SOUTH HOLLAND DISTRICT COUNCIL

Application no: H05/0088/92

Applicant: Hurnfield Hargate Ltd
Washway Road
Fleet
Spalding
Lincs

Agent: Loweth Cowling Design
Station House
Station Street
Holbeach
Spalding Lincs

Description: Erection of new shop and conversion of existing shop to provide extension to exty restaurant and bar

Location: Washway Road
Fleet
Spalding

Type: FULL

Date received: 20-MAR-92

12-AUG-92

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990

ACKNOWLEDGEMENT OF WITHDRAWAL

Following your withdrawal of the above application, I confirm that no further action will be taken.

Yours faithfully

Director of Planning and Building Control Services

BRIAN SMITH Dip TP MRTPI Director of Planning & Building Control Services

Planning & Building Control Department, Council Offices, Priory Road, Spalding, Lincolnshire. PE11 2XE (Tel: 0775 761161)

FOUR COPIES REQUIRED

PLANNING APPLICATION

For office use only

Application No. H05/0088/92

Date Registered 22 JAN 1992

1. Please complete in block letters

NAME AND ADDRESS OF APPLICANT

HURNFIELD HARGATE LTD
WASHWAY ROAD
FLEET.
SPALDING. LINCS.

Tel. No.

NAME AND ADDRESS OF AGENT
(if form completed by agent)

LOWETH COWLING
STATION HOUSE
STATION STREET
HOLBEACH. LINCS.
Tel. No. 0406 22126
(Personal contact name) LOWETH

OFFICE COPY

Please complete in block letters

FULL POSTAL ADDRESS OF THE APPLICATION SITE

WASHWAY ROAD. FLEET SPALDING LINCS.

Please complete in block letters

DESCRIPTION OF PROPOSED DEVELOPMENT PROPOSED CONVERSION OF EXISTING SHOP TO EXTENSION TO EXISTING RESTAURANT AND BAR AND BUILDING OF NEW SHOP.

Please complete

Signed. . . . . Date. . . 15 . . 1 . . 92 . . . . .

I attach * Four copies of all plans resubmission
*an ownership certificate (see back page)
*a fee of . . PAID . . If you consider no fee is payable include a written explanation instead.
Previous application No: 05/0957/90

Please tick **one** box and answer the extra questions under that section.

2. **TYPE OF APPLICATION**

This is a **full** application for change of use and/or new building works (✓) ✓ → **Now complete Parts 3, 4 and 5 and an Ownership Certificate**

or This is an **outline** application ☐ →

Please state Site Area (Hectares)
Please tick **any** box where you are including details which you wish to be considered as part of this application.
Siting ☐ Design ☐ External Appearance ☐
Means of Access ☐ Landscaping ☐
Now complete Parts 3 and 5 and an Ownership Certificate.

or This is a **reserved matters** application. ☐ →

A. Please state Reference Number of outline permission.
B. Please state which reserved matters are dealt with in this application.
Now complete Part 4 only

or This is an application for **renewal** of temporary permission or **continuation** without complying with planning condition. ☐ →

A. Please state Reference Number of previous permission
B. Please state Condition Number referred to
Now complete an Ownership Certificate

or This is an application for **modification** of a condition on a planning permission which has not yet been implemented. ☐ →

A. Please state Reference Number of previous permission
B. Please state Condition Number referred to
C. Please state variation required
Now complete an Ownership Certificate

TYPE OF DEVELOPMENT

3. A. Please state whether the proposal involves:- (Tick one or more boxes)

(i) New building(s)	✓
(ii) Alterations or extension	
(iii) Change of use	✓

B. If new dwellings are proposed, please state how many: N/A.

4. A. If building works are proposed, other than residential, please state extra floorspace to be created: 337.5 sq. metres

B. Please state size of any new structure:- (a) max. height: 21' 0" ~~metres~~

(b) max. length: 75' 0" ~~metres~~

(c) max. width: 44' 9" ~~metres~~

C. Please state type and colour of materials for facing external walls: render to match exist

D. Please state type and colour of roofing materials. tantiles to match existing.

5. **GENERAL INFORMATION** Please complete each section

EXISTING USES
Please state existing or, if vacant, the last use(s) of site.

Cafe, restaurant, bars shop, parking areas etc.

