

From: Development Management <DevelopmentManagement@DOVER.GOV.UK>

Sent: 07 Oct 2025 12:55:38

To:

Cc:

Subject: FW: Your Ref: 25/00999 - Part 6 application at Uplands Farm, Meggett Lane, Alkham - update to DMS

Attachments:



[REDACTED]
Support Officer

Development Management

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Tel: 01304 872450

Email: [REDACTED]

Web: <http://dover.gov.uk>



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From: [REDACTED]@DOVER.GOV.UK>

Sent: 07 October 2025 12:46

To: Development Management <DevelopmentManagement@DOVER.GOV.UK>

Cc: [REDACTED]@DOVER.GOV.UK>

Subject: Fw: Your Ref: 25/00999 - Part 6 application at Uplands Farm, Meggett Lane, Alkham - update to DMS

Hi

Can you add the below to 25/00999 as sensitive and 'agent e-mail to officers'

Thanks

Lucy

[REDACTED]
Team Leader

Development Management

Dover District Council

Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

Tel: [REDACTED]

Email: [REDACTED]@DOVER.gov.uk

Web: dover.gov.uk



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From: [REDACTED] <[REDACTED]@tonymichaelconsulting.co.uk>

Sent: 07 October 2025 09:15

To: [REDACTED] <[REDACTED]@DOVER.GOV.UK>; [REDACTED] <[REDACTED]@DOVER.GOV.UK>

Cc: [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]@tonymichaelconsulting.co.uk>

Subject: Re: Your Ref: 25/00999 - Part 6 application at Uplands Farm, Meggett Lane, Alkham

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Good morning [REDACTED] [REDACTED]

Thank you for your email below, your review of the application, and the subsequent confirmation that Prior Approval is not required.

I firstly apologise for not replying to your message last week - I was travelling for that weekend so was en route to the airport, and to be honest, had assumed that nothing was going to change with your position.

Both my client and I are therefore very grateful for your review, and would like to thank you and [REDACTED] for your professional and fair work.

We look forward to working with you again in the future.

Kind regards

[REDACTED]

[REDACTED]
[REDACTED]
tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 01/10/2025 12:57, [REDACTED] wrote:

Dear [REDACTED]

Thank you for your e-mail below of yesterday addressed to the case officer. Thank you also for the subsequent e-mails addressed to me this morning together with photos of the site from November 2022 and further back in 2009.

As you are aware we are very close to the timeframe for which a decision must be made or else (provided the criteria within Part 6 of the GPDO is met) prior approval is granted by default. I do not want to be in that position and I am of the view that I can now advise as to where I am at with the application.

As you have been made aware, the concern we have had with the application is about the agricultural use and whilst there might be agriculture in place at the current time the actual test is that there needs to be an agricultural use at the time of carrying out the operation. A difficult test to establish at this point in time and I am aware that the applicant works outside of agriculture but I can accept that this is not necessarily relevant. I do think that it is a very finely balanced case but I have no evidence to the contrary that at the time of carrying out the proposed works that there will be not be an agricultural use on the land. What has happened before on the land over time is not relevant to the consideration of this application. In turn, the quote from the Samalas case, whilst about a Part 6 application, is not from the salient point of the case which rested on the fact that it was necessary to consider all the conditions referred to in Part 6.

I have concluded that we can support the application and will determine that prior approval is not required. As you are aware the decision is due tomorrow and I will therefore need to write a delegated report which will take some time. As you have previously stated case law has confirmed that in agreement with an applicant, a suitable extension of time can be allowed and on this occasion I wonder whether your client would be amenable to extending the time period for making a decision until next Wednesday to allow for a report to be written, signed off by a senior officer and the admin process completed.

I look forward to hearing from you by the end of today.

Regards

██████████
Team Leader

Development Management



Dover District Council
Council Offices, White Cliffs Business Park,
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From: ██████████@tonymichaelconsulting.co.uk>

Sent: 30 September 2025 17:40

To: ██████████@DOVER.GOV.UK>

Cc: ██████████@DOVER.GOV.UK>; ██████████

██████████@tonymichaelconsulting.co.uk>

Subject: Re: Your Ref: 25/00999

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Hi ██████████

Thank you for the reply, and it is disappointing that you cannot agree with our analysis and conclusions.

You state that you do not consider the site is an active agricultural use, yet Uplands Farm has no contrary planning history, there are sheep and grazing agreements in place, and the GPDO requires a "light touch" approach with the burden of evidence set very low. I cannot reconcile your position therefore.

In addition, the recent Lawful Development Certificate clearly demarcates the sole residential curtilage, and limits it to the proximate surrounding areas of the bungalow.

Everything else must therefore remain and be a farm, and in agricultural use.

Appeal Ref: APP/J1860/W/20/3263591 clearly states;

No agricultural activities have been observed by the Council. Nonetheless, the barns have an overtly agricultural and utilitarian appearance. There is no evidence, including planning permissions, that any other use of the barns has commenced. In the absence of any convincing evidence to the contrary and on the balance of probabilities, it is my judgement that the buildings were last in use for agricultural purposes as part of an agricultural holding. Even if they were not in use on the relevant date, there is nothing to indicate that the agricultural use has been replaced by another.

This principle clearly applies to Uplands Farm. You have no contrary "convincing" evidence, and our evidence in support far exceeds the low bar of balance of probabilities.

3 further points;

1) You state you have discussed the matter with the council's legal department. Aside from this being the opposite of the "light touch" the GPDO requires, and the stated requirement from the High Court judicial review of **Smolas v Herefordshire Council**, of;

" It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system"

It also indicates that the matter in the LPA's view is at least finely balanced, uncertain or arguable, and requires a legal opinion.

Given all the above, your findings should have allowed you to support the application.

2) A technical matter; Your state "*As the application is made for prior approval.....*"

This is incorrect. The application is for prior notification if the prior approval of the LPA is required. This is an important distinction.

3) You stated "*Moving forward the applicant retains options to either resubmit under Part 6 once the agricultural use of the site is further established.....*"

Again, you reiterate the sole issue being to prove an established agricultural use.

Given this clear, only, remaining issue, the appropriate and correct action of the LPA is to determine Prior Approval is indeed required, solely to present more evidence (so one has to infer) to show established agricultural use.

I have submitted above, and in below email, that the bar for evidence is low, and far more than this bar is provided and obvious, but the time period that the Prior Approval process would involve would surely allow for this additional - limited - evidence to be made clear.

Given all this, we would respectfully ask for a further review by your line manager (in your absence) and/or legal department.

If we do not hear any reply by 12 noon tomorrow, we will notify you at that time of our decision to withdraw or otherwise.

Kind regards

[Redacted]
[Redacted]
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23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 30/09/2025 16:41 [Redacted] wrote:

Hello [Redacted]

Thanks for the further information you have provided in relation to both the case law and the arrival of sheep onto the site. I apologise for not responding sooner however I had been waiting to discuss the application with my line manager and the Council's legal department.

Following our site visit last week and this discussion I still have concerns about the current use of the land within the Uplands Farm site. I note that the applicant has explored options for future uses of the land and has taken steps to remove debris from the site since purchasing it. However at this time I do not consider that the site is in an active agricultural use which would enable it to benefit from the provisions of Schedule 2, Part 6, Class A of the General Permitted Development Order (GPDO)(2015). These provisions relate to the carrying out of excavation or engineering operations on agricultural land comprised in an agricultural unit of 5 hectares or more in area. I also therefore have concerns about whether the proposed track is reasonably necessary for the purposes of agriculture within the unit.

As the application is made for prior approval, but I do not believe the site benefits from the provisions of Schedule 2, Part 6, Class A of the GPDO, I am recommending that prior approval is refused.

I note from your email and our on-site discussions that you are minded to avoid a refusal being issued if possible, and so you now have the option to withdraw the application. Given the tight timescale to determine the prior approval within 28 days (by 2nd October), I will need your confirmation of this by midday tomorrow, and if the application is not withdrawn by then, I will arrange for a refusal to be issued.

Moving forward the applicant retains options to either resubmit under Part 6 once the agricultural use of the site is further established, or to submit a full planning application for the proposed track.

CC: [REDACTED]

Good morning [REDACTED]

The first batch of sheep arrived over the weekend - photos sent to you via separate emails following this.

Electric fencing is also installed.

The sheep will continue to arrive, but my client insisted that the first batch were brought forward to this weekend, based on the feedback from your site visit.

You confirmed that all matters are satisfied ie. that the prior approval application is compliant in all aspects including definitional requirements and conditions met, save solely that you are not convinced that there is adequate evidence to prove "reasonably necessary for agriculture", and that you need to see ongoing agricultural activities for this to be shown. We now have sheep on site - the first batch of 50.

My clients asks therefore if you are happy to make another site visit to verify this for yourself.

You were correct to say that the 28 day time limit cannot be extended - in my research of the case law I referred to and that we agreed that I would send to you, this is confirmed therein. I quote below from the High Court judicial review of **Smolas v Herefordshire Council, 2021**, which I attach for your reference.

1)

" Is a prior approval application like a planning application?

*The statutory requirements relating to prior approval **are much less prescriptive than those relating to planning applications.***

*This is deliberate, as prior approval is a **light-touch process** which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place. **It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.***

Paragraph: 028 Reference ID: 13-028-20140306

Revision date: 06 03 2014 "

I quote the above at the outset, as this matter now rests solely on proving **"reasonably necessary for agriculture"**. This property has always been a farm - this is not in dispute. My client has a grazing licence that has been forwarded to you, there are now sheep on the land. We have forwarded an environmental stewardship scheme plan and agreement, a rural payment agreement and proof of membership. You have seen farm vehicles on the land seeding the fields for hay. And you have seen the nature of the existing approach and access to the farm - and how unsuitable and difficult this is. If prior approval is a light touch process, then the burden of proof **must be less** than the balance of probability (more likely than not) bar required on a standard planning application.

I respectfully submit that we have shown a higher standard of evidence than the above.

2)

At para 48 (but at 38 of "Keenan"). *"The fact that the question of whether development is "reasonably necessary" for the relevant purposes is not merely an objective matter, but involves an element of judgment"*

In Keenan v Woking Borough Council & Secretary of State for Communities and Local Government [2017] EWCA Civ 438, [2018] PTSR 697, the appellant applied for prior notification as to whether or not prior approval was required for construction of a hard core track, as permitted agricultural or forestry development.

At para 73 ; *"On my interpretation of Part 6 and Part 16, whilst a two stage process is envisaged, the language used in the GPDO does not point to it being a mandatory requirement. In my judgment, local planning authorities may, in the exercise of their discretion, determine both prior notification and prior approval on the same occasion, if in the particular circumstances, it is appropriate and procedurally fair to do so. Relevant considerations are likely to be whether a local planning authority has sufficient information to determine the application for prior approval; **whether the applicant has had a fair opportunity to address any matters arising for consideration in the application for prior approval;** "*

The above shows that if you are not quite satisfied at this point, the appropriate line of action is to confirm that Prior Approval is required, and allow the applicant to address the matters raised - in this case, solely showing agriculture is taking place.

But as indicated, the sheep are now on site, and the standard of evidence required is low.

Respectfully, you are now in a position to confirm Prior Approval is not required.

3)

At 77. "In my judgment, the questions in the application form were clearly designed to address the definitional requirements of paragraphs A and A1, for example:

ix) whether the proposed development was reasonably necessary for the purposes of agriculture;

x) whether the proposed development was designed for the purposes of agriculture"

At 78. " The Claimant answered all these questions briefly, but clearly...."

At 81. " I consider that the form gave the Claimant the opportunity to provide the information which the Council required to decide (1) whether the proposed development met the definitional requirements; (2) whether prior approval was required; and (3) whether prior approval should be granted, with or without conditions, or refused. The Claimant could have provided more detail as to why he needed an agricultural building, **by reference to plans to diversify and expand the agricultural side of the business, but he did not do so.**

The above in bold text indicates that the High Court judges confirm that reference to future plans and intentions is considered acceptable as a standard of evidence to prove "reasonably necessary for agriculture"

At 87. "The Claimant filed a witness statement dated 21 May 2020, for the purposes of the costs limit, in which he described how the Covid-19 pandemic, and the loss of bookings at his holiday accommodation, had resulted in a significant reduction of income, and placed him in a precarious financial position. **Therefore he and his wife intended to expand and diversify their agricultural activities.** As his application for prior notification was made on 4 March 2020, before the first lockdown, he would not have appreciated the impact which the pandemic was going to have at the date of his initial application. However, he would have been able to submit a fresh application at any time subsequently, **and submit further evidence to support his application that the new building was reasonably necessary for the purposes of agriculture because he intended to expand and diversify his agricultural activities, in the light of the economic impact of the pandemic.**

This is reiterated above. Future intentions are enough as a standard of evidence.

4)

In Appeal Ref: APP/J1860/W/20/3263591, Wood Farm, Burnthorne Lane, Dunley, DY13 0TP - Mr John Corbo against the decision of Malvern Hills District Council.

This was a Notification for Prior Approval development (attached).

At 5. and 6;

Agricultural use

5. *The relatively modern barns stand within the land associated with a smallholding comprising a farmhouse and 21.6 acres of agricultural land and woodland. This is confirmed by the sales particulars relating to the appellant's purchase of the appeal barns in 2019. It is stated that the buildings were used for the storage of hay and agricultural equipment and machinery and were in use as part of an agricultural holding on 20 March 2013. **There is nothing to suggest that it was not part of a business operation. There is supporting evidence from the previous owners and the selling agents as well as the current owner that the use has not changed in the intervening period.***

6. *No agricultural activities have been observed by the Council. Nonetheless, the barns have an overtly agricultural and utilitarian appearance. There is no evidence, including planning permissions, that any other use of the barns has commenced. In the absence of any convincing evidence to the contrary and on the balance of probabilities, it is my judgement that the buildings were last in use for agricultural purposes as part of an agricultural holding. Even if they were not in use on the relevant date, there is nothing to indicate that the agricultural use has been replaced by another. I therefore conclude that **criteria Q1(a) is satisfied.***

The above reiterates the standard of proof that is required to show agricultural use. Even if no agricultural activities are observed.

There is no contrary evidence, no contrary planning permissions at Ulands Farm.

With the matter solely resting on showing agricultural activity - we have indeed shown this - but the above appeal decision states that we are not required to show this, on the balance of probabilities standard.

We have therefore more than exceeded the required evidence.

You have observed such activities, and we invite you to a further site visit to observe the sheep on site.

5)

In conclusion, you have all the evidence you need to confirm prior approval is not required.
Please confirm if you wish to make a site visit, and also if you are now minded to agree, as we wish to maintain the option of acting in the applicant's best interests before the determination date of 2nd October.

Kind regards

[Redacted]

[\[Redacted\]@tmcuk.org](mailto:[Redacted]@tmcuk.org)

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23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 26/09/2025 11:20, [Redacted] wrote:

Hi [Redacted]

Yes happy to meet there, see you shortly

[Redacted]

From: [Redacted] <[\[Redacted\]@tonymichaelconsulting.co.uk](mailto:[Redacted]@tonymichaelconsulting.co.uk)>

Sent: 26 September 2025 11:04

To: [Redacted] <[\[Redacted\]@DOVER.GOV.UK](mailto:[Redacted]@DOVER.GOV.UK)>; [Redacted]

[Redacted] <[\[Redacted\]@tonymichaelconsulting.co.uk](mailto:[Redacted]@tonymichaelconsulting.co.uk)>

Subject: Re: Your Ref: 25/00999

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Hi [Redacted]

I'm on my way there now - shall we meet at the bottom entrance off Alkham Road - it's about 100m before the tea rooms, and is a shared entrance with The Meadows - a caravan park i think.

We can then go up meggett lane after.

I'll be park there. Black [Redacted]

Regards

[Redacted]

On Thu, 25 Sept 2025, 13:45 [Redacted] <[\[Redacted\]@tonymichaelconsulting.co.uk](mailto:[Redacted]@tonymichaelconsulting.co.uk)> wrote:

Thank you and see you then.

Regards

[Redacted]

On 25/09/2025 13:37, [Redacted] wrote:

Hi [Redacted]

Ok, thanks. Yes I can delay until 12, see you then.

[Redacted]



██████████
Senior Planner (Development Management)
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield,
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From: ██████████@tonymichaelconsulting.co.uk>

Sent: 25 September 2025 13:18

To: ██████████ @DOVER.GOV.UK>; ██████████

██████████@tonymichaelconsulting.co.uk>

Subject: Re: Your Ref: 25/00999

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Hi ██████████

I have a 10am Pre application meeting with a TDC officer in Ramsgate. That will take probably 30 - 45mins.

Then it is a 40 min journey for me.

Can you meet at 12 noon, to be on the safe side?

I might be able to meet at 11.30/45 at a push. But 12 better if you can manage this.

Regards

██████████
██████████
██████████

[@tmcuk.org](mailto:██████████@tmcuk.org)

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 25/09/2025 13:13, ██████████ wrote:

Hi ██████████

I cant be there im in france but will happily be on the phone

Kind regards

██████████
Managing Director

Tel: ██████████
Mobile: ██████████





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From: [REDACTED]@DOVER.GOV.UK>
Sent: 25 September 2025 12:01
To: [REDACTED]@tonymichaelconsulting.co.uk>
Cc: [REDACTED]
Subject: RE: Your Ref: 25/00999

Hello [REDACTED]

Thanks for the additional information provided.

I am intending to carry out a brief site visit to Uplands Farm, and given the determination date is next week I will need to do this tomorrow. I have time available at 11am.

I would be happy to meet either or both of you on site if you are available at that time, but if not, I am content to carry out the visit unaccompanied and will definitely not need access to any buildings given the nature of the proposal.

I'd be grateful if you could confirm receipt of this message and that I'll be able to access the site tomorrow.

Thanks and regards,



[Redacted]

Senior Planner (Development Management)
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield,
Dover CT16 3PJ

Email: [Redacted]@dover.gov.uk
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From: [Redacted]@tonymichaelconsulting.co.uk>
Sent: 18 September 2025 12:08
To: [Redacted]@DOVER.GOV.UK>
Cc: [Redacted]@tonymichaelconsulting.co.uk>; [Redacted]
Subject: Re: Your Ref: 25/00999

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Good morning [Redacted]
I attach revised drawing 02A, revised Support statement, letter from Natural England dated 24 July 2025 ref. Environmental Stewardship schemes, and grazing licence.
Specifically the proposed private way is now amended to follow a more straight, direct line and to solely access the farm buildings/barns area.
It still retains a curved line in the middle field as it avoids the steepest inclines by doing this. It is now at least 50 - 70m less in length than indicated on the application form.
The Support statement is amended to reference the Environmental Stewardship schemes entered into by the applicant (sign-off on this is expected imminently and will be forwarded to you), as well as a grazing licence for sheep. Amended text is highlighted in light green for ease of your reference.
There is more evidence on various present farming activities that I am awaiting and will forward when I have them - hopefully today.
If you have any queries then please revert to me.
Kind regards

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[@tmcuk.org](#)
tmc commercial

On 17/09/2025 16:07, [Redacted] wrote:
Hi [Redacted]

Thanks for your email. Is the additional/supplementary information still expected to arrive today?

