

PLANNING COMMITTEE

29TH OCTOBER 2008

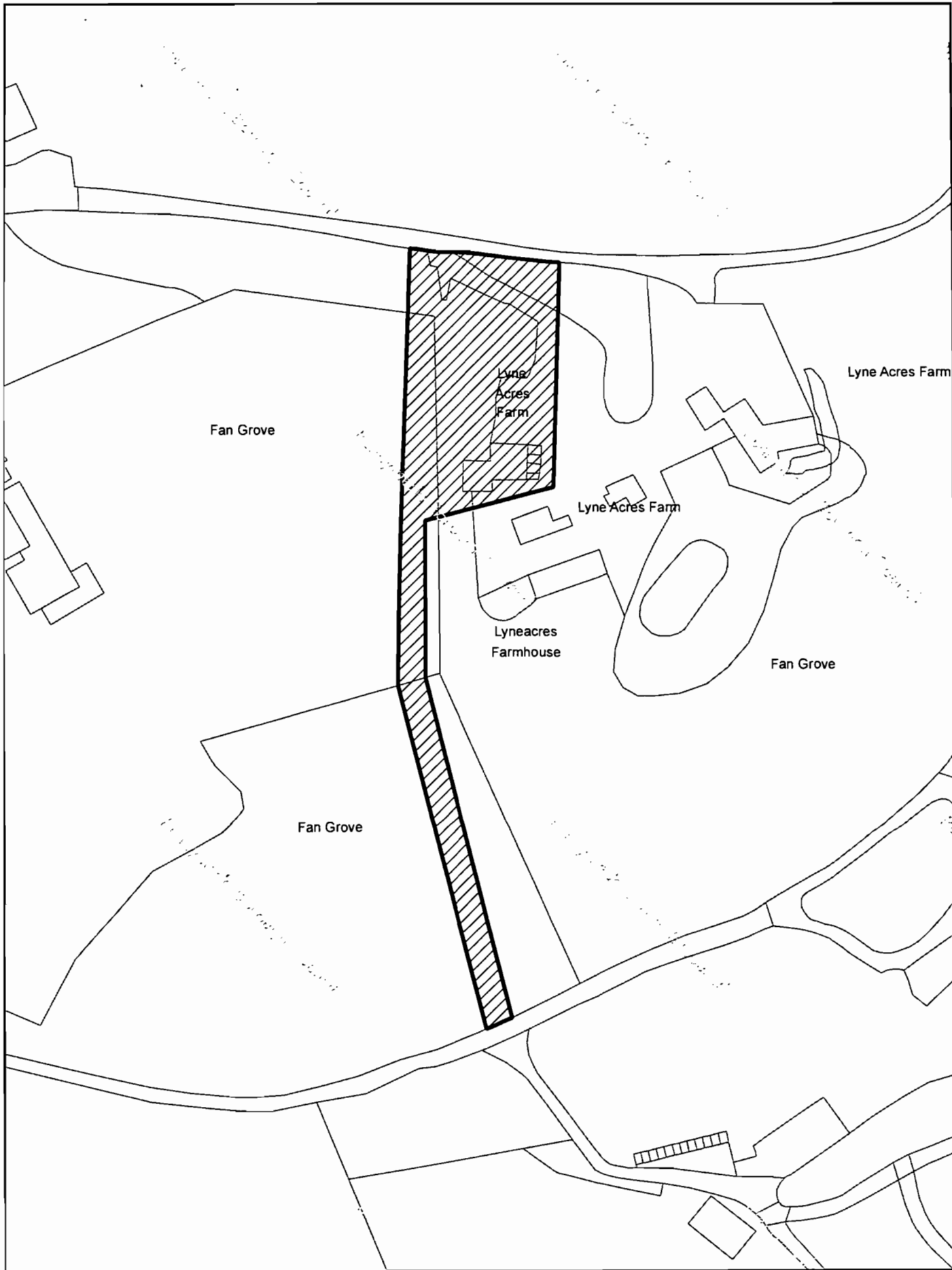
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(There are no Part A applications)

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PART B

(There are no Part A applications)



<p>N ↑</p>	<p>RU.08/0438 NOT TO SCALE DATE: 29/10/2008</p>	<p>ADDRESS: THE OAKS LYNE LANE LYNE</p>	<p>1</p> <p>Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Runnymede Borough Council 100006086</p>
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RU.08/0438 Date reg: 28.04.08 Ward: FOXHILLS

LOCATION: THE OAKS, LYNE LANE, LYNE.
PROPOSAL: CERTIFICATE OF EXISTING LAWFUL USE RELATING TO THE CONTINUED USE OF LAND AND BUILDINGS FOR THE SALE, SERVICING, MAINTENANCE AND STORAGE OF MOTOR VEHICLES, CARAVANS AND BOATS AND EXISTING LAWFUL DEVELOPMENT FOR AN EXISTING SINGLE STOREY DETACHED WORKSHOP BUILDING AND DETACHED SINGLE STOREY OFFICE AND STORE, ACCESS ROAD, GATES, GATE POSTS AND WALLING.
TYPE: CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE AND AN EXISTING LAWFUL DEVELOPMENT.
APPLICANT: Mr D Painter

Local Plan: Saved Policies relevant to the consideration of this application are:

Second Alteration April 2001: GB1, GB7, NE10

Members are advised that the applicant has submitted an appeal against the non-determination of the application, to be heard by way of an inquiry.

1. Site

1.1 The site comprises a site area of 0.34 hectares and is located to the south of Lyne Lane to the rear of the Fangrove Caravan Park. The property is accessed by a shared vehicular access which runs along the rear boundary of the caravan park. In addition a vehicular access road exists along the western side boundary of the application site, accessed towards the southern (rear) boundary.

1.2 The site originally fell within the neighbouring site known as "Lyne Acres Farm". This has since been sold off and separated from the application site. The site comprises a rectangular area of land to the north, and a vehicular access road some 130 metres in length running towards the south of the site. Two individual buildings exist within the site with a parking and storage area towards the north of the site.

1.3 The site lies within the Green Belt and Landscape Problem Area.

2. Planning History

2.1 There is an extensive planning history for the application site and adjoining land known as "Lyne Acres Farm", Lyne Lane.

2.2 RU.87/0121: Continued use of barn for enamelling, shot blasting and powder coating. Refused 03.08.87. Appeal dismissed 25.05.88.

2.3 RU.97/0472: Use in breach of condition 7 (agricultural occupancy) of RU.78/1050. Granted 25.06.97.

- 2.4 RU.98/1159: Proposed granny annexe. Withdrawn.
- 2.5 RU.99/0823: Proposed side extension to from granny annexe. Granted 09.09.99.
- 2.6 RU.05/1158: Annexe to Lyne Acres Farm. – Self contained dwelling Refused 16.02.06.
- 2.7 RU.05/1159: The Chalet, Lyne Acres Farm – Certificate of existing lawful use for the use of the building as a self contained residential unit. No decision. Appeal against non-determination. Appeal withdrawn.
- 2.8 RU.05/1160: The Studio, Lyne Acres Farm – Certificate of existing lawful use for a self contained dwelling. No decision to date. Appeal against non-determination. Appeal withdrawn.
- 2.9 RU.06/0767: The Annexe, Lyne Acres Farm – Certificate of existing lawful use for a self contained residential accommodation – Granted 04.09.06
- 2.10 RU.06/1069: The Studio, Lyne Acres Farm – Certificate of existing lawful use for a self contained dwelling. Granted 15.11.06.
- 2.11 There has also been an extensive enforcement history for the application site and land adjoining known as “Lyne Acres Farm”. A number of complaints have been received and enforcement action taken over a period of 30 years in respect of uses and operations on the land which are summarised below.
- 2.12 An enforcement Notice was issued in March 1977 in respect of a material change in use of the land for the siting of caravans.
- 2.13 An Enforcement Notice – Material Change of Use was issued on 21st June 1989 in respect of the change of use of a building from an agricultural use to a mixed use for stove enamelling and powder coating and the change of use of the land by the siting of a large metal container or structure used for shot blasting.
- 2.14 During 1995-1996 two complaints were received about car repairs on the site, and materials being brought onto the site by heavy vehicles.
- 2.15 On 27th August 1997 a complaint was received in respect of an alleged race track at Lyne Acres Farm. Following a site visit by the planning enforcement section it became evident that the ownership of the site had recently changed hands and that it had been purchased by Mr Painter, the current applicant. No untoward activities were recorded during the site visit and the case was closed.
- 2.16 A complaint was received in August 1998 in respect of a car valeting business at Lyne Acres farm. A site visit was undertaken on 23rd September 1998. Following an inspection of the buildings, there were various items of machinery from lathes and turning machines stored from

the owner's old business and now for sale. In addition equipment was stored in connection with his valeting business, which was being undertaken on site. The owner advised the Planning Enforcement Officer that he valets 2 to 3 cars a week and has no employees on site. A letter dated 23rd September 1998 from the planning enforcement section to Mr Painter advised that prior planning permission was required for the unauthorised change of use. A letter dated 11th October 1998 from Mr Painter confirmed that the car valeting business will not be carried out at Lyne Acres Farm. On 27th July 1999 a further site visit by the Planning Enforcement Officer recorded no untoward activities.