ACCESS TO ROADS (VEHICULAR AND PEDESTRIAN) Please tick **one** box

A. There will be **no** new access to a public road and **no** alteration to any existing access to a public road ✓

or

B. There will be a new or altered access to a public road ➡ If so, name of road:
Will there be --
Individual access(es)
New estate road

C. What provision will be made for garages or parking within the site?

TREES Please tick **one** box

A. The proposal does **not** involve the felling of any trees ✓

B. The proposal does involve the felling of one of more trees ➡ If so, please show details on plans

DRAINAGE Please complete

A. Please state how surface water will be disposed of Soakaways.

B. For estate developments, please state how highway surface water will be disposed of N/A.

C. Please state whether a land drain will be affected NO

D. Foul sewerage will be disposed of to: N/A.

Mains sewer ☐ Cesspool ☐ Septic tank ☐

OTHER MATTERS Please complete

	State Yes or No	
The proposal is in connection with agriculture	NO	➡ If so, **please give details in Part 6**
The proposal affects a listed building	NO	
The proposal affects a public footpath	NO	
The proposal is known to affect contaminated or filled land	NO	
The proposal is for industrial, warehousing, offices or shopping purposes	YES	➡ If so, **please complete Part 7**
In cases where a statutory consultation will be required, please state whether you have sent a copy of the application to the consultee yourself. If yes, please give date sent.	NO	➡ Date: Consultee(s):

6. **ANY OTHER INFORMATION** Please add any details you wish in support of your application. Continue on separate sheet if necessary.

7. INDUSTRIAL, WAREHOUSING, OFFICES OR SHOPS Please complete

Please tick **one** box and complete B if necessary

A. The proposal does not involve any alteration in existing floorspace [ ]

The proposal involves the creation of or an alteration in total **gross** floorspace [✓]

Proposed total gross floorspace [113] sq. m. Previous total gross floorspace [799.5] sq. m.

This new total includes the following net floorspace:

Retail [337.5] sq. m. Office [ ] sq. m. Industrial [ ] sq. m. Warehousing [ ] sq. m.

Other [799.5] sq. m. ➡ If so, please state use: restaurant, bars, cafe, kitchen, toilets etc

	Office staff	Industrial staff	Other staff
How many office, industrial and other staff will be employed on the site as a result of the development proposed? If you have existing premises on the site, how many of the employees will be new staff?	Same staff as before, but may be 2 no more required to restaurant + bar		
If you propose to transfer staff from other premises please give details of the numbers involved and of the premises affected.	Total existing staff for complex is 27 inc directors.		
In the case of industrial development, give a description of the processess to be carried out and of the end products, and the type of plant or machinery to be installed	N/A		
If the proposal forms a stage of a larger scheme for which planning permission is not at present sought, please give what information you can about the ultimate development	N/A.		
Is the proposal related to an existing use on or near the site?	State Yes or No: YES		
If so, please explain the relationship	Existing shop to be restaurant/bar extension area.		
Is this a proposal to replace existing premises in this area or elsewhere which have become obsolete, inadequate or otherwise unsatisfactory?	State Yes or No: YES		
If so, please give details including gross floor area of such premises and state your intentions in respect of those premises	to become extension to restaurant bar area.		
What provisions have been made for the parking, loading and unloading of vehicles within the curtilage of the site? (Please show the location of such provision on the plans and distinguish between parking for operational needs and other purposes)	all provided on site		
What is the estimated vehicular traffic flow to the site during a normal working day? (Please include all vehicles except those used by individual employees driving to work)	Not known.		
What is the nature, volume and proposed means of disposal of any trade effluents or trade refuse?	N/A.		
Will the proposed use involve the use of storage of any hazardous materials?	State Yes or No: NO		
What provision is being made for access to the premises for the disabled?	allowed for (all Grand floor).		

OWNERSHIP CERTIFICATES

PLEASE COMPLETE ALL THREE SECTIONS.

Use the notice at the bottom of the page only when necessary.

1. **APPLICANT'S INTEREST**
Please state interest (e.g. owner, prospective purchaser)

ANSWERS

2. **OWNERSHIP OF THE SITE**

This certificate is to make sure that the owners of land are aware of applications made on it.

If the applicant is the **sole owner of the whole site,** complete **Certificate A.**
In **any other case** (i.e. if the applicant is a prospective purchaser, or a tenant, or a joint owner, or the sole owner of only part of the site) then you must give notice to all other owners, and complete **Certificate B.** You can use the notice at the bottom of the form to send to the owner. (An "owner" is a person having a freehold interest, or having a leasehold interest where seven years or more remains unexpired). If you are unable to trace the owner, please contact the Planning Office as a different certificate will be required.

Certificate A Nobody except the applicant was an owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

Signed ..... ~~Applicant~~/Agent) Date 15/1/92

Certificate B The applicant has given the required notice to everyone else who were owners of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

State Name and address of owner: State Date notice served:

Signed ..... (Applicant/Agent) Date .....

3. **AGRICULTURAL HOLDINGS CERTIFICATE**

If the land is not in agricultural use, complete Certificate 1.
If the land is agricultural, but there is no agricultural tenant, complete Certificate 1.
If the site does relate to an agricultural holding, you must give notice to any tenant, and complete Certificate 2. (You can use the notice at the bottom of the form to send to the tenant). If you are the sole agricultural tenant yourself, sign certificate 2 but insert 'not applicable' in the tenant details.

