

Planning Committee

Wednesday 12 May 2010 7.30pm

Council Chamber
Runnymede Civic Centre, Addlestone

Members of the Committee

Councillors G B Woodger (Chairman), D W Parr (Vice Chairman), J R Ashmore, Mrs F J Barden, J Broadhead, D A Cotty, R J Edis, J.M. Edwards, J R Furey, Mrs E Gill, C Knight, M T Kusneraitis, Mrs Y P Lay, H W V Meares and J J Wilson

AGENDA

Notes:

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Mr B A Fleckney, Administration and Leisure Department, Committee Section, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425620). (Email: bernard.fleckney@runnymede.gov.uk).**
- 3) Agendas and Minutes are available on a subscription basis. For details, please ring Mr B A Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on www.runnymede.gov.uk.
- 4) Public speaking on planning applications only is allowed at the Planning Committee. For details please contact the Administrative Section of the Technical Services Department. **(Tel Direct Line: 01932 425153)** or view the guidance on the Committee web page.
- 5) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

'see overleaf'

If you need help reading this document please contact Denise Morley on 01932 425610 who will try to provide a reading service, a large print version, or another format.

বাঙলা

আপনি যদি ইংরেজি পড়তে বা বলতে না পারেন, ও এই লেখাটি পড়তে যদি আপনার কোনও সাহায্য লাগে তাহলে অনুগ্রহ করে 01483 750548 নাম্বারে উইটস্ লিঙ্কলাইন (WITS Linkline)-এর সাথে যোগাযোগ করুন ও আপনার নিজের ভাষায় একটা মেসেজ রাখুন।

简体中文

如果您无法阅读或说英语，需要协助以明白此文件，请与和景翻译服务处之语言专线连络 01483 750548，并用您的母语留下讯息。

Italiano

Qualora non siate in grado di leggere o di parlare l'inglese, e necessitate assistenza che vi permetta di capire il presente documento, siete pregati di contattare la WITS Linkline allo 01483 750548 e lasciare un messaggio nella vostra lingua.

اردو

اگر آپ انگریزی زبان پڑھ اور بول نہیں سکتے ہیں اور آپ کو اس دستاویز کو سمجھنے میں دقت پیش آتی ہے؛ تو برائے مہربانی سے وٹس لنک لائن کو اس نمبر 01483 750548 پر رابطہ کریں اور اپنی زبان میں اپنا پیغام چھوڑیں۔

Polski

Jeżeli nie potrafisz czytać lub mówić po angielsku i potrzebujesz pomocy w zrozumieniu tego dokumentu, proszę skontaktować się z Linją Telefoniczną WITS pod numerem 01483 750548, zostawiając wiadomość w języku ojczystym.

Español

Si no puede leer o hablar inglés, y necesita ayuda para entender este documento, por favor contacte a WITS Linkline al 01483 750548 y deje un recado en su idioma.

LIST OF MATTERS FOR CONSIDERATION

PART I

Matters in respect of which reports have been made available for public inspection

	<u>Page</u>
1. FIRE PRECAUTIONS	6
2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP	6
3. MINUTES	6
4. APOLOGIES FOR ABSENCE	6
5. DECLARATIONS OF INTEREST	6
6. ENFORCEMENT OF PLANNING CONTROL - PROGRESS REPORT	6
7. PLANNING APPLICATIONS	7
8. DERA GREEN BELT BOUNDARIES CONSULTATION – RESPONSES	7
9. NEW BURDENS (HABITATS REGULATIONS ASSESSMENTS AND CLIMATE CHANGE PLANNING POLICY STATEMENT) GRANT DETERMINATION 2010/11	9
10. COMMUNITY INFRASTRUCTURE LEVY REGULATIONS	11
11. EMPLOYMENT LAND REVIEW UPDATE REPORT	13
12. LYNE VIEW FARM, FAN COURT ESTATE, LYNE – ENFORCEMENT	17
13. APPEAL DECISIONS	24
14. PLANNING APPLICATIONS DETERMINED BY DIRECTOR OF TECHNICAL SERVICES	25
15. EXCLUSION OF PRESS AND PUBLIC	25

PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection

- a) Exempt Information
(No reports to be considered under this heading)
- b) Confidential Information
(No reports to be considered under this heading)

GLOSSARY OF TERMS AND ABBREVIATIONS

TERM	EXPLANATION
BCN	Breach of Condition Notice. Formal enforcement action to secure compliance with a valid condition
Brownfield land	'Previously Developed Land'. Land which is or was occupied by a permanent (non-agricultural) structure, including the curtilage of the development (therefore includes gardens)
BVPI's	Best Value Performance Indicators. Specified by central government to measure performance on a wide range of Council services
CHA	County Highways Authority. Responsible for offering advice on highways issues relating to planning applications as well as highways maintenance and improvement
CIR	Government Circular – document setting out policy which has legal connotations
CLEUD	Certificate of Lawful Existing Use or Development. Formal procedure to ascertain whether a development which does not have planning permission is immune from enforcement action
CLOPUD	Certificate of Lawful Proposed Use or Development. Formal procedure to ascertain whether a development requires planning permission
Conservation Area	An area of special architectural or historic interest designated due to factors such as the layout of buildings, boundaries, characteristic materials, vistas and open spaces
CPA	Comprehensive Performance Assessment. An external process to assess the quality of individual Council's Performance (set out in the Local Government White Paper 2001). It brings together evidence from a range of internal and external sources, in addition to an on site inspection, in order to arrive at an overall category
DC	Development Control – the area of planning service that processes planning applications, planning appeals and enforcement work
Design Statement	A design statement is submitted with a planning application and sets out the design principles that the applicant has adopted to make the proposal fit into its wider context
Development Plan	The combined policy documents of the Structure Plan, Local Plan, Minerals and Waste Plans. Will shortly be replaced by the South East Plan, the Local Development Framework and the Minerals and Waste Frameworks
DTS	Director of Technical Services
EA	Environment Agency. Lead government agency advising on flooding and pollution control
EIA	Environmental Impact Assessment – formal environmental assessment of specific categories of development proposals
ES	Environmental Assessment under the Environmental Impact Assessment Regulations
FRA	Flood Risk Assessment
GPDO	General Permitted Development Order. Document which sets out categories of permitted development (see 'PD')
GOSE	The Government Office for the South East. This is the local office of the Deputy Prime Minister for the South East region of England
HGV	Heavy Goods Vehicle
LBC	Listed Building Consent
LDD	Local Development Documents – component parts of the LDF
LDF	Local Development Framework. The policy document that will guide development in the Borough up to 2026
LDS	Local Development Scheme - sets out the programme and timetable for preparing LDDs

