

9. To consider Counsel’s advice to Jockey Club Estates and Forest Heath District Council on the definition of affordable housing in relation to people employed by the HRI and site SA6(c), and provide a Note on this.

9.1. The Council has considered the Written Opinion provided by David Elvin QC of Landmark Chambers for Jockey Club Estates in December 2016 (CD:D63).

9.2. The Council accepts that the Court’s findings in the Ealing case referred to within that Opinion are not relevant. The Court on that occasion was concerned with a housing allocations policy under The Housing Act 1996 and not an allocation within a Local Plan or the determination of a Planning Application.

9.3. The Opinion then draws attention to various requirements imposed upon the Ealing LBC as Planning Authority under either the NPPF or the NPPG. These in essence require the Council to assess their need for affordable housing. The Council firmly believes that it has met this requirement and that there is no need to sub-divide or categorise the sources of need.

9.4. This Counsel’s Opinion was provided some time ago in the context of a draft lettings policy between JCE and FHDC for a scheme comprising racing related market housing and racing related affordable housing. It was not based on the current JCE proposed letting policy.

9.5 The Local Authority requested the opinion of Justin Bates of Arden Chambers in September 2017 as to whether a restrictive Horse Racing Industry lettings policy was lawful. This raised a number of issues including compliance with the Equality Act and concluded that some of the clauses in the lettings policy as proposed at that time would not be lawful.

9.6 Neither opinion directly addresses the definition of affordable housing in relation to people employed by the horse racing industry, but rather focus on equality issues of lettings policies with a horse racing related occupancy restriction.

9.7 The Council considers it has assessed affordable housing need, and within other parts of the Development Plan, has appropriate policies such as Core Strategy (CD: B57) policy CS9 – Affordable Housing Provision and the 'Joint Affordable Housing Supplementary Planning Document to address those needs. https://www.westsuffolk.gov.uk/planning/Planning_Policies/upload/JointAffordableHousingSupplementaryPlanningDocuments.pdf . Site SA6(c) is within the existing Newmarket settlement boundary and there is therefore no in principle objection to residential development. The site is capable of providing both open market and affordable housing.

9.8 Whilst it is noted that the owners wish to bring forward housing for those employed within the HRI and to that extent therefore, ring fence the development for a specific sector of those in need, this is considered a matter best dealt with at the planning application stage and not via the local plan site allocation process. It should be noted in particular that the failure to specifically state that the site is for those employed or retired from the horseracing industry only, does not make the Plan unsound.