- 2.17 A complaint was received in April 1999 in respect of commercial vehicle movements within the site. A full site inspection was undertaken by the Planning Enforcement Officer on 10th May 1999 and there were no untoward activities recorded.
- 2.18 A complaint was received on 21st June 2005 in respect of an unauthorised car valeting operation at Lyne Acres Farm. A full site inspection was undertaken by the Planning Enforcement Officer on 26th July 2005. The Enforcement Officer inspected all buildings on the site, including the buildings forming part of this current application. A plan forming part of the enforcement officer's site visit notes records that the block-built garage building, defined as a workshop by the applicant under this current application, was empty. The second building, described as an office and store by the applicant under this application, was described as a small block-built storage building by the enforcement officer during his visit. There was no evidence of any commercial operations in respect of any car valeting, or the sale, servicing, maintenance and storage of motor vehicles, caravans and boats taking place at the site in July 2005. During discussions with the Enforcement Officer, Mr Painter confirmed that his car valeting business was taking place elsewhere.
- 2.19 A "Breach of Condition – Enforcement Notice" was served on 1st March 2006 in respect of a non-compliance with planning conditions 4 and 5 of planning permission RU.99/0823 and the use of an annexe as an independent self contained dwelling. An appeal was lodged against the formal enforcement notice. However as a result of a judgement in the case of First Secretary of State v Arun District Council and Karen Felicity Brown (2006) the enforcement notice was withdrawn by the local planning authority.
- 2.20 A site visit was undertaken by the Planning Enforcement Officer on 4th February 2008 in respect of an alleged unauthorised vehicular access and alterations to premises and the occupation of the store/office building as a self-contained residential unit. The larger workshop building was inspected, but it was noted that there were few facilities within the building to make it capable of major use for car servicing and repairs. There were cars and camper type vehicles and boats stored on the land.

3. Application

- 3.1 An application for a Certificate of Lawfulness for an existing use has been submitted for the use of the land for the sale, servicing, maintenance and storage of motor vehicles, caravans and boats on the basis that the use has begun more than 10 years before the date of this application. This application was dated on 22nd of April 2008. To be lawful, the use must have begun before 22nd of April 1998.
- 3.2 In addition a Certificate is sought for the retention of two of the existing buildings within the site connected with the above uses on the grounds that they have been erected for a period in excess of 4 years. This application was registered on 22nd April 2008. To be lawful, this operational development must have been substantially constructed before 22nd April 2004. The applicant has included the rear access road and gates, gate posts and walling at the front of the site on the submitted plans. These are also operational development for which planning permission is required and therefore have been included in the description of the application.
- 3.3 The applicant states that the use had begun, and the building works were substantially completed by July 1997.
- 3.4 The applicant has submitted an appeal against the non-determination of the application, to be heard by way of an inquiry.

4. Consultations

- 4.1 The application has been advertised in the Council's weekly list and 6 letters have been sent to properties surrounding the site. In response to the above consultation no letters of objection have been received from neighbouring properties.

5. Planning Considerations

- 5.1 The only issue in this case is whether the applicant has submitted sufficient evidence to demonstrate that on the balance of probability the use and operational developments sought have existed for the relevant period. The onus of proof in such applications lies firmly with the applicant. In assessing evidence, local planning authorities (LPA's) are advised that in Circular 10/97 (Enforcing Planning Control) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted.
- 5.2 If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. The LPA should proceed on the basis that neither the identity of the applicant nor the planning merits of the operation; use or activity are relevant to the consideration of the purely legal issues which are involved in determining an application.
- 5.3 The applicant has submitted 7 sworn affidavits which are summarised in the following paragraphs.

- 5.4 Graham Pearce (Mr Painters accountant – Partner in accountancy firm “Gilmour and Waters”) – Confirmed that Mr Painter purchased the application site in July 1997 and from that day to the present time has been conducting his business known as “D. Painter –Car Specialist”. Mr Painter carried out his business of car sales, servicing and maintenance and the storage of vehicles, boats and caravans from buildings and land within the application site. Tax returns are available from the time he purchased Lyne Acres Farm to the present time. On average he visited Mr Painter’s business every 3 months since he purchased the land, and purchased 2 cars from his premises at Lyne Acres Farm, now known as The Oaks. The building (LL.01) was used as an office and for other purposes associated with his business such as storage and for the provision of facilities for himself and his staff. Building LL.02 was used mainly as a workshop with a small room used as an office and for storage and a customer reception area. Both buildings existed at the time Mr Painter purchased Lyne Acres Farm in July 1997 and they have been used in connection with his business from that time and continue to be so used today.
- 5.5 Douglas Painter (applicant) - Confirmed that he purchased the property in July 1997 and operated his business “D G Painter– Car specialist” from the land and buildings within the application site and continues to do so. When he purchased the land there were two caravans already being stored within the application site. He continued to store these caravans and also stored cars and boats for customers continuously in the area shown hatched on the plan and continues to do so today. Reference is made to Paul Gray, Sonia Hill and Graham Pearce, whom have submitted separate affidavits in support. The applicant confirms that over the past 10 years the land and buildings have been continuously used for the purposes of the sale, servicing, maintenance and storage of motor vehicles and caravans and boats.
- 5.6 Mark Anthill – (Mobile mechanic) He confirms that he rented a building from the previous owners of Lyne Acres Farm. When Douglas Painter bought the premises in July 1997 he worked for him on a part time basis from that date onwards and is still working on that basis today. From the time Mr Painter purchased the premises he has carried out his business of car sales, servicing and maintaining and storing motor vehicles and storing boats and caravans from the land and buildings within the application site and the business is being carried on today. The buildings within the application site were in existence at the time Mr Painter bought Lyne Acres Farm in July 1997 and that they have been continuously used as annotated on the attached plans.
- 5.7 Robert Baker - (sub contractor employed at “The Oaks”) Since July 1997 he has worked at the premises now known as “The Oaks” on a part time basis generally preparing cars for sale. He also brings his own vehicles for servicing and has done so ever since first coming to the premises in July 1997 and still does today. Confirms that since Mr Painter purchased the premises he has carried out his business of car sales, servicing and maintaining and storing motor vehicles and storing boats and caravans from the land and buildings within the application site and the business is being

carried on today. The buildings within the application site were in existence at the time Mr Painter bought Lyne Acres Farm in July 1997 and that they have been continuously used as annotated on the attached plans.

- 5.8 Paul Gray – (Friend and Colleague for over 30 years) When Mr painter moved to Lyne Acres in July 1997 he moved a couple of boats to the premises for safe keeping and still stores them today. He has been a frequent visitor to the application site since Mr Painter purchased it and he still visits him there today. Confirms that since Mr Painter purchased the premises he has carried out his business of car sales, servicing and maintaining and storing motor vehicles and storing boats and caravans from the land and buildings within the application site and the business is being carried on today. The buildings within the application site were in existence at the time Mr Painter bought Lyne Acres Farm in July 1997 and that they have been continuously used as annotated on the attached plans. During the period Mr Painter has operated his business from the premises he has brought 3 cars from him and has had them regularly serviced at his premises. In addition over the past 10 years he has assisted Mr Painter in his business by carrying out various maintenance duties including electrical work and he still helps out in that capacity today.
- 5.9 Sonia Hill (part time house keeper) – Confirms that she has been employed as a house keeper on a part time basis since the time be brought the premises in July 1997 to the time Mr Painter sold his house in November 2007. Confirms that since Mr Painter purchased the premises he has carried out his business of car sales, servicing and maintaining and storing motor vehicles and storing boats and caravans from the land and buildings within the application site and the business is being carried on today. During the last 10 years she has had her cars serviced and maintained at the application premises. The buildings within the application site were in existence at the time Mr Painter bought Lyne Acres Farm in July 1997 and that they have been continuously used as annotated on the attached plans.
- 5.10 Edward Best – (RDA Car Sales) Confirmed that he has sold on average 3-4 cars a year for the last 12 years to Mr Painter to sell. He confirms that he supplied him with cars to sell when he moved to his business in Lyne Acres farm and continues to supply vehicles. He has been delivering vehicles to the premises from the time he purchased the premises. As a consequence of his regular visits he confirms that the buildings and land shown on the plans have been used by the applicant since he purchased the land.
- 5.11 In contradiction of the applicant's submissions, aerial photographs, business rate records, and site visit records are held by the Council.
- 5.12 An aerial photograph in 2003 shows the sites, now known separately as "The Oaks" and Lyne Acres Farm, as one site. The photograph details a number of vehicles within the site. Two detached buildings are apparent within the application site of "The Oaks". The area of land available for parking and turning would appear smaller than that currently available. There is no evidence of the rear access road, which currently runs adjacent to the western side boundary of the application site.

- 5.13 An aerial photograph taken in 2008 clearly details the vehicular access road adjacent to the western side boundary of the application site. The site has clearly been subdivided into two separate parcels of land known as "The Oaks" and "Lyne Acres Farm". Two buildings are clearly visible within the site and the area of vehicle parking and storage appears to have become enlarged, when compared to the 2003 aerial photograph.
- 5.14 The Council's Business Rates section have no records in respect of "The Oaks", but there are records relating to a Mr M Anthill at Lyne Acres Farm. These records show that he began trading on 1st April 1995 and ceased on 31st March 1996. A file note on their records confirms that Mr Anthill called to advise that he ceased trading at the end of March 1996. There are no other records relating to the application site, including the wider site "Lyne Acres Farm".
- 5.15 Following the receipt of the current application, a full site visit was undertaken by the planning case officer on 15th May 2008. During the visit the two existing buildings within the site were inspected. Both buildings were located to the southern rear boundary of the site, adjacent to land now falling within the separate ownership of Lyne Acres Farm. The smaller building (described by the applicant as an office/store room) housed a kitchen area comprising a fridge, sink and boiler and a separate shower, sink and toilet area. A separate room also comprised a seating area with sofas and a coffee table. A further room was currently being used as a store comprising a TV, calor gas fire, wardrobe, fridge, cooker, foldable mattress, tables and chairs.
- 5.16 The second larger building was being utilised as a workshop, with areas separated as an office/store and WC. At the time of the visit car valeting was being undertaken on the site towards the rear of the workshop, and a second car was within the workshop. Stored within the main workshop were a number of battery chargers, washing machine and dryer, calor gas cylinders, electric water jet cleaners, tools and the storage of various liquids and oils.
- 5.17 Externally, a number of cars, vans, a lorry, a JCB and a dumper truck were being stored in the parking and turning area towards the front (north) of the application site. In addition areas of external storage in respect of various wood items, including pallets, corrugated sheeting, canisters, pipe work, building materials, a bar-b-que, wheelbarrows, trolleys, ladders and metal shelving. A second vehicular access was also visible towards the rear (south) of the site.