TERM	EXPLANATION
Listed building	An individual building or group of buildings which require a level of protection due to its architectural interest, historical interest, historical associations or group value
LNR	Local Nature Reserve
Local Plan	The current planning policy document that will be replaced by the LDF
LPA	Local Planning Authority
LSP	Local Strategic Partnership – Leads on the Community Strategy
Material Considerations	Matters which are relevant in determining planning applications
Net Density	As defined in PPG3: Housing. The density of a housing development excluding major distributor roads, primary schools, open spaces serving a wider area and significant landscape buffer strips
PCN	Planning Contravention Notice. Formal notice which requires information to be provided in connection with an enforcement investigation. It does not in itself constitute enforcement action
PD	Permitted development – works which can be undertaken without the need to submit a planning application
PDG	Planning Delivery Grant. An annual grant from central government which reflects the previous year's performance in delivering planning services
P & I	Policy and Implementation – the area of planning service that produces the Local Development Framework, monitors development and supports the Runnymede Business Partnership and Travel Initiative
PINS	Planning Inspectorate
POS	Public Open Space
PPG	Planning Policy Guidance. This is guidance issued by the Secretary of State detailing National Planning Policy within existing legislation
PPS	Planning Policy Statements. The replacement title for PPG
Ramsar Site	A wetland of international importance
RIPA	Regulation of Investigatory Powers Act. Provides limitation on covert surveillance relating to enforcement investigation
SAC	Special Area of Conservation – an SSSI additionally designated as a Special Area of Conservation under the European Community's Habitats Directive 1992 in order to maintain or restore priority natural habitats and wild species
SANGS	Suitable Alternative Natural Greenspaces
SCI	Statement of Community Involvement. The document and policies that indicate how the community will be engaged in the preparation of the LDF
SEA/SA	Strategic Environmental Assessment/Sustainability Appraisal – formal appraisal of the Local development Framework
SEEDA	South East England Development Agency
SEERA	South East England Regional Assembly – based in Guildford. Responsible for producing South East Plan
Sec. 106	A legal agreement for the provision of facilities and/or infrastructure either directly by a developer or through a financial contribution, to meet the needs arising out of a development. Can also prevent certain matters
SNCI	Site of Nature Conservation Importance. A non-statutory designated area of county or regional wildlife value
South East Plan	Regional Planning Document produced in draft form by SEERA. Will provide regional planning guidance and housing targets for individual Councils for the period up to 2026
SPA	Special Protection Area. An SSSI additionally designated a Special Protection Area under the European Community's Directive on the Conservation of Wild Birds 1979
SPD	Supplementary Planning Document – provides additional advice on policies in Local Development Framework (replaces SPG)
SSSI	Site of Special Scientific Interest
Structure Plan	Strategic guidance for the whole county produced by Surrey County Council. Will eventually be replaced by the South East Plan

TERM	EXPLANATION
SUDS	Sustainable Urban Drainage Systems. Providing urban drainage systems in a more environmentally sensitive way by systems designed to reduce the quantity of run-off, slow its velocity or provide for filtering, sedimentation and biological degradation of the water
Sustainable Development	Sustainable development is the core principle underpinning planning. It is defined as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”
TA	Transport Assessment – assessment of the traffic and transportation implications of a development proposal
TPO	Tree Preservation Order – where a tree or trees are formally protected and prior consent is needed for pruning or felling
TRICS	Computerised database and trip rate analysis used to estimate traffic flows to and from a variety of land uses, to assess transportation implications of new development in southern England
Use Classes Order	Document which lists classes of use and permits certain changes between uses without the need for planning permission

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire or other emergency.

2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

3. MINUTES

To confirm and sign the Minutes of the meeting of the Committee held on 21 April 2010 as a correct record (Appendix 'A').

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

If Members have an interest in an agenda item please record the interest on the orange coloured form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

6. ENFORCEMENT OF PLANNING CONTROL – PROGRESS REPORT (DAL)

(i) As Members are aware, a progress report on enforcement of planning control (Enforcement Notices, Temporary Stop Notices, Stop Notices, Breach of Condition Notices) has been made to the Overview and Scrutiny Select Committee (formerly Review Board) for some years.

(ii) At the Planning Committee held on 31 March 2010, it was agreed that the Planning Committee should also receive this progress report after consideration by the Overview and Scrutiny Select Committee.

(iii) The latest report is attached for information at Appendix 'B'.

(iv) If Members have queries on any specific cases, they are advised to contact Neil Whittaker (Ext 5260), Enforcement Officer, in advance.

(FOR INFORMATION)

Background Papers

Exempt

7. PLANNING APPLICATIONS (DTS)

A list of planning applications to be determined by the Committee is attached.

If Members have particular queries or interests in certain applications, the application files will be available for inspection and Officers present from 7.00pm prior to the meeting in the ante room of the Council Chamber. This will be an informal opportunity for Members to see further details of applications and representations and to discuss and clarify issues. Copies of all letters of representation will also be placed on the table in the Chamber prior to the meeting and will be available for inspection by Members.

OFFICERS' RECOMMENDATION that –

the said applications be determined as indicated and any permission granted be subject to the conditions authorised.

(TO RESOLVE)

Background Papers

A list of background papers is available from the Technical Services Department.

8. DERA GREEN BELT BOUNDARIES CONSULTATION - RESPONSES (DTS)

1. Purpose of Report

1.1 **To inform the Planning Committee of the responses to the Consultation on the DERA Green Belt Boundary Consultation.**

2. Background Information

2.1 The South East Plan identifies the DERA site for mixed-use development and suggests that the site should be removed from the Green Belt to enable this to happen. The boundaries and details of the form, type and scale of development are to be considered at the local level through the Council's Local Development Framework (LDF). The Core Strategy will need to identify the extent of the site that will be removed from the Green Belt and will need to set out the key land use elements that need to be delivered on the site. A subsequent Supplementary Planning Document (SPD) will set out a masterplan for the site identifying the distribution of uses and areas of access and open space. This will provide the detail that will then be translated into a planning application.

2.2 As the site is being allocated for development in the Core Strategy it is important for the boundaries of the site to be shown on the Local Plan Proposals Map. The Proposals Map will need to be made available for consultation along with the "publication" Core Strategy in Summer 2010. From a procedural point it is important to establish any public views on the suggested boundary ahead of this stage of consultation.

2.3 In preparation of the Core Strategy, Officers in the Policy and Implementation Team met an LDF Inspector to consider the various issues that need to be addressed prior to the publication in 2010. In his note to the Council the inspector stated:

" ... a strategic allocation requires the Proposals Map (PM) to be changed when the Core Strategy is adopted and this change has to be signalled by a submission Proposals Map (most often by small extracts of the map being included with the DPD at publication/submission). At Longcross there appear to be 2 important changes to the PM. Firstly, the removal of the Green Belt designation and secondly the specific allocation of land for the development proposed. Whilst the 2 boundaries are closely related, they might not be the same, bearing in mind that Green Belt boundaries should endure for the long term.

When Green Belt boundary reviews are undertaken, the South East Plan envisages the boundary reflecting potential development needs to 2031. The new Green Belt boundary does not necessarily equate to the ownership of the intended developer of the allocation. Only a DPD can trigger these changes to the PM. I would suggest that further focussed stakeholder consultation will be required on the proposed boundaries".

3. Consultation

3.1 The Consultation took place between 8 February and 5 March 2010 (extended to 8 March). The Consultation was targeted to involve those who have a key interest in the site. This included the two main site owners, all those who have properties within the suggested boundary, all those properties on Longcross Road and Kitsmead Lane, those who made comment on the DERA site during past LDF consultations, Surrey Heath Borough Council and Chobham Parish Council. The Consultation information was made available on the Council's website with the opportunity to make electronic responses.

3.2 The Council received 139 responses to the consultation. The following table gives a breakdown of where the responses came from:

Area	Percentage of respondents
Lyne and Longcross	10%
Chobham	24%
Ottershaw	31%
Virginia Water / Sunningdale	19%
Others	16%

3.3 Of the 139 responses, 114 disagreed with the principle of development of the site in general, however, about a quarter of those respondents had specific comments to make on the extent of the suggested boundary. 15 responses supported the boundary and a further 10 made other comments.