Certificate 1 None of the land to which the application relates is or is part of any agricultural holding.

Signed ..... ~~Applicant~~/Agent) Date 15/1/92

Certificate 2 The applicant has given the required notice to every other person who, at the beginning of the period of 21 days ending with the date of the application, was a tenant of an agricultural holding on all or part of the land to which the application relates.

State Name and address of tenant: State Date notice served:

Signed ..... (Applicant/Agent) Date .....

NOTICE UNDER SECTION 27 OF TOWN AND COUNTRY PLANNING ACT 1971

TO BE COMPLETED BY APPLICANT OR HIS AGENT

Proposed development at

Take notice that application is being made to South Holland District Council by

for planning permission for

If you should wish to make representations about the application, you should make them in writing within 21 days from the date of service of this notice, to Chief Executive, South Holland District Council, Priory Road, Spalding, Lincolnshire.

Signed ..... Date .....

APPLICATION ASSESSMENT

Notes for Case Officer

Site Notes: Accuracy ✓ Neighbours Other

Boundaries Site Features

Currently farm shop + cafe? Grassed forecourt. Large building at rear. Motel opposite. There is a GP surgery

Inspected by: DMG
date: 6/4

Residents notified on site visit: Angela Motel, Washway Rd - Post.

Correspondence re use of shop etc. Please discuss

11/3

Case Officer Conclusions (issues)

Case Officer Recommendations (summary)
(details overleaf)

Delegation
Recommended approvals

Confirmed by Case Officer

Departure from policy — Yes / No

Ward member request — Yes / No

Recommend approval against material objection — Any objection received? No; If yes, is any obj. material? No; Yes / No

Yes — Reason:

Other circumstances needing Committee decision — Yes — Signed by Senior Officer; Signed ..... / No

Reason:

All of above

Recommended refusals

Refusal on adopted policy grounds or those applic.

No — All boxes (must check Submission) / Yes

ANY ONE OF ABOVE — Other info. req. / Signed .....

Committee report
Sub-Committee:
SV recommended .....
Zone/Dist. recommended .....

Delegation confirmed by Senior Officer
.....

Recommendation/draft report produced ..... Amended/confirmed .....

F U R T H E R I N F O R M A T I O N / C O N S U L T A T I O N S

APPLICATION REF:

DIRECTIONS

		Siting	Design	Ext App	Access	Lands
Art 7 (Outlines)	RM :					
	Previous					
	Current					
	Required					

Reg 4 (or equiv) Scale drawing ..... Highway S/W ..... Agric appraisal .....

Precise details, for non-standard requirement:

CONSULTATION/PUBLICITY REQUIRED

Publicity = General
Departure
Setting of LB Viz

Consults = Dept of Transport
Env Health
Conservation consults = Local
Local & National
English Heritage LBC I, II*
Setting I, II*
Major CA

Consultant = Name
Order No:

Other =

R E V A L I D A T I O N

Information satisfactory/~~unsatisfactory~~

Further direction - details:

Amended description:

Reconsultations required -
Parish Council
Ward Members
Residents
Advertise
Other

New valid date .....

Re-registered .....
Ack/Reception/Filesheet .....
Consultation .....

ADMIN RECORD SHEET

INITIAL

Submitted Fee £ ....

Receipt Issued ..... No. .....

Date First Received .....

REGISTRATION

REFERENCE H05/0088/92

Cross-Ref .....

Date 23/1/92 JAB

VALIDATION Date 23/1/92

Type .....

Earliest permission date (Cert B) .....

Site area ..... No. of dwellings ..... Floorspace .....

New build/site enlargement/redevelopment/change of use/extension/alteration

Earlier permission ref .....

HM:-	Siting	Design	Ext app	Access	Lands
Previous					
Current					

Description

Technical: Certificate ☐ Accuracy ☐
Site plans ☐ Incomplete form ☐
Description ☐

S65 Advert required ☐ Expiry date .....

Fees: Nil fee – previous app ☑ Ref 952/91
– type ☐
Discounted fee ☐ Reason .....

Correct fee £ NIL Additional £ ..... Receipt no. .....

Refund £ ..... Issued .....

CONSTRAINTS Date .....

Index Sheets .... OS Nos ..... Grid Ref 5 3

Ward .... Parish .....

Inside IBD .... Inside LP Area ....

TR Rural	☐	CA	☐	
TR Bypass	☐	LB	☐	Grade
Level crossing	☐	TPO	☐	
Footpath	☐	Other:		

Linked to site.....Ref..... Linked to property.....Ref.....

Planning Records:
Earlier apps 952/90

B Reg Records:
Already submitted Ref.....
Requested .....

Inputs completed.....

