

# Development Control Committee



Forest Heath  
District Council

<b>Title:</b>	<b>Agenda</b>									
<b>Date:</b>	<b>Wednesday 27 March 2019</b>									
<b>Time:</b>	<b>6.00pm</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</p> <p style="text-align: center;"><b>Vice Chairman</b> Chris Barker</p> <table style="width: 100%; border: none;"> <tr> <td style="vertical-align: top;"><u>Conservative Members (10)</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 (10)</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>West Suffolk Independent Members (2)</u>	Andrew Appleby	David Palmer								
<u>UKIP Members (2)</u>	Roger Dicker	Peter Ridgwell								
<b>Substitutes:</b>	Named substitutes are not appointed									
<p><b>A SITE VISIT WILL BE HELD ON MONDAY 25 MARCH 2019 AT THE FOLLOWING TIME:</b></p> <p><b>Planning Application DC/18/0492/FUL - Brickfields Cottages, Cemetery Hill, Newmarket, CB8 7JH</b></p> <p>Planning Application - (i) Change of use from Stud to Thoroughbred Race Horse Services and Stud (ii) Pony show jumping &amp; training (iii) extension to existing menage, (iv) 6no lighting columns and (v) new access and track (Part Retrospective)</p> <p><b>Site visit to be held at 10.00am</b></p>										
<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>

## 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 online here:

<https://planning.westsuffolk.gov.uk/online-applications/>

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 Council Core Strategy 2010
The Forest Heath Core Strategy 2010, as amended by the High Court Order (2011)	St Edmundsbury Local Plan Policies Map 2015
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' website:

<https://www.westsuffolk.gov.uk/planning/upload/Guide-To-Having-A-Say-On-Planning-Applications.pdf>

## **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 set out in the National Planning Policy Framework (paragraph 206). 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 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/alterd, 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 the Planning Practice Guidance.

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

#### *Page No*

- 1. Apologies for Absence**
- 2. Substitutes**
- 3. Minutes** **1 - 8**

To confirm the minutes of the meeting held on 6 February 2019 (copy attached).
- 4. Planning Application DC/18/2490/FUL - Land Adjacent to Manor Road, Brandon** **9 - 26**

Report No: **DEV/FH/19/005**

Planning Application - (i) Change of use from agricultural land to new municipal cemetery, (ii) new vehicular access , (iii) road crossing and (iv) associated engineering operations (Previous DC/15/1198/FUL)
- 5. Planning Application DC/18/0492/FUL - Brickfields Cottages, Cemetery Hill, Newmarket** **27 - 56**

Report No: **DEV/FH/19/006**

Planning Application - (i) Change of use from Stud to Thoroughbred Race Horse Services and Stud (ii) Pony show jumping & training (iii) extension to existing menage, (iv) 6no lighting columns and (v) new access and track (Part Retrospective)
- 6. Planning Application DC/19/0186/FUL - The Avenue, Newmarket** **57 - 66**

Report No: **DEV/FH/19/007**

Planning Application - Continued use of first and second floors as a large 9no. bedroom HMO (sui generis)

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# Development Control Committee



Forest Heath  
District Council

**Minutes** of a meeting of the **Development Control Committee** held on **Wednesday 6 February 2019** 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

Brian Harvey

David Bowman

Carol Lynch

Ruth Bowman J.P.

David Palmer

Simon Cole

Peter Ridgwell

Roger Dicker

## 347. **Apologies for Absence**

Apologies for absence were received from Councillors Louis Busuttill, Stephen Edwards and Louise Marston.

## 348. **Substitutes**

There were no substitutes present at the meeting.

## 349. **Minutes**

The minutes of the meeting held on 2 January 2019 were unanimously received by the Committee as a correct record and were signed by the Chairman.

## 350. **Planning Application DC/18/2308/FUL - Palace Cottage, Palace Street, Newmarket (Report No: DEV/FH/19/002)**

**Planning Application - (i) Change of use of existing offices (B1) to 1no dwelling (C3) and associated internal alterations and (ii) Rear enclosure for bin storage and segregation of adjacent property**

This application was referred to the Development Control Committee as the applicant was Forest Heath District Council.

Newmarket Town Council had not objected to the application and Officers were recommending that it be approved, subject to conditions as set out in Paragraph 22 of Report No DEV/FH/19/002.

Councillor Carol Lynch asked if the property had been planned for use as part of the Council's neighbouring Home of Horseracing development.

Councillor David Bowman responded, in his capacity as Cabinet Member for Operations, and explained that the building was not required by the Home of Horseracing complex at present. However, the Council intended to retain the property for rental once converted.

The Service Manager (Planning – Development) reminded the Committee the future usage/ownership of the property was not relevant to the consideration of the application.

Councillor Simon Cole proposed that the application be approved, as per the Officer recommendation, this was duly seconded by Councillor Carol Lynch.

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.
3. Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:30 hours on Saturdays and at no time on Sundays, public holidays or bank holidays.
4. No external lighting other than that which forms part of the development hereby permitted and shown on plan no. 30190/PA/003 shall be provided within the application site.
5. The use shall not commence until the areas within the site shown on Drawing No. 30190/PA/003 for the purposes of secure cycle storage have been provided and thereafter that area shall be retained and used for no other purposes.
6. The dwelling(s) hereby approved shall not 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 and evidence of compliance has been obtained.

**351. Planning Application DC/18/1863/OUT - Glenroyal, 141 All Saints Road, Newmarket (Report No: DEV/FH/19/003)**

**Outline Planning Application (all matters reserved) - up to 8no. dwellings with off road parking within courtyard (following demolition of existing residential property and associated detached garage) - Amended plans received 21/12/19 reducing units to 8, revised block plans/ elevations**

This application had been referred to the Development Control Committee following consideration by the Delegation Panel. A Member site visit was held prior to the meeting.

Newmarket Town Council raised no objections to the proposal and Officers were recommending that the application be approved, subject to conditions as set out in Paragraph 35 of Report No DEV/FH/19/003.

As part of her presentation the Senior Planning Officer provided the Committee with the following updates:

- Attention was drawn to an amended plan which had been produced by the applicant in response to concerns raised by Suffolk County Council Highways in relation to the car parking spaces at the rear of the site. The spaces to be provided were now shown as 2.8m wide which complied with the Suffolk Guidance for Parking; and
- An additional standard condition was to be added to the recommendation with regard to water efficiency.

Councillor Simon Cole raised a question with regard to the additional water efficiency condition and asked how this was enforced. In response, the Service Manager (Planning – Development) explained that it was addressed via the Building Regulations process.

Councillor Brian Harvey asked if an additional condition needed to be included to reflect the demolition required as part of the scheme. The Service Manager (Planning – Development) drew Councillor Harvey's attention to condition 10 within the recommendation, and assured Members that this included the regulation of any demolition as well as construction.

Councillor Peter Ridgwell raised concern with the quality of the photographs used in the presentation, in response the Chairman stressed the importance of the scheduled site visit.

Councillor Ridgwell then moved that the application be approved, as per the Officer recommendation, and this was duly seconded by Councillor Carol Lynch.

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. Application for the approval of the matters reserved by conditions of this permission shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun not later than whichever is the latest of the following dates:-
  - i) The expiration of three years from the date of this permission; or
  - ii) The expiration of two years from the final approval of the reserved matters; or,

In the case of approval on different dates, the final approval of the last such matter to be approved.

2. Prior to commencement of development details of the [access, appearance, landscaping, layout, and scale] (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out as approved.
3. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents: Site Location Plan, received 17.09.2018
4. Prior to occupation details of biodiversity enhancement measures to be installed at the site, including details of the timescale for installation, shall be submitted to and approved in writing by the Local Planning Authority. Any such measures as may be agreed shall be installed in accordance with the agreed timescales and thereafter retained as so installed. There shall be no occupation unless and until details of the biodiversity enhancement measures to be installed have been agreed in writing by the Local Planning Authority.
5. Prior to first occupation, all dwellings with off street parking shall be provided with an operational electric vehicle charge point at reasonably and practicably accessible locations, with an electric supply to the charge point capable of providing a 7kW charge.
6. 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.
7. 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 condition 6 iii) is submitted and approved, in writing, by the Local Planning Authority. The long term monitoring and maintenance plan in condition 6 iii) shall be updated and be implemented as approved.
8. 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.

9. The hours of demolition, site clearance, preparation and construction activities, including deliveries to the site and the removal of excavated materials and waste from the site, shall be limited to 08:00 to 18:00 hours on Mondays to Fridays and 08:00 to 13:00 hours on Saturdays. No site demolition, site clearance, preparation or construction activities shall take place at the application site on Sundays, Bank or Public Holidays without the prior written consent of the Local Planning Authority.
10. Prior to the development commencing a comprehensive Construction and Site Management Programme shall be submitted to the Local Planning Authority for approval. The approved programme shall be implemented throughout the development phase, unless the Local Planning Authority gives written consent to any variation. The programme shall include:-
  - a. site set-up and general arrangements for storing plant, including cranes, materials, machinery and equipment, offices and other facilities and contractors vehicle parking, loading, unloading and vehicle turning areas;
  - b. noise method statements and noise levels for each construction activity including any piling and excavation operations;
  - c. dust, dirt and vibration method statements and arrangements;
  - d. site lighting.
11. The acoustic insulation of each dwelling shall be such to ensure noise levels, with windows closed, do not exceed an LAeq (16hrs) of 35dB(A) within bedrooms and living rooms between the hours of 07:00 to 23:00, and an LAeq (8hrs) of 30dB(A) within bedrooms between the hours of 23:00 to 07:00.
12. The dwelling(s) hereby approved shall not 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 and evidence of compliance has been obtained.

**352. Planning Application DC/18/1167/FUL - La Grange House, Fordham Road, Newmarket (Report No: DEV/FH/19/004)**

**Planning Application - 1no. dwelling**

This application was referred to the Development Control Committee following consideration by the Delegation Panel and at the request of Ward Members (Severals) Councillors Andrew Appleby and Ruth Allen. Newmarket Town Council had also submitted objections to the proposal.

A Member site visit was held prior to the meeting. A supplementary document relating to the application had been circulated by way of 'late papers' issued after publication of the agenda.

Officers were recommending that the application be refused, for the reason set out in Paragraph 35 of Report No DEV/FH/19/004.

As part of his presentation the Senior Planning Officer made reference to:

- Site maps of a previously approved (in 2013) scheme;
- A map of protected trees; and
- A shade analysis.

The Officer also advised Members of the following corrections:

- Paragraph 34 of Report No DEV/FH/19/004 should read "*In conclusion, the **detail** of the development...*" (not principle); and
- Paragraph 5 of the supplementary late papers incorrectly referred to 'Paragraph 32' and it should have read Paragraph **25**.

Speaker: Meghan Bonner (architect) spoke in support of the application

Councillor Andrew Appleby spoke in support of the scheme and objected to the reason for refusal in relation to the Beech Tree (T013).

He moved that the application be approved, contrary to the recommendation for refusal, and this was duly seconded by Councillor Roger Dicker.

The Service Manager (Planning – Development) advised that if Members were minded to approve the application, contrary to the Officer recommendation, then the decision making protocol would be invoked and a risk assessment would be produced for consideration by the Committee at a future meeting.

Other Members spoke in support of the Officer recommendation and the impact the tree in question was likely to have on the amenity of future occupants as well as concern about the impact the development itself would have on the tree.

Accordingly, Councillor David Bowman proposed that the application be refused and this was duly seconded by Councillor Peter Ridgwell. However, he was advised by the Solicitor that the amendment was not valid; in that it was a direct negative of the substantive motion.

The Chairman then put the motion for minded to approve to the vote and with 3 voting for the motion and with 8 against, the Chairman declared the motion lost.

Councillor David Bowman then proposed that the application be refused, as per the Officer recommendation, and this was duly seconded by Councillor Peter Ridgwell.

Upon being put to the vote and with 8 voting for the motion, 1 against and with 2 abstentions, it was resolved that

#### Decision

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

1. The position of the large Beech Tree (detailed as T013), which is a prominent category A1 specimen, would lead to a significant loss of sunlight hours that the proposed dwelling would otherwise enjoy and be a burdensome seasonal nuisance due to leaf drop and other detritus. The presence of the Beech tree is also the likely to lead to a heightened perception of risk from falling branches to future occupants due to the size and age of the tree in such close proximity to the dwelling. Consequently, these matters are all likely to lead to future

pressure to lop or fell the Beech tree. Should this occur, the significant contribution that the tree does and could continue to make to the overall character and appearance of the conservation area would be lost. The proposal would therefore be in conflict with policies DM2, DM13 and DM17 of the Joint Development Management Policies Document 2015, Policy CS5 of the Forest Heath Core Strategy 2010 and the provisions of the National Planning Policy Framework 2018 which seek to maintain local character and require new development to address key features and characteristics of an area.