6. Conclusions to the Certificate of Lawfulness Considerations

- 6.1 There are two elements to this Lawful Certificate application which the applicant is claiming as lawful: a material change of use for the use of land and buildings for the sale, servicing, maintenance and storage of motor vehicles, caravans and boats, and the operational development of the two buildings, access road and walls and gates.

- 6.2 In order to be lawful the uses must have begun more than 10 years before the date of this application, be continuous and still existing at the date of the application. This application was dated the 22nd April 2008. To be lawful, the use must have begun before 22nd April 1998.
- 6.3 It is considered that based upon the information submitted in support of the application and the information found in the Council's records, the available aerial photography, business rate records and enforcement complaints received this site has at times been used for unauthorised commercial activities over a considerable period of time. However, each use has been sporadic and not continuous. Members are advised that each time a new use commenced, this would trigger the start of a new 10 year period. None of the Council's evidence corroborates that each of the uses claimed by the applicant has existed on the site for the required periods.
- 6.4 According to Business Rate records Mr Anthill began trading within the site under M.A Auto Services in April 1995 and ceased at the end of March 1996. This was prior to the applicant's purchase of the application site, and outside of the relevant 10 year period. A period of two years passed prior to the first complaint being received by the planning enforcement section in August 1998, which falls within the 10 year period. The applicant Mr Painter confirmed that he was operating a car valeting business from the premises. He was advised that it required prior planning permission and agreed to cease the unauthorised operations. This was confirmed within a letter from Mr Painter dated 11th October 1998.
- 6.5 Later site visits by the planning enforcement section in May and July 1999 reported no untoward activities within the site. The next complaint was not received until June 2005, some 6 years later. During a formal inspection of the whole site by the planning enforcement section there was no evidence of any commercial operations in respect of any car valeting, or the sale, servicing, maintenance and storage of motor vehicles, caravans and boats. During discussions with the enforcement officer Mr Painter confirmed that his car valeting business was taking place elsewhere.
- 6.6 The use of the site for car valeting purposes is likely to have been a very low key and intermittent use. This could explain why the site has not given rise to a higher level of complaints and would contradict the applicant's statements. Apart from the initial enforcement visit in August 1998 in which the use of the site for car valeting was first recognised by planning enforcement officers, all subsequent visits by the planning enforcement section recorded no unauthorised commercial operations within the application site, including car valeting. Up till June 2005 Mr Painter, the applicant, confirmed in letters to the Council that car valeting had ceased within the application site. A further period of three years passed prior to the Planning Enforcement Officer noting the new activities taking place on the site in February 2008. The workshop was inspected but it was noted that clearly there were few facilities within the building to make it capable of major use for car servicing and repairs. There were cars and camper type vehicles and boats stored on the land.

- 6.7 The Applicant must prove on the balance of probability that the uses have been continuous for the 10 year period and are still existing at the date of the application. The use, as described within the submitted certificate is for the sale, servicing, maintenance and storage of motor vehicles, caravans and boats. These are clearly distinct and different uses from the earlier use of the land and buildings for car valeting purposes, which was ceased by 2005 as confirmed by Mr Painter. It would appear likely on the balance of probability that the site was used for a small amount of intermittent storage of vehicles in connection with the use of the land for car valeting. The storage and use both being of a low key nature and not continuous. On the balance of probability, the uses as described by the applicant have not been taking place at the site for a continuous period of 10 years. In addition, the aerial photographs demonstrate that land formerly known as Lyne Acres Farm, has been subdivided within the 10 year period. and a material change of use has occurred.
- 6.8 The applicant has also sought to provide evidence that the two existing buildings within the application site are lawful. In order to be lawful this operational development would have to have been erected for a period in excess of 4 years. This application was registered on 22nd April 2008. To be lawful, the buildings must have been substantially constructed before 22nd April 2004.
- 6.9 Following a site visit to the premises by the case officer in May 2008 it was apparent that the workshop building, given its materials and condition had been erected on the application site in excess of 4 years ago. This was confirmed by the aerial photographs taken in 2003 and 2008. The smaller building described by the applicant as an office and store was clearly of a more recent construction. Following an assessment of the aerial photographs dated 2003 and 2008 it is evident that the building has been replaced since the initial aerial photograph was taken in 2003. However, there is no further evidence available to contradict the applicant's submitted information.
- 6.10 A rear access road has also been constructed and is clearly detailed on the applicant's submitted site plan (LL03). Following an assessment of the aerial photographs dated 2003 and 2008 it is evident that this unauthorised engineering operation has occurred since the initial aerial photograph was taken in 2003. However, there is no further evidence available to contradict the applicant's submitted information.
- 6.11 In addition new gates and walling have been erected towards the north of the site by the existing access within the last 4 years, and due to their height and position adjacent to the highway, would have required planning permission. Therefore, they are not considered to be lawful development.
- 6.12 On this basis it is considered that on the balance of probability the existing two detached buildings and the rear vehicular access road running along the western side boundary of the site are lawful development. However the new gates and solid walling have been erected within the last 4 years without planning permission and are therefore unlawful and not immune from enforcement action.

6.13 Therefore, given the officer's conclusions above, had the applicant not appealed against non-determination of the application, the recommendation would have been that the application be refused in respect of the use of the land regarding the material change of use of the land and the operational development of the erection of the wall and gates, and that the application be granted in respect of the buildings and the access road.

7. Enforcement Considerations

7.1 In the event that the Committee agree with the officer's conclusions, members need to consider the desirability of taking enforcement action to cease the unauthorised uses and remove the unauthorised operational development.

7.2 The decision whether it is expedient to take formal enforcement action in any case is within the local planning authority's sole discretion. The current appeal by the applicant against non-determination has no bearing on this decision. The authority must have regard to relevant planning policies in the development plan and the particular circumstances of the alleged breach of planning control.

7.3 The application site lies within the Green Belt where there is a strong presumption against inappropriate development. Advice contained within Planning Policy Guidance Note 2 : 'Green Belts' (PPG2) states that:

"Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations."

7.4 Paragraph 3.12 of PPG2 states that the definition of development includes engineering and other operations, and the making of any material change in the use of land. The carrying out of such operations and the making of material changes in the use of land is inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt. The use of this open Green Belt land for the sale, servicing, maintenance and storage of motor vehicles, caravans and boats is considered to be an inappropriate development by definition. The use has resulted in a spread of open storage of cars, caravans and other items across a large area of formerly open land within this sensitive area. It is therefore considered to have a detrimental impact upon the openness and visual amenities of the Green Belt, with harm to the Landscape Problem Area.

7.5 It is for the applicant to demonstrate very special circumstances to justify inappropriate development to outweigh the harm to the Green Belt. No special circumstances are evident. It is therefore considered expedient to take enforcement action to secure the cessation of the current uses of the land and to remove the operational development of the wall and gates, in the interests of the openness and visual amenities of the Green Belt and the character and quality of the landscape of the area.

8. Human Rights Act 1998 Considerations

8.1 The Committee is reminded of the European Convention on Human Rights Article 8, the right to respect for private and family life and the home, and Article 1 of the First Protocol, the right to peaceful enjoyment of possessions. Any interference with those rights must be in accordance with the law, proportionate and necessary in a democratic society. The Committee must not act in a way which is incompatible with convention rights. It is recognised that in this case, enforcement action could amount to an interference with the business and income of the applicant. However, members must balance the interference with the rights, which taking enforcement action would represent, and the interest of the public in protecting the openness and visual amenities of the Green Belt.

8.2 The taking of enforcement action can amount to an interference with a person's rights. Nonetheless, such measures can be taken if they:

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

9. Conclusions

9.1 Members must fully and fairly balance the considerations referred to in this report. The recommendation is to authorise enforcement action to remove the unauthorised buildings, to cease the unauthorised use with the associated removal of cars, caravans, boats and materials stored on the land, and to remove the unauthorised gates and walls.

Officers' Recommendation

(1) The applicant has appealed against the non-determination of this application. If the Council were the determining authority, it **WOULD HAVE DETERMINED** the application as follows:

- i) **REFUSE** a certificate of existing lawfulness for the sale, servicing, maintenance and storage of motor vehicles, caravans and boats on the grounds that the applicant has failed to demonstrate that on the balance of probability the land has been used for such a use for a period in excess of 10 years.
- ii) **REFUSE** a certificate for an existing metal gate, gate posts and solid walling on the grounds that the applicant has failed to demonstrate that on the balance of probability the unauthorised operational development was substantially completed for a period in excess of 4 years.