3.4 It is interesting to note that a quarter of the comments received came from those in the Surrey Heath Area, and that the Ottershaw Society had publicised the issue to its membership both by way of a meeting and through emailing its membership. The Council provided the Society with 100 additional hard copies of the consultation information to help with these efforts.

3.5 All of the responses received are summarised in Appendix 'C'. It is clear that the comments received in general are against the principle of development and the removal of any part of the site from the Green Belt.

4 Responses

4.1 In general, the majority of respondents objected to the principle of development at the DERA site and, as such, did not make specific comment about the boundaries which they would like to see amended. As stated in para 2.1 of this report the principle of the DERA site allocation is already confirmed in the South East Plan.

4.2 A number of the responses suggested leaving certain parts of the site within the Green Belt particularly around the edge of the development, the southern site in its entirety and also to leave the 400m buffer zone around the SPA within the Green Belt. These suggestions all provide details of what respondents felt were important to preserve on the site.

4.3 The Core Strategy needs to identify the area of land to be removed from the Green Belt and as such needs to follow clear and logical boundaries which will enable development to happen in appropriate locations within the site. As the detailed layout of the site will be set out in an SPD for the site it is difficult to pre-empt which parts of the site will remain open and undeveloped as green open space as Suitable Alternative Green Spaces (SANGs). As such it is likely that the boundary proposed will remain similar in the "Publication" version of the Core Strategy. The Publication version of the Core Strategy will be a final version of the plan which will be consulted upon later this year.

- 4.4 Many of the comments received through this consultation are useful for informing the policy for DERA as a whole, in particular the need to retain the established tree bands along Longcross Road and Kitsmead Lane.
- 4.5 The Overview and Scrutiny Select Committee considered the DERA boundary consultation at its April meeting and a note of this is contained within Appendix 'D' attached to this report.

5 Council Policy

- 5.1 The consultation on the Green Belt boundary review for the DERA site was required to inform the Proposals Map element of the Core Strategy. Once adopted both the Core Strategy and the amended Proposals Map will form part of the Council's Development Plan and will be used in the determination of planning applications within the Borough.

6 Resource Implications

- 6.1 The work on the Core Strategy and Proposals Map is met from within existing budgets.

7 Legal Implications

- 7.1 Developing the LDF is focused on the continued involvement of key stakeholders, statutory bodies and the local community. The DERA boundary consultation plays a part in the continued development of the Core Strategy. This is set down in the provisions of PPS12.

8 Conclusions

- 8.1 The consultation on the Green Belt boundary review for the DERA site was required to inform the Proposals Map element of the Core Strategy. The boundary suggested for consultation was drawn up to follow logical boundaries. The Consultation took place during February and lasted for a period of just over 4 weeks. The responses from this single issue consultation have been assessed and are being used to inform the "Publication" version of the Core Strategy and proposals map which will be consulted upon later in 2010.

OFFICERS' RECOMMENDATION that –

the Boundary as suggested in the February/March Consultation remain the same in the "Publication" version Core Strategy that will be available for public consultation later in 2010.

(TO RESOLVE)

Background Papers

Consultation responses held in Technical Services Department.

9. NEW BURDENS (HABITATS REGULATIONS ASSESSMENTS AND CLIMATE CHANGE PLANNING POLICY STATEMENT) GRANT DETERMINATION 2010/11 (DTS)

1. Purpose of Report

- 1.1 **The Council has been notified that it will receive grant allocation from Central Government in response to the additional burdens it has had to deal with, with regard to the Habitats Directive (essentially the issues which have impacted the Borough with regard to the Thames Basin Heaths Special Protection Area). This is the second annual payment with an additional grant payment anticipated in the next financial year. The purpose of this report is to set out what this and the following year's grant allocation will be used for.**

2. Background Information

- 2.1 Over the past couple of years the delivery of housing in many parts of the Country has been affected by National and European designation of sites specifically for nature conservation. For Runnymede this has been in the form of the Thames Basin Heaths Special Protection

Area. This designation and the impact it has had on housing delivery has created a large amount of additional work for the Council and, in particular, the Planning Division. This has involved creating a strategy for dealing with housing delivery and the identification of Suitable Alternative Natural Green Space (SANGS), administering Planning Obligations, undertaking and organising user surveys, liaising with Natural England and attendance at local and regional working groups on this issue.

- 2.2 In recognition of this and the impact that the Habitats Regulations has had with regard to additional duties the Council has been required to deal with the Department for Communities and Local Government (CLG) has provided a grant allocation to all affected authorities. As such the Council is in receipt of a grant for £16,835, towards these issues which is similar to other Authorities. It is anticipated that a similar level of grant will also be received in the next financial year.

3. Report

- 3.1 This report outlines how this grant will be used over the coming year in order to deal with the Habitats Regulation and the SPA in general.

- 3.2 In 2008, the Council approved the Interim Supplementary Guidance for the Thames Basin Heaths Special Protection Area (SPA). This identified a mechanism by which the Council could approve residential development within 5km of the SPA, through the use of SANGS and a Legal Agreement. This strategy continues to evolve and is important to enable housing development to proceed. Over the coming year a full review of the study will be required to ensure that the Council has the correct level of SANGS to meet its housing allocation which is set out in the South East Plan. As such the review will need to:

- seek to increase capacity within our SANGS and potentially designate new ones so that we are able to deliver our housing numbers set out in the South East Plan;
- amend the strategy to identify the need for Access Management and Monitoring contributions from development;
- seek approval of the strategy from Natural England;
- undertake legal work and opinion on the Access Management and Monitoring aspects of the SPA; and
- undertake user surveys of the existing SANGS and any additional SANGS which may be allocated over the next two years.

- 3.3 The majority of this funding will be needed to undertake the legal work and any visitor survey work to satisfy the guidance established by Natural England. This will be co-ordinated by Runnymede staff but undertaken by casual staff employed for the survey work. This proved in the past to be more cost effective than outsourcing the whole project to consultants.

4. Financial Implications

- 4.1 The grant is an additional resource that will cover work which the Council would have needed to undertake, but will enable financial resources to be focused upon the LDF rather than being diverted away from this project.

5. Conclusion

- 5.1 The additional grant for 2010/11 and subsequently 2011/12 will cover some of the burden of work that the Council has incurred due to the effect of the TBH SPA on its administrative area. It will help enable work already required on SANGS capacity and updating the Council's Interim SPA strategy to be undertaken whilst not diverting resources away from the production of the LDF.

OFFICERS' RECOMMENDATION that –

- i) Committee approve the use of the new burdens grant towards the review, update and publication of the Thames Basin Heaths Special Protection Area Interim Supplementary Planning Guidance; and**
- ii) the funding next financial year be allocated to this project.**

(TO RESOLVE)

Background Papers

None

10. COMMUNITY INFRASTRUCTURE LEVY REGULATIONS (DTS)

1. Purpose of Report

1.1 **The purpose of this report is to consider the implications of the Community Infrastructure Levy Regulations.**

2. Background Information

2.1 The Planning Act 2008 introduced the concept of the Community Infrastructure Levy (CIL) as a new means for Authorities to seek developer contributions to help fund infrastructure. This report summarises the key issues from the CIL Regulations.

2.2 The Government considers that the existing method of securing contributions for the provision and improvement of infrastructure through Section 106 Planning Obligations is not equitable, and lacks both transparency and predictability. In April 2010, it introduced the Community Infrastructure Levy (CIL) Regulations which will for the most part eventually replace Section 106 Agreements. Although these will still exist, the CIL Regulations restrict Planning Obligations to securing affordable housing and to site specific requirements for direct impact mitigation. However, there will be a transitional period of 4 years from the commencement of the CIL Regulations before Planning Obligations will be fully restricted in this way.