SOUTH HOLLAND DISTRICT COUNCIL

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Washway Road
Fleet
Spalding
Lincs

Agent: Loweth Cowling Design
Station House
Station Street
Holbeach
Spalding Lincs

Description: Erection of new shop and conversion of existing shop to provide extension to extg restaurant and bar

Location: Washway Road
Fleet
Spalding

Type: FULL

Date received: 20-MAR-92

12-AUG-92

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990

ACKNOWLEDGEMENT OF WITHDRAWAL

Following your withdrawal of the above application, I confirm that no further action will be taken.

Yours faithfully

Director of Planning and Building Control Services

BRIAN SMITH Dip TP MRTPI Director of Planning & Building Control Services

Planning & Building Control Department, Council Offices, Priory Road, Spalding, Lincolnshire. PE11 2XE (Tel: 0775 761161)

APPLICATION REFERENCE: H05/0088/92 DATE RECEIVED: 20-MAR-92

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Washway Road
Fleet
Spalding, Lincs.

AGENT: Loweth Cowling Design
Station House
Station Street
Holbeach
Lincs.

TYPE: Full

DESCRIPTION: Erection of new shop and conversion of existing shop to provide extension to extg restaurant and bar

LOCATION: Washway Road, Fleet, Spalding

Parish Council: No comments.

County Highways: No comments.

DOT: No response on expiry date (13th May 1992).

Information from Applicants Solicitors: They have submitted what they believe to be conclusive evidence demonstrating that the above premises are being lawfully operated, in part, as a shop (Class A1).

PLANNING POLICIES/DOE ADVICE
Outside I.B.D.
Structure Plan Policy 97.
PPG4, 1988 (Industrial and Commercial Development and Small Firms).

PREVIOUS DECISIONS
EE3/63 - Alterations and extension to flower and vegetable stall at Washway Road, Fleet - permitted 7th March 1963.
EE99/63 - The erection of a produce stall and store, re-siting of bungalow and re-construction of vehicular access, Washway Road - permitted 18th July 1963.

The site has a long history of other applications and the most recent are

H05/0941/87 and H05/1776/86 - outline and reserved matters for a petrol filling station with canopy and shop/kiosk - granted 31st January 1989.
H05/0957/90 - Full - erection of new shop and conversion of existing shop to provide extension to existing restaurant/bar - Refused for the following reasons;

1. The activities on the Applicants site are currently causing environmental problems to the nearby residents, and in the opinion of the local planning authority, the construction of a new restricted shop and the extension of the existing restaurant and bar facilities would further intensify the use of the site, and consequently intensify the problems being caused.
2. In the opinion of the local planning authority, the approval

of this proposal would enable the existing retail use of the site to be widened from a "farm shop" selling predominantly fruit and vegetables, to an unrestricted retail use. This is likely to result in requests from a number of "farm shop" operators in the vicinity to be similarly unrestricted, and the cumulative effect of such unrestricted retail uses would be detrimental to the viability of established village and town retail centres.

PLANNING ISSUES

1. The determining issue in this particular case is whether circumstances have changed since the original refusal as to justify an alternative decision.
2. The current application appears to over-ride the previous proposals (H05/0941/87 and H05/1776/88) by proposing to site the new shop where the petrol station and kiosk were to have been sited.
3. The shop is intended to replace the existing but will sell the same goods, according to the Applicants. The proposal also involves the conversion of the existing vegetable shop to provide a larger restaurant and bar accommodation.

CONCLUSIONS

1. There is currently a dispute as to whether to existing use falls within Class A1 (Retail) of the Town and Country Planning (Use Classes) Order 1987 or whether it is purely a "farm shop" which is ancillary to the agricultural use of the land. If it is the latter, then it is considered that the erection of an unrestricted shop upon the site would be contrary to policy and could generate additional traffic unrelated to other facilities. Also, given the number of restricted farm shops in the district, it could result in a number of applications to be released from their restrictions and in consequence commence to affect the viability of the established shopping centres in the towns and villages.
2. However, if it can be demonstrated that the premises are being lawfully operated, in part, as a shop (Class A1), then the proposition is for an extension of the existing use and would therefore need to be assessed on this basis.

RECOMMENDATION - That the application be deferred to enable the Director of Planning and Building Control Services to seek legal advice about whether the existing premises, in part, fall within Class A1 (Shops) of the Town and Country Planning (Use Classes) Order 1987 or whether they are a "farm shop" which is ancillary to the agricultural use of the land.

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416. LANNING APPLICATIONS (Continued)

(c) **Applications Deferred**

Consideration of the following applications be deferred for the reasons indicated:-

Plan No. and Applicant		Proposal
H05/0088/92 Hurnfield Hargate Ltd		New shop and conversion of existing shop to provide extension to existing restaurant and bar at Washway Road, Fleet.

(To enable the Director of Planning and Building Control Services to seek legal advice about whether the existing premises, in part, fall within Class A1 (Shops) of the Town and Country Planning (Use Classes) Order 1987 or whether they are a "Farm Shop" which is ancillary to the agricultural use of the land.)