The meeting concluded at 6.49pm

**Signed by:**

**Chairman**

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**Forest Heath**  
District Council

**DEV/FH/19/005**

**Development Control Committee**  
**27 March 2019**

**Planning Application DC/18/2490/FUL –**  
**Land Adjacent to Manor Road, Brandon**

<b>Date Registered:</b>	12.12.2018	<b>Expiry Date:</b>	03.04.2019
<b>Case Officer:</b>	Julie Barrow	<b>Recommendation:</b>	Approve Application
<b>Parish:</b>	Brandon	<b>Ward:</b>	Brandon West
<b>Proposal:</b>	Planning Application - (i) Change of use from agricultural land to new municipal cemetery, (ii) new vehicular access , (iii) road crossing and (iv) associated engineering operations (Previous DC/15/1198/FUL)		
<b>Site:</b>	Land Adjacent to Manor Road, Brandon		
<b>Applicant:</b>	Brandon Town Council and The Trustees of Brandon Hall Farm		

**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:

Julie Barrow  
Email: [julie.barrow@westsuffolk.gov.uk](mailto:julie.barrow@westsuffolk.gov.uk)  
Telephone: 01284 757621

**Background:**

**The application is referred to the Development Control Committee as Forest Heath District Council has an interest in the application site.**

**The application is recommended for APPROVAL.**

**Proposal:**

1. The application seeks consent for the change of use of the site from agricultural land to a municipal cemetery including details of a new vehicular access and road crossing and associated engineering operations. The engineering operations comprise the levelling of the land at the southern and south-eastern boundaries to allow for the access and visibility splays and future localised land raising to allow for burials in areas where groundwater could be too close to the ground surface to allow for burials.
2. The application does not include the provision of any ancillary buildings or structures that may be required to facilitate the use of the site as a cemetery.

**Application Supporting Material:**

3. The following supporting documents have been submitted with the application:
  - Archaeological Evaluation Reports September 2013 and January 2017
  - Report on Archaeological Geophysical Survey 2013
  - Flood Risk Assessment May 2018
  - Tier 1 Risk Assessment including Site Investigation February 2016
  - Location Plan
  - Access Plan Layout
  - Highway verge Plan Layout and Levels
  - Sightline Plan
  - Existing Ground Level Survey Overview
  - Site Context Plan
  - Site Plan
  - Biodiversity Checklist
  - Ecological Appraisal May 2018
  - Planning Statement

**Site Details:**

4. The application site extends to 1.77 hectares and is situated immediately north of Manor Road, west of Church Road and west of the Church of St Peter and its existing associated cemetery. Manor Road and Church Road form the boundary of the defined settlement of Brandon. The site is presently in agricultural use and is predominantly open and flat. A public footpaths (Brandon Footpath No. 13) runs across the south-west corner of the site.

**Planning History:**

5.

<b>Reference</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
DC/15/1198/FUL	Planning Application - change of use from agricultural land to new municipal cemetery	Application Granted	29.02.2016
F/2012/0449/COU	Change of use from agricultural land to new municipal cemetery (Departure from the Development Plan) (Development affecting a Public Right of Way) (Major Development)	Approve with Conditions	04.10.2012
F/2009/0142/COU	Change of use of agricultural land for use as new cemetery (Departure from the Development Plan) (Development affecting a Public Right of Way) (Major Development)	Approve with Conditions	09.10.2009
F/75/599/SU	Overhead line 24 dwellings Manor Road/ St Peters approach	Application Withdrawn	19.05.1976
F/89/101	Use of land as cemetery	Refuse	05.05.1989
F/98/223	Change of use to cemetery as completed by letter and certificate received 29.4.98.	Approve with Conditions	15.06.1998
F/2003/0498/VAR	Variation of condition 1 (extension of time limit) of F/98/223 for change of use to cemetery.	Approve with Conditions	27.08.2003

**Consultations:**

6. Suffolk Archaeological Service – No objection subject to conditions requiring the completion of a programme of archaeological work
7. Environment Agency – No objection subject to conditions relating to the siting of burials, reporting of unexpected contamination, details of surface water disposal and groundwater monitoring being submitted
8. SCC Highways – No objection subject to conditions relating to the prevention of surface water entering the highway and details of parking and manoeuvring areas being provided.

9. SCC Floods – No objection
10. Natural England – No objection
11. Public Rights of Way Team – No objection
12. Suffolk Fire & Rescue – No objection
13. Environment Team – No objection
14. Public Health & Housing – No objection
15. Ecology & Landscape Officer – No objection. Conclusions and recommendations of biodiversity report should be taken into account in the detailed design of the proposals.

### **Representations:**

16. Site notice posted, advertisement placed in the East Anglian Daily Times and 18 nearby addresses notified. One response received from 16 Manor Road making the following comment:  
*"I would just like to point out that Skylarks have been nesting on this site for many years. There are Little Owls and Barn Owls that hunt over this area and there are bats over the area as there is a pond nearby"*

### **Planning Policy:**

17. 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:
  - Core Strategy Policy CS3 - Landscape character and the historic environment
  - Policy DM2 Creating Places Development Principles and Local Distinctiveness
  - Policy DM5 Development in the Countryside
  - Policy DM20 Archaeology
  - Policy DM44 Rights of Way

### **Other Planning Policy:**

18. National Planning Policy Framework (2018)
19. National Planning Policy and Guidance

### **Other Relevant Planning Policy and Guidance:**

20. The National Planning Policy Framework was revised in July 2018 and is a material consideration in decision making from the days of its publication. Paragraph 213 is clear that existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework, the greater weight that may be given. The

Policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provisions of the 2018 NPPF that full weight can be attached to them in the decision making process.

21. 1.59 hectares of the application site is allocated in the Proposed Submissions Site Allocations Local Plan (SALP) for use as a cemetery (Policy SA3). The SALP is at an advanced stage, having been subject to public examination and the Inspectors' report is awaited. In light of recent European judgements the Council is now required to review and update the Habitat Regulations Assessment carried out for the SALP (and Single Issue Review). This update may result in modifications to the SIR and SALP and a further period of public consultation. The Council does not anticipate that any modifications to Policy SA3 will be required and it is therefore considered that given the advanced stage of the SALP it does attract some weight.

**Officer Comment:**

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

- Principle of Development
- Archaeology
- Visual amenity
- Ecology and biodiversity
- Residential amenity
- Highway matters
- Ground conditions
- Impact on Public Right of Way

Principle of development

23. The site has previously been identified as a suitable site for a cemetery and has benefitted from a number of permissions since the first that was granted in 1998. The most recent permission expired on 29 February 2019.

24. Through its proposed allocation in the Local Plan the Council has accepted the principle of a new cemetery in this location, notwithstanding its position outside of the settlement boundary. Cemeteries by their nature are land intensive and locations within defined settlement boundaries of a sufficient size are not readily available. The identified 'need' for additional burial capacity in Brandon is a matter that attracts significant weight in favour of the proposal.

25. The site is well related to the existing church and cemetery and will benefit from such a close relationship in terms of shared machinery and staff etc.

26. The site area has been increased from 1.59 hectares to 1.77 hectares since the last application, following efforts by the joint applicants to rationalise the site boundaries for their independent development needs. SALP Policy SA3 allocates 1.59 hectares of land for a cemetery in this location. The deviation from the allocation is considered to be de minimis given the scale of the development and is not considered to bring the proposal into conflict with the development plan.

Archaeology

27. Suffolk Archaeological Service has advised that the application affects a site of known archaeological importance, recorded in the County Historic Environment Record. The valley of the Little Ouse is a focus for occupation of all dates, but the site is particularly relevant to the Anglo-Saxon and medieval landscape. Policy SA3 states that 'a programme of archaeological work is required to be implemented prior to any development taking place on the site to safeguard archaeological assets within the site'.
28. To date, geophysical survey and archaeological trenched evaluations have been undertaken on the site, which have revealed Late Anglo-Saxon and Medieval features, finds and environmental remains. The archaeological remains on the site are densely present. The Service does not object to development proceeding but requires a programme of archaeological work to be carried out prior to development commencing on site and is satisfied that such work can be secured by condition.

#### Visual amenity

29. The site is located outside the settlement boundary, in an area designated as countryside for planning purposes. The site does however adjoin the established built-form of Brandon, albeit that it is separated by Church Road and Manor Road.
30. The previous planning permission imposed conditions requiring the layout of the site, gates, fencing, landscaping etc. to be agreed and similar conditions can be imposed on any further approval to meet the requirements of Policy SA3. Within the context of the use sought it is not considered that any physical works necessary would be of a substantial nature, or could not be ameliorated by appropriate landscaping.
31. It is therefore considered that the proposal would not result in visual harm to the character and appearance of the area and the landscape character of the area would be protected.

#### Ecology & biodiversity

32. An Ecological Appraisal has been submitted with the application that includes both a desk-top study and Phase 1 Habitat Survey. Across the site habitat consisting of scattered scrub, scattered coniferous trees, semi-improvement grassland, tall ruderal and species-poor intact hedgerow were recorded. A number of notable and protected species were identified as being recorded within proximity of the site. The report identifies that there is some habitat suitable for foraging and providing shelter to reptiles and some disturbance to birds will be caused by the development. Similar disturbance to bats is also likely to be encountered.
33. The report contains a number of recommendations to improve the ecological value of the proposed cemetery including the creation of acid grassland and hedgerow and tree planting. Best practice is also recommended in relation to the construction process that will include the construction of the access and the levelling works on the southern boundary to provide the necessary highway visibility splays. The requirement to carry out the recommendations contained within the report to minimise adverse effects and provide ecological enhancements on site can be secured by condition.

34. The Ecology & Landscape Officer notes the comments made by a local resident in relation to the use of the site by skylarks and owls. Any lighting proposals will need to be accompanied by information on the effects it would have on biodiversity. Mitigation is proposed in respect to birds generally, however the small loss of arable land and increase in visitors to this area, which would reduce the potential use of this area by skylarks, attracts some limited weight against the proposal.

#### Residential amenity

35. The site lies on the opposite side of the road to residential properties, and is a substantial site. Any physical works required (ancillary buildings, fencing etc.) are anticipated to be modest in scale and impact and, in any event, would need to be agreed with recourse to a condition imposed on any consent. It is not considered that the nature of the use itself, nor the nature and / or frequency of any comings and goings would be so prejudicial to residential amenity to justify a refusal of planning permission. It is considered therefore that the proposal would not have an unacceptable impact upon residential amenity, in accordance with DM2.

#### Highway matters

36. This application seeks to secure consent for a vehicular access to the site together with works to level the land on the southern side of the site to provide sufficient vehicle visibility splays. The submitted plans also show details of a crossing point on Manor Road.

37. SCC Highways has examined the access details and has confirmed that they are acceptable. The applicant will be required to enter into a S278 Agreement with SCC Highways in order to carry out the necessary works on highways land and this will be dealt with outside of the planning application process.

38. A number of conditions in relation to the provision of the access prior to first use and the provision of a parking and manoeuvring area within the site are recommended by SCC Highways. The applicant will also need to demonstrate how surface water will be prevented from entering the highway.

39. Subject to the above conditions it is considered that the scheme does not raise any issues in relation to highway safety.

#### Ground conditions

40. The Environment Team is satisfied that the risk to human health from contaminated land is low. However, it has highlighted that works to the site must be in accordance with Environment Agency guidance and that the EA should be consulted prior to works commencing on site. The Environment Team also recommends that a condition is imposed requiring any unexpected contamination to be reported to the local authority.

41. The Environment Agency has advised that the site is located above a principal/Secondary Aquifer, Cam and Ely Ouse Chalk WFD groundwater body, WFD drinking water protected area and is within 300m of a surface

water course. As a result the site is considered to be sensitive and the proposed use presents potential pollutant/contaminant linkages to controlled waters.

42. The Environment Agency does not object to the development but has requested a number of conditions relating to the siting of burials and the submission of surface water disposal and groundwater monitoring details. Provided these measures are put in place it is considered that there will not be an unacceptable risk to groundwater.

#### Impact on public right of way

43. Footpath No. 13 runs through or very close to the south-eastern corner of the site and the proposed use can be accommodated without infringing upon the right of way. The location of the right of way is not therefore considered to be a constraint to development.

#### **Conclusion and planning balance:**

44. The principle of the provision of a cemetery in this location is considered acceptable and is supported by Policy SA3 of the Proposed Site Allocation Local Plan. The 'need' for a cemetery to provide additional burial capacity in Brandon is also a fact that weighs in favour of the proposal. This application follows a number of similar approvals for the use of the land as a cemetery and provides additional detail in respect of the access to the site. Details of landscaping and boundary treatments can be secured by condition and in order to control the siting of ancillary buildings it is proposed to restrict permitted development rights. Matters in relation to highway safety, residential amenity and protection of groundwater can also be secured by condition. The loss of the arable land may have a minor effect on biodiversity, however, mitigation measures are proposed and matters such as lighting will be controlled by condition.

45. In conclusion, the principle and detail of the development is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework. There are no adverse effects that weigh significantly against the scheme and the application is therefore recommended for approval.

#### **Recommendation:**

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

- 1 The development hereby permitted shall be begun not later than 3 years from the date of this permission.

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

- 2 Prior to commencement of development a phasing plan for the application site shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details or in any other phased arrangement as shall be agreed and approved in writing with the Local Planning Authority.



Reason: To safeguard the character and appearance of the area, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 12 of the National Planning Policy Framework and all relevant Core Strategy Policies. The condition is pre-commencement in order to ensure that development is phased in an appropriate way and that the necessary landscaping and boundary treatment details can be secured by the relevant conditions.