2.3 Councils will not be obliged to introduce the Community Infrastructure Levy, but if they do, it will be a new charge on most types of development. It seeks to provide a more transparent system to allow the cumulative effects of small developments to be better addressed. It is intended to provide Local Planning Authorities with a more predictable flow of funding than exists with Section 106 Obligations. The CIL is to be levied on virtually all new buildings, and will be charged in £s per square metre for all those liable to pay. Infrastructure improvements will need to geographically relate to the development site making the contribution, but could be applied throughout the Borough in accordance with an adopted Infrastructure Plan which identifies infrastructure requirements and the funding gap to be funded by CIL.

2.4 Effectively, these Regulations mean that if Local Authorities want significant funding for infrastructure they will have to adopt CIL. However, a Planning Obligation (under a S.106) may still be employed as a reason for granting planning permission for development where the Planning Obligation is:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

2.5 To assist the understanding of the relationship between the CIL Regulations and the use of planning obligations the Government has recently issued a Consultation Paper. This will eventually form the basis of policy guidance and probably replace Circular 05/05 that has hitherto provided guidance on Planning Obligations. However, it could be some time before this is formally adopted and an interim solution is required to guide Committee when considering development proposals.

3. The Regulations in Outline

3.1 The Regulations came into effect on 6 April 2010. The main changes are as follows:

- CIL will now be levied on net increase of floorspace rather than gross increase. This responds to the previous concern that redevelopment or refurbishment of existing buildings would be discouraged if a developer was required to pay CIL on the re-provision of existing floorspace as well as any extended area (Regulation 40).
- Allowing payment of CIL to be made in-kind in the form of land provided that land is transferred with the intention of providing infrastructure (Regulation 73).
- The period for paying the money to the Council is extended from 28 days to 60 days, with instalments for large sums increased to 240 days (Regulation 70).
- A minimum of 100 sqm threshold for CIL payments.
- Charities will receive a mandatory exemption from paying CIL (Regulations 43-48).
- Social housing will be exempt from paying CIL (Regulations 49-54).
- In exceptional circumstances, Local Authorities will be able to provide relief from CIL to developers (Regulations 56-58).
- Enable the Secretary of State to direct that Authorities may prudently borrow against future CIL income to allow infrastructure provision to be unlocked earlier in development (Regulation 60).
- Authorities will be able to use up a maximum of 5% of income from CIL receipts to cover set up and monitoring costs (Regulation 61).
- Reporting of CIL will now be in the LDF Annual Monitoring Reports with a deadline of 31 December (Regulation 62).
- The Government believes the liability notice is sufficient warning about late payment surcharges and will not require Local Authorities to issue further warnings.

4. Next Steps

4.1 The Government will now move on to the next phase of delivery, including:

- a new policy on planning obligations (see comment in paragraph 2.5 above);
- new guidance and support for Local Authorities considering introducing the CIL; and
- preparations for charging and collection systems.

4.2 Before a Local Authority can establish a CIL, there has to be an adopted Local Development Framework (LDF) Core Strategy, an Infrastructure Delivery Plan, indicating what infrastructure is required by the Borough during the plan period, and a CIL charging schedule which will have to be made subject to an Examination in Public.

5. Policy Technical and Legal Considerations for Runnymede

5.1 As the Committee will recall the Council hopes to be in a position to adopt the LDF Core Strategy in late-2011.

5.2 As part of the LDF process consideration is being given to the introduction of a Supplementary Planning Document (SPD) on infrastructure requirements. This will require detailed work to identify the social and physical infrastructure requirements over the plan period. The Committee will be aware that adopted Supplementary Planning Guidance (SPG) on Planning Obligations was introduced in 2008 pending production of an SPD. Some

modifications were made to the SPG in July to reflect the economic uncertainties. At the Committee on 15 July 2009 it was resolved that:

- i) *the negotiations on new development schemes, that are subject to the Supplementary Planning Guidance - Planning Obligation requirements, be dealt with on a case by case basis during the current economic downturn in an attempt to stimulate new development;*
- ii) *the SPG - PO be formally reviewed as part of further work on the Local Development Framework; and*
- iii) *the recommended framework and the Supplementary Planning Guidance - SANGS schedule of works set out in Table 1 be approved.*

5.3 There are several matters that need immediate confirmation. Until such a time as the Council reaches a formal view on CIL and the final form of the LDF - SPD it is necessary to confirm the relationship between the CIL Regulations and the SPG - PO. The current practices in the SPG - PO for the pooling of contributions (aka the tariff) is guided by Regulation 123(3) of the CIL Regulations. This also includes the mechanism for collecting Thames Basin Heath - Special Protection Areas SANGS money (Suitable Alternative Natural Green Spaces). The SPG - PO guidance will continue until the time that an LDF - SPD, a CIL charging schedule is introduced or 6 April 2014 (CIL Regulation 123(4)) whichever is the earliest. However, prior to that date the matter will need to be reviewed if an LDF - SPD is not adopted or the CIL mechanism has not been introduced.'

5.4 Your Officers are currently examining the most appropriate way to deal with the CIL Regulations, the work on the LDF - SPD and current practices. Until there is a clear way forward it is proposed that the position adopted on 15 July 2009 (as set out in 5.4 on the SPG - PO) be maintained until the full implications of the Regulations and subsequent emerging advice have been assessed.

6. Council Policy

6.1 The social and physical infrastructure requirements associated with emerging development over the period to 2026 will form part of the LDF process.

7. Equality Issues

7.1 Equality issues are considered as part of the wider assessment associated with the LDF.

8. Conclusion

8.1 The new CIL Regulations were introduced in April 2010. Consideration is being given, by your Officers, as to how the guidance should be examined in the immediate future and as part of the LDF process. As an interim measure it is proposed that the current policy approach as set out in the Supplementary Advice Guidance - Planning Obligations, as modified by the Council in July 2009, be maintained until the full implications of the CIL Regulations have been examined.

OFFICERS' RECOMMENDATION that –

as an interim measure, the current policy approach, as set out in Supplementary Advice Guidance – Planning Obligations, as modified by the Council in July 2009, be maintained until the full implications of the CIL Regulations have been examined.

(TO RESOLVE)

Background Papers

None.

11. EMPLOYMENT LAND REVIEW UPDATE REPORT (DTS)

1. **Purpose of Report**

1.1 **The purpose of this report is to advise the Committee of the receipt of the Employment Land Review and to outline the key findings and how this will be translated into the Local Development Framework.**

2. **Background Information**

2.1 The Employment Land Review (ELR) was commissioned by the Council to provide a robust evidence base to inform the preparation of the Local Development Framework (LDF) and to provide guidance for the consideration of planning applications for employment development. Officers worked with consultants on the production of the ELR, which was completed in February 2010. It will be used to further inform the employment elements of the Core Strategy and subsequently the Housing and Commercial Sites and Development Management, Development Plan Documents (DPD's).

2.2 The Employment Land Review considers what employment floorspace we have in the Borough in terms of quantity and quality and what we need for the Plan period, i.e. up to 2026.

Existing Stock

2.3 The ELR identifies the Borough's existing stock as follows:

286,000sqm of office floorspace (B1(a) Use Class)
94,000sqm of factory floorspace (B1(c) and B2 Use Classes)
123,000sqm of warehousing floorspace (B8 Use Class).

