

Membership as from May 26

Councillor Berry
Councillor Drummond
Councillor Harvey (Vice)
Councillor Hood (Chair)
Councillor Hulbert
Councillor Jarvis
Councillor McHugh
Councillor Nobbs
Councillor Yarrow
Members = 9
Quorum = 3



Newmarket
TOWN COUNCIL

The Memorial Hall, High Street, Newmarket Suffolk CB8 8JP

TEL: 01638 667227

You are hereby summoned to attend a meeting
of the **Development and Planning Committee**
to be held at

Memorial Hall, High Street, Newmarket, CB8 8JP
Monday 3rd August 2026 at 6.15pm

A G E N D A

The meeting is held in public and the public are encouraged to attend and participate. Just occasionally matters such as contractual or staffing matters do have to be held in the confidential part of the meeting. This is a public arena, therefore anything you say including your name if given, may be published by the press, social media and in Council committee minutes.

Members of the public and press may not orally report or comment about a meeting as it takes place if present at a meeting of the Council, but otherwise may:

- a. film, photograph or make an audio recording of the meeting;
- b. use any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;
- c. Report or comment on the proceedings in writing, during or after a meeting or orally after the meeting.

The Council will where possible facilitate such recording unless it is being disruptive. It will also take steps to ensure that children, the vulnerable and members of the public who object to being filmed are protected without undermining the broader purpose of the meeting

- 1. Chair to read** fire safety notice and announce that proceedings may be filmed or recorded and ask if anyone present intends to record the meeting.
- 2. Apologies** - To receive and accept apologies for absence
- 3. Declaration of interests**
 - a) Councillors are invited to raise any declarations of interest concerning items on the agenda
 - b) To consider any requests for dispensation
- 4. Minutes of previous meeting held 20th July 2026**
 - a) To consider and adopt the minutes, as a true record of the proceedings
 - b) To consider any matters arising
- 5. Public participation** – an invitation to members of the public to make representations to Councillors.
Resolutions can only be made on items on the agenda
Rules of public participation: no person may speak for longer than 3 minutes in total. The maximum time permitted for this item is 15 minutes. This is the only opportunity during the meeting for members of the public to address Councillors
- 6. Planning applications** – West Suffolk Council
 - a) **DC/26/0973/HH** – Householder planning application – a. single-storey rear infill extension b. covered barbeque enclosure c. soft and hard landscaping works – 6 Alycidon Mews, Newmarket
 - b) **DC/26/1083/TPO** – TPO 04 (1977) tree preservation order – three Horse Chestnut (G1 on plan, within G3 on order) crown reduction in height by two metres – 91 St Philips Road, Newmarket
 - c) **DC/26/0985/P3CMA** – Prior approval application under Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 – change of use of first and second floors from commercial, business and service (class E) to 24 apartments (class C3) – Suffolk House, Fordham Road, Newmarket
 - d) **DC/26/1041/ADV** – Application for advertisement consent – a. one internally illuminated totem sign b. 10 non illuminated fascia signs c. two non illuminated fascia signs – Unit 6 Nucleus Park, 351 Exning Road, Newmarket
 - e) **DC/26/1107/TPO** – TPO 03 (1990) tree preservation order – a. one Lime (T1 on plan within G2 on order) reduce two lowest lateral limbs by two metres over boundary b. one Beech (T2 on plan within G2 on order) reduce middle and lower crown by 1.5 metres and reduce height by one metre – 57 Drinkwater Close, Newmarket
 - f) **DC/26/1094/RM** – Reserved matters application – a. submission of details under outline planning permission DC/21/1242/OUT (granted at appeal under ref: APP/F3545/W/22/3303347) appearance, layout, scale, landscaping and access for the construction of 101 dwellings, extension and conversion of existing public house to provide commercial space, new convenience store, public open space, landscaping and horse walk b. discharge of condition 18 – Land at Black Bear Lane, High Street, Newmarket

- g) **DC/26/0984/FUL** – Planning application – a. proposed external bin store and cycle storage b. three windows installed to north elevation – Suffolk House, Fordham Road, Newmarket
 - h) **DC/26/1116/TCA** – Trees in a conservation area notification – works stated on submitted tree schedule of works – Godolphin Stables, Snailwell Road, Newmarket
 - i) **DC/26/1118/TPO** – TPO 13 (1991) tree preservation order – two Beech (T002 and T003 on plan, within area A4 of order), one species unknown (T007 on plan, within area A4 of order) and one Sycamore (T008 on plan, within area A4 on order) fell – Godolphin Stables, Snailwell Road, Newmarket
- 7. Planning applications** – Amended and Deferred Plans
- 8. Planning and Enforcement Appeals** – to discuss any notified appeals and receive any appeal updates or results
- a) **AP/26/0023/STAND** – Brickfields Stud, Cemetery Hill, Newmarket - in progress
 - b) **AP/26/0024/ENF** – 67A-C Exning Road, Newmarket – in progress
 - c) **Lochailort Kentford Limited and West Suffolk Council, Secretary of State for Housing**
- 9. Planning applications** – East Cambs
- 10. Planning decisions and plans withdrawn** – West Suffolk Council, weeks commencing 15/07/26, 22/07/26
- 11. Delegation Panel decisions** - To discuss any decisions by Delegation Panel
- 12. Licensing** - To discuss any Licensing applications, including pavement licence applications
- 13. Enforcement** – to discuss any enforcement issues
- 14. Working Group Report for DP Committee** – to receive any reports from the NTC Working Groups that report directly to the Development and Planning Committee
- 15. Correspondence**
- 16. Date of next meeting –Monday 17th August 2026; 6.15pm**

Signed: *CE Whitaker*

Cathy Whitaker, Town Clerk

Date: 28th July 2026

To: Chair & Members of D&P Committee, Other Council Members, Press & the Public



Newmarket

TOWN COUNCIL

Minutes of a Meeting of the Development & Planning Committee Held on Monday 20th July 2026 at 6:15pm

Attendance:

Councillor R Hood (Chair)
Councillor A Drummond
Councillor J Harvey

Councillor P Hulbert
Councillor J McHugh
Councillor R Nobbs

Also Present: C Whitaker - Town Clerk, N Alecock – Deputy Town Clerk, Cllr Winter as an observer,
2 Members of the public and 1 Member of the Press