Thanks,

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From: Development Management <DevelopmentManagement@DOVER.GOV.UK>

Sent: 07 Oct 2025 12:55:52

To:

Cc:

Subject: FW: Your Ref: 25/00999 - Part 6 application at Uplands Farm, Meggett Lane, Alkham - update to DMS

Attachments:



[REDACTED]
Support Officer

Development Management

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Tel: 01304 872450

Email: [REDACTED]@dover.gov.uk

Web: <http://dover.gov.uk>



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From: [REDACTED]@DOVER.GOV.UK>

Sent: 07 October 2025 12:47

To: Development Management <DevelopmentManagement@DOVER.GOV.UK>

Cc: [REDACTED]@DOVER.GOV.UK>

Subject: Fw: Your Ref: 25/00999 - Part 6 application at Uplands Farm, Meggett Lane, Alkham - update to DMS

Hi

Can you add the below to DMS as sensitive for 25/00999 as 'applicant e-mail to officers'

Thanks

[REDACTED]
Team Leader

Development Management

Dover District Council

Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

Tel: [REDACTED]

Email: [REDACTED]@DOVER.gov.uk

Web: dover.gov.uk

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From: [REDACTED]

Sent: 07 October 2025 09:29

To: [REDACTED] @tonymichaelconsulting.co.uk>; [REDACTED] @DOVER.GOV.UK>; [REDACTED] @DOVER.GOV.UK>

Cc: [REDACTED]

Subject: RE: Your Ref: 25/00999 - Part 6 application at Uplands Farm, Meggett Lane, Alkham

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A thank you from me too [REDACTED] and [REDACTED]

Kind regards

[REDACTED]

Managing Director

Tel: [REDACTED]

Mobile: [REDACTED]



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From: [REDACTED] <[\[REDACTED\]@tonymichaelconsulting.co.uk](mailto:[REDACTED]@tonymichaelconsulting.co.uk)>
Sent: 07 October 2025 09:15
To: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>
Cc: [REDACTED] <[\[REDACTED\]@tonymichaelconsulting.co.uk](mailto:[REDACTED]@tonymichaelconsulting.co.uk)>
Subject: Re: Your Ref: 25/00999 - Part 6 application at Uplands Farm, Meggett Lane, Alkham

Good morning [REDACTED] [REDACTED]

Thank you for your email below, your review of the application, and the subsequent confirmation that Prior Approval is not required.

I firstly apologise for not replying to your message last week - I was travelling for that weekend so was en route to the airport, and to be honest, had assumed that nothing was going to change with your position.

Both my client and I are therefore very grateful for your review, and would like to thank you and [REDACTED] for your professional and fair work.

We look forward to working with you again in the future.

Kind regards

[REDACTED]

[REDACTED]

tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 01/10/2025 12:57, [REDACTED] wrote:

Dear [REDACTED]

Thank you for your e-mail below of yesterday addressed to the case officer. Thank you also for the subsequent e-mails addressed to me this morning together with photos of the site from November 2022 and further back in 2009.

As you are aware we are very close to the timeframe for which a decision must be made or else (provided the criteria within Part 6 of the GPDO is met) prior approval is granted by default. I do not want to be in that position and I am of the view that I can now advise as to where I am at with the application.

As you have been made aware, the concern we have had with the application is about the agricultural use and whilst there might be agriculture in place at the current time the actual test is that there needs to be an agricultural use at the time of carrying out the operation. A difficult test to establish at this point in time and I am aware that the applicant works outside of agriculture but I can accept that this is not necessarily relevant. I do think that it is a very finely balanced case but I have no evidence to the contrary that at the time of carrying out the proposed works that there will be not be an agricultural use on the land. What has happened before on the land over time is not relevant to the consideration of this application. In turn, the quote from the Samalas case, whilst about a Part 6 application, is not from the salient point of the case which rested on the fact that it was necessary to consider all the conditions referred to in Part 6.

I have concluded that we can support the application and will determine that prior approval is not required. As you are aware the decision is due tomorrow and I will therefore need to write a delegated report which will take some time. As you have previously stated case law has confirmed that in agreement with an applicant, a suitable extension of time can be allowed and on this occasion I wonder whether your client would be amenable to extending the time period for making a decision until next Wednesday to allow for a report to be written, signed off by a senior officer and the admin process completed.

I look forward to hearing from you by the end of today.

Regards

██████████
Team Leader
Development Management



Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

Tel: ██████████
Email: ██████████@DOVER.gov.uk
Web: dover.gov.uk

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From: ██████████@tonymichaelconsulting.co.uk>
Sent: 30 September 2025 17:40
To: ██████████@DOVER.GOV.UK>
Cc: ██████████>; ██████████@DOVER.GOV.UK>; ██████████
██████████@tonymichaelconsulting.co.uk>
Subject: Re: Your Ref: 25/00999

You don't often get email from ██████████@tonymichaelconsulting.co.uk. [Learn why this is important](#)

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Hi ██████████
Thank you for the reply, and it is disappointing that you cannot agree with our analysis and conclusions. You state that you do not consider the site is an active agricultural use, yet Uplands Farm has no contrary planning history, there are sheep and grazing agreements in place, and the GPDO requires a "light touch" approach with the burden of evidence set very low. I cannot reconcile your position therefore.

In addition, the recent Lawful Development Certificate clearly demarcates the sole residential curtilage, and limits it to the proximate surrounding areas of the bungalow.

Everything else must therefore remain and be a farm, and in agricultural use.

Appeal Ref: APP/J1860/W/20/3263591 clearly states;

No agricultural activities have been observed by the Council. Nonetheless, the barns have an overtly agricultural and utilitarian appearance. There is no evidence, including planning permissions, that any other use of the barns has commenced. In the absence of any convincing evidence to the contrary and on the balance of probabilities, it is my judgement that the buildings were last in use for agricultural purposes as part of an agricultural holding. Even if they were not in use on the relevant date, there is nothing to indicate that the agricultural use has been replaced by another.

This principle clearly applies to Uplands Farm. You have no contrary "convincing" evidence, and our evidence in support far exceeds the low bar of balance of probabilities.

3 further points;

1) You state you have discussed the matter with the council's legal department. Aside from this being the opposite of the "light touch" the GPDO requires, and the stated requirement from the High Court judicial review of **Smolas v Herefordshire Council**, of;

" It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system"

It also indicates that the matter in the LPA's view is at least finely balanced, uncertain or arguable, and requires a legal opinion.

Given all the above, your findings should have allowed you to support the application.

2) A technical matter; Your state "*As the application is made for prior approval.....*"

This is incorrect. The application is for prior notification if the prior approval of the LPA is required. This is an important distinction.

3) You stated "*Moving forward the applicant retains options to either resubmit under Part 6 once the agricultural use of the site is further established.....*"

Again, you reiterate the sole issue being to prove an established agricultural use.

Given this clear, only, remaining issue, the appropriate and correct action of the LPA is to determine Prior Approval is indeed required, solely to present more evidence (so one has to infer) to show established agricultural use.

I have submitted above, and in below email, that the bar for evidence is low, and far more than this bar is provided and obvious, but the time period that the Prior Approval process would involve would surely allow for this additional - limited - evidence to be made clear.

Given all this, we would respectfully ask for a further review by your line manager (in your absence) and/or legal department.

If we do not hear any reply by 12 noon tomorrow, we will notify you at that time of our decision to withdraw or otherwise.

Kind regards

tmcuk.org

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23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 30/09/2025 16:41, [REDACTED] wrote:

Hello [REDACTED]

Thanks for the further information you have provided in relation to both the case law and the arrival of sheep onto the site. I apologise for not responding sooner however I had been waiting to discuss the application with my line manager and the Council's legal department.

Following our site visit last week and this discussion I still have concerns about the current use of the land within the Uplands Farm site. I note that the applicant has explored options for future uses of the land and has taken steps to remove debris from the site since purchasing it. However at this time I do not consider that the site is in an active agricultural use which would enable it to benefit from the provisions of Schedule 2, Part 6, Class A of the General Permitted Development Order (GPDO)(2015). These provisions relate to the carrying out of excavation or engineering operations on agricultural land comprised in an agricultural unit of 5 hectares or more in area. I also therefore have concerns about whether the proposed track is reasonably necessary for the purposes of agriculture within the unit.

As the application is made for prior approval, but I do not believe the site benefits from the provisions of Schedule 2, Part 6, Class A of the GPDO, I am recommending that prior approval is refused.

I note from your email and our on-site discussions that you are minded to avoid a refusal being issued if possible, and so you now have the option to withdraw the application. Given the tight timescale to determine the prior approval within 28 days (by 2nd October), I will need your confirmation of this by midday tomorrow, and if the application is not withdrawn by then, I will arrange for a refusal to be issued.

Moving forward the applicant retains options to either resubmit under Part 6 once the agricultural use of the site is further established, or to submit a full planning application for the proposed track.

I trust the above is clear, and have copied in my line manager to the email as I am on annual leave after today, returning 13th October.

Thanks and regards,



██████████
Senior Planner (Development Management)
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield,
Dover CT16 3PJ

Email: ██████████@dover.gov.uk
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DD: 01304 872772

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From: ██████████@tonymichaelconsulting.co.uk>
Sent: 30 September 2025 11:05
To: ██████████@DOVER.GOV.UK>
Cc: ██████████@tonymichaelconsulting.co.uk>; ██████████
Subject: Fwd: Your Ref: 25/00999

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Good morning ██████████
Sorry to press you, but obviously the 28 days expires in 2 days, and if you are not minded to confirm that;
a) prior approval is not required (either by correspondence, or by no reply within the 28 days), or,
b) that prior approval is required, but approved at the same time, with or without conditions (as the GPDO allows - shown below),
then I would in all likelihood advise my client to withdraw the application, and to act according to the informatives you will no doubt issue explaining your chosen determination.
We hope to hear from you therefore.

Kind regards
██████████
██████████
██████████
██████████
[@tmcuk.org](mailto:██████████@tmcuk.org)
tmc commercial
23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

----- Forwarded Message -----
Subject: Re: Your Ref: 25/00999
Date: Mon, 29 Sep 2025 08:54:36 +0100
From: ██████████@tonymichaelconsulting.co.uk>
To: ██████████@dover.gov.uk>, ██████████
██████████@tonymichaelconsulting.co.uk>

CC: [REDACTED]

Good morning [REDACTED]

The first batch of sheep arrived over the weekend - photos sent to you via separate emails following this.

Electric fencing is also installed.

The sheep will continue to arrive, but my client insisted that the first batch were brought forward to this weekend, based on the feedback from your site visit.

You confirmed that all matters are satisfied ie. that the prior approval application is compliant in all aspects including definitional requirements and conditions met, save solely that you are not convinced that there is adequate evidence to prove "reasonably necessary for agriculture", and that you need to see ongoing agricultural activities for this to be shown. We now have sheep on site - the first batch of 50.

My clients asks therefore if you are happy to make another site visit to verify this for yourself.

You were correct to say that the 28 day time limit cannot be extended - in my research of the case law I referred to and that we agreed that I would send to you, this is confirmed therein. I quote below from the High Court judicial review of **Smolas v Herefordshire Council, 2021**, which I attach for your reference.

1)

" Is a prior approval application like a planning application?

*The statutory requirements relating to prior approval **are much less prescriptive than those relating to planning applications.***

*This is deliberate, as prior approval is a **light-touch process** which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place. **It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.***

Paragraph: 028 Reference ID: 13-028-20140306

Revision date: 06 03 2014 "

I quote the above at the outset, as this matter now rests solely on proving **"reasonably necessary for agriculture"**. This property has always been a farm - this is not in dispute. My client has a grazing licence that has been forwarded to you, there are now sheep on the land. We have forwarded an environmental stewardship scheme plan and agreement, a rural payment agreement and proof of membership. You have seen farm vehicles on the land seeding the fields for hay. And you have seen the nature of the existing approach and access to the farm - and how unsuitable and difficult this is. If prior approval is a light touch process, then the burden of proof **must be less** than the balance of probability (more likely than not) bar required on a standard planning application.

I respectfully submit that we have shown a higher standard of evidence than the above.

2)

At para 48 (but at 38 of "Keenan"). *"The fact that the question of whether development is "reasonably necessary" for the relevant purposes is not merely an objective matter, but involves an element of judgment"*

In Keenan v Woking Borough Council & Secretary of State for Communities and Local Government [2017] EWCA Civ 438, [2018] PTSR 697, the appellant applied for prior notification as to whether or not prior approval was required for construction of a hard core track, as permitted agricultural or forestry development.

At para 73 ; *"On my interpretation of Part 6 and Part 16, whilst a two stage process is envisaged, the language used in the GPDO does not point to it being a mandatory requirement. In my judgment, local planning authorities may, in the exercise of their discretion, determine both prior notification and prior approval on the same occasion, if in the particular circumstances, it is appropriate and procedurally fair to do so. Relevant considerations are likely to be whether a local planning authority has sufficient information to determine the application for prior approval; **whether the applicant has had a fair opportunity to address any matters arising for consideration in the application for prior approval;** "*

The above shows that if you are not quite satisfied at this point, the appropriate line of action is to confirm that Prior Approval is required, and allow the applicant to address the matters raised - in this case, solely showing agriculture is taking place.

But as indicated, the sheep are now on site, and the standard of evidence required is low.

Respectfully, you are now in a position to confirm Prior Approval is not required.

3)

At 77. "In my judgment, the questions in the application form were clearly designed to address the definitional requirements of paragraphs A and A1, for example:

ix) whether the proposed development was reasonably necessary for the purposes of agriculture;

x) whether the proposed development was designed for the purposes of agriculture"

At 78. " The Claimant answered all these questions briefly, but clearly...."

At 81. " I consider that the form gave the Claimant the opportunity to provide the information which the Council required to decide (1) whether the proposed development met the definitional requirements; (2) whether prior approval was required; and (3) whether prior approval should be granted, with or without conditions, or refused. The Claimant could have provided more detail as to why he needed an agricultural building, **by reference to plans to diversify and expand the agricultural side of the business, but he did not do so.**

The above in bold text indicates that the High Court judges confirm that reference to future plans and intentions is considered acceptable as a standard of evidence to prove "reasonably necessary for agriculture"

At 87. "The Claimant filed a witness statement dated 21 May 2020, for the purposes of the costs limit, in which he described how the Covid-19 pandemic, and the loss of bookings at his holiday accommodation, had resulted in a significant reduction of income, and placed him in a precarious financial position. **Therefore he and his wife intended to expand and diversify their agricultural activities.** As his application for prior notification was made on 4 March 2020, before the first lockdown, he would not have appreciated the impact which the pandemic was going to have at the date of his initial application. However, he would have been able to submit a fresh application at any time subsequently, **and submit further evidence to support his application that the new building was reasonably necessary for the purposes of agriculture because he intended to expand and diversify his agricultural activities, in the light of the economic impact of the pandemic.**

This is reiterated above. Future intentions are enough as a standard of evidence.

4)

In Appeal Ref: APP/J1860/W/20/3263591, Wood Farm, Burnthorne Lane, Dunley, DY13 0TP - Mr John Corbo against the decision of Malvern Hills District Council.

This was a Notification for Prior Approval development (attached).

At 5. and 6;

Agricultural use

5. *The relatively modern barns stand within the land associated with a smallholding comprising a farmhouse and 21.6 acres of agricultural land and woodland. This is confirmed by the sales particulars relating to the appellant's purchase of the appeal barns in 2019. It is stated that the buildings were used for the storage of hay and agricultural equipment and machinery and were in use as part of an agricultural holding on 20 March 2013. **There is nothing to suggest that it was not part of a business operation. There is supporting evidence from the previous owners and the selling agents as well as the current owner that the use has not changed in the intervening period.***

6. *No agricultural activities have been observed by the Council. Nonetheless, the barns have an overtly agricultural and utilitarian appearance. There is no evidence, including planning permissions, that any other use of the barns has commenced. In the absence of any convincing evidence to the contrary and on the balance of probabilities, it is my judgement that the buildings were last in use for agricultural purposes as part of an agricultural holding. Even if they were not in use on the relevant date, there is nothing to indicate that the agricultural use has been replaced by another. I therefore conclude that **criteria Q1(a) is satisfied.***

The above reiterates the standard of proof that is required to show agricultural use. Even if no agricultural activities are observed.

There is no contrary evidence, no contrary planning permissions at Ulands Farm.

With the matter solely resting on showing agricultural activity - we have indeed shown this - but the above appeal decision states that we are not required to show this, on the balance of probabilities standard.

We have therefore more than exceeded the required evidence.

You have observed such activities, and we invite you to a further site visit to observe the sheep on site.

5)

In conclusion, you have all the evidence you need to confirm prior approval is not required.
Please confirm if you wish to make a site visit, and also if you are now minded to agree, as we wish to maintain the option of acting in the applicant's best interests before the determination date of 2nd October.

Kind regards

[Redacted]

[\[Redacted\]@tmcuk.org](mailto:[Redacted]@tmcuk.org)

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 26/09/2025 11:20, [Redacted] wrote:

Hi [Redacted]

Yes happy to meet there, see you shortly

[Redacted]

From: [Redacted] [@tonymichaelconsulting.co.uk](mailto:[Redacted]@tonymichaelconsulting.co.uk)>

Sent: 26 September 2025 11:04

To: [Redacted] [@DOVER.GOV.UK](mailto:[Redacted]@DOVER.GOV.UK)>; [Redacted]

[Redacted] [@tonymichaelconsulting.co.uk](mailto:[Redacted]@tonymichaelconsulting.co.uk)>

Subject: Re: Your Ref: 25/00999

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Hi [Redacted]

I'm on my way there now - shall we meet at the bottom entrance off Alkham Road - it's about 100m before the tea rooms, and is a shared entrance with The Meadows - a caravan park i think.

We can then go up meggett lane after.

Ill be park there. Black [Redacted]

Regards

[Redacted]

On Thu, 25 Sept 2025, 13:45 [Redacted] [@tonymichaelconsulting.co.uk](mailto:[Redacted]@tonymichaelconsulting.co.uk)> wrote:

Thank you and see you then.

Regards

[Redacted]

On 25/09/2025 13:37, [Redacted] wrote:

Hi [Redacted]

Ok, thanks. Yes I can delay until 12, see you then.

[Redacted]



██████████
Senior Planner (Development Management)
 Dover District Council
 Council Offices, White Cliffs Business Park, Whitfield,
 Dover CT16 3PJ

Email: ██████████@dover.gov.uk
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From: ██████████@tonymichaelconsulting.co.uk>
Sent: 25 September 2025 13:18
To: ██████████ @DOVER.GOV.UK>; ██████████
 ██████████@tonymichaelconsulting.co.uk>
Subject: Re: Your Ref: 25/00999

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Hi ██████████
 I have a 10am Pre application meeting with a TDC officer in Ramsgate. That will take probably 30 - 45mins. Then it is a 40 min journey for me.
 Can you meet at 12 noon, to be on the safe side?
 I might be able to meet at 11.30/45 at a push. But 12 better if you can manage this.

Regards
 ██████████
 ██████████
 @tmcuk.org

tmc commercial
 23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
 architecture planning buildings

On 25/09/2025 13:13, ██████████ wrote:
 Hi ██████████

I cant be there im in france but will happily be on the phone

Kind regards
 ██████████
Managing Director
 Tel: ██████████
 Mobile: ██████████





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From: [redacted]@DOVER.GOV.UK>
Sent: 25 September 2025 12:01
To: [redacted]@tonymichaelconsulting.co.uk>
Cc: [redacted]
Subject: RE: Your Ref: 25/00999

Hello [redacted]

Thanks for the additional information provided.

I am intending to carry out a brief site visit to Uplands Farm, and given the determination date is next week I will need to do this tomorrow. I have time available at 11am.

I would be happy to meet either or both of you on site if you are available at that time, but if not, I am content to carry out the visit unaccompanied and will definitely not need access to any buildings given the nature of the proposal.