The vacancy level of office space is high at 25% (nearly half of this space is 30,000sqm in four buildings) but for industrial space, the vacancy is around 7%, a low level that perhaps reflects the limited supply generally in a Borough that has a relatively small stock of industrial space.

2.4 The review of the existing stock of employment land found that 81% of supply is of average quality or above. However, the lower performing sites still serve a function and simply because they did not score well against the review criteria does not indicate that they should not continue in employment use; they are frequently meeting a local need for low-cost space or a location for 'bad neighbour' uses.

Forecasting – Future Space Requirements in B Class Sectors

2.5 Due to the recession and the consequent difficulties for forecasting, five forecasts were undertaken:

1. Employment growth forecasts by Experian (Baseline job growth)
2. Regional job growth estimate (based on the Experian forecasts for the South East Region)
3. Past completions continue (assumes future rates of completions and losses of employment space are not much different from past seven years)
4. Reduced completion rate (as past rates are so high - completion rates and losses rate reduced by 50%)
5. Reduced Industrial losses (halved rate of industrial losses but 80% of office completion rates).

2.6 Forecasts make the distinction between the combined total B-Class (i.e. B1, B2 and B8) land requirements (25,700 – 71,200sqm) and the separate requirements for office (43,500 - 148,700sqm) and industrial (99,700 - 5,100sqm) space. The figures include a 'safety

margin', i.e. a margin for error/choice/vacancy level/flexibility/decanting/some supply sites not coming forward.

A Surplus or a Shortfall?

2.7 The forecast requirements are assessed against the Borough's existing supply of employment space, e.g. extant permissions and the vacancy rate over and above a normal market level (only relevant for office space). If there is demand for space in the short term, then the likelihood is that existing buildings will become occupied and sites with permission more likely to come forward first. This analysis will identify either a shortfall or a surplus of employment floorspace for both office land and industrial land; the analysis is shown in tabular form below:

	Baseline Job Growth (sq m)	SE Job Growth Rates (sq m)	Continue Past Completions (sq m)	Reduced Completion Rates	Reduced Industrial Losses
Industrial Space Requirement	+ 300	+ 5,100	-99,700	-62,300	-62,300
Supply of Industrial Space	0	0	0	0	0
Industrial Space Surplus (+) / Shortfall (-)	-300	-5,100	+99,700	+62,300	+62,300
Office Space Requirement	+43,500	+51,000	+148,700	+88,000	+133,500
Supply of Office Space	84,200	84,200	84,200	84,200	84,200
Office Space Surplus (+) / Shortfall (-)	+40,700	+33,200	-64,500	-3,800	-49,300

Table 1 Demand/Supply Balance for Employment Space 2009 – 2026

2.8 There is a modest shortfall of industrial land under two of the estimates. In respect of office land, under two estimates there is a surplus of land but under the other three, there is a shortfall of space. Where a shortfall results this needs to be planned for as part of the Core Strategy. In terms of land allocations, the former DERA site will provide the additional land needed to help meet the floorspace requirements up until 2026 (under a mixed use scheme, the DERA site may have the potential for 60-65,000sqm of floorspace). The Council does not necessarily have to plan for the highest demand scenario, although the recently issued PPS4 Planning for Sustainable Economic Growth gives economic growth high priority and this scenario is based on past trends. Given the uncertainty over the recovery from the recession, the Council will be monitoring the situation over the next few years to determine what is happening to employment space requirements (gains, losses, types of losses and how much space DERA is likely to deliver), so this can be assessed against the forecasts.

Conclusions

2.9 The main conclusions to be drawn from the ELR are:

- All future employment requirements and growth will come from the intensification of existing sites and the DERA site.
- All land with existing employment use should be protected for future employment use/growth and a very cautious approach taken to the loss of employment sites (current Local Plan policy LE1 provides some protection and Local Development Framework policy will provide updated policy protection).

- Once land is lost from employment use there will be no replacement land for this loss as there is no proposal to remove any land from the Green Belt for future employment use (except at DERA).
- The ELR identifies that there is a qualitative need for some office land (relating to locations and types of office), more low cost small start up units for industrial and office firms as well as high-tech start ups (incorporating flexible space), and the need for some sites for open storage/bad neighbour uses as sites are not easy to identify in urban areas.
- Non-B Class uses should only be permitted on employment sites where they support the existing employment function and are complementary to the employment use. However, it is highly likely that the majority of our sites are too small to accommodate this element without detriment to the employment provision. A criteria-based approach should be used to consider the acceptability of the development of non- B Class uses.

Matters to be aware of

2.10 Other matters to be aware of are as follows:

- If Runnymede loses some of our supply it will result in a greater shortfall under the scenarios where a shortfall has been identified, e.g. some of the employment land supply going to housing (such as at Aviator Park) or some sites not being developed due to market conditions (such as the undeveloped floorspace at Hillswood Business Park) would have an impact.
- On the other hand, there may also be some windfall sites, e.g. the covered reservoir at The Causeway, which received planning permission at the 31 March 2010 Planning Committee.
- PPS4 contains a requirement to consider applications securing sustainable economic growth favourably.
- The Council needs to improve its monitoring procedures of the employment floorspace (B-class) over what has been achieved to date.

2.11 The Committee will be aware that in a Borough where Green Belt, flooding, and the Thames Basin Heaths SPA constrain the availability of land for development to meet the requirements of the South East Plan 2009 it is important that appropriately located existing employment land is protected from competing uses.

3. Council Policy

3.1 The LDF will form the local elements of the Council's Development Plan. It is therefore important that the Core Strategy is founded on a sound and credible evidence base so that it is likely to be approved following the Examination in Public by a Government-appointed Inspector. The Employment Land Review is an important element of this evidence base.

4. Resource Implications

4.1 The creation of a robust and credible set of evidence to support the Local Development Framework is being met from within existing LDF resources.

5. Legal Implications

5.1 In order to have a sound Core Strategy the document needs to be in general conformity with the existing national guidance and the regional development plan (Planning Policy Statements and the South East Plan respectively). It must also be founded on a sound evidence base having explored the various alternative strategies that could have been taken.

6. Equality Issues

6.1 The matters contained in the ELR do not have an impact on equality issues.

7. Conclusions

7.1 Officers are currently working on drafting the Core Strategy document in readiness for the forthcoming public consultation. The draft will draw extensively upon the various documents of the evidence base, including the Employment Land Review.

OFFICERS' RECOMMENDATION that –

the Committee notes the content and endorses the findings of this report.

(TO RESOLVE)

Background Papers

Runnymede Employment Land Review, Nathaniel Lichfield and Partners, February 2010

12. LYNE VIEW FARM, FAN COURT ESTATE, LYNE, – ENFORCEMENT (DTS)

1. Purpose of Report

1.1 **To seek the authorisation of the Planning Committee to issue Enforcement Notice(s) in respect of a building operation namely the erection of a log cabin comprising a dwelling at Lyne View Farm, Fan Court Estate, Lyne, (Site plan at Appendix 'E').**

2. Site Description

2.1 The site relates to a 2 hectare (5 acre) area of land located on the southern side of the private access driveway serving the Fan Court Estate, with access off Lyne Lane. The southern boundary of the site borders the northern boundary of Lyne Mushroom Farm, Longcross Road.

