

# Development Control Committee



**Forest Heath**  
District Council

<b>Title:</b>	<b>Agenda</b>									
<b>Date:</b>	<b>Wednesday 3 January 2018</b>									
<b>Time:</b>	<b>6.00 pm</b>									
<b>Venue:</b>	<b>Council Chamber District Offices</b> College Heath Road Mildenhall									
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Rona Burt <b>Vice Chairman</b> Chris Barker</p> <table style="width: 100%; border: none;"> <tr> <td style="vertical-align: top;"><u>Conservative Members (9)</u></td> <td style="vertical-align: top;">David Bowman Ruth Bowman J.P. Louis Busuttil Simon Cole</td> <td style="vertical-align: top;">Stephen Edwards Brian Harvey Carol Lynch Louise Marston</td> </tr> <tr> <td style="vertical-align: top;"><u>West Suffolk Independent Members (2)</u></td> <td style="vertical-align: top;">Andrew Appleby</td> <td style="vertical-align: top;">David Palmer</td> </tr> <tr> <td style="vertical-align: top;"><u>UKIP Members (2)</u></td> <td style="vertical-align: top;">Roger Dicker</td> <td style="vertical-align: top;">Peter Ridgwell</td> </tr> </table>	<u>Conservative Members (9)</u>	David Bowman Ruth Bowman J.P. Louis Busuttil Simon Cole	Stephen Edwards Brian Harvey Carol Lynch Louise Marston	<u>West Suffolk Independent Members (2)</u>	Andrew Appleby	David Palmer	<u>UKIP Members (2)</u>	Roger Dicker	Peter Ridgwell
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<u>UKIP Members (2)</u>	Roger Dicker	Peter Ridgwell								
<p><b>A SITE VISIT WILL BE HELD ON TUESDAY 2 JANUARY 2018 AT THE FOLLOWING TIME:</b></p> <p><b>1. Planning Application DC/16/2726/FUL - 2 Park Avenue, Newmarket, CB8 8EY</b>          Planning Application - 1no. dwelling as amended by plans received 21st June and 4th July revising design and 27th October revising parking layout  <b>Site visit to be held at 10.00am</b></p>										
<b>Substitutes:</b>	Named substitutes are not appointed									
<b>Interests – Declaration and Restriction on Participation:</b>	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.									

<b>Quorum:</b>	Five Members
<b>Committee administrator:</b>	<b>Helen Hardinge</b> Democratic Services Officer <b>Tel:</b> 01638 719363 <b>Email:</b> <a href="mailto:helen.hardinge@westsuffolk.gov.uk">helen.hardinge@westsuffolk.gov.uk</a>

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## DEVELOPMENT CONTROL COMMITTEE: AGENDA 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

<b>Forest Heath District Council</b>	<b>St Edmundsbury Borough Council</b>
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
Joint Development Management Policies 2015	Joint Development Management Policies 2015
	Vision 2031 (2014)
<b>Emerging Policy documents</b>	
Core Strategy – Single Issue review	
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 must 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.

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## **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/changed, 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/changed, 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 Assistant Director (Planning and Regulatory);
    - delegate the detailed wording and reason to the Assistant Director (Planning and Regulatory) 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 Assistant Director (Planning and Regulatory) and the Assistant Director (Human Resources, Legal and Democratic) (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/altered, together with the material planning basis for that change.
  - Members can choose to;
    - delegate the detailed wording and reason to the Assistant Director (Planning and Regulatory)
    - delegate the detailed wording and reason to the Assistant Director (Planning and Regulatory) 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.

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# Agenda

## Procedural Matters

### Part 1 - Public

- |   | <i>Page No</i> |
|---|----------------|
| <b>1. Apologies for Absence</b>   |                |
| <b>2. Substitutes</b>   |                |
| <b>3. Minutes</b>   | <b>1 - 12</b>  |
| To confirm the minutes of the meeting held on 6 December 2017 (copy attached).  |                |
| <b>4. Planning Application DC/16/2726/FUL - 2 Park Avenue, Newmarket</b>  | <b>13 - 28</b> |
| Report No: <b>DEV/FH/18/001</b>   |                |
| Planning Application - 1no. dwelling as amended by plans received 21st June and 4th July revising design and 27th October revising parking layout |                |
| <b>5. Tree Preservation Order TPO/026(2017) - 77 Queensway Mildenhall</b>   | <b>29 - 42</b> |
| Report No: <b>DEV/FH/18/002</b>   |                |

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# Development Control Committee



**Forest Heath**  
District Council

**Minutes** of a meeting of the **Development Control Committee** held on  
**Wednesday 6 December 2017** at **6.00 pm** at the **Council Chamber,**  
**District Offices,** College Heath Road, Mildenhall IP28 7EY

Present: **Councillors**

**Chairman** Rona Burt

**Vice Chairman** Chris Barker

Andrew Appleby	Stephen Edwards
David Bowman	Brian Harvey
Ruth Bowman J.P.	Carol Lynch
Louis Busuttill	Louise Marston
Simon Cole	David Palmer
Roger Dicker	Peter Ridgwell

**272. Apologies for Absence**

There were no apologies for absence.

**273. Substitutes**

There were no substitutes present at the meeting.

**274. Minutes**

The minutes of the meeting held on 1 November 2017 were unanimously received as a correct record and were signed by the Chairman, subject to Councillor Peter Ridgwell asking that it be noted that he had voiced agreement with the statement made by Councillor David Palmer with regard to electrical vehicle charging points, in respect of Minute No 271 (Planning Application DC/17/1106/FUL – Mildenhall Hub, Sheldrick Way, Mildenhall).

The Service Manager (Planning – Development) also took this opportunity, with the permission of the Chairman, to advise the Committee that the Secretary of State had formally decided not to call in the Mildenhall Hub application for his determination, hence planning permission had now been formally granted.

275. **Planning Application DC/17/1107/FUL - Land at Elm Farm, Wilde Street, Beck Row (Report No: DEV/FH/17/041)**

**Planning Application - 39 no. dwellings with an area of open space, associated landscaping, access and engineering works (demolition of existing dwelling and associated outbuildings)**

This application was referred to the Development Control Committee because it was for a major application and because the Parish Council objected to the proposal.

A Member site visit was held prior to the meeting. Officers were recommending that the application be approved subject to conditions, as set out in Paragraph 79 of Report No DEV/FH/17/041.

The Principal Planning Officer made her presentation which included visuals of; landscaping, visibility splays, elevations and street scenes. Attention was also drawn to noise contour mapping in light of the proposed dwellings being under the flight path from RAF Lakenheath.

Attention was drawn to Paragraph 10 of the report in which the S106 contributions required for primary education were stipulated as being for West Row Community Primary School. The Officer explained that West Row would be the catchment school in respect of the contributions from this development, if approved, because Beck Row Primary School had already been allocated the maximum number of contributions from other approved developments.

The Principal Planning Officer also advised of the following corrections/amendments to the report (relevant agenda page numbers as indicated):

- Condition 2 – revision number in relation to block 5 was incorrect – this should be 'P03' (Page 36) and the visibility splay drawing number should have revision P01 on the end;
- Condition 6 – word '*not*' to be deleted (double negative – Page 38);
- SCC Archaeological Service confirmed that Condition 9 (Page 39) was no longer required as all archaeological works and reporting had now been completed;
- Condition 13 – Officer note – wording agreed with Anglian Water (Page 41);
- Condition 23 – slight reword at the beginning; 'The dwellings hereby approved shall not be occupied...' (Page 43);
- Condition 24 – Vis splay plan No. missing; 31429-IW-XX-XX-DR-A-2001 P01 (Page 43-44);
- Condition 30 – insert '(shown on the Tree Reference Plan by ACD Environmental; drawing ORB21002-01B)' after 'T14' to make the condition more precise (Page 45); and
- Condition 34 – delete the word 'residential' (Page 46).

Speakers: Annette Dawson (resident) spoke against the application;  
Nicole Perryman (agent) spoke in support of the application

Members asked a number of questions in relation to; defined need, school capacity, density of the scheme, elevations and maintenance of driveways. All of which were responded to by the Case Officer and the Service Manager (Planning – Development).

Councillor David Bowman spoke as Ward Member for the application and voiced support for the scheme which would provide much needed affordable housing. He moved that the application be approved, as per the Officer recommendation and inclusive of the identified amendments, and this was duly seconded by Councillor Simon Cole.