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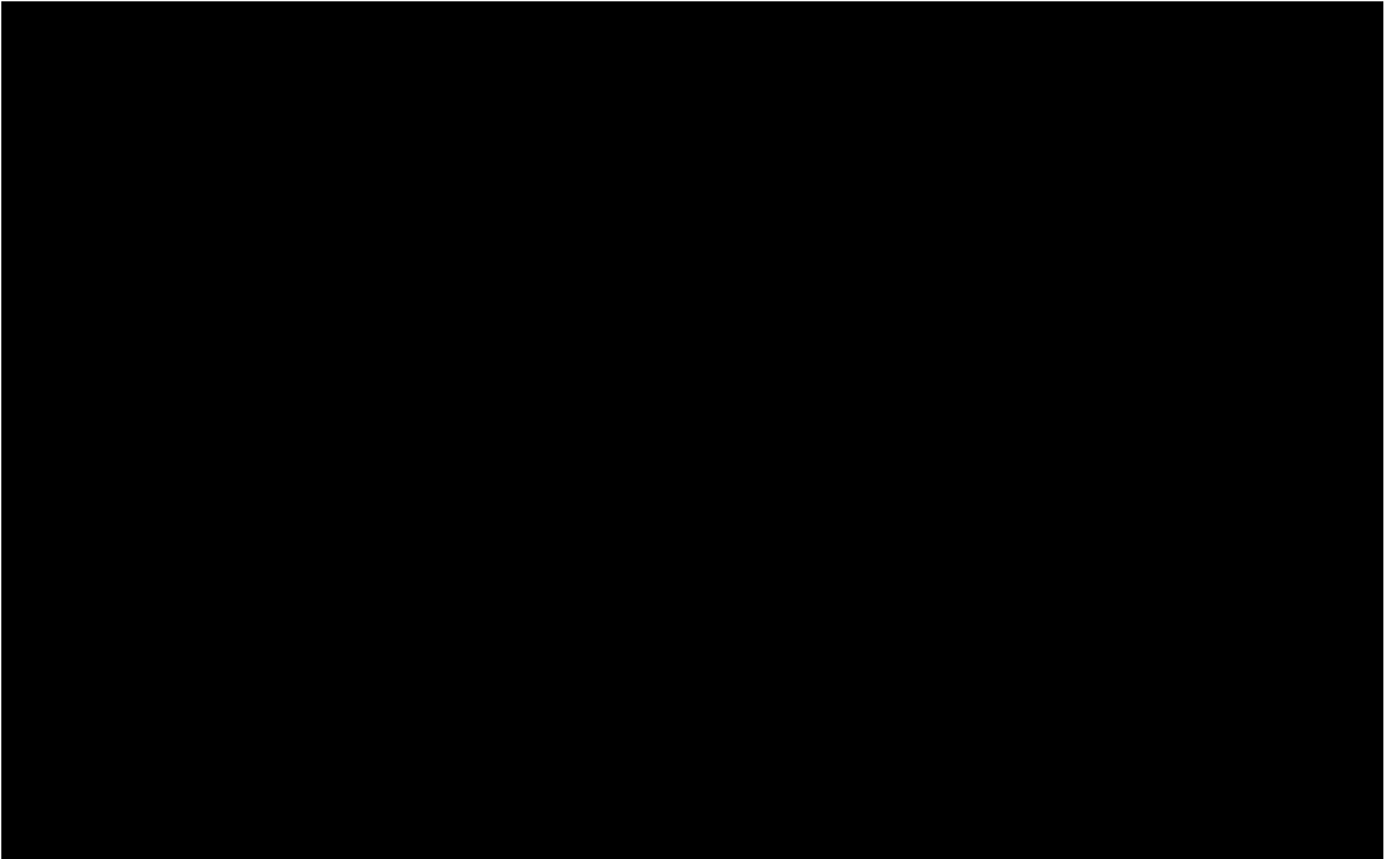
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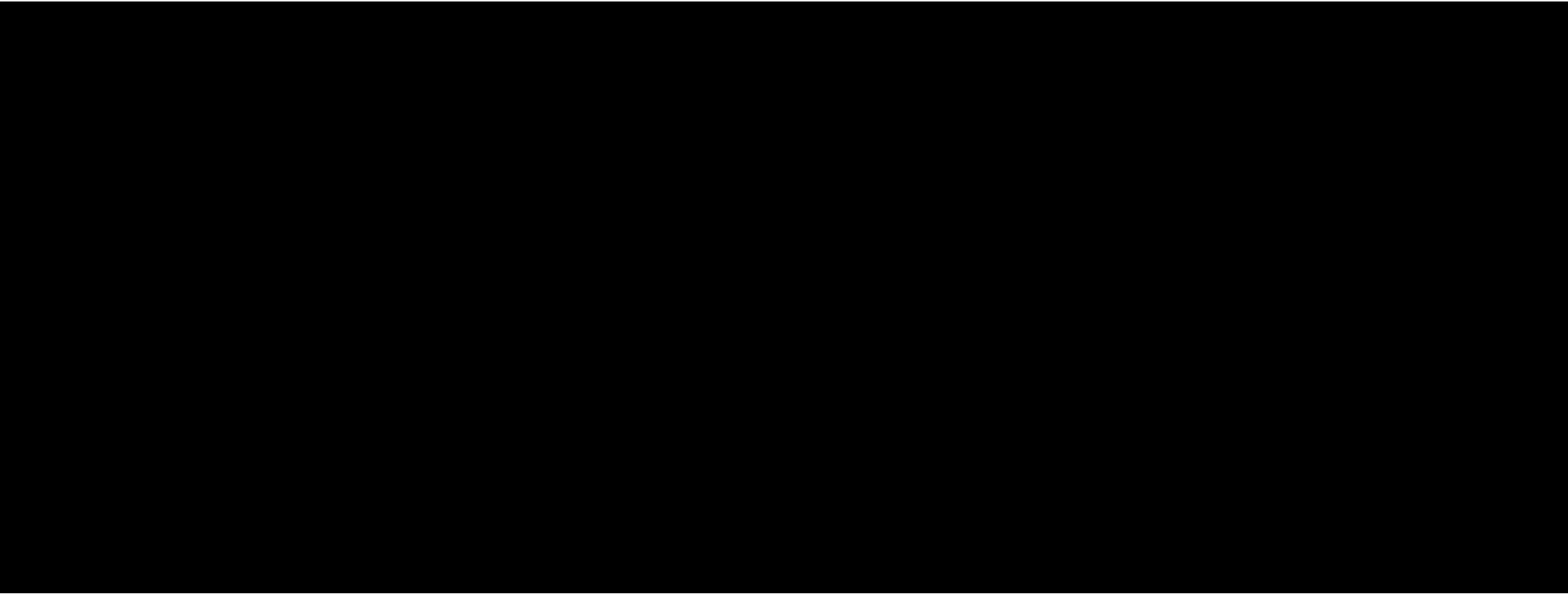
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From: [REDACTED]
Sent: 27 November 2025 12:55
To: [REDACTED]
Subject: FW: Uplands Farm 25/00776

Hi [REDACTED]

I have received an initial response back from the agent on Uplands Farm, as below. I am expecting a formal response next week, but please see below.


Kind regards

[REDACTED]

[REDACTED] [REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

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Thurs 9.00 – 12.30pm

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Email [REDACTED]@[dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)
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From: [REDACTED]@tonymichaelconsulting.co.uk>
Sent: 27 November 2025 08:56
To: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@tonymichaelconsulting.co.uk>
Cc: [REDACTED]@dover.gov.uk>
Subject: Re: Uplands Farm 25/00776

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Good morning [REDACTED]

Thank you for the detailed reply.

I will need to consult with my client and will revert to you by early next week with a formal reply, but in the meantime, I would ask and state the following;

The reply from the DDC solicitor has all the characteristics of AI generated content. Indeed, as an exercise to ascertain this, I simply typed into a search engine " how can I resist a lawful development planning application based on the Whitley principle".

Within seconds, a comprehensive reply was produced, which almost word for word mimics your solicitor's words.

Now I am fully aware that most solicitors nowadays use AI for such purposes.

Can you please confirm if the advice from the DDC solicitor was in any way assisted or informed by AI ?

As mentioned to you in our telephone conversation, the removal of the AOC condition 9 was the primary objective for my client. This has already been achieved via the first LDC.

The LDC application for lawfulness of the bungalow without compliance with conditions 1-10, was a secondary strategy.

But as the application has been made, and time and cost expended, we would prefer it to be successful.

There is however, very little to be gained by this second LDC, for the following reasons, and the hyper-technical response from the DDC solicitor seems entirely disproportionate to the matters at stake.

I might suggest a different, far more simplistic approach;

Of the 10 conditions, **no. 9** is already accepted by the other LDC. We can remove this from the argument.

Condition 1 was complied with - to commence works within 5 years - this is indisputable from the public records DDC holds

2 was complied with - the materials were approved under DDC letter dated 27/01/93 - which is in the public record

3 - this removes PD rights - no submissions were required

4 - involves landscaping and is stated as unenforceable by DDC

letters 1 April and 24 May 1999

5 - involves further landscaping to be maintained for 5 years. Which the DDC solicitor confirmed as unenforceable by letter dated 30 March 1999.

And also stated as unenforceable by DDC letters 1 April and 24 May 1999

6 - refers to re-planting if landscaping died out within 5 years - and again confirmed as unenforceable by the DDC solicitor by letter of 30 March 1999.

Also stated as unenforceable by DDC letters 1 April and 24 May 1999

7 - 2 parking spaces to be provided, and required to be maintained thereafter - Your below email goes to length to state that this is not a material issue and has, in your view, been provided

8 - a turning space required and maintained - a minor matter, and clearly implied as such by assumptions under 7 above and your email

9 - the Agricultural Occupancy Condition - dealt with and removed by the other LDC

10 - development carried out as per the approved plans - and confirmed as varied by 27/01/93 letter from DDC and Plan no JS/1640/2b received 4 Jan 1993 - so this condition is not at issue

(although I do have to check the siting of the bungalow).

All the above conditions are either confirmed as unenforceable by DDC letters (4, 5 and 6), or,

Complied with (1, 2, 10), or,

are minor, non material matters (that do not "go to the heart") (7, 8).

Furthermore, there is the argument they are all time-barred.

DDC failed to enforce any breach. And far more than 10 years have elapsed. In fact 30 years have elapsed.

I am certain your enforcement officers will agree with this.

All that remains is Condition 3, which removes Permitted Development rights.

No Artificial Intelligence is needed to determine that from ten conditions referenced by the application, only one remains that can even be debated - condition 3.

It would be useful for my client to have confirmed that his PD rights are in place.

But not critical.

Conditions 1,2,4,5,6,7,8 and 10 are a fait accompli and not disputable nor enforceable.

This above should enable you to accept an LDC for these conditions.

I will revert more formally by early next week.

to the *Whitley* principle and in *Hart Aggregates* [2005] EWHC 840 (Admin) Sullivan J explained that a distinction was to be drawn between a condition which required some action to be taken (plans agreed or works done) before development is commenced, and a condition which expressly prohibits any development taking place before a particular requirement (such as the approval of plans) has been met. Only in the latter case should it be concluded that the development which has taken place is unlawful. Furthermore, for a condition to be a “true condition precedent” it must not only have to be unambiguously and expressly prohibitive but it must also go to the “heart” of the planning permission. The High Court decision in *Miesels* [2019] EWHC 1987 (Admin) put the question as to whether a condition went to the “heart of the permission” this way; is it “a condition going beyond the detail of a matter that is agreed in principle and is, instead, something without which the authority would not be content to permit the development at all. It is this distinction which in my view underlies the difference between the admittedly widely-contrasting scenarios suggested by Sullivan J in *Hart Aggregates* at [65].

I have reviewed the conditions 5 and 7 (non-compliance with which is contended to have resulted in the unlawful development of the bungalow at Uplands Farm) and they provide as follows:

5. In addition to the landscaping works referred to in condition 4 above details of additional tree and hedge planting for the boundaries of the site shall be submitted to the District Planning Authority for approval prior to the commencement of works on site and such details as are approved in writing shall thereafter be carried out prior to the dwelling hereby approved first being occupied and thereafter maintained to the reasonable satisfaction of the District Planning Authority for a period of not less than 5 years.

Reason: - To protect and enhance the visual amenities of the locality.

7. Prior to the commencement of the development hereby approved details of two vehicle parking spaces within the curtilage of the site shall be submitted to the District Planning Authority for approval; such facilities as are approved in writing shall thereafter be implemented prior to the approved dwelling first being occupied and, together with the vehicular access thereto, shall be available for use prior to the approved dwelling first being occupied and shall thereafter be maintained to the reasonable satisfaction of the District Planning Authority.

Reason:- The development, without the provision of adequate parking facilities, is likely to lead to inconvenience and danger to other road users and to be detrimental to amenity by reason of vehicles parking on the public highway.

My first observation is that the conditions are not expressly prohibitive. The wording suggests that they are more in the nature of conditions which require certain matters (i.e. additional landscaping works and location of parking spaces) to be agreed before development may commence and less in the nature of conditions which expressly prohibit development until those matters are agreed. They are not framed as “no development may commence until ... is submitted to the Council and approved in writing” which is commonly seen when a matter is of sufficient significance to warrant such a forceful approach.

Turning to the question of whether the conditions “go to the heart” of the permission, my feeling (and the question is a matter of planning judgment for the Council) is that they do not. As mentioned above, the court has framed the question as to be whether a condition “goes beyond a detail of a matter that is agreed in principle” to become something “without which the authority would not be content to permit the development at all”. The additional landscaping was additional to that which was specified on the approved plan and secured by condition 4 and not, therefore, the only condition which secured landscaping of the site to protect the visual amenity of the locality. It was only to be maintained for a period of 5 years and the purpose of this additional landscaping was to help the development assimilate into the setting and mitigate the wider visual impact of the bungalow. Such planting schemes may/may not be retained to a degree beyond the 5 years however, the condition would have helped in providing a transition from open land to the visual impact of a new dwelling. The lack of any planting being undertaken, whilst is disappointing and contrary to the condition, in itself would not significantly compromise the visual amenity of the area. Consequently, I would tend to the view that this is more in the nature of a detail of a matter agreed in principle, and not a fundamental part of the development permitted. Indeed, beyond the 5 year period of its application it does not control the future boundary treatment and, therefore, from that point onward does not guarantee any beneficial effect on the visual amenity of the locality at all.

Condition 7 is, in my view, a good example of detail of a matter which is agreed in principle but the specifics of which are to be approved by the LPA. The site had sufficient space within the curtilage of the approved dwelling to accommodate the requisite parking but the final detail of the specific location was to be approved. Whilst the provision of on-site parking was clearly considered to be desirable, it is not a fundamental aspect of the permitted development. It is noted that parking does take place within the site even if not formally laid out and not in accordance with any submission to discharge the condition. Therefore, again the issue of whether this condition goes to the heart of the permission is raised.

In summary, the submission fails to analyse the conditions which are the subject of the opinion and, notably, fails to address the question of whether or not those conditions are “true conditions precedent” in the sense that they are expressly prohibitive and “go to the heart” of the permission granted, such as to render development which is not in compliance with them ineffective in commencing the permission.

Finally, what you have also not provided is any commentary on the apparent material difference as to what has been built on site when considered against the amended plans that were submitted for the siting of the bungalow. It may be prudent to consider this, as to date this cannot form part of my assessment as this is not the basis as to the submission.

In order to move this application forward you do need to provide further submission which addresses the points set out above (as advised by the DDC solicitor) and the basis as to why you consider that the planning permission has fallen away with respect to the bungalow. This level of assessment has not been set out by your client’s barrister.

Once you have considered the contents of this email, perhaps you could provide an indication of an approximate time frame to respond.

Kind regards

[Redacted]


[Redacted]

Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

[Redacted]

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Email [Redacted]@dover.gov.uk
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From: [REDACTED]
Sent: 25 November 2025 13:47
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Hi [REDACTED]

Just coming back to you on this - and setting aside my clients comments.

Have you heard back from your solicitor as yet please?

[REDACTED]

[REDACTED]@tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings


On 17/11/2025 09:41, [REDACTED] wrote:

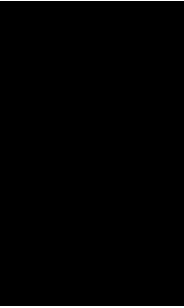
Hi [REDACTED]

Sorry, yes please can we extend (perhaps until 30/11/2025 for now?). I had hoped to hear back from legal, but hadn't. I'll see what I can find out today with regard to the advice.


Many thanks

[REDACTED]


Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ


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From: [REDACTED]
Sent: 14 November 2025 13:52
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Hi [REDACTED]

I don't mean to chase but do you wish to extend the deadline as it is tomorrow, 15th November ?

Kind regards

[REDACTED]

On 12/11/2025 09:44, [REDACTED] wrote:

Hi [REDACTED]

Yes I have briefed him of all the facts and am just waiting on some written advice as to whether I need to seek any further information/how to proceed. I'll contact him today and see where he is at.

Kind regards

[Redacted]

[Redacted]

[Redacted]

Principal Planning Officer

Dover District Council

Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

[Redacted]

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From: [REDACTED]
Sent: 12 November 2025 08:10
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Good morning [REDACTED]

Mindful of the extended date of 15th November, have you discussed the matter with your solicitor as yet?

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

█@tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings


On 22/10/2025 15:28, █ wrote:


Hi █

Many thanks for sending this across, I have since found it on the file, so sorry about that. It was helpful to talk this one through over the phone earlier. I am just waiting for the DDC solicitor to come back to me with a date to discuss the way forward. In the meantime I'd be grateful if you could agree a further EOT until 15th November, by which time I should be in a position to either issue a decision on the basis of what has been submitted, amend the application or ask you to withdraw.


Kind regards

█


Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ


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From: [REDACTED]
Sent: 22 October 2025 13:29
To: [REDACTED]; [REDACTED]
Subject: Re: FW: Uplands Farm

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Hi [REDACTED]

Please find attached barrister's cover letter as we have just discussed on the telephone.

And thank you for your time with the call.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 21/10/2025 16:48, [REDACTED] wrote:

Hi [REDACTED]

Sorry we haven't spoken since my previous email. Please can we have a chat regarding the site. In my view things have moved on since you submitted this application and I do not see the necessity for it. Are you available to discuss this week (tomorrow or Thursday am?) as I am proposing you withdraw application 25/00776. As it stands I would otherwise be looking to refuse the application but prefer not to so it would be helpful to discuss first.

Kind regards

[REDACTED]

[REDACTED]
Principal Planning Officer

Dover District Council

Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

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Tel: [REDACTED]

Email [REDACTED]@[dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)

Web: www.dover.gov.uk



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From: [REDACTED]
Sent: 30 September 2025 16:25
To: [REDACTED]
Subject: RE: Uplands Farm

Hi [REDACTED]
I am going to pop out to the site on next Thursday morning. It would be helpful to meet you out there if that's possible? I'm keen to see the site properly and bungalow as this will help understand the relevance or not of the conditions and whether they need to be included in the CLD or not. I was looking at

getting to site for approximately 10.30am? If you can't make it, please can you confirm that it is ok for me to attend unaccompanied and we can talk on the phone after my visit?

Kind regards

[REDACTED]

[REDACTED] [REDACTED]

Principal Planning Officer

Dover District Council

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Whitfield, Dover CT16 3PJ

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From: [REDACTED]@tonymichaelconsulting.co.uk>

Sent: 29 September 2025 16:29

To: [REDACTED]@DOVER.GOV.UK>; [REDACTED]
[REDACTED]@tonymichaelconsulting.co.uk>

Subject: Re: Uplands Farm

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Hi [REDACTED]

Of course, extension of time agreed.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 29/09/2025 14:56, [REDACTED] wrote:

Hi [REDACTED]

Apologies that I have not been in contact whilst working through this application. I need to double check with my manager tomorrow but should then be able to advise where I am with this second CLD. In the meantime please could I ask if you'd be able to agree an EOT for a further 3 weeks as I am

hopeful this will be sufficient to draw this to a conclusion.