2.2 The site comprises an access track with an adjoining narrow strip of land, mainly consisting of trees and undergrowth, expanding into an area measuring approximately 140 metres by 100-140 metres. In the area where the site starts to widen part of the site has been enclosed to form stabling and yard area. Within the yard area is an L-shaped stable block comprising 8 loose boxes, a double loose box, a secure tack store, an unsecure store/tea room and a lavatory. A mobile home is also located within the stable yard which is currently used for storage although previously it was used for shelter, changing and as emergency overnight accommodation. An outdoor sand school with floodlights is located to the south of the stable yard in addition to a flattened area of ground the subject of application RU 06/0962 which is used as additional paddock area for the training of horses. The remainder of the site rises to the western boundary. The log cabin the subject of this report is located on the wider part of the site, close to the northern boundary and is located on the rising ground.

2.3 The site lies within the designated Metropolitan Green Belt and the designated Landscape Problem Area.

3. Site History

3.1 The planning applications most relevant to this report are listed below as is the recent enforcement history.

Planning History

3.2 RU06/0962 – Excavation and re-modelling of land to create flat paddock for carriage driving, dressage, show jumping and grazing (Retrospective application) – to be determined. Also included on this agenda.

- 3.3 RU 06/0282 – Retention of existing stallion box with adjoining single stable extension plus the continued use of the site for the breeding and training of horses (Retrospective application) – to be determined. Also included on this agenda.
- 3.4 RU 05/0708 – Continued use of stable block for keeping horses and extension to provide 1 x no stable. Withdrawn.
- 3.5 RU 97/0482 – Siting of Mobile home. Refused and appeal allowed. The Inspector concluded that the use of the mobile home was ancillary to the main use of the land for the stabling, grazing and riding of horses.
- 3.6 RU 97/0485 – Storage of fodder container – Refused and appeal allowed.
- 3.7 RU 97/0289 – Retrospective application for the refurbishment of stables and creation of manège and associated hardstandings. Granted.
- 3.8 RU 85/1047 – Rebuilding of fire damaged building comprising 3 loose boxes/foodstore/cart shed. Granted.
- 3.9 RU 80/0128 – Erection of a building to house three loose boxes, food store, tack room and shed for protection of antique horse-drawn vehicle (as amplified by letter dated 1 February 1980) – Refused. Allowed on appeal.

Enforcement History

- 3.10 In February 1997, a complaint was received about the stationing of a mobile home on the site and the siting of two metal containers which were being used in connection with the equestrian use of the site. In addition, it also transpired that the owner of the site at the time (still the current owner) had refurbished and extended the existing stable building, created hardstandings and a manège without planning permission. An application to regularise the refurbishment and extension of the stable building, hardstandings and manège was submitted (RU.97/0289) and subsequently granted planning permission.
- 3.11 In respect of the mobile home and storage containers two separate planning applications were submitted (RU.97/0482 and RU.97/0485 respectively). Both of these applications were refused in June 1997. An Enforcement Notice was served on 30 July 1997 relating to the change of use of the land to a mixed use for recreational purposes and the siting of a mobile home and two metal storage containers. The Enforcement Notice and the two refusals of planning permission were the subject of subsequent appeals. In allowing the appeal against the Enforcement Notice the Inspector concluded that the mobile home and containers were being used for purposes ancillary to the main use of the land on which they were stationed, i.e. the stabling, grazing and riding of horses which was lawful, and thus planning permission was not required for the stationing and ancillary use of the mobile home and metal containers. Accordingly, on 11 February 1998, the Enforcement Notice was quashed, and, as planning permission was not required for the mobile home or metal containers, the planning appeals were not considered.
- 3.12 In 1998, a further complaint was received relating to the unauthorised erection of a hay storage barn, adjacent to the access track into the site. Following investigations the applicant was advised of the need for planning permission for the barn and despite reminders up until 2000, no planning application was received and no further action was taken in respect of this structure.
- 3.13 In June 2005 application RU 05/0708 was submitted for the continued use of a stable block for keeping of horses and an extension to provide 1 x no stable. This application was withdrawn in October 2005 at the same time a complaint was received alleging the construction of a stable and the use of the stables for a commercial business.
- 3.14 In March 2006, application RU 06/0282 was submitted for the stallion box extension and the use of the site for the breeding and training of horses. In July 2006, a complaint was received alleging the construction of a riding arena and the business use of the site. Following this, in September 2006, an application was submitted to regularise the remodelling of the ground to create a flat paddock area under reference RU 06/0962.

- 3.15 In connection with the ongoing consideration of the 2006 applications a site visit was undertaken in February 2009 where it was noted that a log cabin was present on the site. In March 2009, a letter was sent to the owner of the site seeking information in respect of the log cabin. This letter was responded to by the owner of the site on 2 April 2009. The letter from the owner of the site advised that the log cabin was constructed on the site between October and November 2008 although the electricity connection did not take place until May or June 2009 with the final flooring surfaces. The owner of the site also advised that the log cabin was to replace the mobile home which would be removed from the site.
- 3.16 On 11 February 2010 a Planning Contravention Notice (PCN) was served on the owner of the site in relation to the alleged breach of planning control relating to the erection of a log cabin comprising a dwelling on the site as additional information relating to the use of the log cabin needed to be sought. A response was received on 3 March 2010.
- 3.17 A letter was sent to the owner of the site, in March 2010, to advise that it was considered on the information available that a breach of planning control had occurred. The owner of the site has replied to this letter stating that he intends to seek clarification on the points made by the Council Officer but, in the meantime, advises that the points raised should be revisited and, consequently, Officers' views may be adjusted.

4. Unauthorised Development

- 4.1 On visiting the site in connection with the undetermined planning applications in February 2009, it was noted that a log cabin was present on the site. Following further investigations, the owner of the site stated that the log cabin was constructed on the site between October and November 2008 although the electricity connection did not take place until May or June 2009 with the final flooring surfaces.
- 4.2 As noted in the Enforcement History section above, a PCN was served on the owner of the site on 11 February 2010, which obliged the owner of the site to answer a number of questions in relation to the alleged breaches of planning control.
- 4.3 In responding to the PCN on 3 March 2010 the owner stated that the log cabin is being used as a replacement for the mobile home on the site, although the mobile home still remains on the site.
- 4.4 Whilst it is possible to replace a lawful mobile home on a site with a newer mobile home (e.g. to update the accommodation if one home old/poor quality due to passage of time and in need of replacing) any replacement caravan must also comply with the definition of a caravan (in terms of size and its transportability). It is not possible to replace a mobile home on a site with a building or structure which comprises operational development in its own right.
- 4.5 In respect of the size of the log cabin the owner of the site has advised that externally it measures 15.85 metres in length by 5.94 metres in width, 2.4 metres to eaves plus 0.78 metres to ridge. This would give a ridge height of 3.18 metres. It is not clear whether the owner of the site is referring to the internal or external height of the log cabin. Under the Caravan Sites and Control of Development Act 1960 (as amended by the Caravan Sites Act 1968 as subsequently amended) the definition of a caravan also includes size criteria with maximum dimensions of 20 metres by 6.8 metres with a height of 3.05 metres (latter measurement measured internally). Although it is unclear, from the measurements of the log cabin given by the owner of the site, whether the log cabin falls within the size limitations of a caravan, this is not the only factor to consider when determining whether the log cabin falls within the definition of a caravan.
- 4.6 In addition, in order to comply with the transportable part of the definition of a twin-unit caravan a caravan is required to be composed of not more than two sections separately constructed and designed to be assembled on the site by means of bolts, clamps or other devices and must also be capable of being transported off the site by road in no more than two parts. In this case, the owner of the site advised that the log cabin was constructed on the site as this was more practical and that it took 1 month to construct the log cabin (between October 2008 and November 2008), although it is further noted that the electrical

connection did not occur until May or June 2009 when the final flooring surfaces also appear to have been laid. Furthermore, after consulting the Building Control Manager, he has advised that according to their information received from the owner of the site the log cabin was to be constructed on the site from pre-assembled parts rather than brought onto the site in two sections. No evidence or information has been submitted by the owner in respect of whether the log cabin is capable of being transported off the site in no more than two sections.