H13/0371/92 S Halgarth Farms Ltd		Proposed house with integral garage at West Gate, Moulton Chapel.

(Pending a site inspection, including inspecting all of the land farmed by this business, to determine if there is an essential agricultural need for a dwelling in this location.)

H08/0274/92 Mr I R Bates	OA	Dwelling at Risegate Road, Gosberton Risegate.

(Pending a site inspection in order to assess the suitability of the site.)

(Councillor W D Skells declared an indirect interest in this application and left the Council Chamber during consideration thereof.)

H11/0438/92 Long Sutton Builders Ltd	OA	Two dwellings at Builders Yard Site, Wisbech Road, Long Sutton.

(Pending a site inspection in order to assess the suitability of the site for the proposal.)

H23/0329/92 G Garratt & Sons		Change of use of land for lorry/car park at Stockwell Gate, Holbeach.

(Pending a site inspection in order to assess the suitability of the site for the proposal.)

H09/0384/92 Holbeach Tyres		Tyre, exhaust retail depot at Westside, Boston Road, Holbeach.

(Pending a site inspection in order to assess the suitability of the site for the proposal.)

H11/0435/92 Mr J Moore	OA	One bungalow with garage including siting of dwelling at 68 Station Road, Long Sutton.

(Pending a site inspection in order to assess the suitability of the site for the proposal, such inspection to take place after the County Council has staked out the boundary between the applicant's and highways land.)

APPLICATION REFERENCE: H05/0088/92 DATE RECEIVED: 20-MAR-92

APPLICANT: Hurnfield Hargate Ltd
Washway Road
Fleet
Spalding, Lincs.

AGENT: Loweth Cowling Design
Station House
Station Street
Holbeach
Lincs.

TYPE: Full

DESCRIPTION: Erection of new shop and conversion of existing shop to provide extension to extg restaurant and bar

LOCATION: Washway Road, Fleet, Spalding

Parish Council: No comments.

County Highways: No comments.

DOT Response awaited. Expiry date 13th May 1992.

Information from Applicants Socilitors (Summarized)

- Believe that the planning register provides conclusive evidence that the above premises are being lawfully operated, in part, as a shop (Class A1) selling, amongst other things, flowers, fruits and vegetables. Your proposition that the operation permitted is a "farmshop" which is ancillary to the agricultural use of the land does not stand up to close examination.
- I am instructed that fruit, vegetables and flowers have been sold from the site for many years and certainly before the beginning of 1964 (see Planning Permissions EE3/63 and EE99/63). Advised by Applicant that throughout the period in question until about 1985, when an extension was built pursuant to planning permission H05/0044/84, all sales were confined to the area delineated on the submitted plan 8545 and thereon edged red.
- In the early years the building was a nissen type hut which has since been bricked up and extended. Applicant advises me that none indigenous produce and goods have always been sold.
- Would therefore ask you to accept, in the light of the above facts, that there already exists on the premises a shop (Class A1) from which the sale of imported and home grown flowers, fruit and vegetables, amongst other things, can lawfully be sold. In support of this contention I would refer you to the case of Carpet Decor (Guildford) -v- Secretary of State for the Environment and another (1981)

SUPERSEDED

where it was held that where a Local Planning Authority intend to exclude the operation of the Use Classes Order or the General Development Order they should say so by the imposition of a condition in unequivocal terms, since in the absence of such condition it must be assumed that those Orders will have effect by operation of law.

- The proposition that planning permission already exists for a shop on the premises is not being constant with the approach taken in the past by your Council. Indeed, you will recall that your Planning Committee have already approved the principle of the development of a petrol filling station and motorists shop and also a garden centre.

PLANNING POLICIES/DOE ADVICE

Outside I.B.D. Structure Plan Policy 97 .
PPG4, 1988 (Industrial and Commercial Development and Small Firms).

PREVIOUS DECISIONS

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2. In the opinion of the local planning authority, the approval of this proposal would enable the existing retail use of the site to be widened from a "farm shop" selling predominately fruit and vegetables, to an unrestricted retail use. This is likely to result in requests from a number of "farm shop" operators in the vicinity to be similarly unrestricted, and the accumulative affect of such unrestricted retail uses would be detrimental to the viability of established village and town retail centres.

PLANNING ISSUES

1. The determining issue in this particular case as well as circumstances have changed since the original refusal as to justify an alternative decision.
2. The current application appears to over-ride the previous proposals (H05/0941/87 and H05/1776/88) by proposing to site the new shop where the petrol station and kiosk were to have been sited.
3. The shop is intended to replace the existing but will sell the

same goods, according to the Applicants. The proposals also involves the conversion of the existing vegetable shop to provide a larger restaurant and bar accommodation.

