

IMPORTANT

The Committee should have regard to the following preamble during its consideration of all applications on this agenda

1. Section 70(2) of the Town and Country Planning Act 1990 requires that, in dealing with an application for planning permission, the local planning authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
2. Section 54A of the Town and Country Planning Act 1990 requires that "Where, in making any determination under the Planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise."
3. Planning applications which are in accordance with the relevant policies in the Development Plan should be allowed and applications which are not in accordance with those policies should not be allowed unless material considerations justify granting of planning permission. In deciding such applications, it should always be taken into account whether the proposed development would cause demonstrable harm to interests of acknowledged importance. In all cases where the Development Plan is relevant, it will be necessary to decide whether the proposal is in accordance with the Plan and then to take into account material considerations.
4. In effect, the following approach should be adopted in determining planning applications:-
 - (a) if the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan;
 - (b) where there are other material considerations, the Development Plan should be taken as the starting point and the other material considerations should be weighed in reaching a decision;
 - (c) where there are no relevant policies in the Development Plan, the planning application should be determined on its merits in the light of all material considerations; and
 - (d) exceptionally, a development proposal which departs from the Development Plan may be permitted because the contribution of that proposal to some material, local or national need or objective is so significant that it outweighs what the Development Plan says about it.
5. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1970 states that, in considering planning applications for development affecting a listed building or its setting, special regard shall be had to the desirability of preserving the building, its setting or any special features which it possesses. Section 72 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas when considering any applications affecting land or buildings within them.
6. Section 54A of the 1990 Act does not apply to the determination of applications for advertisement consent, listed building consent or conservation area consent. Applications for advertisement consent can be controlled only in the interests of amenity and public safety. However, regard must be had to policies in the Development Plan (as material considerations) when making such determinations.

The Development Plan

7. The Development Plan in Dover District is comprised of:-

Kent Structure Plan 1996
Dover and Western Parishes Local Plan 1993
Stour Valley Countryside Plan 1982
Kent Countryside Local Plan 1983
Kent Minerals Local Plan : Brickearth 1986
Kent Minerals Local Plan : Construction Aggregates 1993
Kent Minerals Local Plan : Chalk and Clay and Oil and Gas 1997
Kent Waste Local Plan 1997

Plans in Preparation

8. The Dover District Local Plan has reached modifications stage. Plans in the course of preparation, such as the Dover District Local Plan, are material considerations. The weight to be given to their policies depends on the stage which the Plan has reached and the nature of any objections or support. If no objections have been lodged against a policy in a deposited plan, or objections have been overcome by proposed modifications, considerable weight may be attached to those policies because of the strong possibility of them becoming adopted. Once adopted, the Dover District Local Plan will replace the Dover and Western Parishes Local Plan, Stour Valley Countryside Plan and Kent Countryside Local Plan.

Human Rights Act 1998

During the processing of all applications and other items and the subsequent preparation of reports on this agenda, careful attention has been given to the implications of the Human Rights Act 1998 in relation to both applicants and other parties.

The key articles are:-

Article 8 - Right to respect for private and family life, home and correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol - Right of the individual to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

Account has also been taken of:-

Article 6 - Right to a fair trial and public trial within a reasonable time.

Article 10 - Right to free expression.

Article 14 - Prohibition of discrimination.

The process which has been followed with all formal applications has

- considered whether there is any interference in the Convention rights of any person affected by the recommended decision.
- identified which right or rights would suffer interference.
- Explicitly considered whether the recommended decision would violate those rights and reached a conclusion.

The reports set out a brief summary of the conclusions on these matters which are analysed in the appropriate file.

(PTS/PLAN/GEN) HUMANRI

DOVER DISTRICT
REPORT OF THE DIRECTOR OF PLANNING AND TECHNICAL SERVICES

PLANNING COMMITTEE – 7 DECEMBER 2000

NON-DELEGATED APPLICATIONS

The Reports

The file reference number is identified, together with the Ordnance Survey map reference, under a) of each separate item. The relevant planning policies and the previous planning history of the site are summarised at c) and d) respectively.

The views of third parties are set out at e); commonly-used abbreviations are:

C.A.	-	County Archaeologist	F.O.N.D.	-	Friends of North Deal
C.P.R.E.	-	Council for the Protection Rural England	G.O.S.E.	-	Government Office for the South East
D. of E. D.	-	Director of Economic Development	H. & S.E.	-	Health and Safety Executive
D. of H. & H.	-	Director of Health and Housing	K.C.C.	-	Kent County Council
E.A.	-	Environment Agency	N.F.U.	-	National Farmers Union
E.H.	-	English Heritage	P.C.	-	Parish Council
E.N.	-	English Nature	P.R.	-	Public Representations
F.D.W.S.	-	Folkestone and Dover Water Services Limited	S.W.	-	Southern Water
			T.C.	-	Town Council

The details of the application and an appraisal of the proposal are set out at f) and each item concludes with a recommendation at g).

Details of the abbreviated standard conditions, reasons for refusal and informatives may be obtained from the Development Control Manager (telephone 01304 872461).

Site Visits

The Committee approved a Local Code of Practice in Planning Procedures on 8 April 1999. In respect of site visits it states that all requests for site visits will be considered on their merits having regard to the likely usefulness to the Committee in reaching a decision.

The following criteria will be used to determine usefulness:-

- the matter can only be safely determined after information has been acquired directly from inspecting this site;
- there is a need to further involve the public in the decision making process as a result of *substantial* local interest (*based on material planning considerations*) in the proposals;
- the comments of the applicant or an objector cannot be adequately expressed in writing because of age, infirmity or illiteracy;
- the arguments for and against a proposal are very finely balanced.

Background Papers

List of background papers: unless otherwise stated, the appropriate file in respect of each application, save any document which discloses exempt information within the meaning of the Local Government (Access to Information) Act 1985.

The Officer to whom reference should be made concerning inspection of the background papers is the Departmental Administration Manager, Department of Planning and Technical Services, Council Offices, White Cliffs Business Park, Dover (Telephone: 01304 - 872404).

Committee Date: 07/12/2000

Item No. 01 RcmDcn ALT
Ref. No. DOV/97/00659 Location 73 & 75 Albert Road and land adjoining and including Hutchings Timber and 79 Albert Road, Deal

Proposal a) demolition of nos. 73 & 75 Albert Road; b) construction of replacement vehicular access to Hutchings Timber, The Builder Centre and CourtMarsh Farm, sites of 73 & 75 Albert Road and c) variation of conditions to allow for retail sale of timber, DIY and gardening products at Hutchings Timber, land at 79 Albert Road, Deal

Item No. 02 RcmDcn GTD
Ref. No. DOV/98/00615A Location Fire Station, Reach Road, St. Margaret's-at-Cliffe

Proposal Amended plans of drill tower and compound including installation of lightening conductors and amendments to height of drill tower

Item No. 03 RcmDcn GTD
Ref. No. DOV/99/01083A Location Land Adjoining, 23 Lenacre Lane, Whitfield

Proposal Amendments to approved scheme for detached chalet bungalow showing provision of detached double garage

Item No. 04 RcmDcn GTD
Ref. No. DOV/00/00300A Location 41 St Davids Avenue, Dover

Proposal Revised scheme to include first floor extension

Item No. 05 RcmDcn REF
Ref. No. DOV/00/00603 Location 287 London Road, Dover

Proposal Replace front doors.

Item No. 06 RcmDcn GTD
Ref. No. DOV/00/00830 Location The Manor House, Upper Street, Kingsdown

Proposal The removal of four trees and three tree stumps and replanting

Item No. 07 RcmDcn GTD
Ref. No. DOV/00/00953 Location Pfizer Limited, Richborough Business Park, Ramsgate Road, Sandwich

Proposal Erection of pharmaceutical sciences building.

Committee Date: 07/12/2000

Item No. 07 RcmDcn GTD
Ref. No. DOV/00/00954 Location Pfizer High Bay Warehouse, Ramsgate Road, Sandwich

Proposal Erection of extension to high bay warehouse and distribution premises.

Item No. 08 RcmDcn SITE
Ref. No. DOV/00/01002 Location Grabhams Drier, Long Lane, Shepherdswell

Proposal Change of use from agricultural to industrial use

Item No. 09 RcmDcn REF
Ref. No. DOV/00/01009 Location Land adj Fernleigh, Lower Road, Staple

Proposal Erection of two new dwellings and construction of vehicular accesses

Item No. 10 RcmDcn REF
Ref. No. DOV/00/01026 Location 19 Eythorne Road, Shepherdswell

Proposal Removal of trees to be replaced by different species

Item No. 11 RcmDcn SPLT
Ref. No. DOV/00/01031 Location 5 Tormore Mews, Rectory Road, Deal

Proposal Works to 5 trees

Item No. 12 RcmDcn REF
Ref. No. DOV/00/01043 Location Fairview Nursery, Canterbury Road, Wingham

Proposal Additional sale of plants not propagated on premises.

Item No. 13 RcmDcn REF
Ref. No. DOV/00/01045 Location Guiton Farmhouse, Guiton, Ash

Proposal Conversion of existing stable block to four bedroom house

Committee Date: 07/12/2000

Item No. 14 RcmDcn GTD
Ref. No. DOV/00/01048 Location Nash Nursery, Nash, Ash

Proposal Erection of agricultural workers dwelling.

Item No. 15 RcmDcn ALT
Ref. No. DOV/00/01051 Location Charles Sports Ground, St Leonards Road, Deal

Proposal Erection of 150 seater spectator stand

Item No. 16 RcmDcn REF
Ref. No. DOV/00/01057 Location Preston Mill, Mill Lane, Preston

Proposal Continued use of commercial workshop for the repair and maintenance of vans.

Item No. 17 RcmDcn REF
Ref. No. DOV/00/01058 Location Coxhill Cottages, Coxhill, Shepherdswell

Proposal Alterations and extensions to revert back from one to two cottages

Item No. 18 RcmDcn GTD
Ref. No. DOV/00/01060 Location Brambledown, Lower Street, Tilmanstone

Proposal Extension to roof to form gable end

Item No. 19 RcmDcn GTD
Ref. No. DOV/00/01065 Location Bell House, Manor House, Upper Street, Kingsdown

Proposal Works to six trees.

Item No. 20 RcmDcn ALT
Ref. No. DOV/00/01071 Location Land R/O 2-4 Court Road, Part of Former Goods Yard, Station Drive, Walmer

Proposal Erection of block of four flats, construction of access road and construction of pedestrian footpath

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Scale: 1/2500

Application: DOV/97/659
Deal

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1. a) DOV/97/0659 TR 3723 : 5302
- b) **Demolition of Nos. 73 and 75 Albert Road; construction of replacement vehicular access to Hutchings Timber, the Builder Centre and Court Marsh Farm and the sites of 73 and 75 Albert Road; and variation of conditions to allow for the retail sale of timber, DIY and gardening products at Hutchings Timber and land at 79 Albert Road - 73 and 75 Albert Road and land adjoining and including Hutchings Timber and 79 Albert Road, Deal.**
- c) Kent Structure Plan : Policies S1, S3, S4, EK3, ENV15, R1 and NR5.
Dover District Local Plan : Policies LE1, New LE policy (PM 53), DD1, SP7 and WE9.
- d) DOV/86/005 - Planning permission granted for the erection of a machine shop subject to a condition specifying that "no retail sales whatsoever shall take place on site".

STD/88/8084 - Planning permission granted for the erection of a timber storage building, subject to a condition specifying that "no retail sales whatsoever shall take place on site".

DOV/89/0804 - Planning permission refused for erection of a building for timber and DIY sales, on highways grounds relating to the unsuitability of the access and the further hazards that would be incurred by an increased use at the level crossing.

DOV/93/0907 - Outline planning permission refused for retail food store with associated car parking, access and servicing arrangements, retention and improvement of Park Avenue Motors premises and improved access to Hutchings Timber Yard. Permission was refused on highways grounds and on the grounds that the proposal would not effectively satisfy the qualitative requirement for a major food store in Deal. An appeal lodged against the refusal was dismissed.

DOV/94/0825 - Outline planning permission refused for discount food store (up to 1500 sq.m. gross) with associated car parking, access and serving arrangements to Park Avenue Motors premises and improved access to Hutchings Timber Yard. An appeal lodged against this refusal was dismissed.

DOV/99/1192 - Planning permission granted for erection of canopy adjoining the main building at Hutchings Timber Yard.
- e) Highways Comments: (In 1997): The application has involved extensive discussions between the various interested parties and is offering a possible solution to the existing situation. No objection is raised subject to the applicants modifying the submission to fully satisfy the technical requirements of the DOHT/HMRI and Railtrack. It should be noted that the views of both consultees are based on the revised junction arrangements facilitating the existing and authorised use rather than a future use. Conditions and

appropriate legal agreements will be necessary to secure the improvements and may need to be time limited to achieve the desired effect.

(October 2000): In the light of recent objections made by the applicants to the form of the draft Section 106 Agreement further comments that approval of retailing of DIY and gardening products beyond the level which was apparent at the time of previous 1997 comments would not be acceptable on highways grounds. Access improvements have been designed to address the retailing situation that existed at that time and do not provide for retailing of a more intensive nature. If retailing is not reduced and scaled back to its 1997 level, then planning permission should be refused on grounds of detriment to road safety unless a firm case to the effect that there would be no significant detriment can be established.

D.O.H.T. (K.C.C.): No objections subject to the access achieving approval at Stage 1 Technical Appraisal and Safety Audit and being acceptable to Railtrack and HMRI. Engineers, acting for the developer, are drawing up a scheme for the works. From recent discussion it is also understood that Railtrack were commissioned to carry out some design work on the interaction between the proposed signal junction and the level crossing that would be an integral part of that junction. Railtrack have so far failed to deliver any of the work they were commissioned to carry out, missing a number of target dates in the process.

While the above does perhaps indicate some desire on the part of the developer to resolve matters, it does not alter the fact there has been very little progress on these matters since October 1997.

In the absence of improvements to the access, the County Council as Highway Authority would support Dover District Council in taking possible enforcement action. In the event of the access improvements being implemented, the County Council requires the developer to submit details of the existing use of the site, its traffic generation, its impact on the local highway network over and above the permitted use, and its impact on the capacity of the access junction. Should this information demonstrate that the existing level of retail use does not impact adversely on the highway network, the County Council would be content with the existing level of use. However, if the developer does not provide this information, or if they cannot show that the impact of the existing level of use is acceptable, the area currently used for retail purposes should be cut back. The County Council will be arranging for the previous traffic counts at the site access junction and at the internal problem to be repeated as soon as possible.

H.S.E. (H.M.R.I.): Satisfied with the concept of using inter-linked traffic lights to clear and assist the closing of Deal Station level crossing. However, actual positioning of the road junction, traffic lights and the level crossing road traffic lights will require further review in co-operation with the Highway Authority and Railtrack. Without prejudice to such detailed review, it appears necessary that all level crossing road traffic lights should be placed in proximity to the crossing barriers and that junction traffic lights should not be displayed close alongside illuminated traffic lights in the same field of view. The objective is to preserve the visual and legal integrity of the railway crossing protection in the event that a driver ignores junction lights and moves his vehicle towards the closing or closed barriers.

Railtrack: Concerned to ensure that any junction improvement meets its technical requirements; this involves integrating the railway road lights with road traffic lights. Supports action to correct planning permission deficiencies. States that the HMRI were likely to accept an integrated traffic light/level crossing light junction with an improved access serving the timber yard/builder centre. They have expressed some concern that the access road has not been remodelled and that the original road is still in use after the renewal of the level crossing. The HMRI and Railtrack would not accept any further use other than to serve the timber yard/builder centre even if the road layout was remodelled and integrated traffic lights installed.

It will be essential for Railtrack staff and their contractors to be granted equivalent rights of access to those currently enjoyed over the existing access (which is in Railtrack's ownership) if and when it is closed.

D.of H. and H. No comments.

C.A.: Recommends archaeological watching brief and informative.

T.C.: Objects. The new design is not sufficient of an improvement in site access. Furthermore, is not aware of any agreement between the applicant and Dover District Council as referred to in the applicant's letter.

f) The Site and the Proposal

There are three elements to the proposal for which planning permission is sought, as detailed at b) above. The purpose of the application is to regularise the unauthorised retailing of timber and DIY/gardening products from the premises of Hutchings Timber, which has been taking place since the early 1990's, involving considerable improvements to the vehicular access to the site to render such retailing activity acceptable in road safety terms. An extensive supporting statement prepared by the applicant's agent was appended to the report on this application which was presented to Planning Committee on 2 October 1997 (Item 9). This statement and others subsequently submitted by the agent are available from the case officer.

Policy Context

Of greatest relevance to this application in policy terms is that section of the Dover District Local Plan concerned with provision for comparison retail floorspace in Deal. A new policy introduced at the Local Plan Inquiry stage allocates new sites at West Street and Park Street for this purpose. The Local Plan Inspector, in considering this policy, acknowledged that this provision, together with regularisation of the unauthorised retailing on the application site, should meet the shortfall in comparison shopping provision in Deal. Consequently, in the modifications to the Plan, reference has been made in the text supporting the policy to the contribution that retailing on the application site would make.

However, whilst this confirms that, subject to access improvements, retailing is acceptable in principle at Hutchings Timber, it is important to note that no endorsement is given, either by the Inspector or in the supporting text in the modified Plan, to the level of unauthorised retailing of DIY and gardening products sold at the site. This is the principal issue of contention in respect of the current application, and can only be resolved through consideration and determination of the application. Should an acceptable split between DIY/gardening product retailing and timber product retailing not be secured, then neither the Inspector nor the modified Local Plan support retailing on the site in such circumstances.

Background

When the application was first received, there had been longstanding concern about the unauthorised retail activities taking place at the site. The Committee is referred to Agenda Item 12 (1), relating to outstanding enforcement actions, considered on 7 September 2000.

Prior to its deferment at the last meeting, this application had last been considered by the Planning Committee on 2 October 1997 (item 9), at which time Members resolved that planning permission be granted subject to conditions delegated to the Director of Planning and Technical Services and also subject to :-

- (i) The satisfactory resolution of the technical and design specifications with regard to the integrated road and railway junction improvements;
- (ii) The prior completion of a legal agreement extinguishing the existing use rights for the applicant's former timber yard site at Cannon Street/Ark Lane to be used for a timber yard and retail sales; and
- (iii) The completion of any appropriate legal agreements which may be necessary to restrict the amount of the non-timber related retail sales area and to secure highways improvements.

Three years on, these outstanding matters have yet to be resolved and a planning permission has therefore yet to be issued. The prolonged negotiations with the applicant's agent have reached an impasse and there appears to be little prospect of matters being resolved in the immediate future. During recent discussions, the applicant's agent has challenged the draft format and wording of the Section 106 Agreement intended to precede any grant of planning permission. Three recent submissions have been received from the agent. These are far too lengthy to reproduce in the context of this report, but are summarised below. Copies may be obtained from the case officer.

They comprise the following:-

- (i) A letter dated 23 October 2000 requesting minor revisions to the Agreement and exploring the question of whether KCC, the Builder Centre and Railtrack should be party to the Agreement. This submission has been referred to the Head of Legal Services.
- (ii) A letter dated 30 October 2000 taking issue with the content of the report on this application to the Planning Committee meeting on 2

November 2000 (Item 1) and contesting the officer view that an impasse has been reached which cannot be resolved without a reduction in the level of retailing from the site. This letter also cites the Local Plan Inspector's report as giving support for retailing at this site, and requested that consideration of the application be deferred at the last meeting,

(iii) A six page letter dated 21 November 2000 making the following points:-

- Confirmation is sought that the Agreement will relate to operational land and that neither Railtrack, The Builder Centre nor KCC need to be involved.
- An amendment to the plan of the site at Cannon Street associated with the Agreement is sought.
- The application remains unchanged from 1997. The retail area for which permission is sought is that which existed in 1997, and there is no need for further highway work to be done to demonstrate its acceptability.
- Instructions will be given for four detailed drawings for Stage One Technical Approval if the Committee resolves to grant planning permission subject to the resolution of outstanding matters. A two stage implementation of the works is suggested in view of the delay by Railtrack.
- The need for a list of items in the DIY/gardening product category which should not be sold from the site is contested. In the event that such a list is felt to be essential, an alternative list is suggested.
- Retailing as proposed is considered to accord with the Local Plan Inspector's requirements regarding comparison retailing in Deal.
- Should an assessment of the adequacy of proposed access arrangements by highway consultants be required, this can be arranged.

Determination of the application was deferred at the last meeting at the agent's request, but is now returned to Planning Committee for further consideration in the light of current circumstances with a revised recommendation.

New Considerations

Over the past three years, much officer time has been devoted to negotiations to secure highways improvements of the desired standard, in liaison with HSE and Railtrack and the drafting of a legal agreement in liaison with the applicant's agents and solicitors which is designed to secure :-

- The implementation of the required highways improvements;

- The rescinding of retailing rights on the site owned by the applicants at Cannon Street/Ark Lane; and
- The restriction of retailing at Hutchings Timber to a level which would be acceptable in terms of road safety.

The issue of the cessation of retailing rights at the Golf Road/Cannon Street site is straight-forward and is not being contested by the applicant. That section of the draft Section 106 Agreement is thus not subject to challenge at the present time. The delay in determining the application is due principally to the applicant's failure to provide adequate engineering drawings showing highways improvements to an acceptable standard. Indeed, an engineering drawing which was sufficiently technically proficient to provide a way forward in finalising highways improvements was not received by the District Council until 24 May 2000. Discussions with Railtrack and KCC using this drawing as a basis continue, but have yet to be concluded. Furthermore, Railtrack has indicated that, due to the complexity and length of their procedures, it may be up to 2 years before they are able to approve any drawings relating to highways improvements. This is due to the need to integrate railway signals and controls with the revised highway junction. Until such approval has been issued by Railtrack in liaison with HSE and Kent County Council, it is the view of this Council's Highways engineers that the required Section 106 Agreement, which relates not only to the highways improvements but also to retailing issues, cannot be completed. This in turn means that the Council is not in a position to grant planning permission, and is unlikely to be able to do so in respect of this application for at least a further 2 years.

In the meantime, the retailing of timber, gardening and DIY products from Hutchings Timber Yard remains unauthorised and continues to intensify as the areas devoted to the display and sale of gardening and DIY products continues to expand. Surveys by Council officers suggest that three years ago, when the application was last considered by Planning Committee, DIY and gardening product retailing was limited to an area of approximately 330 sq.m. within the main building at Hutchings Timber Yard and approximately 313 sq.m. of outside storage area (which also included timber and timber products). The remainder of the building was devoted to the storage and retail of timber and timber products. Highways advice was received to the effect that the retailing of timber and timber products would generate far less traffic than would DIY and gardening products retailing.

Therefore, it was considered appropriate by means of a Section 106 Agreement to restrict the area of floor space and outside storage which could be devoted to DIY and gardening products, and also to specifically define such products so as to exclude certain products which may generate a greater amount of customer traffic. A Section 106 Agreement was therefore drafted which restricted retailing on the basis of the situation as it was understood to exist in 1997, which was felt to be acceptable in road safety terms, subject to the appropriate access improvements being secured. A schedule of products not to be retailed from the site was also included in the Agreement, comprising the following :- lights, light fittings, wallpaper, fitted bathrooms, fitted shelves, garden plants/seeds, furniture not manufactured on the land, plumbing goods, fitted kitchens, sanitary fittings, conservatories, gardening clothing, tiles, curtain rails, fire places, and building materials including (but not limited to) cement/artex/plaster board/guttering/roof insulation.

Although the draft Section 106 Agreement was sent to the agent several months ago, an objection has been received in recent weeks to the effect that the draft Agreement is felt to be too restrictive in terms of the manner in which it limits retailing on the site. In particular, objection is raised to the exclusion of certain types of DIY/gardening product, and to the area devoted to the retailing storage of such products, which is felt to be too small. The objection is in part due to the fact that, since 1997, the unauthorised retailing of gardening and DIY products from the site has expanded in both range and area. The area of floor space devoted to such retailing within the building has been considerably expanded, and a substantial amount of display of such products for retailing now takes place outside the building, beneath the canopy approved in 1999 (section c) refers). It is estimated that internal retail displays of DIY and gardening products now amounts to 814 sq. m, and that outside storage (still including timber and timber products) now amounts to 698 sq.m.

The applicant's agent, in her most recent submission, has acknowledged that retail activity has expanded at the site since the application was first submitted in 1997. However, the extent to which expansion has taken place is disputed. The agent maintains that the areas identified in her original plan for the display of gardening and DIY products reflects the situation which existed in 1997. However, officer records from that time show a lesser area of floorspace devoted to retailing of such items, and suggest that the application when submitted actually sought an expansion of DIY/garden product retailing. This difference of opinion is presently being investigated; however, it is important to bear in mind that, regardless of what the situation may have been in 1997, the retailing taking place at that time would have been unauthorised. It is therefore entirely appropriate for the Council to require a reduction in the scale of DIY/garden product retailing if this is found to be essential in the interests of road safety.

Clear advice has been received from Highways to the effect that retailing of an unrestricted range of gardening and DIY products and the endorsement of the current areas of such retailing would be unacceptable in road safety terms unless it can be demonstrated that this would not impact adversely on the highway network. It is felt, in the absence of any case to the contrary, that retailing on this scale would simply generate too much traffic to be handled safely by any improved site access. The highways improvements which are currently the subject of discussion with KCC and Railtrack are felt, once finalised, to be adequate to handle the amount of traffic which would be generated by the retailing activity that officers understand was present on the site in 1997, but not to cater for the increased traffic which is generated by the unauthorised business at its current, present day level, or by the scale of activity for which permission is presently sought. The applicant has been given the opportunity to make a case to the effect that the level of retailing for which permission is sought would not be detrimental to road safety.

There are further planning implications of retailing activity from this site. Retailing above a certain level would have an adverse impact upon businesses already established in Deal town centre and would thus be contrary to current planning policy. In October 1997, the view was taken that the areas devoted to DIY and gardening products retailing evident at that time, as long as the particular products listed above were excluded from such retailing, would not impact significantly upon retailing in the town centre and would thus be acceptable in policy terms. However, there is a likelihood that

the increased level of retailing now evident at the site would impact adversely on the town centre and thus provide firm grounds for refusing planning permission. The Committee will recall that, following the Inspector's report into the Public Inquiry concerning the Local Plan, nearby land is now proposed for employment uses in the proposed modifications. The new policy anticipates that the access adjoining the level crossing would be closed and a new signal control junction provided.

In her latest submission, the agent claims that the Local Plan Inspector's report gives support to retailing at Hutchings Timber Yard as presently proposed. This is not in fact so, and Members are referred to the 'Policy Context' section earlier in this report for clarification. Further advice is presently being sought on these policy issues, and it is hoped that it will be possible to provide a verbal report to Planning Committee on this matter.

Conclusion

Although further policy advice is presently awaited, the Highways advice received in the light of the present level of activity at the site and the agent's objections is very clear. It is presently your officers' view that if retailing remains at this level, or even if it is reduced to the level for which permission is presently sought, then the envisaged highways improvements will not be sufficient to cater for intensified traffic and the proposal must be refused on road safety grounds. Even if the area of floorspace for DIY and garden products is reduced to that which officers understand to have existed in 1997, there would not be a sufficient basis for granting planning permission unless retailing is further restricted in the manner originally envisaged through the exclusion of certain products. The officer view will not change unless the agent can prepare a convincing technical agreement focussing on highways issues, which has not been done to date and would no doubt take some time to prepare.

In the meantime, unauthorised retailing activity continues at the site, with customer, staff and delivery traffic using the existing, extremely dangerous access/egress point. Indeed, there is little doubt that the egress from the site on to Albert Road, immediately adjacent to the level crossing, is one of the most dangerous in Deal and, as customer traffic continues to increase as retailing intensifies, the view must be taken that this constitutes an accident waiting to happen.

Although the retailing activity evident in October 1997 was unacceptable in road safety terms, officers refrained from recommending enforcement action to draw it to a close at that time as the current application had been received with a view to regularising the matter, and it was anticipated that planning permission could be granted and highways improvements implemented within a reasonable period of time. It is now clearly evident that this will not be so; the applicants are objecting to the restrictions that the District Council proposes, and this will take some time to resolve. Furthermore, although the applicant's agent maintains otherwise, Railtrack has indeed indicated that they may take up to 2 years to approve the highways improvements, and planning permission cannot be granted until such approval has been forthcoming.

It is very important to bear in mind that the unauthorised retailing activity, although initially on a smaller scale, has been taking place at Hutchings

Timber Yard since the early 1990s. The District Council can take enforcement action against unauthorised activity of this kind only within a period of 10 years from its commencement and the end of that period is now fast approaching. Unless the District Council takes enforcement action through the serving of an enforcement notice or a breach of condition notice within that 10 year period, then the unauthorised retailing activity becomes immune from enforcement action and the District Council will have no way of restricting retailing or drawing it to a close, or of securing the essential improvements to the access. The Committee is therefore strongly advised to authorise enforcement action against unauthorised retailing at this point, so enabling officers to swiftly serve an appropriate notice on the applicant and thus maintain control over retailing activity and highways improvements.

In the meantime, officers will continue to liaise with the applicants and their agent to try and resolve existing differences of opinion for as long as necessary. Indeed, a meeting has been arranged, prior to the Committee meeting, with the applicant's consulting engineers in relation to the highway works; a verbal report will be given at the meeting. However, the agent's present stance is such that the likelihood of significant progress being achieved is questionable. Accordingly, to accommodate this situation, the Committee is further advised to authorise the Director of Planning and Technical Services to eventually grant planning permission in the event of all outstanding matters being satisfactorily resolved in liaison with Kent County Council, the Health and Safety Executive and Railtrack, but also, particularly in the light of the objections presently being lodged by the applicant, to refuse planning permission if these matters cannot be satisfactorily resolved. The recommendation is therefore in dual form, with an additional recommendation relating to enforcement action. It is emphasised that whilst it would be the intention to implement the enforcement authorisation promptly, there would be no intention to implement either part of the dual resolution until all outstanding matters have been fully explored.

It is recognised that a refusal of the application and subsequent enforcement action would result in an interference with the rights of the applicant and prospective customers as protected by Article 1 of the First Protocol of the Human Rights Act 1998. The issues relating to the unauthorised use of this site as identified above are important material planning considerations and, were the proposal to remain in its submitted form, would not be capable of being overcome through a grant of planning permission or an associated legal agreement. The second of the alternative recommendations and the enforcement recommendation reflect this. However, were the application to be satisfactorily amended, such as to overcome the identified issues, it is considered the planning permission could be granted, subject to conditions and a legal agreement, without undue interference with the rights of either the applicant or third parties as protected by Article 8 of the First Protocol of the Human Rights Act 1998. The recommendations are made in the public interest.

- I SUBJECT TO receipt of further policy advice and the receipt and approval of satisfactory highways improvements plans and the prior completion of a Section 106 Agreement securing the cessation of retailing at the applicant's Cannon Street/Golf Road site, necessary highways improvements, and restricting the areas and types of DIY and gardening products retailing to an accurate degree at Hutchings Timber Yard, the Director of Planning and

Technical Services be authorised to GRANT PLANNING PERMISSION, SUBJECT TO conditions to be delegated to the Director.