- iii) **GRANT** a certificate for two existing buildings (single storey workshop and single storey office/store), and rear access road on the grounds that the applicant has demonstrated that on the balance of probability the unauthorised operational development was substantially completed for a period in excess of 4 years.

(2) FURTHER RECOMMENDATION

- (i) **The Director of Administration and Leisure Services be authorised to issue Enforcement Notices under section 172 of the Town and Country Planning Act 1990 (as amended) requiring:**
 - (a) **the cessation of the unauthorised use of the land for the sale, servicing, maintenance and storage of motor vehicles, caravans and boats and the use of the detached store/office for ancillary staff accommodation.**
 - (b) **The removal of all motor vehicles, caravans and boats and associated equipment and materials from the site, including external storage referred to in paragraph 5.13 above;**
 - (c) **The demolition and removal of the unauthorised metal gates, gate posts and solid walling and all resulting materials and debris from the site.**
- (ii) **the Director of Administration and Leisure Services be authorised to take appropriate action in carrying out the necessary works or prosecutions under Sections 178 and 179 of the Town and Country Planning Act 1990 in the event that the Notice(s) once effective are not complied with**

Reasons for Issuing the Enforcement Notices

- 1) The unauthorised change of use of the land for the sale, servicing, maintenance and storage of motor vehicles, caravans and boats is inappropriate development within the Green Belt which fails to maintain the openness of the Green Belt, is harmful to the visual amenities of the Green Belt and Landscape Problem Area, and conflicts with the purposes of including land in the Green Belt. This is contrary to saved policy LO4 of the Surrey Structure Plan 2004, and saved Policies GB1 and NE10 of the Runnymede Borough Local Plan Second Alteration April 2001 and the advice contained within Planning Policy Guidance Note 2: Green Belts.

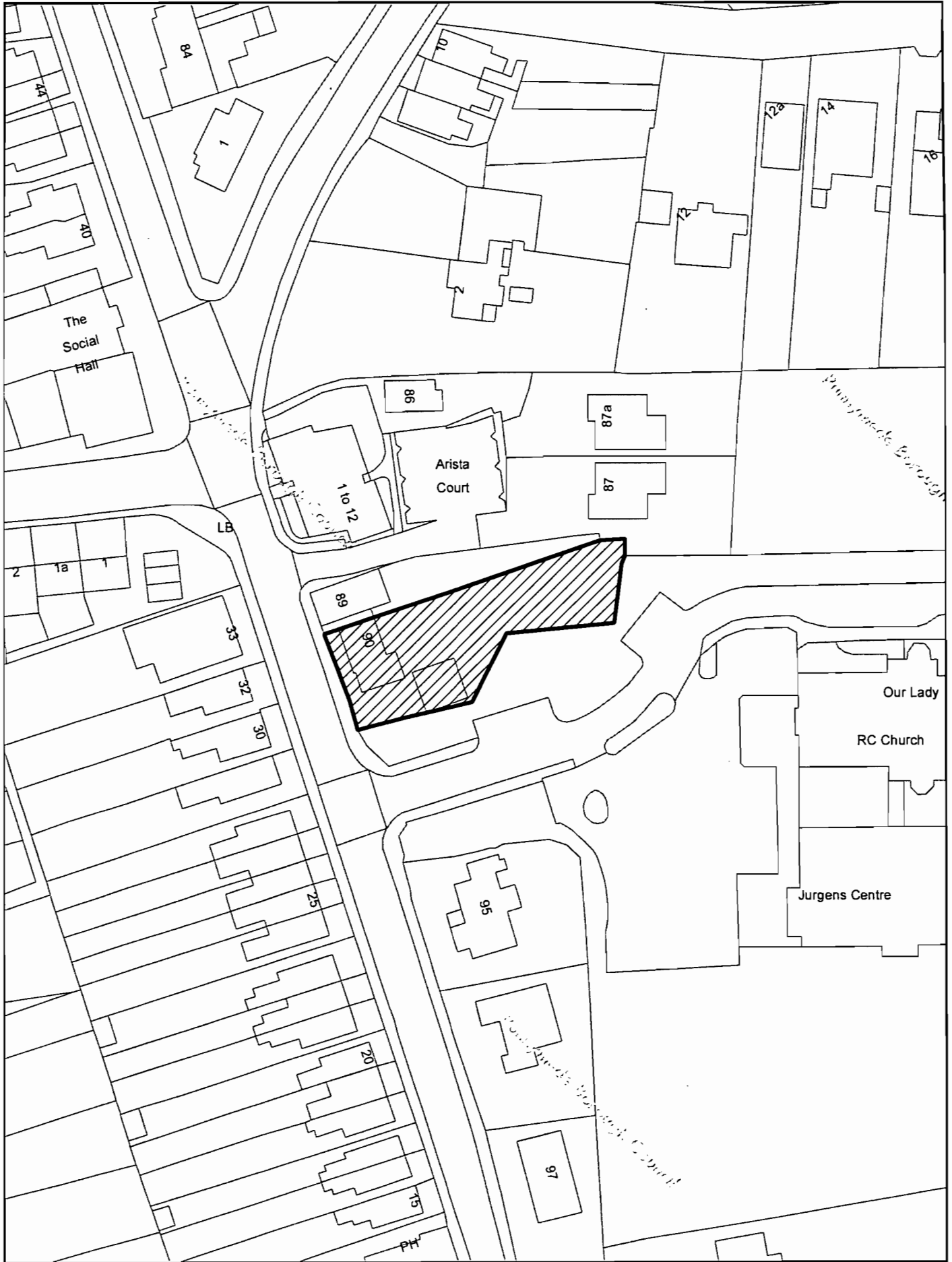
- 2) The unauthorised metal gates, posts and solid walling, by reason of their length, height, positioning adjacent to the highway, and design results in a hard, intrusive and urbanising feature which is inappropriate development in the Green Belt, detrimental and harmful to the openness and visual amenities of the Green Belt and Landscape Problem Area, and is contrary to saved Policy L04 of the Surrey Structure Plan 2004 and saved Policies GB1 and NE10 of the Runnymede Borough Local Plan Second Alteration April 2001 and advice contained within Planning Policy Guidance Note 2:Green Belts.

- 3) The applicant has failed to adequately demonstrate that any very special circumstances exist which outweigh the harm to the Green Belt caused by this inappropriate development and is contrary to saved Policy L04 of the Surrey Structure Plan 2004 and saved Policies GB1 and NE10 of the Runnymede Borough Local Plan Second Alteration April 2001 and advice contained within Planning Policy Guidance Note 2:Green Belts.

Informative:

1. The applicant is advised that this decision relates to the following drawing numbers received on the dates shown: -

<u>Drawing Number:</u>	<u>Date Received:</u>
LL01 - LL03 (inc)	22.04.08
Location Plan	22.04.08
Affidavits x 7	22.04.08
Photographs A –H (inc)	22.04.08



	<p>RU.08/0872 NOT TO SCALE DATE: 29/10/2008</p>	<p>ADDRESS: 90 HARVEST ROAD ENGLEFIELD GREEN EGHAM</p>	<p>15</p> <p>Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings Runnymede Borough Council 100006086</p>
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RU08/0872	Date reg:	2.09.08	Ward	ENGLEFIELD GREEN EAST
LOCATION:	90 HARVEST ROAD, ENGLEFIELD GREEN, EGHAM			
PROPOSAL:	TWO STOREY EXTENSION TO THE REAR OF 90 HARVEST ROAD AND ERECTION OF NEW 2/3 STOREY DETACHED BUILDING CONTAINING 2NO. 2 BED FLATS, FOLLOWING DEMOLITION OF DETACHED OUTBUILDING AND EXISTING EXTENSION TO 90 HARVEST ROAD (REVISED PLANS RECEIVED 23RD SEPTEMBER 2008 AMENDING DESIGN OF FRONT ELEVATION)			
TYPE:	FULL PLANNING PERMISSION			
APPLICANT:	Cubic Property Development			

Local Plan: Saved Policies relevant to the consideration of this application are:

Second Alteration April 2001: HO1, HO9, BE2, NE14, NE20

1. Site

- 1.1 The application site is on the eastern side of Harvest Road and its southern boundary is adjoined by St Cuthbert's Close and the Church of the Assumption.
- 1.2 The site has an area of 632 square metres, a frontage width of some 16m onto Harvest Road and a depth of some 45-49m. The site currently contains a detached two-storey dwelling with a detached one/two storey coach house outbuilding on its southern side. Both Nos. 89 and 90 Harvest Road are two storeys in height with hipped roofs. The Plot of No. 89 is narrow, the building sited on the back edge of the pavement and it is higher than No. 90. The building line is staggered with No. 89 being forward of No. 90.
- 1.3 The road slopes down from north to south, and the site itself also slopes up at the rear (eastern side). There is a tree preservation order on the adjoining amenity land to the south which relates to an Oak tree.
- 1.4 The range and age of buildings along this side of the road is mixed: Arista Court is a new 3-storey flat-roofed block of flats with access to parking at the rear and two new two-storey dwellings (87 & 87A Harvest Road). To the south east of the site is the locally listed Roman Catholic Church and Jurgens Centre. Beyond St Cuthbert's Close is a detached single-storey dwelling (95 Harvest Road) and on the opposite side of the road are predominantly two-storey Victorian/Edwardian detached, semi-detached and terraced properties. The larger-scale Constitutional Club (recently converted to 5 flats) is sited on the corner of Victoria Street/Harvest Road.