Minute	Action by
D/26/07/19 <u>Chair to Read the Fire Safety Notice and Announce that Proceedings May be Filmed or Recorded</u> The Chair welcomed everyone, read the Fire Safety Notice and asked if anyone intended to record the meeting. No one is recording the meeting.	
D/26/07/20 <u>Apologies</u> Apologies were received from Cllrs Jarvis and Yarrow. Cllr. Berry was absent.	
D/26/07/21 <u>Declaration of Members Interests & to Remind Councillors of the need to keep up to date their Register of Member's Interests and to Consider any Requests Received for Member's Dispensation</u> There were no declarations of interests or requests for dispensation.	
D/26/07/22 <u>To Confirm the Minutes of the Meeting Held on 6th July 2026 and any Matters Arising</u> The Chair presented the minutes of the Development & Planning Committee held on 6th July 2026 and Cllr Hulbert made a proposal, seconded by Cllr Nobbs. A vote was taken which was unanimous and the following was agreed: <u>D/26/07/22.01 Resolved</u> That the minutes of the Development & Planning Committee held on 6th July 2026 be adopted and be signed as a true record by the Chair of the Development & Planning Committee. There were no matters arising.	
D/26/07/23 <u>Public Open Session</u> In response to the Police report of a serious road traffic collision on Palace Street, Newmarket, in which a pedestrian was struck by a vehicle which recommended improvements to road markings and signage Alison Hayes, Chair of the Bill Tutte Memorial Committee, expressed a preference in the closure of Palace Street rather than the addition of signage or yellow lines that would not be aesthetically	

appropriate to the Memorial area.

The Chair made a proposal, seconded by Cllr Hulbert. A vote was taken which was unanimous and the following was agreed:

D/26/07/23.01 Resolved

That item 15 – Palace Street, be brought forward.

The item was discussed and Cllr Drummond made a proposal, seconded by Cllr Hulbert. A vote was taken which was unanimous and the following was agreed:

D/26/07/23.02 Resolved

That a letter be sent to County Cllr Whittle to request that a Highways Engineer identifies options for improving the safety of Palace Street urgently given the serious accident that occurred.

D/26/07/24 Planning Applications

D/26/07/24/1 DC/26/0996/TCA – Trees in a conservation area notification – one Acacia (marked on plan) overall crown reduction by up to two metres – 16 Mill Hill, Newmarket. Cllr Hood made a proposal, seconded by Cllr Nobbs. A vote was taken which was unanimous and the following was agreed:

D/26/07/24.01 Resolved

The Committee supports responsible tree management and voiced no objection.

D/26/07/24/2 DC/26/1004/TPO – TPO 04 (2012) tree preservation order – two Yew (T18 and T20 on plan and order) overall crown reduction by two metres, one Yew (T24 on plan and on order) crown lift to three and a half metres above ground level – 3 Arborfield Drive, Newmarket. Cllr Hood made a proposal, seconded by Cllr Nobbs. A vote was taken which was unanimous and the following was agreed:

D/26/07/24.02 Resolved

The Committee supports responsible tree management and voiced no objection.

D/26/07/24/3 DC/26/0982/FUL – Planning application – new walls, piers, kerbs, groundworks and timber gates – Eve Lodge Stables, Hamilton Road, Newmarket. Cllr Nobbs made a proposal, seconded by Cllr Hulbert. A vote was taken which was unanimous and the following was agreed:

D/26/07/24.03 Resolved

The Committee voiced no objection.

D/26/07/25 Amended and Deferred Plans

None.

D/26/07/26 Planning and Enforcement Appeals

Planning appeal AP/26/0023/STAND and enforcement appeal AP/26/0024/ENF were noted.

D/26/07/27 East Cambs Planning Applications
Noted.

D/26/07/28 To Receive Results of Applications as Determined by West Suffolk and Plans Withdrawn
West Suffolk Planning Determinations received during weeks commencing 01/07/2026 and 08/07/2026 were noted.

Applications	Description	Address	WSC Decision	NTC Decision
DC/25/1929/FUL	Planning application – one industrial unit (class B2 – general industrial use)	Land at Newmarket Business Park, Studlands Park Avenue, Newmarket	Approved	No objection
DC/26/0694/ADV	Application for advertisement consent – replacement fascia sign	104 High Street, Newmarket	Approved	Strongly objected

Cllr Nobbs made a proposal, seconded by Cllr Hood. A vote was taken which was unanimous and the following was agreed:

D/26/07/28.01 Resolved

That the Committee write to the Conservation Officer to ask for a report on their view of the overall shopfront as they believe that planning permission has not been and likely should need to be sought for the vinyl's as it contravenes the requirements of the historic Newmarket High Street and the Shopfront Policy.

D/26/07/29 Delegation Panel Decisions
Noted.

D/26/07/30 Licensing
None noted.

D/26/07/31 Enforcement
A date is to be set for the next working group meeting.

D/26/07/32 Woodditton Road/ Dullingham Road junction mini roundabout
Cllr Hood made a proposal, seconded by Cllr McHugh. A vote was taken which was unanimous and the following was agreed:

D/26/07/32.01 Resolved

That the Committee write to County Cllr Burton requesting Suffolk Highways carries out an assessment and potential improvements for the safety of the junction.

D/26/07/33 West Suffolk Local Plan 2045
Cllr Hood advised that a draft response will be sent with provided for Full Town Council for approval at Monday's meeting and then submitted to West Suffolk Council on Tuesday.

D/26/07/34 The Silks

This item was deferred to the next meeting.

D/26/07/35 Working Group Reports

No reports offered.

D/26/07/36 Correspondence

Correspondence was received from the Leader of WSC giving an update on the proposed Forest City 1 development. The Government's New Towns Taskforce has rejected the proposal.

D/26/07/37 Date of Next Meeting

Monday 3rd August 2026 at 6.15pm at the Memorial Hall.

Meeting closed 6:56pm.

