

To each Member of the Planning Committee
Dover District Council

Thursday, 26 May 2016

The Red Lion Inn
Canterbury Road
Wingham
CT3 1BB

Application for change of use and conversion from pub to two residential dwellings (Class C3) and a car park and associated listed building consent application.

Applications DOV/15/00292 and DOV/15/00293

Speaking Note
Opposition to the Proposed Development

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On behalf of: The residents of Wingham and environs

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Speaking Note

Introduction and summary

1. I am grateful to the Planning Committee for allowing me to address it on these two related applications, one for planning permission and the other for listed building consent ("**the Application**"). On behalf of all those for whom I speak, I thank the Planning Committee for this opportunity.
2. I am conscious that this is the second occasion this year that this Committee has met to consider an application to convert a longstanding public house into residential accommodation. The earlier application concerned the Chequer Inn at Ash. Although the officer report recommended granting permission, this Committee refused that application. The developer did not appeal. The Chequer Inn remains. Whilst the application to convert the Red Lion Inn has similarities, there are differences. Whilst we recognise that the Committee must, of course, decide each application on its own merits, there needs to be a consistent approach. As will be seen, the merits of this application are weaker than those that propped up the Chequer Inn application.
3. The development proposed by the Application is a matter of deep and enduring concern to those whom I represent. As a Grade II* listed building, the Red Lion Inn is a particularly valuable "heritage asset." For centuries the building has been associated with its current use — see Appendix 3. For those living in the Wingham area, the Red Lion Inn is a landmark pub in a landmark location. The Red Lion complements, rather than competes with, the two other pubs in Wingham — "the Dog Inn" and "the Anchor." The Red Lion is the archetypal English heritage pub: a refined, intimate space, enhanced by architectural features and centuries of association, the use of which breathes uniquely English life into its village setting. The Dog Inn is more along the lines of a B&B; and the Anchor features regular live music (rock, jazz etc), darts, billiards and so forth. All three have long co-existed, serving different needs and elements of the community.
4. As is conventional with such applications, having allowed the building to deteriorate, the developer now tantalises the committee with the promise of returning it to repair. This is used as the sweetener by which to entice the committee to do what is otherwise unpalatable: transplanting a domestic use into what is an obviously non-domestic building. In this way, the body is preserved but the spirit is lost. A proud building with a proud, living heritage will be converted into a domestic nonentity.
5. The allure of the promised "preservation work" cannot mask the discordance between use and structure. The conversion of this listed building from public house to private home will be irreversible. The consequences of this change of use will have to be lived out by both current and later generations. The irrevocability of this proposal imposes a heavy responsibility on the Planning Committee. For this reason alone, the material supporting the Application must be compelling; the planning merits must be overwhelming; this planning committee must be in no doubt.
6. But the Application is not compelling; the planning merits are not overwhelming; and the Application is not substantiated. Rather, the Application contradicts planning applicable planning policies and the vast preponderance of material considerations weigh against it:
 - (1) In debasing the intrinsic quality of the historic environment of Wingham by extinguishing the historic use for which The Red Lion Inn was designed and replacing it with one that does not belong, the Application will conflict with District Objective 10: see §26 below.
 - (2) In depriving Wingham of a longstanding public house in a village within a rural setting, the proposed development will diminish the role of Wingham as a provider of services to its home and adjacent communities, conflicting with Policy CP1 in the Core Strategy:

see §27 below.

- (3) In destroying employment land and buildings, the Application conflicts with Policy DM2 in the Core Strategy: see §34 below.
 - (4) In changing the use of a rural pub without genuine and adequate attempts to market it as a pub, the Application conflicts with Policy DM24 in the Core Strategy: see §35 below
 - (5) In emptying the building of communal value, the Application runs counter to the Dover District Heritage Strategy: see §§59-61 below.
 - (6) In emptying the building of communal value, the Application will also effect substantial harm to the significance of this heritage asset and, given the absence of any countervailing public benefits, NPPF §133 and ss 66 and 72 of the *Listed Building etc Act* demand its rejection: see §§24, 66-68 below.
 - (7) The conversion to residential use will give no support to an existing business but will instead destroy an existing employment site, thereby conflicting with saved Dover District Local Plan 2002 §3.13-3.14: see §49 below.
 - (8) The conversion to residential use will degrade the area as tourism asset, thereby conflicting with saved Dover District Local Plan 2002 §3.100: see §51 below.
 - (9) There is no housing need in the area that justifies the proposed change of use into a house: see §62 below.
 - (10) The Red Lion Inn is an economically viable employment source.
 - (11) Retention of the current use is attended by wider social, cultural, economic and environmental benefits which are not shared by it being converted into a home: see §§74, 76, 77 and 78 below. Rejection of the proposed development offers the opportunity to secure those benefits and is thus supported by NPPF para 126: see §66 below.
7. Section 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* requires the Committee to give "the desirability of preserving the building or its setting" not merely careful consideration for the purpose of deciding whether there would be some harm, but considerable importance and weight when balancing the advantages of the proposed development against any such harm.
 8. The Committee is asked to reflect on the significance of the development proposal to The Red Lion Inn. The Application does not disguise the fact that the proposed development will destroy the existing, publicly-accessible use of the building and replace it with a private domestic use that precludes any public enjoyment of its listed features. The significance of the listed features will thus be totally lost to the public. As this Council has itself recorded in its recently published Heritage Strategy:

"Such loss is usually attributed to neglect, decay or inappropriate change. The need to carefully target ever diminishing resources towards those assets most at risk is important in order to secure our heritage for future generations, for once they are lost they are lost forever." (§12.51, Theme 12 Built Heritage)
 9. I am aware that this Committee has before it a planning officer's report (Andrew Wallace) and that that report recommends that planning permission and listed building consent be granted. On reading the report, I was surprised by its reasoning. I sought a legal opinion from leading planning barristers. They advised that reliance on this report to allow the Application would expose the Council to legal challenge. I have appended a copy of the opinion at Appendix 10. I note that the planning officer tells the Committee that "the listed building has not been in use as a public house for some considerable time" (para 2.36). In fact, it was in continuous use as public house until 16 June 2014 (not "the beginning of 2014" - para 1.1). Given that it has been a public house for over 500 years, to characterise less than two years as "some considerable time" is apt to skew the Committee's decision-making process.