1.5 The site is in the urban area.

2. History

2.1 The most recent and relevant application on the site was for the demolition of Nos. 89 and 90 Harvest Road and the erection of a 2/3 storey block containing 11 no. flats comprising 2 no. x one-bedroom flats and 9 no. two-bedroom flats with access and parking (ref. RU.07/1249). The application was withdrawn prior to determination.

2.2 There have been various applications relating to No. 90 Harvest Road, as follows:

RU.82/0267 Single-storey extension – Granted.

RU.88/0285 Double garage – Granted.

RU.91/0870 First floor extension and garage with playroom over – Refused, appeal allowed.

RU.01/1349 Two-storey and single-storey extensions to front, side and rear – Granted.

RU.03/0589 First floor side and two-storey rear extension and conservatory to rear – Granted.

2.3 There have also been applications on sites nearby which are of relevance:

88 Harvest Road

RU.02/0838 Three storey building comprising 12 no. 1-bed flats with car parking accessed off Harvest Road, following demolition of existing office building – Granted.

33 Harvest Road (Constitutional Club)

RU.06/0239 Conversion of existing property to 3 no. 1-bed and 2 no. 2-bed flats – Granted.

Church of the Assumption

RU.89/0788 Church hall and ancillary accommodation – Granted.

RU.92/0192 Variation to Condition 7 of RU.89/0788 relating to provision of access and sight lines – Granted.

RU.92/0945 Construction of 5 no. 2-storey houses with detached double garages and access road (outline application on land to the rear of the Church) - Granted.

RU.93/0427 Erection of 5 detached houses and garages – Granted.

RU.06/1020 Tree works to 37 trees on northern boundary – Granted.

3. Application

- 3.1 Permission is now sought to demolish an existing single-storey side extension and the detached one/two storey detached double garage building and to construct a two-storey rear extension to the existing property, and to erect a detached two/three storey building containing 2 no. maisonettes on the southern side of the dwelling. Car parking for 3 cars is proposed on the frontage of the new building.
- 3.2 In relation to the parts of the building to be demolished, the existing single-storey side extension to No. 90 Harvest Road has a width of some 3.4m. It has a blank front elevation and false pitched roof at the front. The detached garage building contains a double garage at ground floor with a self-contained 2 bedroom flat over, in the roofspace. This building has an approximate ridge height of 5.9m and eaves of 3.9m. It is set back some 8.5 metres from the front of No. 90 Harvest Road.
- 3.3 The proposed two-storey rear extension to No. 90 Harvest Road has a depth of some 3m. It is proposed to reconfigure and raise the height of the roof of the property by some 1m to extend the roof over the existing dwelling and rear extension.
- 3.4 The proposed building is to be set back some 3m from the front of No. 90 Harvest Road and separated by some 0.9m. A gap of 0.5m is proposed to the southern boundary of the site, widening to 2m at the rear. The proposed building has an eaves height of 4.8m and ridge of some 8.2m, with a gable facing the road. The building has a depth of some 11.5m. It is proposed to contain two self-contained, two-bedroom flats.
- 3.5 Three parking spaces are proposed on the frontage of the new building with a bin/recycle centre and cycle store in the rear garden area.

4. Consultations

- 4.1 The application has been advertised on the weekly list and letters sent to 27 properties close to the site. Three letters of objection have been received and the main points are summarised below
- Overdevelopment of the site, putting pressure on local services;
 - Loss of open space would alter the wildlife habitat in the area and add to flooding problems in Harvest Road;

- Loss of a family home which will cumulatively change the nature of the street;
 - Exacerbate parking problems; reference made to conversion of No. 33 Harvest Road which was allowed without any parking. The majority of houses do not have off-street parking and Holloway students park along the road during the daytime;
 - The proposal to increase on-site car parking from 2 to 3 spaces increases the risk of collisions with parking cars on Harvest Road.
- 4.2 The Council's Drainage Engineer comments that there is a history of localised flooding in the front of No. 90 Harvest Road. From the information available, he comments that it would appear that this is mainly highway flooding, with some element of garden flooding. He comments that any permission should ensure that the problem is not made worse by the development. He considers that this can be secured by the imposition of a condition on any permission.

5. Planning Considerations

- 5.1 The site is in the urban area. The proposal would increase the efficiency of use of the site, and as such the development would be in accordance with Government and Development Plan policy to maximise the use of such sites. However, other material planning considerations include impact on the character and visual amenities of the area; on the residential amenities of adjoining properties; surface water; energy efficiency and renewables; infrastructure; views of neighbours and planning history.
- 5.2 The predominant character of the area is two-storey Victorian houses. However, the area is already mixed, with a three-storey flat roofed, modern block of flats to the north; the larger scale social club and Constitutional Club to the north west; the bungalows to the south and Church and Jurgens Centre to the rear (east). The Design Statement suggests that the proposed development takes its visual cue from the adjacent Victorian properties and suggests that the building respects the scale and proportion of its neighbours echoing their form and rhythm.
- 5.3 No objections are raised to the demolition of the single-storey side extension and detached garage block to No. 90 Harvest Road. These are unattractive additions, and their removal would enhance the street scene. The proposed raising of the ridge of No. 90 Harvest Road is considered acceptable visually. The angle of pitch of the front roof slope will remain as existing. The proposed rear extension would project back roughly in line with the rear of No. 89 Harvest Road. The property at No. 89 Harvest Road contains a glazed door and window in its southern flank which would be affected by the proposed extension.

The door appears to illuminate a utility and stairs area and the window at the rear (of the flank) a storage area. This rear room also receives light from a window on the rear elevations, and hence it is not considered that loss of light would seriously erode the residential amenities of the ground floor occupiers of No. 89 Harvest Road.

- 5.4 The property also contains a first floor window on the rear of the link between the properties. Whilst the extension would break the 45° and 60° line in relation to this window, the 60° line is only broken marginally and on balance it is not considered that refusal would be justified in relation to the amenities of the adjoining property.
- 5.5 The two/three storey detached building proposed on the southern side of the extended property (at No. 90 Harvest Road) would have a presence in both Harvest Road and St Cuthbert's Close. The proposed building is to be set back from Harvest Road by some 5.5-6 metres and some 3 metres back from the front of No. 90 Harvest Road. The setting back will limit the visual impact of the building from Harvest Road and the staggered building line reflects that of the adjoining buildings. Whilst the front elevation is gabled rather than hipped back, this is not untypical in the road – the roofs of properties opposite being a mixture of hips and gables. The raising of the ridge of No. 90 and erection of a new higher building, would go away from the existing stepping down of height of the buildings along this side of the road, but again, there is not a consistent stagger in heights on the opposite side of the road.
- 5.6 In relation to the St Cuthbert's Close frontage, the proposed building would be set only 0.5-2m from the site boundary. Whilst this is minimal, there is a planted strip of land between the site and road which would result in a separation of some 7m between the building and back edge of the pavement. Existing trees would also be retained on this adjoining land, providing an immediate screen and limiting the visual impact of the proposed building. The eaves height along the flank is only 4.8m and the ridge 8.2m and hence from the southern side the bulk of building is considered reasonable and in keeping with the character of the road.
- 5.7 Revised plans have been received which address concerns initially raised over the detailed design of the new building and the design is now considered to be acceptable.
- 5.8 The application site covers the whole of the site of No. 90 Harvest Road. However, it is still considered relevant to look at the impact of the proposed building on the residential amenities of the dwelling to remain (as extended). The single-storey part of the new building would marginally breach the 60° line from the nearest window in the flank of No. 90 Harvest Road and the two-storey part would marginally breach the 45° line. However, when comparison is made against the existing plans, the breaches are less than the existing. Furthermore, the proposed extension is shown to be open plan at the rear, so the kitchen/breakfast room would receive borrowed light from the other set of double doors. On balance, therefore, the proposal is considered to be acceptable in relation to No. 90 Harvest Road.

- 5.9 The site is not in an area liable to flood but does experience localised flooding. In accordance with Government advice in Planning Policy Statement 25 : 'Development and Flood Risk' a condition is recommended on any permission which would require the use of Sustainable Urban Drainage Systems (SUDs) to limit run-off from the site. An informative is also recommended to reinforce this.
- 5.10 A resident has raised concerns over the impact on wildlife. The ground disturbance would be limited and it is not considered that protected species would be affected by the proposed development. However, the building could provide a roosting habitat for bats, and so a condition is recommended on any permission to require a survey prior to demolition of the outbuilding building and mitigation should bats be found.
- 5.11 An Energy Statement has been submitted with the application which explains the energy efficient measures to be incorporated within the design of the building. In addition, it assesses alternative renewable technologies and recommends that solar water panels be incorporated which would provide 11.5% of energy from renewable sources, which complies with saved Structure Plan Policy SE2 and the Council's Interim Advice Note.
- 5.12 The application also includes a unilateral undertaking in accordance with the Council's Supplementary Planning Guidance Note on Planning Obligations to support the social and physical infrastructure associated with new development.
- 5.13 The level of parking proposed accords with Government advice and parking standards. An outbuilding is proposed for the storage of bicycles and this should encourage the use of alternative means of transport and the site is close to shops, services and bus stops. Concern has been expressed by a local resident but no objections are raised by the Highway Authority and no policy objection can reasonably be raised on this point.
- 5.14 Consideration has been given to Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. The objections raised have been taken into account but are not considered to justify refusal. However, recommended conditions are considered necessary in the wider public interest of protecting residential amenity, character of the area, trees, wildlife and to ensure that localised flooding is not exacerbated.

