

Forest Heath District Council

**DEVELOPMENT
CONTROL COMMITTEE**

1 JULY 2015

DEV/FH/15/026

Report of the Head of Planning and Growth

**UPDATE REPORT ON DC/14/0585/OUT - MEDDLER STUD, BURY ROAD,
KENTFORD**

App. No: DC/14/0585/OUT **Committee Date** 01 July 2015
(Update report):

Case Officer: Philippa Kelly

Parish: Kentford **Ward:** South

Proposal: Creation of a 20-box racehorse training establishment (with associated Trainer's house) and erection of up to 63 dwellings (including 19 affordable units) with associated access arrangements and open space provision. (Major Development and Departure from the Development Plan)

Site: Meddler Stud, Bury Road, Kentford

Applicant: Meddler Properties Ltd

CONTACT OFFICER

Case Officer: Philippa Kelly
Tel. No: 01284 757382

SUMMARY AND REASON FOR RECOMMENDATION (S) :

The purpose of this report is to update Members on the current situation regarding the Meddler Stud planning application in Kentford.

Members resolved to refuse this planning application, contrary to the officer recommendation, at the Development Control Committee on 5 November 2014, for the reasons that the proposal was contrary to the Council's existing Local Plan (Chapter 12; Policy 12.4) and the emerging Joint Development Management Policies Document (DM48 and DM49).

An appeal was lodged on 05 June 2015. The appellant has requested a Public Inquiry. At the time of writing this report, a start date has yet to be provided by the Planning Inspectorate.

The 5 November 2014 committee resolution was contrary to officer recommendation, and as such Council officers are not in a position to represent the Council during the appeal process. It will be necessary to appoint a specialist planning consultant and equine expert to deal with the appeal process and represent the Council at the Public Inquiry.

Following the decision of the Council to refuse the planning application, the landowners have terminated the equine tenancy on the site. The majority of the buildings (including all the stables), have been demolished and the land has been ploughed. A five year Farm Business Tenancy Agreement has been entered into between the landlord (Meddler Properties Ltd) and the tenant (Meddler Farming Ltd). A Farm Management Agreement has also been entered into between the tenant and a farm manager.

The Council has been invited by the appellant to decline to contest the appeal. This is based on the appellant's argument that the site is no longer in equine use, and that Policies DM48 and DM49 no longer being applicable. Officers are in the process of seeking further advice in respect of this matter.

This report addresses these issues and asks Members to note the content of this report.

RECOMMENDATIONS:

Members are recommended to:

1. Note the update with regard to the planning appeal.
2. Note the update with regard to the use of the land.
3. Agree to appointment of specialists to handle the appeal.
4. Note the update with regard to the invitation to decline to contest the appeal.

KEY ISSUES

Procedural Update:

Background

1. The outline planning application for the creation of a 20-box racehorse training establishment (with associated Trainer's house) and erection of up to 63 dwellings (including 19 affordable units) with associated access arrangements and open space provision was considered at Development Control Committee on 05 November 2014.
2. At that meeting, Members resolved to refuse the planning application, contrary to the officer recommendation. The detailed wording and reasons for refusal were delegated to the Head of Planning and Growth, in consultation with the Chairman and Vice Chairman of the Development Control Committee, and with the Portfolio Holder for Planning, Housing and Transport.
3. The planning decision notice was issued on 23 January 2015. The reasons for the Council's decision to refuse permission were:

'1. The applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that the land is not required for an equine related use. In the absence of such information, and given the unique quality of Newmarket and its surrounding area which is dominated by the horse racing industry, the Local Planning Authority is of the opinion that the development of the site in the matter proposed would lead to the permanent loss of land that is capable of being used in conjunction with a race horse training facility, or for purposes related to the horse racing industry. The proposal is therefore contrary to the aims and objectives of Policies 12.2 and Policies 12.4 of the 1995 Forest Heath Local Plan and emerging Joint Development Management Local Plan Policies DM48 and DM49 which seek to safeguard the horse racing industry in the District. The proposals would also conflict with the sustainable development principles set out in Paragraph 14 of the National Planning Policy Framework 2012.

2. The absence of a signed Section 106 agreement leaves the Local Planning Authority unable to secure the infrastructure improvements and enhancements, and the financial contributions necessary to monitor and maintain such that are considered necessary to render this development satisfactory. The result of this would be an unsustainable development contrary to the requirements of Policy CS13 of the Core Strategy and guidance contained in the National Planning Policy Framework 2012'.

The Planning Appeal

4. On 4 June 2015 a planning appeal was lodged. The appellant has requested a public local inquiry, for reasons relating to the 'complexity of the case which requires expert evidence to be presented and tested'. At the time of writing

this report, the Planning Inspectorate had not set an appeal start date.

5. The 5 November 2014 committee resolution was contrary officer recommendation. As such, Council officers are not in a position to represent the Council during the appeal process.
6. It will be necessary to appoint a planning consultant and equine expert to deal with the appeal process and represent the Council at the Public Inquiry.
7. In terms of the procurement of the services required to represent the Council, the West Suffolk Contract Procedure Rules (CPR) in Paragraph 4.5 identifies exemptions where the '*specialised nature of the goods, services to be supplied or the works to be executed means that only one suitable supplier has been identified or is available*'.
8. The circumstances of the appeal situation are unusual and require specialist knowledge of both the equine industry and the Forest Heath Local Plan context. Such specialist knowledge is not widely available, and officers are aware of very few experts who would be able to offer the level of service which is required. Officers consider that there is case for the requirement of specialist services under Paragraph 4.5 of the CPR.

Policy Update

Use of the Appeal Site:

9. Following the decision of the Council to refuse the planning application, the landowners terminated the equine tenancy on the site. The majority of the buildings (including all the stables), have been demolished and the land has been ploughed. A five year Farm Business Tenancy Agreement has been entered into between the landlord (Meddler Properties Ltd) and the tenant (Meddler Farming Ltd). A Farm Management Agreement has also been entered into between the tenant and a farm manager.
10. Copies of the relevant Agreements have been provided to the Council by the appellant. On the basis of the information provided, officers consider that an agricultural use of the land has commenced, although legal advice is being sought on this matter.

Agricultural Land Use:

11. Members are advised that the use of the site for agricultural purposes does not constitute development. A planning application is not required to change the equine use of the land to agriculture, or for the demolition of the buildings on the site.
12. For the purposes of Section 55 of the Town and County Planning Act 1990, officers accept that the lawful use of the site is now agricultural.

Contesting The Appeal:

13. The Council has been invited by the appellant to decline to contest the appeal. This is based on the appellant's argument that the site is no

longer in equine use, and that Policy DM48 and Policy DM49 no longer being applicable. If this invitation is accepted, the appellant would be agreeable to refrain from making a claim for costs against the Council.

14. Officers are in the process of seeking further legal advice in respect of this matter. A further update will be given at the committee meeting.

CONCLUSIONS:

15. Members are requested to note and agree the process and policy situation as detailed in this report:
 1. Note the update with regard to the planning appeal.
 2. Note the update with regard to the use of the land.
 3. Agree to appointment of specialists to handle the appeal.
 4. Note the update with regard to the invitation to decline to contest the appeal.

Documents:

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

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=N3AHSMPDJ1G0>

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