Many thanks

[REDACTED]

[REDACTED] [REDACTED]

Principal Planning Officer

Dover District Council

Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

WORKING DAYS Mon - Weds 9.30 – 5.30pm
Thurs 9.00 – 12.30pm

Tel: [REDACTED]

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From: [REDACTED]
Sent: 15 September 2025 14:13

To: [REDACTED] ; [REDACTED]
Subject: Re: Uplands Farm

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Thank you [REDACTED]

I realise you've been away, so when you are ready, of course.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@tmcuk.org

tmc commercial

On 15/09/2025 12:42, [REDACTED] wrote:

Hi [REDACTED]

My apologies as I have only properly returned this week. I will go through the conditions again and let you know where I am at.

Kind regards

[REDACTED]

[REDACTED] [REDACTED]

Principal Planning Officer

Dover District Council

Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

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From: [REDACTED]
Sent: 12 September 2025 08:56
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm

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Good morning [REDACTED]

I trust you had a good break.

And thank you for the first LDC.

If we can finalise the second application, we would be most grateful.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@tmcuk.org

tmc commercial ltd

On 22/08/2025 08:58, [REDACTED]
wrote:

Morning [REDACTED]

Thank you for the
message, and all
understood.

Have a good break and
I will wait to hear from
you.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]
[@tmcuk.org](mailto:[REDACTED]@tmcuk.org)

tmc commercial ltd

On 21/08/2025 17:43,
[REDACTED] wrote:

Hi [REDACTED]
Apologies that I
have
been
unable
to come
back to
you on
the
second
application, it is
taking
more
time to
consider
. I am on
leave for
the next
two
weeks so
will need
to pick
this up
again on
my
return.
You
should
hopefully
y
received
the AOC

decision
in my
absence.

Kind
regards

[REDACTED]

[REDACTED] [REDACTED]

Principal Planning Officer

Dover District Council


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Whitfield, Dover CT16 3PJ

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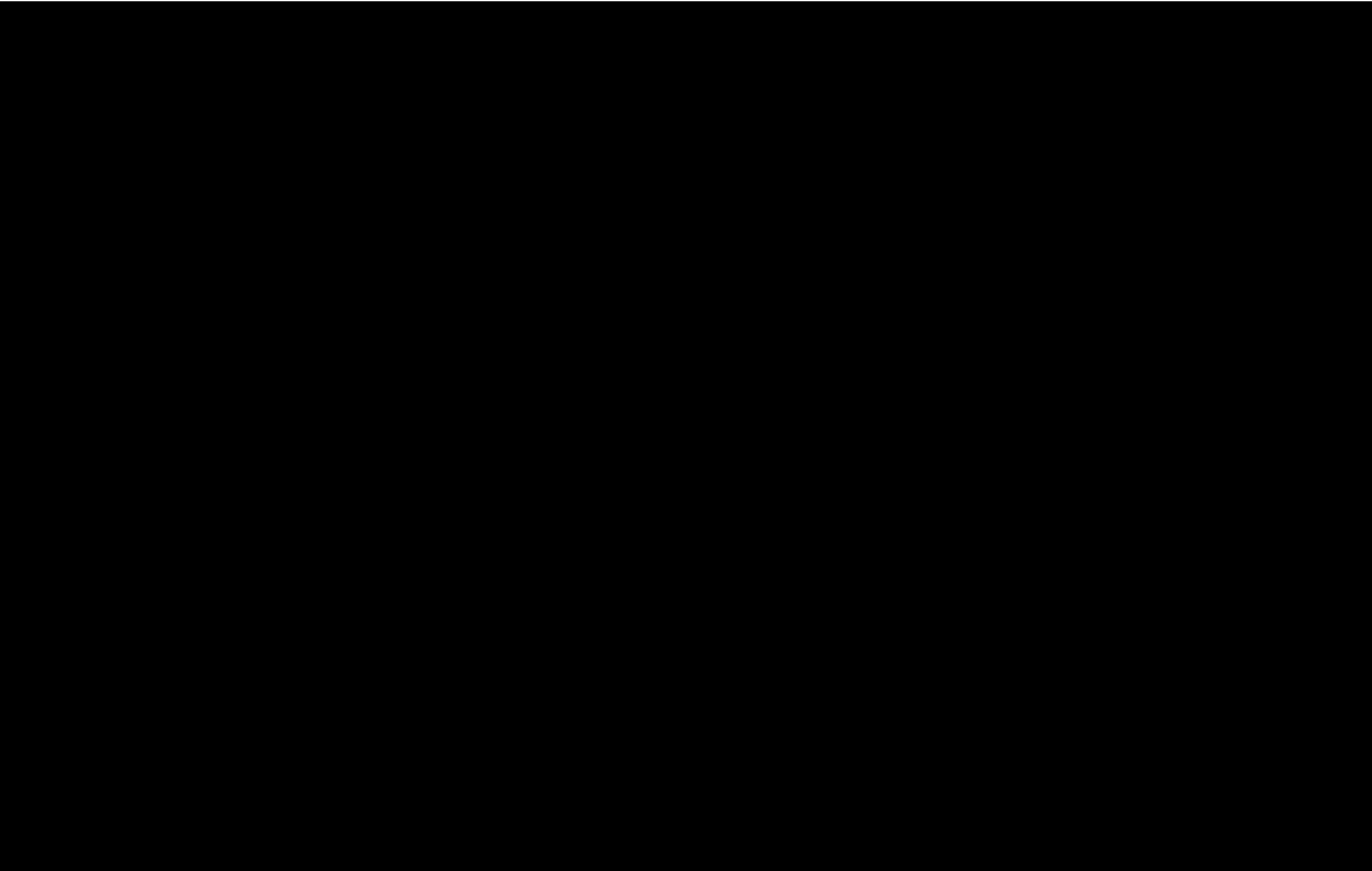
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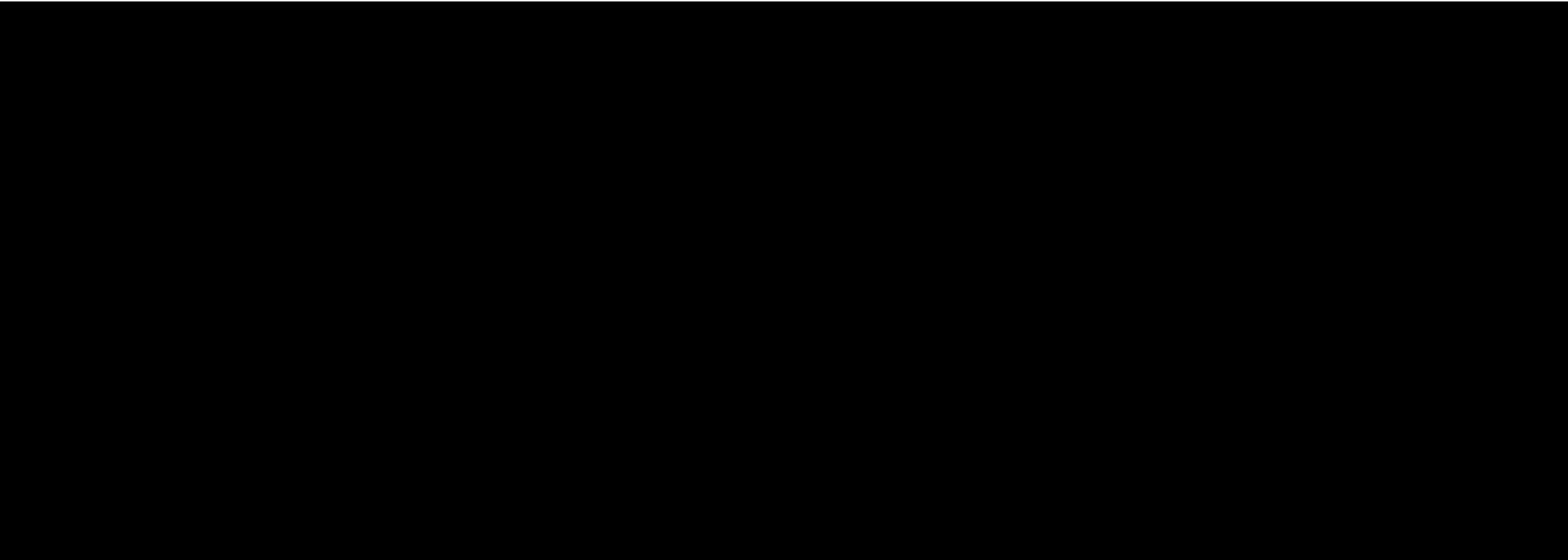
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From: [REDACTED]
Sent: 27 November 2025 12:56
To: [REDACTED]
Subject: FW: Uplands Farm 25/00776

Hi


FYI ... an update on this CLEUD which is taking some time to resolve.

[REDACTED]


Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

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From: [REDACTED]@tonymichaelconsulting.co.uk>
Sent: 27 November 2025 08:56
To: [REDACTED]@DOVER.GOV.UK>; [REDACTED]@tonymichaelconsulting.co.uk>
Cc: [REDACTED]>; [REDACTED]@dover.gov.uk>
Subject: Re: Uplands Farm 25/00776

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Good morning [REDACTED]

Thank you for the detailed reply.

I will need to consult with my client and will revert to you by early next week with a formal reply, but in the meantime, I would ask and state the following;

The reply from the DDC solicitor has all the characteristics of AI generated content. Indeed, as an exercise to ascertain this, I simply typed into a search engine " how can I resist a lawful development planning application based on the Whitley principle".

Within seconds, a comprehensive reply was produced, which almost word for word mimics your solicitor's words.

Now I am fully aware that most solicitors nowadays use AI for such purposes.

Can you please confirm if the advice from the DDC solicitor was in any way assisted or informed by AI ?

As mentioned to you in our telephone conversation, the removal of the AOC condition 9 was the primary objective for my client. This has already been achieved via the first LDC.

The LDC application for lawfulness of the bungalow without compliance with conditions 1-10, was a secondary strategy.

But as the application has been made, and time and cost expended, we would prefer it to be successful.

There is however, very little to be gained by this second LDC, for the following reasons, and the hyper-technical response from the DDC solicitor seems entirely disproportionate to the matters at stake.

I might suggest a different, far more simplistic approach;

Of the 10 conditions, **no. 9** is already accepted by the other LDC. We can remove this from the argument.

Condition 1 was complied with - to commence works within 5 years - this is indisputable from the public records DDC holds

2 was complied with - the materials were approved under DDC letter dated 27/01/93 - which is in the public record

3 - this removes PD rights - no submissions were required

4 - involves landscaping and is stated as unenforceable by DDC

letters 1 April and 24 May 1999

5 - involves further landscaping to be maintained for 5 years. Which the DDC solicitor confirmed as unenforceable by letter dated 30 March 1999.

And also stated as unenforceable by DDC letters 1 April and 24 May 1999

6 - refers to re-planting if landscaping died out within 5 years - and again confirmed as unenforceable by the DDC solicitor by letter of 30 March 1999.

Also stated as unenforceable by DDC letters 1 April and 24 May 1999

7 - 2 parking spaces to be provided, and required to be maintained thereafter - Your below email goes to length to state that this is not a material issue and has, in your view, been provided

8 - a turning space required and maintained - a minor matter, and clearly implied as such by assumptions under 7 above and your email

9 - the Agricultural Occupancy Condition - dealt with and removed by the other LDC

10 - development carried out as per the approved plans - and confirmed as varied by 27/01/93 letter from DDC and Plan no JS/1640/2b received 4 Jan 1993 - so this condition is not at issue

(although I do have to check the siting of the bungalow).

All the above conditions are either confirmed as unenforceable by DDC letters (4, 5 and 6), or,

Complied with (1, 2, 10), or,

are minor, non material matters (that do not "go to the heart") (7, 8).

Furthermore, there is the argument they are all time-barred.

DDC failed to enforce any breach. And far more than 10 years have elapsed. In fact 30 years have elapsed.

I am certain your enforcement officers will agree with this.

All that remains is Condition 3, which removes Permitted Development rights.

No Artificial Intelligence is needed to determine that from ten conditions referenced by the application, only one remains that can even be debated - condition 3.

It would be useful for my client to have confirmed that his PD rights are in place.

But not critical.

Conditions 1,2,4,5,6,7,8 and 10 are a fait accompli and not disputable nor enforceable.

This above should enable you to accept an LDC for these conditions.

I will revert more formally by early next week.

But would be grateful for the confirmation as to the provenance of the solicitor advice in the mean time.

Kind regards

been met. Only in the latter case should it be concluded that the development which has taken place is unlawful. Furthermore, for a condition to be a “true condition precedent” it must not only have to be unambiguously and expressly prohibitive but it must also go to the “heart“ of the planning permission. The High Court decision in *Miesels* [2019] EWHC 1987 (Admin) put the question as to whether a condition went to the “heart of the permission” this way; is it “a condition going beyond the detail of a matter that is agreed in principle and is, instead, something without which the authority would not be content to permit the development at all. It is this distinction which in my view underlies the difference between the admittedly widely-contrasting scenarios suggested by Sullivan J in *Hart Aggregates* at [65].

I have reviewed the conditions 5 and 7 (non-compliance with which is contended to have resulted in the unlawful development of the bungalow at Uplands Farm) and they provide as follows:

5. In addition to the landscaping works referred to in condition 4 above details of additional tree and hedge planting for the boundaries of the site shall be submitted to the District Planning Authority for approval prior to the commencement of works on site and such details as are approved in writing shall thereafter be carried out prior to the dwelling hereby approved first being occupied and thereafter maintained to the reasonable satisfaction of the District Planning Authority for a period of not less than 5 years.

Reason: - To protect and enhance the visual amenities of the locality.

7. Prior to the commencement of the development hereby approved details of two vehicle parking spaces within the curtilage of the site shall be submitted to the District Planning Authority for approval; such facilities as are approved in writing shall thereafter be implemented prior to the approved dwelling first being occupied and, together with the vehicular access thereto, shall be available for use prior to the approved dwelling first being occupied and shall thereafter be maintained to the reasonable satisfaction of the District Planning Authority.

Reason:- The development, without the provision of adequate parking facilities, is likely to lead to inconvenience and danger to other road users and to be detrimental to amenity by reason of vehicles parking on the public highway.

My first observation is that the conditions are not expressly prohibitive. The wording suggests that they are more in the nature of conditions which require certain matters (i.e. additional landscaping works and location of parking spaces) to be agreed before development may commence and less in the nature of conditions which expressly prohibit development until those matters are agreed. They are not framed as “no development may commence until ... is submitted to the Council and approved in writing” which is commonly seen when a matter is of sufficient significance to warrant such a forceful approach.

Turning to the question of whether the conditions “go to the heart” of the permission, my feeling (and the question is a matter of planning judgment for the Council) is that they do not. As mentioned above, the court has framed the question as to be whether a condition “goes beyond a detail of a matter that is agreed in principle” to become something “without which the authority would not be

content to permit the development at all". The additional landscaping was additional to that which was specified on the approved plan and secured by condition 4 and not, therefore, the only condition which secured landscaping of the site to protect the visual amenity of the locality. It was only to be maintained for a period of 5 years and the purpose of this additional landscaping was to help the development assimilate into the setting and mitigate the wider visual impact of the bungalow. Such planting schemes may/may not be retained to a degree beyond the 5 years however, the condition would have helped in providing a transition from open land to the visual impact of a new dwelling. The lack of any planting being undertaken, whilst is disappointing and contrary to the condition, in itself would not significantly compromise the visual amenity of the area. Consequently, I would tend to the view that this is more in the nature of a detail of a matter agreed in principle, and not a fundamental part of the development permitted. Indeed, beyond the 5 year period of its application it does not control the future boundary treatment and, therefore, from that point onward does not guarantee any beneficial effect on the visual amenity of the locality at all.

Condition 7 is, in my view, a good example of detail of a matter which is agreed in principle but the specifics of which are to be approved by the LPA. The site had sufficient space within the curtilage of the approved dwelling to accommodate the requisite parking but the final detail of the specific location was to be approved. Whilst the provision of on-site parking was clearly considered to be desirable, it is not a fundamental aspect of the permitted development. It is noted that parking does take place within the site even if not formally laid out and not in accordance with any submission to discharge the condition. Therefore, again the issue of whether this condition goes to the heart of the permission is raised.

In summary, the submission fails to analyse the conditions which are the subject of the opinion and, notably, fails to address the question of whether or not those conditions are "true conditions precedent" in the sense that they are expressly prohibitive and "go to the heart" of the permission granted, such as to render development which is not in compliance with them ineffective in commencing the permission.

Finally, what you have also not provided is any commentary on the apparent material difference as to what has been built on site when considered against the amended plans that were submitted for the siting of the bungalow. It may be prudent to consider this, as to date this cannot form part of my assessment as this is not the basis as to the submission.

In order to move this application forward you do need to provide further submission which addresses the points set out above (as advised by the DDC solicitor) and the basis as to why you consider that the planning permission has fallen away with respect to the bungalow. This level of assessment has not been set out by your client's barrister.

Once you have considered the contents of this email, perhaps you could provide an indication of an approximate time frame to respond.

Kind regards

[REDACTED]


[REDACTED] [REDACTED]

Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

[REDACTED]

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From: [REDACTED]
Sent: 25 November 2025 13:47
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Hi [REDACTED]

Just coming back to you on this - and setting aside my clients comments.

Have you heard back from your solicitor as yet please?

Kind regards

[REDACTED]

On 17/11/2025 10:50, [REDACTED] wrote:

Good morning [REDACTED]

Yes of course we can extend to 30/11/25.

My client will not be too happy with this though as we have been holding off depositing a pre-application for advice on the alterations to the existing bungalow - so that we can deposit this with all matters as to permitted development rights and conditions settled.

This will be a further delay to him - he has just reminded me it has been nearly a month now just to hear back from your solicitor.

The point he also makes being that his barristers's advice is clear on the matter - said barrister being an enforcement and planning law specialist who has sat on the Attorney General's Panel.

With all due respect to your solicitor - my client is unlikely to accept a contrary view.

I did take the liberty of speaking to the barrister on Friday, who stated that both LDCs would stand in their own right - one does not affect or change the other. So for instance condition 9 already approved as not needing to be complied with can remain on the conditions 1-10 application. There is no adverse effect in law.

His only other comment was that the case law is unequivocal.

Are we able to obtain an answer today please?

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 17/11/2025 09:41, [REDACTED] wrote:

Hi [REDACTED]

Sorry, yes please can we extend (perhaps until 30/11/2025 for now?). I had hoped to hear back from legal, but hadn't. I'll see what I can find out today with regard to the advice.


Many thanks

[REDACTED]

[REDACTED] [REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

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From: [REDACTED]
Sent: 14 November 2025 13:52
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Hi [REDACTED]

I don't mean to chase but do you wish to extend the deadline as it is tomorrow, 15th November ?

Kind regards

[REDACTED]

On 12/11/2025 09:44, [REDACTED] wrote:

Hi [REDACTED]

Yes I have briefed him of all the facts and am just waiting on some written advice as to whether I need to seek any further information/how to proceed. I'll contact him today and see where he is at.


Kind regards

[REDACTED]

[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

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From: [REDACTED]
Sent: 12 November 2025 08:10
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Good morning [REDACTED]

Mindful of the extended date of 15th November, have you discussed the matter with your solicitor as yet?

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

█@tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 22/10/2025 15:28, █ wrote:


Hi █

Many thanks for sending this across, I have since found it on the file, so sorry about that. It was helpful to talk this one through over the phone earlier. I am just waiting for the DDC solicitor to come back to me with a date to discuss the way forward. In the meantime I'd be grateful if you could agree a further EOT until 15th November, by which time I should be in a position to either issue a decision on the basis of what has been submitted, amend the application or ask you to withdraw.


Kind regards

█


Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
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From: [REDACTED]
Sent: 22 October 2025 13:29
To: [REDACTED]; [REDACTED]
Subject: Re: FW: Uplands Farm

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Hi [REDACTED]

Please find attached barrister's cover letter as we have just discussed on the telephone.