Officer's Recommendation

Subject to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act (as amended) to secure a financial contribution of £10,290 towards the infrastructure tariff:

THE DIRECTOR OF TECHNICAL SERVICES BE AUTHORISED TO GRANT PERMISSION subject to the following conditions:

1. Full Application – Standard Time Limit (C015)
2. External Materials – Samples Required (C005)
3. No Additional Windows (C021) - 'northern and southern flank' and add 's' to 'elevation'
4. Retention of Car Parking Spaces (C032)
5. Details of Levels (C038)
6. Protective Fencing – General (C053)
7. Storage of Materials Within Fencing (C055)
8. Ground Levels/Excavation Within Fencing (C056)
9. Burning (C057)
10. Hard Landscaping Details (C058)
11. Soft Landscape Details (C059)
12. Tree Replacement – Proposed Trees (C051)
13. Renewable Energy – Full Statement Submitted (C064)
14. Sustainable Urban Drainage Systems (C173)
15. Infrastructure Tariff (C201)
16. Bat Survey (C150) – delete 'and the felling of any trees' and replace with 'demolition of any of the outbuildings'
17. Before the development is occupied, the proposed modified vehicular access to Harvest Road shall be constructed in accordance with the approved plans.

Reason: In the interests of highway safety and to comply with saved Policy DN2 of the Surrey Structure Plan 2004 and saved Policy MV4 of the Runnymede Borough Local Plan Second Alteration 2001.

18. No new development shall be occupied until space has been laid out within the site in accordance with the approved plans for 3 cars, 2 motorcycles and 4 bicycles to be parked. The parking area shall be used and retained exclusively for its designated purpose.

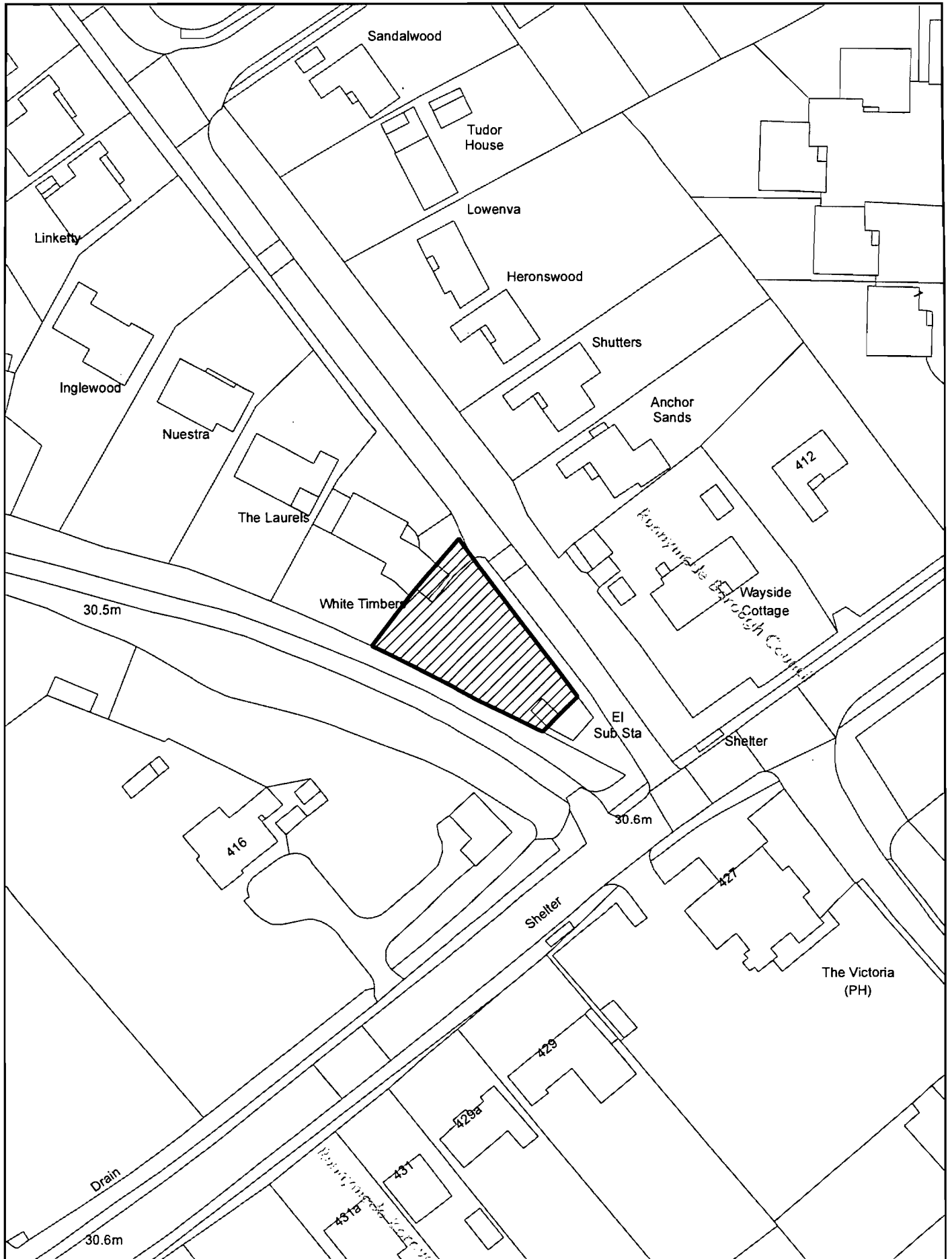
Reason: In the interests of highway safety and to comply with saved Policy DN2 of the Surrey Structure Plan 2004 and saved Policy MV4 of the Runnymede Borough Local Plan Second Alteration 2001.

Informatives

1. The applicant is advised that there is a localised flooding problem in the vicinity of the site and that details pursuant to Condition 14 should meet the required standard plus have an allowance for exceedance. Excess run-off should be contained on-site and should not flood the properties or highway.
2. Roosting Bats (I67)
3. Notification by Landowner/Developer of Date of Commencement of Development (I17) - '15'
4. The development hereby granted consent has been assessed against the following Development Plan policies – saved Policies L01, SE1, SE2, SE4, SE6, SE9, DN1, DN2 and DN3 of the Surrey Structure Plan 2004 and Policies HO1, HO9, BE2, NE14 and NE20 of the Runnymede Borough Local Plan Second Alteration April 2001 and other material planning considerations including third party representations. It has been concluded that the development would not result in any harm that would justify refusal in the public interest. The Planning Officer's report giving a more detailed assessment of this application is available for inspection at the Technical Services Department and copies can be obtained subject to a photocopying charge.
5. The applicant is advised that this decision relates to the following drawing numbers received on the dates shown :-

<u>Drawing Number:</u>	<u>Date Received:</u>
2.10.03/P/101,102, 104, 105 /202, 204, 301, 302	2.09.08
6464/01	2.09.08
2.10.03/P/501, 404, 204, 403 /402, 201, 203, 401	23.09.08
2.10.03/P/202A	2.10.08
2.10.03/P/405A	2.10.08

Any permission hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.



	<p>RU.08/0918 NOT TO SCALE DATE: 29/10/2008</p>	<p>ADDRESS: WHITE TIMBERS WOODHAM PARK WAY WOODHAM</p>	<p>Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings Runnymede Borough Council 10006086</p>
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RU.08/0918 Date reg: 12.09.08 Ward: WOODHAM

LOCATION: WHITE TIMBERS, WOODHAM PARK WAY, WOODHAM
PROPOSAL: ERECTION OF PART SINGLE STOREY, PART TWO STOREY SIDE
EXTENSION FOLLOWING DEMOLITION OF EXISTING SINGLE
STOREY SIDE EXTENSION, GARAGE AND CAR PORT.
TYPE: FULL PLANNING PERMISSION
APPLICANT: Mr & Mrs B. Marshall

Local Plan: Saved policies relevant to the consideration of this application are:
BE2, HO9

1. Site

1.1 White Timbers, Woodham Park Way is a two storey detached dwelling located within the urban area of Woodham. The dwelling occupies a plot to the south-west side of Woodham Park Way. The property has a number of existing trees within the site which are not subject to a Tree Preservation Order and Green Belt land lies immediately to the south west of the application site. There are a variety of styles of dwellings within this part of Woodham Park Way.

2. History

2.1 *RU.90/0780* Outline application for the erection of a 3 bedroom detached bungalow. Withdrawn January 1991.

2.2 *RU.03/0134* Full planning permission for the erection of one 3 bedroom detached dwelling and garage. Refused permission in April 2003 for three reasons, that the proposed dwelling would by reason of its scale, height and position be (1) detrimental to the character and visual amenities of the surrounding area; (2) visually prominent and detrimental to the visual amenities of the neighbouring green belt land and (3) would be detrimental to the residential amenities of the existing dwelling 'White Timbers'

2.3 *RU.03/1329* Erection of single dwelling. Refused permission on 05.02.04 on grounds that the proposed dwelling would be cramped on the site and out of character with the locality to the detriment of the visual amenities of the area. Appeal Dismissed November 2004.

2.4 *RU.08/1014* Demolition of existing single storey side car port and erection of new two storey detached dwelling with integral garage. Not yet determined.

Application

- 3.1 This is a full application for a part two storey, part single storey side extension to the south-east side of the dwelling. The existing single storey flat roofed extension, comprising a utility, garage and car port would be demolished.
- 3.2 The two storey extension would measure 2.1 metres in width by 5.9 metres in depth, with a height of 7.25 metres. The single storey part would measure a maximum of 5.3 metres in width at the rear and 2.9 metres to the side of the two storey part. First floor level windows are proposed to the side and front elevations only. The extension would be constructed from matching materials.