- II Otherwise, the Director of Planning and Technical Services be authorised to REFUSE PLANNING PERMISSION on the following grounds :- (i) In the opinion of the Local Planning Authority, the amount of traffic likely to be generated by the level and intensity of retailing activity for which planning permission is sought could not be catered for safely by the vehicular access/egress to and from Albert Road, whether in an existing or improved form. The proposal would therefore be detrimental to road safety and constitute a danger to the public; (ii) Any policy grounds for refusal appropriate following the receipt of policy advice relating to the effects of retailing activity on Deal town centre.
- III Enforcement action BE AUTHORISED to secure the cessation of all forms of retailing activity at Hutchings Timber Yard.
- IV I131.

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Scale: 1/2500

Application: DOV/98/615A
St Margarets st Cliffe

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2. a) DOV/98/0615A TR 3544
- b) **Amended plans of drill tower and compound including installation of lightening conductors and amendments to height of drill tower - Fire Station, Reach Road, St. Margaret's-at-Cliffe, Dover, Kent.**
- c) Kent Structure Plan Policies ENV15 and RS1
Dover District Local Plan Policies DD1 and TR14
- d) Several including:-
- DOV/96/0060 - Erection of a replacement fire drill tower - No objection raised - permission granted.
- DOV/98/0615 - Equipment cabin and compound and replacement of existing drill tower with a climbing tower and attached six numbered antenna and up to four micro wave dish antenna - approved.
- e) Director of Health and Housing: No objection raised - exclusion zones from the antenna as published by Orange and indicated on the installation tower do not present a health risk to members of the public, according to the National Radiological Protection Board guidelines for public exposure. The independent Expert group (Stewart report) makes additional recommendations relating to ICNIRP (International Commission on Non-ionizing Radiation Protection) Guidelines and based on the information provided by Orange, this installation falls well within those guidelines. Noise levels are now of an acceptable level. It is worth noting that Orange have offered testing of RF emissions on an annual basis and have agreed to forward results to this Authority and the NRPB. The letters of objection referred to in this report have been considered and are not felt to raise concerns to this department.

P.C.: Recommends refusal. The mast is considered to be intrusive in this small residential area and detrimental to the adjoining property. The noise of the equipment cabin and the wind through the aerials is unacceptable. The fireman are unable to use the drill tower as intended, and in light of experience it would be more appropriate to move elsewhere to a joint operation.

P.R.: Fifty letters of objection have been received from local residents which include letters from a District Councillor, Residents against the Mast (RAM) and the CPRE. The letters are available for inspection, however it is considered that the following relevant planning points are raised:-

- The visual impact of the tower seriously impairs residents enjoyment of their surroundings. The impact of such a tall structure within a residential area comprising bungalows should be considered. The proposal introduces a level of intrusion which one year on, residents are not getting use to.
- The tower cannot be described as a 'replacement' for the original tower. Replacement means the supply or substitution of an equivalent. The present tower is anything but a replacement, and is immensely bigger than its predecessor in every dimension.

- It is recognised from the Stewart report, that health issues cannot be taken into account, however the rising stress caused by the tower is enormous. One writer refers to having to go to hospital with stress related illness.
- There is a notice on the tower stating that people with pacemakers should not enter the exclusion zone. It is questioned how this will affect a neighbour who has friends with pacemakers.
- In order to accord with the originally approved plan, the height of the mast has had to be lowered and consequently the position of the microwave antenna dishes and their safety/exclusion zones have had to be lowered by some 2 metres.
- There are eleven children living in close proximity of the mast. There area a lot of documents indicating adverse health effects on people exposed to electro-magnetic microwave radiation generated by such masts.
- The resident closest to the mast (No. 8 Glebe Close) states that while the slight noise from the compound is bearable the mesh on the actual tower is quite noisy when the wind is strong. The mesh also stops the sun reaching the bungalow in the mornings.
- The tower is within close proximity (5 metres) to residential housing. Objects from the top of the tower have fallen into the neighbouring property.
- Since the publication of the "Stewart report" more sensitivity is required regarding the siting and appearance of such masts. Higher levels of public consultation, have been endorsed by Government.
- Wherever possible, mast sharing by the telecommunications companies should be the rule rather than the exception.
- In view of the concerns about the proposal, and the fact that Vodaphone have sited their mast at East Valley Farm, it is suggested that Dover Council refuse the application and that Orange should share with Vodaphone. It is felt that this will be less obtrusive and cause less concerns over health, whether perceived or actual, to local people.
- It is understood that the Fire Service are now unable to use the drill tower due to the health and risk factor. It is questioned what has been gained by the erection of the new tower and suggested that it is an eyesore, and should be removed.

f) Introduction and background to application

The proposal seeks retrospective permission for a development already implemented. Planning permission was given in 1998 (3 September Committee 1998) for a drill tower with six no. antenna and four microwave dish antenna. The approved plans (which are on display) show the height of

the tower to be 13.3m and to the top of the antenna, 14.5m. The tower was in replacement for an existing 10.5m high drill tower. Fundamental to the decision to approve the application, was the permission two years previously by Kent County Council (DOV/96/0060) to replace the 10.5m structure with a 13.7m high tower to be used by Kent Fire Brigade. It was understood that the 10.5m tower was in poor repair and that the Fire Brigade were keen to replace it. The only alternative scheme presented by Orange had been a 20m high mast within the Area of Outstanding Natural Beauty to which 4 letters of objection had been received and where there were policy objections. The applicant subsequently withdrew this particular proposal. However it highlighted the difficulties involved in identifying appropriate sites in an area such as St. Margarets which is surrounded by landscape of national importance. The application by Orange at the Fire Station was seen as providing an opportunity to site the telecommunication equipment on a tower of similar height to that already approved. When the proposal was considered, the balance of evidence was that base stations (such as that proposed by Orange) did not present a health hazard and that health matters were not a material planning consideration to which much weight could be given.

Work commenced on the approved tower in 1999. Upon completion however, it was apparent that the development had not been implemented in accordance with the approved plans. This raised concerns, particularly, as the measurement from the ground level to the top of the antenna was some 16.4m - about 2m higher than the approved scheme. The discrepancies also related to the positioning of the drill tower and the size of the equipment compound. The applicant was advised of these concerns and made alterations to the equipment in order to re-align the scheme with the approved details. Notwithstanding, differences with the approved plans remained and following a prolonged period of negotiation, the plans subject of this report (which are considered to accurately reflect what has been built) were finally submitted. These plans are also on display.

Assessment

In assessing the proposal, the Committee will wish to compare the amended plans with the details already approved. The key point is not whether the principle of the mast is acceptable but rather whether the differences between the two sets of plans raise issues that would be sufficient to warrant a different recommendation being reached on the proposal since the approval in 1998. In reaching a conclusion regard will also need to be had to any new material considerations since the original application was approved.

The Committee will note the difference between the two sets of drawings on display. The height of the drill tower (scale 1:100) is shown as 13.380m. This compares with 13.309m on the approved plans. The height to the top of the antenna is now shown at 14.140m (14.440m to the top of the lightning conductors) compared to 14.519m on the previously approved plans. While the measurements on the amended plan were taken from the top of a concrete plinth on which the mast stands, it is not considered that any significant difference exists between what was previously approved and what has since been erected. Other material differences include the moving of the dish antenna, the use of a smaller fenced compound and the position of the drill tower at an angle to the site's perimeter fencing. The plans also show a Fire Brigade aerial attached to the top of the mast. It is regrettable that the

development was not implemented in accordance with the approved plans. Notwithstanding, it is felt that the scheme as built is not so at odds with the approved plans for its visual impact to be considered materially different or indeed harmful so as to recommend refusal of the amended details.

Since the original application was approved, the "Stewart report" which considered the health impact associated with mobile phones, has been published. In respect of the siting of base stations, the report stated, "we conclude that the balance of evidence indicates that there is no general risk to health of people living near to base stations on the basis that exposures are expected to be a small fraction of guidelines. However, there can be indirect adverse effects on their wellbeing in some cases". The views of the Director of Health and Housing will be noted, together with the offer by Orange to test Radio frequency Radiation (RF) levels on an annual basis. This may go some way to addressing local concerns which are clearly strongly felt. However issues such as stress felt by local residents (a concern recognised by Stewart) and unhappiness over visual impact are clearly disturbing and no guarantee can be given that anything short of the removal of the facility would address this.

It is clear that local feelings have not abated over the past year and the Committee will wish to give them appropriate weight. In reaching a decision in this case however it is your officers' view that in planning terms, the balance rests in favour of the proposal. This view takes into account, the evidence to date relating to the direct health impacts of base stations the views of the Director of Health and Housing and the marginal visual differences between the amended plans and the approved scheme. Should the Committee be minded to come to a different view it is reasonable to advise that any decision to refuse would need to anticipate the possibility of enforcement action. In light of the applicants current approval of course, any such action could not require Orange to move from the site. With reference to the two sets of plans on display it is also unlikely to materially affect the situation on the ground.

A number of residents have suggested that the applicant relocate to another site currently used by Vodafone. Regard would obviously need to be had to any proposal should it be forthcoming, however to date, no formal approach has been made by the applicant. In any event, the matter before the Committee relates to the proposals at St. Margaret's Fire Station. Under these circumstances, and although there is sympathy for the concerns of the residents, there is insufficient reason to justify a refusal and the recommendation must be that the amended plans be approved.

In preparing this report consideration has been given to the implications of the Human Rights Act 1998 both as it relates to the applicant and to third parties. It is recognised that the granting of planning permission may result in an interference with third parties home and private and family life as protected by Article 8 and the right to the peaceful enjoyment of possessions under Article 1 of the First Protocol. This has to be balanced with the applicants' rights as prescribed under the Town and Country Planning Acts and related Government planning guidance. It is felt that the weight resting with these issues justifies planning permission being granted.

- g) I The amended plans BE APPROVED subject to: (i) Consideration of a condition requiring RF emissions to be submitted to the Local Planning Authority on an annual basis.

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Scale: 1/2500

Application: DOV/99/1083A
Whitfield

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3. a) DOV/99/1083A TR 299 : 456
- b) **Amendments to approved plans for chalet bungalow showing provision of detached double garage, land adjoining 23 Lenacre Lane, Whitfield.**
- c) Kent Structure Plan : Policy ENV15
Dover and Western Parishes Local Plan : DC1
Dover District Local Plan : Policies DD1 and DD8
- d) Various including:-
- DOV/88/1567 - Outline permission for one house and replacement garage - Approved.
- DOV/91/1108 - Renewal of DOV/88/1567 - Approved.
- DOV/98/0181 - Outline planning permission for detached garage and dwelling - Approved.
- DOV/99/1083 - Full permission for chalet bungalow - Approved.
- e) Highways Comments: Views awaited.

P.C.: No objection.

P.R.: One letter of objection has been received. The following comments are relevant to planning:-

"The original proposals/plans detailed provision of a layby or hardstanding on Lenacre Lane. There is at present no such provision for any spill-over parking for residents, visitors or construction traffic other than the entrance roads to my farm, which I fear will become obstructed, thus restricting movements of farm and delivery traffic to my business".

Reference is also made to the closeness of the development to a straw barn.

- f) The application seeks the erection of a double garage. This is within an area previously shown as a hardstanding for two cars on planning approval DOV/99/1083 - this being for a detached chalet bungalow.

It is not considered that the erection of a double garage in this location will have any adverse impacts on the amenities of adjoining residents or the appearance of the area. This said, it is felt that modifications can be made to the garage which will improve its design. The views of the applicant's agent regarding possible alterations are awaited.

It will be noted that one letter of objection has been received. It is not anticipated that the points raised would justify refusing the application. Highways views are still awaited and it is anticipated that conclusions relating to these matters can be reported at the Committee. Assuming that no highways objections are raised it is not considered that the granting of the proposal would result in an interference with third party's home and private and family interests as protected by Article 8 of the Human Rights Act 1998 or the right to the peaceful enjoyment of possessions under Article 1 of the First Protocol.

g) I SUBJECT TO the resolution of outstanding details relating to garage design and any relevant matters raised by third party objection THE AMENDMENTS BE APPROVED.

II 107.

III 113.

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Scale: 1/2500

Application: DOV/00/300A
Dover

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4. a) DOV/00/0300A TR 307 : 401
- b) **Revised scheme to include first floor extension, 41 St. David's Avenue, Dover**
- c) DOV/00/300 - Erection of single storey extension - Approved.
- d) Kent Structure Plan - Policy ENV15
Dover and Western Parishes Local Plan - Policies DC1 and DC8
Dover District Local Plan - Policies DD1 and DD8
- e) Dover Town Council: No objections.

P.R.: Two letters have been received objecting to the application for the following reasons:-

- (i) The proposed first floor extension would disrupt views towards the sea;
 - (ii) The proposed side extension would be out of keeping with the character of the existing dwelling and the locality;
 - (iii) Loss of property value;
 - (iv) Interference with sunlight.
- f) This application relates to a semi-detached dwelling which is being extended at ground floor level. However, the applicants have decided not to roof the single storey extension and instead seek to amend the scheme by including a first floor extension with a pitched roof. The width of the extension would be 2.5 metres with a depth of 7.5 metres and extending to a ridge height of 8.00 metres. The proposal seeks to form an en-suite bathroom and bedroom extension at first floor level. Its scale is such that it should not seriously upset the balance of this pair of dwellings.

The Committee will note the objections raised. Only those relating to the appearance of the proposal are material planning considerations. It is felt that the extension is not of sufficient scale to impact on the character of the area.

It is recognised that the grant of planning permission may result in an interference with the rights of third parties as protected by Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. This has to be balanced with the applicant's rights. It is not considered that the issues identified as objections to the development raise such concerns as to overcome the conclusion that planning permission can be granted. The recommendation is made, accordingly, in the public interest.

- g) I The amendments as shown on plans numbers 01, 02 and 03 accompanying the agent's letter dated 5 October 2000 BE APPROVED as amending the planning permission reference DOV/00/0300 granted on 16 May 2000.

II 107.

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Scale: 1/2500

Application: DOV/00/603
Dover

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5. a) DOV/00/0603 TR 311 : 421
- b) **Replacement front doors, Kings Hall, 287 London Road, Dover.**
- c) Kent Structure Plan : Policies ENV17 and ENV19
Dover and Western Parishes Local Plan : Policies DC13, DC14 and DC16
Dover District Local Plan : Policies HE3 and HE5
- d) There is no history directly relevant to the current proposal.
- e) T.C.: No objections.
- f) The application relates to the installation of new front doors at the Kings Hall, a Grade II listed building. A letter from the applicant accompanying the application states:-

"This work is not being done as a matter of choice, the left-hand glass panel and door and side windows were broken by vandals causing very comprehensive damage. The doors are made of $\frac{5}{8}$ inch armour plating glass from the 1970s which would have to be specially made in the present day. I therefore decided to search all over the south-east until I found two doors from the correct 1820 period which matched the remaining panels on the front of the building. At the present moment security is being maintained by temporary shuttering to the left of the one remaining door."

Shortly after the submission of the application, the doors were installed. While sympathy is had with the applicant's security needs, he has been advised that this work is at his own risk.

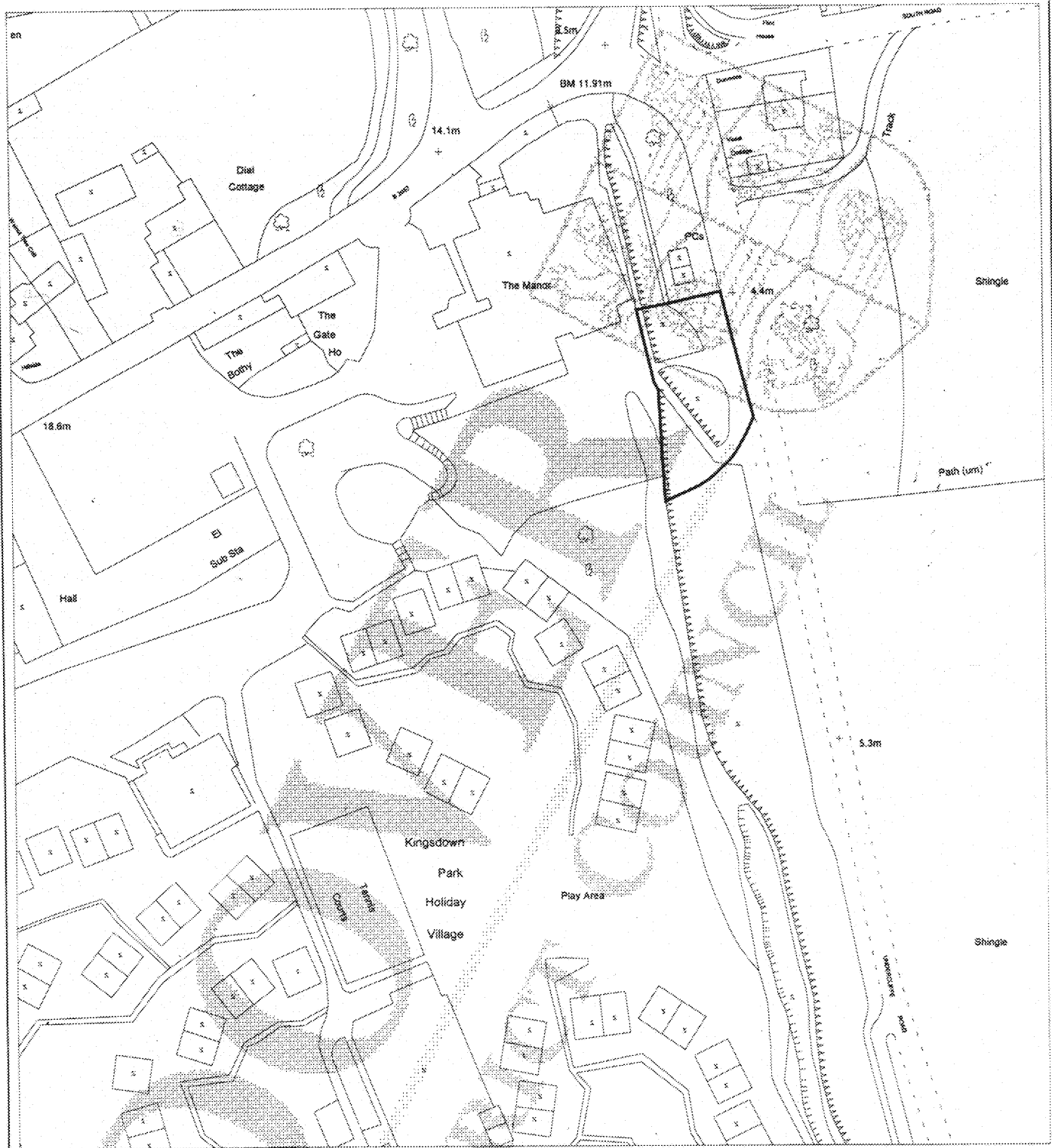
In planning terms, the main consideration is whether the new doors are appropriate to the listed building. While not unattractive in their own right the doors are not felt to be of sufficient size/scale to front the entrance way. They are also set within an unsuitable frame. The finished appearance is considered to detract from the listed building and for this reason, it is recommended that listed building consent be refused. The recommendation at II will also be noted.

In preparing this report, consideration has been given to the implications of the Human Rights Act 1998. It is recognised that refusal of listed building consent will result in an interference with the applicant's peaceful enjoyment of possessions under Article 1 of the First Protocol. The concerns relating to the proposal as set out above, however, are important material planning considerations and cannot be overcome by granting listed building consent subject to conditions. The proposal must therefore be refused listed building consent in the public interest. It does not place a disproportionate burden on the applicant and would not constitute a violation of his rights under Article 1 of the First Protocol.

- g) I Listed Building Consent BE REFUSED on the grounds:- (i) The proposed replacement doors, by virtue of their size, design and appearance in the front elevation are considered to detract from the character of the Grade II listed building. Accordingly the proposal would be contrary to Policy ENV19 of the Kent Structure Plan, Policy DC16 of the Dover and Western Parishes Local Plan and Policy HE5 of the Dover District Local Plan.

- II The applicant BE ADVISED that the doors should be removed within 6 months of the date of this decision. Failure to do so will result in enforcement action.
- III The applicant BE INVITED to discuss alternative proposals with the Council's Conservation Officers.
- IV The applicant BE ADVISED that grants may be available under the Dover Heritage Economic Regeneration Scheme for suitably designed replacement doors.
- V I13.

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Scale: 1/1250

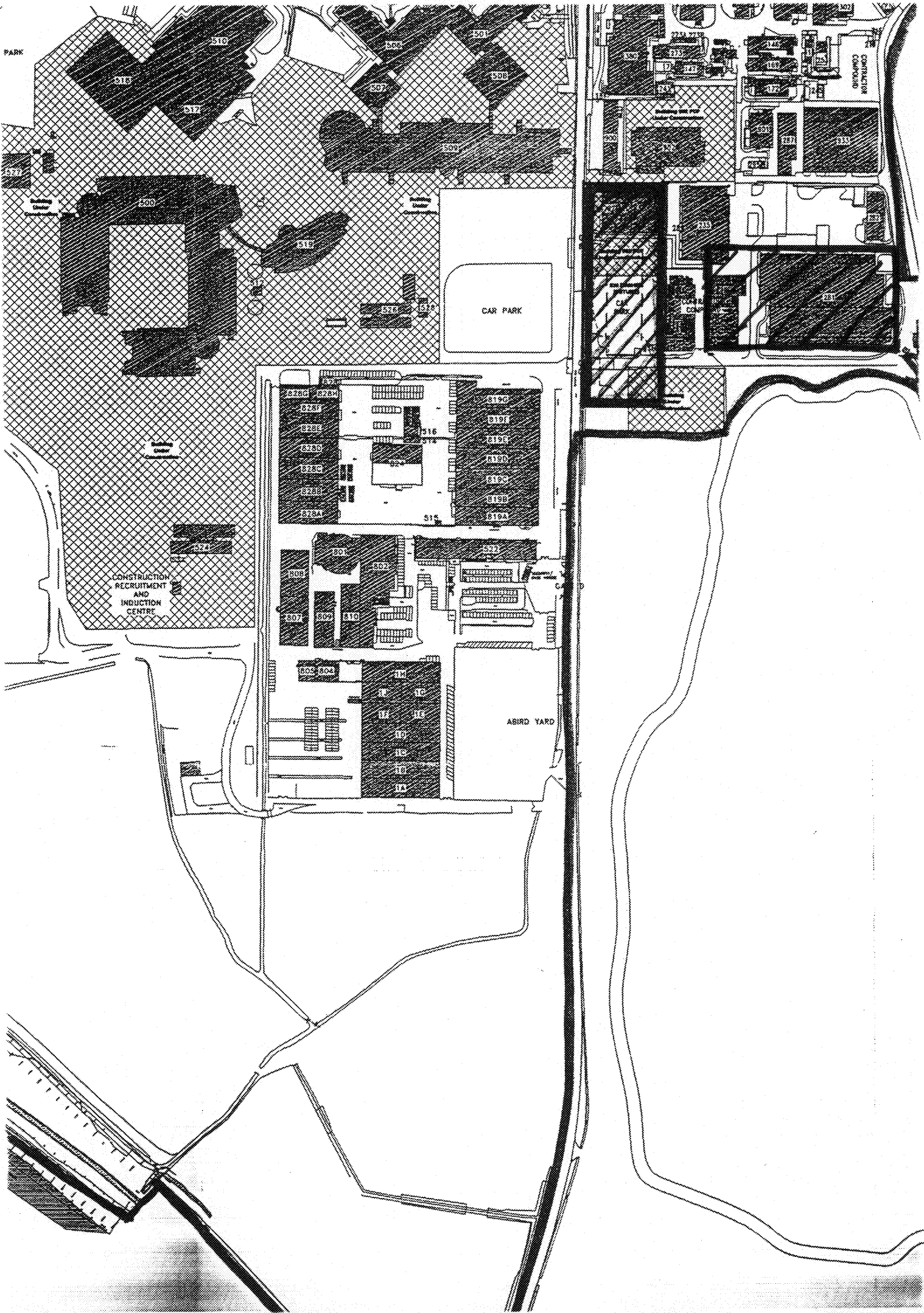
Application: DOV/00/830
Kingsdown
Ringwold Parish

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N



6. a) DOV/00/0830 TR 378 : 484
- b) **The removal of four trees and three stumps and replanting, the Manor House, Upper Street, Kingsdown.**
- c) Kent Structure Plan : Policy ENV7
Tree Preservation Order No.8, 1999
- d) -
- e) P.C.: Has requested further information; further views awaited.

P.R.: Eight letters have been received objecting to the proposal. The main thrust of the objections relates to unauthorised felling and other treeworks that took place in preceding months which culminated in the Tree Preservation Order being served. The objectors consider that the Order should prevent further work being undertaken.

Additional comments relate to a nearby SSSI and states that the works would detract from the natural beauty of the area and leave a gaping wound in an otherwise tree-lined stretch of Undercliffe Road; that the trees could be incorporated into a planned garden scheme; and that destruction of mature trees is not defensible in this age of environmental awareness. It is also suggested that the works are proposed only to provide sea views and that this would be achieved by topping of the trees.

- f) The proposal relates to trees growing on an embankment forming the eastern boundary of the Manor House. This property is undergoing refurbishment after years of dereliction which included using the embankment as a tip site. A report on treeworks on another part of the site is elsewhere on this agenda (DOV/00/1065).

Apart from a few mature specimens the tree cover along Undercliffe Road has established since the last war. The trees are semi mature and have formed a wooded cover of Ash and Sycamore stretching from Oldstairs Bay along Undercliffe Road to Kingsdown Road.

The tree cover at the site, even before the unauthorised work, was not particularly dense, but was enhanced by the establishment of a copse on the beach edge on the other side of Undercliffe Road which increases the wooded appearance. A Tree Preservation Order was served in 1999 following the carrying out of tree works on the site which is in the Conservation Area.

The trees subject of this application include three stumps which are the result of the unauthorised works, two semi mature Sycamores with extensive crown dieback and two semi mature Ash trees (one misnamed as a Sycamore) which are growing out over Undercliffe Road.

Of the stumps, two are still alive and resprouting. The desire to remove these is to permit planting up of the embankment.

Given that the site is to be subject to a planting scheme, the removal of one Ash and one Sycamore stump may be compensated for by replacement

planting of more desirable species, such as Beech. Such replacements would automatically be subject to the Tree Preservation Order.

The dieback in the Sycamores appears to be natural, other trees nearby having similar symptoms.

The two Ash trees are overburdened with ivy and it could be argued that their growth is now dangerous as they could collapse across Undercliffe Road.

Essentially, the site is one which has been neglected and which is now coming under management. While the unauthorised works are to be deplored, the bulk of the proposals in this application are independent of any previous work.

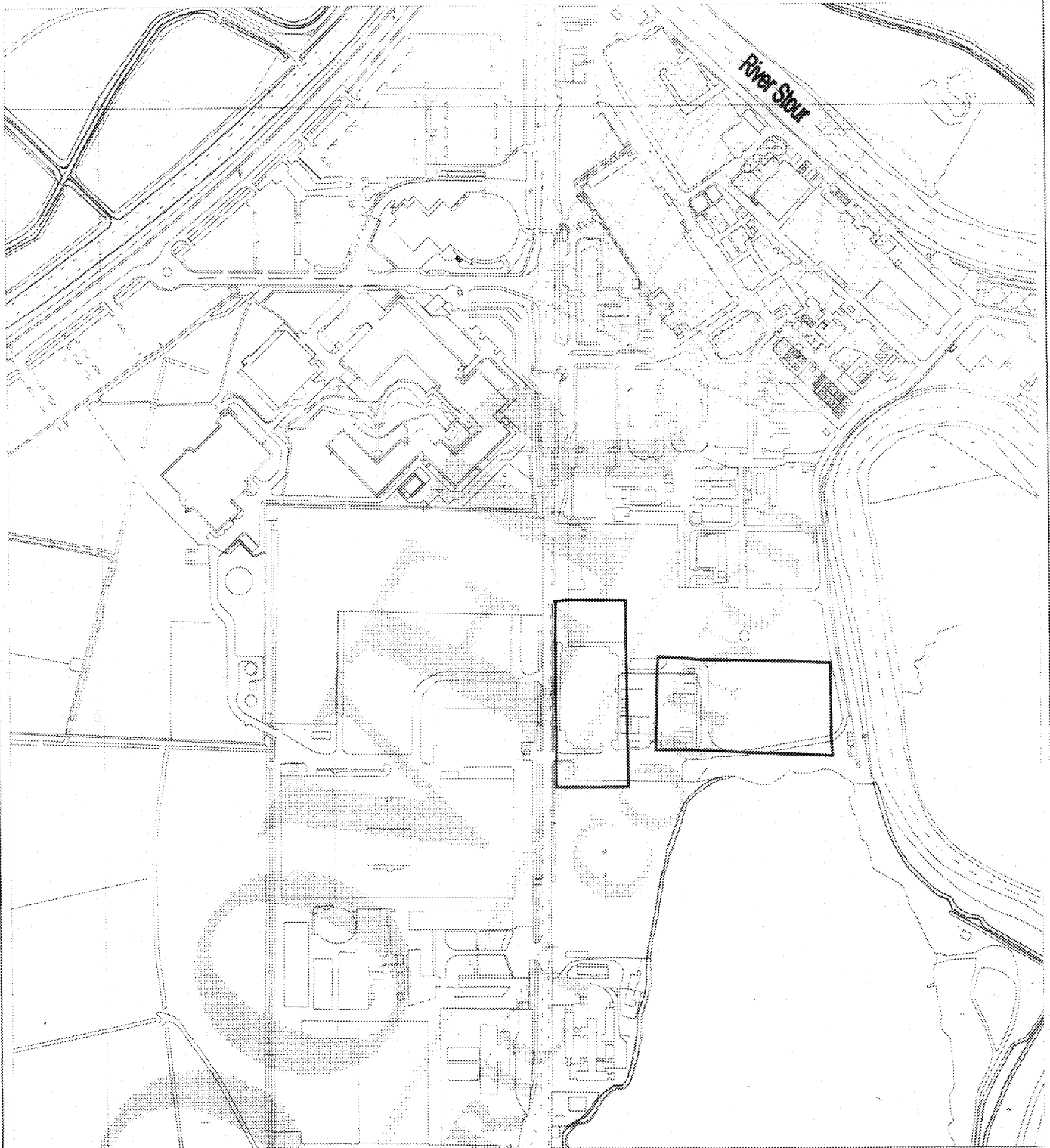
It is recognised that the grant of permission subject to a condition may result in an interference with the rights of the applicants as protected by Article 1 of the First Protocol of the Human Rights Act 1998. However, it is considered that this recommendation is justified to protect the rights and freedoms of others and is in the public interest. It does not place a disproportionate burden on the applicants and would not constitute a violation of their human rights.

- g) I PERMISSION BE GRANTED for the proposals subject to the replanting of the site with seven trees of species and size to be agreed with the Local Planning Authority within three months of the proposed works.

II I131

III I107.