And thank you for your time with the call.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 21/10/2025 16:48, [REDACTED] wrote:

Hi [REDACTED]

Sorry we haven't spoken since my previous email. Please can we have a chat regarding the site. In my view things have moved on since you submitted this application and I do not see the necessity for it. Are you available to discuss this week (tomorrow or Thursday am?) as I am proposing you withdraw application 25/00776. As it stands I would otherwise be looking to refuse the application but prefer not to so it would be helpful to discuss first.

Kind regards

[REDACTED]

[REDACTED]
Principal Planning Officer

Dover District Council

Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

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From: [REDACTED]
Sent: 30 September 2025 16:25
To: [REDACTED]
Subject: RE: Uplands Farm

Hi [REDACTED]
I am going to pop out to the site on next Thursday morning. It would be helpful to meet you out there if that's possible? I'm keen to see the site properly and bungalow as this will help understand the relevance or not of the conditions and whether they need to be included in the CLD or not. I was looking at

getting to site for approximately 10.30am? If you can't make it, please can you confirm that it is ok for me to attend unaccompanied and we can talk on the phone after my visit?

Kind regards

[REDACTED]

[REDACTED] [REDACTED]

Principal Planning Officer

Dover District Council

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From: [REDACTED]@tonymichaelconsulting.co.uk>

Sent: 29 September 2025 16:29

To: [REDACTED]@DOVER.GOV.UK>; [REDACTED]
[REDACTED]@tonymichaelconsulting.co.uk>

Subject: Re: Uplands Farm

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Hi [REDACTED]

Of course, extension of time agreed.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 29/09/2025 14:56, [REDACTED] wrote:

Hi [REDACTED]

Apologies that I have not been in contact whilst working through this application. I need to double check with my manager tomorrow but should then be able to advise where I am with this second CLD. In the meantime please could I ask if you'd be able to agree an EOT for a further 3 weeks as I am

hopeful this will be sufficient to draw this to a conclusion.

Many thanks

[REDACTED]

[REDACTED] [REDACTED]

Principal Planning Officer

Dover District Council

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From: [REDACTED]
Sent: 15 September 2025 14:13

To: [REDACTED] ; [REDACTED]
Subject: Re: Uplands Farm

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Thank you [REDACTED]

I realise you've been away, so when you are ready, of course.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@tmcuk.org

tmc commercial

On 15/09/2025 12:42, [REDACTED] wrote:

Hi [REDACTED]

My apologies as I have only properly returned this week. I will go through the conditions again and let you know where I am at.

Kind regards

[REDACTED]

[REDACTED] [REDACTED]

Principal Planning Officer

Dover District Council

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[REDACTED]

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From: [REDACTED]
Sent: 12 September 2025 08:56
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm

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Good morning [REDACTED]

I trust you had a good break.

And thank you for the first LDC.

If we can finalise the second application, we would be most grateful.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]@tmcuk.org

tmc commercial ltd

On 22/08/2025 08:58, [REDACTED]
wrote:

Morning [REDACTED]

Thank you for the
message, and all
understood.

Have a good break and
I will wait to hear from
you.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[\[REDACTED\]@tmcuk.org](mailto:[REDACTED]@tmcuk.org)

tmc commercial ltd

On 21/08/2025 17:43,
[REDACTED] wrote:

Hi [REDACTED]
Apologies that I
have
been
unable
to come
back to
you on
the
second
application, it is
taking
more
time to
consider
. I am on
leave for
the next
two
weeks so
will need
to pick
this up
again on
my
return.
You
should
hopefully
y
received
the AOC

decision
in my
absence.

Kind
regards

[REDACTED]

[REDACTED] [REDACTED]

Principal Planning Officer

Dover District Council


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[REDACTED]

From: Development Management
Sent: 17 December 2025 10:21
To: [REDACTED]
Subject: FW: Dover District Council- Reference 25/01328
Attachments: [REDACTED] sheep invoice.docx

FYI
Kind regards

[REDACTED]

[REDACTED]
Support Officer
Development Management
Dover District Council
Council Offices, White Cliffs Business Park, Whitfield, Dover CT16 3PJ

Tel: [REDACTED]
Fax: 01304 872351
Email: [REDACTED]@DOVER.GOV.UK
Web: <http://dover.gov.uk>

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From: [REDACTED]@tonymichaelconsulting.co.uk>
Sent: 17 December 2025 10:11
To: Development Management <DevelopmentManagement@DOVER.GOV.UK>; [REDACTED]
[REDACTED]@tonymichaelconsulting.co.uk>
Cc: [REDACTED]
Subject: Re: Dover District Council- Reference 25/01328

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Good morning,

Would you kindly pass the attached to [REDACTED] please.

And does he have a direct email?

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 15/12/2025 11:07, DevelopmentManagement@DOVER.GOV.UK wrote:

Please read the important information attached from Dover District Council

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M&D Prebble
VRN 201203252

██████████ – ██████████
Boyington Court Farm
Swingfield
Dover
Kent
CT15 7HD

██████████

14-12 - 2025

Uplands farm
Megget lane
Alkham
Kent
Ct15 7DG

Invoice

25 ewes @ £100	£2,500
VAT@ 0%	£ 0.00
Total	£2,500

Sheep to be delivered in January 2026

M&D Prebble:
Account Number ██████████ Sort Code ██████████

PAID

With many thanks

From: [REDACTED]
Sent: 21 January 2026 18:01
To: [REDACTED]
Subject: RE: Uplands Farm 25/00776

Hi [REDACTED]

Yes, next Tuesday at 1 is fine with me – would you send me an invite so I've got it in my calendar.

Kind regards

[REDACTED]



[REDACTED]
Principal Solicitor - Planning

Dover District Council

Council Offices, White Cliffs Business Park, Whitfield, Dover

CT16 3PJ

Tel: [REDACTED]

Email: [REDACTED]@DOVER.GOV.UK

Web: <http://dover.gov.uk>

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From: [REDACTED]@DOVER.GOV.UK>
Sent: 21 January 2026 14:18
To: [REDACTED]@DOVER.GOV.UK>
Subject: FW: Uplands Farm 25/00776

Hi [REDACTED]

FYI. Please see below. Are you in the office new Tuesday around 1pm to discuss with us please?

Many thanks

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

WORKING DAYS Mon - Weds 9.30 – 5.30pm
Thurs 9.00 – 12.30pm

Tel: [REDACTED]
Email [REDACTED]@dover.gov.uk
Web: www.dover.gov.uk

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From: [REDACTED]@tonymichaelconsulting.co.uk>

Sent: 21 January 2026 12:09

To: [REDACTED]@DOVER.GOV.UK>; [REDACTED]
[REDACTED]@tonymichaelconsulting.co.uk>

Cc: [REDACTED]>; [REDACTED]
[REDACTED]@DOVER.GOV.UK>; [REDACTED]
[REDACTED]@dover.gov.uk>

Subject: Re: Uplands Farm 25/00776

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Good morning [REDACTED]

Following a pre-application advice meeting with your colleague [REDACTED] and [REDACTED], it has now become apparent that the outstanding LDA ref 25/00776 is compromising the advice we have sought in regards to developments at the existing bungalow.

On 2nd December we provided to you comprehensive rebuttal to your 25 November statements.

We see no grounds for you not to approve this application, as no reply has been received in over 7 weeks since our representations of 2 December.

As such, can you please confirm that this application will be approved by Friday of this week, or provide your reply to the 2 December email confirming why you disagree with it.

To reiterate for the benefit of all, the statements from your own officers at DDC, as well as councillors, as evidenced in the DDC planning file, show clearly that the conditions referred to "go to the heart of the matter".

This application was validated on 8th July 2025 - over 6 months ago - and my client now wishes it resolved.

In your email to me of 21 October last year, you stated;

"Sorry we haven't spoken since my previous email. Please can we have a chat regarding the site. In my view things have moved on since you submitted this application and I do not see the necessity for it. Are you available to discuss this week (tomorrow or Thursday am?) as I am proposing you withdraw application 25/00776. "

However your colleague [REDACTED] yesterday took a completely contrary view.

And whilst she stated that the two of you had not spoken in regards this application, I cannot see how this would be the case.

In fact she stated that she thought the above LDA had been approved for non compliance with conditions 1-10.

But this would completely contradict the position she took in regards the AOC condition.

The 7 weeks of inaction referred to above, and the previous delays now appear to have an explanation.

My client is so upset with this turn of events that he intends to take action to remedy this unless his application is approved.

I personally see nothing to be gained by not approving this LDA, which relates solely to the bungalow, which my client intends developing via applications and advice to and from the LPA.

Most of the conditions are time-barred, confirmed as unenforceable by your own legal officers, or irrelevant.

And furthermore, the evidence for you to approve it is in the public record, submitted to you, and meets the legal standard required.

We await your urgent response.

Kind regards

[REDACTED]

[\[REDACTED\]@tmcuk.org](mailto: [REDACTED]@tmcuk.org)
tmc commercial

On 14/01/2026 12:54, [REDACTED] wrote:
Good afternoon [REDACTED]
Apologies for my late reply.
I shall wait to hear from you then.
Kind regards

[REDACTED]

[\[REDACTED\]@tmcuk.org](mailto: [REDACTED]@tmcuk.org)
tmc commercial
23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 08/01/2026 10:17, [REDACTED] wrote:
Hello [REDACTED]

I just wanted to let you know that I am still seeking to get a response to you on this
CLEUD. I will try and come back to you very soon.
Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
Thurs 9.00 – 12.30pm

Tel: [REDACTED]
Email: [REDACTED]@dover.gov.uk
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From: [REDACTED]
Sent: 12 December 2025 16:06
To: [REDACTED]
Cc: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Good afternoon [REDACTED]

Are you able to respond to the further submissions of 2 December please?

Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 02/12/2025 13:31, [REDACTED] wrote:

Good afternoon [REDACTED]

I now attach a further response to your below email of 25 November.

Once you have received I would be grateful for your reply but I believe this provides all that is necessary to allow you to determine the application favourably.

Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 27/11/2025 16:20, [REDACTED] wrote:

Dear [REDACTED]

Many thanks for your reply. I'll look at this in more detail. I'd like to hope that we can reach a conclusion if we continue to work together.

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
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From: [REDACTED]
Sent: 27 November 2025 08:56
To: [REDACTED]; [REDACTED]
Cc: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Good morning [REDACTED]

Thank you for the detailed reply.

I will need to consult with my client and will revert to you by early next week with a formal reply, but in the meantime, I would ask and state the following;

The reply from the DDC solicitor has all the characteristics of AI generated content. Indeed, as an exercise to ascertain this, I simply typed into a search engine "how can I resist a lawful development planning application based on the Whitley principle". Within seconds, a comprehensive reply was produced, which almost word for word mimics your solicitor's words.

Now I am fully aware that most solicitors nowadays use AI for such purposes.

Can you please confirm if the advice from the DDC solicitor was in any way assisted or informed by AI?

As mentioned to you in our telephone conversation, the removal of the AOC condition 9 was the primary objective for my client. This has already been achieved via the first LDC.

The LDC application for lawfulness of the bungalow without compliance with conditions 1-10, was a secondary strategy.

But as the application has been made, and time and cost expended, we would prefer it to be successful.

There is however, very little to be gained by this second LDC, for the following reasons, and the hyper-technical response from the DDC solicitor seems entirely disproportionate to the matters at stake.

I might suggest a different, far more simplistic approach;
Of the 10 conditions, **no. 9** is already accepted by the other LDC. We can remove this from the argument.

Condition 1 was complied with - to commence works within 5 years - this is indisputable from the public records DDC holds

2 was complied with - the materials were approved under DDC letter dated 27/01/93 - which is in the public record

3 - this removes PD rights - no submissions were required

4 - involves landscaping and is stated as unenforceable by DDC letters 1 April and 24 May 1999

5 - involves further landscaping to be maintained for 5 years. Which the DDC solicitor confirmed as unenforceable by letter dated 30 March 1999.

And also stated as unenforceable by DDC letters 1 April and 24 May 1999

6 - refers to re-planting if landscaping died out within 5 years - and again confirmed as unenforceable by the DDC solicitor by letter of 30 March 1999.

Also stated as unenforceable by DDC letters 1 April and 24 May 1999

7 - 2 parking spaces to be provided, and required to be maintained thereafter - Your below email goes to length to state that this is not a material issue and has, in your view, been provided

8 - a turning space required and maintained - a minor matter, and clearly implied as such by assumptions under 7 above and your email

9 - the Agricultural Occupancy Condition - dealt with and removed by the other LDC

10 - development carried out as per the approved plans - and confirmed as varied by 27/01/93 letter from DDC and Plan no JS/1640/2b received 4 Jan 1993 - so this condition is not at issue

(although I do have to check the siting of the bungalow).

All the above conditions are either confirmed as unenforceable by DDC letters (4, 5 and 6), or,

Complied with (1, 2, 10), or,

are minor, non material matters (that do not "go to the heart") (7, 8).

Furthermore, there is the argument they are all time-barred.

DDC failed to enforce any breach. And far more than 10 years have elapsed. In fact 30 years have elapsed.

I am certain your enforcement officers will agree with this.

All that remains is Condition 3, which removes Permitted Development rights.

No Artificial Intelligence is needed to determine that from ten conditions referenced by the application, only one remains that can even be debated - condition 3.

It would be useful for my client to have confirmed that his PD rights are in place.

But not critical.

Conditions 1,2,4,5,6,7,8 and 10 are a fait accompli and not disputable nor enforceable.

This above should enable you to accept an LDC for these conditions.

I will revert more formally by early next week.

But would be grateful for the confirmation as to the provenance of the solicitor advice in the mean time.

Kind regards



[REDACTED]
[REDACTED]
[\[REDACTED\]@tmcuk.org](mailto:[REDACTED]@tmcuk.org)

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 25/11/2025 17:31, [REDACTED] wrote:

Dear [REDACTED]

Thank you for your email. Whilst I appreciate your clients concern, with applications such as this it is important to reach the decision through the correct mechanism and as discussed over the phone with you, this application has proved more complex than I had initially perceived.

As a result of seeking legal advice the situation with the current application is that the submission is unpersuasive. Please be advised as follows:

The starting point is that operations to which the planning permission relates are the operations which it authorizes and not those which contravene the conditions of the permission (which is known as the *Whitley* principle). To put it simply, works undertaken without complying with all pre-commencement conditions will not, lawfully, commence development. However, there are exceptions to the *Whitley* principle and in *Hart Aggregates* [2005] EWHC 840 (Admin) Sullivan J explained that a distinction was to be drawn between a condition which required some action to be taken (plans agreed or works done) before development is commenced, and a condition which expressly prohibits any development taking place before a particular requirement (such as the approval of plans) has been met. Only in the latter case should it be concluded that the development which has taken place is unlawful. Furthermore, for a condition to be a "true condition precedent" it must not only have to be unambiguously and expressly prohibitive but it must also go to the "heart" of the planning permission. The High Court decision in *Mieseles* [2019] EWHC 1987 (Admin) put the question as to whether a condition went to the "heart of the permission" this way; is it "a condition going beyond the detail of a matter that is agreed in principle and is, instead, something without which the authority would not be content to permit the development at all. It is this distinction which in my view underlies the difference between the admittedly widely-contrasting scenarios suggested by Sullivan J in *Hart Aggregates* at [65].

I have reviewed the conditions 5 and 7 (non-compliance with which is contended to have resulted in the unlawful development of the bungalow at Uplands Farm) and they provide as follows:

5. In addition to the landscaping works referred to in condition 4 above details of additional tree and hedge planting for the boundaries of the site shall be submitted to the District Planning Authority for approval prior to the commencement of works on site and such details as are approved in writing shall thereafter be carried out prior to the dwelling hereby approved first being occupied and thereafter maintained to the

reasonable satisfaction of the District Planning Authority for a period of not less than 5 years.

Reason: - To protect and enhance the visual amenities of the locality.

7. Prior to the commencement of the development hereby approved details of two vehicle parking spaces within the curtilage of the site shall be submitted to the District Planning Authority for approval; such facilities as are approved in writing shall thereafter be implemented prior to the approved dwelling first being occupied and, together with the vehicular access thereto, shall be available for use prior to the approved dwelling first being occupied and shall thereafter be maintained to the reasonable satisfaction of the District Planning Authority.

Reason:- The development, without the provision of adequate parking facilities, is likely to lead to inconvenience and danger to other road users and to be detrimental to amenity by reason of vehicles parking on the public highway.

My first observation is that the conditions are not expressly prohibitive. The wording suggests that they are more in the nature of conditions which require certain matters (i.e. additional landscaping works and location of parking spaces) to be agreed before development may commence and less in the nature of conditions which expressly prohibit development until those matters are agreed. They are not framed as “no development may commence until ... is submitted to the Council and approved in writing” which is commonly seen when a matter is of sufficient significance to warrant such a forceful approach.

Turning to the question of whether the conditions “go to the heart” of the permission, my feeling (and the question is a matter of planning judgment for the Council) is that they do not. As mentioned above, the court has framed the question as to be whether a condition “goes beyond a detail of a matter that is agreed in principle” to become something “without which the authority would not be content to permit the development at all”. The additional landscaping was additional to that which was specified on the approved plan and secured by condition 4 and not, therefore, the only condition which secured landscaping of the site to protect the visual amenity of the locality. It was only to be maintained for a period of 5 years and the purpose of this additional landscaping was to help the development assimilate into the setting and mitigate the wider visual impact of the bungalow. Such planting schemes may/may not be retained to a degree beyond the 5 years however, the condition would have helped in providing a transition from open land to the visual impact of a new dwelling. The lack of any planting being undertaken, whilst is disappointing and contrary to the condition, in itself would not significantly compromise the visual amenity of the area. Consequently, I would tend to the view that this is more in the nature of a detail of a matter agreed in principle, and not a fundamental part of the development permitted. Indeed, beyond the 5 year period of its application it does not control the future boundary treatment and, therefore, from that point onward does not guarantee any beneficial effect on the visual amenity of the locality at all.

Condition 7 is, in my view, a good example of detail of a matter which is agreed in principle but the specifics of which are to be approved by the LPA. The site had

sufficient space within the curtilage of the approved dwelling to accommodate the requisite parking but the final detail of the specific location was to be approved. Whilst the provision of on-site parking was clearly considered to be desirable, it is not a fundamental aspect of the permitted development. It is noted that parking does take place within the site even if not formally laid out and not in accordance with any submission to discharge the condition. Therefore, again the issue of whether this condition goes to the heart of the permission is raised.

In summary, the submission fails to analyse the conditions which are the subject of the opinion and, notably, fails to address the question of whether or not those conditions are “true conditions precedent” in the sense that they are expressly prohibitive and “go to the heart” of the permission granted, such as to render development which is not in compliance with them ineffective in commencing the permission.

Finally, what you have also not provided is any commentary on the apparent material difference as to what has been built on site when considered against the amended plans that were submitted for the siting of the bungalow. It may be prudent to consider this, as to date this cannot form part of my assessment as this is not the basis as to the submission.

In order to move this application forward you do need to provide further submission which addresses the points set out above (as advised by the DDC solicitor) and the basis as to why you consider that the planning permission has fallen away with respect to the bungalow. This level of assessment has not been set out by your client’s barrister.

Once you have considered the contents of this email, perhaps you could provide an indication of an approximate time frame to respond.

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
Thurs 9.00 – 12.30pm

Tel: [REDACTED]
Email: [REDACTED]@dover.gov.uk
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From: [REDACTED]
Sent: 25 November 2025 13:47
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Hi [REDACTED]

Just coming back to you on this - and setting aside my clients comments.

Have you heard back from your solicitor as yet please?

Kind regards

[REDACTED]

On 17/11/2025 10:50, [REDACTED] wrote:

Good morning [REDACTED]

Yes of course we can extend to 30/11/25.

My client will not be too happy with this though as we have been holding off depositing a pre-application for advice on the alterations to the existing bungalow - so that we can deposit this with all matters as to permitted development rights and conditions settled.