10. All of this points to the fact that this Committee will be acting consistently with Dover District Council's planning policies, with Central Government guidance and with planning legislation in rejecting the Application.
11. I have prepared this document in order to assist the Planning Committee. I am conscious that in the six minutes allowed for me to address the Committee, I will not be able to cover all the points I would like to make. I also hope that by appending the background material, the Planning Committee can see for itself that the points made are vouched by objective and respected sources. The Committee can contrast for itself the wealth and provenance of this material with the self-serving say-so upon which the Application is propped.
12. Finally, I have prepared for the Committee's convenience a suggested wording for refusing planning permission and listed building consent — Appendix 10.

The Red Lion Inn

13. Wingham Parish Council describes Wingham as having been a settlement for many centuries, largely unchanged by even the industrial revolution — see Appendix 3. This history defines the character of Wingham. The Red Lion, as a functioning pub, forms a central part of that history and character.
14. The Red Lion itself has a long history, dating from the thirteenth century. It may have formed part of the Canonical College set up in 1286 by Archbishop Peckham, but was more likely the Market House; a weekly market, to be held on Tuesdays, was licensed by Henry III in 1252. The Wingham Petty Sessions were held at the inn until a proper sessions house was built in 1886.
15. During the 17th century, the Palmers and the Oxendens, two great families of Wingham were deciding whether to follow the King or Parliament in the Civil War. However, John Boys of Trapham, a member of Parliamentary Committee which governed the district under the rule of Cromwell, sat at the Red Lion, where they held their meetings, to the embarrassment of Thomas Palmer, an avowed Royalist, who lived opposite. It was the Oxenden family who managed to keep the temperature down and the community alive and the village remained neutral.
16. Right up until 1886 the Petty Constables responsible for public order, served writs and escorted offenders to Petty Sessions held at the Red Lion.
17. The Red Lion Inn was entered as a listed building on 13 October 1952. This was very shortly after legislation was first passed to enable buildings to be listed, ie s 30 of the *Town and Country Planning Act 1947*. The early listing is significant in that it signifies that the Red Lion Inn was a ready candidate for listing. Moreover, it is a Grade II* listing, signifying a particularly important building of more than special interest, ie of greater importance than a Grade II listed building. It should be noted that at the time of its listing there was a non-statutory grade III listing, which was abolished in 1970. By way of comparison, other Grade II* listed buildings include Battersea Power Station, the Coliseum Theatre in London and St John's Jerusalem (ie Sutton-at-Hone Preceptory), Kent.
18. The Red Lion's listing states:
 "Public House. Circa 1400 extended C15, C16 and late C19. Timber framed and rendered with plain tiled roof, with C19 rear wing of red brick and tile hung. Two storeys on plinth with jetty to left, returned to left elevation on dragon post. Moulded bressumer to right and eaves coved to hipped roof with stack to end right and offset. Central hipped 2 storey porch on moulded brackets with 4 light mullioned window and 3 and 4 light mullioned

windows on either side on each floor. Central rib and stud door with four centred arched and moulded surround at head of flight of 5 steps with simple iron rails and acorn finials. Left return; continuous jetty on brackets with irregular fenestration of glazing bar sashes and mullioned windows and C19 end wing with 3 half dormers. Interior; evidence of at least 4 periods of building. Brick lined undercroft survives, possibly from late C13 with remains of C14 open hall over it, with 9 feet long unmoulded crown post roof and inserted C16 floor with moulded joists. Main body late C15/C16 continuous jettied range with moulded octagonal crown posts and 2 internal medieval doors and evidence of smoke bay. Moulded four centred arched stone fireplace in the 'Sessions Room'. Finally the C19 stable wing to rear. Early C18 open well staircase with turned balusters. The Inn stands on the site and may incorporate part of Wingham College, and was at some stage the market house, the manor court house and the Sessions House until 1883, and preserved inside is an early C18 sessions book."

It is notable that most of the features described above are internal and, if the use is changed, will be lost to the public.

19. in addition to its listed status, the Red Lion Inn is within a conservation area. An area can only be designated as a conservation area if it is an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance: section 69(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*.
20. The Red Lion Inn is perfectly viable as such. Of the 42 reviews it received in TripAdvisor, 27 (ie almost 2/3rds) gave it an "Excellent" rating. The latest five reviews read:
 - *Unexpected gem, the food is absolutely delicious.* My boyfriend and I went to the restaurant one rainy night by the force of pure good luck. The restaurant was cosy and full of character. The food was incredibly delicious - the homemade bread, the Kentish lamb and the chicks. This can rival any top rated restaurant in London easily. Must try if you are in the area. (26/3/16)
 - *Great place to stay.* We have just come back from a three night break in the Red Lion and can't speak highly enough of the welcome and friendliness of Dave and Ann and all the people we met. It was our first time in Kent but won't be our last. We had lovely food and the Red Lion is a fantastic building with such interesting history. (14/5/14)
 - *Absolutely beautiful.* Me and my partner were stuck and needed a room, we were greeted by the loveliest couple who were very welcoming and friendly and made the time to have a chat, the room and breakfast both amazing, didn't want to come home but will defo be back. Recommend highly. (2/3/14)
 - *Superb.* Excellent food for all fussy requirements. The new landlord & lady are so warm and welcoming... Nothing is too much trouble. Loving the historic building!! I cannot wait to re visit and taste the food and enjoy the atmosphere!! The singer cellina was superb. (2/3/14)
 - *Fantastic, absolutely love this place.* I stayed at the Red Lion with my bridal party the night before my wedding. Everything about our stay was completely perfect and I cannot express how happy I am that we chose to stay here. The staff were friendly and attentive from the moment we arrived until the moment we left and nothing was too much trouble for them. John, the manager is an absolute star, a proper old fashioned landlord and all round gentleman! We took three bedrooms, all of which were beautifully kept - extremely clean and comfortable. The staff and locals in the bar welcomed us all as if we were old friends. We had a lovely evening meal, there is a great choice and everything is great value for money. The food was fantastic! On the morning of my wedding the staff gave us a beautiful cooked breakfast and took care of everything we could possibly need, welcoming my family members and