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Scale: 1/5000

Application: DOV/00/953 & DOV/00/954
Sandwich

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N

7. a) (i) DOV/00/0953 TR 3348 : 5942
(ii) DOV/00/0954
- b) (i) **Erection of Pharmaceutical Sciences Building**
(ii) **Extension to the high bay warehouse and distribution premises Pfizer East Site, Ramsgate Road, Sandwich.**
- c) Kent Structure Plan : Policies S3, S4, NR5, ENV4 and ENV5
Dover District Local Plan : Policies AS19, WE9, CO2, DD1 and DD12
- d) Relevant recent planning history:

DOV/98/0482 - New high bay warehouse facility - Planning Permission Granted.

DOV/97/0957 - General laboratory building - Planning Permission Granted.

DOV/98/0856 - Four storey building comprising three storey office accommodation and ground floor mixed accommodation - Planning Permission Granted.

DOV/98/1224 - Four storey campus gateway building comprising mixed office and records accommodation - Planning Permission Granted.

- e) Highways Comments: No objections subject to resolution of parking.

D. of H. and H.: Views awaited.

E.N.: The construction and use of the proposed new buildings will not have a significant effect on the nature conservation objectives of the nearby designated sites, hence no objection is raised.

T.C.: No objections to the high bay warehouse extension. Initially expressed concern that the pharmaceutical sciences building is situated on the Sandwich side of the site which could increase the number of vehicles going through the town to reach it. Subsequently has recommended approval subject to suitable car parking provision for the staff employed in the building.

E.A.: No objections to the pharmaceutical building, but seeks site investigations for contamination in respect of both proposals. Also comments on the use of water and the potential for flooding. Further views awaited.

P.R.: One letter has been received from a nearby resident who expresses concern that the pharmaceutical building would overlook and be visible from his property so affecting its saleability, and that construction work would result in damage to his property as a result of vibration or from HGVs driving to the site. He also suggests a Tree Preservation Order be placed on adjoining trees.

f) The Site and the Proposal

The application sites are located on the south of the east site of the Pfizer complex, to the north side of Stonar Lake. The high bay warehouse exists immediately to the north of the lake. It is a large storage building with the visible elevation 95m long and 28m high. The proposal is to add a further bay to the south elevation to a similar height but slightly shorter to enable the site road to continue through to the truck marshalling yard within the confines of the Pfizer East Site. The proposal also includes a lower level extension to the west side of the building for storage and packing areas.

To the west of the high bay warehouse and the proposed extension a separate application seeks permission for a four storey pharmaceutical sciences building that includes office and laboratory space. It would provide 35,500m² of floor space for 400 new staff and 460 staff will be transferred. The design of the building is of the west site style using glass curtain walling between sandstone/buff coloured precast concrete tiles. The building would present its main elevation to Ramsgate Road. Plans of all the proposals are on display.

The applicants have submitted that the two proposals are critical to their business and that considerable effort has been made to blend the requirements of the building such that they would create a united image when viewed from outside the Pfizer complex. The functions of the buildings are such that a differing aesthetic appearance results.

Policy Context

The relevant policies are listed at c) above. Kent Structure Plan Policies S3 and S4 seek to stimulate economic activity and employment in Kent by the growth of existing industry.

Policies in both the Kent Structure Plan and Dover District Local Plan also seek to protect the nearby Special Landscape Area, RAMSAR site, Special Protection Area, and candidate Special Area of Protection. All these designations relate to Sandwich Bay and part of the River Stour.

Local Plan Policy AS19, which deals specifically with the Ramsgate Road area, applies to these application sites, and allows development for Class B1/B2/B8 employment uses (light and general industry, offices and warehousing). The criterion within the policy which requires development along the A256 to be low rise is not applicable to the Pfizer site. Another criterion requires that a contamination report is submitted to ensure that the development does not pose a risk to human health or adjacent nature conservation interests. Pfizer had carried out a preliminary report for the area which has been supplemented by a more in-depth report specific to the application sites.

Local Plan Policy WE9 echoes Structure Plan Policy NR5 and is concerned with built development in the fluvial flood plain. It requires that developers demonstrate that the development is not at risk from flooding and that it does not impede flood flows. Development will not be permitted in an area at risk of tidal flooding unless it does not harm the integrity of flood defences and does not increase the risk of flooding at the site or elsewhere.

Assessment

The principal planning considerations with regard to these applications are whether the development:

- Is acceptable in planning policy terms;
- Is acceptable in terms of design;
- Is acceptable in nature conservation terms;
- The development is acceptable in terms of highway infrastructure and car parking requirements;
- Is acceptable in terms of possible impact from tidal or river flooding; and
- Impacts on any nearby residential properties.

Planning policies generally encourage development that creates economic activity and employment in Kent as a whole and specifically in East Kent, by the growth of existing industry. The buildings proposed and the uses within them are acceptable employment uses, creating 400 new jobs. The design of both buildings would be to a very high standard. The new office/lab building will be constructed using materials to match the other recent buildings on the west site of the complex. The design is individual, using particular forms - a curved front elevation would be held between two blocks that are angled towards Ramsgate Road. This design provides an imposing frontage that will shield a large area of the more industrial appearance of the east site. The building is set slightly forward of other buildings on the Ramsgate Road frontage; however the angled ends of the building provide a built form that benefits the street scene because the building tapers to the north and south rather than having a bulky regular squared edge. The additions to the highbay warehouse would reflect the form and detailing of the existing building.

The application sites are near to but not within the landscape and nature conservation designations at Sandwich Bay and along parts of the River Stour. Planning policies seek to protect these areas. English Nature does not object to the proposals. Both developments will be seen in context with the existing Pfizer complex.

With regard to highways issues, the two applications are clearly for very large buildings. The laboratory building will be staffed with 860 people, the high bay extension with around 50, and the latter will have many vehicle movements due to its use. Prior to 1997 each building application made provision for its own car parking need in accordance with highway standards. A condition on the consent in 1997 for the laboratory building altered this method by starting a process whereby Pfizer had to provide a green transport plan that dealt with vehicle parking for the whole site and provided a means of reducing the car dependency. This major study has brought about changes already such as regular and increased number of bus services to the site, shuttle buses to and from Sandwich Train Station and more facilities for cyclists. The plan is being monitored at scheduled 6 weekly meetings between representations of

Pfizers and the District Council. The result has been a slight reduction in car dependency.

Car parking provisions are not included in the current submissions, but would be reserved by conditions attached to permissions requiring the company to submit parking details before the buildings are occupied. This gives the District Council the benefit of continued monitoring and assessment of the actual requirement rather than applying a parking standard set at the stage of granting permission that would provide a greater number of spaces than the development requires; this is a consequence of the County Council parking standards reflecting building floorspace rather than taking account of numbers of staff and travel arrangements and the fact that staff may often transfer, as in this instance. This holistic approach has proved beneficial in reducing the level of car parking and providing a more sustainable policy on car parking. Once the construction projects have ceased on the west site formal car parking and associated landscaping will be laid out providing for buildings already approved and the pharmaceutical building now proposed. The access road to the HGV parking and marshalling yard for the high bay warehouse has already been approved as part of the original submission and is currently under construction.

The application sites are within an area at risk from tidal flooding as defined on the Local Plan Proposals Map. Policy WE9 seeks to ensure that development is not at risk from flooding and that it does not impede flood flows. The Environment Agency has no objection to either proposal in terms of its impact on the flood plain but has requested, and received, a contamination assessment report. Its further views are awaited on this matter.

One letter of objection has been received from an owner of a nearby property, and the Committee will note his concerns. The road has already been approved and the building will require a number of piled foundations to be driven. However, Pfizers have now confirmed that the piling for the pharmaceutical building will be a continuous flight auger pile throughout. The decision to proceed with this type of drilled pile rather than driven pile reflects Pfizer's awareness of the local environment and the need to minimise noise pollution to their workforce and adjoining neighbours. The anticipated hours of work for this activity are 0730 to 1800 hours weekdays and 0800 to 1300 Saturdays. The current proposed schedule indicates work to commence in April 2001 and lasting 14 weeks.

It is also stated that Pfizer will undertake their own environmental monitoring in terms of noise generation and pollution during this period to ensure expected levels of noise and dust are not exceeded. The views of the views of the Director of Health and Housing are awaited regarding noise and vibration and any effect on the nearby houses.

Conclusion

The Development Plan encourages this type of employment-generating expansion of an existing business, and providing that the site assessment indicates that any contamination can be resolved or is within acceptable levels the principal of constructing the two proposals can be accepted. The scheme does not impinge upon the landscape or nature conservation designations nearby and is of a quality that provides a continued upgrading of

the east site with office and laboratory accommodation on the Ramsgate Road frontage.

It is recognised that the grant of planning permission may result in an interference with rights of third parties as protected by Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. This has to be balanced with the rights of the applicant and the tenant under the same articles. It is not considered that any issues concerning the development are such as to override the conclusion that planning permission can be granted subject to conditions. The recommendation is made, accordingly, in the public interest.

- g) I Subject to the views of the Director of Health and Housing and the further views of E.A., PLANNING PERMISSION BE GIVEN in respect of both applications, subject to conditions delegated to the Director of Planning and Technical Services, but to include:- (i) DP01; (ii) DP04; (iii) MA03; (iv) Conditions as recommended by Highways, E.A. and Health and Housing; (v) landscaping conditions.

II 107, 113.

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Scale: 1/5000

Application: DOV/00/1002
Shepherdswell with Coldred

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8. a) DOV/00/1002 TR 268 : 487
- b) **Change of use from agricultural to industrial (B1 and B2) purposes, Grabhams Drier, Long Lane, Shepherdswell.**
- c) Kent Structure Plan : Policies ENV1, ENV4, ED4, RS1 and RS5
Dover and Western Parishes Local Plan : Policies EP12, NE2 and DC37
Dover District Local Plan : Policies LE23, CO1, CO3 and DD1
- d) DOV/91/0239 - Change of use to light industrial garage, workshop, office and store - Refused.
- DOV/99/1231 - Change of use to garage, workshop, office, store - Refused.
- e) Highway Comments: No objections if there are overriding planning reasons to grant permission, otherwise there are policy objections. Has concerns at the effects of landscaping on visibility.

P.C.: No objections subject to appropriate safeguarding conditions.

E.A.: Views awaited.

D. of H. and H.: Views awaited.

P.R.: Two letters have been received objecting on grounds of:-

- Open landscape location in a Special Landscape Area; the proposal will have a significant environmental impact and change the nature of the landscape, including lighting at night.
- Unclear intentions.
- Inadequate road access; traffic will cause obstruction and danger to road users. Reference is made to increasing levels of traffic associated with Tilmanstone Colliery.
- No indication of employment.
- Obstruction of vision at a road junction by planting and boundary fencing.
- Likely that private cars will be the only form of transport for employees as public transport is minimal and cycling and walking are hazardous; parking will not be accommodated in the building.
- No reasons given for granting permission.
- The proposal is contrary to PPG13 and Policy TR1.
- The reasons for refusal on the previous proposal remain valid.

f) The Site and Location

Grabhams Drier is an agricultural building of dimensions of some 8m x 14m lying to the north-east of Shepherdsweil. There is a hard surfaced forecourt 15m x 15m separating it from Long Lane.

The building was used as a grain dryer/storage building but now has no agricultural function.

It is set in an open landscape with long views and is quite prominent in its visual impact.

The Proposal

The application is for a B1 and B2 use (i.e. general and light industrial uses, but included in B1 uses are office uses) and appended to this report is a letter from the agent setting out the planning case for the proposal.

In summary this letter suggests that all activities (apart from customer vehicle parking and deliveries) would take place within the building thereby limiting the visual impact, and that appropriate landscaping would further mitigate the impact. The plans show an indicative scheme of hedge and tree planting around the periphery of the site and the hardstanding. The letter also refers to the policy background and suggests a condition that could be imposed regarding the control of activities on site.

Policy Background

As the site is located outside the village confines of Shepherdsweil, and within the Special Landscape Area there are countryside protection policies that apply in both the Structure and Local Plan. There are also policies that encourage rural employment and the re-use of rural buildings for this purpose.

In addition policies for sustainable development seek to restrict development in rural areas unless specific circumstances prevail.

Planning Policy Guidance Notes, particularly numbers 7 and 13, contain similar advice; there is a potential conflict between the needs to protect the countryside for its own sake and to generate rural employment and support the local economy through the re-use of buildings.

Other Material Considerations

The site has previously had applications refused for similar uses to that now proposed, firstly by Committee (DOV/99/789, Item 7, 4 November 1999), and subsequently (DOV/99/1231 in July this year under the delegated system).

The Parish Council raises no objections subject to appropriate conditions and two letters have been received making objections which are summarised above.

Analysis

The proposal gives rise to apparent conflict in policy between the stated aims of countryside protection and supporting the rural economy. This is not an unusual situation and PPG1 at paragraph 40, which sets out the plan-led system for the determination of planning applications, says that:-

"those deciding such planning applications or appeals should always take into account whether the proposed development would cause demonstrable harm to interests of acknowledged importance."

Accepting that the building will remain on site, the demonstrable harm would potentially be the impact on this very open landscape by activities, such as storage, vehicles and advertisements that would change the essential character away from open countryside and activities of an agricultural nature. Policy ENV4 of the Structure Plan requires long term protection to be given to Special Landscape Areas and priority to their conservation and enhancement while having due regard to the economic and social well-being of the area.

In terms of sustainable development there would be a need for traffic to serve the site in terms of employees, customers and servicing and inevitably it would need to come through the nearby villages. However, the size of the building is such that traffic generation is unlikely to be on a large scale although this is not known for certain as an end user is not identified. In addition, any development outside the towns and villages could be said to be contrary to the theme of sustainable development.

Both of the previous applications each involved garage/workshop uses. They were refused on grounds relating to the building's prominent location in the Special Landscape Area, the adverse visual impact from activities at the site which would be likely to arise in addition to the adverse visual impact of the building itself, and the generation of travel/sustainability.

The fundamental consideration is whether the application now submitted overcomes these concerns sufficiently to enable permission to be given.

The significant differences are:

- The proposal is now for a general B1/B2 use rather than for a specific user;
- The agent is offering to confine most activities to within the building with a safeguarding condition;
- The proposal includes an indicative planting scheme.

The open-ended permission now sought makes it more difficult to assess with accuracy the likely levels, types and origins of traffic generated by the use. Indeed, no information at all has been submitted on this point. The agent concedes that the proposal would inevitably increase travel by private car and that the location is not the most sustainable, but considers that the proximity of the site to existing settlements, public transport and the national cycle route reduces any harm in sustainability terms. The previous proposals indicated four vehicles visiting the site each day. It is not considered likely that traffic generation will be any less, particularly in the absence of information to the

contrary, and on this basis, it is not considered that the previous sustainability concerns have been overcome.

The principal concern with the previous proposals was the inevitability of parking, storage and other activities on the hardstanding (and perhaps on what was shown as "waste ground" within the curtilage of the site), particularly taking into account the specific use then proposed. What was also not in the applicant's favour (and was reflected in the grounds of refusal) was the charmless utilitarian nature of the building, the re-use of which was considered not to comply with criterion (ii) of Structure Plan Policy RS5, in its isolated and prominent position, with its fairly obvious link with agriculture. Any use which severs its link with agriculture would exacerbate the existing adverse visual effects of the building.

It is debatable whether the agent's suggested condition would overcome these concerns. However carefully worded the condition, subsequent monitoring would not be straightforward and there is a general tendency, in any event, for occupants of such buildings to overlook, for whatever reason, such restrictive conditions, particularly if they expand or change their method of operation such that restricting activity to within the building is no longer practical or convenient. The Committee will note, in any event, the agent's admission that some parking and servicing would take place outside the building.

The proposed planting would emphasise any severance of the building from its agricultural origins and surroundings. It would also add weight to the argument that the building fails to accord with criterion (ii) of Structure Plan Policy RS5 which refers to the need for any such building to be "in keeping with its surroundings". Planting itself could be argued to be alien in this open downland landscape and would, in any event, take considerable time to become effective in screening the building and activity at the site, even if it was successfully established. The planting scheme is indicative only and cannot be considered to overcome the objections reflected in the previous refusals.

Conclusion

In conclusion, your officers remain concerned that the proposal is unacceptable in landscape and sustainability terms and that, on balance, it should be recommended for refusal.

Nevertheless, given the continuing efforts of the applicant to find a suitable use for the building, the agent's submissions now made, the sensitive nature of the landscape and the fact that the building is likely to remain against a general encouragement of the re-use of rural buildings, it is recommended that Members first visit the site prior to making a decision on the application.

Any decision on the application will need to take account of the rights of the applicant under Article 1 of the First Protocol of the Human Rights Act 1998. The applicant's rights need to be balanced against the wider public interest which is reflected in the policies and issues referred to in this report.

- g) I A SITE VISIT BE UNDERTAKEN.

GODDARD PLANNING CONSULTANCY

Chartered Town Planners & Development Consultants

Our ref:
MG/ME/1093

Your ref:

Date:
13 September 2000

DOV/00/1002
14 SEP

Mr M Dawson
Dover District Council
Planning & Technical Services Department
White Cliffs Business Park
DOVER
Kent
CT16 3PG

APPENDIX

Dear Mr Dawson

Grabhams Drier, Long Lane, Shepherdswell
Use of former agricultural building for B1 and B2 industrial purposes

I submit a planning application for the use of this building for B1 and B2 industrial purposes. The application is accompanied by this letter which sets out the background to the proposal, the policy context and the main issues raised by it. It follows an earlier refusal of planning permission. The proposal seeks to overcome the deficiencies of that earlier application but essentially involves the same proposed engineering operations. The significant differences involve the removal of any activity, parking or storage from outside the building and the restriction of all activities to within the structure.

Background

The building was formerly in agricultural use but is now redundant. It lies in open cultivated countryside to the north east of Shepherdswell. It is a modern cost type building with a concrete forecourt. The building is located in something of a hollow but is widely visible from nearby roads.

The proposal involves the use of the building for light and general industrial uses. All parking of operatives' vehicles would take place within the building itself. My clients would also be prepared to limit the parking of any customers' vehicles or the vehicles relating to service deliveries to a small part of the forecourt so as to limit the visual impact of the proposal. A condition to that effect is suggested at the end of this letter. Accompanying the application are proposals for landscape treatment to introduce much needed trees and shrubs in an area which has previously been largely denuded of hedgerows and trees in the interests of more effective and efficient farming.

Policy Context

Development plan policies seek the protection of the countryside for its own sake. However, encouragement is given to the rural economy and to job creation in East Kent, in particular. These themes of policy are echoed in the emerging District Local Plan. National guidance in PPG7 encourages the re-use of former agricultural buildings for employment purposes so long as there is no adverse impact upon the character and appearance of the countryside.

On the other hand, PPG13 seeks to reduce travel by private car.

The Issues

Against this background, it seems to me that the issues raised by this proposal are:

- 1 The effect upon the character and appearance of the countryside;
- 2 The effect of the proposal upon rural employment;
- 3 Whether the proposal satisfies the objectives of sustainable transportation policies.

Character and appearance

With regard to the first issue, the proposal involves no changes to the external appearance of the building. The re-use of the building for agricultural purposes would inevitably involve the storage and parking of materials such as pallets, agricultural produce, vehicles and plant. The proposal restricts the use of the outer area to prevent such parking and storage. Consequently, there would be some visual benefit when compared with the permitted use of the building. In addition, there are landscaping proposals accompanying the application which would provide for much needed planting and opportunities for wildlife which could otherwise not be secured. On this issue, therefore, I hope that you will share my conclusion that the proposal would have no adverse effect upon the character and appearance of the countryside.

Employment

Policies in the Structure Plan and the emerging Local Plan encourage the development of employment opportunities in the district. National guidance supports the conversion of former agricultural buildings to employment uses. The proposal will generate new jobs in a rural area which has suffered from decline in employment opportunities, particularly following the closure of the East Kent Coalfield.

The prospects of the building being used for agricultural purposes in the future are remote and the proposal therefore represents a good opportunity to make effective use of existing resources with the benefit of assisting in the economic regeneration of this rural area. In these respects, the proposal, in my opinion, is consistent with policies in the Development Plan and the emerging Local Plan which encourage economic development.

Sustainable Transportation

The thrust of recent national guidance emphasises the importance of sustainable development and minimising travel by private car. The location of the site in the rural area would inevitably increase travel by private car. However, it is in close proximity to Shepherdswell and Eythorne. The site is also easily accessible on public transport by bus and is relatively close to the railway station. It is also alongside part of the National Cycle Route (Sustrans).

Conclusion

In conclusion, whilst the location is not the most sustainable, any harm in relation to this issue is reduced by the proximity to existing settlements public transport and the National Cycle Route.

Taken together, I hope that this revised proposal will now receive the support of the Council. The efforts to address the concerns about visual impact now seem to me to tip the balance in favour of the proposal because of the greater weight which should be attached to the economic benefits of the scheme. I hope the Council shares this assessment and I look forward to the possibility of a grant of planning permission.

Conditions

In the event of planning permission being granted, I suggest that in addition to the standard lime limit, conditions be imposed requiring the submission, approval, implementation and retention of landscaping works and the following condition:

The activities permitted shall take place solely within the building. There shall be no industrial activities in the open air, no storage of materials, parts, plant or equipment. No parking of motor vehicles shall take place outside the building except on that area shown hatched on the approval drawing. [The precise hatched area is a matter which we would wish to discuss with the Local Planning Authority prior to the determination of this application].

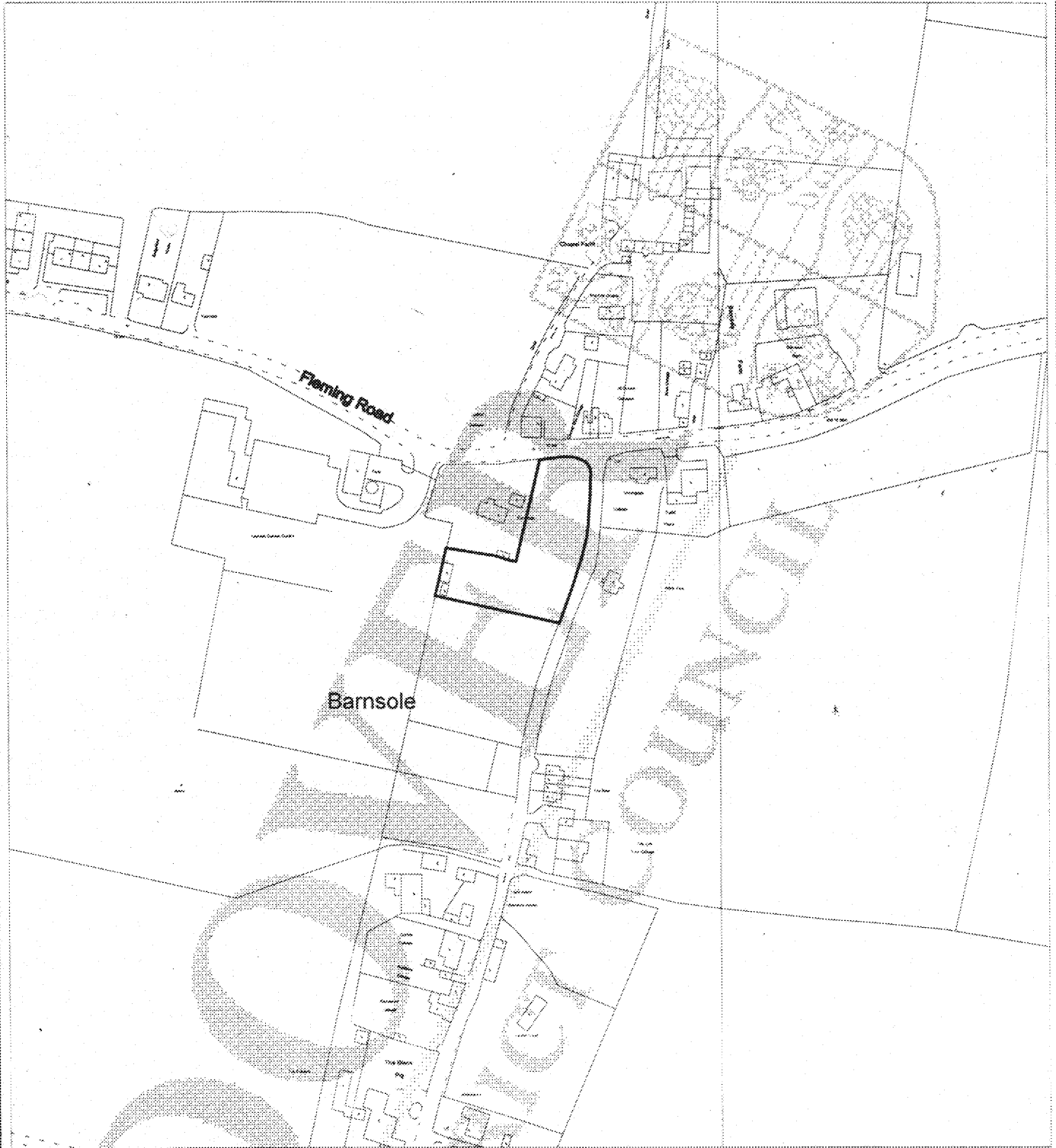
Yours sincerely

MP Edmond

PA Mike Goddard

Enc: Planning application forms 1 and 1a
£190.00 Cheque
Site location plan

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Scale: 1/2500

Application: DOV/00/1009
Staple

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9. a) DOV/00/1009 TR 2787 : 5658
- b) **Erection of two dwellings and construction of vehicular accesses - land adjacent Fernleigh, Lower Road, Barnsole, Staple.**
- c) Kent Structure Plan : Policies S1, ENV1, RS1 and RS5
Dover District Local Plan : Policies CO1, HS1, DD1 and TR1
Kent Design
- d) No relevant site history.
- e) Highways comments: This proposal is clearly contrary to policy, hence the Policy TR1/PPG13 arguments concerning sustainability issues come into play. Additionally, no details of visibility splays are shown for the junction of the access with Barnsole Road. Accordingly, a further ground of refusal would be appropriate to reflect this.

P.C.: In favour of the proposal and raises the following points:-

- There are houses to the north, east and south of the proposed development, as well as a garden centre and vineyard in the locality;
- Although the development is outside the village confines, Barnsole is linked to Staple by Lower Road and by Mill Road with houses along both - but sparse along Mill Road;
- Housing of this type is needed in the locality for employees of Pfizers; Ash and Goodnestone have been allowed extra housing because of this;
- Extra traffic would be minimised as Staple has a bus service, including school buses to Wingham and Sandwich;
- The design and materials are in keeping.

P.R.: Two letters of representation received, one of which has seven signatories, which make the following points:-

- The properties do not fit in with the present character of properties in the location, some of which are more than 200 years old;
- The proposed properties would be obtrusive and out of keeping with a rural village;
- Further traffic congestion at the junction of Barnsole Road and Lower Road would be caused with the introduction of new driveways. This would add to the already hazardous nature of the junction, with cars pulling out into which traffic is already moving far too quickly through the village;
- The two houses for which planning permission is being sought fall outside the confines of the village; there does not appear to be any urgent requirement for extra housing such as for dependent relatives

which might otherwise explain the desire to build on this ground; both houses seem to be intended for financial gain;

- One might wonder whether the submission of an application for two houses might be intended to increase the possibility of permission being granted for at least one;
- One of the houses would be very close to a T junction which has been the site of a recent accident;
- One of the dwellings would be positioned in very close proximity to an existing dwelling;
- An increase in housing in the village would alter its nature against the wishes of many residents.

Both letters also make the point that the proposals would devalue adjacent properties. This is not a planning consideration and cannot be taken into account in determining the application.

f) The Site and The Proposal

The site comprises part of the large residential garden of a detached dwelling known as Fernleigh, located at the junction of Lower Road and Barnsole Road, to the east of the village of Staple and to the north of the hamlet of Barnsole. The site has an area of 0.26 hectares.

The application seeks full planning permission for the erection of two detached dwellings on the site with separate driveways leading from Barnsole Road. The dwellings would have four/five bedrooms; each would have a double garage. Materials are described as clay plain tiles and Flemish bond brickwork.

An accompanying supporting statement makes the following points:-

- PPG7 states that sensitive infilling of small gaps within small groups of houses or minor extensions to groups may be acceptable, although much would depend upon the character of the surroundings and the number of such groups in the area;
- PPG7 also supports the development of already developed sites in the countryside for housing purposes.
- The application site is located amongst a group of several dwellings and a public house which extend along Fleming Road and Barnsole Road to form the hamlet of Barnsole. The two new dwellings would appear as part of this small grouping of dwellings. The dwellings would represent a sensitive form of infilling within this small grouping in the countryside. Whilst emerging Development Plan policies seek to limit new housing to the confines of the village of Staple, the advice in PPG7 represents an important material consideration. The proposals would not intrude into open countryside and would be seen as part of the existing group of dwellings.

- Two new access points are proposed to serve the two new dwellings. These lead directly onto Barnsole Road. This is a very lightly trafficked lane and the addition of two further dwellings would not result in any significant reduction in highway safety and would represent insufficient grounds for rejecting the proposals.

Policy Context

Policy RS5 of the Kent Structure Plan states that development will not normally be permitted in rural Kent other than at the villages or small rural towns unless special circumstances exist, such as the need to accommodate agricultural or forestry workers. Local Plan Policy HS1 further emphasises that housing development will not be permitted on land outside the urban boundaries and village confines unless special circumstances exist.

As identified in the applicant's supporting statement, Planning Policy Guidance Note 7 (PPG7) issued by Central Government contains a provision which allows for minor infilling in the countryside in certain circumstances; however, the Guidance specifically emphasises that much would depend on the character of the surroundings and the number of such groups in the area in determining whether such infilling is acceptable. It is also important to bear in mind that the development control process is Development Plan-led and that planning policies are therefore the principal material consideration.

Structure Plan Policy ENV1 and Local Plan Policy CO1 seek to protect the countryside for its own sake and to safeguard the District's rural areas from inappropriate development which would detract from its character and appearance. Structure Plan Policy RS1 seeks to secure a high standard of design within the countryside; these objectives are expanded upon by Local Plan Policy DD1. The principles of good design and layout are addressed in detail in Kent Design, which places particular emphasis upon the importance of ensuring that designs for new development draw to as great a degree as possible on the vernacular architecture of the immediate locality.

Structure Plan Policy S1 and Local Plan Policy TR1 seek to reduce the demand for travel on roads outside urban areas and villages in the interests of sustainability. These objectives are in accordance with Planning Policy Guidance note 13 (PPG13).

Assessment

The principal planning considerations in this case are:-

- The fact that the site lies well outside any defined urban area or village confines, and whether special circumstances exist to justify departure from usual settlement policy;
- The impact of the development upon the area in terms of its appearance and effect on the amenity of neighbouring properties;
- The effect of the proposal upon road safety;
- Whether the proposal accords with sustainability objectives as embodied in Structure and Local Plan policies and PPG13.

As the proposed development site lies well outside any area identified by the Dover District Local Plan as being suitable for new residential development, it must be regarded as strictly contrary to settlement policy. Whilst PPG7 makes provision for residential development outside urban areas and villages in certain circumstances, such circumstances do not apply in this case for the following reasons:-

- The site is not an obvious infill plot, but rather part of a large garden with a site frontage to Barnsole Road of some 70 metres;
- The site does not lie within an established group of dwellings, but rather on the margin of a sparse cluster of dwellings;
- There are factors which override this particular provision of PPG7 in this case, including the District's more than adequate supply of housing land and the fact that the proposal is contrary to sustainability objectives.