Upon being put to the vote, and with the vote being unanimous, it was resolved that

### Decision

Planning permission be **GRANTED** subject to the completion of a Section 106 Agreement to secure the following Heads of Terms, and subject to the following conditions:

#### HEADS OF TERMS:

- 100% affordable housing (39 dwellings)
- Public open space contribution for improvements at Aspal Close nature reserve - £59,670
- Library contribution - £608
- Pre-school - £24,364
- Primary - £85,267

#### CONDITIONS:

1. The development to which this permission relates must be commenced not later than the expiration of 3 years from the date of this permission.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the approved plans and documents.
3. No development shall commence above slab level until samples of the external facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
4. Demolition or construction works shall not take place outside the hours of 08:00 to 18:00 Mondays to Fridays and between the hours of 08:00 to 13:30 on Saturdays and at no time on Sundays or Bank Holidays.
5. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year +CC storm will not exceed the run-off from the undeveloped site following

the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. Details of which will include:

- Details of further infiltration testing on site in accordance with BRE 365 to verify the permeability of the site (trial pits to be located where soakaways are proposed and repeated runs for each trial hole). Borehole records should also be submitted in support of soakage testing.
- Dimensioned plans illustrating all aspects of the surface water drainage scheme including location and size of infiltration devices and the conveyance network. A statement on the amount of impermeable area served by each soakaway should also be illustrated on the plans and should be cross referenceable with associated soakaway calculations.
- Modelling results (or similar method) to demonstrate that the infiltration device has been adequately sized to contain the critical 100yr+CC event for the catchment area they serve. Each device should be designed using the nearest tested infiltration rate to which they are located. A suitable factor of safety should be applied to the infiltration rate during design.
- Infiltration devices should be no more than 2m deep and will have at least 1.2m of unsaturated ground between base of the device and the groundwater table. If individual soakaways are being used they will be at least 5m away from any foundation (depending on whether chalk is present).
- Only clean water will be disposed of by infiltration devices due to the site being close to a Source Protection Zone. Demonstration of adequate treatment stages for water quality control shall be submitted- SuDS features should demonstrate betterment to water quality, especially if discharging towards a watercourse or aquifer.
- Infiltration devices will have a half drain time of less than 24hours (this can be relaxed to where it can be demonstrated that the system has spare capacity for a subsequent 10yr storm within 24hrs).
- Modelling of conveyance networks showing no above ground flooding in 1 in 30 year event, plus any potential volumes of above ground flooding during the 1 in 100 year rainfall + CC.
- Topographic plans shall be submitted depicting safe exceedance flow paths in case of a blockage within the main SW system and/or flows in excess of a 1 in 100 year rainfall event. These flow paths will demonstrate that the risks to people and property are kept to a minimum.
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

- Arrangements to enable any surface water drainage within any private properties to be accessible and maintained including information and advice on responsibilities to be supplied to future owners.
6. No dwelling hereby permitted shall be occupied until details of all Sustainable Urban Drainage System components and piped networks have been submitted, in an approved form, to and approved in writing by the Local Planning Authority for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.
  7. No development shall commence until details of a construction surface water management plan detailing how surface water and storm water will be managed on the site during construction is submitted to and agreed in writing by the local planning authority. The construction surface water management plan shall be implemented and thereafter managed and maintained in accordance with the approved plan.
  8. No development shall commence until a scheme for the provision of fire hydrants within the application site have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied or brought into use until the fire hydrants have been provided in accordance with the approved scheme. Thereafter the hydrants shall be retained in their approved form unless the prior written consent of the Local Planning Authority is obtained for any variation.
  9. No development approved by this planning permission shall commence until the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:
    - i. A site investigation scheme (based on the approved Preliminary Risk Assessment (PRA) within the approved Desk Study), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
    - ii. The results of a site investigation based on i) and a detailed risk assessment, including a revised Conceptual Site Model (CSM).
    - iii. Based on the risk assessment in ii), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency actions. The plan shall also detail a long term monitoring and maintenance plan as necessary.

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the remediation strategy in iii) is submitted and approved, in writing, by the Local Planning Authority. The long term monitoring and maintenance plan in iii) shall be updated and be implemented as approved.

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise

- agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
10. No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.
  11. The trees shown on the approved landscaping scheme to be retained shall be protected in the manner shown on the submitted plans or shall be fenced as described below, (and the Local Planning Authority shall be advised in writing that the protective measures/fencing have been provided) before any equipment, machinery or materials are brought onto the site for the purposes of development and shall continue to be so protected during the period of construction and until all equipment, machinery and surplus materials have been removed from the site. Where possible the fencing shall be erected outside the 'Root Protection Area' (RPA) defined by a radius of  $dbh \times 12$  where  $dbh$  is the diameter of the trunk measured at a height of 1.5m above ground level and shall consist of robust wooden stakes connected by robust wooden cross members to a height of not less than 1.2 metres. Where fencing cannot be erected outside the RPA an arboricultural method statement shall be submitted and approved in writing in accordance with the relevant condition. Within the fenced area no work shall take place; no materials shall be stored; no oil or other chemicals shall be stored or disposed of; no concrete, mortar or plaster shall be mixed; no fires shall be started; no service trenches shall be dug; no soil shall be removed or ground level changed at any time, without the prior written consent of the Local Planning Authority.
  12. No development shall commence above slab level until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.
  13. No security lights or floodlights shall be erected on site without the submission of details to, and written approval from, the Local Planning Authority to ensure a lighting environment of low district brightness at residential properties.
  14. Before the development is commenced details of the areas to be provided for storage and presentation of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
  15. Prior to the accesses being constructed the ditch beneath the proposed access shall be piped or bridged in accordance with details which

- previously shall have been submitted to and approved in writing by the Local Planning Authority and shall be retained thereafter in its approved form. (See Note 6).
16. Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.
  17. Before the development is commenced, details of the estate roads and footpaths, (including layout, levels, gradients, surfacing and means of surface water drainage), shall be submitted to and approved in writing by the Local Planning Authority.
  18. No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least Binder course level or better in accordance with the approved details except with the written agreement of the Local Planning Authority.
  19. The new estate road junction(s) with Wilde Street inclusive of cleared land within the sight splays to this junction must be formed prior to any other works commencing or delivery of any other materials.
  20. An upgrade of the existing footway to a width of 1.8m, between the site boundary with 'Ashlands' and the junction with Aspal Lane is required to create a safe pedestrian link from the proposed development into Beck Row. This will include a dropped crossing point across Aspal Lane. The extended footway shall be constructed with falls away from Wilde Street to direct water into the existing shallow ditch located along the site boundary, unless otherwise agreed in writing with the Local Planning Authority. This work should be carried out within a section 278 agreement. Prior to any development commencing above slab level, the following should be submitted to and approved in writing by the Local Planning Authority:
    - i) A plan showing the extended footway and location of the UKPN underground cable
    - ii) Details of the means of surface water drainage from the extended footpath to the existing shallow ditch along the site boundary, or any alternative solution agreed in writing with the Local Planning Authority.
  21. All HGV and construction traffic movements to and from the site over the duration of the construction period shall be subject to a Construction and Deliveries Management Plan which shall be submitted to the planning authority for approval a minimum of 28 days before any deliveries of materials commence. No HGV movements shall be permitted to and from the site other than in accordance with the routes defined in the Plan. The site operator shall maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Plan throughout the period of occupation of the site.
  22. The dwellings hereby approved shall not be occupied until the area(s) within the site shown on 31429-IW-XX-XX-DR-A-2000-P18 for the

purposes of loading, unloading, manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.

23. Before the accesses are first used clear visibility at a height of 0.6 metres above the carriageway level shall be provided and thereafter permanently maintained in that area as shown on drawing no. 31429-IW-XX-XX-DR-A-2001 P01.

Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

24. All planting comprised in the approved details of landscaping (shown on drawings ORB21001-11F - Sheet 1 and ORB21001-11F - Sheet 2) shall be carried out in the first planting season following the commencement of development (or in the case of planting, seeding or turfing within the curtilage of a dwelling within 12 months of the dwelling being first occupied) or at such other time as may be agreed in writing with the Local Planning Authority. Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

25. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all soft landscape areas detailed on drawings ORB21001-11F - Sheet 1 and ORB21001-11F - Sheet 2 (other than small privately owned domestic gardens) together with a timetable for the implementation of the landscape management plan, shall be submitted to and approved by the Local Planning. The landscape management plan shall be carried out in accordance with the approved details and timetable.

26. All hard landscaping (shown on drawing 31429-IW-XX-XX-DR-A-2000-P18 – site development plan) shall be implemented prior to the occupation of any part of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority).

27. Within 3 months of commencement of development, details of the treatment of the boundaries of the site (including the hedgehog mitigation referred to in condition 33) shall have been submitted to and approved in writing by the Local Planning Authority. The details shall specify the siting, design, height and materials of the screen walls/fences to be constructed or erected and/or the species, spacing and height of hedging to be retained and / or planted. The approved screen walling and/or fencing shall be constructed or erected before the dwelling to which it relates is first occupied. The approved soft landscaping to be planted shall be done so within 12 months of the date when the dwelling to which it relates is first occupied. Any planting removed, dying, being severely damaged or becoming



seriously diseased within five years of planting shall be replaced by soft landscaping of similar size and species to those originally required to be planted.

28. The demolition of building 1 (existing bungalow) shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

- a) A licence issued by Natural England pursuant to regulation 53 of The Conservation of Habitats and Species Regulations 2010, authorising the demolition to go ahead; or
- b) A statement in writing from the relevant licensing body to the effect that it does not consider that the demolition will require a licence.

29. A pre-felling inspection of trees T1, T3, T4, T9 and T14 (shown on Tree Reference Plan by ACD Environmental; drawing ORB21002-01B) by a class II bat licenced ecologist shall take place; Should a bat or evidence of a bat be found then work should stop to allow the need for a European Protected Species (EPS) licence to be considered. Work should only continue once the necessary mitigation is in place.

30. Prior to the commencement of development (including demolition, ground works, or vegetation clearance) a reptile mitigation strategy including a reptile translocation shall be submitted to and agreed in writing with the Local Planning Authority. The strategy must include:

- Updated reptile survey information as appropriate;
- Method statement for site clearance;
- Location of habitats to be retained and protected;
- Working methods including storage of materials, escape routes from excavations;
- Location and method of habitat enhancement and creation;
- Location and creation of hibernacula and refuges;
- Phasing of the above;
- Monitoring

The measures shall be carried out strictly in accordance with the approved scheme.

31. The Hedgehog mitigation detailed within section 6.73 of the ADC Environmental Ecological Impact Assessment shall be implemented in full prior to occupation of the development. Mitigation shall be detailed on the boundary treatment plan (condition 28).

