which the application will ultimately be decided – it does not determine the application. 23% of applications referred to Delegation Panel were referred by the Panel to DC Committee in 2014 compared to 33% in 2013. Where applications are referred from the Panel to Committee a view is also taken as to whether a Committee site visit is required before the meeting.

Non-Major applications are reported to Delegation Panel when there is a contrary view from the Parish/Town Council or where a Ward Member has requested that the application be referred to DC Committee. In the case of Major applications where there is a Parish/Town Council contrary view or a Member call-in the application is referred straight to DC Committee.

The Delegation Panel has been running for several years now and is working well. Those Members attending the workshop in December 2014 raised no in principle concerns to how it is operating. Points raised by the workshop in December centred around whether the Delegation Panel has to meet in person if there is a consensus of views from reading the Delegation Panel reports and also whether conference calls could be used when there is no Ward Member wishing to attend. At Forest Heath, where the Panel has been operating for some years now, the Panel has, on occasions, not met in person where there is a consensus of views and no Ward Members wishing to attend.

2.4 Site visits:

The procedures for Committee site visits at Forest Heath remain unchanged and the proactive approach to organising site visits in advance of the committee meeting continues to work well. No applications were deferred in 2013 or 2014 for the purposes of a site visit. At St Edmundsbury the site visits are organised using a coach but previously Forest Heath Members decided they did not need a coach, based on the number of visits and the relatively smaller size of the district. Members are encouraged to car share where possible and officers can always take Members to site if they pre-arrange a lift. Members views are sought again on whether they would wish to use a coach for site visits.

Some Members have commented that they need better directions to get to some of the sites. Officers will look into how more details can be given for the location of sites.

2.5 Public Speaking:

The Public Speaking protocol was amended in 2014 to cover both authorities with some minor differences. Some Members have raised concern that if more than one person registers to speak on one of the slots (for example, as an objector) the time allocated to speak (3 minutes) has to be divided between the people wishing to speak. In the interests of fairness and efficient administration, Members are asked to decide whether to allocate speaking slots by sharing the time slot or by first come first served. It is not considered

appropriate to have more than the 3 slots permitted in the protocol ('for'/'against'/'Parish Council') due to time management but the Chairman can vary procedures as necessary where it would assist the conduct of the meeting.

2.6 Committee report content and committee meetings:

The format of the committee reports was changed in January 2014 and there have been some minor changes made to the report format over the last 14 months in response to points raised by Members, for example, the inclusion of a layout plan as well as a site location plan within the report. Comments made at the review workshop in December 2014 were:

- Reports are too long
- Format of reports is neater but still some inconsistency
- No need to quote the detail of every policy, a list of relevant policies will suffice
- Are all working papers necessary? Members should retain their papers when an item is deferred rather than the original report being reproduced as a Working Paper when the item is referred back to Committee.
- Conditions should just refer to the standard code where applicable unless the condition is bespoke
- Shorter officer presentations needed when all the detail is in the report.

The nature of determining planning applications means that some reports will be very long, depending on the complexity of the issues and material considerations that need to be dealt with. However, officers are actively working on making the reports' length and content more proportionate to the issues that must be addressed, at the same time ensuring consistency of approach. Whilst reproducing the original report as a Working Paper when items have been deferred creates more paperwork in the agenda it does ensure that all the information is before Members and any members of the public attending the meeting in one document. Members' views are sought on whether they wish to continue with this approach. With regard to listing policies and conditions in full, it would seem sensible to only list the policy name and condition code unless a specific policy needs more detailed explanation or a bespoke condition is proposed. Members' views are sought on whether they wish to continue with this approach. In relation to officer presentations at committee, officers are, again, actively working on making presentations succinct and proportionate to the complexity of the issues presented by the individual application, whilst ensuring relevant information is made available to the Committee.

2.7 Miscellaneous comments:

Other comments made at the review workshop included:

- Condition codes need to be publicised
- More proactive contact with Ward Members on Majors and controversial applications
- More training for Members
- Application suffix information would be helpful.

The standard conditions used for planning applications need to be reviewed by officers. Once this is done the codes will be made available to all Members.

Officers are aware of the need to keep Members up to date with Major and controversial applications and the initial Case Officer Recommendation list produced for Members two weeks into the life of an application can be used as a useful reminder for Members to contact the case officer at an early stage where they wish to be kept informed of progress of individual cases. In addition, the Public Access system on the Council's website can be used to track applications of particular interest to Members. With regard to training Members of the Committee, there is a full programme of training specific to Development Control Committee being planned after the elections and views will be sought from Members on future topics to cover in the continuing Joint Member Learning and Development Programme. A full list of the suffix codes used on planning application references numbers will be circulated to Members in due course.

3. Update on items 9, 10 and 11 of the original framework (Paragraph 1.2.1 above):

3.1 Members Code of Conduct for Planning:

When the framework was originally agreed in September 2013, Members resolved to set up a Joint Task and Finish Group to consider a Code of Conduct for Planning. This has not been convened yet. It is recommended that this is convened after the elections and Members of the group will be appointed from a meeting of the DC Committee after May 2015.

3.2 Quarterly Monitoring Reports:

The report will be brought to Committee in April 2015. These reports will then be produced regularly.

3.3 Protocol for Concept Statements, Masterplans and Development Briefs:

Verbal update to be given at meeting.