4. Consultations

- 4.1 The application has been advertised on the Council's list of weekly applications and 16 letters of notification have been sent out to neighbouring properties. Four letters of representation has been received making the following comments:

- There is also an application pending for a further house on this site and it is essential that this application for an extension is considered with the other additional development as it alters the profile of the house and the whole plot. Applications for a single dwelling have given rise to much consternation in recent years. This application should be held in abeyance and therefore we object to this application.
- Whilst there is no objection to the extension it will change the layout of the garden of the application site and should not form the basis of a further application for a second dwelling on the site.

- 4.2 The County Highway Authority has no objection to this proposal.

5. Planning Considerations

- 5.1 The site lies within the urban area where additional residential accommodation is normally acceptable subject to detailed considerations. The main issues to consider are the impact on the street scene and the impact on residential amenities.
- 5.2 The frontage of the property is open to Woodham Park Way with a few trees and low level fencing to the front boundary of the garden, whilst to front of the dwelling itself, the property boundary is open enabling clear views of the existing dwelling. The proposed extension would replace a single storey extension with a larger footprint and an overall width of approximately 10.1 metres. The two storey part of the extension would be set back from the front and rear elevations by 700mm and the ridge would also be set down from the ridge of the main dwelling. This part of the extension would be 2.1 metres in width, significantly less than the width of the existing single storey extension.

- 5.3 The single storey part of the proposed extension would have a mono-pitched roof to the side of the two storey part and a hipped roof to the rear. The proposed extension would appear subservient to the main dwelling and would result in a more compact built footprint on the site. The proposed extension would also reflect the scale, character and appearance of the existing dwelling and although it would be viewed within the street scene it would not be visually dominant or detract from the visual amenities of the property or the locality. The proposed extension also complies with the Council's Householder Guide to extensions. In addition, given the scale and location of the proposed extension it is not considered to be detrimental to the visual amenities of the adjacent Green Belt land to the south-west.
- 5.4 The application site occupies a corner plot on Woodham Park Way. The proposed extension would be located to the south-east side of the existing dwelling. The south-west and south-east boundaries of the site are formed by mature and substantial hedging/trees, which screens the neighbouring dwelling to the south-west from view. Given the scale of the proposed extension and its position in relation to the neighbouring dwellings, it is not considered that the proposed extension would result in any harm to the amenities of the occupiers of the neighbouring properties.
- 5.5 Whilst an application (RU.08/1014) for a new dwelling on the site is currently under consideration, both schemes are mutually exclusive and can be determined separately.
- 5.6 Consideration has been given to Articles 1 and 8 of the First Protocol of the European Convention on Human Rights. It is not considered that the granting of permission would result in a violation of any person's rights under the Convention.

Officers' Recommendation

GRANT subject to the following conditions:

1. Full Application – Standard Time Limit (C015)
2. External Materials – Samples Not Required (C006) – External Materials
3. Use of Domestic Garage – Private Vehicles Only (C030)

Informative:

1. The development hereby granted consent has been assessed against the following Development Plan policies – saved Policy SE4 of the Surrey Structure Plan 2004 and Policies BE2 and HO9 of the Runnymede Borough Local Plan Second Alteration April 2001 and other material planning considerations including third party representations. It has been concluded that the development would not result in any harm that would justify refusal in the public interest.

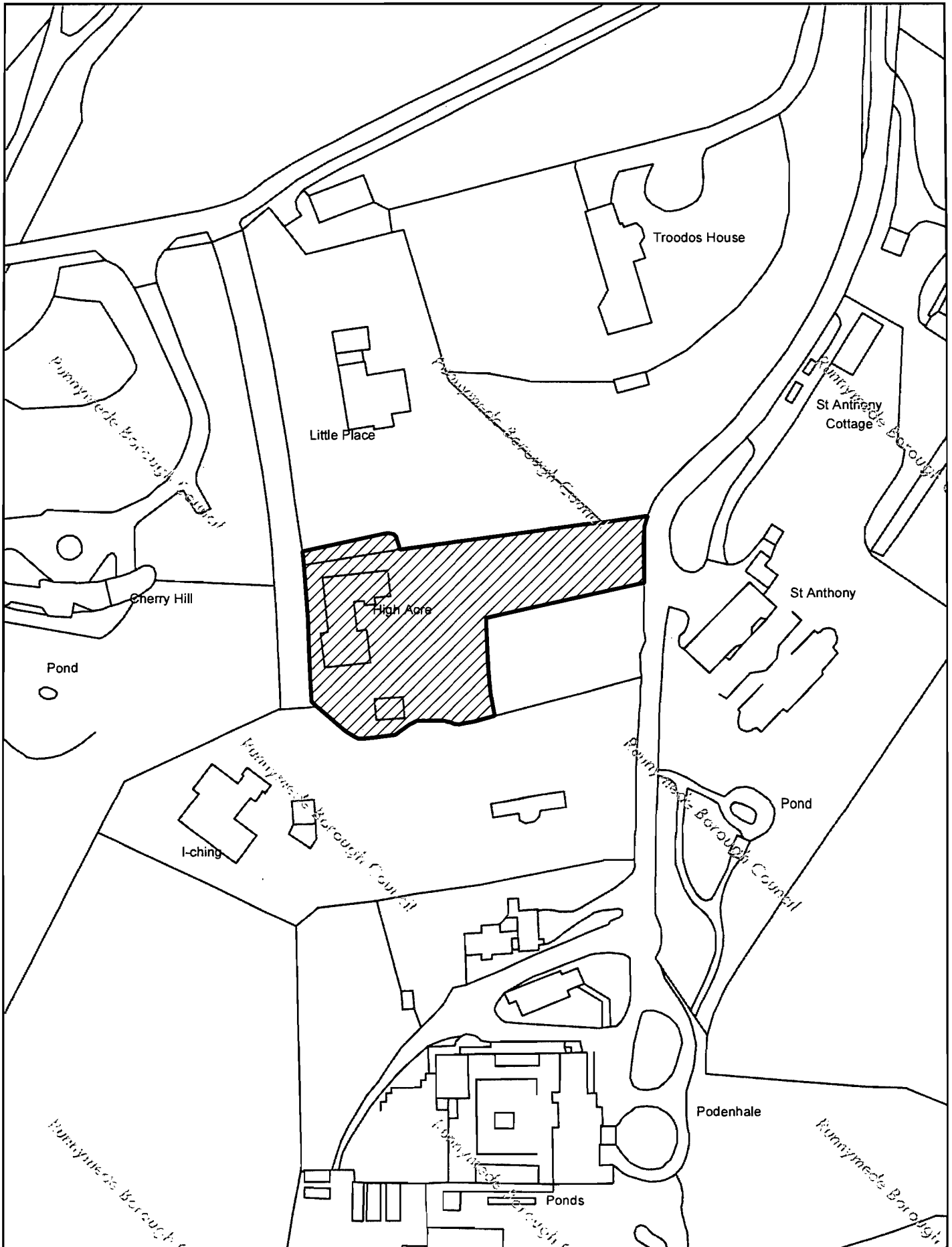
The Planning Officer's report giving a more detailed assessment of this application is available for inspection at the Technical Services Department and copies can be obtained subject to a photocopying charge.

2. The applicant is advised that this decision relates to the following drawing numbers received on the dates shown: -

<u>Drawing Number:</u>	<u>Date Received:</u>
567/001	11.09.08
567/101	11.09.08

Any permission hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.

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	<p>RU.08/0919 NOT TO SCALE DATE: 29/10/2008</p>	<p>ADDRESS: HIGH ACRE PORTNALL DRIVE VIRGINIA WATER</p>	<p>Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Runnymede Borough Council 100006086</p>
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RU.08/0919 Date Reg: 15.09.08

Ward: VIRGINIA WATER

LOCATION: HIGH ACRE, PORTNALL DRIVE

PROPOSAL: ERECTION OF REPLACEMENT BUNGALOW WITH BASEMENT AND
RETENTION OF EXISTING DETACHED GARAGE FOLLOWING
DEMOLITION OF EXISTING BUNGALOW

TYPE: FULL PLANNING PERMISSION

APPLICANT: Mr and Mrs Lerche

Local Plan: Saved policies relevant to the consideration of this application are:

Second Alteration April 2001: GB6

1. Site

1.1 The site lies in the Green Belt and comprises some 0.3 hectares. The existing bungalow is located at the eastern side of a lane/ cul-de-sac off Portnall Drive.

1.2 The existing bungalow, with dormer accommodation, is located at the western end of the site and screened from the road by walling. The land levels drop from north to south and west to east. There is a detached garage located at the southern end of the site on lower ground than the dwelling.

2. History

2.1 There is an extensive history relating to the site. Prior to 1985 the following applications were considered:

- EGH.69/13365 granted alterations and the construction of an extension to the existing bungalow in order to provide a third bedroom and new bathroom.
- EGH.70/13691 granted a double garage with a covered link joining the dwelling. The garage was erected however the link was not. Given that the consent had been part implemented the link could be constructed at any time subsequently.

2.2 In 1985 permission (RU.85/0828) was refused for the widening of the covered glazed link between the garage and dwelling. The link was larger than the unimplemented, approved link (see paragraph 2.1 above) and was refused.

2.3 In March 1986 a Certificate of Lawfulness (RU.86/0055) for the erection of an attached building comprising a games room and hobbies room and storage facility for leisure equipment; plus the erection of a garage and a new access established that these developments were permitted development.