There are no special circumstances in this case which justify a departure from settlement policy. Therefore, the granting of permission in this case would set a precedent for new residential development throughout the District's rural areas and completely undermine the emerging Dover District Local Plan. Members will recall refusing planning permission for new holiday chalet development on a site to the immediate east on very similar grounds.

The proposed development would not have any significant impact upon the amenity of neighbouring properties in terms of overlooking or daylighting. However, in terms of design, there is nothing to suggest that particular regard has been paid to the character of the immediate locality as required by Kent Design and encouraged by Structure and Local Plan policies. Whilst the designs proposed for the two dwellings may not be inappropriate within the core of a large, built-up village, it is felt that they are less than appropriate for the countryside and would appear stark in such a context. No design statement has been submitted to support the scheme as required by Kent Design, and the proposal must therefore be regarded as contrary to design policies contained in the Structure and Local Plans.

Contrary to the assertion in the supporting statement, the proposals are not acceptable in road safety terms. The visibility splay provision at the junction of the accesses with Barnsole Road is insufficient. This gives a further ground for refusing planning permission.

Finally, the proposal is clearly contrary to sustainability objectives as embodied in PPG13 and reproduced in Structure Plan Policy S1 and Local Plan Policy TR1, to the effect that residential development in this location would increase travel demands on the local road network in conflict with sustainability objectives. It is therefore recommended that planning permission be refused on four grounds.

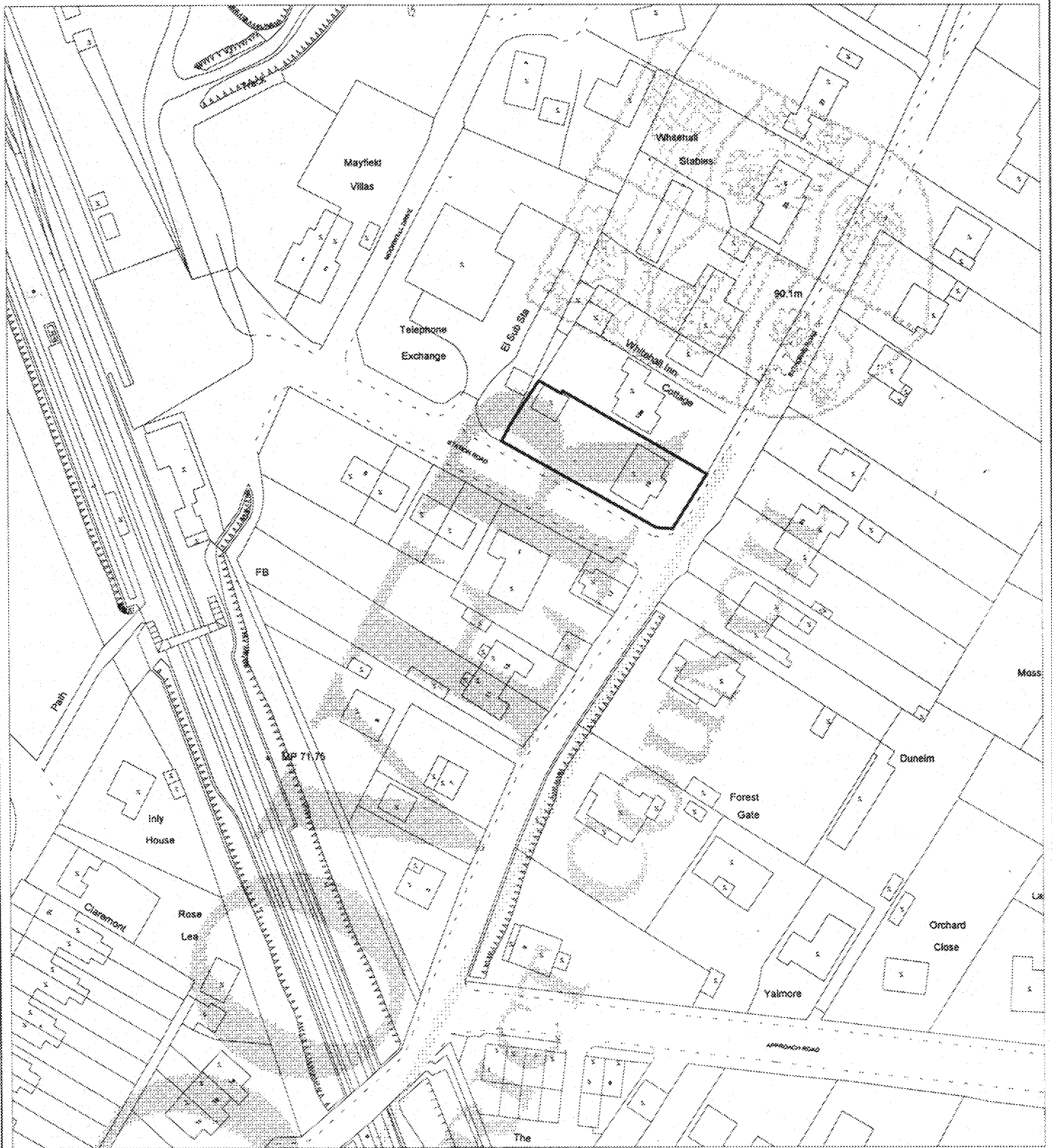
It is recognised that refusal of the application will result in an interference with the applicant's rights as protected by Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. The issues relating to the proposed development, as identified above, are important material planning

considerations and cannot be overcome by approving the application subject to conditions. The proposal, therefore, is recommended for refusal and it is considered that this recommendation is justified to protect the rights and freedoms of others and in the public interest. It does not place a disproportionate burden on the applicant and would not constitute a violation of his rights.

- g) I REFUSE PLANNING PERMISSION on the following grounds:- (i) The site lies well outside the defined confines of any urban area or village identified by the emerging Dover District Local Plan. Accordingly, the proposed residential development is strictly contrary to Policy RS5 of the approved Kent Structure Plan and Policy HS1 of the emerging Dover District Local Plan unless special circumstances exist. There are no circumstances in this case which would justify a departure from settlement policy; (ii) In the opinion of the Local Planning Authority, and in the absence of any supporting statement addressing design issues, the proposed development would fail to respect the character and appearance of the immediate locality in design terms, and would appear stark and inappropriate in its setting. It would therefore also detract from the appearance and character of the surrounding countryside. The proposal is therefore contrary to Policies ENV1 and RS1 of the approved Kent Structure Plan, Policies CO1 and DD1 of the emerging Dover District Local Plan and the provisions of Kent Design; (iii) The proposals contain insufficient detail of visibility splays at the junctions of the proposed driveways with Barnsole Road. In the absence of such details, it would appear to the Local Planning Authority that the proposed accesses would constitute a hazard to pedestrians and vehicles using Barnsole Road and would thus be detrimental to road safety; (iv) The proposals would encourage additional demand for travel on rural roads outside the confines of the District's urban areas and villages. Accordingly, the proposal is not in accordance with the objectives of sustainability embodied in Planning Policy Guidance Note 13 (PPG13) and would be contrary to Policy S1 of the approved Kent Structure Plan and Policy TR1 of the emerging Dover District Local Plan.

II 107, 113I.

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Application: DOV/00/1026
Shepherdswell with Coldred

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N

10. a) DOV/00/1026 TR 258 : 481
- b) **Removal of trees to be replaced by different species, 19 Eythorne Road, Shepherdswell**
- c) Kent Structure Plan : Policy ENV7
Tree Preservation Order No.4, 1990
- d) None relevant.
- e) PC: Has no objections to the proposal.
- f) The application refers to two Lime trees situated to the rear of 19 Eythorne Road, a dwelling built in 1996.

The trees are situated close to the western boundary of the property, between a driveway to a rear garage and a fence, one tree (T1) being close to the fence, the other (T2) overhanging the driveway slightly.

Both trees are pollards, with some 5 metre high main stems, and were repollarded in 1996. Although originally protected as a group in the TPO, it is evident that T1 is considerably older and larger than T2, the leaning growth of the latter indicating it has been suppressed by T1. T1 certainly provides the focus in terms of the public visual amenity.

Both trees have relatively small crowns reflecting pollard management and exhibit epicormic growth (shooting from the main stem) characteristic of Lime trees.

The grounds for removing the trees stem primarily from the fact that Lime trees attract aphids which, in turn, secrete a "honeydew" which is rich in sugars. The honeydew is sticky and will attract sugar-feeding insects such as wasps. The applicant complains of wasp stings and damage to cars and the garage due to the honeydew and wishes to remove the trees and replace them with more "human friendly" trees.

Limes are not the only trees to attract aphids: Sycamores, to a lesser extent, do and honeydew is also associated with these trees. Honeydew is a naturally-occurring phenomenon which, although irritating in some circumstances, is counterbalanced by the positive benefits that trees bring.

The wasp problem is extremely unusual. It is probably due to the presence of a nearby nest, but the applicants do not appear to have investigated this to any great extent. Feeding wasps will sting only if distracted and it is likely that the problem can be alleviated by removal of the epicormic growth occurring low down on the trees.

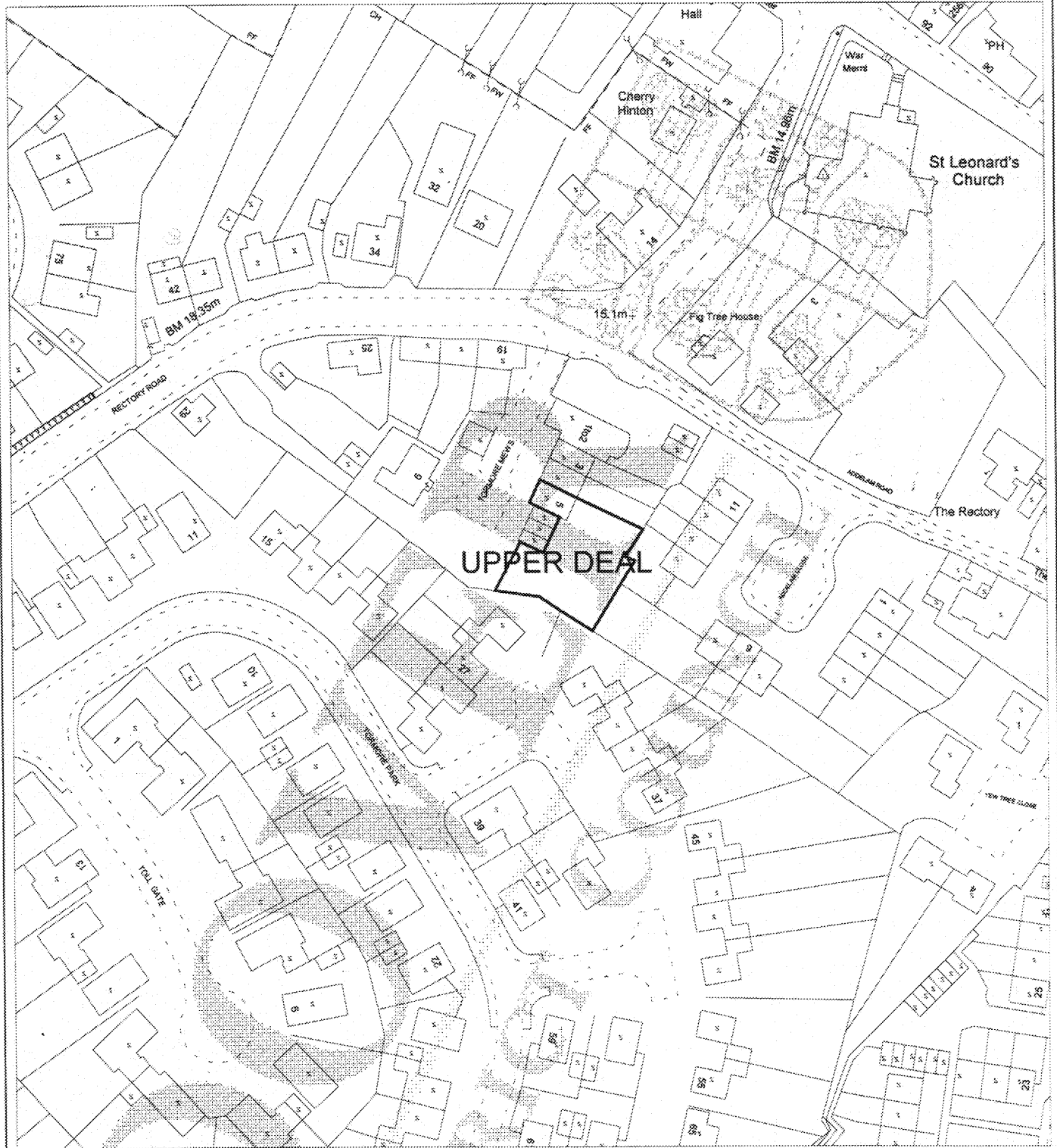
Overall, it would appear that there is no justification for the proposal. The proposition to replace the Lime trees with more "human friendly" trees is not practical. Not only would any replacements take many years to provide the same level of public visual amenity but the interpretation of "human friendly" is not clear.

In preparing this report careful consideration has been given to the Human Rights Act 1998. It is recognised that the recommendation may result in

some interference in the applicant's right to peaceful enjoyment of possessions under Article 1 of the First Protocol. It is not considered that the issues raised by the applicant are sufficient to outweigh the wider public interest relating to the protection of trees.

- g) I PERMISSION BE REFUSED for the removal of the two Lime trees on the grounds that the public visual amenity offered by the trees outweighs the private nuisance caused.
- II The applicants be advised to remove the epicormic growth from the trees and, if the wasp problem persists, to engage the services of a pest control firm.
- III 11131.

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Scale: 1/1250

Application: DOV/00/1031
Deal

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11. a) DOV/00/1031 TR 361 : 518
- b) **Works to Five Trees, 5 Tormore Mews, Rectory Road, Deal.**
- c) Kent Structure Plan : Policy ENV7
Tree Preservation Order No. 2, 1965
- d) -
- e) T.C.: Has no objection, but supports the Tree Conservation Officers' views.
- f) The application is for various treeworks to protected trees within a rather wooded garden. By and large the application is non-contentious. However, one area in the garden is rather shaded by a Holm Oak and a Yew tree growing in close proximity. The Holm Oak is dominant, resulting in the Yew being rather one-sided. The applicant proposes thinning the Holm Oak, but also wishes to remove the Yew tree. The purpose of this work is to increase light to the garden. It is considered that this would be achieved by the thinning of the Holm Oak and a 30% reduction in the Yew, rather than the removal of the latter, which is viewed as excessive.

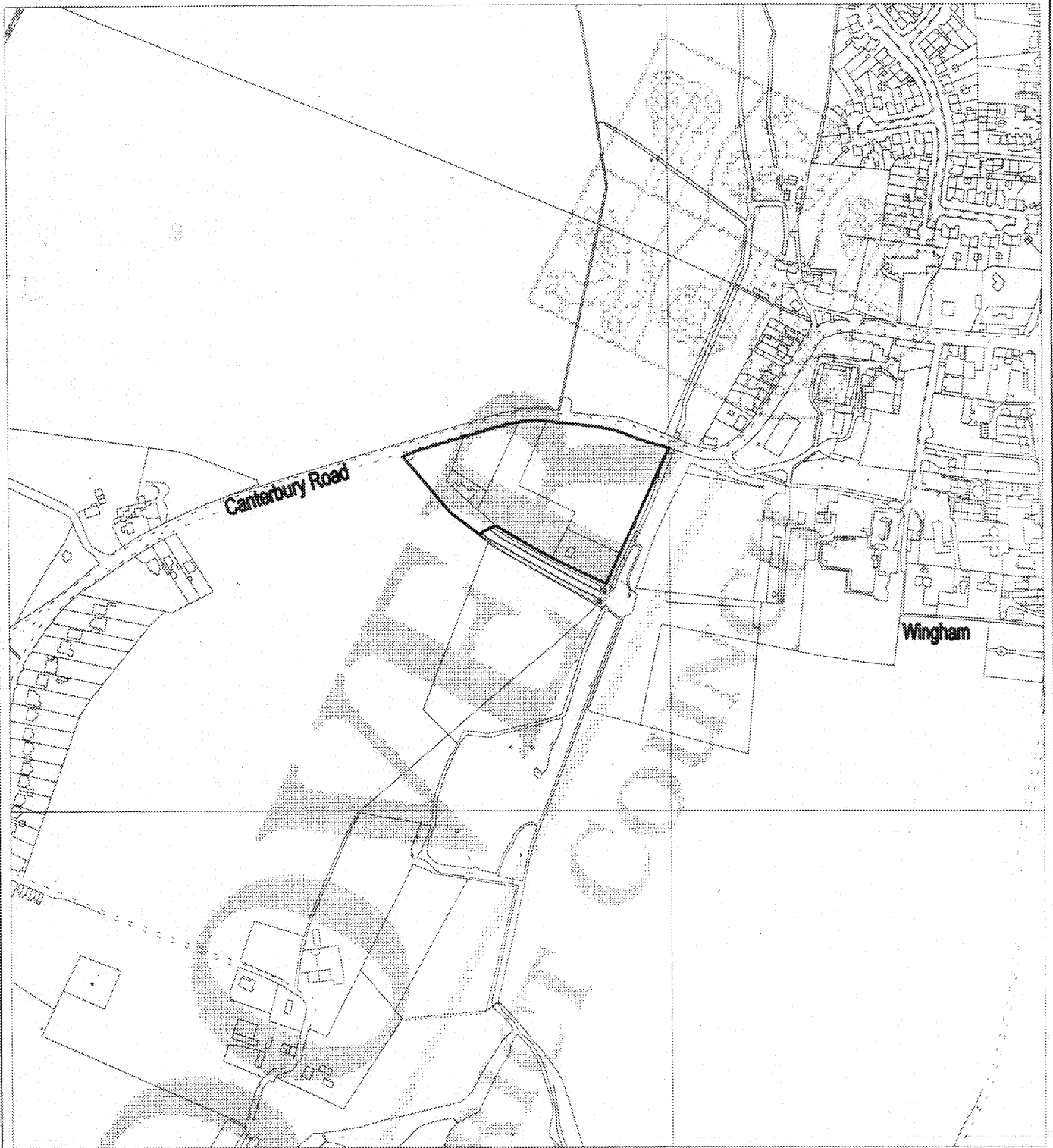
It is recognised that the recommendation may result in an interference with the rights of the applicant under Article 1 of the First Protocol of the Human Rights Act 1998. However, it is considered that the recommendation is in the public interest and does not place a disproportionate burden on the applicant.

- g) I PERMISSION BE GRANTED for the proposed treeworks excepting that to the Yew (T3) in the application. The grounds for refusal for works to the Yew are that the proposal is excessive in attempting to achieve reduction in shade in the garden.

II PERMISSION BE GRANTED to reduce the canopy of the Yew (T3) by 30%.

III 1131.

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Scale: 1/5000

Application: DOV/00/1043
Wingham

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12. a) DOV/00/1043 TR 2376: 5719
- b) **Additional sale of plants not propagated on premises - Fairview Nursery, Canterbury Road, Wingham.**
- c) Kent Structure Plan : Policies S1 and RS1
Dover District Local Plan : Policies TR1 and TR2
- d) DOV/98/0966 - Certificate of Lawful Use issued for operation as nursery and farm shop and retention of associated buildings.

This Certificate was issued on the basis that the applicants had been able to provide sufficient evidence to the effect that the site and buildings had been used as a nursery and had been the base for a farm shop retailing certain items for a period in excess of 10 years. For the purposes of the Certificate, the term "nursery" was defined as "use of land and buildings for the cultivation and propagation of plants, fruit and vegetables and the sale thereof". The farm shop was restricted to selling only the following items imported from elsewhere:- fruit and vegetables; seeds in packets; compost, peat and fertilisers; seed potatoes; onion sets; cut flowers; indoor plants; coal; bottled gas; ice cream; logs and kindling; rabbit food; eggs; cream; bird food; milk; sugar; hamster food; tea; home-made jams; coffee.

- e) Highways Comments: There is no evidence to support the degree of additional goods that could be sold. Therefore, the potential is unlimited beyond the rate of import/sale etc. In these circumstances, the proposal is contrary to Policies TR1 and TR2 of the Dover District Local Plan. It is recommended that planning permission be refused on the grounds that the proposal is contrary to sustainability objectives and due to insufficient sight lines to the access.

P.C.: No objection.

- f) The Site and the Proposal

Fairview Nursery lies on the southern side of the busy A257 road, on the western edge of the village of Wingham and outside the defined village confines. Presently vacant, the site was last used as a nursery and farm shop as described by the Certificate of Lawful Use summarised at d) above. The existing vehicular entrance to the site lies at the western end of the site frontage. The application seeks planning permission for the sale of additional items from the nursery which are not specified in the Certificate of Lawful Use. These are defined in the application as "the sale of plants not propagated on the premises including bedding plants, small trees, conifers, bushes, climbing plants, roses, herbaceous perennials, water plants, tender and exotic plants, ferns and succulents, fruit plants and bushes, bulbs, vegetable plants, turf, hedging and attendant pots and containers to be sold within the growing season with the exception of Christmas trees."

Policy Context

Structure Plan Policy S1 and Local Plan Policy TR1 uphold the objectives of sustainability embodied in Planning Policy Guidance Note 13 (PPG13), and discourage increases in travel demand on rural roads. Local Plan Policy TR2

states that proposals will not be permitted unless they are to be served by an appropriate road network.

Structure Plan Policy RS1 requires rural development to be appropriately located.

Assessment

The principal planning considerations in this case are:-

- Whether the increased sales which would result from the proposal would generate additional traffic which would be detrimental to road safety; and
- Whether any additional traffic would be contrary to sustainability objectives.

It must firstly be stressed that the existing authorised use at Fairview Nursery, as embodied in the Certificate of Lawful Use, is by no means acceptable in road safety terms. The Council was obliged to issue the Certificate of Lawful Use in the face of evidence that the nursery and farm shop as described therein, selling the items listed, had been fully established for in excess of 10 years. However, had planning permission been required for the operation of a nursery and farm shop on that scale, it is likely that permission would have been refused on the grounds that the access serving site was of insufficient standard, given the busy nature of the A257 and the close proximity of the sharp bend in the road.

The present proposal puts forward a scheme to considerably expand the range of goods sold from the site, such that it would effectively operate as a garden centre. It would not be possible to impose conditions on a planning permission which would limit the levels of sales or stock, as this would be difficult to monitor and thus contrary to guidance issued by Central Government. Therefore, there is no doubt that the granting of planning policy would exacerbate what is already an unacceptable situation in road safety terms and contrary to Local Plan Policy TR2. Additionally, the increased traffic which would be generated by an increased range of products would encourage travel demand on roads in the District's rural area. This would be strictly contrary to the sustainability objectives contained in the Structure and Local Plan and contrary to the provisions of Planning Policy Guidance Note 13 (PPG13). Accordingly, it is recommended that planning permission be refused on road safety and sustainability grounds.

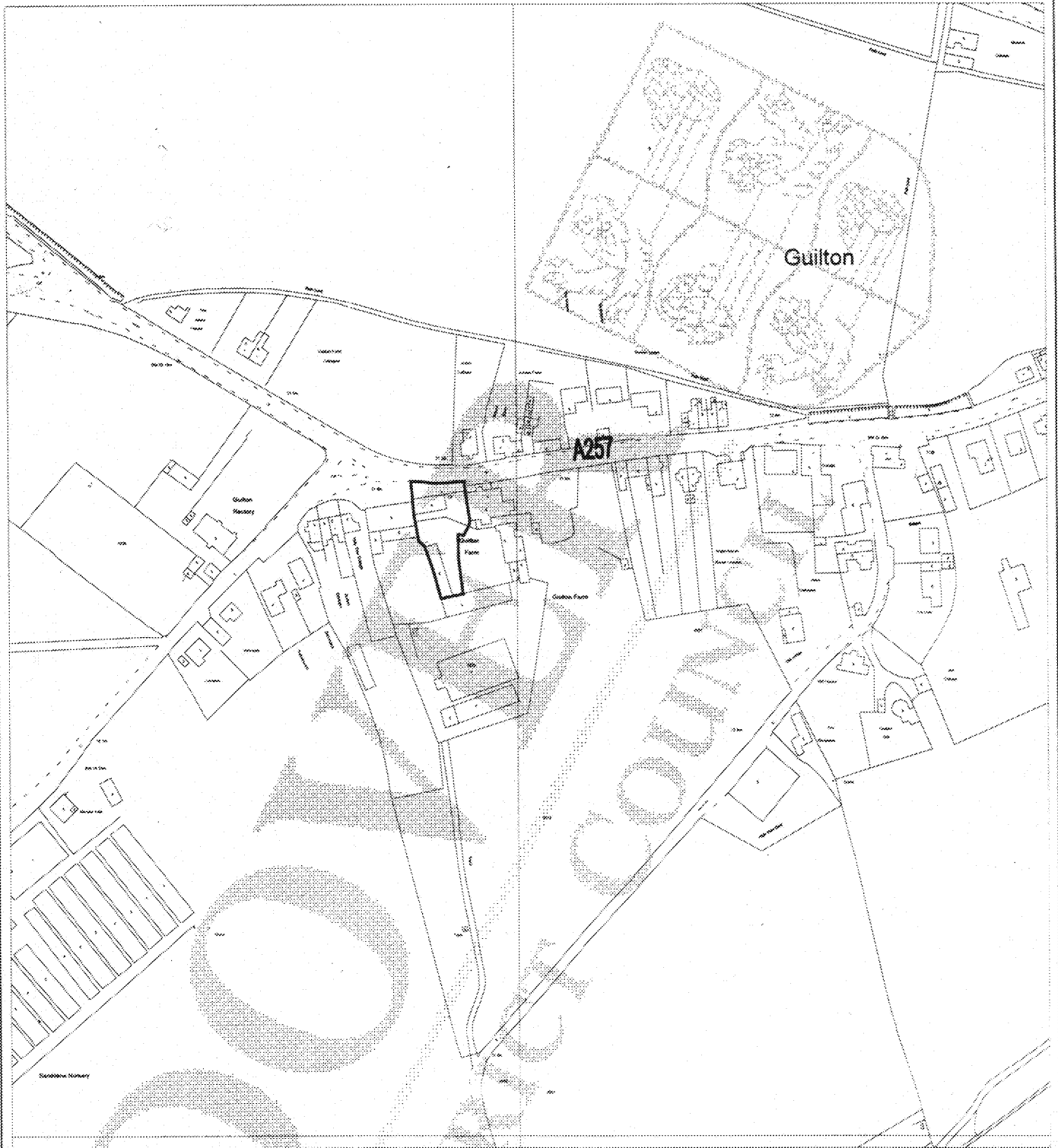
It is recognised that refusal of the application will result in an interference with the applicant's rights as protected by Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. The issues relating to the proposed development, as identified above, are important material planning considerations and cannot be overcome by approving the application subject to conditions. The proposal, therefore, is recommended for refusal and it is considered that this recommendation is justified to protect the rights and freedoms of others and in the public interest. It does not place a disproportionate burden on the applicant and would not constitute a violation of his rights.

- g) I REFUSE PLANNING PERMISSION on the following grounds:- (i) The site is served by an access with sight lines of a sub-standard nature for this Class A

road. Therefore, if the proposed increase in the range of goods sold was permitted, the additional traffic so generated would be likely to create additional hazards to traffic to the unacceptable detriment of road safety. The proposal is therefore contrary to Policy RS1 of the Kent Structure Plan and Policy TR2 of the emerging Dover District Local Plan; (ii) The proposed increase in the range of goods sold on the site would increase the demand for travel on rural roads outside defined urban and village confines, contrary to the sustainability objectives embodied in Planning Policy Guidance Note 13 (PPG13). Therefore, the proposal is contrary to Policy S1 of the Approved Kent Structure Plan and Policy TR1 of the emerging Dover District Local Plan.

II 113f.

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Scale: 1/2500

Application: DOV/00/1045
Ash

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13. a) DOV/00/1045 TR 2795 : 5822
- b) **Conversion of existing stable block to four bedroom house, Guilton Farm, Guilton, Ash.**
- c) Kent Structure Plan: Policies S1, RS1, RS2, RS5, ENV17 and ENV19
Dover District Local Plan: Policies DO1, HE1, HE3, HE5, LE23, LE24, TR1, HS1, HS3 and HS5.
- d) DOV/93/0320 - Conversion of existing grain store to provide four bedroom house - Planning Permission granted (Not Implemented).

- e) Highways comments: The building is outside the village confines and the proposal is contrary, therefore, to PPG13 and Policy TR1 arguments.

C.A.: No objection subject to a condition.

P.C.: No objections, as long as the post box on the wall remains.

- f) The Site and the Proposal

The application site lies to the east side of Guilton Farm and within the Ash-Guilton Conservation Area. The building is currently used for storage. It is in a reasonable state of repair and is a simple brick building under a slate roof, which contributes to the setting of the adjacent Grade II listed Guilton Farmhouse. The site lies outside the Ash village confines.

The application seeks planning permission to retain the building and convert it, utilising the existing openings with some detailed changes to these, and to provide a garage, utility room, wc and new entrance to the western end of the building as an extension, much the same as approved in 1993.

The plans will be displayed.

Policy Context

The relevant policies are listed at c) above. The Kent Structure Plan identifies through RS5 the types of development that will normally be acceptable on sites outside village confines. The Dover District Local Plan makes similar provisions through its Housing policies.

Policies ENV17 and ENV19 of the Kent Structure Plan and policies HE1, HE3 and HE5 of the emerging Dover District Local Plan seek to protect and where possible enhance the setting of conservation areas and any nearby listed properties. Policies LE23 and LE24 of the Local Plan aim to support alternative employment uses of agricultural buildings.

Policies S1 of the Structure Plan and TR1 of the emerging Local Plan seek to ensure that only sustainable development is allowed and to resist that which would result in the need to travel and increase pollution unless it is within the built confines of villages or within urban areas.

Assessment

The principal planning considerations in this case are whether the proposal complies with policies and is appropriate in this location. In planning policy terms the site lies outside the village confines. In these circumstances, the proposal would not comply with any of the provisos set down in the policies referred to above. No special circumstances have been put forward to demonstrate why an exception should be made. The previous planning permission granted in 1993 has now expired, having not been implemented within the five year period and the site does not therefore benefit from any use separate from the farm. The Committee will be familiar with the way in which planning policies have increasingly presumed against the conversion of rural buildings to residential use since the previous permission was given.