directing them along with my hairdresser, make up artist and photographer straight up to our room. And even doing their best to calm down a nervous and stressed out bride! Everything was stress free and easy and I was treated like royalty by all of the staff. The whole place is charming and beautiful and I will definitely be going back for a weekend with my husband!

Legal approach

21. By section 38(6) of the *Planning and Compulsory Purchase Act 2004* the Application must be determined in accordance with the policies of the Development Plan unless material considerations indicate otherwise. Consistently with this, section 70(2) of the *Town and Country Planning Act 1990* provides that where an application is made to the Council for planning permission, the authority:

"shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations."
22. Section 16(2) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* provides that in considering whether to grant listed building consent the local planning authority:

"....shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Further, section 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority:

"shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses..."
23. Putting to one side the effect of a building being listed, case-law has established that s 38(6) means that the policies of the Development Plan start off in priority and that material considerations of sufficient weight to outweigh them are required if the Application is to be determined otherwise than in accordance with the Development Plan.
24. Insofar as the proposed development is in a conservation area, the effect of s 72 of that Act is to impose an irreducible duty on the Council when exercising its planning functions under any of the planning Act to pay "special attention ... to the desirability of preserving or enhancing the character or appearance of that area." Binding judicial authority advises that unless a development will enhance or preserve the character or appearance of a conservation area it is almost inevitable that it will have a detrimental and therefore harmful effect on the area's character or appearance, with the result that the presumption in favour of development is rebutted and permission must be refused unless the advantages or benefits of the development would outweigh the failure to satisfy the preservation or enhancement test. The Planning Officer's analysis at §§2.33-2.34 does not faithfully reflect the legal requirements.

The planning policies

25. The Development Plan comprises, so far as is relevant:
 - (1) Dover District Council. Core Strategy, adopted February 2010.
 - (2) Policies saved from the 2002 Dover District Local Plan (these were saved in September 2007)
 - (3) The Land Allocations Local Plan, which was adopted in January 2015.

Dover District. Core Strategy

26. District Objective 10 in the Core Strategy (p 29) is to:

“Ensure that the intrinsic quality of the historic environment is protected and enhanced and that these assets are used positively to support regeneration, especially at Dover.”

The Application does nothing whatsoever to enhance to historic asset that is The Red Lion Inn. Rather, it deforms the historic asset by putting a domestic use into a non-domestic structure in a non-domestic location.

27. Policy CP1 in the Core Strategy provides that the “location and scale of development...must comply with the Settlement Hierarchy.” In the case of Wingham, the Hierarchy provides a function:

“Secondary focus for development in the rural area; suitable for a scale of development that would reinforce its role as a provider of services to its home and adjacent communities.”

28. The Application does not “reinforce [the role of Wingham] as a provider of services to its home and adjacent communities.” In removing the service that is provided to home and adjacent communities that is currently provided by The Red Lion Inn and replacing it with a domestic dwelling, it diminishes the role of Wingham as a provider of services to its home and adjacent communities.

29. The Planning Officer in his report to this Committee asserts that the Council’s Housing policies:

“As set out in the previous section, Wingham is classified as a Local Centre in the Settlement Hierarchy in Core Strategy Policy CP1 and is a suitable location in the rural area for residential development. In order to help operate the Hierarchy, Policy DM1 identifies settlement boundaries beyond which countryside protection policies apply and subject to specified exceptions, development will not be permitted. The application site falls within the settlement confines for Wingham and is an appropriate location for the creation of new dwellings..” (§2.20).

This misrepresents the Council’s housing policies.

30. The Council’s housing policies are partly set out in the Core Strategy, starting at p 108 (DM5-DM10). None of these are referred to in the Planning Officer’s report. The Council’s housing policies are also set out in the Land Allocations Local Plan, adopted 2015. The Planning Officer does refer to the Land Allocations DPD (foot of p. 12), but he omits to identify any specific policy that supports the development. That is because there is none.

31. Land Allocations Local Plan, adopted 2015 does deal with housing allocation in Wingham at §§3.346-3.349, policies LA33. The Planning Officer makes no mention of this policy. This is because it gives no support to the so-called principle at §2.2 of his report.

32. Paragraph 3.348 provides:

“To help sustain and strengthen Wingham’s role in the settlement hierarchy, it is considered that additional housing will be required over the lifespan of this Plan. However, the issues that provide the village with its unique character; the heritage assets, the river (creating Flood Zones 2 and 3) and its location in the open countryside, all limit the development opportunities in the village.”

In other words, the Policy contradistinguishes the conservation area and listed buildings in the village from the additional housing that may be formed within Wingham. This is fundamental.

33. Paragraph 3.349 and figure 3.14 then go on to identify three sites for residential development in Wingham and to describe the reasoning behind each. These are all as far away from the site of The Red Lion Inn as could be.

34. Policy DM2 in the Core Strategy provides:

“Land allocated for employment uses as shown on the Proposals Map or with extant planning permission for employment uses will not be granted permission for alternative uses unless it has been subsequently allocated for that alternative use in a Development Plan Document.

Permission for changes of use or redevelopment of land and buildings currently or last in use for employment purposes will only be granted if the land or buildings are no longer viable or appropriate for employment use.”