- 3 No development shall take place within the whole site until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation and Evaluation which has been submitted to and approved in writing by the Local Planning Authority.
- The scheme of investigation shall include an assessment of significance and research questions; and:
- a. The programme and methodology of site investigation and recording
  - b. The programme for post investigation assessment
  - c. Provision to be made for analysis of the site investigation and recording
  - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - e. Provision to be made for archive deposition of the analysis and records of the site investigation
  - f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
  - g. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy DM20 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies 2015 Policy CS3 of Forest Heath District Council Core Strategy Development Plan Document (2010) and the National Planning Policy Framework (2018). This condition is required to be agreed prior to the commencement of any development to ensure matters of archaeological importance are preserved and secured early to ensure avoidance of damage or lost due to the development and/or its construction. If agreement was sought at any later stage there is an unacceptable risk of lost and damage to archaeological and historic assets.

- 4 Within six months of the completion of the archaeological fieldwork, or other such phased arrangement as may be agreed and approved in writing by the Local Planning Authority, the site investigation and post investigation assessment shall be completed, submitted to and approved in writing by the Local Planning Authority in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 2 and the provision made for analysis, publication and dissemination of results and archive deposition.

Reason: To safeguard archaeological assets within the approved

development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy DM20 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies 2015 Policy CS3 of Forest Heath District Council Core Strategy Development Plan Document (2010) and the National Planning Policy Framework (2018)

- 5 Prior to the commencement of development a scheme for surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The development shall be carried out in accordance with the approved details or in any such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 170, 178, 179, and Environment Agency Groundwater Protection Position Statements. The condition is pre-commencement as it may require the installation of below ground infrastructure and details should be secured prior to any ground disturbance taking place.

- 6 Except for the construction of the vehicular access from Manor Road together with the associated levelling works, development shall not begin until a scheme for groundwater monitoring has been submitted to and approved in writing by the Local Planning Authority. As a minimum, the scheme shall include measurements of the depth to groundwater beneath the site at monthly intervals. The scheme shall include details of the measures to protect the existing monitoring wells. The scheme shall be reviewed following the collection of groundwater depth data over a period of one year.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 170, 178, 179, and Environment Agency Groundwater Protection Position Statements. The condition is pre-commencement as it may require the installation of below ground infrastructure and details should be secured prior to any ground disturbance taking place.

- 7 The new vehicular access shall be laid out and completed in all respects in accordance with Drawing Nos 366/2016/01 Rev P2 and 366/2016/03 Rev P2 and made available for use prior to first use of the cemetery. It shall be retained thereafter in its approved form.

Reason: To ensure that the access is designed and constructed to an appropriate specification and made available for use at an appropriate time, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 8 No development above ground shall take place until details have been

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.

Reason: To prevent hazards caused by flowing water or ice on the highway, in accordance with policy DM2 and DM6 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 9 and 14 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 9 No above ground development shall take place until details of the areas to be provided for the loading, unloading, manoeuvring, parking of vehicles, including secure cycle storage, have been 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, or in any such other phased arrangement as agreed and approved in writing by the Local Planning Authority, and shall be retained thereafter and used for no other purpose.

Reason: To ensure that sufficient space for the on-site parking of vehicles is provided, in accordance with policy DM2 and DM46 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 9 and 12 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 10 Within two months of commencement of any phase of the development hereby approved, a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include planting plans; written specifications; schedules of plants, noting species, plant sizes, proposed numbers/densities; implementation programme. The scheme shall also indicate all existing trees and hedegrows on the land, and details of any to be retained, together with measures for their protection during the course of development.

Reason: To enhance the appearance of the development and ensure a satisfactory environment, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 11 Within two months of commencement of any phase of the development hereby approved, a scheme of hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include proposed means of enclosure; car parking layouts; hard surfacing materials; street furniture; signs; lighting; proposed and existing functional services above and below ground (e.g. drainage, power, communications cables; pipelines etc. indication lines, manholes, support etc.); retained historic landscape features and proposals for restoration - where relevant.

Reason: To enhance the appearance of the development and ensure a satisfactory environment, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and

all relevant Core Strategy Policies.

- 12 All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of any phase of the development or in accordance with the programme agreed in writing with the Local Planning Authority. If within a period of five years from the date of planting, any trees or plants or any replacement planting is removed, uprooted, destroyed or dies (or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective) replacement trees and plants of the same species and size as that originally planted shall be planted in the next planting season, in the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To enhance the appearance of the development and ensure a satisfactory environment, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 13 Within two months of commencement of any phase of the development hereby approved, a plan indicating the positions, design, materials and type of boundary treatment to be erected or retained shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed prior to first use of any part of the development, or in accordance with a programme agreed in writing with the Local Planning Authority. Any existing boundary treatment shall not be uprooted or removed except where in accordance with the approved plan and shall be protected from building operations during the course of development.

Reason: To preserve the residential and visual amenities of the locality, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 14 All burials in the cemetery shall be:
- a minimum of 50 m from a potable groundwater supply source;
  - outside any designated source protection zone 1 (SPZ1);
  - a minimum of 30 m from a water course or spring;
  - a minimum of 10 m distance from field drains; and,
  - limited to single occupancy with a maximum grave depth of 1.2 m below ground level.

No burials shall take place into standing water and the base of the grave must be a minimum of 1 metre above the local water table.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with the proposed land use in line with National Planning Policy Framework (NPPF), paragraphs 170, 178, 179, and Environment Agency Groundwater Protection Position Statements.

- 15 Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:30 hours on Saturdays and at no time on Sundays, public holidays or bank holidays.

Reason: To protect the amenity of occupiers of adjacent properties from noise and disturbance, in accordance with policies DM2 and DM14 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 16 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.

Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants associated with current and previous land uses in accordance with policy DM14 of the West Suffolk Joint Development Management Policies Document 2015, paragraphs 170,178 and 179 of the National Planning Policy Framework (NPPF), Environment Agency Groundwater Protection: Principles and Practice (GP3) and all relevant Core Strategy Policies.

- 17 There shall be no obstruction of the route of Brandon Footpath No. 13 which runs adjacent to the application site, and the existing route of the footpath shall be retained.

Reason: In the interests of maintaining the route of the public right of way, in accordance with policy DM44 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking and re-enacting that Order) no development permitted by Article 3 and Part 12, Class A of Schedule 2 to the Order shall be erected/carried out within the site other than any expressly authorised by this permission.

- 19 Gates shall be set back a minimum distance of 5 metres from the edge of the carriageway and shall open only into the site and not over any part of the highway.

Reason: In the interest of highway safety, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 9 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 20 All ecological measures and/or works shall be carried out in accordance with the details contained in the Ecological Appraisal dated May 2018 prepared by BASEcology as already submitted with the planning application and agreed with the Local Planning Authority prior to determination.

Reason: To secure biodiversity enhancements commensurate with the scale of the development, in accordance with policy DM12 of the West Suffolk

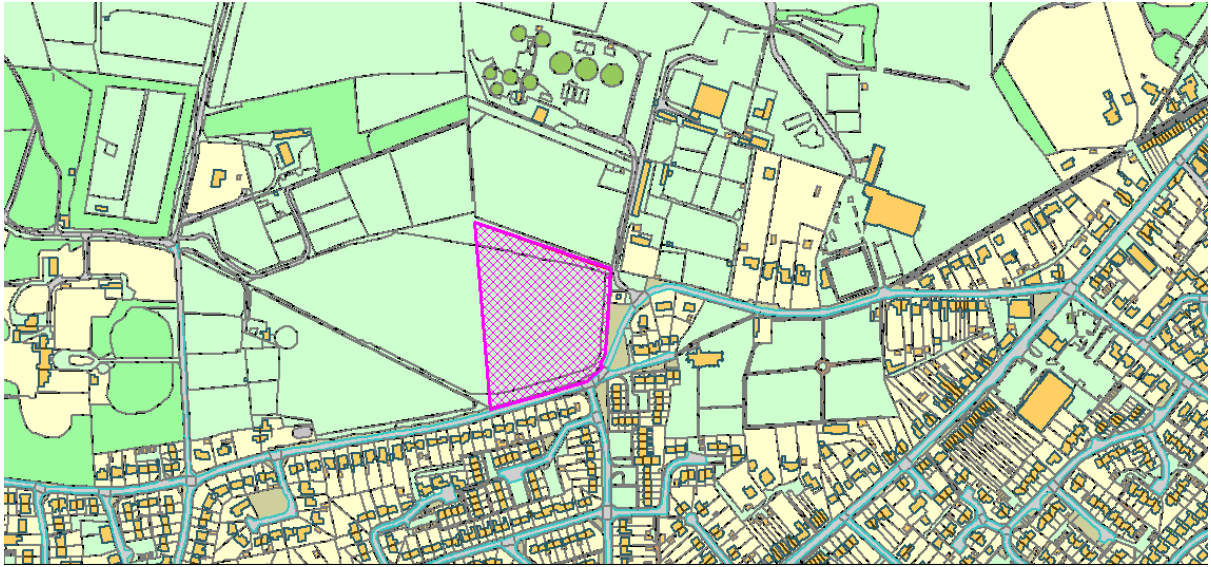
- 21 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

<b>Reference No:</b>	<b>Plan Type</b>	<b>Date Received</b>
(-)	Location Plan	12.12.2018
E644/SP1	Site Plan	12.12.2018
366/2016/01 P2	proposed access	12.12.2018
366/2016/03 P2	proposed verge	12.12.2018
E644/CP1	Context Plans	12.12.2018

Reason: To define the scope and extent of this permission.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/18/2490/FUL](https://www.dorsetcouncil.gov.uk/DC/18/2490/FUL)



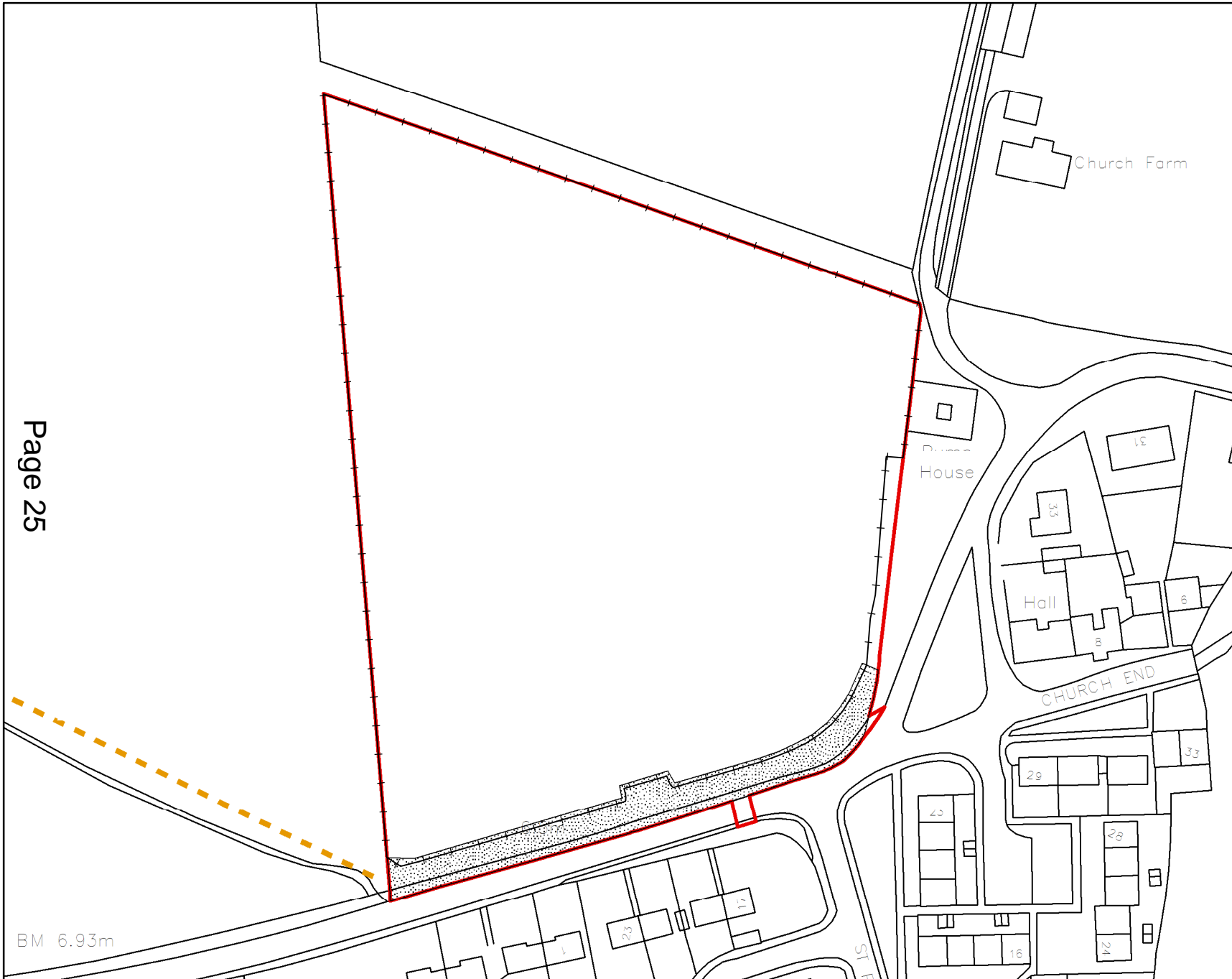
DC/18/2490/FUL - Land Adjacent To Manor Road, Brandon