Signed _____ Date _____

Summary of Resolutions/Recommendations

Resolution/Recommendation	Resolution/Recommendation Wording
<u>D/26/07/22.01 Resolved</u>	That the minutes of the Development & Planning Committee held on 6th July 2026 be adopted and be signed as a true record by the Chair of the Development & Planning Committee.
<u>D/26/07/23.01 Resolved</u>	That item 15 – Palace Street, be brought forward.
<u>D/26/07/23.02 Resolved</u>	That a letter be sent to County Cllr Whittle to request that a Highways Engineer identifies options for improving the safety of Palace Street urgently given the serious accident that occurred.
<u>D/26/07/24.01 Resolved</u>	The Committee supports responsible tree management and voiced no objection.
<u>D/26/07/24.02 Resolved</u>	The Committee supports responsible tree management and voiced no objection.
<u>D/26/07/24.03 Resolved</u>	The Committee voiced no objection.
<u>D/26/07/28.01 Resolved</u>	That the Committee write to the Conservation Officer to ask for a report on their view of the overall shopfront as they believe that planning permission has not been and likely should need to be sought for the vinyl's and contravenes the requirements of the historic High Street regarding the Shopfront Policy.
<u>D/26/07/32.01 Resolved</u>	That the Committee write to County Cllr Burton requesting Suffolk Highways carries out an assessment and potential improvements for the safety of the junction.

Item 6

Development and Planning Committee
Planning Applications – West Suffolk Council

Application	Constraints/ Neighbourhood Plan Policies	Case Officer	Applicant name	Consultation expiry date
<u>DC/26/0973/HH</u> Householder planning application – a. single-storey rear infill extension b. covered barbeque enclosure c. soft and hard landscaping works 6 Alycidon Mews, Newmarket		Clare Oliver	Mrs Faria Khan	6 August 2026
<u>DC/26/1083/TPO</u> TPO 04 (1977) tree preservation order – three Horse Chestnut (G1 on plan, within G3 on order) crown reduction in height by two metres 91 St Philips Road, Newmarket	Tree Preservation Order NKT14	Apryl Trask	Merry	10 August 2026
<u>DC/26/0985/P3CMA</u> Prior approval application under Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 – change of use of first and second floors from commercial, business and service (class E) to 24 apartments (class C3) Suffolk House, Fordham Road, Newmarket		Ed Fosker	Mr Vogel	11 August 2026
<u>DC/26/1041/ADV</u> Application for advertisement consent – a. one internally illuminated totem sign b. 10 non illuminated fascia signs c. two non illuminated fascia signs Unit 6 Nucleus Park, 351 Exning Road, Newmarket		Cara Fieldhouse	Newmarket Limited	13 August 2026

Item 6

Development and Planning Committee
Planning Applications – West Suffolk Council

DC/26/1107/TPO TPO 03 (1990) tree preservation order – a. one Lime (T1 on plan within G2 on order) reduce two lowest lateral limbs by two metres over boundary b. one Beech (T2 on plan within G2 on order) reduce middle and lower crown by 1.5 metres and reduce height by one metre 57 Drinkwater Close, Newmarket	Tree Preservation Order NKT14	Philip Crutchlow	Readman	14 August 2026
DC/26/1094/RM Reserved matters application – a. submission of details under outline planning permission DC/21/1242/OUT (granted at appeal under ref: APP/F3545/W/22/3303347) appearance, layout, scale, landscaping and access for the construction of 101 dwellings, extension and conversion of existing public house to provide commercial space, new convenience store, public open space, landscaping and horse walk b. discharge of condition 18 Land at Black Bear Lane, High Street, Newmarket	Conservation Area	Dave Beighton	Unex Group	14 August 2026
DC/26/0984/FUL Planning application – a. proposed external bin store and cycle storage b. three windows installed to north elevation Suffolk House, Fordham Road, Newmarket		Ed Fosker	Mr J Fogel	17 August 2026
DC/26/1116/TCA Trees in a conservation area notification – works stated on submitted tree schedule of works Godolphin Stables, Snailwell Road, Newmarket	Conservation Area NKT14	Nathan MCGeachie	Mr C Ward, Godolphin Management Ltd	18 August 2026

Item 6

Development and Planning Committee
Planning Applications – West Suffolk Council

<u>DC/26/1118/TPO</u> TPO 13 (1991) tree preservation order – two Beech (T002 and T003 on plan, within area A4 of order), one species unknown (T007 on plan, within area A4 of order) and one Sycamore (T008 on plan, within area A4 on order) fell Godolphin Stables, Snailwell Road, Newmarket	Tree Preservation Order Conservation Area NKT14	Clare Oliver	Mr C Ward, Godolphin Management Ltd	18 August 2026
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NKT14 - Trees

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Neutral Citation Number: [2026] EWHC 1870 (Admin)

Case No: AC-2025-LON-002829

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice,
Strand,
London,
WC2A 2LL

Date: 22/07/2026

Before:
MR JUSTICE COPPEL

Between:

LOCHAILORT KENTFORD LIMITED

- and -

(1) WEST SUFFOLK COUNCIL
(2) SECRETARY OF STATE FOR HOUSING,
COMMUNITIES AND LOCAL
GOVERNMENT

Claimant

Defendants

Douglas Edwards KC and Robert Williams KC (instructed by Maples Teesdale LLP) for the
Claimant

Ruchi Parekh and Hannah Taylor (instructed by West Suffolk Council Legal Services) for
the First Defendant

Ned Westaway (instructed by Government Legal Department) for the Second Defendant

Hearing date: Thursday 11 June 2026

JUDGMENT

This judgment was handed down remotely at 10am on Wednesday 22 July 2026 by
circulation to the parties or their representatives by e-mail and by release to the National
Archives.