As is demonstrated below (see §?), The Red Lion Inn is viable for its current employment use. The fact that it is not viable under the well-documented unfavourable regime imposed upon tenants by Punch (see §90 below)

35. Policy DM24 in the Core Strategy provides:

“Planning permission will only be granted for the change of use of a rural shop or pub if its loss would not harm the economic and social viability of the community that it serves or, if such harm would occur, it has been adequately demonstrated that the use is no longer commercially viable and genuine and adequate attempts to market the premises for retail purposes or as a pub (as appropriate) have failed.”

36. The supporting text explains:

“1.77 When applications are submitted for the change of use of a rural shop or pub account will be taken of its importance to the community that it serves and the range of other facilities and services that would remain. Permission for alternative uses will not be given if the community would be left without any local shops or facilities, or the range would be seriously diminished, unless the applicant has established that a shop or pub use is no longer commercially viable.

1.78 The Council will have regard to the way in which the shop or pub has been managed. The Council's study into rural shops found that viability issues were often closely related to management techniques and a failure to keep up with competitors. The Council will also wish to see that adequate and genuine attempts have been made to market the premises for shop or pub use, as appropriate, but have failed to produce a viable offer. Marketing should be through an appropriate agent and for a period of time that fully tests demand having regard to the buoyancy of prevailing market conditions.”

37. The loss of The Red Lion Inn will harm the social viability of the community it serves and, by an increment, its economic viability. In order to avoid a conflict with policy DM24 the developer must **adequately demonstrate** that the use is no longer commercially viable **and** that genuine and adequate attempts to market the premises as a pub have failed.

38. The Planning Officer's report, after referring to §1.77 and the need to take account of “the range of other facilities and services that would remain”, advises at §2.4 that the range of would not be seriously diminished. The Officer supports this by referring to the two other public houses that would remain. This is a misreading of the supporting text. “The range” is not simply a reference to the types of facilities; it also embraces the variety. As noted above, The Red Lion is a very different public house to the other two, attracting a very different clientele. That clientele is not served by the other two public houses.

39. Accordingly, the development proposal will result in a material reduction in the range of facilities in Wingham. The Planning Committee must take that into account, giving due weight to the

importance of that facility and of there being a range in that facility.

40. Contrary to the Planning Officer's report (§2.7), given that the change of use of The Red Lion Inn will harm the economic and social viability of Wingham, it is necessary to address whether the developer has adequately demonstrated that the use is no longer commercially viable **and** that genuine and adequate attempts to market the premises as a pub have failed.
41. The developer has done neither. The marketing efforts have been desultory. He has not followed through an attractive offer to purchase the building. That offer was expressly made by someone "willing to invest the money in the building *and* purchase it in order to run it as a pub again." They have been predicated on a failed model - the tied pub. This demonstrates that a properly run pub with a proper sense of purpose is economically viable.
42. Accordingly, neither of the requirements that must be met in policy DM24 is satisfied. The Planning Officer's conclusion to the contrary at §2.10 is founded upon a misunderstanding of his Council's policies and a selective examination of the material — see Appendix 10.
43. There are a number of other observations to be made in relation to the Core Strategy.
44. The Core Strategy records at §2.64:
"In common with most rural areas the main concern revolve around the retention of services and facilities..."
The Application will remove, not retain, one of the services and facilities in Wingham.
45. Paragraph 2.72 records:
"...the position of the largest villages [of which Wingham is one] to continue to offer a range of facilities to both their own residents and those of neighbouring settlements, needs to be consolidated."
The Application will constrict, not consolidate, the range of facilities available to the residents of Wingham and neighbouring areas.
46. Paragraph 3.25 records that there is considerable opportunity to improve tourism:
"Much of this revolves around making much better use of historic and natural assets allied to the improvements in shopping, cafes, hotels etc mentioned above and the public areas of town centres."
The Application will not help tourism through the better use of the historic asset that is The Red Lion Inn. It will end for all time its use for helping tourism and it will end for all time the employment opportunities that proper exploitation of this heritage asset offers.
47. Paragraph 3.79 records that the "Strategy also promotes rural based jobs...by:
"The creation of rural based businesses through the reuse of buildings...
Resistance to the loss of rural services, where it would harm the local community..."
The Application will do just the opposite.

Saved policies from the 2002 Dover District Local Plan

48. Certain policies from the 2002 Dover District Plan have been "saved" and must therefore be taken into account if relevant to a development.
49. Paragraphs 3.13-3.14 provides, so far as relevant:
"3.13 One of the Plan's aims (Aim 2) is to help build a strong local economy. Its related Objectives (Objectives 16-21) are concerned with ensuring that sufficient employment

land is allocated, allocated sites are attractive to prospective investors, employment sites are protected from other development and the range of employment opportunities widened.....

3.14 Based on the existing situation and the Aims and Objectives, the Plan's Local Economy Strategy seeks to:-

.....

support existing businesses..."

50. Maintenance of the existing use of The Red Lion Inn will thus be consistent with the Plan's Local Economy Strategy, whereas allowing the development proposal will destroy the existing business.
51. Paragraph 3.69 records that the rural area of Dover District Council (which includes the area of Wingham) is:
"undergoing structural economic changes. These changes mean there is a need to diversify the types of employment activity in rural areas (rural diversification)..."
It then goes on to identify two strands to deal with this, one of which is tourism. Of this, the Policy says that tourism is an important source of employment opportunity.
52. Tourists are not attracted by residential dwellings. Genuine, historic, characterful pubs do, on the other hand add to the attractiveness of the area, enjoying ratings on websites and widespread publicity on social media.