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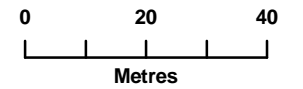


BM 6.93m



**Key**

-  Site
-  Bridleway
-  Footpath
-  Position of boundary fence
-  Approx. area of land levelling



Project: E644 Brandon Cemetery

Drawing title: Site Plan

Drawing no: E644/SP1

Rev.      Date: April 2018

Scale: 1:1250 at A4      Drawn:



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Forest Heath  
District Council

# DEV/FH/19/006

## Development Control Committee 27 March 2019

### Planning Application DC/18/0492/FUL - Brickfields Cottages, Cemetery Hill, Newmarket

<b>Date Registered:</b>	27.03.2018	<b>Expiry Date:</b>	01.04.2019
<b>Case Officer:</b>	Adam Ford	<b>Recommendation:</b>	Approve Application
<b>Parish:</b>	Exning	<b>Ward:</b>	Severals
<b>Proposal:</b>	Planning Application - (i) Change of use from Stud to Thoroughbred Race Horse Services and Stud (ii) Pony show jumping & training (iii) extension to existing menage, (iv) 6no lighting columns and (v) new access and track (Part Retrospective)		
<b>Site:</b>	Brickfields Cottages, Cemetery Hill, Newmarket		
<b>Applicant:</b>	Ms Vicky De Sousa		

**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:

Adam Ford  
Email: adam.ford@westsuffolk.gov.uk  
Telephone: 01284 757353

## **Background:**

**This application is referred to the Development Control Committee as the Officer recommendation of APPROVAL conflicts with Exning Parish Council's objection to the proposal.**

**The application is defined as being major development owing to its site area of 4.4 hectares.**

## **Proposal:**

1. This partially retrospective application seeks planning permission for the following development:
  - Change of the use of the land to thoroughbred race horse services and stud;
  - Pony show jumping & training;
  - Extension to existing ménage & 6no lighting columns;
  - New vehicular access onto Exning Road.
  
2. The submitted design and access statement provides additional clarification with respect to how the site is used and the overall scale of the operation taking place from the land:
  - There are currently 16 stables on the site whilst two horses remain outside within the paddocks at all times; the maximum number of horses that could be on site at any one time is 18.
  - Within the 16 stables, there are 5 occupied by show jumping ponies owned by the applicant. This number varies but represents a reasonable average. Typically, therefore there would be space for 11 further horses either in the livery housed on a temporary basis or mares with foals.
  - The normal working hours of the stud are 7am-7pm. There are two part time and one full time employee.
  - During the Newmarket horse sales, the intention is to provide overnight accommodation for horses coming to Newmarket to be sold.
  - The horses tend to be collected at the sales and delivered together to reduce the number of movements, typically this would result in two per day.
  - Between January and May mares will occupy the stables for boarding, foaling and covering.
  - The teaching usually takes place within the summer months and typically involves 6 visits per week for clients with their own trailers and ponies.
  - Where capacity allows, race horses are pre-trained on site and then sent to training yards. This training involves the use of a grass gallop and a spa housed within the stable block.

## **Application Supporting Material:**

3. This application was initially submitted to the LPA in March 2018. Since then, a number of amended plans have been submitted for further consideration. As such this report relates to the following documentation only:

- Completed application form
- Design and Access statement (Revision C)
- Business Financial Information (private and confidential)
- Proposed block plan (1907.10 Revision E)
- Proposed visibility splays (1907.11 Revision F)
- Average vehicle movements (1907, revision C)
- Flood Risk assessment (P3055.1.0)
- Ecological phase 1 assessment (P3055.5.0)
- Arboricultural Impact Assessment (P3055.4.0)

#### **Site Details:**

4. The 4.4 hectare application site lies between the A14 (north) and Exning Cemetery (South). Exning Road bounds the site to the west whilst residential development lies beyond the eastern boundary of the site.
5. From a land use perspective, the site is deemed to be in the open countryside as it falls outside of the defined settlements of Newmarket and Exning.
6. The site is presently open paddock land with a selection of equine related structures (stables, ménage, and horse walk) in situ and benefitting from previous approvals. Currently, it is understood that the site is used predominantly for private livery and activities relating to the applicant's own equestrian eventing. Recently submitted applications would also indicate that commercial equine activities also take place from the land.

#### **Relevant Planning History:**

<b>Reference</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
DC/13/0121/FUL	Erection of stable block consisting of 8 boxes, 2 storage units, feed room & tack room and a ménage.	Granted	20.12.2013
DC/14/1287/FUL	Planning Application - Change of use from paddock to leisure use including the erection of 2 log cabins for holiday let use	Application Refused	27.10.2014
DC/14/1661/FUL	Planning Application - Relocation of stables from garden to adjoining paddock.	Application Withdrawn	30.10.2014
DC/14/2065/FUL	Planning Application - resubmission of DC/14/1661/FUL - relocation of stables	Application Granted	07.01.2015

	from garden to adjoining paddock for horse breeding and stud purposes (part retention of)		
DC/14/2209/FUL	Planning Application - Construction of horse walker and re-location of previously approved menage	Granted	12.03.2015
DC/16/2181/FUL	Planning Application - Re-location of horse walker	Application Granted	11.01.2017
DC/17/0781/FUL	Planning Application - 1no. dwelling	Application Withdrawn	22.05.2017
DC/17/1352/FUL	Planning Application - 1 no. dwelling	Application Refused	01.11.2017
DC/17/1970/FUL	Planning Application - Change of use from Stud to Thoroughbred Race Horse Services and Stud	Application Withdrawn	29.11.2017

### **Consultations:**

#### **SCC Highways Authority**

7. Following the submission of amended plans which demonstrate the provision of a new access point onto Exning Road, the Highways Authority have, in their formal response dated 14 February 2019, raised no objection to the proposal currently under determination. This is subject to nine conditions which seek to control the access, surfacing, visibility, parking, gate provision, signage, deliveries management and lighting.

#### **Environment Agency**

8. No objection to the proposal with respect to flood risk.

#### **Public Health and Housing**

9. No objection to the proposal with particular reference made to the proposed column lighting being acceptable. A condition which limits the hours within which the lights can be used (7am – 11pm) has been recommended.

#### **Jockey Club Estates**

- 10.No bespoke comments or objections provided to the LPA.

## **LPA's Arboricultural Officer**

11. The submitted comments from the LPA's Tree Officer which can be seen on the website indicate an objection to the proposal on three grounds:
- A. *The removal of group G1*
  - B. *Construction within the RPA of G7*
  - C. *The removal of tree T3*
12. However, since these comments have been made, a revised plan has been submitted which, from a purely arboricultural perspective, satisfactorily addresses points B and C above. This is achieved by removing development from within the RPA of G7 and the retention of T3.
13. The proposal still seeks to remove group G1 however.

## **Public Rights of Way (SCC)**

14. No objections to the proposal. Informative provided.

## **Ramblers Association**

15. No objection to the proposal subject to a condition which prohibits the use of the restricted byway to the south of the application site.

## **Natural England**

16. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites or landscapes. A Habitats Regulation Assessment is not therefore needed and no additional ecological surveys are required.

## **Suffolk Fire and Rescue Service**

17. No objection to proposal and no requirement for additional hydrants.

## **Representations:**

18. Throughout the course of this application, comments from both Newmarket Town Council and Exning Parish Council have been submitted. This section of the report therefore seeks to clarify, for the purposes of the Development Control Committee, within which jurisdiction for determination of the application lies.
19. As part of the Community Governance Review in 2017, the boundary of Exning Parish Council was altered to include the Cemetery and, crucially, the entirety of the application site to which this proposal relates. For clarity, confirmation of this boundary change can be seen following this link:  
<https://www.westsuffolk.gov.uk/community/upload/CGRDecisionNoticeIssue1.pdf>
20. Accordingly, for the purposes of this application, the relevant Parish Council is Exning Parish Council and their comments are therefore

reproduced below. Comments from Newmarket Town Council are also shown below although they are not strictly relevant to the determination of this application.

### **Exning Parish Council**

21. Exning Parish Council continues to object to this application. The applicant, in the amended plan, alludes to 'an existing entrance that is to be retained for horses, staff and car access with a suitable restriction arrangement. As far as Exning Parish Council is aware, this proposed entrance between Woodlands, Rose Cottage and Orchard Lodge was access to the three dwellings and a field entrance to the paddock. At no time in the past year has this entrance to Brickfields received the necessary planning permission. It is also felt that the earlier objections by Suffolk County Highways to this entrance have yet to be overcome.

22. If, however, the new entrance alongside to the electrical sub-station should be considered the main and only entrance to Brickfield Cottage, and the entrance between the three cottages should be abandoned, Exning Parish Council would withdraw its objection to this application.

### **Newmarket Town Council**

23. Newmarket Town Council have no objection to this proposal.

### **Public Representations:**

24. Throughout the course of this application, comments from three residential properties on Exning Road have been submitted.

25. Naturally, with the submission of each revised plan, comments from these properties have been updated and altered in response. As such, the comments produced below represent a summary of relevant points made with full, unabridged comments, available on the LPA's website.

### **Rose Cottage – objects**

26. The objection from this property cites the application should be refused for the following reasons:

- a. Adverse impact on landscape and character due to visual impact of roads & loss of trees.
- b. Lack of compliance with policy DM47.
- c. Adverse impact on highway safety with respect to use of current access.
- d. Intentional unauthorised development has been carried out.
- e. Imposed conditions will not be complied with.

### **Orchard Lodge – objects**

27. The objection from this property cites the application should be refused for the following reasons:

- a. Adverse impact on highway safety due to width of existing access.



- b. Adverse impact on amenity due to cumulative impact of large vehicles using the access adjacent to Orchard Lodge
- c. Site does not benefit from an extant commercial planning permission and no functional need demonstrated.
- d. Proposal results in irreversible loss of paddock land.

### **Woodlands – objects**

28. The objection from this property cites the application should be refused for the following reasons:

- a. Site is not currently used as a stud.
- b. Adverse impact on highway safety.
- c. Proposal represents over development of the site.
- d. Negative impact on local wildlife and ecology.
- e. No permission has been granted for any business use to take place.
- f. Proposal erodes character of locality.

### **Relevant Planning Policy:**

29. 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:

#### **FHDC Core Strategy (2010)**

- Core Strategy Policy CS1 - Spatial Strategy
- Core Strategy Policy CS2 - Natural Environment
- Core Strategy Policy CS3 - Landscape character and the historic environment
- Core Strategy Policy CS5 - Design quality and local distinctiveness
- Core Strategy Policy CS6 - Sustainable economic and tourism development

#### **Joint Development Management Policies Document (2015)**

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM5 Development in the Countryside
- Policy DM11 Protected Species
- Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity
- Policy DM13 Landscape Features

- Policy DM32 Business and Domestic Equine Related Activities in the Countryside
- Policy DM44 Rights of Way
- Policy DM46 Parking Standards
- Policy DM47 Development Relating to the Horse Racing Industry
- Policy DM48 Development Affecting the Horse Racing Industry

**Other Planning Policy:**

30. The NPPF was revised in February 2019 and is a material consideration in decision making from the day of its publication. Paragraph 213 is clear however that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework, the greater weight that may be given. The Policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provisions of the 2019 NPPF that full weight can be attached to them in the decision-making process.

**Officer Comment:**

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

- Clarification: Alleged intentional unauthorised development
- The principle of development
- Design, form and layout
- Compliance with equine based planning policies DM32 / DM47
- Impact on residential amenity
- Highways implications
- Ecological and arboricultural implications

**Clarification: Alleged intentional unauthorised development**

32. Before the planning merits of this application are considered, clarification with respect to alleged intentional unauthorised development, as referenced by Rose Cottage, is offered to Members.

33. Following the Ministerial Statement dated 31 August 2015, it has been government planning policy that intentional unauthorised development *is* a material consideration that should be weighed in the determination of planning applications and appeals. The written ministerial statement announcing this policy stated that it applied to all new planning applications and appeals received post 31 August 2015. However, it should be noted that this statement provides no further guidance which clarifies how much weight should be attached to this principle where development is found to be intentionally unauthorised.

34. It is therefore for the Local Planning Authority to decipher how much weight to ascribe to the embedded principle within this statement, whilst,

crucially, still having regard to the provisions of previous planning permissions and any up to date local plans and policies which are relevant to the planning application under determination.

35.Regard must therefore be had to the site's planning history which is set out in the preceding section of this report.

36.Importantly, application DC/13/0121/FUL which granted planning permission for stables and a manège was subject to a planning condition which restricted the development to a personal use only. This is not disputed. However, a number of subsequent planning permissions have been approved, and are not subject to the same prohibitive condition. DC/14/2065/FUL which granted planning permission for a further stable block is subject to a condition which states that the stables "*shall be used only for the breeding and pre-training of racehorses*". A similar position arises with respect to DC/14/2209/FUL which granted planning permission for the relocation of the previously approved manege on the basis this application was not subject to a private usage condition.