32. Precautionary site clearance measures and methods of work in sections 6.48, 6.65 and 6.72 of the ADC Environmental Ecological Impact Assessment shall be carried out in their entirety.

33. No development shall commence until details for ecological enhancement measures and a timescale for implementing the measures have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented to the full satisfaction of the Local Planning Authority.

34. No construction of any dwellings shall commence until details in respect of each of the following has been submitted to and approved in writing by the Local Planning Authority:

- i) Details of the development that demonstrate that for each

unoccupied dwelling and its associated sound insulation that noise levels with windows closed shall not exceed a daytime level of 35dB LAeq (16hrs) within living rooms between 07.00 and 23.00 hours, and a night-time level of 30 dB LAeq (8hrs) within bedrooms between 23.00 and 07.00 hours, using the methodology advocated within BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings' (2014). The development shall adopt the proposed sound insulation measures as stated, and;

ii) Details of a measurement and assessment methodology for demonstrating compliance with the limits set out in i), including the identification of specific properties where monitoring shall take place. This methodology shall include measurements within more than one dwelling.

35. Prior to first occupation, a suitably qualified noise specialist shall demonstrate compliance with the noise criteria detailed in Condition 35 i) using the measurement and assessment methodology as advocated in Condition 35 ii) and during periods of normal flying operations at RAF Lakenheath and RAF Mildenhall. The findings of the compliance assessment shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the dwellings.

36. No work of construction above slab level shall commence until details of the provision of the infrastructure required to provide electric vehicle charging points to serve the development have been submitted to and approved in writing by the Local Planning Authority. The approved infrastructure shall be provided prior to the dwellings being first occupied and shall be retained thereafter as approved.

(Councillor Stephen Edwards joined the meeting at 6.18pm during the preliminary discussion of this item and prior to the voting thereon.)

276. **Planning Application DC/17/2052/VAR - Mildenhall Social and Bowls Club, Recreation Way, Mildenhall (Report No: DEV/FH/17/042)**

**Planning Application - Variation of conditions 2 and 4 of DC/17/0790/FUL - to allow use of amended plans for providing a new entrance to restaurant and amended opening hours Sunday - Thursday 11am - 10pm and Friday and Saturday 11am to 11 pm for Change of use of Sports Pavilion (D2) to Restaurant/Cafe (A3)**

This application had been referred to the Development Control Committee by the Delegation Panel following call-in of the application by Councillor Ruth Bowman (Ward Member).

A Member site visit was held prior to the meeting. Mildenhall Parish Council were in support and Officers were recommending that the application be approved subject to conditions, as set out in Paragraph 21 of Report No DEV/FH/17/042.

The Senior Planning Officer made reference to Planning Application DC/17/0790/FUL which was granted in July 2017. The application before Members sought a variation to conditions in relation to the July permission.

The Officer advised that since publication of the agenda amended plans had been submitted by the applicant which showed details of a designated smoking shelter. The Council's Public Health and Housing had been consulted on this amendment and were happy with what was proposed (as per Condition 10 of the recommendation).

Speakers: Aidan Keogh (resident) spoke against the application  
Marilyn McGuire (applicant) spoke in support of the application

Councillor Ruth Bowman (Ward Member) spoke on the application. She raised concerns that restaurant patrons could gravitate towards the Social Club's outside seating areas and, similarly, that those attending the Social Club could walk through the building in order to access the restaurant's designated smoking area.

The Service Manager (Planning – Development) explained that the movement of customers throughout the building was a matter for management and could not be controlled via planning conditions/restrictions.

The Senior Planning Officer explained that whilst there was nothing to restrict smoking at the outside seating areas, the restaurant was not permitted to serve food to these tables, as per Condition 11 of the recommendation.

Another Member made comment as to whether the vegetation along the boundary of neighbouring Turnstone Close could be increased in order reduce the impact on residents' amenity. The Service Manager (Planning – Development) explained that it would be not be reasonable to request this on such a small-scale application, however, the applicant was present and may take note of the comment.

Councillor Simon Cole moved that the application be approved, as per the Officer recommendation, and this was duly seconded by Councillor Louis Busuttill.

Upon being put to the vote and with the vote being unanimous, it was resolved that

#### Decision

Planning permission be **GRANTED** subject to the following conditions:

1. NS time limit
2. NS Approved plans (amended)
3. NS plant, machinery and equipment details
4. NS operational hours
5. NS delivery times
6. NS Bin empty times
7. NS background music only
8. NS hours of construction
9. NS parking prior to first use

- 10. NS smoking area – to be provided prior to first use
- 11. NS No external seating

(Councillor Roger Dicker left the meeting at 6.51pm during the preliminary discussion of this item and prior to the voting thereon.)

277. **Planning Application DC/17/2080/FUL - 15 Craven Way, Newmarket (Report No: DEV/FH/17/043)**

**Planning Application - Change of use from B1 (Light Industrial) to B2 (Food Preparation)**

This application had been referred to the Development Control Committee as Forest Heath District Council owned the building for which planning permission was sought.

No representations had been received from third parties. Officers were recommending that the application be approved subject to conditions, as set out in Paragraph 18 of Report No DEV/FH/17/043.

Councillor David Bowman moved that the application be approved, as per the Officer recommendation. This was duly seconded by Councillor Simon Cole.

Upon being put to the vote and with the vote being unanimous, it was resolved that

Decision

Planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the approved plans and documents.

The meeting concluded at 7.01 pm

**Signed by:**

**Chairman**

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**Forest Heath**  
District Council

**DEV/FH/18/001**

## **Development Control Committee 3 January 2018**

### **Planning Application DC/16/2726/FUL – 2 Park Avenue, Newmarket**

**Date** 12/01/2017

**Expiry Date:** 09/03/2017

**Registered:**

**Case** Aaron Sands

**Recommendation:** Grant

**Officer:**

**Parish:** Newmarket

**Ward:** All Saints

**Proposal:** Planning Application - 1no. dwelling as amended by plans received 21st June and 4th July revising design and 27th October revising parking layout

**Site:** 2 Park Avenue, Newmarket

**Applicant:** Mr Edward Babbington

**Agent:** Construction Housing Renovations Ltd - Mr Steven Hall

**Synopsis:**

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

**Recommendation:**

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

CONTACT CASE OFFICER:

Aaron Sands

Email: aaron.sands@westsuffolk.gov.uk

Telephone: 01284 757355

**Background:**

**This application is referred to the Development Control Committee from Delegation Panel following call-in from Councillor Robin Millar and due to an objection from the Town Council that has not been withdrawn despite amendments to the scheme. The Officer recommendation is for APPROVAL.**

**Proposal:**

1. Planning permission is sought for the erection of a single dwelling and associated works. The proposal has been amended since submission, revising the red line to omit an area of land that was later identified as not belonging to the applicant, and revising the design of the proposed dwelling.
2. The proposed dwelling measures 4.6 metres in overall height, with a height of 2.5 metres to the eaves, measured from ground level. It measures approximately 8 metres in overall depth and 12 metres in overall width. The proposal is partially cut into the ground.

**Site Details:**

3. The site comprises an area of previously developed brownfield land that does not currently appear attached to any particular property. It is situated within the centre of a block of built development, adjacent to converted properties. The site is within the settlement boundary of Newmarket.

**Planning History:**

4. F/2008/0339/FUL – Erection of chalet bungalow. Refused. 27/06/2008.
5. Adjacent Site – F/2007/0561/FUL - Resubmission of F/2006/0578/FUL: Conversion of existing garage/storage building, including the erection of a one and a half storey extension and single storey rear extension to create 2 dwellings. Approved. 24/08/2007.

**Consultations:**

6. Town Council: Objection on the grounds of layout and density, highways safety, traffic and parking (*Officer note: these comments were received prior to amendments and have not been either updated or withdrawn since, Officers therefore consider they remain extant*)
7. Contamination Officer: No objection subject to informative
8. Public Health and Housing: No objection subject to conditions. Recommend that further consideration is given to adequate lighting and ventilation within the proposed lower ground floor bedroom and the installation of an opening casement window. (*Officer note: burning of*

*waste material on site is covered by other legislation, and is not considered to be a necessary condition)*

9. Highway Authority: No objection subject to conditions
10. Jockey Club: Recommend contacting James Eustace with regard to the timing of noisy work to avoid impacts on passing racehorses from Park Lodge Stables
11. Ward Member (Councillor Millar): The site is amenity land, so this would be back yard development. Trees on the site are not referred to in the application. It will be overlooked and overlook others. It is over/inappropriate development. The owner could offer it as structured parking to residents.