Dover District Heritage Strategy

53. Any decisions relating to listed buildings and their settings and conservation areas must address the statutory considerations of the Planning (Listed Buildings and Conservation Areas) Act 1990 (see in particular sections 16, 66 and 72) as well as satisfying the relevant policies within the National Planning Policy Framework and the Local Plan.
54. Protecting and enhancing the historic environment is an important component of the National Planning Policy Framework's drive to achieve sustainable development (as defined in Paragraphs 6-10). The appropriate conservation of heritage assets forms one of the 'Core Planning Principles' (Paragraph 17 bullet 10) that underpin the planning system. This is expanded upon principally in Paragraphs 126-141 but policies giving effect to this objective appear elsewhere in the National Planning Policy Framework.
55. The conservation of heritage assets in a manner appropriate to their significance is a core planning principle. Heritage assets are an irreplaceable resource and effective conservation delivers wider social, cultural, economic and environmental benefits.
56. Conservation is an active process of maintenance and managing change. It requires a flexible and thoughtful approach to get the best out of assets as diverse as listed buildings in every day use to as yet undiscovered, undesignated buried remains of archaeological interest.
57. In the case of buildings, generally the risks of neglect and decay of heritage assets are best addressed through ensuring that they remain in active use that is consistent with their conservation. Ensuring such heritage assets remain used and valued is likely to require sympathetic changes to be made from time to time.
58. *Dover District Heritage Strategy* (2013) describes itself as containing:
"recommendations to ensure that any future policies and approaches to the District's heritage are based on a clear understanding of the place, its significance and its value.

The aim of the Dover District Heritage Strategy is therefore to enable Dover District Council to achieve their objectives for the protection and enhancement of the historic environment as set out in the District's Core Strategy." (§1.3)

59. The Strategy explicitly recognises "communal value" as one of the four "strands" of "Heritage Value" (see §§2.43, 2.49, 4.8). "Communal value" is intimately related to the use of a building: see §§4.8-4.9.
60. In dealing with heritage assets, such as a listed building, it provides:
"3.3 A heritage asset will hold meaning to individuals and groups of individuals beyond their purely functional utility. Heritage assets have been shaped by people responding to their local environment, but will also help to shape that environment in the future. They have a significant role to play in creating a sense of place and acting as a catalyst for regeneration. The District's heritage assets add distinctiveness, meaning and identity to the place and are an exceptionally valuable local resource.
3.4 It is therefore important that the significance of the District's heritage assets is taken into account as part of any future development management, regeneration or maintenance decisions and opportunities are sought, wherever possible to enhance the District's heritage assets."
61. The Heritage Strategy includes 13 appended "Theme Papers." Theme 12 — entitled "Built Heritage" — again stresses the importance of communal value of the built heritage (see §12.119). Figure 19 in that document is devoted to The Chequer.

Strategic Housing Land Availability

62. The Dover District Council *Strategic Housing Land Availability Assessment Draft Final Report*, June 2009 provides:
"Housing Targets
7.5 Dover District has an RSS housing target of 10,100 units, the LDF Core Strategy, is based on this target. Through this SHLAA process there is an identified land supply for deliverable and developable sites totalling some 19,244 units, subject to further testing."
63. There is thus no housing imperative that supports the Application.

The National Policy Planning Framework

64. The National Policy Planning Framework (March 2012) ("**NPPF**") is a material consideration.
65. Paragraph 17 of the NPPF sets out 12 core planning principles that "...should underpin both plan-making and decision-taking." The 10th core planning principle is square on relevant:
"planning should.....conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations"
66. This core planning principle is explained in paragraphs 126-141 of the NPPF. So far as relevant, these provide:
"126. Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and

conserve them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to **viable uses consistent with their conservation**;
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- the desirability of new development making a positive contribution to local character and distinctiveness; and
- opportunities to draw on the contribution made by the historic environment to the character of a place.

127.

128. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

130. Where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision.

131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

133. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional. **Where a proposed**

development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.” (emphasis added)

(The last paragraph is to be contrasted with the Planning Officer’s precis at §2.26).

67. As noted in §8 above, the proposed development would “lead to substantial harm to or total loss of significance of a designated heritage asset.” The Planning Committee should recognise this and so record.
68. The developer has not begun to demonstrate that the substantial harm to the heritage asset (which would see the listed features, which can currently be enjoyed by all patrons of The Chequer, taken away from the public and placed in a discordant domestic setting) is “ necessary to achieve substantial public benefits that outweigh that harm or loss.” Nor has the developer begun to show the applicability of any of the other four exceptions in paragraph 133 of the NPPF.

Planning Practice Guidance

69. Planning Practice Guidance (“PPG”) is also a material consideration. Guidance entitled *Conserving and enhancing the historic environment* opens:

“§001 What is the policy for the historic environment?

Protecting and enhancing the historic environment is an important component of the National Planning Policy Framework’s drive to achieve sustainable development (as defined in Paragraphs 6-10). The appropriate conservation of heritage assets forms one of the ‘Core Planning Principles’ (Paragraph 17 bullet 10) that underpin the planning system. This is expanded upon principally in Paragraphs 126-141 but policies giving effect to this objective appear elsewhere in the National Planning Policy Framework.”

70. The Guidance goes on to explain (§003):

“What is meant by the conservation and enhancement of the historic environment?

The conservation of heritage assets in a manner appropriate to their significance is a core planning principle. Heritage assets are an irreplaceable resource and effective conservation delivers wider social, cultural, economic and environmental benefits.

Conservation is an active process of maintenance and managing change. It requires a flexible and thoughtful approach to get the best out of assets as diverse as listed buildings in every day use to as yet undiscovered, undesignated buried remains of archaeological interest.

In the case of buildings, generally the risks of neglect and decay of heritage assets are best addressed through ensuring that they **remain in active use that is consistent with**

their conservation. Ensuring such heritage assets remain used and valued is likely to require sympathetic changes to be made from time to time. In the case of archaeological sites, many have no active use, and so for those kinds of sites, periodic changes may not be necessary.

Where changes are proposed, the National Planning Policy Framework sets out a clear framework for both plan-making and decision-taking to ensure that heritage assets are conserved, and where appropriate enhanced, in a manner that is consistent with their significance and thereby achieving sustainable development.