This will be a further delay to him - he has just reminded me it has been nearly a month now just to hear back from your solicitor.

The point he also makes being that his barristers's advice is clear on the matter - said barrister being an enforcement and planning law specialist who has sat on the Attorney General's Panel.

With all due respect to your solicitor - my client is unlikely to accept a contrary view. I did take the liberty of speaking to the barrister on Friday, who stated that both LDCs would stand in their own right - one does not affect or change the other. So for instance condition 9 already approved as not needing to be complied with can remain on the conditions 1-10 application. There is no adverse effect in law.

His only other comment was that the case law is unequivocal.

Are we able to obtain an answer today please?

Kind regards

[Redacted]
[Redacted]
[Redacted]
tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 17/11/2025 09:41, [Redacted] wrote:

Hi [Redacted]

Sorry, yes please can we extend (perhaps until 30/11/2025 for now?). I had hoped to hear back from legal, but hadn't. I'll see what I can find out today with regard to the advice.

Many thanks

[Redacted]



[Redacted]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
Thurs 9.00 – 12.30pm

Tel: [Redacted]

Email [REDACTED]@dover.gov.uk

Web: www.dover.gov.uk

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From: [REDACTED]

Sent: 14 November 2025 13:52

To: [REDACTED]; [REDACTED]

Subject: Re: Uplands Farm 25/00776

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Hi [REDACTED]

I don't mean to chase but do you wish to extend the deadline as it is tomorrow, 15th November ?

Kind regards

[REDACTED]

On 12/11/2025 09:44, [REDACTED] wrote:

Hi [REDACTED]

Yes I have briefed him of all the facts and am just waiting on some written advice as to whether I need to seek any further information/how to proceed. I'll contact him today and see where he is at.

Kind regards



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
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From: [REDACTED]
Sent: 12 November 2025 08:10

architecture planning buildings

On 21/10/2025 16:48, [REDACTED] wrote:

Hi [REDACTED]

Sorry we haven't spoken since my previous email. Please can we have a chat regarding the site. In my view things have moved on since you submitted this application and I do not see the necessity for it. Are you available to discuss this week (tomorrow or Thursday am?) as I am proposing you withdraw application 25/00776. As it stands I would otherwise be looking to refuse the application but prefer not to so it would be helpful to discuss first.

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
Thurs 9.00 – 12.30pm

Tel: [REDACTED]
Email [REDACTED]@dover.gov.uk
Web: www.dover.gov.uk

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From: [REDACTED]
Sent: 30 September 2025 16:25
To: [REDACTED]
Subject: RE: Uplands Farm

Hi [REDACTED]

I am going to pop out to the site on next Thursday morning. It would be helpful to meet you out there if that's possible? I'm keen to see the site properly and bungalow as this will help understand the relevance or not of the conditions and whether they need to be included in the CLD or not. I was looking at getting to site for approximately 10.30am? If you can't make it, please can you confirm that it is ok for me to attend unaccompanied and we can talk on the phone after my visit?

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
Thurs 9.00 – 12.30pm


Tel: [REDACTED]
Email: [REDACTED]@dover.gov.uk
Web: www.dover.gov.uk

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Apologies that I have not been in contact whilst working through this application. I need to double check with my manager tomorrow but should then be able to advise where I am with this second CLD. In the meantime please could I ask if you'd be able to agree an EOT for a further 3 weeks as I am hopeful this will be sufficient to draw this to a conclusion.

Many thanks




Principal Planning Officer
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From: [REDACTED]
Sent: 15 September 2025 14:13
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm

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Thank you [REDACTED]
I realise you've been away, so when you are ready, of course.
Kind regards

[REDACTED]
[REDACTED]
tmcuk.org
tmc commercial

On 15/09/2025 12:42, [REDACTED] wrote:
Hi [REDACTED]

My apologies as I have only properly returned this week. I will go through the conditions again and let you know where I am at.

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
Thurs 9.00 – 12.30pm

Tel: [REDACTED]
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From: [REDACTED]
Sent: 12 September 2025 08:56
To: [REDACTED] ; [REDACTED]
Subject: Re: Uplands Farm

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Good morning [REDACTED]
I trust you had a good break.
And thank you for the first LDC.
If we can finalise the second application, we would be most grateful.
Kind regards

[REDACTED]
[REDACTED]
tmcuk.org

tmc commercial ltd

On 22/08/2025 08:58, [REDACTED] wrote:
Morning [REDACTED]
Thank you for the message, and all understood.
Have a good break and I will wait to hear from you.
Kind regards

[Redacted]
[Redacted]
[Redacted] [@tmcuk.org](mailto:[Redacted]@tmcuk.org)
tmc commercial ltd

On 21/08/2025 17:43, [Redacted] wrote:

Hi [Redacted]

Apologies that I have been unable to come back to you on the second application, it is taking more time to consider. I am on leave for the next two weeks so will need to pick this up again on my return. You should hopefully received the AOC decision in my absence.

Kind regards

[Redacted]



[Redacted]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
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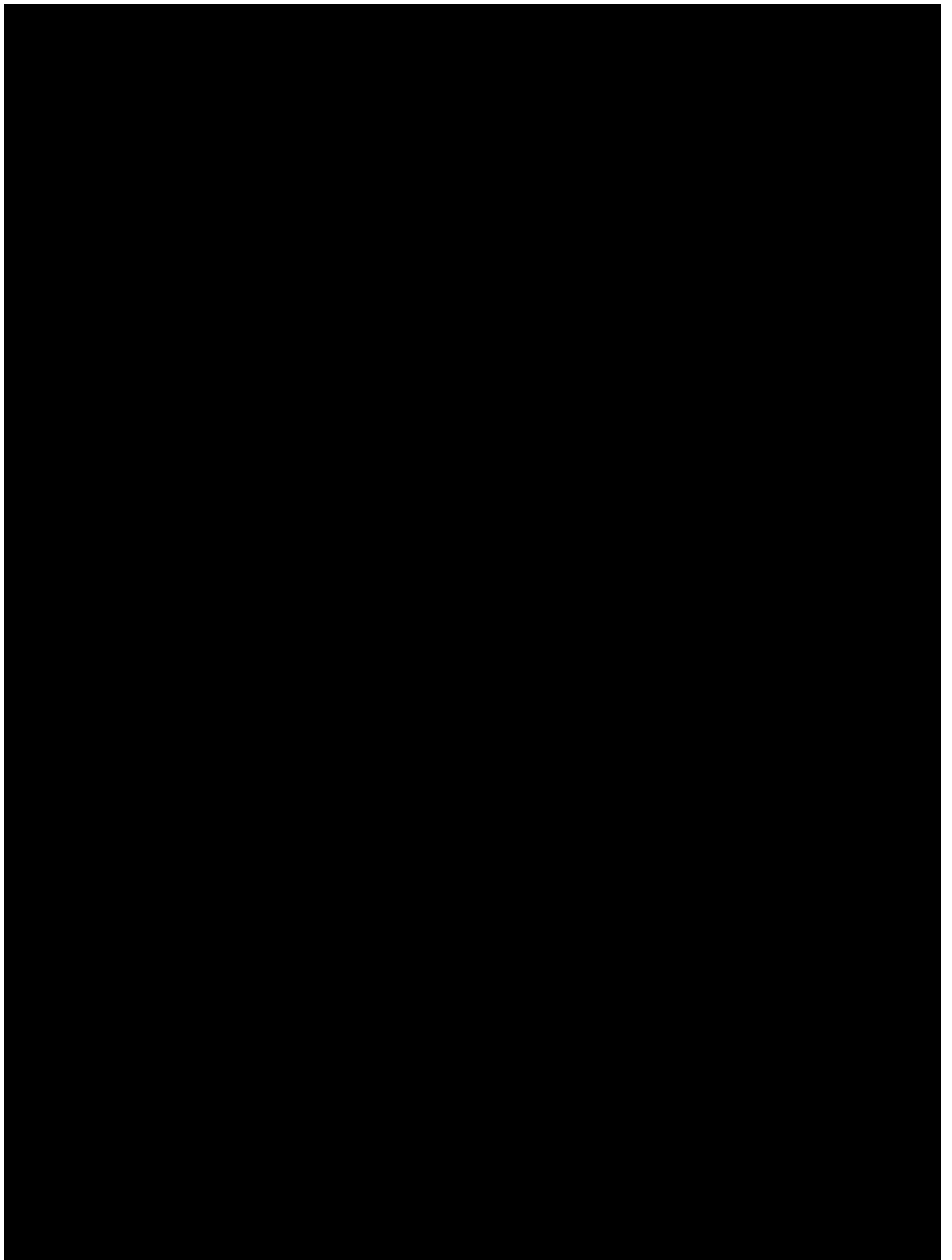
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From: [REDACTED]
Sent: 26 January 2026 14:35
To: [REDACTED]
Subject: FW: Uplands Farm 25/00776

Hi [REDACTED]

Please see below. I'm just seeking confirmation from [REDACTED] that she still wishes to discuss at 1pm tomorrow, but in any event I need to discuss with [REDACTED] and yourself where I go with mine as it needs ne to make a decision.

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

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Tel: [REDACTED]
Email: [REDACTED]@dover.gov.uk
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From: [REDACTED]@tonymichaelconsulting.co.uk>

Sent: 23 January 2026 13:16

To: [REDACTED]@DOVER.GOV.UK>; [REDACTED]

[REDACTED]@dover.gov.uk>; [REDACTED]

[REDACTED]@DOVER.GOV.UK>

Cc: [REDACTED]@tonymichaelconsulting.co.uk>; [REDACTED]

Subject: Fwd: Uplands Farm 25/00776

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Good afternoon [REDACTED] [REDACTED]

Further to the below email, we wish to confirm for avoidance of doubt to hold in abeyance any pre-application advice until the LDA Ref 25/00776 is resolved to my client's satisfaction.

As stated below, we have asked for a response to my submissions of 2 December to Amanda.

It should not take 7 weeks and counting for this response, and to illustrate this, I submit the below screenshot.

You can see I typed out the below question into an AI search engine, which is a fair and accurate summary of the counter-argument Amanda raised - whether the conditions we have argued as going to the heart of the matter are just that. And if they are not, the Whitley principle is not engaged.

You can see the answer from the artificial intelligence - and it is crystal clear in its meaning;

"it may be reasonable to state that this condition would go to the heart of the planning so as to engage the Whitley principle"

This took 1 minute to type and obtain the answer - less.

Amanda's own words from her 25 November email were;

"for a condition to be truly a "Condition Precedent" and to act to engage the Whitley principle, it must go to the "heart" of the matter and be "something without which the authority would not be content to permit the development at all"

I remind that the original planning permission in question for the bungalow - DOV/90/1104 - was a recommendation for refusal on various grounds including appearance, screening, planting, adverse impact on the AONC, highway safety etc.

Subsequently when approved at planning committee, the conditions imposed to attempt to safeguard the above concerns, are the very conditions at issue between us, and that Amanda has held to "not go to the heart of the matter"

Yet by the very words of your own council colleagues and professional officers at that time, they were "**something without which the authority would not be content to permit the development at all**" - as without these conditions, the recommendation was to refuse

This is clear and factual evidence. And there is no element of doubt as to its meaning. Please approve the LDA Ref 25/00776 without further delay, so that we can proceed with pre-application advice.

Respectfully, you have not been waiting 7 weeks for a reply from your solicitor.

It took 1 minute to obtain the below reply.

Kind regards

[Redacted signature]

tmc commercial



if a condition to a planning application was so central to the concerns of the planning authority that they resolved to refuse the planning application is it reasonable to state that this condition would go to the heart of the planning matter so as to engage the Whitley principle

280/2000

Whitley principle

The Whitley principle, which is a key aspect of the planning process, suggests that the planning authority should consider the impact of the proposed development on the surrounding area. If a condition to a planning application is central to the concerns of the planning authority, it may be reasonable to state that this condition would go to the heart of the planning so as to engage the Whitley principle. This principle emphasizes the importance of balancing the needs of the community with the development proposals. www.gov.uk

----- Forwarded Message -----

Subject:Re: Uplands Farm 25/00776

Date: Wed, 21 Jan 2026 12:09:17 +0000

From: [Redacted]

To: [Redacted], [Redacted]

CC: [Redacted], [Redacted], [Redacted]

Good morning [Redacted]

Following a pre-application advice meeting with your colleague [Redacted] and [Redacted], it has now become apparent that the outstanding LDA ref 25/00776 is compromising the advice we have sought in regards to developments at the existing bungalow.

On 2nd December we provided to you comprehensive rebuttal to your 25 November statements.

We see no grounds for you not to approve this application, as no reply has been received in over 7 weeks since our representations of 2 December.

As such, can you please confirm that this application will be approved by Friday of this week, or provide your reply to the 2 December email confirming why you disagree with it.

To reiterate for the benefit of all, the statements from your own officers at DDC, as well as councillors, as evidenced in the DDC planning file, show clearly that the conditions referred to "go to the heart of the matter".

This application was validated on 8th July 2025 - over 6 months ago - and my client now wishes it resolved.

In your email to me of 21 October last year, you stated;

"Sorry we haven't spoken since my previous email. Please can we have a chat regarding the site. In my view things have moved on since you submitted this application and I do not see the necessity for it. Are you available to discuss this week (tomorrow or Thursday am?) as I am proposing you withdraw application 25/00776. "

However your colleague [REDACTED] yesterday took a completely contrary view.

And whilst she stated that the two of you had not spoken in regards this application, I cannot see how this would be the case.

In fact she stated that she thought the above LDA had been approved for non compliance with conditions 1-10.

But this would completely contradict the position she took in regards the AOC condition.

The 7 weeks of inaction referred to above, and the previous delays now appear to have an explanation.

My client is so upset with this turn of events that he intends to take action to remedy this unless his application is approved.

I personally see nothing to be gained by not approving this LDA, which relates solely to the bungalow, which my client intends developing via applications and advice to and from the LPA.

Most of the conditions are time-barred, confirmed as unenforceable by your own legal officers, or irrelevant.

And furthermore, the evidence for you to approve it is in the public record, submitted to you, and meets the legal standard required.

We await your urgent response.

Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
tmcuk.org

tmc commercial

On 14/01/2026 12:54, [REDACTED] wrote:

Good afternoon [REDACTED]
Apologies for my late reply.
I shall wait to hear from you then.
Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
tmcuk.org

tmc commercial
23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 08/01/2026 10:17, [REDACTED] wrote:

Hello [REDACTED]

I just wanted to let you know that I am still seeking to get a response to you on this CLEUD. I will try and come back to you very soon.

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
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From: [REDACTED]
Sent: 12 December 2025 16:06
To: [REDACTED]
Cc: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Good afternoon [REDACTED]
Are you able to respond to the further submissions of 2 December please?
Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
[@tmcuk.org](mailto:[REDACTED]@tmcuk.org)
tmc commercial
23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 02/12/2025 13:31, [REDACTED] wrote:
Good afternoon [REDACTED]
I now attach a further response to your below email of 25 November.
Once you have received I would be grateful for your reply but I believe this provides all that is necessary to allow you to determine the application favourably.
Kind regards

[REDACTED]
[REDACTED]
[@tmcuk.org](mailto:[REDACTED]@tmcuk.org)
tmc commercial
23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 27/11/2025 16:20, [REDACTED] wrote:

Dear [REDACTED]

Many thanks for your reply. I'll look at this in more detail. I'd like to hope that we can reach a conclusion if we continue to work together.

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
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From: [REDACTED]
Sent: 27 November 2025 08:56
To: [REDACTED]; [REDACTED]
Cc: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Good morning [REDACTED]

Thank you for the detailed reply.

I will need to consult with my client and will revert to you by early next week with a formal reply, but in the meantime, I would ask and state the following;

The reply from the DDC solicitor has all the characteristics of AI generated content. Indeed, as an exercise to ascertain this, I simply typed into a search engine " how can I resist a lawful development planning application based on the Whitley principle".

Within seconds, a comprehensive reply was produced, which almost word for word mimics your solicitor's words.

Now I am fully aware that most solicitors nowadays use AI for such purposes.

Can you please confirm if the advice from the DDC solicitor was in any way assisted or informed by AI ?

As mentioned to you in our telephone conversation, the removal of the AOC condition 9 was the primary objective for my client. This has already been achieved via the first LDC.

The LDC application for lawfulness of the bungalow without compliance with conditions 1-10, was a secondary strategy.

But as the application has been made, and time and cost expended, we would prefer it to be successful.

There is however, very little to be gained by this second LDC, for the following reasons, and the hyper-technical response from the DDC solicitor seems entirely disproportionate to the matters at stake.

I might suggest a different, far more simplistic approach;

Of the 10 conditions, **no. 9** is already accepted by the other LDC. We can remove this from the argument.

Condition 1 was complied with - to commence works within 5 years - this is indisputable from the public records DDC holds

2 was complied with - the materials were approved under DDC letter dated 27/01/93 - which is in the public record

3 - this removes PD rights - no submissions were required

4 - involves landscaping and is stated as unenforceable by DDC letters 1 April and 24 May 1999

5 - involves further landscaping to be maintained for 5 years. Which the DDC solicitor confirmed as unenforceable by letter dated 30 March 1999.

And also stated as unenforceable by DDC letters 1 April and 24 May 1999

6 - refers to re-planting if landscaping died out within 5 years - and again confirmed as unenforceable by the DDC solicitor by letter of 30 March 1999.

Also stated as unenforceable by DDC letters 1 April and 24 May 1999

7 - 2 parking spaces to be provided, and required to be maintained thereafter - Your below email goes to length to state that this is not a material issue and has, in your view, been provided

8 - a turning space required and maintained - a minor matter, and clearly implied as such by assumptions under 7 above and your email

9 - the Agricultural Occupancy Condition - dealt with and removed by the other LDC

10 - development carried out as per the approved plans - and confirmed as varied by 27/01/93 letter from DDC and Plan no JS/1640/2b received 4 Jan 1993 - so this condition is not at issue

(although I do have to check the siting of the bungalow).

All the above conditions are either confirmed as unenforceable by DDC letters (4, 5 and 6), or,

Complied with (1, 2, 10), or,

are minor, non material matters (that do not "go to the heart") (7, 8).

Furthermore, there is the argument they are all time-barred.

DDC failed to enforce any breach. And far more than 10 years have elapsed. In fact 30 years have elapsed.

I am certain your enforcement officers will agree with this.

All that remains is Condition 3, which removes Permitted Development rights.

No Artificial Intelligence is needed to determine that from ten conditions referenced by the application, only one remains that can even be debated - condition 3.

It would be useful for my client to have confirmed that his PD rights are in place.

But not critical.

Conditions 1,2,4,5,6,7,8 and 10 are a fait accompli and not disputable nor enforceable.

This above should enable you to accept an LDC for these conditions.

I will revert more formally by early next week.

But would be grateful for the confirmation as to the provenance of the solicitor advice in the mean time.

Kind regards


@tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 25/11/2025 17:31,  wrote:

Dear 

Thank you for your email. Whilst I appreciate your clients concern, with applications such as this it is important to reach the decision through the correct mechanism and as

discussed over the phone with you, this application has proved more complex than I had initially perceived.

As a result of seeking legal advice the situation with the current application is that the submission is unpersuasive. Please be advised as follows:

The starting point is that operations to which the planning permission relates are the operations which it authorizes and not those which contravene the conditions of the permission (which is known as the *Whitley* principle). To put it simply, works undertaken without complying with all pre-commencement conditions will not, lawfully, commence development. However, there are exceptions to the *Whitley* principle and in *Hart Aggregates* [2005] EWHC 840 (Admin) Sullivan J explained that a distinction was to be drawn between a condition which required some action to be taken (plans agreed or works done) before development is commenced, and a condition which expressly prohibits any development taking place before a particular requirement (such as the approval of plans) has been met. Only in the latter case should it be concluded that the development which has taken place is unlawful. Furthermore, for a condition to be a “true condition precedent” it must not only have to be unambiguously and expressly prohibitive but it must also go to the “heart” of the planning permission. The High Court decision in *Mieseles* [2019] EWHC 1987 (Admin) put the question as to whether a condition went to the “heart of the permission” this way; is it “a condition going beyond the detail of a matter that is agreed in principle and is, instead, something without which the authority would not be content to permit the development at all. It is this distinction which in my view underlies the difference between the admittedly widely-contrasting scenarios suggested by Sullivan J in *Hart Aggregates* at [65].