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Mr Justice Coppel:

The Claim:

1. This is a claim for statutory review, brought pursuant to s. 113 of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) to the decision of the First Defendant, West Suffolk Council (“the Council”) dated 16 July 2025 to adopt the West Suffolk Local Plan (“the Local Plan”). The decision to adopt the Local Plan followed a report dated 1 July 2025 by Rosalyn Kirby and William Fieldhouse, inspectors appointed by the Second Defendant, the Secretary of State for Housing, Communities and Local Government (“the Secretary of State”, “the Inspectors”, “the Report”), which found that the Local Plan was sound and legally compliant, subject to certain recommended modifications. The claim has been heard by way of a rolled-up hearing, by Order of Mould J dated 8 May 2026.
2. The Claimant is the owner of a site in Kentford, West Suffolk known variously as the Former Animal Health Trust (“AHT”) Site and/or Lanwades Park (“the Site”). The Site was used by the AHT before it ceased operating on the site in 2020 and has been vacant since then. The total area of the Site is around 48.5 hectares. According to a certificate issued by the Secretary of State on 14 August 2023, the lawful use of the entirety of the site is “*for the purposes of research and development of animal health and welfare products and processes and for animal health and medical services (Class E)*”. The entirety of the Site can be used for any use falling with Class E of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (SI 1987/764) and, in addition, there are permitted development rights to convert the buildings on the site to residential use under Class MA of Schedule 2, Part 3 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (SI 2015/596).
3. The eastern part of the Site was promoted for allocation for employment and residential use in the Local Plan (“the Promoted Site”), initially by the previous owner of the Site and then by Claimant when it purchased the Site on 30 June 2023. The Promoted Site is approximately 15.92 hectares in size and contains all of the 32 principal buildings which are located on the Site. A subset of the Promoted Site, approximately 3.83 hectares in size, consisting of the existing buildings and their curtilages, was – on 19 December 2024 - included by the Council in its Brownfield Land Register maintained pursuant to reg. 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017 (SI 2017/403, “the Register”, “the BLR Land”, “the BLR Regulations”).
4. The Promoted Site was not allocated for residential use in the Local Plan because it was said by the Council to be unsuitable for residential development (as the Claimant would have it) or less suitable than other sites in or around similar settlements (as the Council maintains). The Inspectors supported and did not challenge the Council’s treatment of the site. The claim, in summary, is that the Council’s decision to include the BLR Land in the Register indicated that the Council in fact considered the Promoted Site to be suitable for residential development. That position was inconsistent with what had been said by the Council about the Promoted Site during the process of preparation of the Local Plan and should have been notified to the Inspectors, as it would or may have influenced their opinion of the Council’s treatment of the Promoted Site. The Claimant seeks an Order quashing the Local Plan as a whole or alternatively certain parts of it, including site allocation policies for residential development and the Kentford settlement boundary (another factor which counted against the Claimant’s proposed development of the Promoted Site).

Factual and legal background

5. The adoption of the Local Plan followed a lengthy, multi-stage process which was governed by the Town and Country Planning (Local Planning) Regulations 2012 (SI 2012/767, “the 2012 Regulations”). A consultation on the preparation of the Local Plan was held pursuant to reg. 18 of the 2012 Regulations during which, on 26 July 2022, the previous owner of the Site proposed it for mixed use development for employment and residential use. It was noted that the “*existing floorplate*”, that is the area of the existing buildings on the Site, was approximately 89,000sqft and “*is identified as brownfield land*”. A specific question on the form submitted sought to establish whether the land was brownfield land (“*has it been built on previously?*”); it was answered in the affirmative.
6. The various sites proposed for development during the reg. 18 consultation, and other sites known by the Council to be available for development, were assessed by the Council in a ‘Strategic Housing and Economic Land Availability Assessment (January 2024)’ (“SHELAA”). The SHELAA presented a shortlist of “included sites”. The remaining sites were either “deferred” for consideration in future years or “excluded” where they are not considered suitable for development (§1.3).
7. The SHELAA noted that the Promoted Site was “mixed” between brownfield and greenfield land. An initial suitability assessment had concluded that there were no absolute constraints on development of the Promoted Site. However, a full suitability assessment had identified a number of constraints:
 - “• Buffer zone for recreational pressure on European or nationally designated site.
 - Tree preservation orders.
 - Listed buildings.
 - Area of potential archaeological significance.
 - Surface water 1000-year flooding risk areas.
 - Groundwater flooding risk areas.
 - Anglian Water facilities and associated buffers.
 - Mineral consultation areas.
 - The site includes public open space.”
8. The assessment of the relevant Council officer was to defer (not exclude) the Promoted Site:

“The site has been deferred due to the constraints listed above. Development on the site would adversely impact the grade 2 listed building located on the site and setting of the listed building. Therefore, the site is unsuitable for residential development.”

The “reason for deferral” was further described as: “Suitability, adverse impact on a listed building and its setting”.

9. The Council then produced an “Omission Sites Report” (“OSR”), the purpose of which was to set out “the definitive list” of sites considered for inclusion, but not included, in the Local Plan and the reasons for their rejection in each instance (§1.1). The OSR noted (§2.1) that the housing provision to be planned for, and met by site allocations in the Local Plan that do not already have planning permission, in the period 2023-2040, totalled 5211 dwellings, of which only 119 were to be allocated within Type A villages (of which Kentford was one: see §2.2). The SHELAA was part of the evidence base for the OSR; it was supplemented by site visits, analysis of sites’ planning history and various other evidence.
10. The OSR gave the following reasons for the omission of the Promoted Site from the Local Plan:

“The site is located adjacent to the settlement boundary and contains numerous trees as well as the Grade II Listed stable block. Further development of the site would be within the setting of this listed building, and it is uncertain whether development could be considered suitable or mitigation achievable. The site is also currently in employment use. Any change of use to accommodate a mix of uses on site would need to adhere to the criteria of proposed local plan policy LP36 Safeguarding employment. It is currently uncertain whether the parameters of this policy could be met. Overall, other sites within the type A villages of West Suffolk are considered more suitable and achievable options than that of site WSM2035.”
11. A further consultation was held, pursuant to reg. 19 of the 2012 Regulations, on the draft Local Plan which the Council proposed to submit to the Secretary of State. The Claimant submitted representations, in March 2024, which criticised the reasoning in the SHELAA and the OSR. These representations emphasised that the Lanwades Country Park site was brownfield (§§2.3, 2.9), complaining that it was the only brownfield site which had been omitted from the Local Plan (§§4.25, 4.27). The representations sought to promote the whole of the Site for inclusion in the Local Plan, providing a masterplan for development of the entire Site which contained provision for up to 900 new homes (§4.6). The Claimant also criticised the proposed allocation of land at Pinewood Stud, Newmarket, arguing that the Site was more suitable for residential development than that land.
12. In May 2024, the Council published a consultation statement pursuant to reg. 22 of the 2012 Regulations. Addressing the criticism that the Site should have been allocated instead of Pinewood Stud, Newmarket, the Council stated:

“Lanwades Country Park was omitted for the reasons identified in the omissions report. Furthermore, Kentford is a lower tier settlement in our Settlement Hierarchy”

The latter point was a reference to Kentford being a less suitable location for a substantial housing development, given its status as a Type A settlement.
13. On 30 July 2024, the Claimant wrote to the Council to request that the entire Site or the previously developed land on the Site was included in the Register when the Register was next updated in December 2024. Pursuant to reg. 3 of the BFL Regulations, land must be included in Part 1 of the Register which is “*previously developed*”, which is within the Council’s area, and which meets the criteria in reg. 4(1), which are:

“(a) the land has an area of at least 0.25 hectares or is capable of supporting at least 5 dwellings;

(b) the land is suitable for residential development;

(c) the land is available for residential development; and

(d) residential development of the land is achievable.”

The Claimant argued that the Site satisfied these criteria. It maintained that development of around 1000 units was achievable on the Site immediately.

14. The next stage in the process of adopting the Local Plan was a Local Plan examination by the Inspectors, hearings in respect of which took place between 5 November and 11 December 2024. The Claimant’s written statements to the Inspectors, on Matter 3 (“Spatial Strategy”) and Matter 4 (“Allocations proposed for residential development”) both emphasised that the Site comprised brownfield land. The Claimant complained in its Matter 4 statement that the sites proposed to be allocated for residential development had not been selected on the basis of adequate and proportionate evidence and an appropriate methodology. The purpose of the independent examination by the Inspectors is set out in s. 20 of the 2004 Act and includes determining whether a proposed Local Plan is “*sound*” (s. 20(5)(b)). According to §36 of the National Planning Policy Framework (“NPPF”), plans are “*sound*” if they are positively prepared, justified, effective, and consistent with national policy. A plan is “*justified*” if it is “*an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence*”. Soundness is a matter of planning judgment (*Cooper Estates Strategic Lane Limited v Royal Tunbridge Wells BC* [2017] EWHC 224 (Admin), §55).
15. In relation to the allocation of sites for residential development, the Inspectors considered not only the soundness of the Council’s methodology but also the individual decisions in relation to particular sites which had been taken pursuant to that methodology. According to Ms Sarah Ballantyne-Way, who gave evidence in these proceedings for the Claimant, the Inspectors asked a specific question of the Council as to why the Promoted Site had not been allocated given its previously developed status (§11 of her witness statement).
16. As I have noted, on 19 December 2024, the Register was updated to include the 3.83ha of land comprising the existing buildings on the Site and their immediate curtilages, which were noted in the Register as having a dwelling yield of between 76-193 dwellings. The Register was published in its revised form on that date. However, the Claimant maintains that it did not become aware of the inclusion of this land in the Register until it was mentioned in correspondence by an officer of the Council on 24 June 2025. That correspondence was in an exchange concerned with a planning application by the Claimant dated 10 April 2025 for up to 302 dwellings on land corresponding to the Promoted Site.
17. The BLR Land was included in Part 1 of the Register. Land will only be included in Part 2 of the Register where it meets the criteria for inclusion in Part 1 and the relevant authority has decided to allocate the land for residential development having followed procedures prescribed by the BLR Regulations (reg. 5(2)). Where a local planning

authority proposes to include land in Part 2, it must give notice of that proposal, including a statement to the effect that “*If the land is entered in Part 2 of the Brownfield Land Register it will be granted permission in principle, which establishes the suitability, in principle, of land for housing-led development*” (reg. 6(4)(a) of the BLR Regulations).

18. The inclusion of the BLR Land in the Register occurred after the Inspectors’ hearing sessions had closed. Neither the Council nor the Claimant, when it became aware of this in June 2025, drew it to the attention of the Inspectors. Although it is not suggested that this was the reason for not drawing it to the attention of the Inspectors, there are restrictions upon the material which will be considered by Inspectors once hearing sessions have ended. §5.19 of the *Procedure Guide for Local Plan Examinations*, which is issued by the Planning Inspectorate “*in the interests of consistency, efficiency and fairness*”, states:

“After the hearing sessions, the examination remains open until the Inspector has completed his or her report. But the Inspector will only request additional written material if it is essential to inform his or her conclusions on the soundness and legal compliance of the plan. Unsolicited correspondence and other written material will not be accepted.”

19. The Inspectors’ Report on the Examination of the West Suffolk Local Plan was published on 1 July 2025. Under “*Issue 2 - Is the Plan’s spatial strategy appropriate, taking into account reasonable alternatives, and will it be effective in contributing to the achievement of sustainable development?*”, the Inspectors endorsed, subject to minor modifications, the Council’s approach to settlement hierarchy (which included the designation of Kentford as a Type A settlement) (§§58-60), settlement boundaries (with specific mention of the exclusion of the Site from the boundary of Kentford) (§61) and the distribution of homes amongst the different types of settlement (including, therefore, a small number of new homes in Type A settlements over the 17 year period covered by the Local Plan) (§§63-65).
20. Under “*Issue 3: Were the allocations in the Plan selected using an appropriate methodology based on proportionate, adequate, up-to-date evidence?*”, the Inspectors stated, so far as material:

“75. All potentially suitable allocations were subject to sustainability appraisal carried out at the issues and options stage in 2020 and preferred options stage in 2022 as they were considered to be reasonable alternatives. The Omission Sites Report 2024 lists all of the sites considered during the preparation of the Plan and summarises the reasons why each is not allocated. That makes clear that some omission sites are suitable and available but were not allocated as they are not required to meet the identified need for housing and economic development.