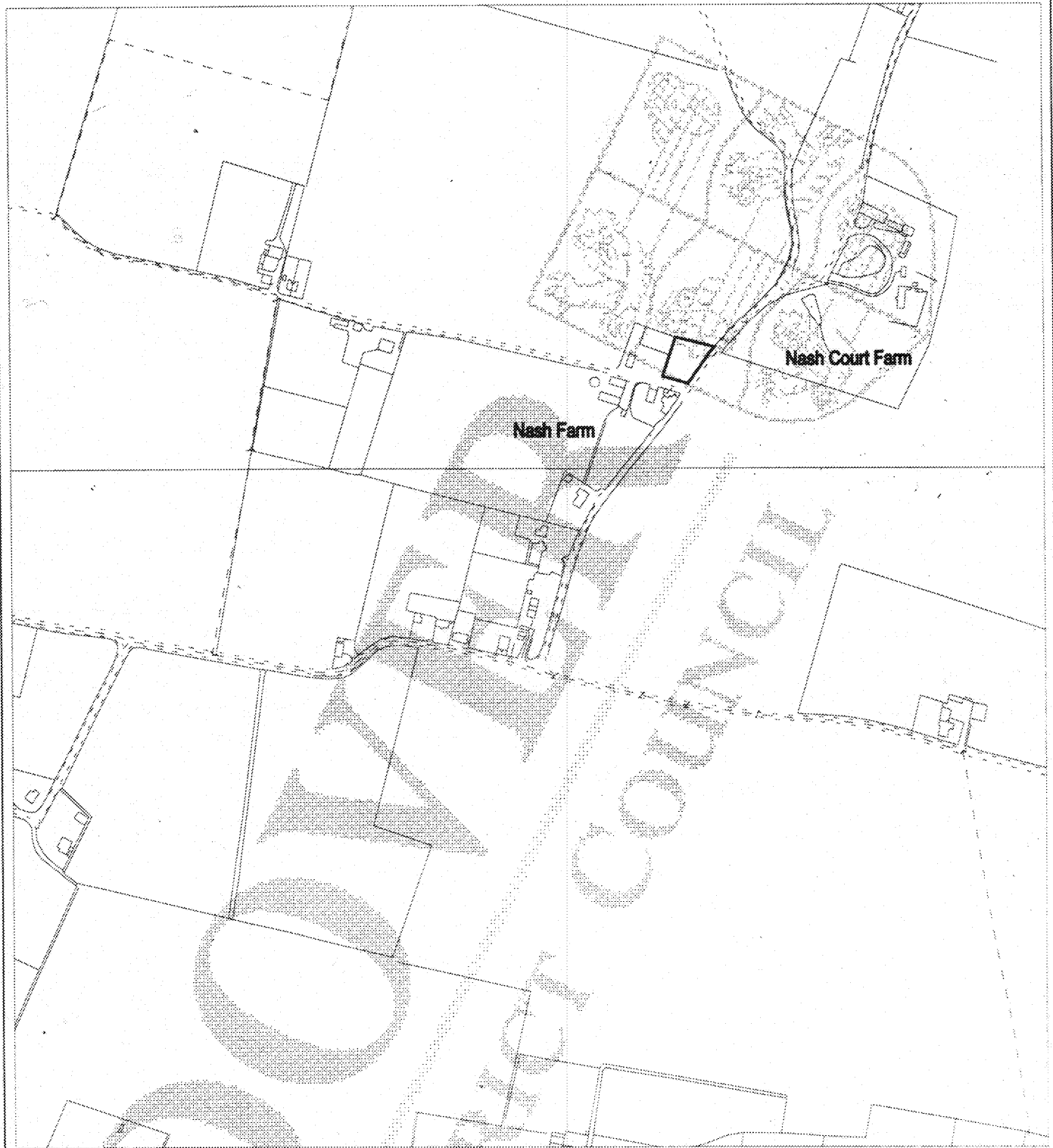
It is clear that in this location the development of this site would conflict with the policies of both the Kent Structure Plan and the emerging Dover District Local Plan aimed at restricting new residential development in rural areas to village confines and would be similarly in conflict with government advice in PPG13 and Local Plan Policy TR1 which seek to attain sustainable development.

No objections are seen to the proposal in Conservation area or listed building terms.

It is recognised that refusal of planning permission may result in an interference with the applicant's right to the peaceful enjoyment of possessions under Article 1 of the First Protocol of the Human Rights Act 1998. The objections identified in this report are important material planning considerations which cannot be overcome by the granting of planning permission subject to conditions. The proposal, is therefore, recommended for refusal in the public interest and in furtherance of the legitimate objections raised. It does not place a disproportionate burden on the applicant and would not cause a violation of his rights under Article 1 of the First Protocol.

- g) I PERMISSION BE REFUSED on the grounds: (i) The proposed development would, by reason of its location outside village confines, be contrary in particular to policies RS2 and RS5 of the Kent Structure Plan and policies HS1 and HS5 of the Dover District Local Plan. Furthermore, no special case of justification has been submitted to warrant an exception to these policies; (ii) The site is remote from the centre of any town or village and the proposal would therefore encourage additional use of the private car on rural roads, contrary to the provisions of policy S1 of the Kent Structure Plan, Policy TR1 of the Dover District Local Plan and Planning Policy Guidance Note 13: Transport (PPG13).
- II The applicant BE ADVISED that certain minor detailed amendments and a survey to ascertain whether bats are present would have been necessary if the Committee had been minded to grant permission.
- III I13I.

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Scale: 1/5000

Application: DOV/00/1048
Nash
Ash Parish

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14. a) DOV/00/1048 TR 2658 : 5907
- b) **Erection of agricultural worker's dwelling, Nash Nursery, Nash, Ash.**
- c) Kent Structure Plan : Policies ENV1, RS1 and RS5
Dover District Local Plan : Policies CO1, DD1, HS1 and HS11
- d) DOV/00/0671 - Planning permission refused for the erection of agricultural worker's dwelling. Planning permission was refused on grounds of sub-standard design only.
- e) Highways Comments: In the event that the proposal is acceptable in policy terms, no objection subject to standard conditions and informatives.

K.C.C. Estates: Nash Nursery extends to some 11 hectares and was purchased by the applicants about 2½ years ago, having previously formed part of Nash Farm. The land is in an area of Grade 1 quality and the applicants have developed it as an organic holding for growing fresh produce (salads and vegetables) and poultry for free range eggs. The majority of the output is sold internally to the owner's London club/restaurant whilst any surplus is sold locally. The open ground includes about 2 hectares fenced off for meat poultry (kept in small mobile huts) and the remainder is cropped with a range of vegetables including potatoes, beans, onions, courgettes and leaf salads and in part is grassed down for ranging the laying birds (in rotation). The applicants have erected a heated glass house which is used to grow early vegetables as well as tomatoes, aubergines, cucumbers, peppers and cress.

There was a pre-existing modern general purpose building on the site within which the applicants have installed a series of small purpose-designed rooms for dispatching, preparing and storing the meat poultry. The building also includes a vegetable/salad packing room and a workshop area. Adjoining the general purpose building the applicants have erected a staff mess room/wc/washroom and office. The final building on the site is a pre-existing block-walled shed which the applicants have converted into a brooding house (split into 4 rooms) for rearing the young poultry and day old chicks until they are ready to range outside.

The poultry enterprise currently involves the production of some 80 organic meat chickens each week (reared to 12/14 weeks age worth about £10 each) 50 ducks and 50 guinea fowl every 2 months or so and about 50 geese and 50 turkeys for Christmas. There are about three hundred free range laying eggs for egg production. The site is currently managed overall by Mr. S. Parsley, but his main day to day responsibility is another nursery that the applicants own, about 1 kilometre to the west of the site and where Mr. Parsley resides. Two women are employed full-time at Nash Nursery on the poultry enterprise (plus a part-time butcher) and three men are employed full-time for the glass house and outdoor cropping. The applicants are currently advertising for a new site manager who will reside in the proposed dwelling.

The impression was formed that the organic nursery/poultry unit is an efficient and intensive unit. It is considered that the scale and type of production, together with the financial commitment to the unit in terms of the recent investments described above should ensure that it remains financially sound.

It is also considered that there is an essential functional case for the proper functioning of the enterprise for a responsible person to reside on site so as to attend at short notice (especially overnight) to any problems that arise particularly with the heating/ventilation of the young poultry in the brooder units and the plants in the glass house. It is gathered that it would be intended to link appropriate alarms to the new dwelling. It is therefore concluded that the proposal meets the agricultural dwelling criteria set out in Annex I of PPG7.

P.C.: Objects to the proposal on the same grounds as for the previous application DOV/00/0671:-

- No case has been put forward for the need;
- Properties in the vicinity have recently been for sale;
- The development would be intrusive into the countryside; and
- The proposed development would be too prominent, the design being of a suburban nature.

f) The Site and the Proposal

The application site is located at the junction of two roads at the hamlet of Nash. The premises of Nash Nursery lie on the northern side of the junction, with Nash Farm to the south. The site is presently laid to grass and is partially screened from the roads by a row of conifers. The site is partially screened from the west by the existing grouping of nursery buildings described by KCC Estates at e) above.

The application follows a refusal of planning permission for an agricultural worker's dwelling on the same site in August 2000, and puts forward an alternative scheme for a similar proposal. The dwelling would take the form of a chalet bungalow with low eaves, a clay plain tile roof, multi-stock red facing bricks to the walls and tile hanging on the upper gables. Three dormer windows would be provided in the front facing roof slope which would be orientated to the south. The dwelling would be positioned behind the storage/preparation and mess room buildings at the nursery and screened from the south and east by an existing conifer screen. Two car parking spaces would be provided, to be accessed via the existing vehicular entrance to the nursery. The application is accompanied by a brief statement which sets out the scale of the existing enterprise in terms of numbers of staff and birds. This accords with the findings of KCC as summarised at e).

Policy Context

Structure Plan Policy RS5 and Local Plan Policy HS1 militate against new residential development in the countryside unless a special case for such development can be established. One such case which would justify an exception being made to usual settlement policy is the essential need to house an agricultural worker at a farm enterprise to ensure the continuing the prosperity of the business. Local Plan Policy HS11 expands on the circumstances where rural workers' dwellings outside village confines may be acceptable, and sets out the following criteria:-

- When it can be demonstrated that it is essential for the enterprise to function properly;

- When the need is for accommodation for a full-time worker;
- When the unit and activity concerned have been established for at least 3 years and have been profitable for at least one of them, are currently financially sound and have a clear prospect of remaining so;
- No other housing accommodation to meet the need is already available locally;
- It is grouped with existing dwellings or other buildings on the enterprise; and
- Its size is commensurate with the functional need and income levels of the enterprise.

The policy further states that any permission which is granted will restrict the occupation of the dwelling and any appropriate dwellings which are controlled by the applicant.

The proposal also falls to be considered in relation to those Structure Plan policies which seek to secure a high standard of design in the countryside, as detailed at c) above. The sustainability objectives embodied in Structure Plan Policy S1 and Local Plan Policy TR1 do not apply in this case as the proposal is acceptable in other policy respects.

Assessment

The principal planning considerations in this case are:-

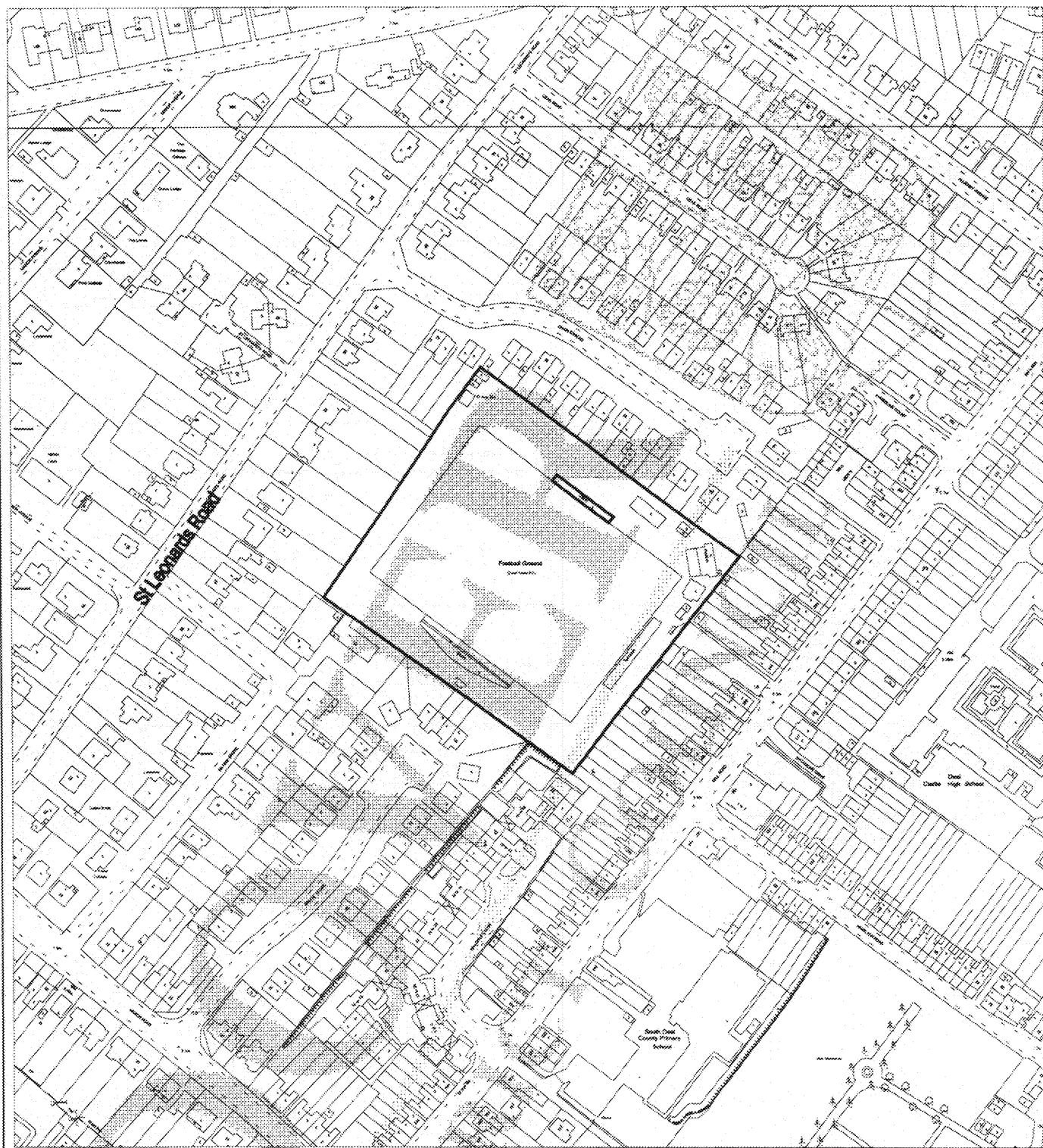
- Whether a sufficient agricultural case has been established to justify departure from usual settlement policies;
- Whether the best location for the dwelling has been identified;
- Whether the proposal is acceptable in design terms.

Planning permission was refused in August 2000 for an agricultural worker's dwelling in this site solely on design grounds. At that time KCC Estates had examined the enterprise at Nash Nursery and had concluded that there was indeed a need for an agricultural worker to be accommodated on the site. It was also felt that the best location at the Nursery had been chosen, being reasonably well-screened from all angles and grouped with existing buildings. Nor was any evidence apparent to support the Parish Council's view that existing properties were available in the vicinity which would suit the purpose.

However, the design put forward at that time was for a two-storey detached house of a very bland and unimaginative design which would have been most inappropriate to the rural area. Following discussions with the applicant, the original design has been revised to that which is now the subject of the current application. This is far more appropriate to the rural area than its predecessor, and the new building would be less prominent due to its lower ridge height. Accordingly, the original reasons for refusal have been overcome. Therefore, notwithstanding the objections of the Parish Council as summarised at e) above, it is recommended that planning permission may now be granted, subject to a condition which restricts occupation of the dwelling to an agricultural worker.

It is recognised that the grant of planning permission may result in an interference with rights of third parties as protected by Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. This has to be balanced

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Scale: 1/2500

Application: DOV/00/1051
Deal

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15. a) DOV/00/1051 TR 3667 : 5171
- b) **Erection of 150 seater spectator stand - Charles Sports Ground, St. Leonards Road, Deal.**
- c) Kent Structure Plan : Policies : ENV15 and SR2
Dover District Local Plan : Policies DD1, OS1 and OS6
- d) The site has a lengthy history of some 14 planning decisions. Those dating from the last ten years are as follows:-

DOV/95/0883 - Planning permission refused for outline residential development.

DOV/96/0099 - Planning permission granted for erection of flood lighting.

DOV/98/0241 - Planning permission granted for construction of new grandstand, demolition of existing buildings and resiting of existing flood lighting columns. This permission included a repositioning of the football pitch; the grandstand has yet to be built.

- e) Highways Comments: No objection.

Recreation Comments: The provision of suitable spectator facilities at the Charles Sports Ground is essential to enable senior football to continue at this site. The Recreation Section is supportive of this application.

D. of H. and H.: No observations.

Fire Officer: Observations awaited.

T.C.: No objection.

P.R.: Four letters received which make the following points:-

- The new stand would block natural light and sunshine to a number of properties in Charles Road.
- The proposal will be an eyesore.
- The new stand should be erected in front of or on the side of, the old stand on the opposite side of the pitch, where it would be shielded from properties in Bruce Close by trees along the perimeter of the ground.
- The submitted plans are inaccurate insofar as the football pitch is not shown in the correct position.

The letters also raise points which are not material planning considerations and cannot be taken into account in determining the application, as follows:-

- Property would be devalued;

- Views from adjacent dwellings would be lost;
- Disturbance is experienced from existing activity on the site.

f) The Site and the Proposal

The application site comprises the Charles Sports Ground, which is the home of Deal Town Football Club. Facilities at the ground at present comprise a dilapidated and unusable spectator stand on the southern side of the ground, an open concrete terrace on the eastern side and a number of small ancillary buildings along the northern boundary. In recent years the football pitch itself has been repositioned some 10 metres closer to the boundary of the site with houses in Charles Road and also reduced in width, in accordance with planning permission DOV/98/0241 and flood lighting columns have been erected. The ground is surrounded on four sides by residential properties, but well screened from gardens of Bruce Close to the south and St. Leonards Road to the west.

The current application seeks full planning permission for the erection of a new spectator stand to accommodate 150 seated spectators. Submitted plans suggest that the stand would be positioned 7 metres from the rear boundaries of gardens in Charles Road, although the accuracy of the plans received to date is in dispute. The stand would be constructed from box profile PVC coated cladding coloured goosewing grey, with a shallowed pitched canopy roof sloping downward from the front to back. The stand would be 4.98m high at its highest point, dropping to 3.9m at the rear where it will be closest to the Charles Road boundary.

Policy Context

Structure Plan Policy SR2 is generally permissive of facilities for sports in urban areas. Local Plan Policy OS1 safeguards the Charles Sports Ground as an area of open space where significant development would be resisted. Policy OS6 encourages the expansion or enhancement of existing outdoor sports facilities where there is no harm to residential amenity through noise or illumination. Structure Plan Policy ENV15 and Local Plan Policy DD1, which seek to secure a high standard of design which would not impact adversely on residential or visual amenity, are also applicable.

Assessment

The site of the proposed stand is well screened from public view, but in very close proximity to the boundaries of existing residential properties. The principal planning consideration is therefore the effect which the stand would have upon the amenity of neighbouring residents.

The plans detailing the position of the stand which have been received to date are inaccurate, insofar as they show the football pitch in its original rather than present position. It is therefore difficult to be sure exactly how far the stand would be from the rear garden boundaries of Charles Road. At present the plans show the distance to be some 7 metres; however, there is a possibility that once the pitch has been replotted on an accurate plan, the stand may be somewhat closer to Charles Road. In either case, the height of the structure is such that it would be over-dominant in relation to the rear

gardens backing on to the sports ground and cause loss of daylight at certain times of day. It would therefore be contrary to Structure Plan Policy ENV15 and Local Plan Policy DD1 and would give clear grounds for refusal.

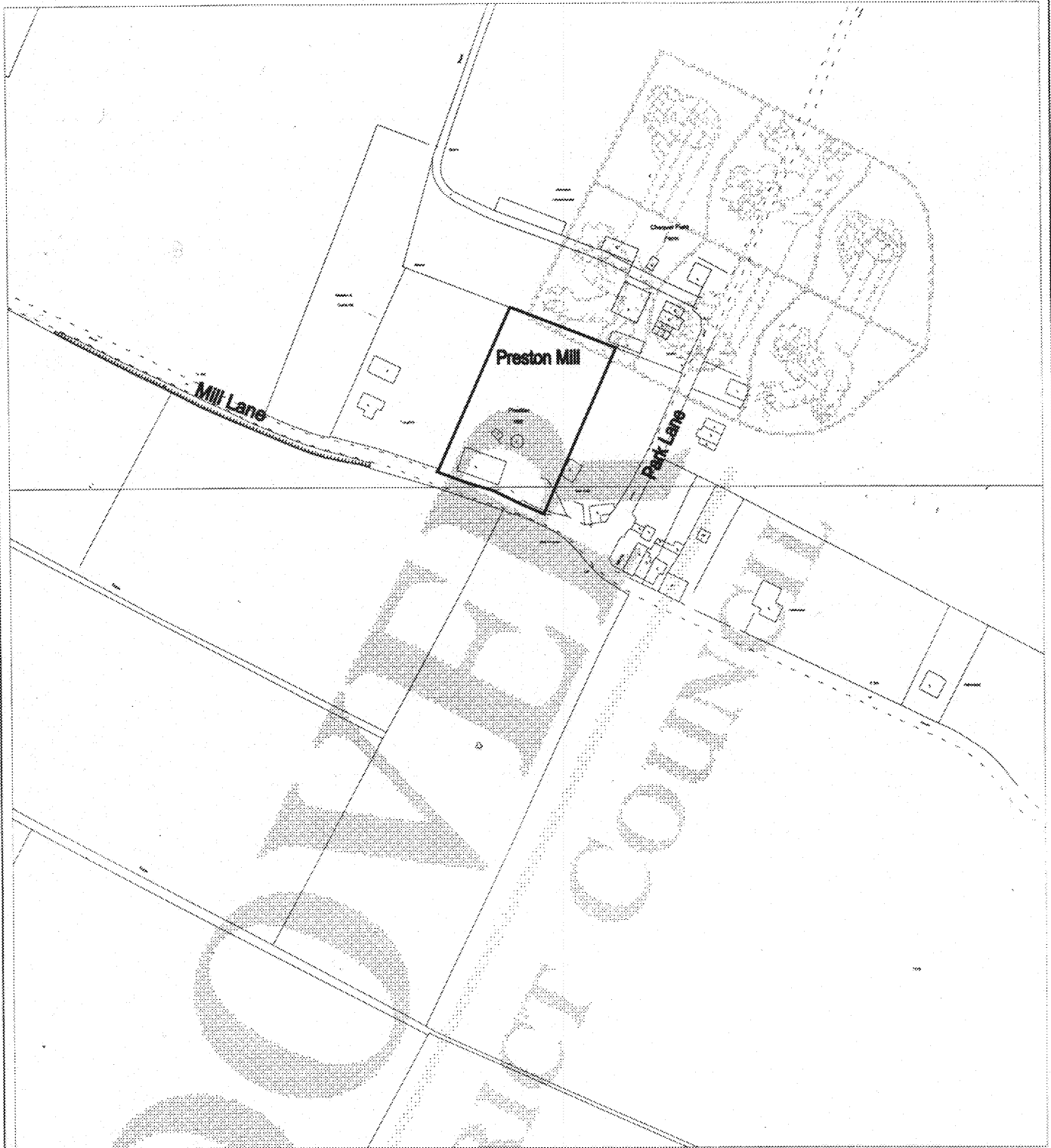
There are a number of potential solutions to the problem, which the applicants have been asked to explore. It is unlikely that the applicants would wish to relocate the stand to the southern side of the pitch, as the site presently benefits from planning permission granted in 1998 for a new grandstand in this location, and it is understood that if the funding cannot be found for this development then other plans for that part of the site are in hand. However, there would appear to be scope for positioning the new stand in the form presently proposed on the eastern side of the pitch, replacing the dilapidated open concrete terrace. Although properties in Mill Road back on to this side of the site, their gardens are far longer than those of the properties in Charles Road and the loss of daylight that the stand would cause would be insignificant in relative terms. Alternatively, by retaining the new stand in the position presently proposed but significantly reducing it in height (and lengthening it to secure the desired level of spectator accommodation) loss of daylight to properties in Charles Road could be reduced to an acceptable level. There may also be scope for positioning the stand on the western side of the pitch, where the properties in St. Leonards Road are well screened from the site.

Pending the receipt of a satisfactorily amended scheme with accurate plans showing the present position of the football pitch, the recommendation is in dual form.

A refusal of the application would result in an interference with the rights of the applicant as protected by Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. The issues relating to the proposed development, as identified above, are important material planning considerations and, were the proposed to remain in its submitted form, would not be capable of being overcome by conditions on any planning permission. The second of the alternative recommendations reflects this. However, were the proposals to be satisfactorily amended, such as to overcome the identified issues, it is considered that planning permission could be granted, subject to conditions, without undue interference with the rights of either the applicant or third parties as protected by Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. The recommendations are made in the public interest.

- g) I SUBJECT TO the receipt of accurate and satisfactorily amended plans and the views of the Fire Officer, the Director of Planning and Technical Services be authorised TO GRANT PLANNING PERMISSION subject to:- (i) DP01; (ii) DP04; (iii) Any conditions appropriate following the receipt of amended plans or recommended by the Fire Officer.
- II Otherwise, the Director of Planning and Technical Services be authorised TO REFUSE PLANNING PERMISSION on the following grounds:- (i) The height of the stand and its proximity to the garden boundaries of properties in Charles Road is such that loss of daylight would be caused to the rear gardens of those properties to the unacceptable detriment of the residential amenity of the occupants. The proposal is therefore contrary to Policy ENV15 of the approved Kent Structure Plan and Policy DD1 of the emerging Dover

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Scale: 1/2500

Application: DOV/00/1057
Preston

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16. a) DOV/00/1057 TR 2552 : 6098
- b) **Continued use of commercial workshop for the repair and maintenance of vans - Preston Mill, Mill Lane, Preston.**
- c) Kent Structure Plan : Policies ED4, T18, RS1, RS5 and S1
Dover District Local Plan : Policies LE23 and TR1
- d) This site has a lengthy history of planning applications dating from 1958. The most relevant applications are:-
- CH/7/ 58/0226 - The erection of a milling store - Planning permission granted.
- DO/77/1166 - Use of existing mill store for repair and restoration of vintage cars - Planning permission granted.
- DOV/93/0578 - Use for storage of vintage vehicles and for the parking and maintenance of two commercial tractor units - Temporary planning permission granted, expiring in November 1996.
- DOV/97/0771 - Use of building for storage facilities and office accommodation - Planning permission refused on grounds of insufficient information relating to the occupancy of the unit and consequent likelihood of traffic generation being unsuitable for the local road network.
- DOV/97/1279 - Change of use to commercial workshop for the repair and maintenance of vans - planning permission refused on grounds of generation of commercial traffic in a locality not well served by a range of transport, contrary to the provisions of PPG13 and Local Plan Policy TR1.
- DOV/98/0657 - Change of use of former mill store to commercial workshop for repair and maintenance of vans - temporary planning permission granted, expiring on 30 September 2000. Permission was granted subject to 16 conditions many of which are of direct relevance to consideration of the current application. Therefore, a copy of Planning Permission DOV/98/0657 has been appended to this report.

The current business operating at Preston Mill has also acquired a substantial planning enforcement history. The main items of relevance in this context are as follows:-

- Planning permission DOV/98/0657 required the applicant to undertake a number of measures by 8 February 1999, including: the completion of access, parking and manoeuvring facilities as indicated on the approved plans; the submission of a landscaping scheme; implementation of walls and fencing as shown on the approved plans;

the provision of a vehicular turning space as shown on the approved plans. These matters were not addressed within the specified period.

- The planning permission also required certain methods of operation to be adhered to, including: that no industrial processing or storage of material should take place outside the workshop building; all vehicles held at the site for repair and maintenance should be kept at all times within the workshop building or within a fenced compound defined on the approved plans for the purpose; that no more than 8 vehicles for repair or maintenance should be kept at the premises at any one time. It became clear from an inspection undertaken in early 1999 that these provisions were not being complied with.
- Additionally, the applicant undertook a number of unauthorised works which were not covered by any planning permission, including: the excavation of a trench for water pipes and electrical cable ducting; insertion of UPVC windows into the mill stump to facilitate the conversion of this to an office and the connection of the mill stump to foul drainage; the partial construction of a brick built extension to the western wall of the existing workshop; the creation of an extensive hardstanding adjacent to the land's eastern boundary, other than in accordance with the approved plans.
- The issues of non-compliance with conditions attached to the planning permission and of other unauthorised works were addressed by the serving of two enforcement notices on 5 July 1999. The associated period for complying with both notices expired on 15 November 1999.
- It was confirmed by inspections carried out in December 1999 and January 2000 that the two enforcement notices had not been complied with within the required period in several respects. Planning Committee authorised prosecution in respect of these matters on 6 April 2000 and a summons was served on the applicant for the case of non-compliance with the enforcement notices to be heard in the Magistrates' Court with a view to prosecution.
- The initial court hearing took place on 18 September 2000 (following an earlier scheduled hearing which the applicant failed to attend). At that hearing the applicant pleaded not guilty to failure to comply with the enforcement notices. The case is due to be heard at the Magistrates' Court on 1 December 2000; a verbal update on the outcome will be given at the meeting.
- Additionally, in the early months of 2000 an inspection identified the unauthorised excavation of road banks on the frontage of the site and the erection of frontage walls and high gate piers, none of which had the benefit of planning permission. This issue was addressed through the serving of a third Enforcement Notice on 14 June 2000, with a period of compliance which expired on 1 November 2000.
- A recent inspection confirms that this third Enforcement Notice has not been complied with in any respect. A separate report relating to the prospect of prosecution in respect of non-compliance with this Enforcement Notice will be brought to the Committee shortly.

- e) Highways Comments: In the event of it being accepted that a case is proven for the granting of a continuation of this use, earlier highways conditions should be reiterated.

C.A.: No archaeological measures are necessary in association with this application.

E.A.: No objection to the proposal provided that a condition is imposed requiring the submission and approval and implementation of a scheme for the disposal of surface water, to prevent pollution of the water environment. Also recommends a number of informatives which would best be imposed in the form of conditions.

D. of H. and H.: No observations.

P.C.: Has decided to oppose the proposal. Continued breaches of planning regulations on this site have led to unacceptable disturbance for neighbours and a level of industrial activity which is unsuited to the rural location. Believes the activities carried out on the site to be better suited to a light industrial location and unsuitable for this country area.