Part of the public value of heritage assets is the contribution that they can make to understanding and interpreting our past. So where the complete or partial loss of a heritage asset is justified, the aim then is to capture and record the evidence of the asset's significance which is to be lost, interpret its contribution to the understanding of our past, and make that publicly available." (emphasis added)

71. The Guidance supplies valuable assistance in evaluating what is a valuable use of a heritage asset and how it is to be taken into account in planning decisions (§015):

"If there is only one viable use, that use is the optimum viable use. If there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes.

The optimum viable use may not necessarily be the most profitable one. It might be the original use, but that may no longer be economically viable or even the most compatible with the long-term conservation of the asset. However, if from a conservation point of view there is no real difference between viable uses, then the choice of use is a decision for the owner.

Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused provided the harm is minimised. The policy in addressing substantial and less than substantial harm is set out in paragraphs 132 - 134 of the National Planning Policy Framework."

72. It also emphasises that the evidence of no viable use must be robust (§016):

"What evidence is needed to demonstrate that there is no viable use?

Appropriate marketing is required to demonstrate the redundancy of a heritage asset in the circumstances set out in paragraph 133, bullet 2 of the National Planning Policy Framework. The aim of such marketing is to reach all potential buyers who may be willing to find a use for the site that still provides for its conservation to some degree. If such a purchaser comes forward, there is no obligation to sell to them, but redundancy will not have been demonstrated."

The economic and social importance of village pubs

73. The economic and social importance of maintaining the use of village pubs is well documented.

The 2010 econometric study of village pubs

74. In 2010 I Cabras and C Reggiani published an important econometric study of the effect of village pub uses. Entitled 'Village pubs as a social propellant in rural areas: an econometric study' and published in the *Journal of Environmental Planning and Management*, this was the product of an 18-month econometric analysis funded by the British Academy of community life in almost 2,800 small rural parishes in England. The authors are two economists based at Northumbria University and University of York.

75. It found that villages with a thriving pub are between 40 and 50 per cent more likely also to community social events or activities such as cricket matches or village fetes. It concluded that pubs are more important to village life even than the local parish church, that pubs are more important to the social side of village life more than ever before.

The Institute for Public Policy research report

76. In an 86-page report on the role of pubs in English village-life was prepared by the Institute for Public Policy Research in 2012 (Appendix 4). It concluded:

"Pubs are more than just private businesses selling alcohol. Many pubs also play an important role at the heart of their local communities.

- Pubs provide a meeting place where social networks are strengthened and extended: the pub scored the highest of any location in our survey asking people where they get together with others in their neighbourhood.
- Pubs inject an average of £80,000 into their local economy each year. Pubs add more value to local economies than beer sold through shops and supermarkets, simply because they generate more jobs. Beer sold through pubs also generates more funding for the public purse than beer sold through the 'off trade'.
- While alcohol is linked to problems around crime and disorder, very little of this comes from community pubs serving residential areas.
- Pubs are perceived by people to be the most important social institution for promoting interactions between people from different walks of life.
- Pubs host a wide variety of community-oriented events and activities that add considerably to local civic life.
- Many community pubs are becoming hosts for a range of important public services, including post offices and general stores, and providing broadband internet access.
- Community pubs, or at least pubs with certain characteristics, also have a cultural as well as a practical community value. This is because pubs are felt to offer things such as tradition and authenticity that are becoming rarer in a world transformed by global commercial pressures.
- This report uses a 'social return on investment' methodology to measure the wider social value generated by a sample of community pubs, and finds that this ranges from around £20,000 to £120,000 per pub."

The Joseph Rowntree report

77. A study commissioned by the Joseph Rowntree organisation and carried out by Marion Roberts & Tim Townshend (2013), 'Young adults and the decline of the urban English pub: issues for planning', *Planning Theory & Practice*, 14:4, 455-469) concluded that the traditional pub represented a site for restrained and responsible social interaction for young adults: see Appendix 7.

The 2015 econometric study

78. This was followed five years later by a further study and article by Matthew Mount & Ignazio Cabras, *Community Cohesion and Village Pubs in Northern England: An Econometric Study*, Regional Studies, 2015 (Appendix 8). Using data from 715 rural parishes located across Northern England, the paper demonstrates the importance of pubs for maintaining rural areas in these regions.

General conclusions on research into pub uses

79. There is no countervailing research material. The conclusions expressed in these reports is uncontroverted. There is no evidential basis upon which to ignore or even discount the

conclusions expressed.

The economic viability of tied pubs

80. To be valid, any economic viability assessment of a pub must take account of the economic model on which the pub is run.

The operation of pubs

81. Pubs can be owned and operated in a variety of ways. At one extreme is the managed pub, in which a company owns a pub, specifies what is sold in it, and hires a salaried manager to run it. At the other is the freehouse, where the individual licensee owns the pub, controls the business, makes the buying decisions and takes the profits. In between is the leased or tenanted pub, in which a licensee pays rent to the owner of the property and is often required to buy at least some categories of products through the landlord — known as being ‘tied’. In the UK there are approximately 17,000 freehouses, 31,000 tenanted/leased pubs and 9,000 managed pubs.

House of Commons Select Committee Report

82. On 21 April 2009 the House of Commons Business and Enterprise Committee published its report on pub companies (Appendix 5). This dealt with the relationship between pub companies and their lessees. The Select Committee heard evidence from a large number of tied pub lessees as well as from the pub companies themselves. The evidence was transcribed and is available online as vol 2 of the proceedings of the Select Committee:

<http://www.publications.parliament.uk/pa/cm/cmberr.htm>.