76. It is of course the case that different allocations could have been chosen if a different selection methodology had been used, including taking a more flexible approach to sites that did not adjoin but were reasonably well related to settlements. Similarly, different allocations could have been selected if greater weight had been given to previously developed land, including that with existing E class uses that could be converted to residential; or to land being promoted for development that could help to deliver additional capacity at a particular school. A more refined

approach could also have been taken to consideration of whether part of a proposed site was suitable even if other parts were at risk of flooding or unsuitable for other reasons.

77. However, the fact that alternative methods could have been used, and / or different judgements made, does not mean that the Council's approach was not reasonable. We are satisfied that the methodology used was appropriate and justified as it was consistently applied with judgements made on the basis of proportionate, relevant evidence in the context of a sound spatial strategy. Furthermore, for the reasons set out under the previous main issue it has resulted in a distribution of development proposed in the Plan that is consistent with the spatial strategy and national policy. We consider later in this report whether each of the allocations is justified and whether the Plan identifies a sufficient quantity and mix of sites to ensure that the identified need for development can be met in the plan period."

21. §76 acknowledged that there were reasonable approaches to the allocation of land for housing other than those adopted by the Council in its proposed Local Plan, including – of direct relevance to the Site – giving greater weight to previously developed land with an existing Class E use and considering allocation of part of a site where other parts of the same site were unsuitable for development. The Inspectors made various recommendations to the Council about the proposed Local Plan. These did not include any changes in relation to the Promoted Site. The Council adopted those recommendations and adopted the Local Plan, as modified, on 15 July 2025.

The grounds of challenge

22. The Claimant relies on the inclusion of the BLR Land in Part 1 of the Register as indicating that the Council considered that land to be suitable for development (see reg. 4(1)(b) of the BLR Regulations) and argues that this was inconsistent with the Council's position in the process of preparation of the Local Plan, that the Promoted Site was not suitable for residential development. That inconsistency is said to give rise to three grounds of public law unlawfulness:
 - i) The Inspectors, when examining the Local Plan, and the Council, when deciding whether to adopt it, failed to have regard to what was an obviously material consideration.
 - ii) There was no rational basis for distinguishing between the suitability for residential development of land assessed as part of the Local Plan process and that assessed as part of the Register review and the conclusions reached by the Council on each are inconsistent.
 - iii) Even if the Council's position was capable of being rationally explained, no explanation has ever been provided. The principle of consistency in decision-making required both the Council and the Inspectors to address this issue head on.
23. The Claimant submits that these grounds fall within the grounds of challenge to a local plan specified in s. 113(3) of the 2004 Act, namely that "*the document is not within the appropriate power*" or "*a procedural requirement has not been complied with*". In the

event of failure to comply with a procedural requirement, the High Court may grant a remedy only if satisfied that the interests of the applicant have been substantially prejudiced by that failure (s. 113(6)-(7)). I address these grounds in turn below.

Ground 1: failure to have regard to a material consideration

24. It is common ground that the inclusion of the BLR Land in the Register was not considered by the Inspectors, as it was not drawn to their attention by either the Claimant or the Council, and was not considered by the Council when it decided to adopt the Local Plan following the Inspectors' Report. However, as was also common ground, the legal threshold which must be surmounted before the Court can find that there has been an unlawful failure to consider a relevant consideration, where that consideration is not prescribed for consideration by statute, is a high one. The consideration must be "*so obviously material*" that it is irrational for the decision-maker not to take it into account (*R (Friends of the Earth Ltd) v Secretary of State for Transport* [2020] UKSC 52, [2021] PTSR 190, §119). That high threshold is reinforced in this case by the limited circumstances in which the Inspectors will agree to consider further material after hearings have closed (material which is "*essential to inform his or her conclusions on the soundness and legal compliance of the plan*").
25. The Claimant submits, nevertheless, that the inclusion of the BLR Land in the Register was required to be considered by the Inspectors, and by the Council when adopting the Local Plan, because it was premised upon a view taken by the Council that the Promoted Site was suitable for residential development (see reg. 4(1)(b) of the BLR Regulations). That view was inconsistent with the position taken by the Council in the SHELAA, which had described the Promoted Site as "*unsuitable for residential development*" and also inconsistent with the reasoning relied upon by the Council in the OSR. It was irrational for the Council not to take this revised position into account and to draw it to the attention of the Inspectors, to whose deliberations it was highly relevant. The Claimant accepted that the Inspectors had been well aware that the Promoted Site consisted in part of brownfield land but submitted that the inclusion of some of the Promoted Site in the Register was materially different, given the conflict with the position which the Council had advanced to the Inspectors.
26. I reject this ground of challenge for the following reasons. First, the Council's reasons for not allocating the Promoted Site for housing were not those stated in the SHELAA but those stated in the OSR (see §12 above and §75 of the Inspectors' Report). The central conclusion in the OSR was not that the Promoted Site was unsuitable for residential development but that "*other sites within the type A villages of West Suffolk are considered more suitable and achievable options*" (see §10 above). There is no inconsistency between a recognition that the Promoted Site is suitable for residential development and a conclusion that other sites within Type A villages are more suitable and achievable for residential development than the Promoted Site.
27. I would add that there was no challenge to the view taken in the OSR, and endorsed by the Inspectors, that other sites in Type A villages were more suitable and achievable for residential development than the Promoted Site. That view seems unsurprising given the various constraints on development of the Promoted Site which had been identified in the SHELAA and also in light of the size of the proposed development on the Promoted Site. The Council had decided that it needed to allocate land for 119 new dwellings across all of the Type A villages, of which there were 16, over a 17-year

period (see §9 above). The Claimant's proposed development was, on just one site, up to 193 dwellings (on the BLR land), around 300 dwellings (on the Promoted Site) or up to 900 dwellings on the Site as a whole.