CONCLUSIONS

1. There is currently a dispute as to whether to existing use falls within Class A1 (Retail) of the Town and Country Planning (Use Classes) Order 1987 or whether it is purely a "farm shop" which is ancillary to the agricultural use of the land. If it is the latter, then it is considered that the erection of an unrestricted shop upon the site would be contrary to policy and could generate additional traffic unrelated to other facilities. Also, given the number of restricted farm shops in the district, it could result in a number of applications to be released from their restrictions and consequence commence to affect the viability of the established shopping centres in the towns and villages.
2. However, if it can be demonstrated that the premises are being lawfully operated, in part, as a shop (Class A1), then the proposition is purely for an extension of the existing use and would therefore need to be assessed purely on this basis.

RECOMMENDATION - That the application be deferred to enable the Director of Planning and Building Control Services to seek legal advice to ascertain whether the existing premises, in part, fall within Class A1 (Shops) of the Town and Country Planning (Use Classes) Order 1987 or whether they are purely a "farm shop" which is ancillary to the agricultural use of the land.

BRIAN SMITH Dip TP MRTPI
Director of Planning & Building Control Services
Planning & Building Control Department,
Council Offices,
Pr[illegible] Road, Spalding,
Li[illegible]ishire. PE11 2XE

Telephone: (0775) 761161
Fax: (0775) 710772

SOUTH HOLLAND DISTRICT COUNCIL

COM.

Application no: H05/0088/92 Type: FULL

Applicant: Hurnfield Hargate Ltd
Tel:

Agent: Loweth Cowling Design
0406 22126

Description: Erection of new shop and conversion of existing shop to provide extension to extg restaurant and bar
Location: Washway Road
Fleet
Spalding

Valid date: 20-MAR-92
Target dates:
To case officer 25-MAR-92
Inspected by 30-MAR-92
Extra contacts 04-APR-92
Report if not clear by 24-APR-92

Terminal date: 15-MAY-92
Target Committee: 25-MAR-92
Report deadline: 11-MAR-92

Case Officer:
D M GEDNEY

DEVELOPMENT/CONSTRAINTS

Size: 337.5 M2
Category: Extension
Listed building:
Conservation Area:

CONSULTATIONS CARRIED OUT

		Sent	Expiry
Clerk to Fleet PC		11-FEB-92	25-FEB-92
Cllr B A Paul	0406 23100	11-FEB-92	25-FEB-92
Clerk to Fleet PC	Holbeach 26739	25-MAR-92	08-APR-92
Cllr B A Paul	0406 23100	25-MAR-92	08-APR-92
Anglia Motel			
Department of Transp	0602 476121	29-APR-92	13-MAY-92

BRIAN SMITH Dip TP MRTPI
Director of Planning & Building Control Services
Planning & Building Control Department,
Council Offices,
P[illegible] Road, Spalding,
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Valid date: 20-MAR-92
Target dates:
To case officer 25-MAR-92
Inspected by 30-MAR-92
Extra contacts 04-APR-92
Report if not clear by 24-APR-92

Terminal date: 15-MAY-92
Target Committee: 25-MAR-92
Report deadline: 11-MAR-92

Case Officer:
D M GEDNEY

DEVELOPMENT/CONSTRAINTS

Size: 337.5 M2
Category: Extension
Listed building:
Conservation Area:

CONSULTATIONS CARRIED OUT

		Sent	Expiry
Clerk to Fleet PC		11-FEB-92	25-FEB-92
Cllr B A Paul	0406 23100	11-FEB-92	25-FEB-92
Clerk to Fleet PC	Holbeach 26739	25-MAR-92	08-APR-92
Cllr B A Paul	0406 23100	25-MAR-92	08-APR-92
Anglia Motel, Washway Road		07-APR-92	21-APR-92

C C C - No Comments - Trunk Road jc 26/3/92

BRIAN SMITH Dip TP MRTPI
Director of Planning & Building Control Services
Planning & Building Control Department,
Council Offices,
Pr[illegible] Road, Spalding,
Li[illegible]shire. PE11 2XE

Telephone: (0775) 761161
Fax: (0775) 710772

SOUTH HOLLAND DISTRICT COUNCIL

Com

Application no: H05/0088/92 Type: FULL

Applicant: Hurnfield Hargate Ltd
Tel:

Agent: Loweth Cowling Design
0406 22126

Description: Erection of new shop and conversion of existing shop to provide extension to exts restaurant and bar

Location: Washway Road
Fleet
Spalding

Valid date:	20-MAR-92	Terminal date:	15-MAY-92
Target dates:		Target Committee:	25-MAR-92
To case officer	25-MAR-92	Report deadline:	11-MAR-92
Inspected by	30-MAR-92		
Extra contacts	04-APR-92	Case Officer:	
Report if not clear by	24-APR-92	D M GEDNEY	

DEVELOPMENT/CONSTRAINTS

Size: 337.5 M2
Category: Extension
Listed building:
Conservation Area:

CONSULTATIONS CARRIED OUT

		Sent	Expiry	
Clerk to Fleet PC		11-FEB-92	25-FEB-92	No comment
Cllr B A Paul	0406 23100	11-FEB-92	25-FEB-92	
Clerk to Fleet PC	Holbeach 26739	25-MAR-92	08-APR-92	
Cllr B A Paul	0406 23100	25-MAR-92	08-APR-92	

L.C.C - No Comments - Trunk Road JE cb 26/3/92.