P.R.: Two letters received which make the following points:-

- Since the beginnings of the business, neighbours have had to endure a ceaseless barrage of noise with complete disregard for conditions and operating hours, including all Saturday afternoon and evening and all day Sunday;
- Noise disturbance is either from an outside compressor/generator, the mending of vehicles externally or children riding around on two lawnmowers all day and during summer evenings;
- Vehicles in the compound often far exceed the agreed number with some vehicles being left in the local community hall's car park until requested to move them;
- Vehicles have increased in tonnage and throughout the last summer any high sided large vehicles have been left to be repaired and renovated externally with all the ensuing machinery noise engines running/diesel fumes and the added noise of reversing mechanisms found in these large vehicles;
- These vehicles are often driven around Preston village. Mill Lane is quite narrow with high banks on either side and has no pedestrian walkway or means of evasion. This situation is not conducive to heavy vehicular traffic driving in and out of the Preston Mill site and around the immediate vicinity;
- The excessive use of 24 hour security lighting also means that there is a constant light illumination of the complete compound and surrounding land;

- Smells of diesel, bodywork paint and water jet spraying of vehicles outside also add to the problems of this site for local residents;
- For most of the first years of the temporary planning permission the additional noises at times of two industrial diggers excavating the site made normal living near impossible, causing unnecessary levels of stress in what should be a rural community;
- The number and sizes of vehicles on the site tend to vary greatly, exceeding both stipulated conditions of the provision of planning permission; the set hours of work are as variable;
- The applicant's apparent ability to continue to operate whilst enforcement notices are issued against him makes one question why Council Tax is paid.

The applicant has also obtained and submitted 4 letters of support; these are summarised under the 'Site and the Proposal' heading.

f) The Site and The Proposal

The application site comprises the curtilage of Preston Mill, which lies in Mill Lane, outside the defined confines of the village of Preston but in close proximity to residential properties. On the road frontage is a single storey workshop building erected during the late 1950s from which the use to which the current application relates presently operates. Planning permission was granted in October 1998 for the operation of a business for repair and maintenance of panel vans from the workshop.

The remains of the original windmill lie further into the site. This has been converted by the applicant to an office associated with the workshop; whilst the office use itself does not require planning permission, the physical alterations to the mill stump did require permission, which was not obtained. These works were initially considered to be unacceptable and were therefore made the subject of an Enforcement Notice; however, following further alterations to the building by the applicant which overcame concerns regarding the appearance of the alterations, prosecution in respect of non-compliance with that element of the enforcement notice which relates to the mill stump has not been pursued. Behind the mill stump is an extensive grassed paddock; the area in front of the mill stump and workshop has been hardsurfaced to provide a manoeuvring and parking area. Behind the workshop is a raised hardsurfaced area surrounded by a low brick wall which is intended to function as a compound for vehicles awaiting repair.

The planning permission for the operation of the business from this site expired on 30 September 2000. The current planning application was submitted on 29 September and seeks planning permission for the continued operation of the business from the site on a permanent basis. No supporting information was submitted with the application, but the applicant later submitted four letters of support obtained from nearby residents which make the following points:-

- The property is kept clean and tidy;

- If the applicant had not taken the property over, it would be overgrown with rubbish;
- Hardly any noise is generated;
- The applicant is keen to help the village community;
- The applicant has carried out his business in a workman-like manner and has enhanced the standard of the area;
- The applicant deserves to succeed;
- The applicant has made significant improvements and is maintaining the premises to the highest standards.

Policy Context

Local Plan Policy LE23 and Structure Plan Policy RS5 both encourage the reuse of rural buildings for employment purposes in circumstances where proposals are acceptable in terms of impact on visual and residential amenity and traffic generation/travel demand. Structure Plan Policy ED4 also encourages the use of suitable buildings in rural areas by small firms as long as proposals accord with Policy RS5. Conversely Structure Plan Policy S1 and Local Plan Policy TR1 specify that development which generates significant increases in traffic and which would generate travel on roads outside urban areas or villages will not be permitted; these policies embody the sustainability objectives of Planning Policy Guidance Note 13 (PPG13).

Assessment

The principal planning considerations in this case are:-

- Whether it is possible for a business of this kind to operate in this location in a manner which would not be detrimental to the amenity of neighbouring residents, to visual amenity or to road safety in accordance with conditions which may be imposed by means of a planning permission; and
- If so, whether there is a likelihood of conditions which are essential to secure an adequate standard of visual and residential amenity and road safety being complied with in this case.

A recent inspection of the site has confirmed that the following breaches of planning permission or examples of unauthorised development are still evident at the site:-

- The absence of a landscaping scheme;
- The storage of vehicles other than panel vans on the site, including large lorries;
- Storage of panel vans awaiting repair outside the compound defined for the purpose;
- Outside storage of various items, including vehicles in disrepair, tyres and timber;
- A partially built extension on the western side of the building;

- The excavation of the road frontage and erection of walls and gate piers.

Additionally, in response to the current planning application, allegations of further breaches of planning permission and unauthorised activity have been received from local residents, including:-

- Non-compliance with approved operating hours for the business;
- Storage of vehicles on site in excess of the numbers permitted;
- Storage of vehicles on the site other than authorised by the planning permission;
- The use of the grassed area to the rear of the mill for informal recreational purposes by the applicant and his family.

At present, officers have no firm evidence to support these allegations.

Members will know from the summary of third party representations at section e) and under the "Site and The Proposal" heading that there appears to be a local difference of opinion in respect of whether the applicant's business should continue to operate from Preston Mill or not. Members may also wish to note that the Parish Council objects to the continuation of the business and that support for the business comes from residents who live further away from the site than the objectors.

There is little doubt that, were the applicant prepared to comply with the conditions which were imposed on the original planning permission, then interests of visual amenity, amenity of neighbouring residents and road safety could all have been adequately safeguarded. However, the recent enforcement history of the business all too clearly illustrates the applicant's failure to comply with these conditions. It must be acknowledged that some issues of non-compliance were simply due to tardiness, in that certain items of work were not carried out on the site within the time specified by the permission, but were later carried out in an acceptable manner, albeit later than required. However, the applicant continues to ignore requirements such as restrictions on the nature of vehicles works maintained and repaired at the site, the requirement not to store materials or other items outside the confines of the buildings on the site, the requirement to secure the approval and implementation of a landscaping scheme and the parking of vans in clear view of the public highway rather than in the hidden compound.

These breaches of the planning permission have adverse consequences for visual amenity and road safety. From the objections received, there also appears to be a possibility that further breaches of the planning permission are taking place to the detriment of residential amenity, although firm evidence to support such allegations has yet to be gathered. Furthermore, there have been a number of examples of unauthorised development on the site since planning permission was granted for the operation of the business, some of which, such as the partially built extension and the excavation of the road frontage and frontage wall and gate piers, have resulted in visual detriment.

Whilst it is open to the Committee to renew the planning permission for a further temporary period subject to the same conditions as were previously imposed, it must be said that there appears to be little likelihood of some of the conditions being properly complied with. As the conditions were initially imposed specifically with a view to ensuring that the business use operated in a satisfactory manner, it must be concluded that, if they are not complied with, the business use cannot be deemed to be acceptable. The Committee also needs to bear in mind the advice in Circular 11/95 to the effect that a second temporary permission should not normally be granted. In effect, the applicant's failure to comply with the conditions, which were imposed to safeguard amenity, has demonstrated his inability to show to the Council that he can operate the site responsibly. The Committee should note the advice in PPG18 which states *"Where the LPA's initial attempt to persuade the owner or occupier of the site voluntarily to remedy the harmful effects of unauthorised development fails, negotiations should not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or to compel it to stop."*

Most conclusively, the unauthorised actions of the applicant have resulted in the serving of a number of Enforcement Notices, none of which have been complied with. Whilst the serving of Enforcement Notices is not uncommon, incidences of non-compliance with such notices are an offence under the Town and Country Planning Acts and are extremely rare. In the case of Preston Mill, there are already three such incidences.

It must be concluded that the applicant has shown a complete disregard for the planning process, and that his history demonstrates that he cannot be relied upon to comply with planning requirements in the future in a satisfactory manner. Therefore, it is felt that the Committee has no sensible option in this case but to refuse planning permission and to authorise the serving of a fourth Enforcement Notice to secure the cessation of the business.

It is recognised that refusal of the application will result in an interference with the applicant's rights as protected by Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. The issues relating to the proposed development, as identified above, are important material planning considerations and cannot be overcome by approving the application subject to conditions. The proposal, therefore, is recommended for refusal and it is considered that this recommendation is justified to protect the rights and freedoms of others and in the public interest. It does not place a disproportionate burden on the applicant and would not constitute a violation of his rights.

- g) | Subject to further Highways comments REFUSE PLANNING PERMISSION on the following grounds:- (i) Planning permission was originally granted for the operation of business from Preston Mill in October 1998 for a temporary period expiring in September 2000, subject to a number of conditions which required the applicant to operate on the site in a particular way and to undertake certain additional works within a specified time. The purpose of a temporary time limit was to allow the Local Planning Authority the opportunity to monitor the degree of compliance with conditions, which were felt to be essential in the interests of visual and residential amenity and road safety. During the course of the two year life of the planning permission, the Local

Planning Authority has had cause to serve an Enforcement Notice on the applicant in respect of non-compliance with the conditions and to prosecute in respect of non-compliance with that Notice. The Local Planning Authority therefore concludes that, whilst conditions may be imposed which, if complied with, would secure the operation of the business in an acceptable manner in this locality, there is no reasonable likelihood of these essential conditions being complied with. Therefore, in the opinion of the Local Planning Authority, the continuation of the business on this site would lead to the unacceptable detriment of the amenity of the locality and of road safety contrary in particular to Policies RS1 of the Kent Structure Plan and DD1 of the emerging Dover District Local Plan; (ii) Any Highways grounds.

- II Enforcement action BE AUTHORISED to secure the cessation of the business currently operating from Preston Mill.
- III I07, I13I.

APPENDIX

Application Number DOV/98/00657

TOWN AND COUNTRY PLANNING ACTS

Town and Country Planning Act 1990

Town and Country Planning (General Development Procedure) Order 1995

Decision to Grant Full Planning Permission

TO:- Town Planning Practice
The Green Gables
34 Prospect Road
Minster
Thanet Kent
CT12 4EG

Take notice that **DOVER DISTRICT COUNCIL**, the District Planning Authority under the Town and Country Planning Acts, has Granted Full Planning Permission for Change of use to commercial workshop for repair and maintenance of vans as referred to in your application received on 29/06/1998 relating to Land At Preston Mill, Mill Lane, Preston, Canterbury, Kent

SUBJECT TO SUCH CONDITIONS AS ARE SPECIFIED hereunder together with the reasons for their imposition:-

1. The use hereby permitted shall be discontinued and restored to its former use on or before 30/09/2000 in accordance with a scheme of work to be first submitted to and approved by the Local Planning Authority.
Reason: In order that the position may be reviewed at the end of the period stated.
2. The development hereby permitted shall be carried out in accordance with the submitted application as amended by drawing no. MR/98/1364/01 received on 05/10/98 unless otherwise approved in writing by the District Planning Authority.
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. The use of the site shall be confined to the particular use hereby permitted as specifically described in the agent's letter dated 26/06/98 and the premises shall not be used for any other use whether or not within the same Use Class of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended.
Reason: In order that the District Planning Authority may have control over any subsequent changes of use in the interests of the amenity of the locality.
4. No work shall be carried out, no power driven machinery shall be used and there shall be no vehicle movements to or from the site outside the hours of 0800 to 1800 Monday to Friday and 0800 to 1300 Saturday and at any time on Sundays and Bank Holiday.
Reason: To safeguard the amenities of the area.

5. No part of the premises shall be used for retail sales unless the District Planning Authority otherwise agrees in writing.
Reason: The use of the premises for normal retail trading would be contrary to the planning policies for the area.
6. No industrial processing or storage of materials including crates, pallets and packing materials shall take place outside the workshop building.
Reason: To safeguard the amenities of the area.
7. No burning shall take place on site.
Reason: To safeguard the amenities of the area.
8. The areas shown on the approved plan as access roads, manoeuvring areas and vehicle parking space shall be provided in the approved manner within 4 months from the date of this permission and shall thereafter be used for or be available in association with the development hereby approved for the parking of vehicles at all times when the premises are in use.
Reason: The development, without the provision of parking space, access roads and manoeuvring areas to an appropriate standard is likely to lead to inconvenience and danger to other road users and to be detrimental to amenity by virtue of vehicles parking on the public highway, and may also be detrimental to visual amenity.
9. A tree and shrub planting scheme for the site to include the retention of as many of the existing trees on site as possible to comply with British Standard 5837: 1991 shall be submitted for the prior approval by or on behalf of the District Planning Authority within 4 months from the date of this permission and upon approval shall be carried out to the satisfaction of the District Planning Authority prior to the end of the 1998/99 planting season, and thereafter maintained to the satisfaction of the District Planning Authority.
Reason: To enhance the visual amenities of the area.
10. In the event of any of the trees or shrubs included in an approved landscaping scheme or any replacement trees or shrubs being removed, destroyed, dead or dying they shall be replaced within 12 months at the same places by large nursery stock of the same species to the satisfaction of the District Planning Authority.
Reason: To protect and enhance the visual amenities of the locality.
11. All walls and fencing shown the approved plans shall be erected in the approved manner within 4 months of the date of this permission and thereafter retained unless otherwise first agreed in writing with the Local Planning Authority. ✕
12. All vehicles held at the site for repair and maintenance shall be kept at all times within the workshop building or within the fenced compound to the rear of the workshop building as defined on the approved plan.
13. No more than eight vehicles for repair or maintenance shall be kept at the premises at any one time.
14. The car parking and access/manoeuvring area and roads shown on the approved plan shall be surfaced within 4 months of the date of this permission in a manner to be first agreed in writing with the District Planning Authority. ✕

APPENDIX

TOWN
PLANNING

PRACTICE

Our Ref: NH/geh/HME

Your Ref:

Planning Department
Dover District Council
White Cliffs Business Park
Dover
Kent CT16 3PQ

The Green Gables
34 Prospect Road
Minster
Isle-of-Thames
Kent CT12 4EG

Telephone/Facsimile:
01843 821499

Mobile:
0385 916858

Planning & T&cn Servs.

29 JUN 1998

26 June 1998.

Dear Sirs

Re: Preston Mill Mill Lane Preston

We act for HME Developments who have consulted us regarding use of the above site for the commercial repair and maintenance of vans.

We understand that the original application was submitted by Messrs Rowlett and Taylor and allocated reference number DOV/97/01279, which was refused on 27 March 1998.

We have been instructed to make further application by way of re-submission.

We enclose herewith the following:-

1. Form 1 x 5
2. Form 1a x 5
3. Plan MR/97/1109/02 x 5

By way of background, we can advise that the current occupant, Mr Brian Hamilton, has been operating from the site in excess of 18 months and we are unaware of any highway difficulty caused by way of the operation.

We note that the application was refused consent on 27 March 1998 on two grounds, listed as follows:-

1. Mill Lane is unsuitable for serving further residential development.
2. The proposal, if permitted, would encourage commercial traffic to a locality not well served by a range of transport and would thereby be contrary to the provision of PPG13 and Policy TR1 of the Dover District Local Plan Deposit Draft.

With regard to the first ground of refusal, clearly this is incorrect as no application was made for residential development. It seems clear that the Local Planning Authority has misdirected itself in this respect. As a result, we are concerned that proper consideration may not have been given to the proposal and the conclusion reached as the second ground for refusal may be inaccurate. We are aware that no planning argument was submitted in support of the application, we hasten to remedy that omission on this occasion.

We are well versed with PPG13 and, indeed, Policy TR1 of the Local Plan, but consider in this case that such blanket use of the Policies is misguided.

The occupier of the premises, specialises in the overhaul and repair of Renault Master panel vans. Other panel vans are occasionally overhauled but the majority of the work relates to the Renaults.

The majority of the work is undertaken in the overhaul and repair of such vans, with maintenance taking a lesser part.

The occupier acquires used Renault Master panel vans and repairs and upgrades those vans by carrying out complete mechanical overhaul to the engine and running gear. Once repaired those vehicles are then sold on to Companies for use as fleet vehicles. The occupier agrees to maintain those vehicles if that is the desire of the purchaser or, alternatively, the purchaser can effect maintenance elsewhere.

It will, therefore, be seen that the majority of the vehicles on site at any one time are, in fact, in the ownership of the occupier undergoing overhaul and repair prior to being sold.

The procedure is that Mr Hamilton will purchase a van and bring it to the workshop for complete mechanical overhaul. Such work normally takes between one and two weeks to complete and, upon completion, the vehicles are taken to an outlet in Ramsgate where they are displayed for sale.

The occupier works on two vans at a time in the workshop and any additional vehicles are stored in the compound to the north of the site directly adjoining the building. It would be unusual for there to be more than six panel vehicles on site at any one time, there being two under overhaul and four being stored waiting for repair work to commence.

Mr Hamilton carries out maintenance of panel vans which is primarily limited to those which he has overhauled and previously sold. He currently maintains ten panel vans in total, which require a service approximately every three months.

The current occupier employs two full-time staff, namely a fully trained mechanic and an apprentice. Both live in Thanet. The apprentice arrives at work on a moped and Mr Hamilton collects the mechanic en-route to the site.

The premises are eminently suitable for the overhaul and restoration of panel vans due to the size and design of the building which was originally constructed for agricultural purposes but which is no longer required for agricultural usage.

The hours of operation are weekdays 0800 to 1800 hours. Saturday 0800 to 1300 hours and no working Sundays and Bank Holidays.

Turning once again to the grounds of refusal in the decision letter issued on 27 March 1998, clearly, ground 1 is irrelevant and we discount this as a material consideration.

We turn to the general Policies contained in PPG13 and TR1 of the Local Plan.

It is quite clear that each application must be considered on its individual merits. It appears that the Local Authority have used a blanket argument to smother the individual merits of the current application.

The application involves a former agricultural building which is no longer required for that purpose. Indeed, it has not been used in agriculture for some years, probably stretching back to the 1970s. Clearly, when it was in agricultural use, agricultural vehicles, trailers, heavy goods vehicles and other traffic would have visited the store. In modern times, bearing in mind the change in agricultural production, it is more than likely that the store would have been visited by larger vehicles, both agricultural and commercial.

The current application involves very limited traffic use, there being a maximum of three vehicles attending the site, being one for Mr Hamilton and the two employees. However, as indicated above, one employee arrives on a moped and the other is brought by Mr Hamilton direct. It is unlikely that there would be more than three light goods vehicles attending the site per day because the only vehicles that would do so are those under overhaul which would be there for between one and two weeks and any scheduled vehicle maintenance.

Mr Hamilton would normally obtain any spare parts by telephone order and collect them en-route to work in the mornings.

As can be seen, the number of traffic movements is limited in the extreme and is such that we cannot see that any demonstrable harm will be caused to any matters of highway importance.

The business provides valued employment, not only to Mr Hamilton but to the two employees, one of whom is in training and we consider that the provision of employment opportunities in this area, no matter how small, should be valued and encouraged.

We consider that the original ground 2 for refusal was made without knowledge of the very limited traffic implication of the proposed use and without considering the previous uses, including that for agriculture, of the building and site generally.

We, therefore, consider that in the light of the information above and taking into account PPG13 and Policy TR1, it is right and proper that consent be granted for the current application.

Furthermore, the applicant is willing to offer to undertake landscaping as shown on the plan, which would clearly improve the current visual amenity of the area.

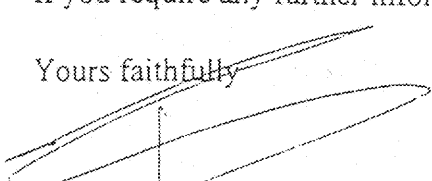
We anticipate that the Local Planning Authority may wish to impose conditions if they are mindful of granting consent and, in order to allow proper time for considering the effects of the proposal, we suggest the following specific conditions:-

1. Personal consent to Mr Brian Hamilton
2. Temporary consent for three years
3. Landscaping be carried out as shown on the enclosed plan

We consider that in all the circumstances the enclosed application should be granted, subject to the conditions suggested.

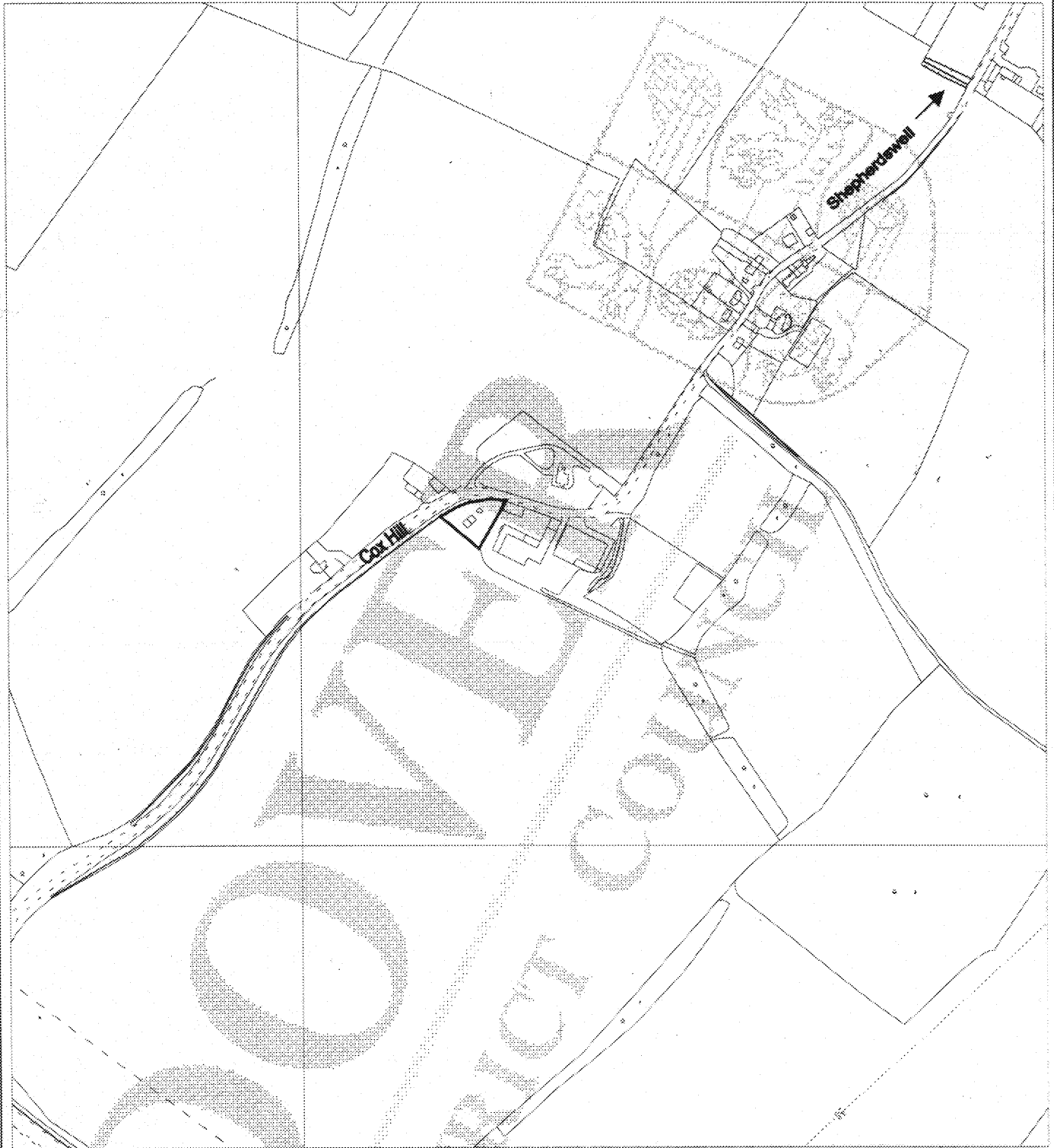
If you require any further information please do not hesitate to contact us.

Yours faithfully



Town Planning Practice

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Scale: 1/5000

Application: DOV/00/1058
Shepherdswell with Coldred

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17. a) DOV/00/1058 TR 251 : 472
- b) **Alterations and extensions to revert back from one to two cottages, Coxhill Cottages, Coxhill, Shepherdsweil.**
- c) Kent Structure Plan : Policies RS5, RS1, ENV1 and ENV4
Dover and Western Parishes Local Plan : Policies HO1, HO2, HO7, NE2, DC1 and DC8
Dover District Local Plan : Policies HS1, DD1, DD8 and CO3
- d) CH/6/64/0009 - Alterations and conversion - Approved.
- e) Highways Comments: Expresses concern over sustainability issues and details concerning access on a bend with limited visibility. Further views awaited.

P.C.: No objections in principle but expresses concerns over the access to the road. As the road bends it is suggested that a shared access may be appropriate.

f) Introduction

The application relates to a detached two-storey cottage. The property lies outside the built confines of any settlement and is located within a Special Landscape Area. The property is accessed from Coxhill - this road links the A2 and Shepherdsweil - and it sits on raised ground making it visible from the road. Access to the site is by a single access from Coxhill. To the south-east are a number of agricultural buildings. Some of these are disused, although part comprises a working livery.

The application seeks to sub-divide the cottage to form two separate residential units. To provide additional floorspace to each unit, identical two-storey side extensions are proposed to both wings of the property. A new entrance drive is shown to serve one of the units, the existing entrance being retained for the other. A domestic outbuilding to the east of the cottage is shown to be removed as part of the scheme.

Applicants Case

In support of the proposal, the applicant's agent states that the property was, until about 12 years, in use as two separate farm cottages with the sub-division still reflected on the current Ordnance Survey sheet. It is proposed that the present tenant remains in residence in one of the units while the applicant (who owns the adjoining livery) would live in the other unit. Reference is made to security problems at the livery and it is stated that some £7,000 worth of saddles and other equipment were stolen on Boxing Day 1999 as well as previous burglaries before then. In addition, the welfare of horses is also a concern and living adjoining the site is seen as having advantages. Regarding the proposed extensions, the agent feels that these provide for a more logical internal arrangement of the property and provide safer staircases than the present winder stairs.

Planning Policy

The development plan (Policy HO2) states that new residential development will not normally be permitted beyond the confines of rural settlements, including Shepherdswell. This approach is carried forward in the Dover District Local Plan which also embodies up-to-date Government Guidance relating to locating development so as to reduce the need to travel. PPG7 (The Countryside : Environmental Quality and Economic and Social Development) also refers to focusing new development in existing towns and villages. As well as strengthening existing centres, policies also aim to protect the open countryside and create a better balance between employment and housing in rural communities, thereby reducing the need to travel.

Assessment

The creation of a new residential unit as proposed by this application will therefore run contrary to the Policy Guidance. The applicant has put forward some justification relating to security problems with the adjoining livery and providing care of the horses. This case would need to be considered overriding to justify setting aside established policy. A recognised exception to the restriction on new residential development in the countryside relates to the essential provision of dwelling for an agricultural/forestry worker. Security needs by themselves however are not normally seen as sufficient to justify granting permission in these circumstances. The fact that the existing property is already in the applicant's ownership is felt to strengthen the view that an insufficient case exists.

The applicant's agent refers to the fact that the cottage was used as two separate dwellings until about 12 years ago. Council records appear to show that the sub-division occurred some time after 1964 (as reflected on the details accompanying CH/6/64/0009). In any event, it is considered that the use as two units ceased a sufficiently long time ago to warrant a fresh assessment under current policy.

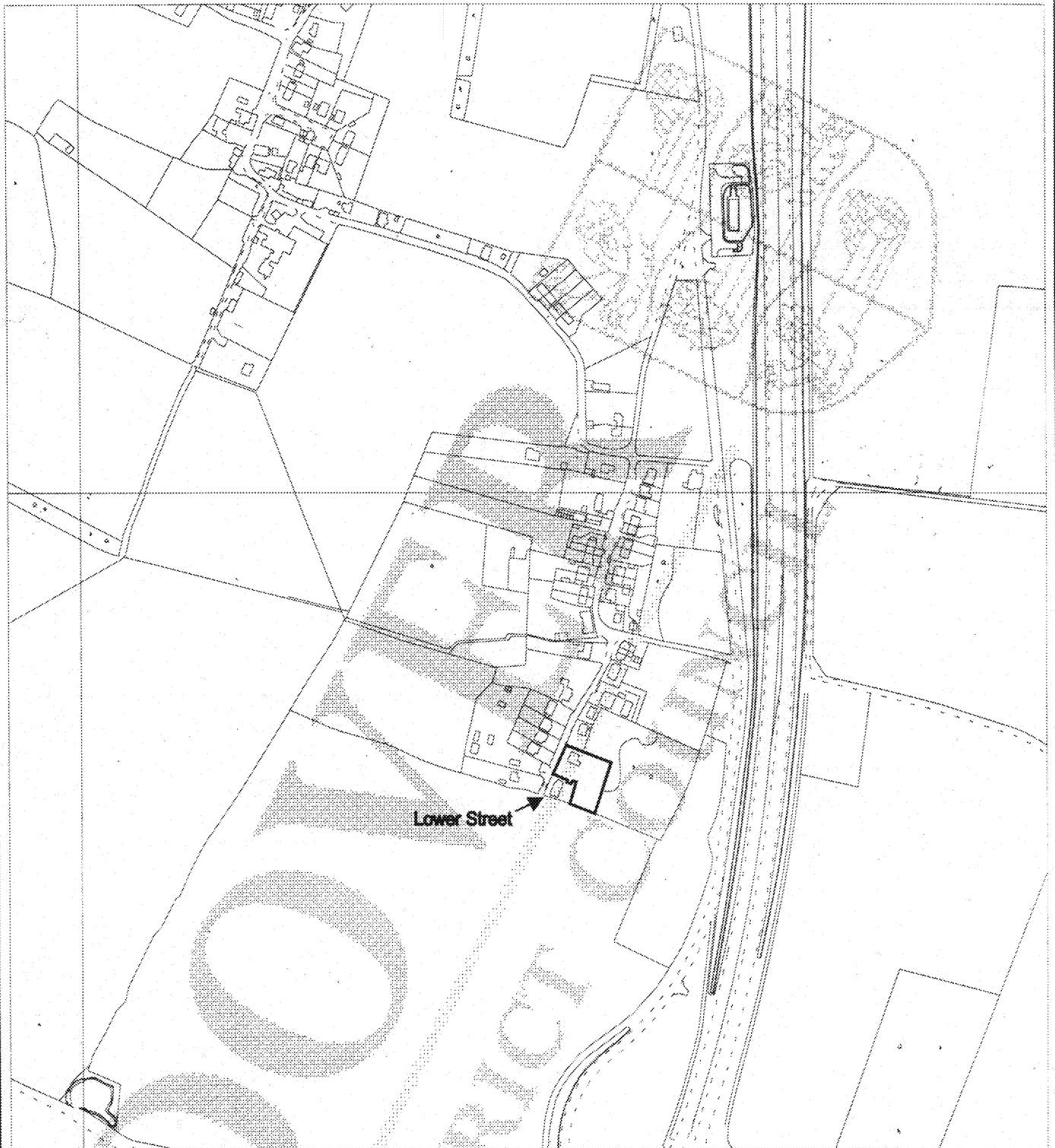
It is considered that the other alterations proposed (extensions and new access) reinforce the harm that will be caused by the proposal. The formation of a new entrance would involve excavating through an existing bank fronting Coxhill. It is likely that further banking would need to be lost in order to secure appropriate vision splays. This would have the effect of introducing an urban feature, so eroding the rural character within an area where planning policy normally gives priority to the conservation and enhancement of natural beauty of the landscape over other planning considerations (Policy ENV4). It is felt that the proposed extensions are likely to have a similar harmful impact. Policy RS5 requires that extensions to existing properties in such areas be "modest". The application would involve a 63% increase in the existing habitable floorspace. It is felt that this will appear as an over-development of the existing cottage. There are no mitigating circumstances such as screening which would lessen the impact, indeed the property can be clearly seen from Coxhill.