28. Second, and in any event, not all of the Promoted Site was included in the Register, but only the part consisting of the BLR Land. This was a relatively small proportion of the Promoted Site (3.83ha versus 15.92ha). As the Inspectors indicated in §76 of their Report, the Council's approach when allocating land for housing within the Local Plan (which the Inspectors regarded as reasonable) had been only to include sites where the whole site was regarded as suitable for development and not sites where only part was regarded as suitable. On that basis, a recognition that part of the Promoted Site was suitable for development could not have altered the prospects of the Promoted Site as a whole being allocated for housing in the Local Plan (quite apart from the point that allocation entailed a relative assessment of suitability, comparing the Promoted Site as a whole with other possible sites in Type A villages).
29. Third, none of the reasoning in the relevant section of the OSR (see §10 above) is undermined or became incorrect as a result of the subsequent inclusion of the BLR Land in the Register. The first point made in the OSR was that the Promoted Site included a Grade II Listed stable block, that "[f]urther development" of the Promoted Site would be within the setting of that listed building, and it was uncertain whether further development could be considered suitable or mitigation achievable. Plainly, "further development" of the Promoted Site referred to the construction of new buildings on the Promoted Site over and above the existing development there. That point is unaffected by the inclusion of the BLR Land in the Register because the BLR Land comprised only the existing buildings on the Promoted Site, and this is a point about further buildings on the Promoted Site.
30. The second point made was that it was uncertain whether development of the Promoted Site could meet the parameters of proposed local plan policy LP36 Safeguarding Employment, as the Promoted Site was currently in employment use. The Claimant submitted that the inclusion of the BLR Land in the Register also constituted a recognition by the Council that development of the Promoted Site would be consistent with its Safeguarding Employment policy, because s. 14A(7) of the Register of the 2004 Act required the Council to have regard to "*the development plan*", which included its Local Plan policies, when taking decisions under the BLR Regulations, including whether previously developed land was suitable for residential development.
31. However, the term "*suitable for residential development*" is defined in reg. 4(2) of the BLR Regulations and for land which is not already allocated for residential development or does not already have planning permission or permission in principle, depends upon consideration of any adverse impact upon the natural environment, the local built environment and the local amenity. The definition does not expressly encompass consideration of whether development would be consistent with a policy in respect of safeguarding employment. In any event, there is no suggestion that the Council did in fact consider the impact of development of the BLR Land on its Safeguarding Employment policy. There is no formal record at all of the decision-making process which resulted in the entry of the BLR Land in the Register, but a witness statement of Ms Marie Smith of the Council explains what was considered and does not mention the Safeguarding Employment policy. In the absence of any evidence that the Council in fact decided, when including the BLR Land in the Register, that

development of the Promoted Site would be consistent with its Safeguarding Employment policy, it cannot be said that that inclusion ran contrary to the reasoning in the OSR. Further, there is again the difficulty for the Claimant of the mismatch between the land that was included in the Register and the significantly larger area of the Promoted Site. Even if the Council had decided that development of the BLR Land would be consistent with its Safeguarding Employment policy, it does not necessarily follow that it was certain that development of the entirety of the Promoted Site would also be consistent with that policy.

32. The third point made in the OSR was that, overall, other sites within the Type A villages of West Suffolk were considered more suitable and achievable options than the Promoted Site. As I have noted, the merits of that comparative judgment have not been called into question in these proceedings (see §27 above). That judgment is not undermined by the Council deciding – when adding the BLR Land to Part 1 of the Register – that a relatively small proportion of the Promoted Site was suitable for residential development. The decision in relation to the Register does not comprise any planning judgment as to whether residential development on the BLR Land should be preferred, allocated or promoted (compare the addition of land to Part 2 of the Register: see §17 above). The decision in relation to the Register says nothing about the comparative merits of the Promoted Site as a site for residential development versus other sites in Type A villages. Nor does it say anything about the Promoted Site other than the BLR land. Those points are of real significance given that (a) the Council considered that there were constraints on development of the Promoted Site, such as the risk of construction of additional buildings adversely impacting the Grade II Listed stable block, which (as a matter of logic) did not apply to the BLR Land but which did apply to the broader site, and (b) the Council’s approach, apparent from the OSR and §76 of the Inspectors’ Report was not to allocate sites for residential development where only part of the site was considered suitable for that use.
33. The Claimant submits that the “baseline” or starting point for the Council’s reasoning in respect of the Promoted Site would have been significantly different if it had taken into account what followed from the inclusion of the BLR Land in the Register, that the Promoted Site was accepted to be suitable for residential development of approximately 200 units, including a change of use of the listed building on the Promoted Site. I agree that it is possible that if the BLR Land had been included in the Register prior to the OSR then that report may have mentioned that fact. Although it may not have done, as the Claimant had emphasised the brownfield status of part of the Promoted Site and neither the Council nor the authors of the OSR can have been in any doubt about the advantages which that status attracted, so far as suitability for and achievability of residential development was concerned, whether or not the brownfield part of the Promoted Site had been formally included in the Register. However, that the wording of the reasoning in the OSR might have been different cannot be the legal test in circumstances where the Register was in fact amended long after the OSR was drafted and indeed after the Inspectors’ hearings had concluded. At that stage, the issue was whether the inclusion of the BLR Land in the Register undermined the conclusions in the OSR to the extent that it was irrational for the Council not to draw that matter to the attention of the Inspectors or take it specifically into account when deciding whether to adopt the Local Plan. In my judgment, the reasoning in the OSR and the conclusion that the Promoted Site should not be allocated for residential development in the Local Plan was not affected by the inclusion of the BLR Land in the Register, and certainly

not to the point that it was irrational for the Council not to call it to mind, or ensure that the Inspectors did so.