P.T.O.

BRIAN SMITH Dip TP MRTPI District Planning Officer

Planning Department
Council Offices,
Priory Road, Spalding,
Lincolnshire. PE11 2XE
Telephone: (0775) 761161

SOUTH HOLLAND DISTRICT COUNCIL

Application no: H05/0088/92 Type: FULL

Applicant: Hurnfield Hargate Ltd Agent: Loweth Cowling Design
Tel: 0406 22126

Description: Erection of new shop and conversion of existing shop to provide extension to extg restaurant and bar
Location: Washway Road
Fleet
Spalding

Valid date:	06-FEB-92	Terminal date:	02-APR-92
Target dates:		Target Committee:	25-MAR-92
To case officer	11-FEB-92	Report deadline:	11-MAR-92
Inspected by	16-FEB-92		
Extra contacts	21-FEB-92	Case Officer:	
Report if not clear by	12-MAR-92	D M GEDNEY	

DEVELOPMENT/CONSTRAINTS

Size: 337.5 M2
Category: Extension/curt bldg
Listed building:
Conservation Area:

CONSULTATIONS CARRIED OUT

		Sent	Expiry
Clerk to Fleet PC		11-FEB-92	25-FEB-92
Cllr B A Paul	0406 23100	11-FEB-92	25-FEB-92

L.C.C - No Comments - Trunk Road J CB 13/2/92.

H05/00586/92

LOWETH COWLING DESIGN

Station House,
Station Street,
Holbeach,
Lincolnshire
PE12 7LF
Telephone: (0406) 22126

S.H.D.C. PLANNING DEPT.
RECEIVED
10 AUG 1992

Attention of
DPO NRM
DOPO BS
SC ACP
Action by .....
Discuss with .....
Copy to .....

File Nos.
Copied to Dist. Sec 10/8 ✓

Acknowledge YES/NO
by
date

9234.
SHDC.
Planning Dept.
Spalding. Lincs.

7th August 92.

F.A.O. B. Smith Esq. D.P.O.

Dear Sir,

Re:- Humfield Hargate Hld
Fleet. Spalding. Lincs.

Further to our meeting in your offices on the 15th July and our telcon yesterday please find enclosed application documents and fee in respect of the extension to the cafe/restaurant and erection of a night stop.

We trust that you will be able to recommend approval of the proposals to your committee and also arrange for the WITHDRAWAL of the 87/0p application as agreed. Please take this letter as instructions to do so.

Thank you for your help in this matter to date.

Yours faithfully.

S.H.D.C. PLANNING DEPT.
10 AUG 1992

SOUTH HOLLAND DISTRICT COUNCIL

M E M O R A N D U M

FROM: Director of Planning and Building Control Services

TO: Director of Administration

REF: DMG/WL/H05/0088/92

REF: F.A.O. Mr Atkins

DATE: 15th June 1992

SUBJECT: Planning Application H05/0088/92 - Erection of new shop and conversion of existing shop to provide extension to existing restaurant and bar, Washway Road, Fleet (Hurnfield Hargate Ltd).

I refer to the above planning application which was considered at the Meeting held on 2nd June 1992.

As you are aware, it was resolved that the application be deferred to enable the Director of Planning and Building Control Services to seek legal advice about whether the existing premises, in part, fall within Class A1 (Shops) of the Town and Country Planning (Use Classes) Order 1987 or whether they are a "Farm Shop" which is ancillary to the agricultural use of the land.

In accordance with the above, therefore, I hereby enclose the relevant documentation and look forward to your response in due course.

N R Midlen
Principal Planning Officer
(Development Control)

H.K. ELLIS LL.B. (London)
R.C. TONGUE .. (Cantab.)
D.R. PROCTOR
G.M. ORTON
P.J. BREWSTER, M.A. (Cantab.)
G.C.H. SMITH, M.A. LL.B. (Cantab.), Notary Public
G.R. HARRO[illegible]A. B.Sc. (Econ.)
C.P. BENNET
A.J. PLUMMER, B.Sc. (Edin.)
L.P. FIDLER LL.B. (London)
D.C. BAMBRIDGE
P.R. OSBORNE, B.A.
JANET M. RATCLIFFE, M.A. (Oxon)
J.E.R. DANKS
JEANETTE L. SHARPE, LL.B. (B.ham)

Associates: S.R. COLTMAN, B.A. (Cantab.)
D.G. BEST
SUSAN R. PAPWORTH, LL.B.