### **Representations:**

- 12.8 no. representations received incorporating the following summarised points;
- The plans are poor quality, cannot be read and there are errors in the application
  - Parking and highway safety in the area is already an issue
  - The amenity of the proposed dwelling will be adversely affected by the surrounding properties
  - The proposed dwelling would adversely impact the surrounding dwellings
  - A previous application was refused on the site (*Officer note: ref F/2008/0339/FUL*)
  - The site is constrained and the access limited by vehicles parking in association with previously approved units (*Officer note: ref F/2007/0561/FUL*)
  - The proposal will result in an increase in traffic using this driveway
  - Request construction times set by the council in the event of an approval
  - Bats have been observed feeding in the development site
  - There are mature trees and bushes on the site
  - The proposal may adversely impact the horses
  - The red line has included land not within the applicants ownership (*Officer note: this has since been amended to revise the red line only to the site*)
  - There is no topographical report or tree survey
  - Would request working hours not to include Saturdays, Sundays or Bank Holidays.
  - PD rights should be removed
  - A fence should be erected along the boundary with neighbouring parking areas
  - The proximity of the bin store to 2C Park Avenue is not satisfactory
  - The proposal is too close to 2C

The following comments were received prior to the amendments;

- The dwelling is very close to the boundary and higher than would be acceptable

- The proposal would block light due to the height
- There is no topographical report or tree survey
- The red line is incomplete and does not show access to the highway
- The red line has included land not within the applicants ownership

The following matters have been raised that are not material planning considerations and cannot be factored in determining this application;

- The proposal would result in an occupant (no. 44) needing to relocate during the building works for medical reasons
- The Party Wall Act may apply
- Contractors should not park in a manner that blocks access to properties in this area

**Policy:** The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:

13. Joint Development Management Policies Document:

- Policy DM1 (Presumption in Favour of Sustainable Development)
- Policy DM2 (Creating Places – Development Principles and Local Distinctiveness)
- Policy DM7 (Sustainable Design and Construction)
- Policy DM11 (Protected Species)
- Policy DM12 (Mitigation, Enhancement, Management and Monitoring of Biodiversity)
- Policy DM13 (Landscape Features)
- Policy DM14 (Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards)
- Policy DM22 (Residential Design)
- Policy DM46 (Parking Standards)

14. Forest Heath Core Strategy 2010

- Policy CS1 (Spatial Strategy)
- Policy CS3 (Landscape Character and the Historic Environment)
- Policy CS5 (Design Quality and Local Distinctiveness)

15. Emerging Policy CS7 (Overall Housing Provision and Distribution)

**Other Planning Policy:**

16. National Planning Policy Framework (2012)

**Officer Comment:**

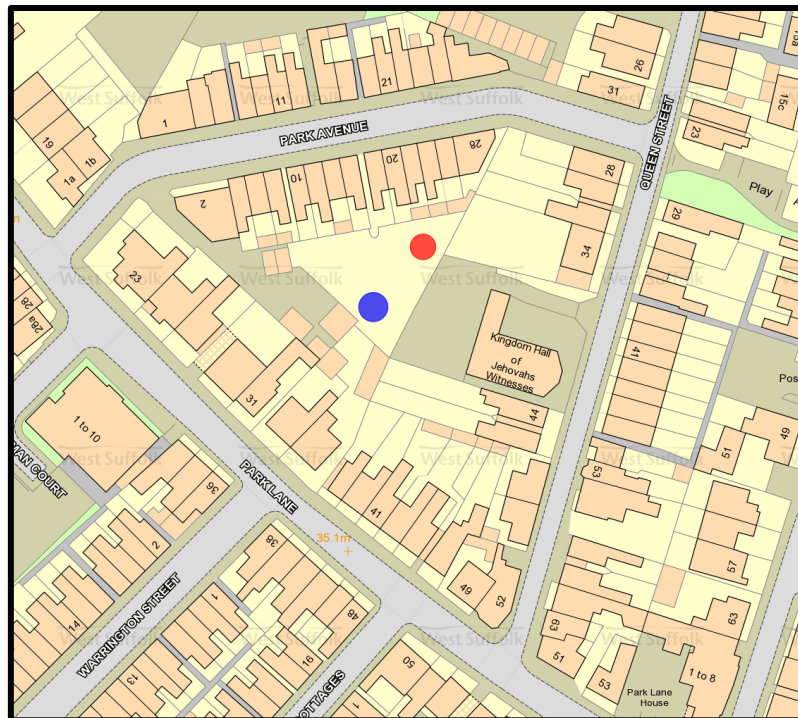
17. The issues to be considered in the determination of the application are:

- Principle of Development
- Design and Character
- Contamination
- Impacts on Trees and Ecology
- Highway Impacts
- Residential Amenity
- Other Matters



## Principle of Development

18. The proposal is located within the existing and emerging settlement boundary of Newmarket, defined within the Core Strategy as a Market town where, in accordance with policy CS1 and the emerging policy CS7, development should first be located. It is one of the most sustainable locations in the district.
19. The proposal represents a single dwelling, located in what appears to be an area of unused land located in the centre of a small triangle of housing fronting Park Avenue, Queen Street and Park Lane. The dwelling is located approximately in the location indicated by the red circle in the image below. The blue circle approximately indicates the position of previously approved and now built dwellings (ref F/2007/0561/FUL).



20. It is accepted that the site is located to the rear of a number of properties and does therefore constitute something of a back land position. However, back land development in itself is not necessarily inappropriate. There is previous development in this location, and those dwellings are in situ. Given the built development that already exists, additional development in this location is not considered to be inappropriate back land development, as it reflects the existing built development that already permeates this block of dwellings.
21. While a previous proposal on the site was refused (ref F/2008/0339/FUL) due to impact on amenity, this is a matter of detail, as opposed to a matter of principle. Amenity consideration is discussed later in this report. The previous refusal is not considered to be determinative of the principle of development in this instance.

22. Given the site is within the settlement boundary and the existing built development in this location and its surroundings it is considered that the principle of residential development on this site is acceptable.

### **Design and Character**

23. The proposal is a single storey dwelling, partially cut into the ground to provide a lower ground floor. The position of the dwelling means it is unlikely to be readily visible from a public place, and whether or not it is visible from private views is not a material consideration. There may be some glimpsed views, particularly from Kingdom Hall to the east, but these would still be limited by the existing fence and single storey scale of the building. Suitable conditions could be imposed to ensure either existing fencing is retained or new fencing or planting is provided that would provide additional screening.

24. The site is distinctly constrained by the surrounding development, and the design has responded to those constraints in order to accommodate itself without appearing unduly cramped. There is a clear balance between the dwelling, the amenity space and the parking and manoeuvring area in the site, and the shape of the site is a limiting factor in how the various areas of the site would interact. While the garden is small, not everyone would want a large garden, and prospective purchasers would know of the layout before purchase. The surrounding residential properties predominantly have small rear gardens, such that this proposal would not appear out of character in terms of the site layout and the relationship of amenity space to residence.

25. The existing converted buildings to the south are reflective in their material and design of outbuildings, using black boarding and slate roofs. The proposed dwellings would utilise black boarding and anthracite concrete tiles, reflective of the grey used in slate. The boarding would reflect the form of the building as a smaller scale, more subservient development, and reflects the buildings to the south of the site. There is a mix of roof materials, such that these would not be out of character, and the distance that they would potentially be seen at would reduce any noticeable differences from other materials in the surroundings. A condition requiring material samples to be submitted would be recommended in order to ensure that materials are of a high quality and appropriately reflect the character of the locality.

26. On the whole, the design and scale is responsive to the constraints on the site and reflects the surrounding materials and designs in situ. It respects the coherence of built form in this location, and would not result in an illegible urban pattern. The development represents a reasonably high density, but it does not appear to be more so than the surrounding properties. It would therefore accord with policy DM2.

### **Contamination**

27. As the site is brownfield land, the proposal has been accompanied by a phase 1 land contamination assessment that has identified no potential

contaminants on the site. The Environment Officer has confirmed that they are satisfied the risk of contamination is low and has recommended an informative to ensure the developer is aware of their legal duties under the Environmental Protection Act 1990. As the potential for the land to be affected by contamination is very low and has been accompanied by an appropriate assessment, it is considered that the proposal would accord with policy DM14.

### **Impacts on Trees and Ecology**

28. The site currently contains planting along its boundaries, as well as a number of trees spaced around the edges of the site. The application has not been accompanied by an assessment of those trees or the hedges, and it is likely they would need to be removed in order to facilitate the development. The site is not within a conservation area, and there are no tree preservation orders in situ in this site, as such the site could be cleared at any time without planning permission. As noted above, the site is surrounded by development, and there are limited views into this location. While some of the trees are noticeable in glimpse views, particularly when in leaf, they are not particularly prominent trees in the street scene. Officers therefore consider that they are not of sufficient prominence or quality to retain in this location. The proposal is considered to accord with policy DM13, and would not have an unacceptable adverse impact on landscape features.

29. A comment has been made that bats use the site for foraging. There is no evidence of bats, or other protected species on the site, and the nearest record is of a swift along Queens Street, made in 2016 and only being a single record. The site is not connected to surrounding green infrastructure, is brownfield land and could be cleared without planning permission, noting that harm to protected species would also be protected by other legislation that the developer would need to comply with. The proposal would therefore accord with policies DM11 and DM12, also noting that other legislation would offer protection here, and an informative would be recommended to ensure the developer is aware of their responsibilities.

### **Highway Impacts**

30. It is acknowledged that parking in the area is difficult and is predominantly on the street, which was somewhat crowded at the time of the Officer's visits. As such, it is necessary to ensure that parking for this site does not materially worsen the situation. To accord with the adopted standards of the highway authority and policy DM46, the proposal would be required to provide a single parking space and that has been incorporated adjacent to the dwelling, with a swept paths analysis of the turning area that indicates there is a suitable turning area to exit in a forward gear. The parking is sited to the side of the dwelling, and would not, therefore, result in a parking dominated property, or parking that would otherwise harm the street scene, as required by policy DM22. Additional parking, such as for visitors or deliveries, could be accommodated within the turning area for the property without

significantly impacting the potential for cars to exit the highway in a forward gear.

31. The site would be served from an existing access into the site that also serves the other dwellings to the south of the application site. That access is in situ and not included within the revised red line, so is outside the control of the applicant. That said, the highway authority has not objected to the proposal and has recommended conditions to ensure that parking and manoeuvring areas are retained. The level of additional use that is likely to be generated from the property is minimal, and it is located in close proximity to the town centre, being perhaps 10 minutes walk at most from the High Street, which would reduce reliance on car travel. The proposal would therefore accord with policies DM2, DM22 and DM46.