34. Fourth, so far as the Inspectors were concerned, the test set out in the Planning Inspectorate's Guide for the receipt of new material after the close of hearings (see §18 above) was not satisfied. In circumstances where the Claimant had relied extensively upon the brownfield status of part of the Promoted Site and the Council had not adopted the position in the OSR that any or all of the Promoted Site was unsuitable for development, I cannot accept that the fact of inclusion of the BLR Land in the Register was essential to inform the Inspectors' conclusions on the soundness and legal compliance of the plan. Had that fact been essential or anything close to it, one might have expected the Claimant itself to draw it to the attention of the Inspectors. As it was, the Claimant failed to notice the inclusion of the BLR in the Register for a number of months, and when it did notice its inclusion, it plainly did not regard this as sufficiently important to put before the Inspectors who had not, at that stage, completed their Report.
35. Fifth, even if it had been unlawful for the Inspectors and the Council not to have taken into account the inclusion of the BLR Land in the Register, I would have refused to grant any relief, pursuant to the principle in *Simplex GE Holdings Ltd v Secretary of State for the Environment* [1989] 57 P&CR 306, because it seems to me that both the Inspectors and the Council would necessarily have come to the same conclusion in respect of the Promoted Site even if that legal error had not occurred. §76 of the Inspectors' Report specifically addressed the issue of whether the Council could or should have given greater weight to previously developed land, including that with Class E use, when deciding which land should be allocated for residential development. The Claimant submitted to me that this was indeed a specific reference to the Promoted Site. The Inspectors' view was that the Council was entitled not to give greater weight to these matters (§77) and it is inconceivable that that view would have been any different if the Inspectors had been aware not only that part of the Promoted Site was previously developed land but also that that part had been recognised as suitable for residential development through being included in the Register.
36. Similarly, knowing that the BLR Land had been included in the Register would not have affected the Inspectors' conclusion in §77 of their Report, which also applied to the Promoted Site, that the Council had been entitled not to allocate parts of sites for residential development where the rest of the site was not considered to be appropriate for such development. As for the Council, it is not credible to suppose that it would have decided not to adopt the Local Plan, as modified in accordance with the Inspectors' recommendations, if it had called to mind the fact of inclusion of the BLR Land in the Register. It was well aware that some of the Promoted Site was brownfield land and it had substantial reasons – as set out in the OSR – for not allocating the whole of the Promoted Site for residential development. As I have explained, those reasons were not affected by the inclusion of the BLR Land in the Register.
37. Sixth, and for completeness, the Claimant had pleaded that the inclusion of the BLR Land in the Register was inconsistent with the Council's position on the Kentford settlement boundary, which did not include the Promoted Site and was endorsed by the Inspectors in §61 of their Report. However, it was common ground at the oral hearing that unless the Promoted Site was allocated for residential development, which was the Claimant's principal contention, there could be no viable challenge to its exclusion from

the settlement boundary, given the reasoning which the Council adopted when drawing that boundary. In other words, if the Promoted Site had been allocated for residential development, then that would suggest that that site should be included within the Kentford settlement boundary. But in circumstances where it was not so allocated, and I have concluded that no legal error arose in relation to that decision, there is no basis for arguing that there was a legal error in relation to the Kentford settlement boundary. The Claimant's position on the settlement boundary would have been stronger if the BLR Land had been placed in Part 2 of the Register, as allocated for residential development, but in fact it was only placed in Part 1 of the Register.

Ground 2: irrationality in distinguishing between suitability for residential development as assessed in the Local Plan process and as assessed as part of the Register review

38. Under Ground 2, the Claimant argued that the Council's position that the Promoted Site is not suitable for development as part of the Local Plan process is logically irreconcilable with its conclusion that the BLR Land is suitable for residential development as part of the Register review. There is no clear blue water between this ground and Ground 1, given my analysis under Ground 1 that the inclusion of the BLR Land in the Register was not a mandatory relevant consideration (*inter alia*) because it was not inconsistent with the position taken about the Promoted Site in the OSR. As will be apparent from my reasoning in §26 above, I do not agree that the Council took the view that the Promoted Site was unsuitable for residential development. The ultimate conclusion expressed in the OSR that there were other more suitable sites in Type A villages was not inconsistent with a view that the BLR Land, that is, the existing buildings on the Promoted Site, was suitable for residential development.

Ground 3: Failure to explain the Council's inconsistent positions

39. Ground 3 argues that (a) the Council adopted inconsistent positions, and (b) even if these positions were capable of being rationally explained, no such explanation has ever been provided, contrary to the duty to give reasons. This ground fails at the first hurdle – for the reasons I already have given, the Council did not adopt inconsistent positions when proposing sites for residential development in the Local Plan-making process, on the one hand, and when adding the BLR Land to the Register on the other.

Conclusion

40. I grant permission for judicial review. Ground 1 surpasses the threshold of arguability for the purposes of the grant of permission and the other grounds are sufficiently linked to it as to justify the grant of permission for the claim in its entirety. However, I dismiss the Claim.

EAST CAMBRIDGESHIRE DISTRICT COUNCIL WEEKLY LIST OF PLANNING APPLICATIONS



(Alphabetically by Parish)

List produced on 17th July 2026

Reference: 26/00053/FUL

Officer: Samar Nakhleh

Location: 41 Mill Lane Fordham Ely Cambridgeshire CB7 5NH

Date application valid: 15th July 2026

Parish: Fordham

Proposal: Replacement door

Applicant:

Mr And Mrs Caruana
41 Mill Lane
Fordham
Ely
Cambridgeshire
CB7 5NH

Agent:

First Home Improvement
FAO Izzy Higgins
Station Road
Lenwade
Norfolk
NR9 5LY

Grid Reference: 563113 270570

Reference: 26/00762/AGN

Officer: Jasmine Moffat

Location: Lark Hall Farm 10-12 Lark Hall Road Fordham Ely Cambridgeshire

Date application valid: 15th July 2026

Parish: Fordham

Proposal: Side extension to the west side of existing portal framed barn

Applicant:

Joseph Crust
10 Lark Hall Road
Fordham
Ely
Cambridgeshire
CB7 5LS

Agent:

Grid Reference: 561273 271031

EAST CAMBRIDGESHIRE DISTRICT COUNCIL

WEEKLY LIST OF PLANNING APPLICATIONS



(Alphabetically by Parish)

List produced on 24th July 2026

Reference: 26/00771/FUL

Officer: Sophie Browne

Location: Rosewood Stud Freckenham Road Chippenham Cambridgeshire CB7 5QH

Date application valid: 17th July 2026

Parish: Chippenham

Proposal: Change of use of stud farm buildings to vehicle manufacturing workshop and storage uses

Applicant:

The Arash Farboud Discretionary Trust
C/o Pegasus Planning Group Ltd
2nd Floor, Victory House
Vision Park, Histon
Cambridge
CB24 9ZR

Agent:

Pegasus Planning Group Ltd
FAO Mr Andrew Hodgson
2nd Floor, Victory House
Vision Park, Histon
Cambridge
CB24 9ZR

Grid Reference: 566592 271300