

Representation to Regulation 19 of the Canterbury 2040 Local Plan

Introduction

I wish to record that I fully endorse the Representation submitted by the Westbere Village Preservation Society. In addition to endorsing their Representation, I would like to add my own comments which address three issues:

1. The lack of transparency surrounding amendments to the final Hersden Boundary map included in the 2017/18 Community Governance Review Workshop recommendations
2. Misrepresentation of the land described as the Bread and Cheese Field in the 2017/18 Governance Review and Policy R6.
3. A more general criticism of the overall process involved in the development of the 2017/18 Community Governance Review and the draft 2040 Canterbury Local Plan.

1. 2017/18 CGR: Hersden Parish Boundary Map

1.1 Procedural Unfairness and Absence of Transparency

The minutes of the Westbere Parish Council meeting held on 19th June 2018 recorded the following:

22. The CCC Governance Review

Cllr Dawson explained that a meeting was held at her home on 18 June 2018. Present had been the Chairman, the Clerk, Ward and City Cllr Heather Taylor, Working Group Chairman, Cllr Ben Fitter- Harding and CCC Officers: Suzi Wakeham and Matthew Archer.

The officers advised that essentially CCC had looked at various options including an Option 3 to defer decisions on the Hersden area but the working group recommendation going forward is:

That a new parish be created for Hersden, to be called Hersden Parish...

It is clear from this Minute that the material alteration made to the proposed Hersden Boundary, which removed the historic Bread and Cheese Field from Westbere Parish without any further consultation, was never brought to the attention of the Parish Chairperson and Clerk.

Source: <https://westbereparishcouncil.gov.uk/wp-content/uploads/simple-file-list/Minutes-2018/Minutes-19-June-2018.pdf>

This critical omission is further evidenced by the later exclusion of any reference to the Boundary amendment in the recommendations of the 2017/18 Governance Review Working Party to the Policy and Resources Committee on 11 July, 2018 and subsequently to full Council on 19th July. Quite how an issue of such importance can fail to be recorded by Canterbury City Council, raises serious question-marks over matters of transparency.

NOTE: It is significant that a petition initiated by the Westbere Village Preservation Society persuaded the City Council to reverse this decision and return the Bread and Cheese Field to Westbere Parish in 2024.

1.2 Soundness – Justified

Policies must be based on proportionate evidence and effective engagement. A significant change, by amending the map without consultation, suggests the policy is not properly justified.

2. Material misrepresentation of the Bread and Cheese Field

2.1 Legal Compliance

The process by which the agricultural land described in Policy R6 as the Bread and Cheese Field was presented to the public was procedurally flawed.

Canterbury City Council has consistently misrepresented the Bread and Cheese Field throughout the 2017/18 Community Governance Review and the various iterations of the Local Plan:

The evidence provided in this Representation will show that two separate land titles cover the full extent of the Policy R6 field. One title, K168003, is specifically described as the Bread and Cheese Field and relates only to the smaller strip of land adjacent to the A28. The remainder of the land, described as ‘Land on the north-east side of 7 Bushy Hill Road, Westbere, Canterbury’ falls under a separate title, TT90720.

Copies of both Title Plans and Title Registers can be found in Appendix 1 and 2.

The overall field has never been recorded as the Bread and Cheese Field. Furthermore, although the Bread and Cheese Field has been

known as such for over 300 years the title was only transferred by the Bread and Cheese Field Charity to the Seath Family in 1962.

That matters to legal compliance because the examination process is concerned with whether the plan was prepared in accordance with legal and procedural requirements. Where residents are presented with an inaccurate and materially misleading description of the land, the consultation exercise cannot be said to have enabled properly informed participation.

The issue is not whether residents could theoretically have uncovered the discrepancy for themselves; the issue is whether Canterbury Council carried out due diligence before presenting the entire Field as the Bread and Cheese Field. The Planning Inspectorate's guidance makes clear that examination focuses on soundness and legal compliance, and not on immaterial matters. Here, the error is material because it goes directly to the identification and treatment of the Policy R6 land.