I have reviewed the conditions 5 and 7 (non-compliance with which is contended to have resulted in the unlawful development of the bungalow at Uplands Farm) and they provide as follows:

5. In addition to the landscaping works referred to in condition 4 above details of additional tree and hedge planting for the boundaries of the site shall be submitted to the District Planning Authority for approval prior to the commencement of works on site and such details as are approved in writing shall thereafter be carried out prior to the dwelling hereby approved first being occupied and thereafter maintained to the reasonable satisfaction of the District Planning Authority for a period of not less than 5 years.

Reason: - To protect and enhance the visual amenities of the locality.

7. Prior to the commencement of the development hereby approved details of two vehicle parking spaces within the curtilage of the site shall be submitted to the District Planning Authority for approval; such facilities as are approved in writing shall thereafter be implemented prior to the approved dwelling first being occupied and, together with the vehicular access thereto, shall be available for use prior to the approved dwelling first being occupied and shall thereafter be maintained to the reasonable satisfaction of the District Planning Authority.

Reason:- The development, without the provision of adequate parking facilities, is likely to lead to inconvenience and danger to other road users and to be detrimental to amenity by reason of vehicles parking on the public highway.

My first observation is that the conditions are not expressly prohibitive. The wording suggests that they are more in the nature of conditions which require certain matters (i.e. additional landscaping works and location of parking spaces) to be agreed before development may commence and less in the nature of conditions which expressly prohibit development until those matters are agreed. They are not framed as “no development may commence until ... is submitted to the Council and approved in writing” which is commonly seen when a matter is of sufficient significance to warrant such a forceful approach.

Turning to the question of whether the conditions “go to the heart” of the permission, my feeling (and the question is a matter of planning judgment for the Council) is that they do not. As mentioned above, the court has framed the question as to be whether a condition “goes beyond a detail of a matter that is agreed in principle” to become something “without which the authority would not be content to permit the development at all”. The additional landscaping was additional to that which was specified on the approved plan and secured by condition 4 and not, therefore, the only condition which secured landscaping of the site to protect the visual amenity of the locality. It was only to be maintained for a period of 5 years and the purpose of this additional landscaping was to help the development assimilate into the setting and mitigate the wider visual impact of the bungalow. Such planting schemes may/may not be retained to a degree beyond the 5 years however, the condition would have helped in providing a transition from open land to the visual impact of a new dwelling. The lack of any planting being undertaken, whilst is disappointing and contrary to the condition, in itself would not significantly compromise the visual amenity of the area. Consequently, I would tend to the view that this is more in the nature of a detail of a matter agreed in principle, and not a fundamental part of the development permitted. Indeed, beyond the 5 year period of its application it does not control the future boundary treatment and, therefore, from that point onward does not guarantee any beneficial effect on the visual amenity of the locality at all.

Condition 7 is, in my view, a good example of detail of a matter which is agreed in principle but the specifics of which are to be approved by the LPA. The site had sufficient space within the curtilage of the approved dwelling to accommodate the requisite parking but the final detail of the specific location was to be approved. Whilst the provision of on-site parking was clearly considered to be desirable, it is not a fundamental aspect of the permitted development. It is noted that parking does take place within the site even if not formally laid out and not in accordance with any submission to discharge the condition. Therefore, again the issue of whether this condition goes to the heart of the permission is raised.

In summary, the submission fails to analyse the conditions which are the subject of the opinion and, notably, fails to address the question of whether or not those conditions are “true conditions precedent” in the sense that they are expressly prohibitive and “go

to the heart” of the permission granted, such as to render development which is not in compliance with them ineffective in commencing the permission.

Finally, what you have also not provided is any commentary on the apparent material difference as to what has been built on site when considered against the amended plans that were submitted for the siting of the bungalow. It may be prudent to consider this, as to date this cannot form part of my assessment as this is not the basis as to the submission.

In order to move this application forward you do need to provide further submission which addresses the points set out above (as advised by the DDC solicitor) and the basis as to why you consider that the planning permission has fallen away with respect to the bungalow. This level of assessment has not been set out by your client’s barrister.

Once you have considered the contents of this email, perhaps you could provide an indication of an approximate time frame to respond.

Kind regards



[Redacted]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
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From: [REDACTED]
Sent: 25 November 2025 13:47
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Hi [REDACTED]
Just coming back to you on this - and setting aside my clients comments.
Have you heard back from your solicitor as yet please?
Kind regards

[REDACTED]
On 17/11/2025 10:50, [REDACTED] wrote:
Good morning [REDACTED]
Yes of course we can extend to 30/11/25.
My client will not be too happy with this though as we have been holding off depositing a pre-application for advice on the alterations to the existing bungalow - so that we can deposit this with all matters as to permitted development rights and conditions settled. This will be a further delay to him - he has just reminded me it has been nearly a month now just to hear back from your solicitor.
The point he also makes being that his barristers's advice is clear on the matter - said barrister being an enforcement and planning law specialist who has sat on the Attorney General's Panel.
With all due respect to your solicitor - my client is unlikely to accept a contrary view. I did take the liberty of speaking to the barrister on Friday, who stated that both LDCs would stand in their own right - one does not affect or change the other. So for instance condition 9 already approved as not needing to be complied with can remain on the conditions 1-10 application. There is no adverse effect in law.

His only other comment was that the case law is unequivocal.

Are we able to obtain an answer today please?

Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
[\[REDACTED\]@tmcuk.org](mailto:[REDACTED]@tmcuk.org)

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 17/11/2025 09:41, [REDACTED] wrote:

Hi [REDACTED]

Sorry, yes please can we extend (perhaps until 30/11/2025 for now?). I had hoped to hear back from legal, but hadn't. I'll see what I can find out today with regard to the advice.

Many thanks

[REDACTED]



[REDACTED]
Principal Planning Officer

Dover District Council

Council Offices, White Cliffs Business Park,

Whitfield, Dover CT16 3PJ

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From: [REDACTED]

Sent: 14 November 2025 13:52

To: [REDACTED]; [REDACTED]

Subject: Re: Uplands Farm 25/00776

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Hi [REDACTED]

I don't mean to chase but do you wish to extend the deadline as it is tomorrow, 15th November ?

Kind regards

[REDACTED]

On 12/11/2025 09:44, [REDACTED] wrote:

Hi [REDACTED]

Yes I have briefed him of all the facts and am just waiting on some written advice as to whether I need to seek any further information/how to proceed. I'll contact him today and see where he is at.

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
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From: [REDACTED]
Sent: 12 November 2025 08:10
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm 25/00776

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Good morning [REDACTED]

Mindful of the extended date of 15th November, have you discussed the matter with your solicitor as yet?

Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
[\[REDACTED\]@tmcuk.org](mailto:[REDACTED]@tmcuk.org)

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 22/10/2025 15:28, [REDACTED] wrote:

Hi [REDACTED]

Many thanks for sending this across, I have since found it on the file, so sorry about that. It was helpful to talk this one through over the phone earlier. I am just waiting for the DDC solicitor to come back to me with a date to discuss the way forward. In the meantime I'd be grateful if you could agree a further EOT until 15th November, by which time I should be in a position to either issue a decision on the basis of what has been submitted, amend the application or ask you to withdraw.

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer

Dover District Council

Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

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Tel: [REDACTED]

Email [\[REDACTED\]@dover.gov.uk](mailto:[REDACTED]@dover.gov.uk)

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From: [REDACTED]
Sent: 22 October 2025 13:29
To: [REDACTED] ; [REDACTED]
Subject: Re: FW: Uplands Farm

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Hi [REDACTED]

Please find attached barrister's cover letter as we have just discussed on the telephone. And thank you for your time with the call.

Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[\[REDACTED\]@tmcuk.org](mailto:[REDACTED]@tmcuk.org)


tmc commercial
23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 21/10/2025 16:48, [REDACTED] wrote:
Hi [REDACTED]

Sorry we haven't spoken since my previous email. Please can we have a chat regarding the site. In my view things have moved on since you submitted this application and I do not see the necessity for it. Are you available to discuss this week (tomorrow or Thursday am?) as I am proposing you withdraw application 25/00776. As it stands I would otherwise be looking to refuse the application but prefer not to so it would be helpful to discuss first.

Kind regards




Principal Planning Officer
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From: [REDACTED]
Sent: 30 September 2025 16:25
To: [REDACTED]
Subject: RE: Uplands Farm

Hi [REDACTED]
I am going to pop out to the site on next Thursday morning. It would be helpful to meet you out there if that's possible? I'm keen to see the site properly and bungalow as this will help understand the relevance or not of the conditions and whether they need to be included in the CLD or not. I was looking at getting to site for approximately 10.30am? If you can't make it, please can you confirm that it is ok for me to attend unaccompanied and we can talk on the phone after my visit?

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
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From: [REDACTED] <[\[REDACTED\]@tonymichaelconsulting.co.uk](mailto:[REDACTED]@tonymichaelconsulting.co.uk)>

Sent: 29 September 2025 16:29

To: [REDACTED] <[\[REDACTED\]@DOVER.GOV.UK](mailto:[REDACTED]@DOVER.GOV.UK)>; [REDACTED]

[REDACTED] <[\[REDACTED\]@tonymichaelconsulting.co.uk](mailto:[REDACTED]@tonymichaelconsulting.co.uk)>

Subject: Re: Uplands Farm

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Hi [REDACTED]

Of course, extension of time agreed.

Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 29/09/2025 14:56, [REDACTED] wrote:

Hi [REDACTED]

Apologies that I have not been in contact whilst working through this application. I need to double check with my manager tomorrow but should then be able to advise where I am with this second CLD. In the meantime please could I ask if you'd be able to agree an EOT for a further 3 weeks as I am hopeful this will be sufficient to draw this to a conclusion.

Many thanks



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
Thurs 9.00 – 12.30pm

Tel: [REDACTED]
Email: [REDACTED]@dover.gov.uk
Web: www.dover.gov.uk

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From: [REDACTED]
Sent: 15 September 2025 14:13

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From: [REDACTED]
Sent: 12 September 2025 08:56
To: [REDACTED]; [REDACTED]
Subject: Re: Uplands Farm

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Good morning [REDACTED]

I trust you had a good break.

And thank you for the first LDC.

If we can finalise the second application, we would be most grateful.

Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
[@tmcuk.org](mailto:[REDACTED]@tmcuk.org)

tmc commercial ltd

On 22/08/2025 08:58, [REDACTED] wrote:

Morning [REDACTED]

Thank you for the message, and all understood.

Have a good break and I will wait to hear from you.

Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
[@tmcuk.org](mailto:[REDACTED]@tmcuk.org)

tmc commercial ltd

On 21/08/2025 17:43, [REDACTED] wrote:

Hi [REDACTED]

Apologies that I have been unable to come back to you on the second application, it is taking more time to consider. I am on leave for the next two weeks so will need to pick this up again on my return. You should hopefully received the AOC decision in my absence.

Kind regards

[REDACTED]



[REDACTED]
Principal Planning Officer
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
WORKING DAYS Mon - Weds 9.30 – 5.30pm
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[REDACTED]

From: [REDACTED]
Sent: 10 February 2026 10:56
To: Development Management
Cc: [REDACTED]; [REDACTED]
Subject: Fw: Uplands farm - 25/00999

Can the below be added as sensitive and Agent to LH

Thanks

[REDACTED]



[REDACTED]
Team Leader
Development Management
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
Tel: [REDACTED]
Email: [REDACTED]@DOVER.gov.uk
Web: [dover.gov.uk](https://www.dover.gov.uk)

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From: [REDACTED]
Sent: 01 October 2025 10:22
To: [REDACTED]
Cc: [REDACTED]; [REDACTED]
Subject: Fwd: Uplands farm

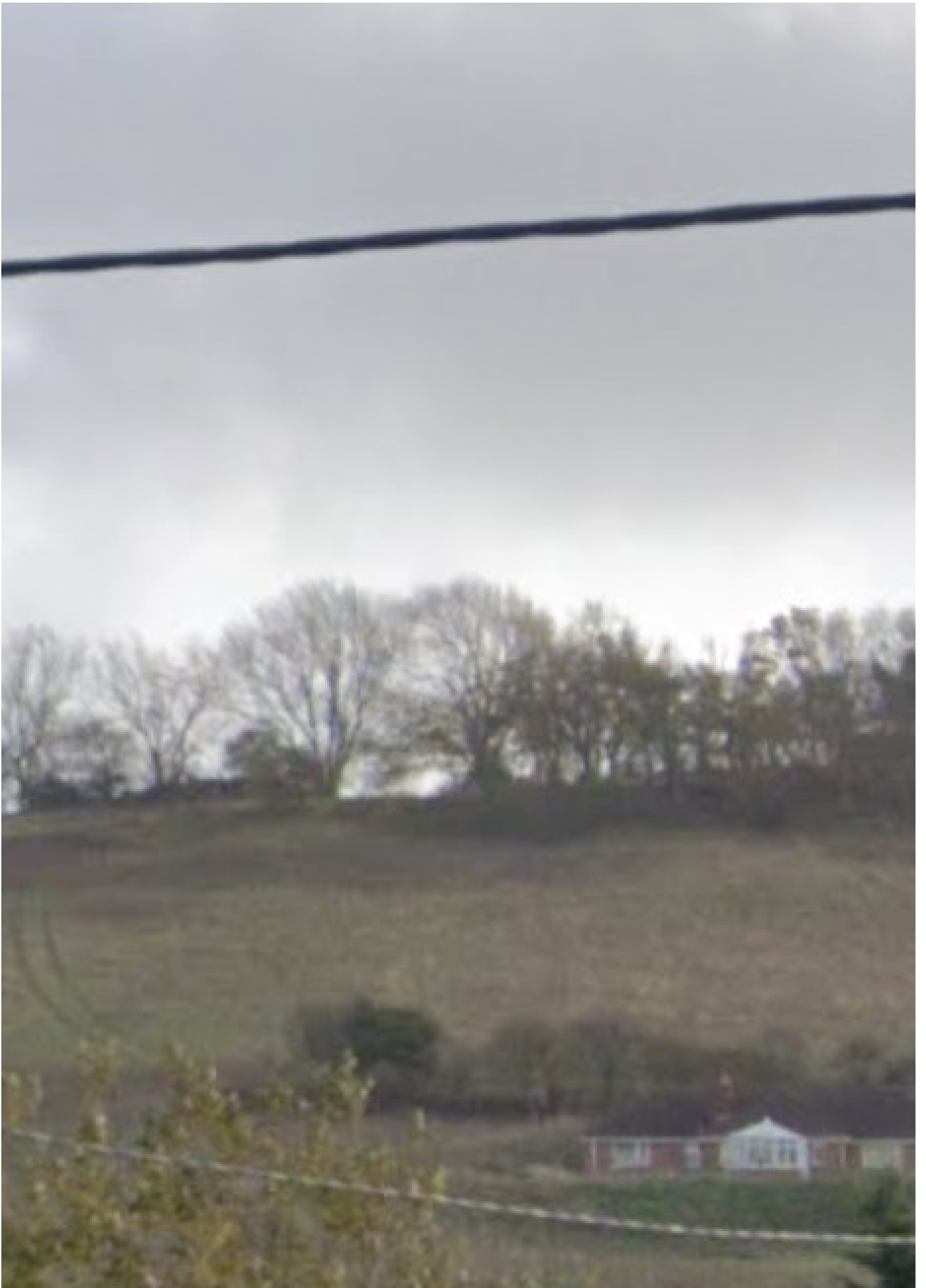
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Sent separately due to large file size

----- Forwarded Message -----

Subject:Uplands farm
Date:Tue, 30 Sep 2025 18:22:51 +0100
From: [REDACTED]
To: [REDACTED], [REDACTED]

Nov 2022 - sheep and cows



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From: [REDACTED]
Sent: 10 February 2026 10:57
To: Development Management
Cc: [REDACTED]; [REDACTED]
Subject: Fw: Uplands Farm - 25/000999

Can this be added to DMS for the above and agent to LH

Thanks



[REDACTED]
Team Leader
Development Management
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
Tel: [REDACTED]
Email: [REDACTED]@DOVER.gov.uk
Web: dover.gov.uk

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From: [REDACTED]
Sent: 01 October 2025 10:23
To: [REDACTED]; [REDACTED]; [REDACTED]
Subject: Fwd: Uplands Farm

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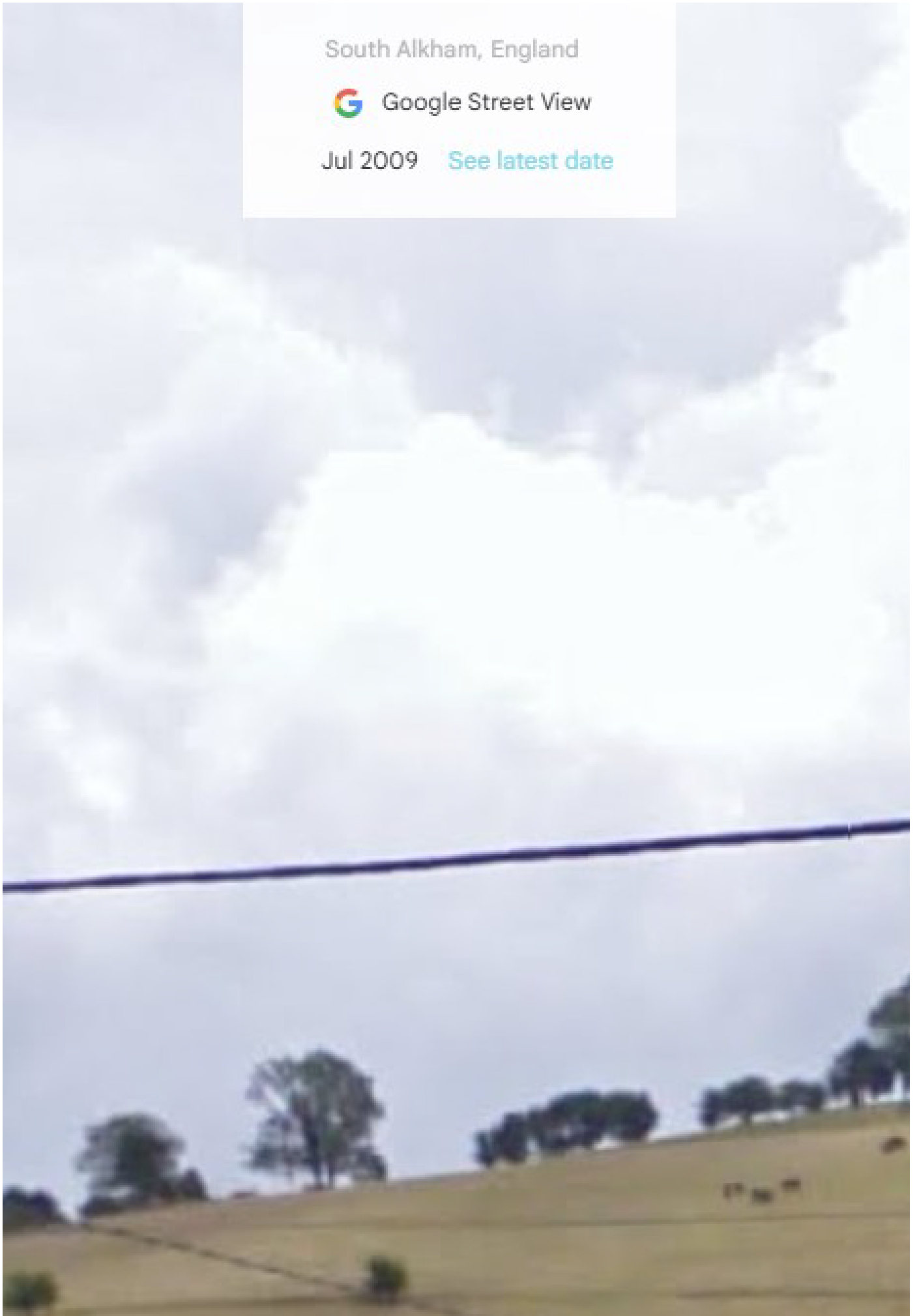
----- Forwarded Message -----
Subject:Uplands Farm
Date:Tue, 30 Sep 2025 18:27:37 +0100
From: [REDACTED]
To: [REDACTED], [REDACTED]

2009 - cows

South Alkham, England

 Google Street View

Jul 2009 [See latest date](#)



South Alkham, England

 Google Street View

Nov 2022 [See latest date](#)



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[REDACTED]

From: [REDACTED]
Sent: 10 February 2026 10:58
To: Development Management
Cc: [REDACTED]; [REDACTED]
Subject: Fw: Your Ref: 25/00999 - Part 6 application at Uplands Farm, Meggett Lane, Alkham

Can this be added to DMS please as sensitive and LH with agent



[REDACTED]
Team Leader
Development Management
Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ
Tel: [REDACTED]
Email: [REDACTED]@DOVER.gov.uk
Web: dover.gov.uk

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From: [REDACTED]
Sent: 01 October 2025 12:57
To: [REDACTED]; [REDACTED]
Cc: [REDACTED]
Subject: Re: Your Ref: 25/00999 - Part 6 application at Uplands Farm, Meggett Lane, Alkham
Dear [REDACTED]

Thank you for your e-mail below of yesterday addressed to the case officer. Thank you also for the subsequent e-mails addressed to me this morning together with photos of the site from November 2022 and further back in 2009.