### **Residential Amenity**

32. A historic application has been refused on this site (ref F/2008/0339/FUL), for the following reason;

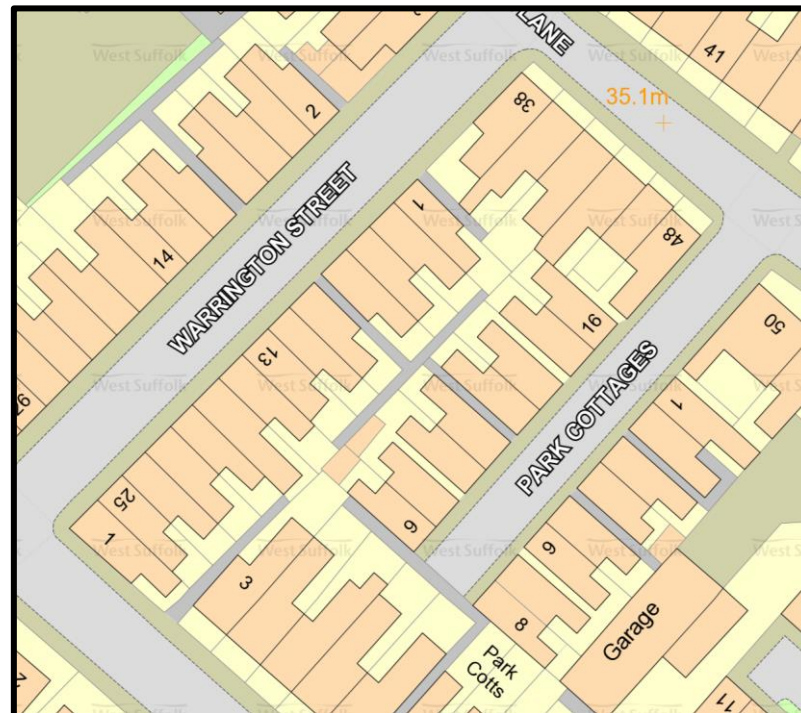
“The scale and position of the proposed plot, added to the overall intensification of the residential use of the site in close proximity to the site boundaries, is considered prejudicial to the reasonably amenities presently enjoyed by those existing off site properties, and is also considered prejudicial to the reasonable amenities that would be expected of any future residents of the proposed property. The proposal is therefore considered contrary to the provisions of Saved Local Plan Policy 4.14.”

33. The previous application was for a one and a half storey dwelling measuring approximately 6 metres in height, sited in a different location alongside the boundaries of residential dwellings and of a larger footprint and scale than that proposed here. There were rooms in the roof space and windows that would have overlooked neighbouring property, in addition to impacts by way of overbearing and overshadowing. That said, the refusal of that application was based on the details of the submission at that time. Officers do not consider that this refusal sets any precedent in relation to the principle of future development in the event that matters of detail are adequately addressed. It is considered that the site should be assessed on its own merits.

#### Amenity of the proposed dwelling

34. The proposed dwelling is sited in the midst of a number of properties. It is a small dwelling, with a constrained garden area, though it does not have an obvious outside amenity space. That garden area would be bordered by the garden areas of dwellings fronting Park Avenue and Queen Street. In particular, the dwellings along Park Avenue have reasonably short gardens, and are two storey with windows in the rear elevations. They would be afforded some level of overlooking of this property. With that said, all these properties are closely knit, and many of them already afford some level of overlooking to other properties in the area. The distance between the garden area here and the garden areas of, for instance,

properties along Warrington Street and Park Cottages to the south of the site (see image below), are not so significantly different. Prospective purchasers would be aware of the circumstances of the site, and would be able to make an informed decision.



35. Assessing the dwelling with regard to the nationally described space standards<sup>1</sup> the proposal would accord with and exceed those standards, such that the internal layout is considered to be acceptable. The property is sited away from the majority of the built development around the site, towards Kingdom Hall and the garden land of the dwellings to the south. It is not, therefore, considered that the surrounding development would so unduly impact light or create an inappropriate overbearing impact on residential amenity of the occupants.

#### Amenity of existing properties

36. The proposed dwelling is single storey at approximately 4.6 metres in overall height at the ridge. To provide some context, permitted development rights allow extensions to be built up to four metres in height along a boundary with neighbouring properties. The proposal is predominantly located along the boundary with the Kingdom Hall to the east. There is a separation from the most sensitive boundaries to the north, where the garden areas are of the smallest depth, though there are some outbuildings along that boundary that would provide screening and additional separation in any event. There is a distance of approximately 1.2 metres from the corner of the proposed dwelling to the garden area of 2c, at a height of approximately 2.5 metres at the eaves. Again, to provide context, a fence of 2 metres could be erected here without planning permission.

<sup>1</sup> Released under the Written Ministerial Statement dated 27<sup>th</sup> March 2015

37. The single storey scale of the proposed dwelling, coupled with the existing boundary treatment would vastly limit overlooking concerns from the proposal. The modest heights and the position in relation to neighbouring properties would mitigate impacts of overbearing or overshadowing such that these aspects of neighbouring amenity would not be materially harmed. It is therefore considered that the proposal would not result in an adverse impact on residential amenity.

38. On balance, both the impacts on the amenity of neighbouring properties and the potential amenity of the proposed dwelling is considered to be acceptable, and would accord with policies DM2 and DM22.

### **Other Matters**

39. A comment has been received regarding a preference that the site is used to provide parking. While possible alternative uses may be a material consideration, each application should be assessed on its own merits, and if otherwise acceptable, determined in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The site is not a proposed allocation, so the council is not reliant on it to meet a specific need, such as for employment purposes, and does not prejudice any other allocations coming forward. In assessing alternative uses, there must be some indication that the use has some prospect of coming forward. While there is obviously some desire to develop the site, there is no guarantee that it would be put forward for any purpose other than residential. There is no indication that a car park would be able to be accommodated in this location, as the scale of vehicle movements may then require other works that might not be accommodated within the constraints of the site. Alternative uses are not, therefore, considered to be an appropriate reason for refusal.

40. Comments have been received regarding the red line on the location plan. This has now been amended to remove the small area of land that covered the area outside the ownership of the applicant. It has also been stated that the red line does not go to the highway. There is no requirement for this. The legislation only requires a plan of the land to which the application relates. The use of a red line was only brought about as a staple of planning because it was least ambiguous. The highway and access remains as existing, and the proposal is served from that access. The red line is therefore only up to where it would join that access, as that is the land to which the application relates. Matters of land ownership are not material considerations except where they might otherwise prejudice necessary works to make a development acceptable. That is not considered to be the case here.

### **Conclusion:**

41. In conclusion, and on balance, the principle and detail of the development is considered to be in compliance with relevant development plan policies and the National Planning Policy Framework. The proposal is therefore recommended for approval.

**Recommendation:**

42. It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. 01A – 3 year time limit
2. 14FP – Accordance with approved plans
3. Material samples to be submitted
4. Finished floor levels to be submitted
5. Details of boundary treatments to be submitted and retained
6. Permitted development rights removed
7. Construction hours between 08:00 and 18:00 Mon-Fri and 08:00 and 13:30 Sat only
8. Acoustic insulation to appropriate levels
9. Parking and Manoeuvring areas to be retained

**Documents:**

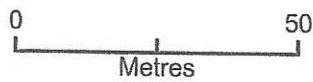
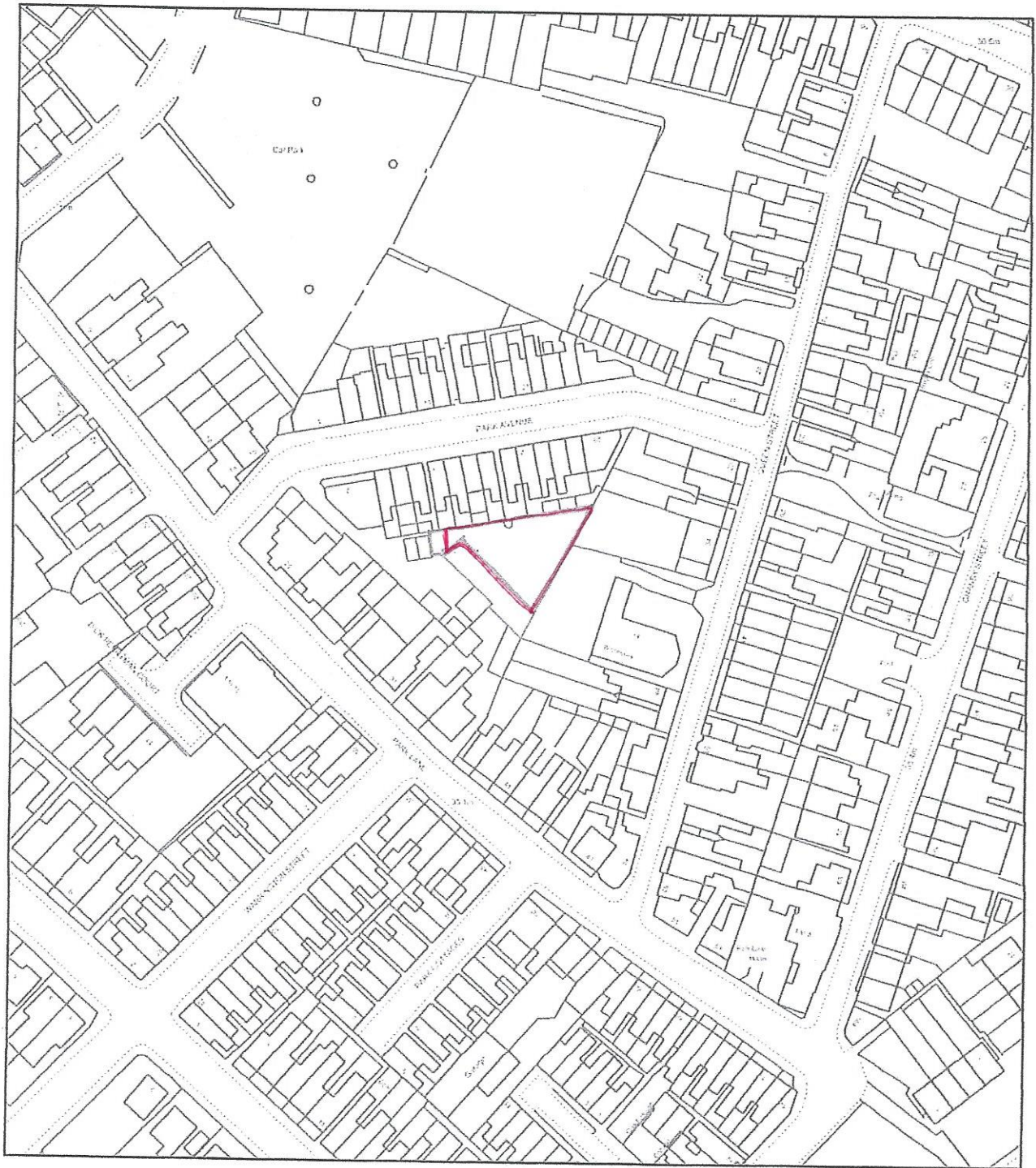
All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online.