2.2. Soundness – Justified

Under paragraph 36 of the NPPF, a plan is justified only if it is an appropriate strategy, taking into account the reasonable alternatives and based on proportionate evidence.

Policy R6 is not justified if the site selection, boundary treatment, or policy reasoning depends on a mistaken or conflated understanding of the land. The representation identifies three unresolved matters:

1. why the Council conflated two distinct land titles and described them under one name;
2. why an agricultural field was moved into Hersden when there was, at that stage, no SLAA proposal to develop it
3. why the consultation map was altered and subsequently presented to full Council without any further consultation.

Unless those matters are clearly explained, there is no reliable basis for concluding that Policy R6 rests on a proportionate and accurate evidence base. A policy cannot be justified if the land to which it relates was carried forward through a process characterised by factual confusion involving the site was, and why it was presented differently.

2.3. Soundness - Effective

The NPPF requires plans to be effective, including being deliverable and based on effective joint working where relevant.

A policy is not effective if its geographical and legal basis is misrepresented. The site boundary shown to the public differed materially from the position later presented and In those circumstances, the policy is unsound.

2.4. Soundness – Consistent with National Policy

The NPPF requires local plans to be consistent with national policy. That includes the requirement that plans be based on proportionate evidence and prepared through a lawful and fair process.

A policy advanced on the basis of wrong site identity, misleading mapping, and an alteration made without further consultation cannot confidently be said to accord with that requirement. The objection is therefore not merely historical. The historical defect is relevant because it provided the platform from which Policy R6 emerged.

3. General Criticism

It cannot be ignored that Policy R6 includes, or is derived from, a catalogue of material inaccuracies characterised by misrepresentation, misleading evidence, contradictory statements and a lack of transparency. These inaccuracies are identified above, and in the Westbere Village Preservation Society Representation.

It therefore falls far short of the competence and due diligence that residents expect from their City Council. It also puts into question the integrity of the whole Plan.

This Representation has not however been constructed with the sole purpose of pointing out these inaccuracies. Instead, it seeks to motivate Canterbury City Council to work with Westbere community representatives to develop a spatial plan that protects the village's long-term rural identity and the best interests of its residents.

4. Conclusions

Policy R6 should be found unsound and/or legally non-compliant and the Council required to provide a clear and evidenced explanation showing why:

- the two land titles were treated as one.
- the land was moved into Hersden
- the map was altered without further consultation
- despite those matters, residents and Parish Council can be said to have had a fair opportunity to make informed representations on the policy as now proposed.

With the absence of that explanation, the Inspector is respectfully requested to conclude that Policy R6:

1. is not justified, because it is not shown to be based on proportionate and accurate evidence.
2. is not effective, because the policy's geographical evidence has been incorrectly presented; and
3. gives rise to a legal compliance concern, because the consultation process did not provide a fair and accurate basis upon which the public could comment.

Accordingly, Policy R6 should be deleted and Canterbury City Council required to enter into a new consultation process with residents to explore a fairer and more appropriate outcome.

Colin Bell

Appendix 1 and 2 can be found on the following pages:

Appendix 1: Title Register and Plan for the Bread and Cheese Field



GOV.UK

Search for land and property information

Title register for:

Bread and Cheese Field, Island Road, Westbere (Freehold)

Title number: K168003

Accessed on 02 September 2023 at 11:41:02

This information can change if we receive an application. This service can not tell you if HM Land Registry are dealing with an application.



This is not an official copy. It does not take into account if there's a pending application with HM Land Registry. If you need to prove property ownership, for example, for a court case, you'll need to order an official copy of the register.

Register summary

Title number	K168003
Registered owners	Jane Elizabeth Seath [REDACTED]
Value stated	£100,000 on 21 December 2018

A: Property Register

This register describes the land and estates comprised in this title.