37.Therefore, whilst the LPA are content that planning permission has not been granted for the site to operate as it currently does so, it is not felt that the use of the site since 2013 represents an intentional or disingenuous attempt to deceitfully or otherwise circumnavigate the planning system and its associated controls.

38.As such, the aforementioned ministerial statement concerning intentional unauthorised development is not judged to be relevant in the determination of this planning application. No weight is to therefore be weighed against this proposal in this regard.

### **The principle of development**

39.The application site, known generally as 'Brickfield Cottages' and / or 'Brickfield Stud' is located outside any of the LPA's defined settlements and as such, the proposal comprises development in the countryside from a land use perspective.

40.Proposals for development outside of the LPA's defined settlements must be considered carefully as it is incumbent upon the LPA to ensure areas which are designated as countryside are protected from unsustainable and inappropriate development. Accordingly, where material planning considerations indicate that proposals in the countryside are unacceptable, they should be resisted.

41.National and local policies therefore broadly aim to direct development to locations which are both sustainable and will not result in the loss of unspoiled rural landscapes.

42.In his instance however, whilst the countryside location of the application site is duly noted, policy CS6 (Economic and tourism development) of the FHDC Core Strategy provides that support will be given to developing and sustaining Forest Heath's existing economy with particular priority given to key sectors including the equine industry around Newmarket.

43. In addition to policy CS6, policy DM5 of the JDMP (Joint Development Management Plan Document 2015) further provides that development proposals relating to equine related activities and the horse racing industry will be supported in the countryside. This policy specifically refers to buildings but the principle applies to the use associated land also. Policy DM5 also provides support for economic growth and expansion of businesses provided they do not give rise to a significant adverse impact on existing character and / or visual amenity whilst also maintaining the safety of the existing highway network.
44. In conjunction with DM5, policy DM32 of the JDMP (Joint Development Management Plan Document 2015) also provides a presumption in favour of equine related activities, whether domestic or commercial, in the countryside. Given the mixed nature of the proposal, this presumption applies directly to the pony training / jumping element of the application.
45. Further support for the principle of this development is established through policy DM47 which articulates that proposals which relate to the Horse Racing Industry (HRI) will generally be supported, subject to 4 criteria as discussed later on at the relevant juncture in this report.
46. Accordingly, in light of the above, and having considered the relevant material planning considerations with respect to local and national provisions, the principle of equine related development is something that the LPA can support in this location. Further relevant and material planning considerations are discussed in detail below.

### **Design, form and layout**

47. As noted above, the application site is not located within any of the LPA's defined settlements. However, given the site's peripheral location with respect to the settlement boundaries, the proximity to the A14 and existing equine development which is already in situ, the change in the use of the land does not unjustifiably erode existing rural landscape features that the LPA would otherwise seek to retain or protect. However, the visual impact of the proposal must be considered within the context of DM2, DM5, DM32 and DM47.
48. The application site currently benefits from an existing vehicular access which passes between Rose Cottage and Orchard Lodge. The initial submission sought to use this access for all vehicles from cars to large horseboxes. However, following advice from Officers, this element of the proposal has been amended so that a new access is now proposed adjacent to the electricity substation.
49. In addition, the application seeks to change the use of the land and for the most part, this does not involve an excessive amount of operational development as the site will remain as grassland / paddocks for use in connection with the equine nature of the site. Visual impact is therefore limited to a modest number of component parts of this application.
50. Although the access onto the highway between Rose Cottage and Orchard Lodge is not new, the road which then travels northwards into the site does represent a new addition and forms part of this application. The road itself is modest and is laid to gravel as opposed to black tarmac. This

prevents the track from appearing out of character with the general undeveloped nature of the site and serves to ensure the 'openness' of the site is not unjustifiably eroded. The track is functional but does not consume the site with an overtly urban appearance.

51. In addition to this track, the proposal also seeks to install a further gravel track (in connection with the new access adjacent to the A14 bridge) which will be 4.5m wide and take large vehicles such as HGVs and horseboxes from the South west corner of the site to the main complex in the North East corner of the application site. This track will run parallel to the electricity substation for approximately 70m and will then pass between tree T3 and Group G3 before tracking eastward for a further 120m. It is noted that public comments suggest this will have an urbanising effect and will destroy the rural character of the land. Whilst the track cannot be described as an informal track that would typically be found on large, rural sites, the use of a gravelled design as opposed to visually harmful black, urban tarmac prevents the track from appearing out of character. The context of the site must also be taken into account here; the A14 is a matter of metres away and it would therefore be inappropriate for the LPA to refuse this access road on the basis that it materially undermines the visual profile of the area to such an extent that the entire application should be refused.
52. The new access road will also be screened from public views by virtue of the road's trajectory and the site's existing boundary treatment adjacent to Exning Road as well as the tree belt which runs parallel to the highway. In this regard, it is further noted that a range of the public objections also refer to the loss of G1 from the TPO belt as highly unacceptable in terms of the adverse visual impact. However, as will be addressed later in this report, the proposed new HGV access has been designed to minimise arboricultural and highway matters, with something of a hybrid solution secured.
53. With respect to DM2 and DM13, the loss of group G1 which is a visually prominent section of the wider TPO belt is not strictly policy compliant. However, this only represents one element of the proposal that the LPA must factor into the overall planning balance.
54. In addition to the access roads, the proposal also seeks to extend the existing lawful manege with a new section measuring 31m by 15m. Given the ground level nature of such development and owing to the fact it extends an existing facility, this element of the proposal does not give rise to an adverse visual impact which would conflict with the provisions of DM2, DM5 or DM32. However, the proposal does seek to install eight new telescopic flood lights which extend to a maximum height of 8m and minimum height of 2.6m. Floodlights can have an urbanising effect on modestly developed sites but no such impact is judged to arise here as they are concentrated within the main nucleus of the site and are not proposed to be erected within the undeveloped Northern or Western segments of the site. Additionally, due to the lights being of a telescopic design, their physical and thus visual prominence will be limited to times of use; which will be during hours of darkness. This therefore further limits any potential adverse visual impact that eight flood lights may inflict upon the area.

## **Compliance with equine based policies DM32 and DM47**

55. As confirmed at the beginning of this report, there is a general presumption in favour of the proposed development arising from the support offered by policies DM5, DM32 and DM47. However, detailed objections have suggested that the proposal is incompatible with the provisions of these policies.
56. The proposal includes two core elements which require considering against these policies. The former, being the proposed pony and show jumping element.
57. This element of the proposal does not relate to the horse racing industry and is therefore subject to the test of DM32 which provides that proposals for equestrian development in the countryside, whether domestic or commercial, will be permitted providing they meet the following criteria:
- A. the size, scale, design and siting of new development (including lighting and means of enclosure) does not have a significant adverse effect on the character and appearance of the locality;
  - B. proposals do not result in the irreversible loss of best and most versatile agricultural land (grades 1, 2 and 3a) or it can be demonstrated to the satisfaction of the local planning authority that there are no suitable alternative sites on lower grade land;
  - C. proposals should re-use existing buildings where appropriate and any new buildings should be located in or adjacent to an existing group of buildings and have minimal visual impact within the landscape;
  - D. landscape mitigation measures are included appropriate to the scale and context of the proposal;
  - E. there is no significant detriment to residential amenity in terms of noise, odour, light pollution or other related forms of disturbance;
  - F. there is appropriate parking and access and the associated traffic movement should not compromise highway safety;
  - G. sufficient land is available for grazing and exercise where necessary.
58. With respect to the show jumping and training element, the proposal is able to demonstrate compliance with the above requirements. The scheme involves limited operational development and does not propose large, overbearing additions which would be incommensurate with the prevailing character of the locality. The proposal also does not result in the loss of valuable agricultural land and no new buildings are proposed; therefore meeting parts B and C of the above.
59. In terms of landscaping, it is noted that the proposed plans do not illustrate the provision of further planting or soft treatments. However, owing to the modest nature of the proposed development and the lack of widespread vegetation loss, this can be satisfactorily addressed through the imposition of a planning condition requiring the submission of a landscaping plan.
60. In addition and with respect to DM2(L) and DM46, adequate parking is available within the site and the proposal does not adversely impact highway safety; as confirmed by the dedicated section in this report entitled "Highways implications".

61. In conjunction with the pony element, the proposal also seeks permission to use the land for purposes in connection with the horse racing industry – as set out within the submitted design and access statement. A similar position arises therefore with respect to DM47 (development related to the horse racing industry).
62. DM47 confirms that development which relates to the horse racing industry will be supported, provide that:
- A. there is satisfactory evidence of the business viability, functional need for and scale of the proposal;
  - B. the development is designed to make a positive contribution to local character and distinctiveness;
  - C. the occupation of any residential accommodation is restricted by condition or legal agreement to those directly employed in the day-to-day operation and management at the horse racing establishment; and;
  - D. access proposals (including for the movement of horses for training) and the impact of all other movements on highway safety and the network capacity for all relevant modes of transport, are acceptable.
63. With respect to point A of the above policy, objection comments suggest the proposal does not include adequate information to enable compliance with this element of the policy. However, financial information has been provided to the LPA although owing to its sensitive nature, it remains confidential. That said, in considering this part of the policy, the LPA weight comments from Jockey Club Estates, given their professional and informed position, to assist reaching a judgement as to whether a proposal conflicts with DM47(a) in terms of its scale, need and overall impact on the horse racing industry. In this regard, written confirmation has been provided to the LPA that Jockey Club Estates wish to make no comment in response to the application. Whilst this does not indicate conspicuous support, the lack of an objection from Jockey Club Estates demonstrates that the proposal is not judged to be something which is detrimental to the longevity of the horse racing industry and cannot therefore be deemed as being inappropriately scaled or without a functional need. It is, given the nature of the site and the vehicles which use it, not unreasonable to have two access points – particularly given the lawful nature of the existing access which already exists.
64. With respect to point B of the policy, the proposal, if approved, will provide a further establishment which compliments and harmonises with Newmarket's identity within the Horse Racing Industry; which is explicitly supported within policy CS6 of the FHDC Core Strategy. Visually, the area benefits from a healthy TPO belt adjacent to Exning Road with the remainder of the application site sprawling northwards from Exning Road. It is noted both here, and later in this report, that the proposal will result in the loss of TPO group G1 whilst incorporating a new gravel road but neither of these elements give rise to such a large degree of harm that the proposal is judged to materially conflict with this element of the policy. It is also important to note that this component of DM47 is not restricted to the visual impact of the proposal and also includes the contribution to general, local distinctiveness.

65.As for the final point of the policy, which relates to vehicular movements, this element is addressed in detail later in this report with reference to comments from the Highway Authority.

66.Collectively, when considered in conjunction with each other, the proposal is able to demonstrate that it complies with the central provisions of both policies DM32 and DM47 with no material conflicts identified.

### **Impact on residential amenity**

67.With the principle of equine development being established as something that the LPA can broadly support, consideration must still be given the potential amenity impacts arising from the proposal.

68.It is therefore relevant to raise at this juncture that amended plans have been submitted to address **previously** identified harm to residential amenity that was unacceptable. The initial plans as submitted to the LPA sought to use the existing site access for all traffic associated with the proposal. This included both domestic and non-domestic vehicles. In this regard, DM2 is a wide fetching policy but crucially, it aims to ensure proposals do not result in development which would have an adverse impact on existing residential amenity. Taking mitigation measures into account, point g of policy DM2 provides that residential amenity should not be adversely affected (by proposed development) and nor should there be unreasonable vibration, noise or vehicular disturbance created. From an amenity perspective, the use of the existing access by large horse boxes was deemed unacceptable due to the impact arising on residential amenity.

69.Accordingly, amended plans have been submitted which now illustrate a new access, for all vehicles in excess of 2.6m (or 3.5tonne), being installed adjacent to the A14 bridge and the substation. In conjunction with this, the applicant has indicated on the submitted plans and via formal communication that a height restrictor will also be installed to the existing access so as to ensure large vehicles of more than 2.6m simply cannot enter the site at this point in any event. For reference, a 'Transit' van is approximately 2.6m in height. This therefore gives rise to a position in which the only traffic using the access between the cottages on Exning Road will be cars or light vans, all other equine related traffic will use the newly proposed access. This represents a significant improvement in comparison to the initial plans and with all large vehicles no longer using the existing access.

70.The frequency of use must also be considered and information has been provided by the applicant so that this impact can be considered. As indicated within the document entitled "*Brickfield Cottages Typical Vehicle Movements*" (Rev C, dated 21.02.19), during normal working hours, there are approximately 6 car movements per day through the existing access point, with 2 movements outside of normal hours. Given the lawful nature of the existing access, this is not deemed to be excessive or to be such an intensification that the LPA are able to resist it on amenity grounds. Such numbers are of course only indicative but they are useful in illustrating the scale of the proposed use. During the Newmarket sales period, the values quite naturally increase albeit modestly but the existing access between the cottages still only experiences a mild degree of use in terms of vehicle



movements. This is because all horse boxes of 3.5tonne, 7.5tonne, 12tonne, 18tonne and 26tonne will utilise the newly proposed access point and this drastically reduces the adverse impact that is currently being experienced by occupiers of the existing cottage to such an extent that the proposal is no longer judged to conflict with DM2 or DM32. It should also be noted that the submitted documents indicate that horses will still be walked out of the site through the existing access although by virtue of the unobtrusive nature of such an activity, this is not judged to be something that would give rise to a materially adverse impact upon amenity.