As you are aware we are very close to the timeframe for which a decision must be made or else (provided the criteria within Part 6 of the GPDO is met) prior approval is granted by default. I do not want to be in that position and I am of the view that I can now advise as to where I am at with the application.

As you have been made aware, the concern we have had with the application is about the agricultural use and whilst there might be agriculture in place at the current time the actual test is that there needs to be an agricultural use at the time of carrying out the operation. A difficult test to establish at this point in time and I am aware that the applicant works outside of agriculture but I can accept that this is not necessarily relevant. I do think that it is a very finely balanced case but I have no evidence to the contrary that at the time of carrying out the proposed works that there will be not be an agricultural use on the land. What has happened before on the land over time is not relevant to the consideration of this application. In turn, the quote from the Samalas case, whilst about a Part 6 application, is not from the salient point of the case which rested on the fact that it was necessary to consider all the conditions referred to in Part 6.

I have concluded that we can support the application and will determine that prior approval is not required. As you are aware the decision is due tomorrow and I will therefore need to write a delegated report which will take some time. As you have previously stated case law has confirmed that in agreement with an applicant, a

suitable extension of time can be allowed and on this occasion I wonder whether your client would be amenable to extending the time period for making a decision until next Wednesday to allow for a report to be written, signed off by a senior officer and the admin process completed.

I look forward to hearing from you by the end of today.

Regards

[Redacted]
Team Leader



Development Management

Dover District Council
Council Offices, White Cliffs Business Park,
Whitfield, Dover CT16 3PJ

Tel: [Redacted]
Email: [Redacted]@DOVER.gov.uk
Web: dover.gov.uk

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From: [Redacted]
Sent: 30 September 2025 17:40
To: [Redacted]
Cc: [Redacted]; [Redacted]; [Redacted]
Subject: Re: Your Ref: 25/00999

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Hi [Redacted]
Thank you for the reply, and it is disappointing that you cannot agree with our analysis and conclusions. You state that you do not consider the site is an active agricultural use, yet Uplands Farm has no contrary planning history, there are sheep and grazing agreements in place, and the GPDO requires a "light touch" approach with the burden of evidence set very low.
I cannot reconcile your position therefore.
In addition, the recent Lawful Development Certificate clearly demarcates the sole residential curtilage, and limits it to the proximate surrounding areas of the bungalow.
Everything else must therefore remain and be a farm, and in agricultural use.
Appeal Ref: APP/J1860/W/20/3263591 clearly states;
No agricultural activities have been observed by the Council. Nonetheless, the barns have an overtly agricultural and utilitarian appearance. There is no evidence, including planning permissions, that any other use of the barns has commenced. In the absence of any convincing evidence to the contrary and on the balance of probabilities, it is my judgement that the buildings were last in use for agricultural purposes as part of an agricultural holding. Even if they were not in use on the relevant date, there is nothing to indicate that the agricultural use has been replaced by another.
This principle clearly applies to Uplands Farm. You have no contrary "convincing" evidence, and our evidence in support far exceeds the low bar of balance of probabilities.
3 further points;

1) You state you have discussed the matter with the council's legal department. Aside from this being the opposite of the "light touch" the GPDO requires, and the stated requirement from the High Court judicial review of **Smolas v Herefordshire Council**, of;

" It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system"

It also indicates that the matter in the LPA's view is at least finely balanced, uncertain or arguable, and requires a legal opinion.

Given all the above, your findings should have allowed you to support the application.

2) A technical matter; Your state "*As the application is made for prior approval.....*"

This is incorrect. The application is for prior notification if the prior approval of the LPA is required.

This is an important distinction.

3) You stated "*Moving forward the applicant retains options to either resubmit under Part 6 once the agricultural use of the site is further established.....*"

Again, you reiterate the sole issue being to prove an established agricultural use.

Given this clear, only, remaining issue, the appropriate and correct action of the LPA is to determine Prior Approval is indeed required, solely to present more evidence (so one has to infer) to show established agricultural use.

I have submitted above, and in below email, that the bar for evidence is low, and far more than this bar is provided and obvious, but the time period that the Prior Approval process would involve would surely allow for this additional - limited - evidence to be made clear.

Given all this, we would respectfully ask for a further review by your line manager (in your absence) and/or legal department.

If we do not hear any reply by 12 noon tomorrow, we will notify you at that time of our decision to withdraw or otherwise.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] tmcuk.org

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ
architecture planning buildings

On 30/09/2025 16:41, [REDACTED] wrote:

Hello [REDACTED]

Thanks for the further information you have provided in relation to both the case law and the arrival of sheep onto the site. I apologise for not responding sooner however I had been waiting to discuss the application with my line manager and the Council's legal department.

Following our site visit last week and this discussion I still have concerns about the current use of the land within the Uplands Farm site. I note that the applicant has explored options for future uses of the land and has taken steps to remove debris from the site since purchasing it. However at this time I do not consider that the site is in an active agricultural use which would enable it to benefit from the provisions of Schedule 2, Part 6, Class A of the General Permitted Development Order (GPDO)(2015). These

provisions relate to the carrying out of excavation or engineering operations on agricultural land comprised in an agricultural unit of 5 hectares or more in area. I also therefore have concerns about whether the proposed track is reasonably necessary for the purposes of agriculture within the unit.

As the application is made for prior approval, but I do not believe the site benefits from the provisions of Schedule 2, Part 6, Class A of the GPDO, I am recommending that prior approval is refused.

I note from your email and our on-site discussions that you are minded to avoid a refusal being issued if possible, and so you now have the option to withdraw the application. Given the tight timescale to determine the prior approval within 28 days (by 2nd October), I will need your confirmation of this by midday tomorrow, and if the application is not withdrawn by then, I will arrange for a refusal to be issued.

Moving forward the applicant retains options to either resubmit under Part 6 once the agricultural use of the site is further established, or to submit a full planning application for the proposed track.

I trust the above is clear, and have copied in my line manager to the email as I am on annual leave after today, returning 13th October.

Thanks and regards,



██████████
Senior Planner (Development Management)

Dover District Council
Council Offices, White Cliffs Business Park, Whitfield,
Dover CT16 3PJ

Email: ██████████@dover.gov.uk

Web: <http://dover.gov.uk>

DD: 01304 872772

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From: ██████████

Sent: 30 September 2025 11:05

To: ██████████

Cc: ██████████ ; ██████████

Subject: Fwd: Your Ref: 25/00999

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Good morning ██████████

Sorry to press you, but obviously the 28 days expires in 2 days, and if you are not minded to confirm that;

a) prior approval is not required (either by correspondence, or by no reply within the 28 days), or,

b) that prior approval is required, but approved at the same time, with or without conditions (as the GPDO allows - shown below),

then I would in all likelihood advise my client to withdraw the application, and to act according to the informatives you will no doubt issue explaining your chosen determination.

We hope to hear from you therefore.

Kind regards

██████████

[REDACTED]
[REDACTED]
[\[REDACTED\]@tmcuk.org](mailto:[REDACTED]@tmcuk.org)

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

----- Forwarded Message -----

Subject: Re: Your Ref: 25/00999

Date: Mon, 29 Sep 2025 08:54:36 +0100

From: [REDACTED]

To: [REDACTED], [REDACTED]

CC: [REDACTED]

Good morning [REDACTED]

The first batch of sheep arrived over the weekend - photos sent to you via separate emails following this.

Electric fencing is also installed.

The sheep will continue to arrive, but my client insisted that the first batch were brought forward to this weekend, based on the feedback from your site visit.

You confirmed that all matters are satisfied ie. that the prior approval application is compliant in all aspects including definitional requirements and conditions met, save solely that you are not convinced that there is adequate evidence to prove "reasonably necessary for agriculture", and that you need to see ongoing agricultural activities for this to be shown.

We now have sheep on site - the first batch of 50.

My clients asks therefore if you are happy to make another site visit to verify this for yourself.

You were correct to say that the 28 day time limit cannot be extended - in my research of the case law I referred to and that we agreed that I would send to you, this is confirmed therein. I quote below from the High Court judicial review of **Smolas v Herefordshire Council, 2021**, which I attach for your reference.

1)

" Is a prior approval application like a planning application?

*The statutory requirements relating to prior approval **are much less prescriptive than those relating to planning applications.***

*This is deliberate, as prior approval is a **light-touch process** which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place. **It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.***

Paragraph: 028 Reference ID: 13-028-20140306

Revision date: 06 03 2014 "

I quote the above at the outset, as this matter now rests solely on proving "**reasonably necessary for agriculture**".

This property has always been a farm - this is not in dispute. My client has a grazing licence that has been forwarded to you, there are now sheep on the land. We have

forwarded an environmental stewardship scheme plan and agreement, a rural payment agreement and proof of membership. You have seen farm vehicles on the land seeding the fields for hay.

And you have seen the nature of the existing approach and access to the farm - and how unsuitable and difficult this is.

If prior approval is a light touch process, then the burden of proof **must be less** than the balance of probability (more likely than not) bar required on a standard planning application.

I respectfully submit that we have shown a higher standard of evidence than the above.
2)

At para 48 (but at 38 of "Keenan"). *"The fact that the question of whether development is*

"reasonably necessary" for the relevant purposes is not merely an objective matter, but involves an element of judgment"

In Keenan v Woking Borough Council & Secretary of State for Communities and Local Government [2017] EWCA Civ 438, [2018] PTSR 697, the appellant applied for prior notification as to whether or not prior approval was required for construction of a hard core track, as permitted agricultural or forestry development.

At para 73 ; *"On my interpretation of Part 6 and Part 16, whilst a two stage process is envisaged, the*

*language used in the GPDO does not point to it being a mandatory requirement. In my judgment, local planning authorities may, in the exercise of their discretion, determine both prior notification and prior approval on the same occasion, if in the particular circumstances, it is appropriate and procedurally fair to do so. Relevant considerations are likely to be whether a local planning authority has sufficient information to determine the application for prior approval; **whether the applicant has had a fair opportunity to address any matters arising for consideration in the application for prior approval;**"*

The above shows that if you are not quite satisfied at this point, the appropriate line of action is to confirm that Prior Approval is required, and allow the applicant to address the matters raised - in this case, solely showing agriculture is taking place.

But as indicated, the sheep are now on site, and the standard of evidence required is low.

Respectfully, you are now in a position to confirm Prior Approval is not required.

3)

At 77. *"In my judgment, the questions in the application form were clearly designed to address*

the definitional requirements of paragraphs A and A1, for example:

ix) whether the proposed development was reasonably necessary for the purposes of agriculture;

x) whether the proposed development was designed for the purposes of agriculture"

At 78. *" The Claimant answered all these questions briefly, but clearly...."*

At 81. *" I consider that the form gave the Claimant the opportunity to provide the information*

*which the Council required to decide (1) whether the proposed development met the definitional requirements; (2) whether prior approval was required; and (3) whether prior approval should be granted, with or without conditions, or refused. The Claimant could have provided more detail as to why he needed an agricultural building, **by reference to plans to diversify and expand the agricultural side of the business, but***

**he
did not do so.**

The above in bold text indicates that the High Court judges confirm that reference to future plans and intentions is considered acceptable as a standard of evidence to prove "reasonably necessary for agriculture"

At 87. "The Claimant filed a witness statement dated 21 May 2020, for the purposes of the costs

limit, in which he described how the Covid-19 pandemic, and the loss of bookings at his holiday accommodation, had resulted in a significant reduction of income, and placed him in a precarious financial position. **Therefore he and his wife intended to expand and diversify their agricultural activities.** As his application for prior notification was made on 4 March 2020, before the first lockdown, he would not have appreciated the impact which the pandemic was going to have at the date of his initial application. However, he would have been able to submit a fresh application at any time subsequently, **and submit further evidence to support his application that the new**

building was reasonably necessary for the purposes of agriculture because he intended

to expand and diversify his agricultural activities, in the light of the economic impact

of the pandemic.

This is reiterated above. Future intentions are enough as a standard of evidence.

4)

In Appeal Ref: APP/J1860/W/20/3263591, Wood Farm, Burnthorne Lane, Dunley, DY13 0TP - Mr John Corbo against the decision of Malvern Hills District Council.

This was a Notification for Prior Approval development (attached).

At 5. and 6;

Agricultural use

5. *The relatively modern barns stand within the land associated with a smallholding comprising a farmhouse and 21.6 acres of agricultural land and woodland. This is confirmed by the sales particulars relating to the appellants' purchase of the appeal barns in 2019. It is stated that the buildings were used for the storage of hay and agricultural equipment and machinery and were in use as part of an agricultural holding on 20 March 2013. **There is nothing to suggest that it was not part of a business operation. There is supporting evidence from the previous owners and the selling agents as well as the current owner that the use has not changed in the intervening period.***

6. *No agricultural activities have been observed by the Council. Nonetheless, the barns have an overtly agricultural and utilitarian appearance. There is no evidence, including planning permissions, that any other use of the barns has commenced. In the absence of any convincing evidence to the contrary and on the balance of probabilities, it is my judgement that the buildings were last in use for agricultural purposes as part of an agricultural holding. Even if they were not in use on the relevant date, there is nothing to indicate that the agricultural use has been replaced by another. I therefore conclude that **critterion Q1(a) is satisfied.***

The above reiterates the standard of proof that is required to show agricultural use.

Even if no agricultural activities are observed.

There is no contrary evidence, no contrary planning permissions at Ulands Farm.

With the matter solely resting on showing agricultural activity - we have indeed shown this - but the above appeal decision states that we are not required to show this, on the balance of probabilities standard.

We have therefore more than exceeded the required evidence.

You have observed such activities, and we invite you to a further site visit to observe the sheep on site.

5)

In conclusion, you have all the evidence you need to confirm prior approval is not required.

Please confirm if you wish to make a site visit, and also if you are now minded to agree, as we wish to maintain the option of acting in the applicant's best interests before the determination date of 2nd October.

Kind regards

[REDACTED]
[REDACTED]
[REDACTED]
[\[REDACTED\]@tmcuk.org](mailto:[REDACTED]@tmcuk.org)

tmc commercial

23 Dumpton Park Drive Broadstairs Kent CT10 1RQ

architecture planning buildings

On 26/09/2025 11:20, [REDACTED] wrote:

Hi [REDACTED]

Yes happy to meet there, see you shortly

[REDACTED]

From: [REDACTED]

Sent: 26 September 2025 11:04

To: [REDACTED]; [REDACTED]; [REDACTED]

Subject: Re: Your Ref: 25/00999

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Hi [REDACTED]

I'm on my way there now - shall we meet at the bottom entrance off Alkham Road - it's about 100m before the tea rooms, and is a shared entrance with The Meadows - a caravan park i think.

We can then go up meggett lane after.

Ill be park there. Black [REDACTED]

Regards

[REDACTED]

On Thu, 25 Sept 2025, 13:45 [REDACTED],

<[\[REDACTED\]@tonymichaelconsulting.co.uk](mailto:[REDACTED]@tonymichaelconsulting.co.uk)> wrote:

Thank you and see you then.

Regards

[REDACTED]

On 25/09/2025 13:37, [REDACTED] wrote:

Hi [REDACTED]

Ok, thanks. Yes I can delay until 12, see you then.

[REDACTED]

Mobile: [REDACTED]



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OK2040615

From: [REDACTED]

Sent: 25 September 2025

12:01

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: Your Ref:

25/00999

Hello [REDACTED] / [REDACTED]

Thanks for the additional information provided.

I am intending to carry out a brief site visit to Uplands Farm, and given the determination date is next week I will need to do this tomorrow. I have time available at 11am.

I would be happy to meet either or both of you on site if you are available at that time, but if not, I am content to carry out the visit unaccompanied and will definitely not need access to any buildings given the nature of the proposal.

I'd be grateful if you could confirm receipt of this message and that I'll be able to access the site tomorrow.

Thanks and regards,



██████████
Senior Planner (Development Management)

Dover District Council
Council Offices, White Cliffs Business Park, Whitfield,
Dover CT16 3PJ

Email: ██████████@dover.gov.uk

Web: <http://dover.gov.uk>

DD: 01304 872772

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From: ██████████
<██████████@tonymichaelconsulting.co.uk>

Sent: 18 September 2025
12:08

To: ██████████
██████████@DOVER.GOV.UK>

Cc: ██████████
██████████@tonymichaelconsulting.co.uk>; ██████████

>
Subject: Re: Your Ref:
25/00999

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Good morning ██████████
I attach revised drawing 02A, revised Support statement, letter from Natural England dated 24 July 2025 ref. Environmental Stewardship schemes, and grazing licence. Specifically the proposed private way is now amended to



██████████
Senior Planner (Development Management)

Dover District Council
Council Offices, White Cliffs Business Park, Whitf
Dover CT16 3PJ

Email: ██████████@dover.gov.uk

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From: ██████████
██████████

Sent: 16
September 2025
09:27

To: ██████████
Cc: ██████████

Subject: Fwd:

Your Ref:
25/00999

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Forwarded
Message -----

Subject: Your Ref: 25/00999

Date: Mon, 15 Sep 2025 15:47:38 +0100

From: [REDACTED]

To: DDC Development Management, [REDACTED]

FAO A [REDACTED]

[REDACTED]

RE

**Proposal: Prior
approval for the
insertion of a
private road and
turning head**

Location:

**Uplands Farm,
Meggett Lane,
Alkham, CT15
7DG**

**Your Ref:
25/00999**

Dear [REDACTED]

I trust this finds
you well.
I will be sending
you some
amended
information via
an amended
cover letter and
plans, to replace
the ones
deposited with
the application.
My client has
corrected me on
some
information
contained within
it which needs to
be updated.
Would you kindly
forward me your
email address so

I can send this
direct please.
I should have
this by
Wednesday this
week, so will
send by then.
Is this ok?
Kind regards


[\[redacted\]
@tmcuk.org](mailto:[redacted]@tmcuk.org)

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