- 2.4 The building regulations application for the garage was deposited on 1st August 1985. The report notes three separate site visits were made. It appears excavation had started on 14th May 1986, with concreting beginning the following day. A note for a visit on the 20th of the same month considers site work to be satisfactory but no indication of progress is indicated. No more site visits by building control were conducted and the case was 'written off' in March 1988 with a note to say that work had almost certainly been completed for a period in excess of 12 months.
- 2.5 The building control regulations application for a link to join buildings was deposited on 23rd June 1986 and was passed on 15th August 1986. The file notes that excavation began on 19th June 1986. This application was also 'written off' in March 1988 with a note to say that work had almost certainly been completed for a period in excess of 12 months.
- 2.6 In 1999, an application (RU.99/0775) for the erection of a dwelling, detached garage, pool house and access following the demolition of the existing dwelling and garage was withdrawn by the applicant.
- 2.7 In 2005 permission was refused (RU.05/0898) for the erection of a single storey rear extension with internal alterations, basement plant room and new porch canopy. This application was refused on Green Belt grounds.
- 2.8 In May 2008 an application was submitted for the erection of a detached dwelling with basement following demolition of the existing (RU.08/0503). This application was withdrawn due to officers concerns regarding the size impact of this replacement dwelling upon the Green Belt.

3. Application

- 3.1 This application is for a replacement bungalow with the retention of the existing detached garage. The dwelling would be sited further back than the existing dwelling (i.e. the existing dwelling has a minimum setback of 4.2 m and this would be increased to a minimum distance of 6.6 m). The dwelling would, however, be orientated the same way as the existing dwelling but whereas the existing dwelling is L-shaped the proposed dwelling would be linear.
- 3.2 The maximum length of the dwelling would be approximately 30 m and depth 12.8 m (including the porch). The existing bungalow's roadside elevation is sunken and has a lower height (between 4.1 – 5.4 m) than the rear elevation (7 m). For this proposal the land levels would be lowered so that the front and rear elevations would be at the same land level. Its height to the ridge would be approximately 6.1 metres.

3.3 A basement is proposed with a footprint larger than the proposed ground floor. This would be lit and ventilated by light wells with horizontal grilles over and on the southern side of the dwelling there would be an emergency escape ladder with access hatch in the grille. Horizontal grilles would also be located over the rear terrace. The applicants have submitted cross section plans to show the position of the basement and terrace relative to proposed ground levels.

3.4 In support a Design and Access Statement, Energy Statement and Tree Survey have been submitted. A Construction Method Statement has also been submitted.

4. Consultations

4.1 The application was advertised on the Council's weekly list and 7 letters of notification were sent out. To date one letter of objection has been received, the main concerns are summarised below:

- Site has already been extended by more than 30%;
- The proposed basement would cause environmental problems for the neighbours;
- The lane is too narrow to take the required traffic as it is a cul-de-sac.

4.2 The County Highways Authority has no objection to this proposal.

4.3 The Council's Drainage Department has been consulted and these comments will be reported at the meeting.

5. Planning Considerations

5.1 The main issue to consider is the impact of the proposal on the openness and visual amenities of the Green Belt. Consideration also has to be had to the impact of the proposal on residential amenities. Due regard will be had to the saved policies in the Development Plan and Government Guidance.

5.2 Policy GB6 of the adopted Local Plan is the Council's interpretation of paragraph 3.6 of Planning Policy Guidance Note 2 : 'Green Belts' (PPG2) (i.e. replacement dwellings need not be inappropriate provided that they are not materially larger than that replaced), and restricts the size of replacement dwellings by reason of criteria including criterion (i) which refers to a 30% floor area increase threshold.

5.3 Planning refusal RU.05/0898 is a material consideration. The officer's report to committee came to the following conclusions regarding the size of the dwelling at May 1986:

- The size of the dwelling at May 1986 was 138 sq m. This base figure excluded the link or games room which were not substantially built at the time (see paragraphs 2.4 and 2.5 above);
 - Existing post May 1986 additions total 176 sq m (i.e. 127% floor area increase) so therefore the size of the existing dwelling on site is 314 sq m.
- 5.4 Given this planning history and given that the existing dwelling house is well in excess of the 30% threshold, any further increase in size by either an extension or as a replacement dwelling would be inappropriate and harmful development in the Green Belt. For consistency the base figure accepted under RU.05/0898 will be used to calculate this application. The size of the proposed dwelling, including the basement (448 sq m) would be approximately 744 sq m and so the size of this replacement dwelling would represent a 439% floor area increase. This is clearly contrary to Policy GB6.
- 5.5 In this instance there are considered to be very special circumstances to justify a departure from policy. Firstly the proposed basement would be wholly below ground and whilst it would be larger than the above ground floor level footprint by extending under a terrace area. However, the applicants have submitted additional cross sections plans to show how the basement would not be exposed. In these circumstances it is considered reasonable to exclude the basement from the floor area calculations as it cannot be said to demonstrably harm the openness of the Green Belt. Hence, excluding the basement the above ground floor area size of the replacement dwelling would be 296 sq m or a 114% increase in floor area.
- 5.6 Clearly this above ground floor area increase is still contrary to criterion (i) of saved Policy GB6 and would normally be refused planning permission. There are however further very special circumstances to justify this development. This is because the footprint of the dwelling above ground floor level would be approximately the same as the existing dwelling and its height would be no greater. What is proposed would in effect represent a like-for-like above ground level volume replacement and this is illustrated by submitted existing and proposed elevation comparisons. It would clearly be unreasonable for the applicant to forego existing floor area on site and what is proposed would be no more harmful to the visual amenities of the Green Belt than the existing built form on site. By sinking the dwelling at the rear there would be a net benefit to the Green Belt as the visible height would appear less and so actually have less impact on the openness of the Green Belt.
- 5.7 Criteria (1) to (4) of Policy GB6 respectively require that a scheme does not result in a built development or volume harmful to the Green Belt. The proposal would be closer to the northern boundary but would be sited further away from the western boundary so it is considered that overall adequate separation distances have been maintained. There is no material increase in height which does not make the scheme more prominent. For the reasons outlined above what is proposed is considered to satisfy these criteria. The proposal would also adhere to the guidance in PPG2 by not being materially larger than that which it would replace.

- 5.8 The proposal by reason of its size and distances from the boundaries would cause no adverse impact on neighbour's residential amenities. Concerns have however been raised on the impact of construction work along this narrow lane and so to obviate these concerns and on the request of officers the applicant has submitted a Construction Method Statement. This Statement makes reference to the applicant's obligation to comply with the Wentworth Covenants. The applicant has further advised that parking by contractors will be prohibited on the Estate verges, that a protective green plastic chain link fence will be erected along the verge to prevent vehicles running onto it, signs reminding contractors will also be erected and that if any damage is caused then the verges will be repaired within 1 week. A condition can also be imposed requiring details of where vehicles will park and turn and it is considered that with these safeguards in place this will ensure minimal disruption for the neighbours.
- 5.9 Residents also raise concerns over the potential effects of the proposed basement on the environment. Whilst it is common practice to include basements with replacement dwellings on the Wentworth Estate, given the objector's concerns the Council's Drainage Department will provide comment on the suitability of this, and if necessary, what further safeguards can be put in place. These will be reported at the meeting. It should also be noted that the site lies in a low risk flooding area.
- 5.10 The Energy Statement submitted is considered acceptable to comply with saved Policy SE2 of the Surrey Structure Plan.
- 5.11 Consideration has been given to the requirements of Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights.

Officers' Recommendation

GRANT subject to the following conditions:

1. Full Application – Standard Time Limit (C015)
2. External Materials – Samples Required (C005)
3. Amend C020 to delete first sentence and start of second sentence and insert: 'There shall be no variation to the agreed land levels as shown on drawing nos. 07/31/404, 07/31/406 and 07/31/407, and the development shall be carried out in accordance with the approved details and...'
4. No Additional Windows (C021)
5. Permitted Development Rights Removed – Classes A to E in Green Belt (C036)
6. The height of the dwelling hereby permitted shall not exceed 6.1 m in height measured from the immediate adjoining finished ground level Reason: R045

7. Control Over Additional Outbuildings on Green Belt Sites (C043)
8. Demolition of Existing Buildings in the Green Belt (C045) (High Acre (excluding the retained garage) 07/31/400*)
9. The dwelling hereby permitted shall not exceed the floor area as indicated on drawing no. 07/31/403 Reason: R047
10. Tree Retention – General (C048) (*07/31/402)
11. Tree Retention – Specific (C049)
12. Tree Replacement – Existing Trees (C050)
13. Protective Fencing – Prior to Submission of Details (C054)
14. Renewable Energy – Full Statement Submitted (C064)
15. Construction Traffic and Workers (C106)
16. Sustainable Urban Drainage Systems (C173)

Informatives:

1. The development hereby granted consent has been assessed against the following Development Plan policies – saved Policy L04 of the Surrey Structure Plan 2004 and Policy GB6 of the Runnymede Borough Local Plan Second Alteration April 2001 and other material planning considerations including third party representations. It has been concluded that the development would not result in any harm that would justify refusal in the public interest. The Planning Officer's report giving a more detailed assessment of this application is available for inspection at the Technical Services Department and copies can be obtained subject to a photocopying charge.
2. The applicant is advised that this decision relates to the following drawing numbers received on the dates shown:

<u>Drawing Number:</u>	<u>Date Received:</u>
07/31/400, 401, 402, 403, 404, 406, 407, 408	10/9/2008
Energy Statement	10/9/2008
Design and Access Statement	10/9/2008
Arboricultural Survey	10/9/2008
Construction Method Statement	15/10/2008

Any permission hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.