Entry number	Entry date	
1	1962-10-26	KENT : CANTERBURY
The Freehold land shown edged with red on the plan of the above Title filed at the Registry and		

H. M. LAND REGISTRY

NATIONAL GRID PLAN TR 1961

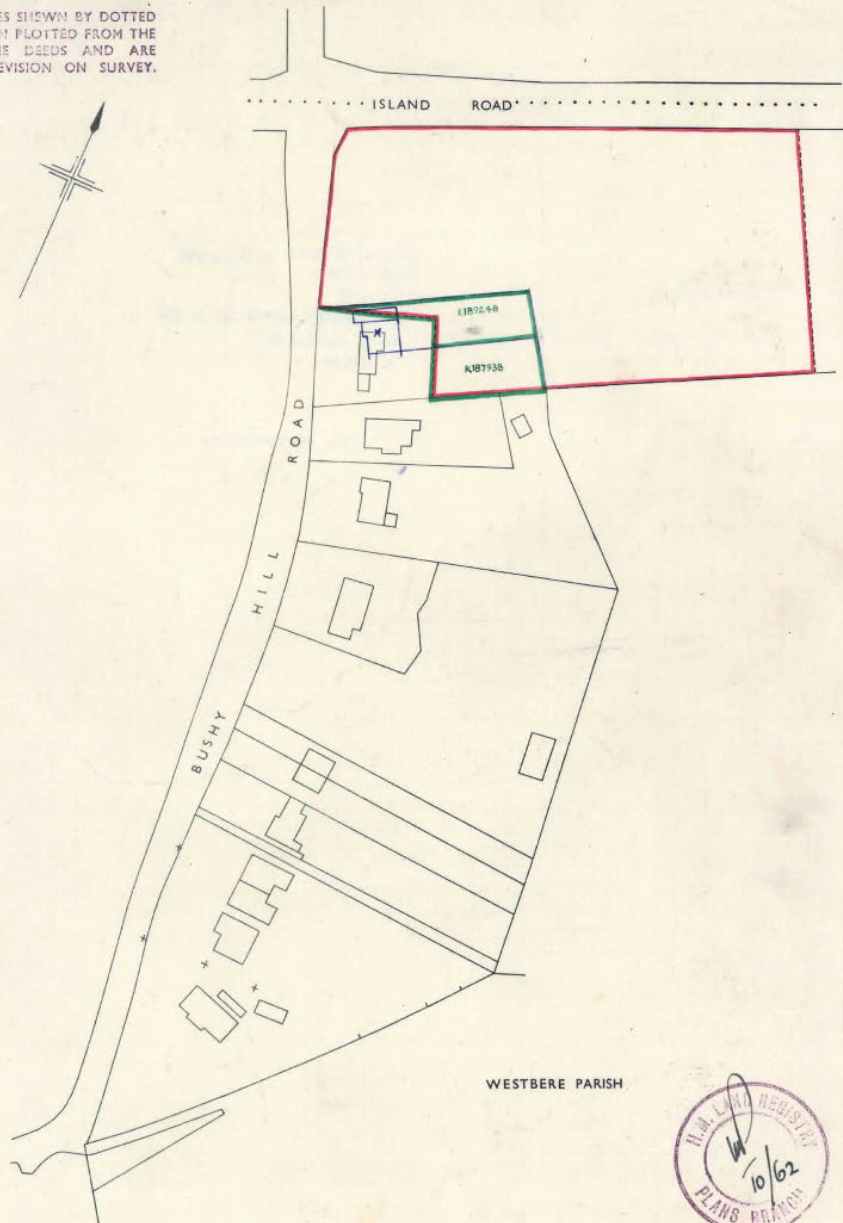
(KENT)

Scale 1/1250

Enlarged from 1/2500

CANTERBURY DISTRICT
STURRY PARISH

THE BOUNDARIES SHOWN BY DOTTED
LINES HAVE BEEN PLOTTED FROM THE
PLANS ON THE DEEDS AND ARE
SUBJECT TO REVISION ON SURVEY.