83. The Select Committee was careful to ensure that it did not simply hear from disgruntled lessees. It conducted its own survey to determine whether the evidence it received from individual lessees was typical of feelings in the industry, or whether it was the result of particular individual problems. The Select Committee recorded in the Summary of their report:

“Our investigation showed that the majority of lessees of tied pubcos did not consider their pubco added value to them and were dissatisfied with their pubco; 78% of lessees were dissatisfied with the tie. 67% of lessees who responded to the survey said that they earned less than £15,000 per annum. Even where pubs had a turnover of more than £500,000 a year, over 50% of lessees earned less than £15,000. Although we could not investigate the stories told by individual lessees, the survey results gave us confidence that although their cases might be extreme, they were not simply a dissatisfied minority...”

84. The Select Committee noted that two of the pubcos had given the Committee false evidence: “...in evidence to us both Mr Thorley **of Punch** and Mr Tuppen and Mr Townsend of Enterprise Inns made assertions which, on investigation, proved to give a partial picture, or on one occasion were positively false.” (§9)

85. Until very recently, Punch was the pubco for The Chequer. The Committee is asked to look at §§88, 95 of the Select Committee report. Misleading and giving false evidence to a Committee of the House of Commons is a serious matter.

86. The Select Committee reported:

“29.Punch argued ‘that the current challenging trading environment is the primary contributory factor for any increase in Licensees’ financial distress. The ‘tied’ lease model is not the issue.’

30. However the responses to our survey demonstrated that lessees disagreed with the pubcos' analysis of problems in the trade. The main cause perceived by the lessees for their financial difficulties was overwhelmingly their pubco — the rent they were charged by their pubco and the price they had to pay for their beer from their pubco."

87. The Select Committee went on to record a lack of transparency on the part of pubcos when it came to setting out how rents were fixed.
88. The Select Committee made a number of important findings which demonstrate the falsity of the developer's contention that The Chequer is unviable as a pub. It may be unviable as a pub tied to Punch: that is not the same thing. Because the terms are tilted in favour of Punch, being tied to Punch and being viable is an uphill struggle:
"Over 50% of the lessees whose pubs had a turnover of more than £500,000 a year earned less than £15,000. The pubcos may share the risks with their lessees but they do not share the benefits equitably." (§133)

Significance

89. The tied pub is hampered by particular economic constraints. Like any business which is tied to a particular supplier, the tied publican is not free to source his/her supplies from the lowest cost-source and is not free to select product lines that are most likely to be popular. An economic viability assessment of a tied pub is thus a distorted representation of the viability of that pub in the open market. The extent of the distortion requires an analysis of the product lines, the product prices and local market forces.
90. The developer has not put forward statistics or appraisals to demonstrate that The Red Lion Inn would be unviable if it were operated other than as a tied pub. With a heritage asset, it is for the developer to convince the Planning Committee with objective, verifiable evidence: see §72 above. The developer here has failed to do so.

The Institute for Public Policy research paper into tied pubs

91. In 2011, the Institute for Public Policy Research published a major report entitled *Tied Down. The Beer Tie and its impact on Britain's Pubs* (Appendix 9). It found that:
- the level of business churn is higher in the tied than in the non-tied sector
 - tied publicans are less likely to share the same levels of prosperity as those who are non-tied
 - tied publicans are much more likely to say they are struggling financially and they also earn significantly less than non-tied operators
 - tied publicans who are struggling financially see the beer tie as one of the most significant contributing factors to their financial problems."

92. The report has not been controverted. Its findings and conclusions stand unchallenged.

General conclusions on the economic viability of tied pubs

93. The developer has not attempt to give this Committee an analysis that corrects the distorting economic effects of the pub being tied. To assert that the economic viability of premises as a tied pub represents the economic viability of those premises as a pub is to call an apple a pear.

Conclusion

94. The Planning Committee is respectfully invited to rejected the Application on the basis that the proposed development would:

- (1) Debase the intrinsic quality of the historic environment of Wingham by extinguishing the historic use for which The Red Lion Inn was designed and replacing it with one that does not belong, thereby conflicting with District Objective 10: see §26 above.
- (2) Deprive Wingham of a longstanding public house in a village within a rural setting, the proposed development will diminish the role of Wingham as a provider of services to its home and adjacent communities, thereby conflicting with Policy CP1 in the Core Strategy: see §27 above.
- (3) Destroy employment land and buildings, thereby conflicting with Policy DM2 in the Core Strategy: see §34 above.
- (4) Change the use of a rural pub without genuine and adequate attempts to market it as a pub, thereby conflicting with Policy DM24 in the Core Strategy: see §35 above
- (5) Empty the building of communal value, thereby conflicting with the Dover District Heritage Strategy: see §§59-61 above.
- (6) Also thereby effect substantial harm to the significance of this heritage asset and, given the absence of any countervailing public benefits, conflict with NPPF §133 and ss 66 and 72 of the *Listed Building etc Act*: see §§24, 66-68 above.
- (7) Give no support to an existing business but would instead destroy an existing employment site, thereby conflicting with saved Dover District Local Plan 2002 §§3.13-3.14: see §49 above.
- (8) Degrade the area as tourism asset, thereby conflicting with saved Dover District Local Plan 2002 §3.100: see §51 above.

Moreover, The Red Lion Inn is an economically viable employment source, and the figures put forwards to suggest otherwise are skewed by the well-recognised distorting economics of the tied house: see §§90-? above. Retention of the current use is attended by wider social, cultural, economic and environmental benefits which are not shared by it being converted into a home: see §§74, 76. 77 and 78 above. Rejection of the proposed development offers the opportunity to secure those benefits and is thus supported by NPPF para 126: see §66 above.

95. Each of the above reasons is sufficient to reject the Application. Collectively, they represent an overwhelming case for rejection.

Alex Lister
25 May 2016

THE RED LION, CANTERBURY ROAD, WINGHAM

DOV/15/00292 & DOV/15/00293

JOINT OPINION

1. We are instructed by the Save the Red Lion Group ("our Client") to advise on the material before the planning committee for its upcoming meeting to determine the above application.
2. We have read the report prepared by the Council's professional officers to assist the planning committee determine the application. We are of the view the Report falls into error in two important respects. First, it fails to deal properly with the main development plan policy in issue (DM24) and secondly, it fails to advise the Committee of a highly material consideration, an offer to purchase the pub at market value: £240,000. In our opinion, were the Committee to rely on this report to reach a decision to allow the proposed development, it would expose itself to legal challenge.