71. The proposal also includes the provision of six flood lights towards the site's eastern boundary. Given the adverse impact that poorly placed lighting can have upon residential amenity, and noting the proximity of the lights to offsite dwellings (65m), formal comments from the LPA's Public Health and Housing team have been sought. These comments (dated June 2018) are reproduced below:

*"I confirm I have reviewed the lighting arrangements. I believe there is adequate separation and screening here to instil confidence that the Ménage lighting will not cause a problem. The lighting should be installed to ensure the lights are directed downwards and are not facing directly at nearby properties. It is assumed the lighting will not be left on throughout the night, however in order to safeguard this I would ask that whether the applicant would agree to a condition which restricts operations of the lights between 23:00 and 07:00.*

*The applicant should be aware that in the event of complaints being received, our department would have a legal duty to investigate. Lighting is a category of nuisance under section 80 of the Environmental Protection Act 1990 which our department can enforce against via a Nuisance Abatement Notice should the situation justify such action. Care should therefore be taken to ensure the lights do not unreasonably impact on nearby dwellings."*

72. The above comments illustrate the lack of an objection with respect to the proposed flood lights and given that they will of course need to be angled down or else they would be superfluous to requirements, the LPA are satisfied that this element of the proposal will not have a materially adverse impact on existing residential amenity. However, a condition which controls the hours within which the lights may operate is recommended nonetheless; the suggested hours from an amenity perspective are 7am – 9pm.
73. Finally, the impact upon amenity of the proposed equine use must also be considered as this too will generate additional activity on the land. The site is large in scale and benefits from healthy, well maintained boundary treatments which serve to prevent the use from having an adverse impact on general amenity. The eastern boundary of the site is the closest to large scale residential development but the proposed activities of pony show jumping and general equine related services are not inherently noisy to such an extent that they represent a material conflict with policies DM2, DM32 or DM47. There will, quite naturally, be times when there may be audible activity emanating from within the site but given the proximity of

the site to urban development and the busy A14, this is not a material constraint to this application.

## Highways implications

74. As indicated at numerous points in this report, the initial proposal as put forward to the LPA was for there to be one access into / out of the site; and this was between Rose Cottage and Orchard Lodge. This is how the site presently operates which, as will be explained below, is not acceptable from a highway safety perspective. The proposal to install a new access, which is supported by the Highway Authority, is therefore seen as a favourable solution.

75. The application has been under determination for approximately 12 months and the reason for this lengthy period has been down to the positive and proactive negotiations between the applicant, the LPA and the County Council with respect to the vehicular access arrangements for the site. Numerous locations for the proposed access have been considered with various amendments submitted to the LPA for consideration.

76. In September 2018, the Highway Authority formally objected to the then submitted plan which sought to install a new access onto Exning Road which was further eastward than the current proposal. The Highway Authority's comments, dated 25 September 2018 were as follows:

*"Notice is hereby given that the County Council as Highways Authority recommends that permission be refused as the proposal would lead to a severe cumulative highway safety risk because adequate visibility in the eastern direction has not been demonstrated. The proposal is not in accordance with NPPF P32 because it does not demonstrate that a "safe and suitable access to the site can be achieved for all people".*

*Visibility eastwards from the proposed access is insufficient for a safe access onto the highway. Drawing No. 1907/11 Rev A indicates a 120m visibility splay, to the nearside kerb edge in the easterly direction. The actual visibility distance, for a driver travelling in a north/north westerly direction around the left-hand bend towards the proposed access, is significantly less than that shown on the plan. I estimate that a driver travelling in this direction would have a clear view of the proposed access from a distance of approximately 80m. This is sub-standard for a 40mph categorised road because it would not present sufficient space for a driver to take safe avoiding action should a vehicle be leaving the site heading west. This highway safety concern is particularly acute because of the type of large vehicle (3.5tonnes upwards) that the applicant intends would use the access because such vehicles would take longer to complete an exit manoeuvre than smaller vehicles."*

77. Accordingly, the proposal was, at this point, unable to meet sufficient compliance with the standards required by the Highway Authority or policy DM2 of the Joint Development Management Policies Document.

78. However, to address these concerns (with arboricultural impacts discussed below), a further and final set of amended plans were submitted to the LPA; being revision E of the block plan and revision F of the visibility splay drawing.

79. In response to these drawings, the Highways Authority submitted further written comments on 30<sup>th</sup> January 2019 and 14<sup>th</sup> February confirming that the amendments satisfactorily address the concerns previously raised. The Highway Authority therefore have no objection to the use of either access as exhibited within the submitted plans. An unacceptable highway risk or a material conflict with DM2(I) has not therefore been identified.
80. Within their no objection comment, a number of conditions have been recommended and it is for the LPA to decipher those that should be imposed as it is incumbent upon the LPA to consider the 'condition test' as set out within section 55 of the National Planning Policy Framework. The conditions recommended by the Highway Authority are accepted in the interest of Highway safety but a number of them will need to be modified before they can be imposed upon this permission; in the event that planning permission is granted.
81. Condition P1, which states the use shall not commence until the areas for parking have been provided is not necessary on the basis that the development has commenced and the parking areas are already available within such a generous site.
82. Condition HGV 1 requires a deliveries management plan to be submitted so that HGV traffic is controlled. However, given that this application seeks to install a new access on the basis that the current arrangement is a poor solution and there is only one readily available access into the site, this condition is not judged to be necessary. There is no other available access into the site that delivery vehicles could utilise.
83. In addition, all 'pre-commencement' conditions will need to be suitably reworded to reflect the fact that the use to which this permission relates has, in some regard, already commenced. Pre-commencement conditions could not therefore be reasonably imposed.
84. Within the response from the Highway Authority, they have also recommended the following condition be imposed:
- "Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the location and wording of signs related to preventing the use of the existing access between Orchard Loge and Rose Cottage, by HGV and horse boxes over 2.6m in height and 2.2m in width".*
85. This is an important condition as it works in conjunction with the provision of the new access onto Exning Road and although it cannot be a pre-commencement condition (for the reasons already outlined), the LPA support the principle of such a condition. The collective impact being that inadvertent attempts to enter the site between the two cottages will, subject to correct signage, be successfully avoided. This measure is therefore an important one in serving to maintain highway safety and further represents an improvement over the plans that were initially submitted.
86. It is noted that there are public objections in relation to the continued use of the existing access for cars. However, as the Highway Authority have

clarified, this is an existing access (used by the objecting properties also) and the proposal under determination does not seek to install a new access in this location as has been suggested. As previously addressed, the existing access will be utilised by cars and small vehicles however, with the introduction of the 'new' HGV access, the use of this access is not judged to be of a sufficient scale, frequency or type that the Highways Authority wish to restrict its otherwise lawful use.

### **Arboricultural implications**

87. This aspect of the proposal is intrinsically linked with the location of the proposed new access as any new access onto Exning Road will require the removal of one or more TPO specimens.

88. In his formal comments, the LPA's Tree Officer has raised an objection to the proposal which cites the following concerns.

- A. The removal of group G1*
- B. Construction within the RPA of G7*
- C. The removal of tree T3*

89. However, since these comments have been made, a revised plan has been submitted which, from a purely arboricultural perspective, satisfactorily addresses points B and C above. This is achieved by removing development from within the RPA of group G7 and the retention of tree T3

90. Nonetheless, the proposal seeks to remove group G1 from the TPO belt so that the proposed access can be installed which, as confirmed by the submitted arboricultural impact assessment (AIA) and the LPA's Tree Officer, is a visually prominent specimen.

91. As noted by the LPA's Tree Officer, from a purely arboricultural perspective, it would be preferable to move the proposed new access eastward to preserve G1 and remove tree T2, which is a poorer specimen instead. This must, given the amenity value of the G1 group, and with respect to policies CS2, CS5 and DM13 be acknowledged as something which weighs against the proposal in the overall balance. The loss of otherwise healthy TPO specimens is seldom something the LPA advocate or tolerate.

92. However, if the access were to be moved further eastward, although it would enable the retention of group G1, it would give rise to an unacceptable highway safety risk as the objection from the Highway Authority referred to above, was in response to this precise scenario and access location. Whilst the loss of group G1 will be visually impactful, the LPA must ascribe significant weight to the concerns of the Highway Authority and, in doing so, afford lesser weight to concerns which deal with the limited matter of just visual amenity. Highway safety must therefore, in this instance, be prioritised and although the concerns raised with respect to the loss of G1 are of course duly noted, when considering the overall balance and owing to fact that the plans have been amended to remove the impact on G7 and retain T3, the removal of G1 should not be seen as a factor which weighs heavily against this proposal. A soft landscaping condition will however be recommended to ensure there is not a net loss in visual specimens or biodiversity credentials.

93. Following on from this, it is noted that the public objections suggest the loss of G1 is unacceptable and should result in the application being refused. Whilst the voiced public concern is understood, with respect to the overall planning balance and the degree of policy compliance that the wider proposal is able to show, the loss of G1 is not, in itself, a sufficient reason to recommend that the entire application be refused. To do so would be to unjustifiably sterilise the application site, which, given the degree of policy support for equine uses, the lack of tangible irrevocable harm and given the site's location in Newmarket, is not something that the LPA would be able to robustly defend at appeal in the event of the application being refused.

94. With respect to the trees which are to remain, the submitted AIA incorporates, at appendix 5, a tree protection plan. The detail of this plan is judged to be sufficient to prevent the remaining specimens from being unjustifiably damaged throughout the construction phase. Compliance with this tree protection plan shall therefore be controlled by way of condition, as is normal protocol in such circumstances.

### **Ecological implications**

95. As required by the National Planning Policy Framework (2019) at paragraphs 170 and 175 the LPA have a duty to consider the conservation of biodiversity when determining planning applications. At a local level, this is exhibited through policies CS2, CS4, DM11 and DM12.

96. Although the proposal does not include wide spread vegetation loss or activities that would otherwise be incompatible with wider biodiversity objectives, due to the relatively undeveloped nature of the site and the prevalence of trees in the vicinity, a phase 1 ecology report has been submitted in support of the application.

97. With respect to the potential ecological implications of this proposal, the submitted ecological survey confirms that although some boundary features were suitable for a small number of foraging bats, generally, the site was considered to be of negligible ecological importance due to the management of its habitats, high levels of disturbance, urban location and poor plant diversity. The report further comments that the scope of the proposed works is limited to a new access and additional lighting with both involving negligible habitat loss. No additional surveys were found to be required.

98. With respect to the impact of the proposed removal of group G1, the report confirms at section 4.3.3.3 that none of the specimens within this grouping have a high suitability for roosting bats. The report further clarifies that although the site has a high potential for nesting garden birds, it carries a low potential for protected farmland birds. Notwithstanding this, the report recommends a number of mitigation and enhancement measures from section 5 onwards.

99. The proposed mitigation measures are as follows:

## **Nesting birds**

Vegetation / trees only to be felled from September to February (inclusive). Or, if done outside of this period, an ecologist must be present to check the site immediately before any such clearance / felling.

## **Potential roosting bats**

- The use of soft felling techniques;
- All cuts should be made at 0.5m or greater from any visible cavities, splits. Hazard beams or small cracks are to be wedged open to prevent them from springing closed once cutting removes the tension from the limb;
- Timber with potential roost features must be lowered gently to the ground and left at the base of the tree for 48 hours with openings pointing upwards. This will give time to allow any bats present to disperse before the wood is processed or removed. If it is impractical to lower parts of the tree, then a mat of brash can be placed under the tree to minimise the effects of impact as branches are removed;
- If any bats are discovered at any point, then all work must immediately cease until a suitably experienced ecologist has been brought in for consultation. If a bat is discovered within any section of the tree that is still standing, then a Mitigation Licence from Natural England may be required.

## **Commuting and foraging bats**

- Install light columns that are the minimum height necessary to illuminate the arena;
  - Use hoods, cowls or directional fittings to avoid light being directed at the sky or backwards towards the boundary vegetation;
  - Maintain periods of darkness by limiting lighting times to 8:00pm.
100. Given that the proposal is seeking permission for 6 flood lights, it would be contradictory to prohibit their use after 8pm as from October to February, the approved manage would need to be lit. As such, to compensate for this, the proposed enhancement measures as included within the ecological survey will be conditioned to be provided as this represents a suitable trade off between provisions.

## **General mitigation measures**

- Protection of retained trees close to the proposed works, including the installation of root protection areas where required during construction with Heras fencing in line with Trees in Relation to Design, Demolition and Construction –Recommendations BS5837:2012 (BSI, 2012);
- Cover any trenches, holes or deep pits overnight, or use secured planks to allow any animals that fall in to escape during construction. A member of staff should check the site at the end of each working day to ensure that

these provisions to protect nocturnal species (such as hedgehog or badger) have been made.

101. In addition to the above mitigation, which, with the exception of the flood light timings, is deemed appropriate given the proposed development, the submitted ecological survey also recommends a number of ecological enhancements – as encourage and supported by the National Planning Policy Framework. These enhancements are as follows:

- Installation of three general bird boxes
- Installation of two sparrow terraces
- Installation of one bat box
- Use of native species in any proposed soft landscaping

102. The above measures have been reviewed by Natural England who have confirmed that they have no objections with respect to the proposed development or concerns regarding a potentially adverse ecological impact.