In preparing this report, consideration has been given to the implications of the Human Rights Act 1998. It is recognised that refusal of planning permission will result in interference with the applicants' home and private family life as protected by Article 8 and the right to the peaceful enjoyment of

possessions under Article 1 of the First Protocol. The objections identified relating to the proposed development as set out above, however, are important material planning considerations and cannot be overcome by the granting of planning permission subject to conditions. The proposal must therefore be refused planning permission in the public interest. This is necessary in a democratic society in furtherance of the legitimate aims stated. It does not place a disproportionate burden on the applicant and would not constitute a violation of their rights under Article 8 of the convention or Article 1 of the First Protocol.

- g) I PERMISSION BE REFUSED on the grounds:- (i) The proposed development is located outside the confines of any built up area and would constitute undesirable sporadic development in the countryside, which is within the North Downs Special Landscape Area, contrary to the provisions of the Development Plan, in particular Policies RS1, RS5, ENV1 and ENV4 of the Kent Structure Plan and Policies HO2 and NE2 of the Dover and Western Parishes Local Plan. The proposal would also be contrary to Policies HS1, CO1 and CO3 of the emerging Dover District Local Plan; (ii) The proposal if permitted would be contrary to Policy TR1 of the emerging Dover District Local Plan which seeks to restrict new development to within urban boundaries and village confines and to reduce the need for travel in the interest of sustainability; (iii) The proposed extensions by reason of their size, siting and design, would result in an unacceptable scale of development to the existing property which occupies a prominent site, within the Special Landscape Area. The proposal would therefore detract from the appearance of the property and the visual amenities of the rural area. In particular, it is not considered that the proposal represents a "modest" extension, this being in the interests of countryside conservation as required by the development plan. Accordingly, it is considered that the proposal would be contrary to Policies ENV1, ENV4, RS1 and RS5 of the Kent Structure Plan and Policies DC1, DC8 and NE2 of the Dover and Western Parishes Local Plan. The proposal would also be contrary to Policies DD1, DD8 and CO3 of the emerging Dover District Local Plan; (iv) The proposed new entrance, involving the loss of banking along the frontage of the site with Coxhill, together with the formation of a parking area behind, would detract from the rural qualities of the area contrary to Policies ENV1 and ENV4 of the Kent Structure Plan, Policies DC1 and NE2 of the Dover and Western Parishes Local Plan and Policies DD1 and CO3 of the emerging Dover District Local Plan; (v) In the opinion of the District Planning Authority there is no established local need to justify this development sufficiently strong to outweigh the planning objections indicated above; (vi) Any other highways reasons.

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Scale: 1/5000

Application: DOV/00/1060
Tilmanstone

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18. a) DOV/00/1060 TR 304 : 507
- b) **Extension to Roof, Bramble Down, Lower Street, Tilmanstone.**
- c) Kent Structure Plan : Policy RS1
Dover District Local Plan : Policies DD1 and DD8
- d) DOV/93/900 - Porch, rear extension and garage - Approved.
DOV/93/1095 - Retention of land as garden land - Approved.
DOV/96/737 - Conservatory - Approved.
DOV/99/1150 - Loft conversion and single storey rear extension - Approved.

e) P.C.: No objections.

P.R.: A letter of objection has been received from a local resident. The following concerns are raised:-

- The formation of a gable end will protrude into the present skyline resulting in a loss of some light and overshadowing to the adjoining garden.
- The extension will appear as an unsightly intrusion and will detract from the enjoyment of the neighbouring garden.

f) The application relates to a hipped roofed chalet bungalow located within Lower Street, Tilmanstone. The area comprises 1950s/60s styled detached dwellings. It will be noted under d), that permission was given for a loft conversion (DOV/99/1150). The current application seeks to increase the level of first floor accommodation permitted by extending the roof to one side to form a gable end. An additional velux rooflight is shown on the front elevation. This is in addition to the two already permitted as part of the loft conversion.

The dwelling as proposed to be altered will appear slightly incongruous in that a gable to one end will disrupt its symmetry, the other end being hipped. Notwithstanding, the limited size of the extension and the unobtrusive nature of the property within the street scene, means that the development does not raise concerns sufficient to justify permission being refused. The applicant's agent has been asked to use feather-edged weatherboarding to face the gable end (this should help to soften its impact) and to remove the new velux window to the front elevation and insert it to the rear - this in order to reduce the perception of 'clutter' to the front roof slope.

It will be noted that a letter of objection has been received. On the specific points raised, it is not considered that the proposal will result in any significant loss of light or overshadowing impact. This view takes into account the proximity of the dwelling 2.3m from the boundary with the adjoining garden and the neighbouring property's location some 13m beyond this.

In preparing this report, consideration has been given to the implications of the Human Rights Act 1998 as it relates to both the applicant and the third party. It is recognised the granting of planning permission may result in an interference with the third party's home and private and family life as protected by Article 8. This has to be balanced with the applicant's rights

under the same Article. In this particular case, it is considered that planning permission could be granted subject to conditions, without undue interference with the rights of the third party as protected by the Human Rights Act 1998. The recommendation therefore is made in the public interest.

- g) I SUBJECT TO the satisfactory resolution of outstanding details PERMISSION BE GIVEN subject to:- (i) DP01; (ii) DP04; (iii) MA04V.

II 107.

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Scale: 1/1250

Application: DOV/00/1065
Kingsdown
Ringwold Parish

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19. a) DOV/00/1065 TR 378 : 484
- b) **Works to 6 trees, Bell House, Manor House, Upper Street, Kingsdown**
- c) Kent Structure Plan : Policy ENV7
Tree Preservation Order No.8, 1999
- d) -
- e) P.C.: Has requested further information on the basis that the proposals are too imprecise; further views awaited.
- f) Bell House is one part of the Manor House which is currently undergoing refurbishment. A report on treeworks on another part of the site is elsewhere on this agenda (DOV/00/0830).

This application refers to trees on the Upper Street side of the site. In the entrance to the Manor House are two Yew trees. The owners wish to thin these to gain more light to living rooms. Likewise, pruning of a small Holly is requested to gain more light.

By the gate to the Manor House is a mature Horse Chestnut. This tree has one extremely long lateral branch reaching out over Upper Street. Horse Chestnuts are prone to "Summer Branch Drop", a condition in which a branch falls from a tree for seemingly no reason, on still days in summer. It is known that long lateral branches such as the one in this application are most vulnerable. The proposal is a prudent precaution.

A small Elm nearby also has a branch overhanging Upper Street which the applicants wish to remove for safety reasons.

Finally, the application relates to a small sycamore growing out of the side of an old flint wall. The tree is small but the end weight is such that if the tree continues to grow without pruning back it is likely to pull the wall down.

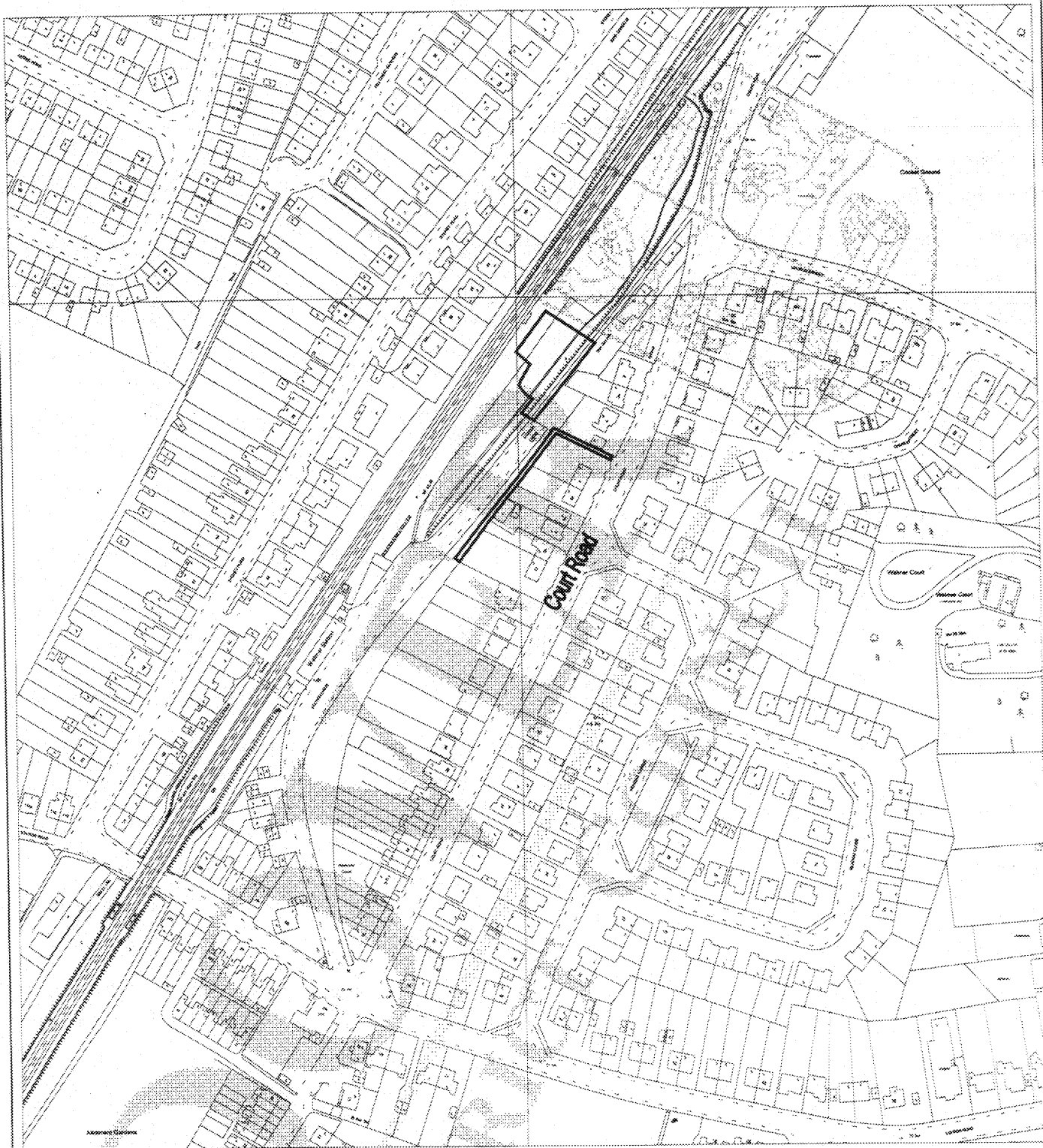
No objections are seen to any of the works. None should detrimentally affect the trees or the character of the Conservation Area.

It is recognised that the grant of permission subject to a condition may result in an interference with the rights of the applicant as protected by Article 1 of the First Protocol of the Human Rights Act 1998. However, it is considered that this recommendation is justified to protect the rights and freedoms of others and is in the public interest. It does not place a disproportionate burden on the applicant and would not constitute a violation of his human rights.

- g) I PERMISSION BE GRANTED for the works on condition that they are supervised by the Local Planning Authority.

II 1131.

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Scale: 1/2500

Application: DOV/00/1071
Walmer

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20. a) DOV/00/1071 TR 3649 : 5042
- b) **Erection of block of 4 flats, construction of access road and construction of pedestrian footpath to Court Road - part of former goods yard, Station Drive, Walmer.**
- c) Kent Structure Plan : Policies S1, S6, ENV15, ENV16, ENV20 and H3
Dover District Local Plan : Policies LE1, LE3, LE10, TR1, DD1, DD4, DD11, HS2, HS9 and ER6
- d) DO/80/1334 - Planning permission refused for light industrial development.
- DO/82/0525 - Planning permission refused for light industrial nursery units but allowed on appeal.
- DO/85/0778 - Planning permission refused for residential development.
- DO/86/8826 - Planning permission granted for erection of 10 houses.
- DOV/97/1149 - Planning permission refused for erection of block of 10 flats and 12 pairs of semi-detached houses, construction of access road to parking facilities.
- DOV/98/0633 - Planning permission granted for erection of block of 8 flats and 7 dwellings (3 detached houses and 2 pairs of semi-detached houses). This permission was set to expire on 22 September 2000, but was partially implemented through the erection of some of the dwellings and thus now runs indefinitely.
- DOV/99/0787 - Planning permission granted for erection of detached dwelling and garage and construction of vehicular access. This permission has been implemented and relates to land to the immediate north of the current application site.
- e) Highways comments: No objection subject to standard conditions and informatives. However, raises questions as to whether the footpath connection can be achieved, how it complies with security objectives and how it would be lit.

E.A.: No objection subject to standard conditions and informatives.

D.of H. and H.: Views awaited.

Kent County Constabulary: "In recent years the Police have been approached by residents living near the goods yard, who have been victims of crime. The incidents can be connected to the footpath adjacent to their homes. The footpath shown on the latest plan, is longer, and has a ninety degree turn. It will provide a secluded route for offenders, and will make the

rear of the adjacent houses vulnerable. The bend in the path also increases the risk of personal attack, as it reduces forward surveillance.

The earlier layout was preferable, as the path was straight, with a good view from end to end. Lighting the path would be easier, and the path would be more user friendly. The users would be in view longer, passing along the front of the proposed houses in Station Drive rather than the rear, before turning into the straightened footpath.

There is a minor risk in the earlier plans, of theft of or from motor vehicles in the parking bays to the south west of the blocks of maisonettes (where the path emerges). However, good lighting and surveillance would reduce that risk."

Since making the above comments in writing, Kent County Constabulary has indicated by telephone that it has revised its opinion in respect of the earlier, straight path. It is now felt that this would be unacceptable by reason of its narrow width and proximity to a vehicle parking area. Written confirmation of this revised opinion is awaited.

Railtrack: No objection subject to standard Railtrack safeguards to the adjoining railway being maintained. Also wishes to see the footpath to Court Road re-opened.

P.C.: Objects to the proposals on the grounds of the moved location of the footpath from Court Road to the Railway Station, and feels that the proposed new footpath is problematic for the following reasons:-

- It is less convenient in view of its location half way down Court Road;
- It is not wide enough to allow the disabled or double pushchairs to use it;
- There is no information about lighting of the alleyway;
- Both ends of the proposed footpath come out at traffic points, one in busy Court Road and the other at the turning head proposed for the new housing development;
- As this footpath has no apparent legal status it is unclear what steps can be taken to ensure it is kept open and maintained to a suitable standard;
- Its location will impinge on the privacy of the neighbouring properties at numbers 4 and 6 Court Road and it is understood that in previous times approximately 400 people a day used the original track.

P.R.: 6 letters received which make the following points:-

- Footpath will create loss of privacy for neighbouring residents;
- Footpath carries a threat of vandalism, dog fouling, litter and nuisance;

- Footpath would create a lack of security for neighbouring properties on either side and for several additional properties;
- Revised footpath would be dangerous for school children, who may run out onto the road;
- Taxis would stop at the entrance to the footpath, creating a road safety hazard;
- With the required lighting and boundary treatments on either side of the footpath, its width would be reduced such that it could not accommodate wheelchairs or double pushchairs; this would be an infringement of human rights;
- If the footpath is to be lit, this would affect the amenity of neighbouring properties;
- There is scope for routeing the footpath elsewhere such that it would not run adjacent to properties in Court Road, other than the applicant's own dwelling;
- The proposed flats would create loss of privacy for neighbouring properties;
- Children would congregate on the footpath and cause disruption for other pedestrians.

The letters summarised above also raise the following points, which are not planning considerations and, therefore, cannot be taken into account in determining the application:-

- Properties would be devalued;
- The developer does not own the land where the footpath is proposed; it is untitled, and not owned by the party listed on the ownership certificate;
- Who would be responsible for cleaning/maintaining the path?
- The path would be of little benefit to people coming from Telegraph Road and St. Richard's Road;
- The footpath should be replaced along its original route.

f) The Site and The Proposal

The site comprises an area of approximately 0.1 hectares m located towards the centre of the former Walmer Goods Yard, adjacent to Walmer Station. To the south, planning permission DOV/98/0633 has been partially implemented through the erection of three 2-storey dwellings (Item 27, 3 September 1998). That permission also covered the site of the current planning application, permitting the construction of a vehicle parking area on this site, which would have served a block of 8 flats to be erected to the north. The site of the block of 8 flats has now been developed instead as a single dwelling pursuant to

planning permission DOV/99/0787 (Item 6, 4 November 1999) with a new vehicular access to Court Road. This dwelling is occupied by the applicant. The site abuts the railway to the south-west and lies at a significantly lower level than the gardens of dwellings in Court Road to the south-east. A former pedestrian footpath which once linked Court Road to Walmer Station and was once owned by Railtrack (who allowed it to be used by the public) until recently crossed the site along its south-eastern boundary. This footpath has since been stopped up, and some of the land it crossed has been excavated away. It is important to note that it is not, and never has been, an official public right of way, but was simply permitted to be used by the public by British Rail and Railtrack.

The current application seeks planning permission for the erection of a two-storey block of 4 flats, the provision of 8 car parking spaces to cater for those properties and an associated access road from Station Drive (mirroring that previously approved), and for the creation of a new pedestrian footpath link from the application site to Court Road, through what is presently overgrown land outside any residential curtilage. The footpath as proposed in the original submission would have met Court Road between Nos. 4 and 6, abutted the full length of the side boundaries of those properties, and continued in a straight line to meet the estate road approved under planning permission DOV/98/0633 at its turning head. However, the application has since been amended such that the footpath would no longer link to the estate road, but would instead turn southward at the end of the garden of number 4 Court Road and run along the rear boundaries of numbers 6 to 12 to meet with Station Drive.

The submitted plans show the proposed estate road as being within the ownership of the applicant but outside the curtilage of the application site; the applicant has therefore been asked to revise the layout plan so as to include the proposed estate road from the point that it links with the application site to its junction with Station Drive. The applicant has also been asked to provide a section through the site to show the difference in levels between the proposed location of the block of flats and the residential properties in Court Road. Whilst such a plan was received on 19 October 2000, it was not sufficiently detailed and an enhanced sectional drawing is now awaited.

The block of flats would be similar in design to what has previously been approved on the Walmer Goods Yard site. Cavendish stock face brickwork would be utilised together with concrete interlocking roof tiles. Each flat would comprise two bedrooms, with two units on each floor. There would be windows serving habitable rooms in all four elevations, with a porch comprising four front doors facing the railway.

Policy Context

The relevant Structure Plan policies as noted at c) above do not preclude the development of the site for residential purposes. In particular, Policy H3 allows use to be made of sites for housing in urban areas, a stance now reinforced by PGG 3. However, Local Plan Policy LE1 specifies that the potential of former employment sites, such as the Goods Yard, should first be fully explored through a marketing exercise before the principle of housing development is endorsed, unless there are other circumstances which dictate that the site is not suitable for continued employment use. The former Goods Yard was originally specifically allocated in the Deposit Draft version of the

Local Plan for employment use by Policies LE3 and LE10. However, the Modifications to the Plan approved by the Council in July 2000 removed this specific allocation in the light of the residential planning permission.

Those Structure and Local Plan policies which seek to secure an acceptable standard of design and layout are also of direct relevance, as listed at c) above.

Assessment

The principal planning considerations in this case are:-

- the fact that the site forms part of a former employment site and is so safeguarded for employment use by Local Plan Policy LE1;
- whether circumstances exist such that the site is no longer considered suitable for employment use in accordance with Policy LE1;
- the design and layout of the development in terms of its impact on visual amenity and the amenities of neighbouring residents;
- the impact of the proposed pedestrian footpath on the amenities of adjoining properties; and
- the impact of the proposal upon road safety.

Planning permission DOV/98/0633 was granted for a limited period of 2 years only (rather than the usual 5 years) on the basis that the Walmer Goods Yard site was a former employment site and specifically allocated for employment use in the Local Plan. At that time (October 1998) significant weight could not be attached to the Local Plan's safeguarding policies, hence the 2 year time limit imposed to enable the proposals to be re-assessed, should they not have been implemented, at as early an opportunity as possible following the endorsement of the Local Plan by the Inspector. Although the specific allocation of Walmer Goods Yard has been removed from the Local Plan by means of the Modifications, Policy LE1 still applies as the site was last in employment use. It would therefore be inappropriate for the Council to grant planning permission in respect of the current application unless it can be satisfied that the site is no longer suitable for employment use due to changes in circumstance.

The existing planning permission covering the site allocates the area where the block of flats is now proposed as a parking area; therefore, the Council cannot take the view that the flats are acceptable as housing is already permitted on the specific application site. However, it is important to take account of the fact that housing development will now progress to the immediate south of the application site (under permission DOV/98/0633) and has already taken place to the immediate north (under permission DOV/99/0787). Furthermore, the development to the north, comprising a large single dwelling, has taken place on a site where the 1998 permission allowed the erection of a block of 8 flats. Accordingly, the current proposal for 4 additional units would result in an overall development comprising 3 fewer units than were originally permitted two years ago.

Taking these factors into account, it is considered that it would be:-

- (a) inappropriate under the terms of Policy LE1 for the Council to try and safeguard this small part of the former goods yard for employment purposes, given that it would be squeezed between residential development on three sides; and
- (b) unreasonable for the Council to enforce Policy LE1 in circumstances where the overall scale of residential development now proposed is less than previously.

It is therefore recommended that Policy LE1 be set aside in this case.

Turning to matters of design, layout and impact on amenity, officers are satisfied that, although somewhat bland, the design of the proposed flats would not be out of place in the context of its surroundings. The site would be well screened from Court Road itself and would be very similar in design to properties already approved to the immediate south. Overlooking from the first floor windows of the block of flats should not prove to be a problem as long as the site is low enough in relation to the properties in Court Road to avoid lines of sight into the rear gardens of those properties. The applicant has therefore been asked to provide a properly detailed section through the site and proposed building to demonstrate that no overlooking problems will occur; should the section drawing fail to establish this, then officers will negotiate with the agent to relocate or obscure glaze windows so as to avoid overlooking problems.

The site is also acceptable in highways terms, as long as the estate road approved under DOV/98/0633 is included within the current application site and appropriate conditions are attached to the planning permission. Concerns expressed by some objectors with regard to children running onto Court Road from the footpath could be addressed by the imposition of a condition requiring a suitable pedestrian barrier to be put in place.

The footpath which originally ran from Court Road to Walmer Station was not a public right of way, and accordingly the Council was in no position to insist on its retention when the original planning permission for the Walmer Goods Yard was granted. However, the applicant has been obliged by Railtrack to maintain a footpath from Court Road to Station Drive through the new development. As the footpath would not be an official right of way maintained by the County Council, its adequacy for use by the public in terms of width or maintenance arrangements cannot be considered in determining the application; these are matters for Railtrack. However, issues of loss of amenity or security raised by the proximity of the footpath to existing dwellings are planning matters and can be taken into account. Kent County Constabulary has advised in this respect, and have expressed concerns in relation to both that section of the footpath running between numbers 4 and 6 Court Road, and the section running behind numbers 6 to 12. They also found problems associated with the original scheme for a straight footpath. Additionally, it has now become clear, through discussions with the applicant, that Railtrack raises objection to the width and route of the footpath and will not accept it as a means of fulfilling the applicant's obligation to them.

Therefore, the applicant has been asked to either delete the footpath as proposed from the application, or to revise its route such that it would run through the curtilage of the applicant's own dwelling either:-

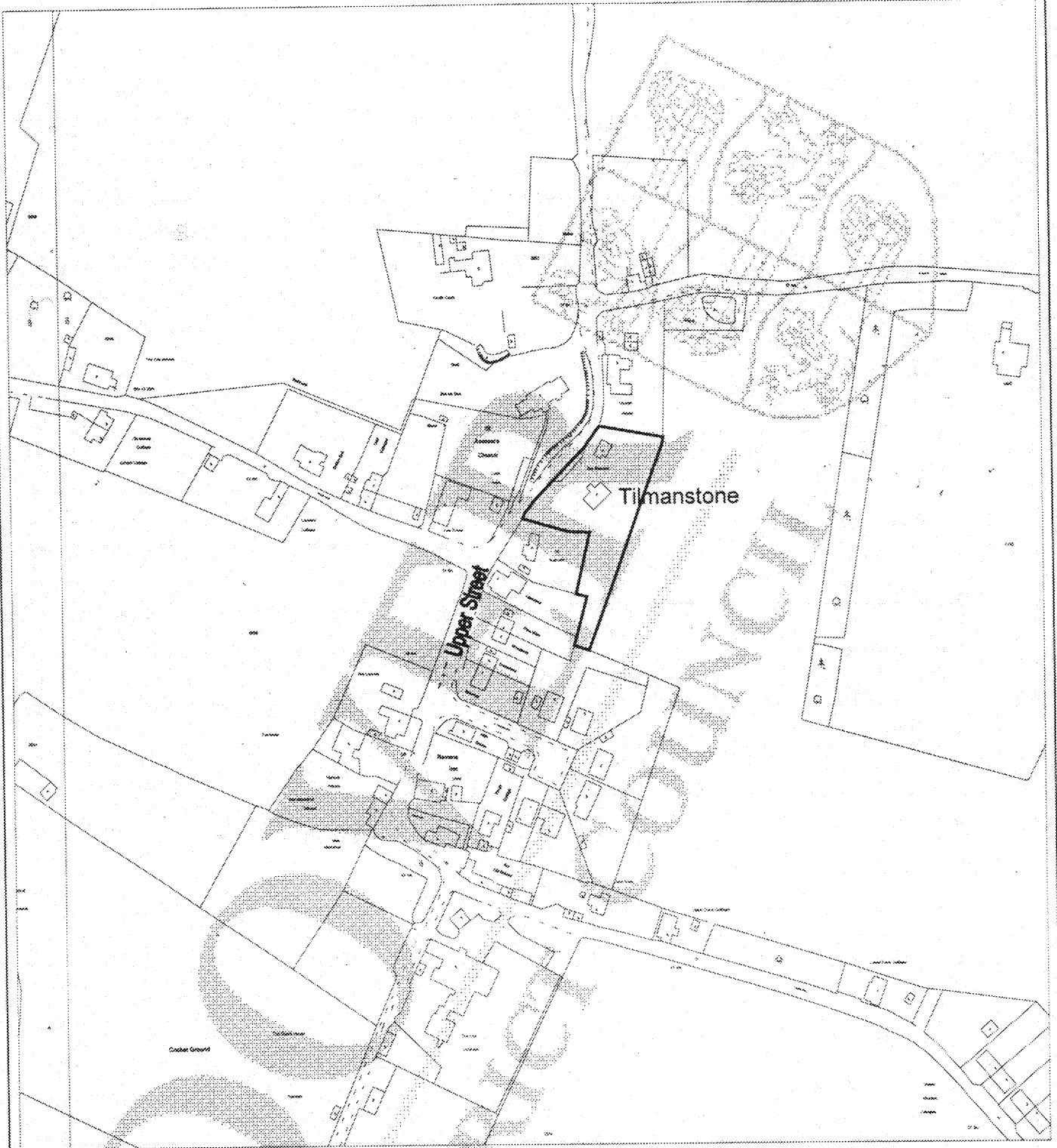
- On a course close to the original route of the stopped-up path; or
- On a route to the west of the applicant's dwelling, adjacent to the railway line.

Pending the outcome of negotiations in relation to this matter and the receipt of adequate sectional drawings, the recommendation is in dual form. A verbal update will be given at the meeting.

It is recognised that the grant of planning permission may result in an interference with the rights of third parties as protected by Article 8 and Article 1 of the First Protocol of the Human Rights 1998. This has to be balanced with the applicant's rights under the same Articles. It is not considered that any of the material issues identified in relation to the development raise such concerns as to overcome the conclusion that planning permission can be granted subject to conditions. The recommendation is made, accordingly, in the public interest.

- g) I SUBJECT TO the receipt of the further views of the Kent County Constabulary and the receipt of satisfactorily amended plans deleting or re-routing the footpath, and the raising of no new material issues in relation thereto by third parties, the Director of Planning and Technical Services be authorised to GRANT PLANNING PERMISSION SUBJECT TO :- (i) DP01; (ii) DP04; (iii) LA06; (iv) LA36; (v) Conditions as recommended by Highways and the Environment Agency; (vi) Conditions as recommended by outstanding consultees; (vii) Any conditions as appropriate following the submission of amended plans.
- II Otherwise, the Director of Planning and Technical Services be authorised to REFUSE PLANNING PERMISSION on grounds to be advised by the Kent County Constabulary in relation to the footpath, and any grounds relating to loss of privacy which may be identified from the outstanding additional drawings.
- III 107, 113I.

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Scale: 1/2500

Application: DOV/00/1072
Tilmanstone

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21. a) DOV/00/1072 TR 302 : 513
- b) **Proposed front and side extension and conservatory, The Rowans, Upper Street, Tilmanstone.**
- c) Kent Structure Plan : Policies ENV15 and ENV17
Dover District Local Plan : Policies HE1, HE3, DD1 and DD8
- d) DOV/00/619 - Front and side extensions and conservatory -
Refused.
DOV/00/991 - Change of use from agriculture to garden land -
Refused
- e) P.C.: No objections to the proposal.
C.A.: Recommends a condition and an informative.
- f) This application relates to a large well designed detached dwelling sited in a spacious garden, with its setting and use of materials comfortably lending itself to the Tilmanstone Conservation Area.