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OHXHJOPDLE000>

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# CHR No 2 Park Avenue Proj 1104



Plan Produced for: DC16. 2726 / Ful Revised

Date Produced: 24 Jun 2014

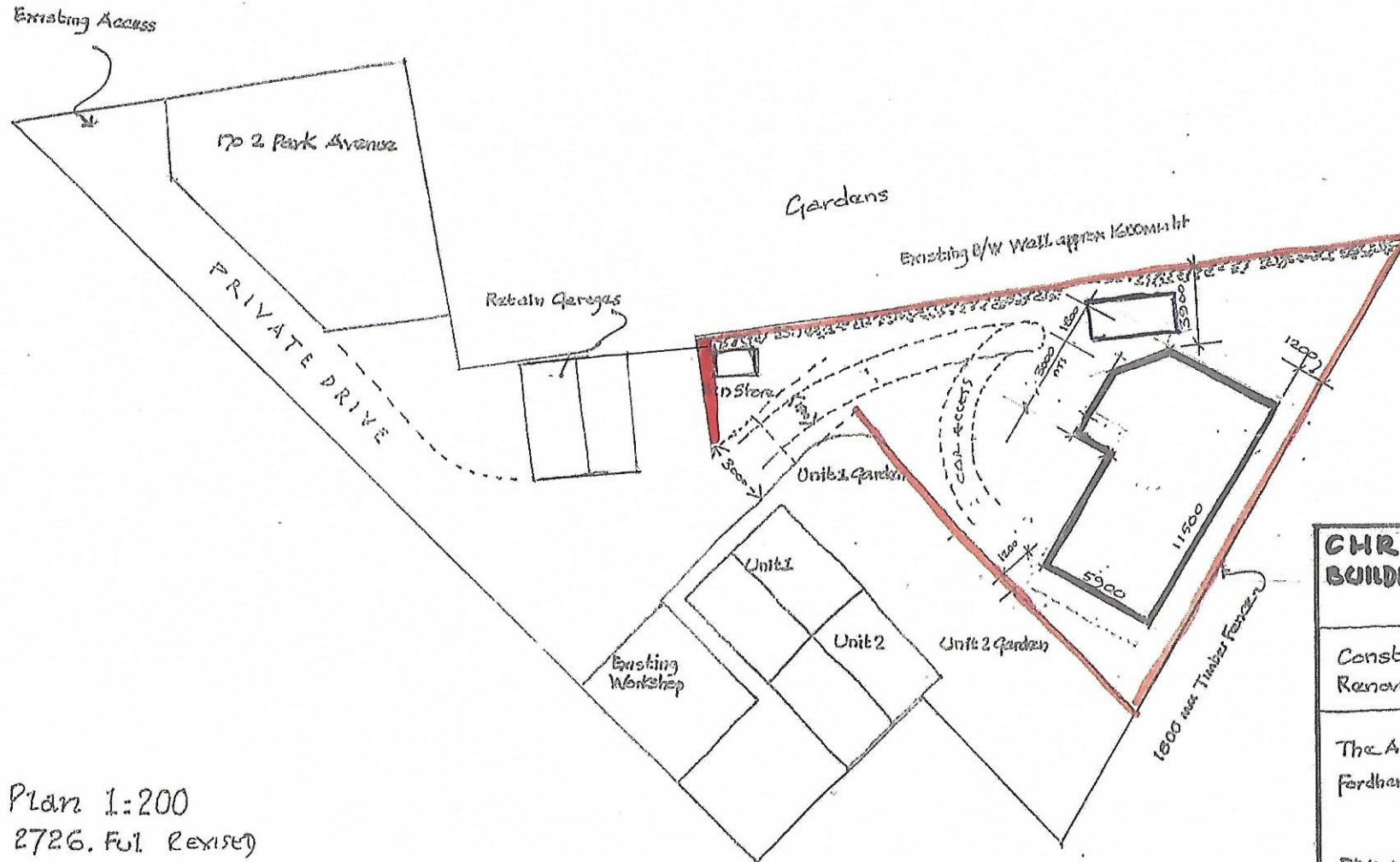
Plan Reference Number: TQRQM17172124417216

Site: 1104 Park Ave

POST ROOM

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# Proposed Bungalow R/O No 2 Park Avenue. Newmarket. CB8 8EY



Page 27

Site Plan 1:200  
DC16 2726. Ful. Revised

**AMENDED PLANS**

**CHR  
BUILDING CONTRACTORS**

Construction Housing  
Renovations Ltd.

The Annex: Long Cottage  
Ferdham Road, Newmarket  
CB8 7AA

DRAWN: Peter Burke  
07356 372 266

DWG NO 1104-01 B  
REVISED JUNE 2017

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**Forest Heath**  
District Council

**DEV/FH/18/002**

**Development Control Committee  
3 January 2018**

**Tree Preservation Order TPO/026(2017) –  
77 Queensway Mildenhall**

<b>Date</b>	06.11.2017	<b>Expiry Date:</b>	06.05.2018
<b>Served:</b>			
<b>Case Officer:</b>	Sarah Drane	<b>Recommendation:</b>	Confirm
<b>Parish:</b>	Mildenhall	<b>Ward:</b>	Market

**Synopsis:**

A Tree Preservation Order (TPO) was made on 1 tree on the land belonging to 77 Queensway, Mildenhall. The TPO was made on the 6<sup>th</sup> November 2017 and was served to protect 1 Walnut Tree. The TPO was made as the tree is a prominent feature in the vicinity and is of high amenity value particularly as it is one of only a few mature trees in the area.

An objection has been received from the owner of the tree. The reasons for the objection have been considered and are addressed within the report.

It is recommended that Members **CONFIRM** the TPO as detailed in this report.

CONTACT CASE OFFICER:

Sarah Drane  
Email: sarah.drane@westsuffolk.gov.uk  
Telephone: 01638 719432

## **Commentary:**

1. The District Council's Standing Orders allow for the making of provisional Tree Preservation Orders by Officers, subject to reporting any representations relating to such action to the Development Control Committee.
2. A Tree Preservation Order was made on 6<sup>th</sup> November 2017 to protect a tree on the land belonging to 77 Queensway (Working paper 1).
3. The reason for the Tree Preservation Order was that:

*This is a mature tree which is situated in the rear garden of number 77 Queensway. The tree is a prominent feature in the vicinity and is of high amenity value particularly as it is one of only a few mature trees in the area. There is potential for the tree to become more important in light of potential development in the area. The tree can be viewed from the allotments and from Queensway.*

4. The tree is located in the garden, on the south east side of a detached property – 77 Queensway. Concern arose because of a proposal to remove the trees which have a high amenity value.
5. A representation has been made in relation to the Tree Preservation Order by the owner. The main reasons for the objection are as follows:
  - Duplication of TPO/014 (2017) which lapsed in August 2017.
  - The plan is not to scale and the Tree is closer to the property than the map suggests.
  - The tree could affect the property structure if not cut back according to the survey. "Shrubs and trees can be damaging to the fabric of the property so their growth needs to be restricted" the survey also states roots have appeared into the drains. The tree was not cut prior to 2017 for 15 years plus and 2 metres allowed by the Council is not sufficient.
  - The tree is not one of a few mature trees in the vicinity; 2 mature trees opposite as well as surrounding trees and shrubs.
  - The tree can only be seen from limited selected locations at the allotment with a keen eye due to other mature trees blocking the view.
  - The tree cannot be seen from the new development which was only notified in October, 8 months after the original TPO served. No other developments have been submitted for the public to view. So "potential developments" that have not been approved or submitted for public consultation should not be a deciding factor. If this is the case it would appear the Council knows of developments which are not transparent to the Public and could alter the Public's opinion.
  - Other mature trees in the area will be felled to make way for the Hub development (confirmed October). No explanations given why this Walnut tree is more of an amenity, where as the others are clearly

more mature and can currently be seen from a greater distance from the development site and along Queensway.