Issue 1 – Policy DM24 Dover Core Strategy (2010)

3. By s.38(6) Planning and Compulsory Purchase Act 2004 the Council is obliged to determine the application in accordance with the policies of the statutory development plan unless material considerations indicate otherwise. As Lord Clyde explained in City of Edinburgh Council v Secretary of State for Scotland [1997] 1 W.L.R. 1447, 1459 the statutory duty requires a decision taker to:

"... consider the development plan, identify any provisions in it which are relevant to the question before him and make a proper interpretation of them. His decision will be open to challenge if he fails to have regard to a policy in the development plan which is relevant to the application or fails properly to interpret it. He will also have to consider whether the development proposed in the application before him does or does not accord with the development plan."

4. The Officer's Report identifies policy DM24 as engaged by the proposal. That is undoubtedly correct.
5. Policy DM24 provides:

"Planning permission will only be granted for the change of use of a rural shop or pub if its loss would not harm the economic and social viability of the community that it serves or, if such harm would occur, it has been adequately demonstrated that the use is no longer commercially viable and genuine and adequate attempts to market the premises for retail purposes or as a pub (as appropriate) have failed."
6. The policy thus puts the onus squarely on the developer to demonstrate satisfaction of the criteria, failing which planning permission is to be refused.
7. The Officer concludes at para.2.10 that the "proposed loss of the public house use would not cause harm as envisaged under policy DM24." Unfortunately, the Officer makes two separate legal mistakes in reaching this conclusion.
8. First, he effectively re-writes the policy by telling the Committee (at para 2.7) that "the issue is therefore whether the proposed loss of The Red Lion as a pub would seriously diminish the range of facilities in Wingham and thereby harm the economic and social viability of the community." While serious diminution of the range of facilities in Wingham will undoubtedly harm the economic and social viability of the community, the issue presented by Policy DM24 and which the Committee must decide for itself is not so limited as the Officer would have it. The issue for the Committee under Policy DM24 is whether the developer has sufficiently demonstrated that the change of use of The Red Lion from a pub to two dwellings *would not* harm the economic and social viability of the community that it serves. It is to be noted that the requirement in DM 24 is:
 - *would not* harm, not *might not* harm;
 - it is *harm*, not *serious harm*; and
 - it is to demonstrate that the loss would not harm the economic *and* social viability of the community, rather than to demonstrate that

the loss would not harm the economic *or* social viability of the community.

9. In recasting DM24 as he has, the Officer has left out of his conspectus all the ways other than serious diminution in the range of facilities at Wingham in which loss of The Red Lion might harm the economic and social viability of the community. It does not require any major feat of imagination to anticipate these.
10. Secondly, the report fails to identify any evidence to support the first of the two cumulative requirements of the second facet of DM24 (ie whether the developer has adequately demonstrated that the use as a pub is no longer commercially viable) or grapple with that requirement in any way.
11. It is no answer to suggest that simply because the Officer has arrived at the planning judgment that the loss of the community facility would not harm the economic and social viability of the community, he is absolved of responsibility to properly analyse the rest of the policy requirements to the decision taker. In any event, it is obvious from the Officer having considered the second requirement of the second facet that he appreciated that that facet needed to be dealt with. It is wrong of him to deal with only one of its two requirements.
12. The Committee is entitled to come to a different planning judgment on the first facet of DM24 (ie that the developer has not demonstrated that the loss of The Red Lion would not harm the economic and social viability of the community), and should that be the case, Members would be left in the dark as to application of the first requirement of the second facet of the policy.
13. As such, in our view, the Officer's Report is liable on each of these two counts to lead the Committee into legal error.

Issue 2 – Market interest

14. Whilst it is not the law that an officer's report must recite every minor consideration, it must summarise the key considerations fairly. As Lady Hale held in R(Morge) v Hampshire County Council [2011] UKSC 2 at [36]:

"... [elected members] have professional advisers who investigate and report to them. Those reports obviously have to be clear and full enough to enable them to understand the issues and make up their minds within the limits that the law allows them."

15. An officer's report will fall into error if:

"... the overall effect of the report significantly misleads the committee about material matters which thereafter are left uncorrected at the meeting of the planning committee before the relevant decision is taken."¹

16. The Officer's report sets out the officer's analysis of the second requirement of the second facet of DM24 (having skipped over the first requirement as if it were not there) at paragraphs 2.7-2.10. Members are told of a marketing exercise undertaken by the applicant in May 2015, and that the result of that exercise yielded four viewings but no offers to purchase as a pub.

17. Startlingly, however, Members are not told of the offer made by a member of our Client Group to purchase the pub on 24 October 2014 for £240,000 to which no reply was received. Members are also not told that our Client chased the Applicant on 8 September 2015 via an email to their solicitors, Pocock's. They received an acknowledgment from Pocock's and an undertaking to pass the offer along to the applicant. No further response was received.

18. We are unable to think of a legitimate reason why this information should have been concealed from Members. It is obviously highly relevant to policy DM24.

¹ Oxton Farms v Selby DC [1997] EG 60 per Judge LJ.

19. The result of the failure to inform Members of this highly material consideration is the analysis at paragraphs 2.7-2.8. Those paragraphs suggest there were no offers made to purchase the pub, and that the reasons for no offers having been made are summarised at paragraph 2.8. That is a deeply misleading representation of the true facts on a highly material question before the Committee. Absent satisfactory explanation, it undermines the credibility of the report and its author.

Conclusion

20. In our view, should these two matters be left un-corrected, and Members proceed to vote in accordance with their Officer's recommendation, the decision will be vulnerable to legal challenge.

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25 May 2016