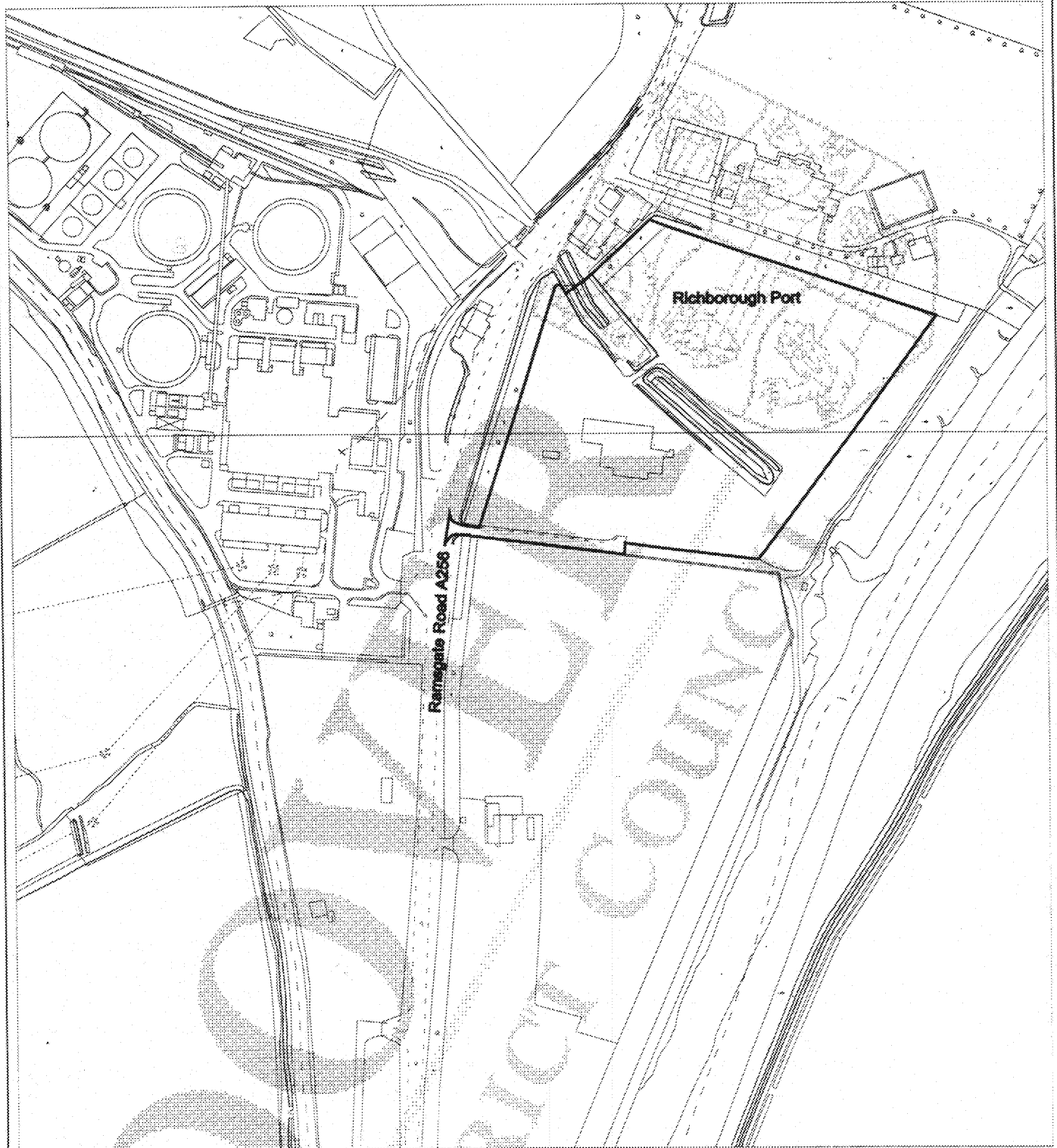
The plans will be on display. They show the proposed construction of a single storey extension and conservatory on the north elevation of the dwelling, with the design of the roof combining a number of planes at different angles. The extension would comprise a lobby, utility room, w.c. and dining room. The application is a resubmission of an application which was refused earlier this year. The extension and conservatory wrap around the north west corner of the dwelling. The dwelling is well seen from Upper Street and currently has a well-proportioned and symmetrical principal elevation around a central projecting gable. It is considered that the proposed extension would upset the balance of the design, detrimentally affect the pleasing appearance of the dwelling and accordingly detract from the special character of the Conservation Area. There has been no change in design and circumstances since the originally submitted scheme was refused and, consequently, it is recommended that permission again be refused.

The plans also indicate a two-storey hipped roof extension to the rear, of shallow depth. It is not considered that this extension raises objections.

A refusal of permission could be construed as infringing the applicant's rights under Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. However, this is a qualified right, and the objections identified above and reflected in the recommendation are important material planning considerations which cannot be overcome by approving the proposal subject to conditions. The recommendation of refusal is justified in the public interest and is not disproportionate to the applicant's rights.

- g) I PERMISSION BE REFUSED on the grounds that: The proposed extensions, for reasons of their bulk and massing, would disrupt the symmetry of the existing dwelling and detract from the special character of the designated Conservation Area and harmony with the surrounding countryside and consequently be contrary to policies RS1, RS5, ENV1 and ENV17 of the Kent Structure Plan, and policies DD1, DD8 and HE3 of the Dover District Local Plan.

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Scale: 1/5000

Application: DOV/00/1075
Sandwich

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N

22. a) DOV/00/1075 TR 3344 : 6188
- b) **Extension and alterations to existing workshop to create production line for vehicle refurbishment, including vehicle preparation bays and new valeting shed, Ambrosetti (UK) Limited, Ramsgate Road, Sandwich.**
- c) Kent Structure Plan : Policies ENV5, ENV15, NR5 and RS1
Dover District Local Plan : Policies DD1, DD12, LE22, WE9 and AS19
- d) The site has an extensive planning history of some 50 planning decisions. The following is of direct relevance to the current proposal:-
- DOV/99/0752 - Planning permission granted for erection of valeting shop.
- e) Highways Comments: No objections. No conditions required on the basis of the case made by the applicants.

E.N.: The application site lies adjacent to a site of Special Scientific Interest, a Special Protection Area, a RAMSAR site and a candidate Special Area of Conservation, which are important for their wetland habitats (salt marsh and inter-tidal flats) and associated plant, invertebrate and bird life. It is noted from the documentation that any discharges from the steam cleaning bay would be via oil interceptors and that surface water run-off would be to existing soakaways. As a result there should be no pollution discharging to the River Stour. In conclusion, the proposed extension and alterations are not likely to have any significant effect on the nature conservation objectives of the European sites or the SSSI.

E.A.: Views awaited.

D. of H. and H.: The proposal has a large potential to cause contamination and it is therefore required to be registered with the local authority under the provisions of Part 2 of the Environmental Protection Act 1990. This should be relayed as an informative.

T.C.: No objections.

P.R.: One letter received which states that Ambrosetti have erected a high gate across the road running adjacent to their premises which prevents ramblers, anglers and boat owners from gaining access to the river.

This is not a planning consideration material to the current planning application and cannot be taken into account in determining it. However, the need or otherwise for planning permission for the gate will be investigated as a separate matter.

f) The Site and the Proposal

The application site comprises the premises of Ambrosetti (UK) Limited to the east of Ramsgate Road. The company is an established motor vehicle repair company, operating from the site since 1980. The site presently has motor vehicle repair workshops with a gross floor area of 2375m² including office accommodation; the overall site area of 7.8 hectares includes 122 car parking spaces for staff and visitor cars, 8 lorry car parking spaces and space for the

parking of 1638 cars either awaiting repair or at different stages of the repair process.

Planning permission was granted for a detached building to be used as a valeting shop in 1999 (reference DOV/99/0752) but has not been implemented. The present proposal puts forward an alternative to this development which comprises the erection of two substantial extensions on the eastern side of the site's main building to provide valeting and preparation areas. A new storm porch and replacement windows are also proposed on the front of the main building. The new additions would be constructed from corrugated sheeting to match the existing building.

The application is accompanied by a five page supporting statement from the applicant's agent, which is too lengthy to fully summarise in the context of this report. However, the principal points emerging from the statement are as follows:-

- The business has expanded in recent years and has now reached the position where an increase in both vehicle shop floor space and parking for cars awaiting repair and refurbishment is required, due to two major contracts recently secured. The extensions and internal reorganisation of the existing building will create a total of 33 new jobs, comprising 29 full-time industrial jobs and 4 full-time office jobs.
- The proposals accord with Local Plan Policy AS19.
- The existing number of cars visiting the site per day is anticipated to increase from 61 to 79; the site already includes car parking provision for staff and visitors of 122 spaces. Accordingly no extra provision is required. The total number of heavy goods vehicles visiting the site each day is anticipated to increase from 5 to 8. A total of 8 lorry car parking spaces is already available; accordingly no extra provision is required.

Policy Context

The applications falls to be considered in relation to those policies which seek to secure a high standard of design for commercial development and to safeguard designated nature conservation areas as summarised at c) above. Policy AS19 of the Dover District Local Plan which seeks to upgrade the appearance of the Sandwich corridor area and Policy LE22, which encourages the expansion of existing premises on existing sites as long as certain criteria are met, are relevant. The site is also subject to policies covering the potential for flooding.

Assessment

The principal planning considerations in this case area:-

- The impact of the proposed development in terms of design and appearance; and
- The impact of the development on road safety.

With regard to the issue of visual amenity, the site is very well screened from Ramsgate Road and the proposed additions to the main building are appropriately designed and would not be clearly visible. Accordingly, the proposal may be regarded as being in accordance with Local Plan Policy AS19 and design policies.

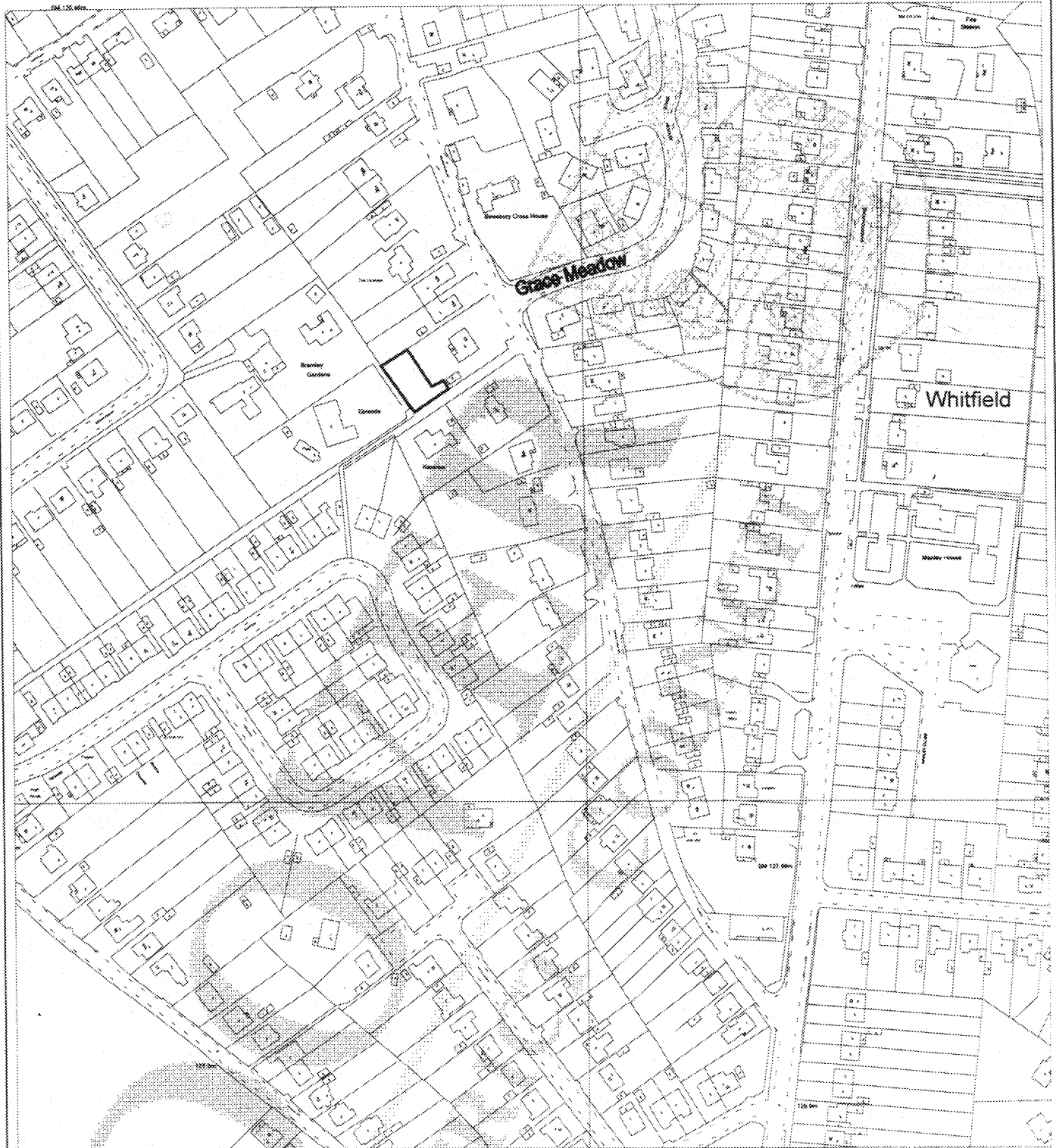
With regard to road safety, the levels of traffic generation indicated in the agent's statement are acceptable, and the existing means of access to the site is capable of accommodating these increases without creating a significant traffic hazard. The public representations received are not of relevance to the current proposal, concerning items alleged to be unauthorised which obstruct an alleged public right of way adjacent to the Ambrosetti site. These issues cannot be taken into account in determining the current application. Therefore, it is recommended that planning permission be granted.

However, in granting permission, it should be borne in mind that the current proposal is an alternative to that which was approved in 1999. It is therefore recommended that a condition be attached to the permission which would prevent the implementation of the current scheme should the 1999 permission be implemented, in order to ensure the Council retains sufficient control over the scale of development at the site in the interest of road safety.

It is recognised that the grant of planning permission may result in an inference with rights of third parties as protected by Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. This has to be balanced with the rights of the applicant and the tenant under the same articles. It is not considered that any issues concerning the development are such as to override the conclusion that planning permission can be granted subject to conditions. The recommendation is made, accordingly, in the public interest.

- g) I GRANT PLANNING PERMISSION subject to:- (i) DP01; (ii) This permission is an alternative to planning permission DOV/99/0752 granted on the 14 October 1999, that shall not be implemented in the event of the implementation of that permission. In the event of the permission hereby granted being implemented, the planning permission DOV/99/0752 shall become null and void. Reason: To ensure that the Local Planning Authority retains full control over the scale of development of the site and the interest of road safety; (iii) Conditions as recommended by the Environment Agency.
- II Informatives AS RECOMMENDED by the Environment Agency and the Director of Health and Housing.
- III I07, I13I.

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Scale: 1/2500

Application: DOV/00/1090
Whitfield

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23. a) DOV/00/1090 TR 299 : 451
- b) **Erection of a two bedroom chalet bungalow, rear of The Paddock, 43 Bewsbury Cross Lane, Whitfield.**
- c) Kent Structure Plan : Policies H3, ENV15 and ENV16
Dover and Western Parishes Local Plan : Policies HO1, DC1, DC2 and DC5
Dover District Local Plan : Policies HS2, DD1 and DD6
- d) DO/84/927 - New bungalow - Refused.
- e) Highways Comments: Objects on grounds of increased use of the bridleway and visibility at its junction with Bewsbury Cross Lane.

F.D.W.S.: No objections subject to normal requirements.

P.C.: No objections.

P.R.: Six letters have been received objecting on the grounds of:-

- Out of character with neighbourhood.
 - Only access is over the bridleway which is narrow and a pedestrian thoroughfare; the proposal will lead to safety hazards.
 - Junction of the bridleway with Bewsbury Cross Lane is poor.
 - Problems with construction traffic.
 - Loss of privacy.
 - Loss of property values.
 - Pressure for tree works.
 - Precedent.
 - Over-development.
- f) The outline application is for a two bedroom chalet bungalow and garage on land forming part of the rear garden of 43 Bewsbury Cross Lane. The site, which measures some 13m x 24.5m, with an additional area for a garage, is accessed from the Bridleway over a length of some 50m. The submitted plans show the intended siting and access.

Policies

The site is within the urban confines for Dover. The main considerations, therefore, relate to matters of detail rather than the principle of housing development per se.

The main policies dealing with the issue of backland development are Policy DC5 of the Dover and Western Parishes Local Plan and Policy DD6 of the Dover District Local Plan.

Policy DC5 states:

"Backland development will not normally be permitted unless:-

- (i) *A separate means of access can be provided to the proposed dwelling;*

- (ii) *The proposed and existing properties will not suffer a loss of amenity through noise, disturbance, overlooking, an unacceptable sense of enclosure or degree of overshadowing;*
- (iii) *The proposed development would not adversely affect the visual or spatial character of the area;*
- (iv) *Adequate arrangements can be made for refuse collection and service vehicles."*

Assessment

The site is situated in a part of Whitfield where the majority of properties are detached and in quite large plots. There are minor variations, but the overall character is one of spaciousness. The development of the proposed site in both its size and its relationship to adjoining sites would appear cramped and would adversely affect the spatial character of the area.

Whilst the application does propose a separate access, thereby overcoming item (i) of Policy DC5, this in itself gives rise to objections because of the nature of the bridleway and its junction with Bewsbury Cross Lane.

It will be noted that the Parish Council raise no objections, but it is considered that the third party objections are of merit.

Conclusion

The application would be contrary to adopted policies and give rise to an increased risk of traffic hazards at the junction.

In preparing this report and making the recommendation set out hereunder, careful consideration has been given to the implications of the Human Rights Act 1998. It is recognised that refusal of planning permission may result in an interference with the applicants' right to the peaceful enjoyment of possessions under Article 1 of the first protocol. The objections identified in this report are important material planning considerations and cannot be overcome by the granting of planning permission subject to conditions. The proposal is, therefore, recommended for refusal in the public interest and in furtherance of the legitimate objections raised by third parties. It does not place a disproportionate burden on the applicants and would not constitute a violation of their rights under Article 1 of the first protocol.

g) I PERMISSION BE REFUSED on the grounds that:-

- (i) The proposal if permitted would result in an undesirable form of backland development out of character with the locality and giving rise to a loss of amenity to adjoining dwellings, contrary to the provisions of the Development Plan, in particular Kent Structure Plan Policy ENV15, Dover and Western Parishes Local Plan Policy DC5 and also Dover District Local Plan Policy DD6; (ii) R66V.

II 113.

III 107.

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Scale: 1/2500

Application: DOV/00/1155
Ash

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24. a) DOV/00/1155 TR 2961 : 5795
- b) **Erection of detached three bedroomed house and garage, land adjoining 115 New Street, Ash.**
- c) Kent Structure Plan : Policies S1, ENV1, RS1, RS2 and RS5
Dover District Local Plan : Policies CO1, HS1, DD1, DD7 and TR1.
- d) There is a lengthy planning history on the site of 115 New Street. Most pertinent to the current site are:

DOV/90/0682 - One detached dwelling - planning permission refused; allowed on appeal.

DOV/91/0650 - Detached house and double garage - planning permission refused.

DOV/00/0017 - Erection of detached four bedroomed house and garage and alterations to existing vehicular access - planning permission refused.

- e) Highway Comments: Awaited.

C.A.: Recommends that a watching brief condition and related informative be added if consent is given.

P.C.: No objections. The Parish Council is keen for the site to be included in the confines of the village.

P.R.: Two letters have been received objecting to the proposal and raising the following planning points:-

(i) The proposal would create parking and traffic problems due to the narrowness of this busy road, nearby junction, lack of footway and speed of traffic;

(ii) Drainage problems.

(iii) These matters are unchanged since the previous refusal;

(iv) Precedent.

- f) The Site and The Proposal

The site is located to the north west of 115 New Street, a detached bungalow set centrally within its frontage; to the south west of the bungalow is a detached barn set just behind it, and in front of the barn is a vehicular access. The land slopes down from New Street towards the south west and lies outside but adjacent to the defined built up area of Ash.

The application relates to approximately one-third of the curtilage of No.115 New Street, between the dwelling at that address and No.109 to the north west. The application seeks full planning permission for a double fronted house, with the first floor providing bedroom accommodation by using dormer windows to front and rear; a detached single garage and a new access on to

New Street are also proposed. The applicant has submitted no special justification for the proposal apart from stating that this scheme is more modest than that which was the subject of refusal (DOV/00/0017 - Item 24, 2 March 2000).

Policy Context

The site lies in the countryside outside the village confines for Ash. The proposal therefore falls to be considered in relation to those Structure and Local Plan policies that protect the countryside. Generally, Policy ENV1 and RS5 allow development within the countryside only if there is an overriding need for it which outweighs the requirement to protect the countryside. Local Plan Policy CO1 pursues similar objectives. Local Plan Policy HS1 allows housing development only within urban boundaries and village confines, unless justified under other policies.

Development proposals are also subject to the general design criteria set out in Structure Plan Policy RS1 and Local Plan Policy DD1.

Structure Plan Policy S1 and Local Plan Policy TR1 seek to limit travel demand on roads outside the urban confines and villages in the interests of sustainability; this is in line with the general thrust of PPG13.

Assessment

The principal planning considerations with regard to this application are whether:-

- The proposal for a new dwelling is acceptable in planning policy terms;
- The effect of the proposed dwelling upon the visual and residential amenity of the area is acceptable;
- The proposal is in accordance with the objectives of sustainability as embodied in the Kent Structure Plan and Dover District Local Plan; and
- The extent to which the appeal decision in 1991, allowing a detached house and garage on the plot of land to the south east of the existing bungalow, is a material consideration.

The site is located outside the confines of any town or village as defined in the Dover District Local Plan. Planning policies within both the approved Kent Structure Plan (at Policy RS5) and the emerging Dover District Local Plan (at Policy HS1) are clear that no new housing development should be permitted on land outside the urban boundaries and village confines, in line with Structure Plan Policy ENV1 which protects the countryside for its own sake.

The Local Plan Inspector recommended that the Local Plan be amended by the classification of Ash as an RS3(a) rural settlement (i.e. a village where development in excess of minor development could be allowed) and the allocation of a site in Sandwich Road under Local Plan Policy HS3 (concerning the identification of large new sites) for 85 dwellings. The

Committee will be aware that this latter site was the subject of an application which was refused earlier this year and is now the subject of an appeal, which is the subject of a separate report on this Agenda. The relative merits of a total of 19 sites have been assessed as part of the Local Plan Modifications process; one involves Ash Coombe Vineyard, which lies west of the current site, with access proposed through the curtilage of 115 New Street. No details of these access arrangements have been submitted as part of the Local Plan process and it is unlikely that a satisfactory vehicular access to New Street could be achieved. Sites elsewhere in Ash are now being proposed by the District Council through the Modifications process. Although other parties may wish still to pursue the Ash Coombe Vineyard site, with its access through 115 New Street, through the Modifications Inquiry, the Council's stance must be that, from a policy perspective, this planning application would result in an unacceptable extension to the settlement boundary.

No justification has been submitted for the setting aside of planning policies. Indeed, to do so could well prejudice the Local Plan process in relation to new housing generally at Ash. Furthermore, the Committee may recall the refusal of 3 applications last March for residential development on the site of 115 New Street. Each sought permission for detached houses and each was refused on rural settlement, housing, environment, countryside and sustainability grounds. There have been no material changes in the planning circumstances such as to justify a different conclusion. The proposal clearly remains contrary to the policies referred to, although highway advice is presently awaited relating to sustainability and road safety issues.

A further material consideration is the public inquiry which was held following refusals of planning permission for two 1990 applications for land on either side of the existing bungalow. At this time there were only draft village confines for Ash, and both sites were, as now, outside the confines. There was no Local Plan for the area at the time and the Inspector decided that the development of the site nearest to the village (i.e. the current application site) could be allowed on the basis that it had no adverse effect upon the objectives of rural settlement policy. The development of the other site was held to adversely affect the character of the area and thus rural settlement policy, and was dismissed. A subsequent application in 1991 on the current site was refused on detailed design grounds. Since the appeal decisions the Kent Structure Plan Third Review has been adopted. This strengthens rural settlement policy (as has the revised PPG7) and the village confines for Ash have been through the Local Plan Public Inquiry process, and can now be given significant weight. They have not at any time included any part of the curtilage of 115 New Street nor were they challenged during the Inquiry process.

It is therefore recommended that this application be refused on the basis that it is strictly contrary to policies contained within the Structure and Local Plans, and no justification has been put forward for a departure from these policies.

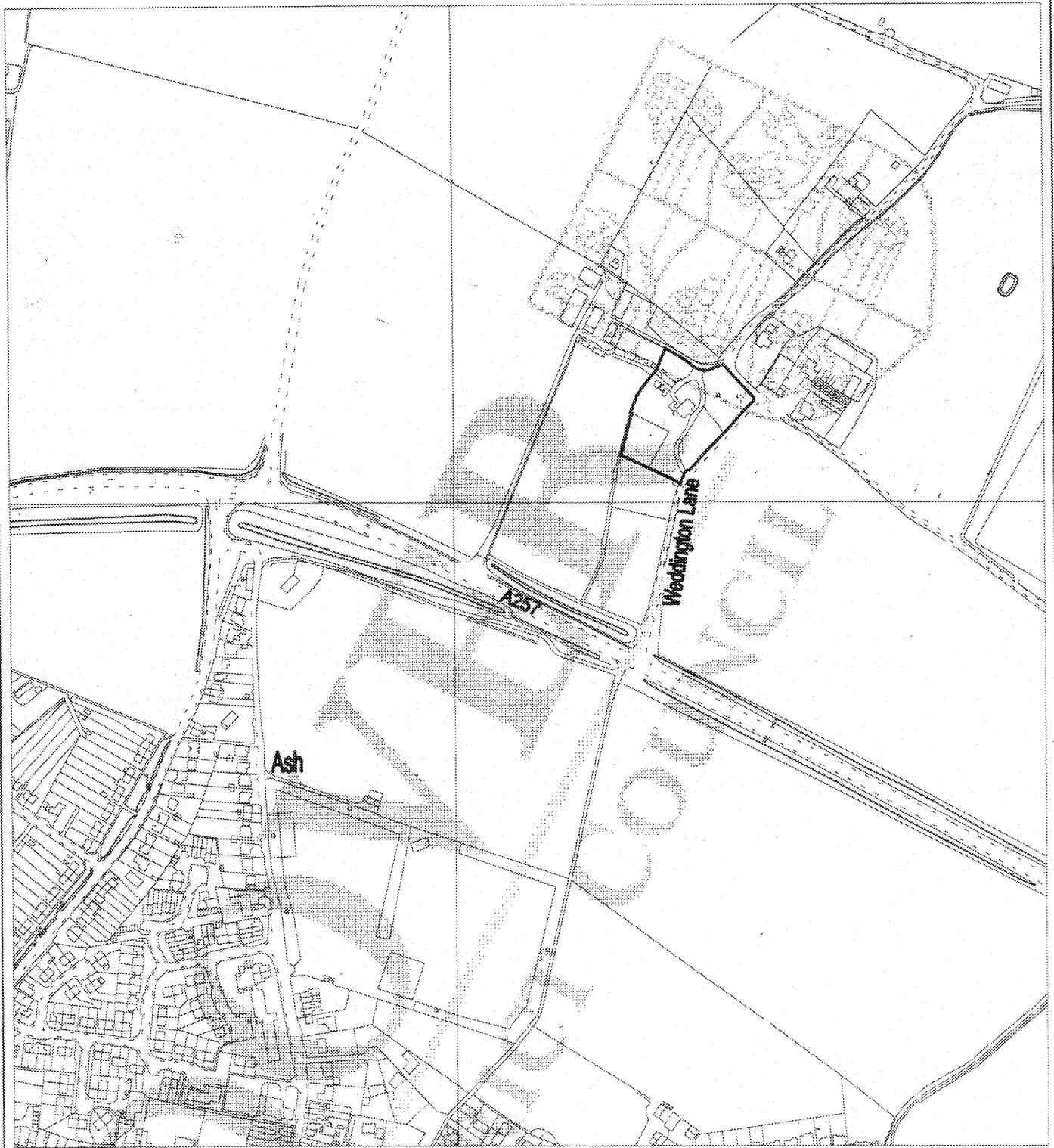
It is recognised that the refusal of planning permission may result in the interference with the applicant's rights as protected with Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. The issues relating to the proposed development, as identified in this report, are important material planning considerations and cannot be overcome by approving the application subject to conditions. The recommendation of refusal is justified

to protect the rights of others and in the public interest. It does not place a disproportionate burden on the applicant and would not constitute a violation on the rights.

- g) I Subject to the receipt of Highways advice, PLANNING PERMISSION BE REFUSED on the grounds that:- (i) The proposal constitutes undesirable ribbon development in an area defined as countryside, in that the site lies outside the confines of any village or town as defined by the Local Planning Authority, and would adversely affect the visual amenities of the area. Accordingly, the proposal is strictly contrary to Policies ENV1, RS1 and RS5 of the Kent Structure Plan and Policies C01, DD1 and HS1 of the emerging Dover District Local Plan. In the opinion of the Local Planning Authority there is no special circumstance which justifies this additional development so as to outweigh these planning policy objections. The granting of permission in this case would additionally set an unacceptable precedent for similar development elsewhere in the District's rural areas to the cumulative detriment of the character and appearance of the countryside; (ii) The proposal is contrary to Policy S1 of the Kent Structure Plan, Policy TR1 of the emerging Dover District Local Plan and the objectives of Planning Policy Guidance Note PPG13 in that, by seeking to establish development in a location remote from the centre of any town or village, it would encourage vehicular journeys on rural roads and thus fail to accord with the establishment of a sustainable pattern of development which would reduce the need to travel; (iii) Any further grounds recommended by Highways.

II 107 and 1131.

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Scale: 1/5000

Application: DOV/00/1157 & DOV/00/1158
Ash

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25. a) DOV/00/1157 and DOV/00/1158 TR 2914 : 5901
- b) **Proposed attic conversion and wall to the north west corner of the house (Listed Building and Full Planning Permission), Great Weddington, Weddington, Ash.**
- c) Kent Structure Plan : Policies ENV19 and RS1
Dover District Local Plan : Policies HE5 and DD1
- d) Ash P.C.: It appears that the dormer windows are set too high in the roof and that the ceiling height in the dormer is already extremely low; therefore the scheme would seem to be non-viable. Also, the additional rooms at second floor level could have implications for the loss of original period doors due to fire protection work.
- e) The Site and The Proposal

This Grade II listed country house is located at Weddington to the north of the Ash by-pass. The property dates from the early 19th Century and is constructed of yellow brick under a slate pitched roof.

The applications seek planning permission and listed building consent for the conversion of the attic to form two bedrooms and a bathroom. This is achieved by creating five small flat-roofed dormer windows to the rear and two side elevations. The proposal also includes the construction of an external wall to the north west corner of the property to form a courtyard.

Policy Context

Policies in both the Kent Structure Plan and Dover District Local Plan seek to ensure that any extensions and other alterations to a listed building would not dominate its scale and form or adversely affect its character or setting, as listed at (c) above.

Assessment

The principal planning consideration is the effect which the proposal would have upon the character and appearance of the listed building.

The building is a very fine example of its type. The roof originally had two double pitched roofs with a central valley but subsequently had the valley roofed over. The proposed staircase up to the attic rooms and the provision of the rooms themselves do not compromise any historic fabric and it is considered that this is a well-thought out scheme that is acceptable in listed building terms. The concerns raised by the Parish Council are felt to be groundless; the dormer windows are entirely acceptable in their proposed form. The new courtyard wall will enhance the setting of the house and is quite satisfactory.

The proposals do not affect the amenities of any nearby residential properties or impact on the countryside setting.

It is recognised that the grant of planning permission may result in an interference with rights of third parties as protected by Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998. This has to be balanced with the rights of the applicant and the tenant under the same articles. It is

not considered that any issues concerning the development are such as to override the conclusion that planning permission can be granted subject to conditions. The recommendation is made, accordingly, in the public interest.

- g) I In respect of application DOV/00/1158 PLANNING PERMISSION BE GRANTED subject to:- (i) DP01; (ii) DP04; (iii) MA13V (wall); (iv) MA25V (windows, gate and internal doors); (v) No development shall take place until full details of the proposed lantern have been submitted to and approved in writing by the Local Planning Authority. Development should be carried out in accordance with the approved details.
- II In respect of application DOV/00/1157 LISTED BUILDING CONSENT BE GRANTED subject to:- (i) DP02; (ii) DP04; (iii) MA13V (wall); (iv) MA25V (windows, gate and internal doors); (v) No development shall take place until full details of the proposed lantern have been submitted to and approved in writing by the Local Planning Authority. Development should be carried out in accordance with the approved details.
- III 1131.