- No site visit, survey has been conducted in relation to TPO/026 (2017)
  - TPO/026(2017) Served within 24 hours due to complaint received on the 6th November against FHDC.
  - No comments have been raised by residents stating any amenity value.
  - TPO/026 (2017) Not required as the tree is in no danger - have previously offered to sign a unilateral agreement to that effect which was declined by the Planning Department.
  - The Council stated the original TPO was still in place when granting planning permission - abusing their power as an Authority.
6. Officers have considered the objection carefully along with the information submitted alongside the representation:
  7. This is a duplicate TPO which was served because TPO14(2017) had lapsed (was not confirmed within the 6 months). It was always the Council's intention to recommend that the TPO be confirmed, but due to an oversight this did not happen. The new TPO was therefore made for the same reasons as previously which is because the tree is located in a prominent position and is of high public visual amenity value.
  8. It is noted that the objector considers that the tree is located closer to the house than is shown on the plan. The purpose of the plan is to identify the tree that is protected and the plan is sufficient for that purpose.
  9. The content of the survey report provided by the objector is noted; the Council approved the TPO application (DC/17/1525/TPO - 2m crown reduction) that was submitted by the objector to reduce the tree by 2m. Any more work would be severe and would affect the amenity of the tree and potentially its future health.
  10. The two mature trees opposite no. 77 which are mentioned in the letter of objection are also protected by tree preservation orders. The reference to development in the reason to serve the TPO is made because there was an inquiry made as to whether the tree was protected. This was not by the current owner or a tree surgeon. The amenity value of the tree was assessed when the original TPO was made and this has not changed.
  11. The proposal to develop a public service hub to the south of this site has been approved and will lead to the loss of some trees, however, that loss will be fully mitigated (through new tree planting which will form part of a comprehensive soft landscaping scheme) as part of the development proposals.
  12. The walnut tree was visited when the original tree preservation order was made. The application to reduce the tree (DC/17/1525/TPO) was made by a qualified tree surgeon who confirmed, in section 8 of the application

form, that there were no issues associated with the condition of the tree and that the tree was not causing damage to the property. There were no reasons such as impact on amenity of the property stated on the application form that would suggest that further site visits were necessary.

13. The new TPO had to be served quickly once the Council was made aware that there was an issue with the first tree preservation order. This is because the Council was concerned that the tree would be reduced further or felled, and in fact the letter of objection states that the current owner would wish to reduce the tree more than the 2 meters which was permitted. It was therefore important to protect the tree to ensure any further works could be controlled.
14. A unilateral undertaking was offered by the owner as an alternative way to prevent the felling of the tree. However, a tree preservation order is the most appropriate way to protect a tree of amenity value. An application can then be made for any future works to that tree.
15. The tree preservation order was in place when the tree works application was registered (DC/17/1525/TPO) and consultation undertaken. The Council granted consent for the works that the objector applied for. Not bringing to the attention of the owner the fact that the original TPO had lapsed was an oversight. The principal concern has always been and continues to be the protection of the tree which is why a new TPO was made. So whilst the owner's concerns/objections are noted, there are no reasons why the TPO shouldn't be confirmed.

### **Finance/Budget/Resource Implications:**

16. Works to or removal of a tree or trees covered by a TPO will require the formal consent of the local planning authority before any work can be carried out. Currently all such applications are submitted to the local planning authority and do not attract a fee. The Council's Planning Services and Arboricultural Officers will deal with subsequent applications arising as a result of the TPO without any additional fee income. There may also be appeals should TPO consent be refused.
17. Should an application for works to a preserved tree (or for its removal) be refused, the local planning authority may in certain circumstances, be liable to pay compensation to the affected property owner, should the trees cause damage to a property. Such claims are, however, rare and, in this instance, considered unlikely given that the condition and location of the trees can be considered fully when deciding where to locate new dwellings and other facilities associated with any development.

### **Environmental Impact and Sustainability**

18. Removal of any trees, which are considered to be worthy of protection in the public interest, would detract from the visual amenity of the local



environment and in this case would effect the amenity of the future development.

### **Policy Compliance/Power**

19.The local planning authority has powers under the Town & Country Planning Act 1990 and the Town & Country Planning (Trees) Regulations to make a TPO if it appears expedient in the interests of amenity to do so.

20.The making of a TPO in this instance, is in line with the powers and policies of the Council.

### **Performance Management Implications**

21.The applications determined under the TPO provisions and any subsequent appeals are not currently the subject of any national or local performance indicators.

### **Legal Implications**

22.This provisional TPO is served on the owner and occupier of the land affected by the TPO, and also on owners and occupiers of adjoining land, who had a period within which to make objections or representations to the Order. The statutory consultation period expired on 4<sup>th</sup> December 2017.

### **Human Rights Act and Diversity Implications**

23.These matters have been assessed in relation to and are considered to comply with the requirements of the Human Rights Act 1998. In relation to Article 6, interested parties have been advised of the making of this provisional Tree Preservation Order and their views have been considered within this report. Any interference with Rights under Article 8 and Article 1 of the First Protocol are necessary in the public interest.

### **Crosscutting Implications**

24.None

### **Risk Assessment**

25.As set out above, the Council may, in certain circumstances, be required to pay compensation to owners of properties damaged by preserved trees, if the Council has refused consent to carry out works to the affected tree and such works may have prevented the damage. These claims, however, are rare.

### **Council Priorities**

26.The Council is keen to safeguard the built and natural environment.

### **Recommendation:**

27.It is recommended that the report be noted and Members **CONFIRM** the Tree Preservation Order as reported.

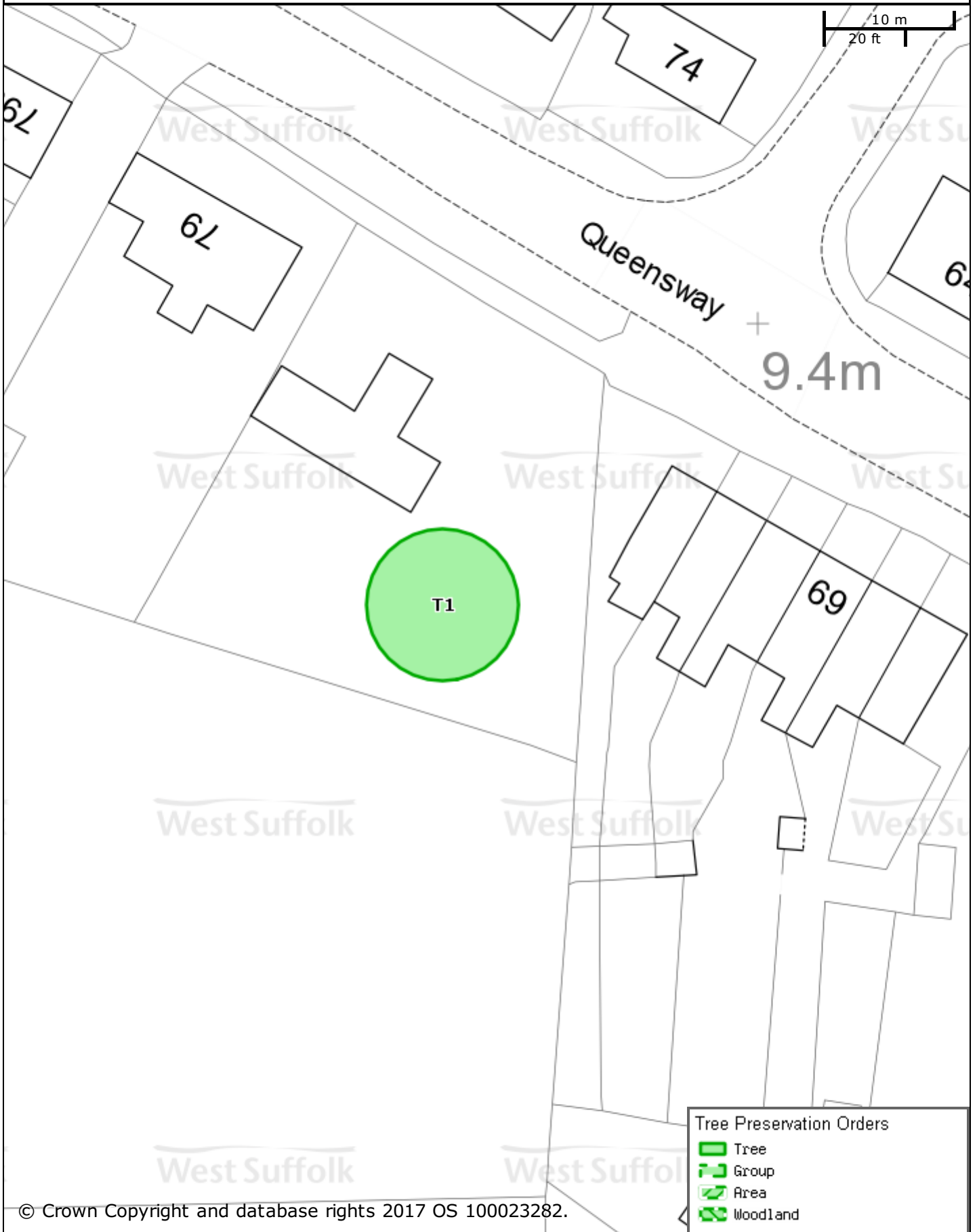
### **Documents Attached:**

Working Paper 1 – TPO including schedule and plan  
Working Paper 2 - Tempo Assessment