- 4.7 It is therefore concluded that the log cabin does not fall within the definition of a caravan and thus is not a caravan. However, this is not determinative as to whether what has been provided on the site comprises building operations for which planning permission is required.
- 4.8 By the owner's admission the log cabin was constructed on the site. From the information available it does not appear that the log cabin comprises two pre-fabricated sections brought onto the site and assembled by means of bolts, clamps or other devices. It appears that the log cabin was constructed on the site by the assembly of a multitude of component parts as stated by the owner "it was more practical" to construct the log cabin this way. What has been provided on the site in terms of design, appearance and character looks like a building and also a dwelling. It also contains all facilities that would be required for day-to-day living. The method of assembly and the time taken to do so results in the conclusion that the works undertaken to provide the log cabin are building operations. In addition, there is no evidence to suggest that the owner of the site wishes to move the log cabin and, moreover, it is stated by the owner that the log cabin was purchased as a replacement for the mobile home which itself has been on the site for 12 years. Therefore, it is considered that the log cabin is intended to be a permanent feature on the site. In addition, the log cabin has not been moved on the site since its construction. The log cabin therefore appears to satisfy the permanence test. Taking all of these matters it is considered that what has occurred is the erection of a building on the site constituting operational development.
- 4.9 As stated in the paragraph above the log cabin contains all of the facilities that are required for day-to-day living. The log cabin contains an open plan kitchen and living area; 2 bedrooms, one with en-suite, a family bathroom, a further room which is labelled as an office but which could also be used as a third bedroom. The log cabin also has a small room which appears to house the hot water tank and the electric fuses. In response to the PCN, the owner of the site also stated that in the two weeks immediately prior to the service of the PCN both he and his wife had stayed overnight in the log cabin for the duration of the whole two week period. The PCN was served on 11 February 2010 with the two weeks previous commencing on 29 January 2010. The reasons given for the owner residing on the site are as follows:
- weaning colt foal from aggressive mare in foal due soon;
 - remedial regressive horse that panics in stormy/wet conditions;
 - adverse weather conditions and travel difficulties, slippery slopes and saturated fields meant horses were kept in but without exercise. This resulted in breakouts and repairs causing extra work without help of daughter who is pregnant. The extreme cold also caused lagged pipes to freeze so water had to be stored and carried;
 - electric fencing failed and was renewed in stages to eliminate fault;
 - personal security required as valuable horse and property vulnerable because security system was and is delayed through electric supply problems;
 - local 'Strangles' alert requiring constant monitoring and ensuring preventative measures;
 - after the freeze, floods and frequent blocked drains plus promise of further freezing conditions; and
 - latterly a post-operative dog required attendance and monitoring with dressings to be changed.

- 4.10 The mobile home on the site is permitted to be used for purposes ancillary to the stabling, grazing and riding of horses on the site, namely washing, messing, sheltering and occasionally emergency overnight accommodation. In addition to the information that the owner of the site and his wife resided in the caravan for two weeks, it is noted that there had also been more adverse weather conditions earlier in January and some of the reasons given as justification for residing on the site could occur at other times of the year, e.g. problems with the electricity supply. Based on the information submitted it is considered that the log cabin is being used as residential accommodation for more than just occasional overnight emergency accommodation and, therefore, what has occurred on the site is the erection of the building to be used as a dwellinghouse.
- 4.11 Having established that the erection of the log cabin comprising a dwelling is a building operation it is necessary to establish whether the log cabin is unlawful/lawful. As the erection of the log cabin and its use as a dwellinghouse comprises building operations, it follows that under Section 55 of the 1990 Act, operational development has taken place on the site for which planning permission is required. The site has a lawful use for the stabling, grazing and riding of horses with no 'permitted development rights' for the erection of new buildings. However, no planning permission has been applied for or granted for the log cabin.
- 4.12 For operational development to be considered lawful, it must be demonstrated that on the balance of probabilities the building (log cabin) has been on the site for more than 4 years from the substantial completion of the building.
- 4.13 In a letter dated 2 April 2009, the owner stated that the log cabin was constructed between October 2008 and November 2008 with the electrical connection taking place in May or June 2009 with the "flooring final surfaces". In the same letter the owner also advised that the mobile home would be removed "when log cabin complete and in use" inferring that the log cabin may not have been in use in April 2009. Whilst this information does not establish the date of the substantial completion of the log cabin it is clear that it was not on site before October 2008. Therefore, by the admission of the owner, the log cabin has been present on the site for less than 4 years. Accordingly, the log cabin is unlawful and the time limit for taking enforcement action has not expired.

5. Planning Considerations

- 5.1 Planning Policy Guidance Note 2: 'Green Belts' (PPG2) advises in paragraph 3.4 what development is inappropriate in the Green Belt. There is a general presumption against inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and that it is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 3.4 of PPG2, advises that the construction of new buildings within the Green Belt is inappropriate unless it is for one of the purposes set out in the paragraph. The exceptions listed do not include the provision of new dwellings unless they are justified for agricultural or forestry workers. This advice is reflected in saved Policies GB1 and GB4 of the Runnymede Borough Local Plan Second Alteration April 2001. These policies state that there will be a strong presumption against development that would conflict with the purposes of the Green Belt or adversely affect its open character and that new dwellings in the Green Belt will only be permitted where they are justified as essential for the agricultural use of land.
- 5.2 As noted above the lawful use of the site is for the stabling, grazing and riding of horses, which is a use which does not fall within the definition of agriculture or forestry. Only new dwellings to support agriculture or forestry are appropriate development in the Green Belt. The log cabin dwelling is therefore considered to be inappropriate development. In addition, the log cabin does not maintain the openness of the Green Belt as it is an additional structure on the open land. This additional structure also results in the encroachment of the countryside by increasing the spread of development on this site which is exacerbated as the log cabin is located on rising ground. The log cabin building therefore constitutes inappropriate development in the Green Belt which does not maintain the openness of the Green Belt, conflicts with the purposes of including land within the Green Belt and is harmful to its visual amenities.