103. Therefore, given the aims of both national and local policy, these proposed enhancement measures shall be conditioned so that the proposal does not just mitigate against harm but also delivers additional biodiversity benefits.

### **Flood Risk**

104. A small western parcel of the application site lies within flood zone 2, as confirmed by the Environment Agency's flood maps. However, no development is proposed within this section of the site and as such, an adverse flood risk has not been identified.

105. The remainder of the site lies within flood zone 1 whilst the proposed development would also be considered as 'less vulnerable' to flooding and as such, with no objection raised from the Environment Agency, the proposal is not considered to be at an unacceptable risk from flooding.

### **Conclusion:**

106. Having considered the above matters, the principle of a commercial equine use, in this location is deemed to be acceptable and is supported by the provisions of CS6 of the FHDC Core Strategy and policies DM5, DM32 and DM47 of the Joint Development Management Policies Document (2015). Residential amenity is not judged to be unduly or adversely impacted by the proposal and following extensive positive and proactive negotiations with the applicant, issues of highway safety have been satisfactorily addressed through the provision of new purpose built HGV access onto Exning Road. The loss of the G1 tree group to the front of the site may result in a minor loss to biodiversity but ecological mitigation and enhancements measures are recommended to be secured by planning conditions.

107. Additionally, although the loss of group G1 will be visually impactful, the LPA must ascribe significant weight to the concerns of the Highway Authority and, subsequently, afford lesser weight to concerns which deal

with the limited matter of visual amenity. Highway safety must, therefore, in this instance, be prioritised and although the concerns raised with respect to the loss of G1 are noted, when considering the overall planning balance and owing to fact that the plans have been amended to remove the impact on G7 and retain T3, the loss of G1 should not be seen as a factor which weighs heavily against this proposal.

108. In conclusion, the principle and detail of the development are considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

**Recommendation:**

109. It is **RECOMMENDED** that planning permission be **GRANTED** subject to the following conditions:

1 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

<u>Reference No:</u>	<u>Plan Type</u>	<u>Date Received</u>
1907/10 REV E	Proposed Block Plan	07.02.2019
1907/11 REV F	Visibility splays	07.02.2019
TELESCOPIC FLOODLIGHTING MAST SYSTEM 6M	Lighting Details	27.03.2018
Revision C	Design and Access Statement	03.09.2018
P3055.5.0	Ecological Survey	23.11.2018
P3055.4.0	Arboricultural Details	30.11.2018

Reason: To define the scope and extent of this permission.

2 Within 3 months from the date of this permission, a scheme of soft landscaping for the site drawn to a scale of not less than 1:200, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include accurate indications of the proposed position, species, & canopy spread of all retained trees and all proposed planting, with a minimum of at least two new trees to be planted. Any retained trees removed, dying or becoming seriously damaged or diseased within five years of this permission 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. The works shall be completed in accordance with the approved plans and in accordance with a timetable to be agreed with the Local Planning Authority.

Reason: To enhance the appearance of the development and to ensure that the most vulnerable trees are adequately protected during the periods of construction, in accordance with policies DM2, DM12 and DM13 of the



West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 3 The development shall be carried out in complete accordance with the Tree Protection Plan as per appendix 5 and appendix 6 of the submitted Arboricultural Impact Assessment (Ref: P3055.4.0, dated 30 November 2018).

Reason: To ensure that the trees on site are adequately protected, to safeguard the character and appearance of the area, in accordance with policy DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 4 No other part of the development hereby approved shall be commenced until the new vehicular access has been laid out and completed in accordance with SCC Drawing No DM04 and has been made available for use. Thereafter the access shall be retained in the specified form.

Reason: To ensure that the access is designed and constructed to an appropriate specification and is brought into use before any other part of the development is commenced in the interests of highway safety.

- 5 Before the new access onto Exning Road (The B1103) is first used visibility splays shall be provided as shown on Drawing No. 1907/11 REV F with an X dimension of 4.5m and a Y dimension of 120m in both directions and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (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. This would include the removal and/or pruning of trees in the visibility splay.

Reason: in the interest of highway safety and to ensure adequate visibility for all road users

- 6 Before the new access onto Exning Road (the B1103) is first used, the access shall be properly surfaced with a bound material for a minimum distance of 20 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.

Reason: To secure appropriate improvements to the vehicular access in the interests of highway safety.

- 7 Gates shall be set back a minimum distance of 20 metres from the edge of the carriageway.

Reason: In the interests of road safety.

- 8 Before the new access onto Exning Road (the B1103) is first used, 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.

Reason: To prevent hazards caused by flowing water or ice on the highway.

- 9 Within 3 months from the date of this permission, details shall be submitted to and approved in writing by the Local Planning Authority showing the location and wording of signs related to preventing the use of the existing access between Orchard Loge and Rose Cottage, by HGV and horse boxes over 2.6m in height and 2.2m in width.

Reason: To reduce and/or remove, as far as is reasonably possible, the frequency of HGV's and horse boxes attempting to use the existing access which is unsuitable for these vehicle movements.

- 10 The upper limit of the main beams of the proposed menage, taken as 1/10th of the peak intensity level of any floodlight, shall not be greater than 70 degrees from the downward vertical.

Reason: In the interests of road safety to prevent uneven light levels on the highway and to prevent light pollution.

- 11 The six telescopic flood lights as approved and shown on drawing 1907/10 REV E shall only be used between the hours of 7am - 9pm. At all other times the lights shall not be used or switched on.

Reason: To safeguard the character and appearance of the area, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 12 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 12 Upon completion of the new vehicular access onto Exning Road (the B1103) and the associated track, the vehicle height restrictor as depicted in drawing 1907/10 REV E shall be installed and thereafter the existing access between Rose Cottage Orchard Lodge shall not be used by vehicles exceeding 2.6m in height.

The height restrictor shall be retained as illustrated on 1907/10 REV E and shall only be removed with the prior written agreement of the Local Planning Authority.

Reason: To safeguard the amenity of adjacent residential properties and highway safety, in accordance with policy DM2 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 12 of the National Planning Policy Framework and all relevant Core Strategy Policies

- 13 The development shall be carried out in full accordance with all mitigation measures, as contained within section 5 of the Ecological Impact Assessment (Ref: P3055.5.0 & dated 23 November 2018).

Reason: To ensure minimal impacts on ecology, in accordance with the provisions of Policy DM12 of the Joint Development Management Policies.

- 14 Within 6 months from the date of this permission, details of: Three Schwegler 1B General Purpose Bird Boxes, Two Schwegler 1SP Sparrow Terraces and one Schwegler IFF / 2F Bat Box, to be installed at the site,

including details of the timescale for installation, shall be submitted to and approved in writing by the Local Planning Authority.

Any such measures as may be agreed shall be installed in accordance with the agreed timescales and thereafter retained as so installed.

Reason: To secure biodiversity enhancements commensurate with the scale of the development, in accordance with policies DM11 and DM12 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies

**Documents:**

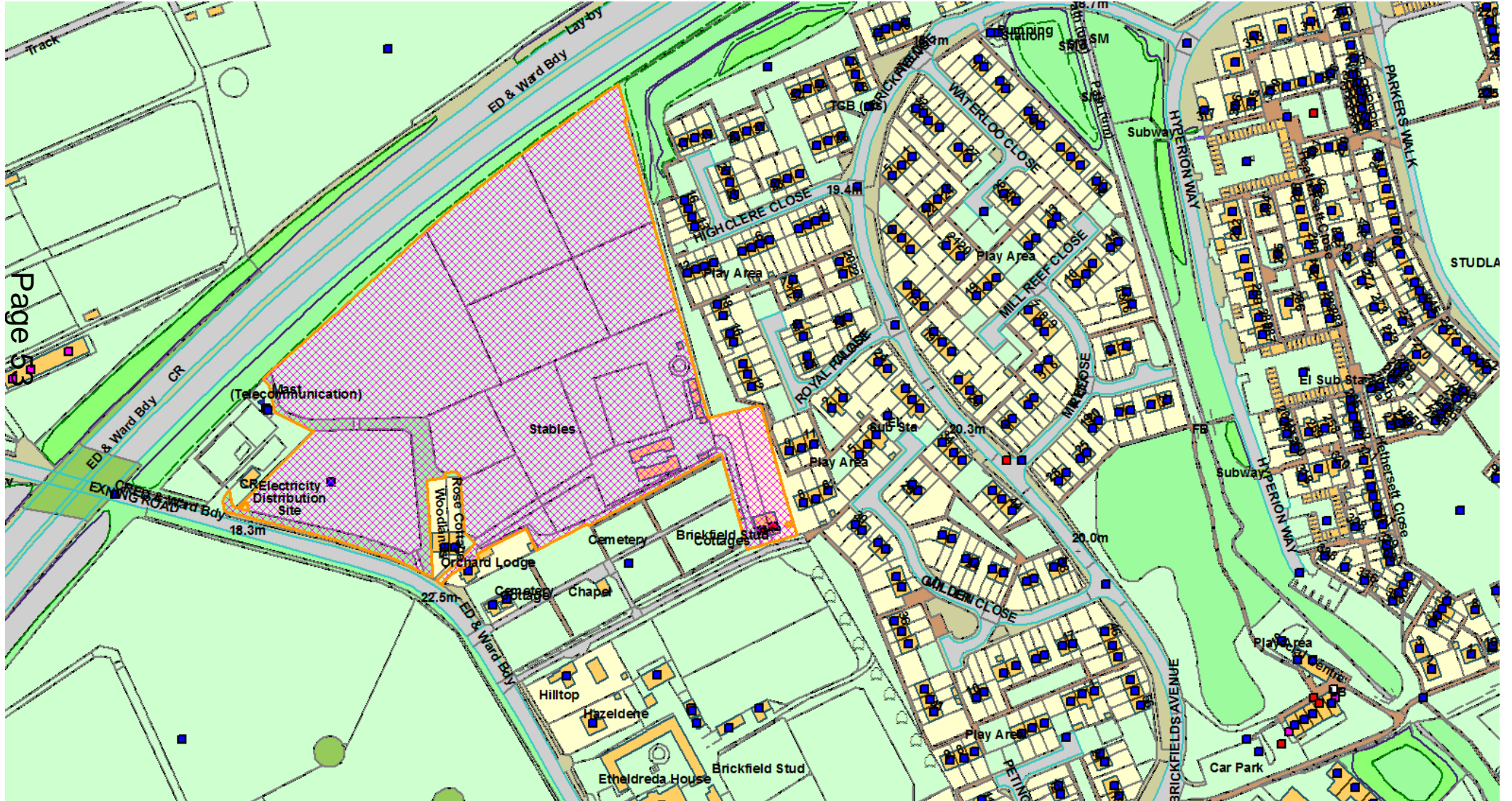
110. All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P5LOWWP DMSB00>

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DC/18/0492/FUL – Brickfields Cottages, Cemetery Hill, Newmarket, CB8 7JH



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Forest Heath  
District Council

**DEV/FH/19/007**

**Development Control Committee  
27 March 2019**

**Planning Application DC/19/0186/FUL –  
1 The Avenue, Newmarket**

**Date Registered:** 08.02.2019      **Expiry Date:** 05.04.2019

**Case Officer:** Kerri Cooper      **Recommendation:** Approve Application

**Parish:** Newmarket Town Council      **Ward:** All Saints

**Proposal:** Planning Application - Continued use of first and second floors as a large 9no. bedroom HMO (sui generis)

**Site:** 1 The Avenue, Newmarket

**Applicant:** Mr Darren Dixon - Forest Heath District Council

**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:

Kerri Cooper  
Email: [kerri.cooper@westsuffolk.gov.uk](mailto:kerri.cooper@westsuffolk.gov.uk)  
Telephone: 01284 757341

**Background:**

**The application is before the Development Control Committee as the applicant is Forest Heath District Council.**

**The Town Council raise no objection and the application is recommended for APPROVAL.**

**Proposal:**

1. Planning permission is sought for the continued use of first and second floors as a large 9no. bedroom house of multiple occupation (HMO).
2. The first and second floor of 1 The Avenue is vacant at present.

**Site Details:**

3. The application site comprises a three storey building located within Newmarket Town Centre Boundary, Housing Settlement Boundary and Conservation Area. The site is situated off the High Street, along The Avenue. 2no. retail units are located at ground floor level.

**Planning History:**

4.

<b>Reference</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
F/2006/0313/COU	Change of Use from offices to 2 x residential flats at first and second floor.	Approve with Conditions	30.10.2006

**Consultations:**

5. Environment and Transport – Highways – No objection, subject to condition.
6. Conservation Officer – No objection.
7. Environment Agency – No objection.
8. Environment Team – No objection.
9. Public Health and Housing – No objection.

**Representations:**

10. Newmarket Town Council - No objection.
11. Neighbours - No representations received.
12. Ward Member - No comments received.