### **CONTACT OFFICER**

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01638 719432

# TPO/026(2017) Tree on Land at 77 Queensway, Mildenhall



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### Tree Preservation Orders

-  Tree
-  Group
-  Area
-  Woodland

St Edmundsbury BC  
Western Way  
Bury St Edmunds  
IP33 3YU  
01284 763233

Forest Heath & St Edmundsbury councils  
**West Suffolk**  
working together  
www.westsuffolk.gov.uk

Forest Heath DC  
College Heath Road  
Mildenhall  
IP28 7EY  
01638 719000

Scale: 1:400

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**Town & Country Planning (Tree Preservation) (England) Regulations  
2012**

**Town and Country Planning Act 1990**

**Forest Heath District Council**

**Tree Preservation Order TPO/026(2017)  
77 Queensway, Mildenhall, Suffolk, IP28 7JY**

The Forest Heath District Council in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990, make the following Order:-

**Citation**

- 1.** This Order may be cited as Tree Preservation Order TPO/026(2017) for 77 Queensway, Mildenhall, Suffolk, IP28 7JY

**Interpretation**

- 2.** (1) In this Order "the authority" means the Forest Heath District Council
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

**Effect**

- 3.** (1) Subject to article 4, this Order takes effect provisionally on 6<sup>th</sup> November 2017.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), and, subject to the exceptions in regulation 14, no person shall -

(a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

**4. Application to trees to be planted pursuant to a condition**

In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 6 day of November 2017

The Common Seal of the Forest Heath District Council was affixed to this Order in the presence of:-



39141

*John*

.....  
Authorised by the Council to sign in that behalf

Authorised Signatory

**CONFIRMATION OF ORDER**

[This Order was confirmed by the Forest Heath District Council without modification on the

..... day of .....20.....]

OR

[This Order was confirmed by the Forest Heath District Council], subject to the modifications indicated by *[state how indicated]*, on the

..... day of .....20.....]

.....  
Authorised by the Council to sign in that behalf]

**DECISION NOT TO CONFIRM ORDER**

[A decision not to confirm this Order was taken by the Forest Heath District Council on the

..... day of .....20.....]

.....  
Authorised by the Council to sign in that behalf]

**VARIATION OF ORDER**

This Order was varied by the Forest Heath District Council on the

..... day of .....20.....] by a variation Order under the reference number .....

Order], [a copy of

*[insert reference number to the variation which is attached]*

.....  
Authorised by the Council to sign in that behalf]

**REVOCATION OF ORDER**

[This Order was revoked by the Forest Heath District Council on the

..... day of .....20.....] under the reference number .....

.....  
Authorisation by the Council to sign in that behalf]

**SCHEDULE**

**SPECIFICATION OF TREES**  
**Trees specified individually**  
(encircled in black on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
T1	Walnut, common ( <i>Juglans regia</i> )	The Walnut is situated within the rear garden of the property.

**Trees specified by reference to an area**  
(within a dotted black line on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>

**Group of Trees**  
(within a broken black line on the map)

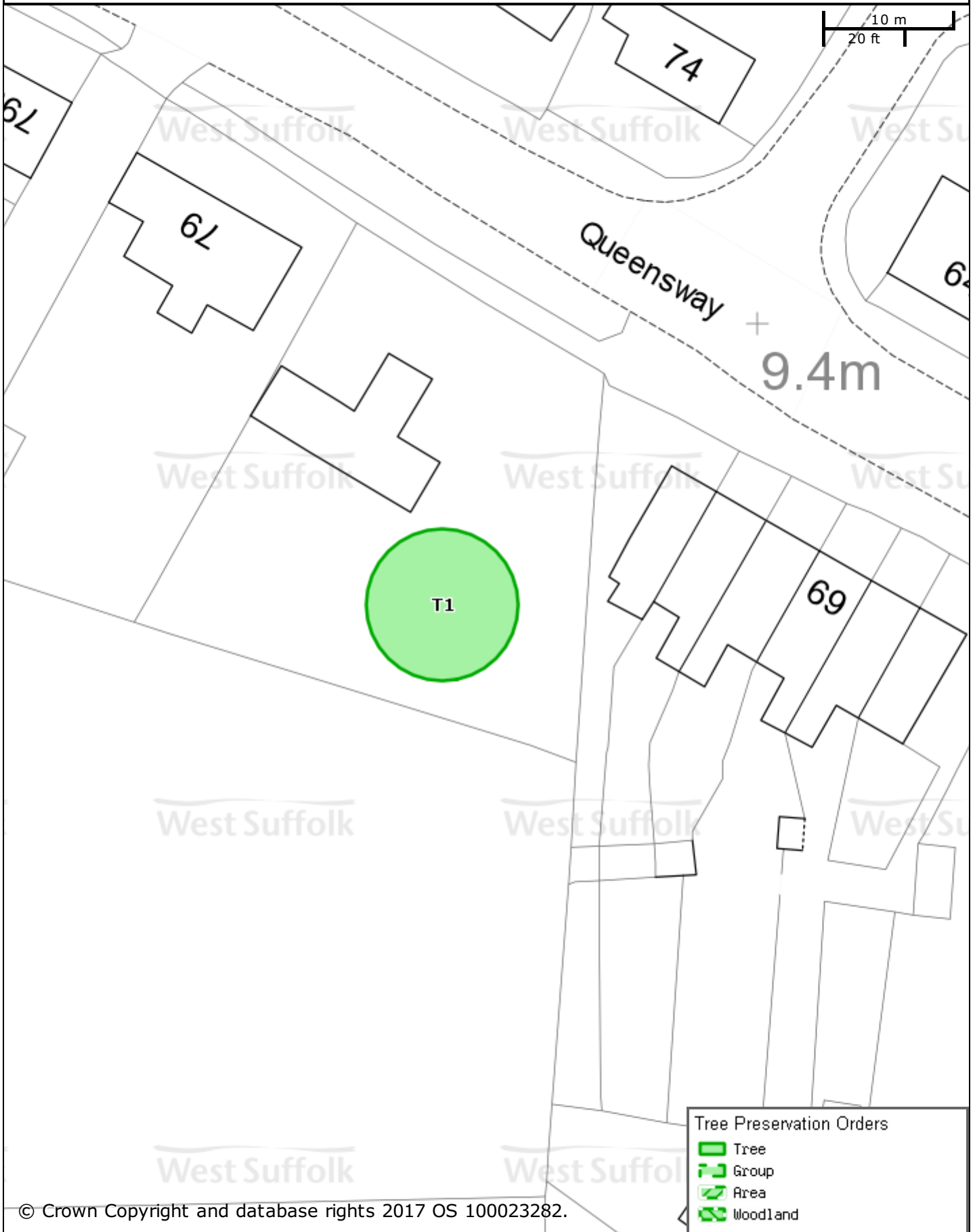
<i>Reference on Map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>

**Woodlands**  
(within a continuous black line on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>



# TPO/026(2017) Tree on Land at 77 Queensway, Mildenhall



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### Tree Preservation Orders

-  Tree
-  Group
-  Area
-  Woodland

St Edmundsbury BC  
Western Way  
Bury St Edmunds  
IP33 3YU  
01284 763233

Forest Heath & St Edmundsbury councils  
**West Suffolk**  
working together  
www.westsuffolk.gov.uk

Forest Heath DC  
College Heath Road  
Mildenhall  
IP28 7EY  
01638 719900

Scale: 1:400

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<b>TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):</b>	
<b>SURVEY DATA SHEET &amp; DECISION GUIDE</b>	
Date: 02/02/2017	Surveyor: Stephen Holyland
Tree details: TPO Ref:- Tree/Group No: 1 Species: Walnut Owner (if known): - Location: 77 Queensway, Mildenhall	
<b>Part 1: Amenity assessment</b>	
a) Condition & suitability for TPO: Refer to Guidance Note for definitions	
5) Good	Highly suitable
3) Fair	Suitable
1) Poor	Unlikely to be suitable
0) Unsafe	Unsuitable
0) Dead	Unsuitable
Score & Notes	
<b>b) Remaining longevity (in years) &amp; suitability for TPO:</b> Refer to 'Species Guide' section in Guidance Note	
5) 100+	Highly suitable
4) 40-100	Very suitable
2) 20-40	Suitable
1) 10-20	Just suitable
0) <10	Unsuitable
Score & Notes	
<b>c) Relative public visibility &amp; suitability for TPO:</b> Consider realistic potential for future visibility with changed land use; refer to Guidance Note	
5) Very large trees, or large trees that are prominent landscape features	Highly suitable
4) Large trees, or medium trees clearly visible to the public	Suitable
3) Medium trees, or larger trees with limited view only	Just suitable
2) Small trees, or larger trees visible only with difficulty	Unlikely to be suitable
1) Young, v. small, or trees not visible to the public, regardless of size	Probably unsuitable
Score & Notes	
<b>d) Other factors</b> Trees must have accrued 7 or more points (with no zero score) to qualify	
5) Principal components of arboricultural features, or veteran trees	
4) Members of groups of trees important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features	
Score & Notes	
<b>Part 2: Expediency assessment</b> Trees must have accrued 9 or more points to qualify; refer to Guidance Note	
5) Known threat to tree	

- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only
- 0) Tree known to be an actionable nuisance

**Part 3: Decision guide**

Any 0	Do not apply TPO
1-6	TPO indefensible
7-10	Does not merit TPO
11-14	TPO defensible
15+	Definitely merits TPO

Add Scores for Total: 13

Decision: TPO Defensible