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Filed Plan of Title No. **K168003**

Appendix 2: Title Register for Land on the north-east side of 7 Bushy Hill Road, Westbere, Canterbury



Search for land and property information

Title register for:

**Land on the north-east side of 7 Bushy Hill Road, Westbere, Canterbury
(CT2 0HE) (Freehold)**

Title number: TT90720

Accessed on 01 September 2023 at 17:36:09

This information can change if we receive an application. This service can not tell you if HM Land Registry are dealing with an application.



This is not an official copy. It does not take into account if there's a pending application with HM Land Registry. If you need to prove property ownership, for example, for a court case, you'll need to order an official copy of the register.

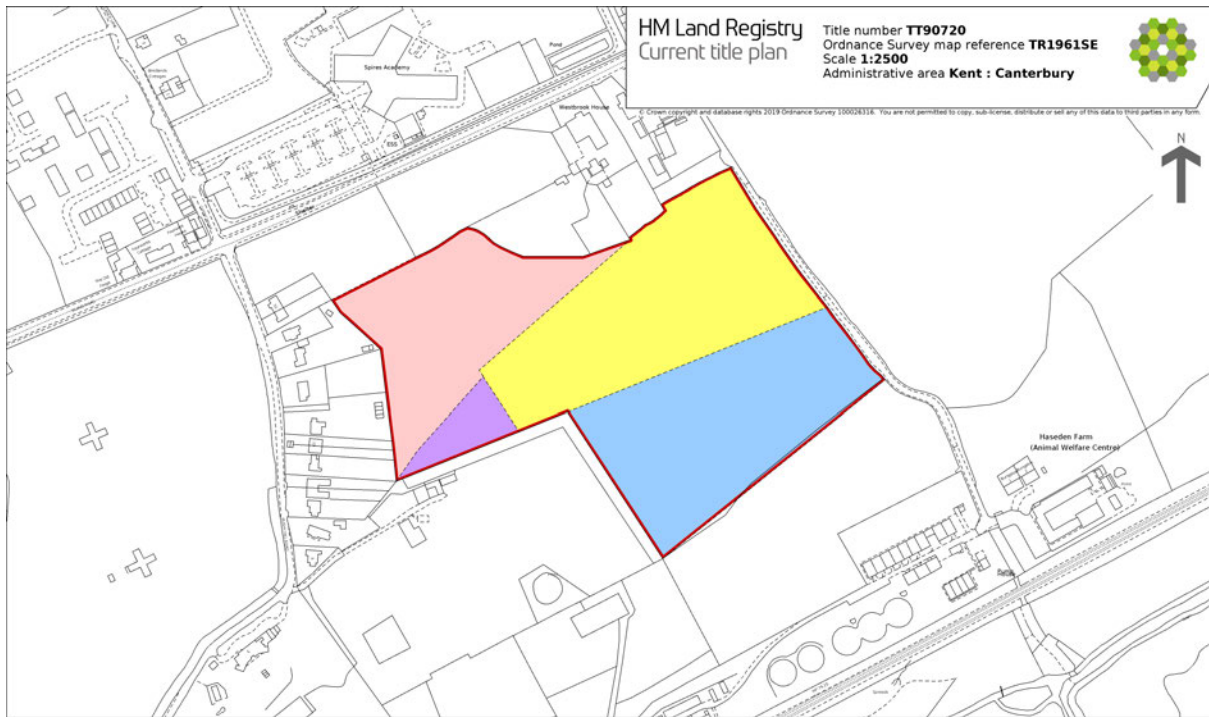
Register summary

Title number	TT90720
Registered owners	Jane Elizabeth Seath
Value stated	Between £80,000 and £200,000 on 24 December 2018

A: Property Register

This register describes the land and estates comprised in this title.

Entry number	Entry date	
1	2018-12-24	KENT : CANTERBURY The Freehold land shown edged with red on the



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