**Policy:**

13. 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:

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM6 Flooding and Sustainable Drainage
- Policy DM7 Sustainable Design and Construction
- Policy DM17 Conservation Areas
- Policy DM22 Residential Design
- Policy DM35 Proposals for main town centre uses
- Policy DM46 Parking Standards
- Core Strategy Policy CS1 - Spatial Strategy
- Core Strategy Policy CS5 - Design quality and local distinctiveness

**Other Planning Policy:**

14. National Planning Policy Framework 2019 (NPPF)

15. The NPPF was revised in February 2019 and is a material consideration in decision making from the day of its publication. Paragraph 213 is clear however that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework, the greater weight that may be given. The Policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provisions of the 2019 NPPF that full weight can be attached to them in the decision making process.

16. National Planning Practice Guidance

17. Emerging Forest Heath Single Issue Review (SIR)

18. Emerging Newmarket Neighbourhood Plan

**Officer Comment:**

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

- Principle of Development
- Newmarket Neighbourhood Plan
- Visual Amenity and Character of the Conservation Area

- Residential Amenity
- Highway Safety
- Other Matters

### Principle of Development

20. Policy DM35 states that the town centres, as defined on the policies maps, support will be given, subject to compliance with other policies, to proposals for main town centre uses such as the following: i. shopping (Use Class A1); ii. financial and professional services (A2); iii. food and drink (A3, A4, A5); iv. leisure, culture, arts, tourism and more intensive sport and recreation including D2 uses; v. business (B1) offices; vi. visitor accommodation; and in addition to the main town centre uses above: vii. health facilities and other community uses; viii. residential, A2 or B1 uses on upper floors.
21. Furthermore, the occupation of upper floors can significantly improve the vitality of a town centre through increasing diversity.
22. The ground floor of 1 The Avenue is retail use (Class A1), combining 2no units. The first and second floors previously comprised 2no. flats. The proposed development seeks permission for a large HMO comprising of 9no. units to provide emergency housing accommodation.
23. Policy CS1 states that within the Housing Settlement Boundary, planning permission for residential development will be granted where it is not contrary to other planning policies.
24. The site is located within the Housing Settlement Boundary for Newmarket which is designated a market town and suitable location for future development. As such, the principle of development is acceptable, subject to the impacts of the proposal otherwise being satisfactory.

### Newmarket Neighbourhood Plan

25. Newmarket Town Council are in the early stages of drafting a Newmarket Neighbourhood Plan (NNP). This is classified as the 'Pre-submission Newmarket Neighbourhood Plan (PSNNP)'. There are no specific community actions relevant to this proposal and there are no policies directly relevant to this application, as they relate to developments of a larger scale or of a different nature. However, the NNP is still at pre-submission stage and has not been formally submitted to the Local Planning Authority (LPA) or been through the LPA publicity period. Therefore, the emerging neighbourhood plan is a material consideration for the purpose of determining the application, however only limited weight could be given to it.

### Visual Amenity and Character of the Conservation Area

26. Policy DM22 states that all residential development proposals should maintain or create a sense of place and/or character by basing design on an analysis of existing buildings and utilising the characteristics of the locality to create buildings and spaces that have a strong sense of place and distinctiveness.

27. Policy DM17 states that proposals within a Conservation Area must preserve or enhance the character of the area.

28. The development utilises the existing building and there are no external alterations proposed. As such, there will be no change to the existing appearance of the building and character of the area.

#### Residential Amenity

29. To the north, east and west of the site, a mix of town centre uses are located at ground floor level, with residential use occupying a number of first floors. To the south of the site are residential properties. No external alterations are proposed to the building.

30. Given the mix of uses surrounding the site and the nature of the proposed development, it is not considered that there would be an adverse impact on neighbouring amenity by virtue of overlooking or disturbance.

#### Highway Safety

31. The size of the development and the nature of the use means that such a proposal would ordinarily require some vehicle parking to be provided on site. However, in this particular case, due to the close proximity of bus and rail services, public car parks as well as the provision of shops and medical services, Suffolk County Highways have recommended approval of this application subject to the provision of cycle storage in the absence of any on-site parking. This is due to the sustainable town centre location, noting in any event that as a change of use of the upper floors only, no opportunity exists to provide dedicated car parking on this site anyway. A condition is to be imposed to ensure cycle storage is provided prior to the occupation of the HMO.

#### Other Matters

32. The application site is located in Flood Zone 3, however given the ground floor remaining unchanged and residential use previously occupying first and second floor, the Environment Agency have confirmed the proposed development would not increase the risk of flooding.

33. Policy DM7 states (inter alia) proposals for new residential development will be required to demonstrate that appropriate water efficiency measures will be employed. No specific reference has been made in regards to water consumption. Therefore a condition will be included to ensure that either water consumption is no more than 110 litres per day (including external water use), or no water fittings exceeds the values set out in table 1 of policy DM7.

#### **Conclusion:**

34. In conclusion, the principle and detail of the development is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

## Recommendation:

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

- 1 The development hereby permitted shall be begun not later than 3 years from the date of this permission.

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

- 2 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

Reference No:	Plan Type	Date Received
(-)	Location Plan	01.02.2019
(-)	Block Plan	01.02.2019
(-)	Proposed Floor Plans	08.02.2019
(-)	Planning Statement	07.02.2019
(-)	Application form	01.02.2019

Reason: To define the scope and extent of this permission.

- 3 Before the large HMO hereby approved is occupied, details of the areas to be provided for secure cycle storage 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 and used for no other purpose.

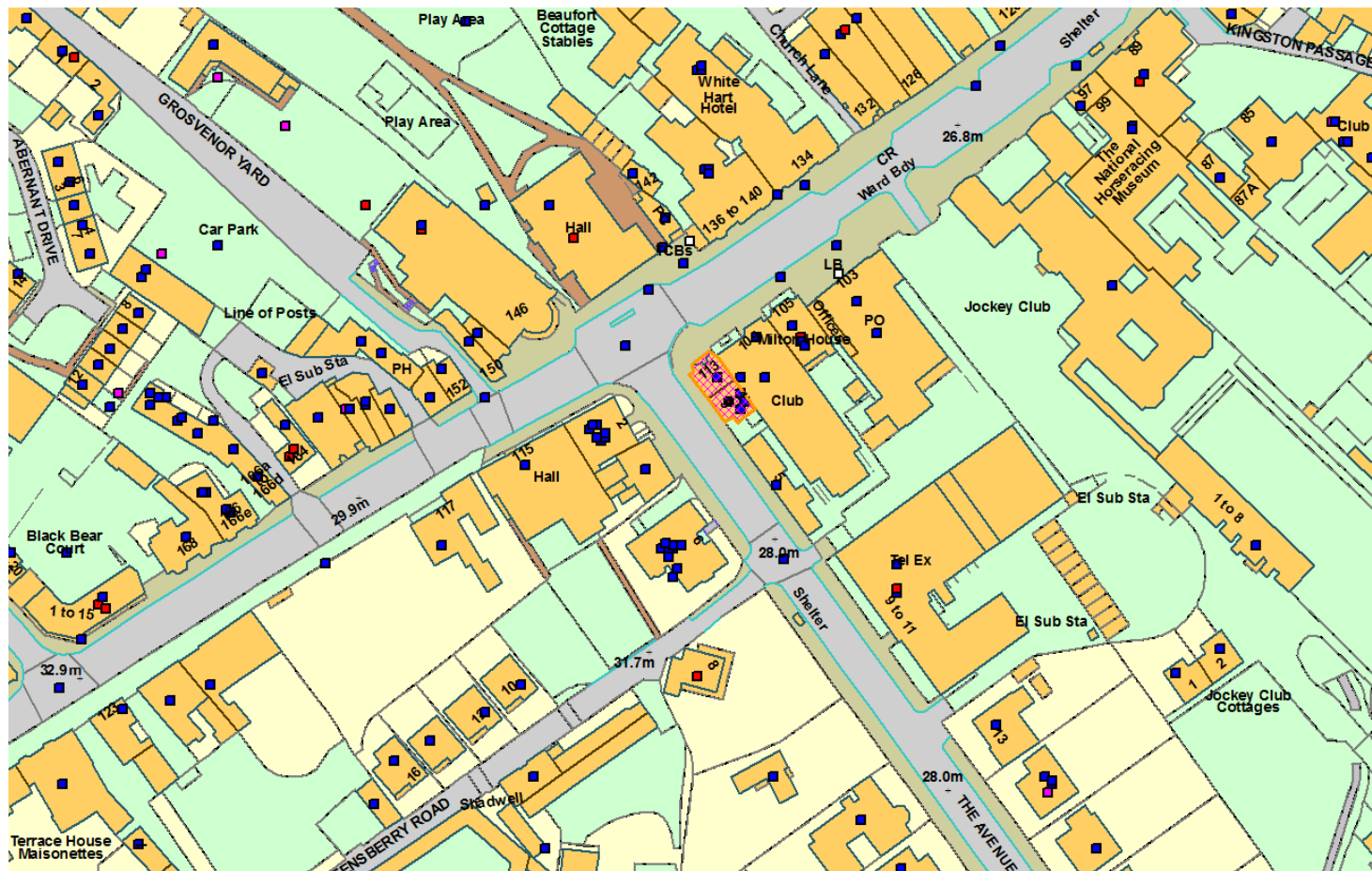
Reason: To ensure that sufficient space for the on-site cycle storage is provided, in accordance with policy DM2 and DM46 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 9 and 12 of the National Planning Policy Framework and all relevant Core Strategy Policies.

- 4 The HMO hereby approved shall not 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 and evidence of compliance has been obtained.

Reason: To ensure that the proposal meets with the requirements of sustainability, in accordance with policy DM7 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 14 of the National Planning Policy Framework and all relevant Core Strategy Policies.

## Documents:

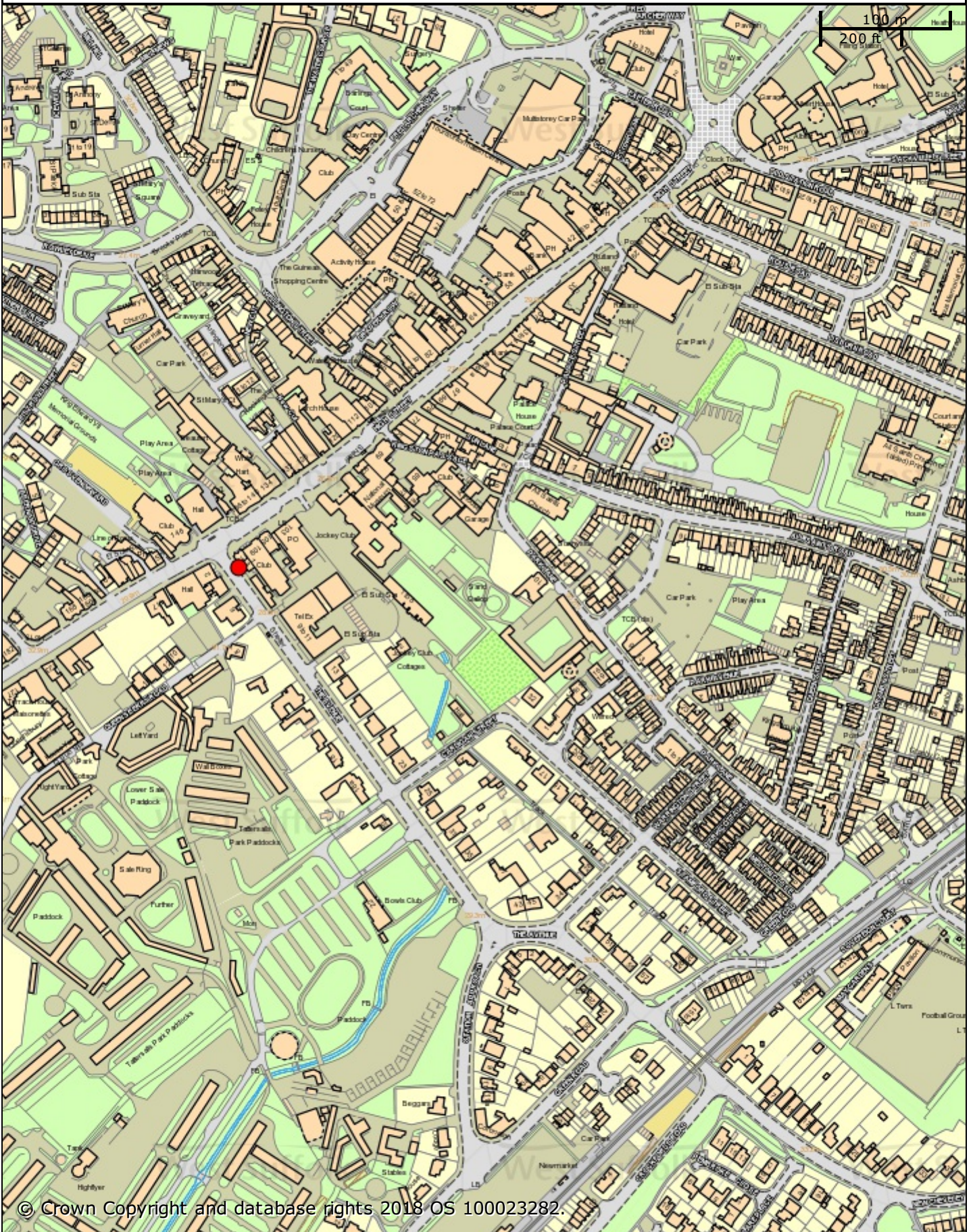
All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online <https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PM7BSTPLPC00>



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# 1 The Avenue



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