- 5.3 In such situations very special circumstances need to be demonstrated to justify the inappropriate development. The onus is on an applicant or landowner to demonstrate that very special circumstances exist. The owner of the land has stated in his letter accompanying the PCN response that in his view Annex A of Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) supports the retention of the log cabin. However, no further information has been given. Annex A explains that there may be circumstances where the need to provide accommodation to enable farm, forestry or other workers to live at or near their place of work can in some cases justify new residential development in the countryside. However, the landowner has his main employment elsewhere, not connected to the site. It is considered that emergency overnight accommodation has been adequately provided for by the ancillary mobile home which has been on site for 12 years and that the replacement of this structure with a log cabin of the size and with the facilities detailed serves to reinforce the consideration that the owner wishes to use the cabin for permanent residential accommodation. It is therefore concluded that no very special circumstances exist to justify the retention of the log cabin building.
- 5.4 Saved Local Plan Policy NE10 also identifies this area as a Landscape Problem Area. In such areas the Council will seek to improve the appearance of the landscape through development control. In this case the unauthorised development does not result in any landscape improvements and furthermore only serves to spread development onto the site further encroaching on the countryside and resulting in more fragmented development.
- 5.5 The log cabin comprising a dwelling is, therefore, considered to be contrary to saved Local Plan Policies GB1, GB4 and NE10 and the advice contained in Planning Policy Guidance Note 2: Green Belts and Planning Policy Statement 7: Sustainable Development in Rural Areas (Annex A).
- 5.6 In light of the clear conflict with local and national planning policy, no planning application has been requested from the owner of the site as applications should only be requested where there is reasonable likelihood that planning permission could be granted for the unauthorised development. Nonetheless, the owner of the site has been advised that he is free to submit a planning application in relation to the unauthorised development if he so wishes.
6. Enforcement Considerations
- 6.1 Planning Policy Guidance Note 18: 'Enforcing Planning Control' (PPG18) indicates that in considering any enforcement action, the decisive issue should be whether the breach would unacceptably affect public amenity or the existing use of the land meriting protection in the public interest. The decision as to whether or not it is expedient to take formal enforcement action is at the Planning Authority's sole discretion but regard must be had to planning policies and the circumstances of the planning breach. The decision must not be unreasonable or taken without proper consideration of the relevant facts and planning issues, or based on non-planning grounds.
- 6.2 The site lies within the designated Green Belt where there is a strong presumption against inappropriate development. As stated in section 5 the unauthorised development diminishes the openness of the Green Belt, harms its visual amenities and results in the spread of development on the site and the encroachment of the countryside. The breach of planning control is considered to be inappropriate development in the Green Belt for which there are no known very special circumstances for overcoming the harm to the Green Belt. Formal enforcement action is therefore recommended to remove the unauthorised developments and return the land to its original condition.
7. Human Rights Act 1998 Considerations
- 7.1 The Committee is reminded of the European Convention on Human Rights Article 8, the right to respect for private and family life and the home and Article 1 of the First Protocol, the right to peaceful enjoyment of possessions. Any interference with those rights must be in accordance with the law, proportionate and necessary in a democratic society. The Local Authority must not act in a way which is incompatible with Convention rights. It is recognised that in this case, enforcement action could amount to an interference with the rights of the

applicant/owner. However, Members must balance the interference with the rights, which taking enforcement action would represent, and the public interest in protecting the openness of the Green Belt.

7.2 The taking of enforcement action, including legal action, can amount to an interference with a person's rights under Article 8. A Local Authority may only interfere with those rights if it is satisfied that such measures:

- *are in accordance with the law;*
- *pursue the legitimate aim of protecting the rights of others through preservation of the environment and the Green Belt; and*
- *are necessary in a democratic society where the interference answers a pressing social need and in particular is proportionate to the legitimate aim pursued.*

7.3 It is recognised that the enforcement action proposed in this report could amount to an interference with the landowner and his family's home and his private family life (which fall within the protection of and are consistent with the objective and purposes of Article 8). Those interests must be balanced against the public interest in pursuing the legitimate aims in Article 8 particularly the economic well-being of the country (which includes the preservation of the environment and the Green Belt) and the breaches themselves.

7.4 It is considered to be important to ensure that the unauthorised development does not become lawful. Consequently it is considered that Enforcement Notice(s) should be served on the site before these unauthorised developments become lawful.

7.5 Regard must be paid to the human rights of the landowner, his family and the potential difficulties caused by the service of any statutory notices or institution of any proceedings. Any action authorised must be a proportionate remedy in the circumstances of the case. This must be balanced against the identified harm to the Green Belt.

8. Equalities Issues

8.1 No equalities issues have been identified.

9. Financial Considerations

9.1 If the Committee decides to take enforcement action and the owner of the site decides to exercise his right of appeal, this case is likely to be determined by a Public Inquiry. An Inquiry will incur costs which may require a supplementary estimate if the budgetary provision for such Inquiries is overspent.

10. Conclusion

10.1 Members must fully and fairly balance the considerations referred to in this report when deciding to authorise any of the actions referred to in Sections 5, 6 and 7 to bring an end to the continuing breaches of planning control. Members will wish to have regard to the human rights issues detailed in Section 7 and will wish to consider whether the action they authorise is a proportionate remedy in all the circumstances of the case.

10.2 Members must take into account all the considerations material to this case. On the one hand there are the personal circumstances of the owner of the log cabin, the likely distress and difficulties caused by the service of any statutory notices on the instigation of any proceedings and the convention rights of the owner and his family. On the other hand there is the significant harm to the rural character, appearance and open nature of the locality contrary to the main aims and objectives of the area's Green Belt designation.

10.3 In view of the owner's refusal to comply with planning legislation and continued breaches thereof, Officers consider that further action is necessary to secure a cessation of the breach of planning control.

- 10.4 The Committee is requested to consider all the facts and the issues in relation to this case and determine whether further legal action is both reasonable, compatible with the Human Rights Act 1998, proportionate to the legitimate aim being pursued, and necessary to bring about the cessation of the continuing breach of planning control and prevention of further breaches of planning control.

OFFICERS' RECOMMENDATION that –

- 1) **the Director of Administration and Leisure be authorised to issue Enforcement Notice (s) under Section 172 of the Town and Country Planning Act 1990 (as amended) relating to the following matters:**
 - a) **the demolition and removal of the log cabin from the site including the veranda;**
 - b) **the removal of any resultant debris, rubble and materials from the site as a result of the demolition and removal of the log cabin building;**
- 2) **the Director of Administration and Leisure be authorised to take appropriate action in carrying out necessary works or prosecution under Sections 178 and 179 of the Town and Country Planning Act 1990 in the event that these notice(s) once effective are not complied with.**

Reason for Issuing Enforcement Notices

1. **The erection of the log cabin building comprising a dwelling represents an inappropriate and harmful development in the Green Belt which would be detrimental to the openness and the visual amenities of the Green Belt within the Landscape Problem Area and would conflict with the purposes of including land within the Green Belt, contrary to saved Policies GB1, GB4 and NE10 of the Runnymede Borough Local Plan Second Alteration April 2001, Policies SP5 and LF1 of the South East Plan and the advice contained in Planning Policy Guidance Note 2: Green Belts and Planning Policy Statement 7: Sustainable Development in Rural Areas.**
2. **The Planning Authority do not consider that very special circumstances have been put forward in support of the log cabin building comprising a dwelling to justify the granting of planning permission contrary to saved Policies GB1, GB4 and NE10 of the Runnymede Borough Local Plan Second Alteration April 2001, Policies SP5 and LF1 of the South East Plan and advice contained in Planning Policy Guidance Note 2: Green Belts and Planning Policy Statement 7: Sustainable Development in Rural Areas.**

(TO RESOLVE)

Background Papers

None

13. APPEAL DECISIONS (DTS)

The Planning Inspectorate has recently determined the appeals mentioned below. Appeal decisions (a) – (c) are available for inspection by Members in the Members' Room.

	<u>Site/Development</u>	<u>Decision</u>
a)	12 The Maples, Ottershaw – planning appeal regarding removal of a tree. (RU 09/0904)	DISMISSED

of exempt information of the description specified in appropriate paragraphs of Part 1 of Schedule 12A of the Act.

(TO RESOLVE)

PART II

Matters involving Exempt or Confidential information in respect of which reports have not been made available for public inspection.

- a) Exempt Information
(No reports to be considered under this heading)
- b) Confidential Information
(No reports to be considered under this heading)