ROYTHORNE & CO
10 PINCHBECK ROAD
SPALDING LINCS
PE11 1PZ
Telephone: 0775 724141
Fax: 0775 725736
DX: 26701 Spalding

Your Ref: NRM/JJ/975/90
Our Ref : I/LAW (HUR.8-1)
Date : 20 January 1992

Dear Mr Midlen

Re: Hurnfield Hargate Limited, Washway Road, Fleet

Thank you for your letter of 8 January.

I believe, with respect, that the Planning Register provides conclusive evidence that the above premises are being lawfully operated, in part, as a shop (Class A1) selling, amongst other things, flowers, fruit and vegetables. Your proposition that the operation permitted is a "farmshop" which is ancillary to the agricultural use of the land owned by Mr & Mrs Payne and/or Hurnfield Hargate Limited does not stand up to close examination.

I am instructed that fruit, vegetables and flowers have been sold from the site for many years and certainly before the beginning of 1964: see planning permissions dated respectively 7 March 1963 and 18 July 1963 with the respective references EE3/63 and EE99/63. I am also advised by Mr Payne that throughout the period in question until about 1985, when an extension was built pursuant to planning permission H5/0044/84, all sales were confined to the area delineated on drawing no. 8545, a copy of which is enclosed and thereon edged red. In the eary years the building was a nissan type hut which has since been bricked up and extended. Mr Payne also advises me that none indigenous produce and goods have always been sold.

I now turn to deal with what I would respectfully submit are the material planning permissions:-

(i) EE3/63 dated 7 March 1963 which granted planning permission for the alteration and extension to the existing flower/vegetable stall. It is significant that there were no conditions imposed restricting the type of produce which could be sold. Quite clearly the word "stall" should be given its natural and ordinary meaning within the context of the application. Here, I would submit that what was permitted was "a booth from which goods for sale are displayed": in other words a retail unit or shop.

(ii) EE93/63 dated 18 July 1963 which permitted the erection of a produce stall and store and re-siting of bungalow and reconstruction of vehicular access. Again, it will be noted that there were no conditions restricting the type of goods to be sold. According to my instructions this planning permission was implemented and resulted in the bricking up of the nissan hut to which I have already referred.

(iii) H5/0044/84 dated 4 May 1984 which permitted an extension to the existing vegetable and fruit sales store. Significantly there are no conditions restricting the type of goods to be sold; condition 4 merely states "that the extension shall not create a separate retail unit, but shall be used in connection with the existing fruit and vegetable shop".

I would therefore ask you to accept, in the light of the above facts, that there already exists on the premises a shop (Class A1) from which the sale of imported and home grown flowers, fruit and vegetables, amongst other things, can lawfully be sold. In support of this contention I would refer you to the case of Carpet Decor (Gilford) Limited -v- Secretary of State for the Environment and another (1981) where it was held that where a Local Planning Authority intend to exclude the operation of the Use Classes Order or the General Development Order they should say so by the imposition of a condition in unequivocal terms, since in the absence of such a condition it must be assumed that those Orders will have effect by operation of law. It follows, in my view that the existing premises can be used for any purpose permitted by Class A1.

The proposition that planning permission already exists for a shop on the premises is not inconsistent with the approach taken in the past by your Council. Indeed, you will recall that your Planning Committee have already approved the principle of the development of a petrol filling station and motorists shop (H05/0935/87) and a garden centre (H5/0615/H6).

I therefore enclose the following:-

1. Planning application in quadruplicate. This is a re-submission within 12 months of the application referred to above (H05/0957/90).

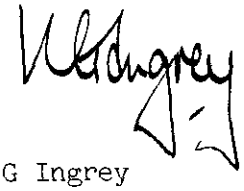
2. Site plan in quadruplicate.

3. Building plans. I would particularly draw your attention to the areas for the new shop and the proposed conversion.

Could you please arrange for the enclosed application to be considered as soon as possible in the light of the matters set out in this letter.

Kindest regards.

Yours sincerely



N G Ingrey

Roythorne & Co Solicitors
The Fingerbeck Board
Spalding
Lincs
PE11 1PQ

Mr D M Cooney

DMC/LAB
(ROY/A1382/01
[illegible]

14 April 1992

Dear Sirs

Planning Application S05/0086/92 - Erection Of New Shop And Conversion Of Existing Shop to Provide Extension to Existing Restaurant And Bar, Weshway Road, Fleet, Spalding. (Burkfield Bargate Ltd).

I refer to your letter dated 9 April 1992 in respect of the above.

In response, it is hoped that this application will be considered by the Planning Committee on the 13 May 1992.

I hope the above information is of assistance to you.

Yours [illegible]

N R Mileham
Principal Planning Officer
Development Control

H.K. ELLIS LL.B. (London)
R.C. TONGUE . (Cantab.)
D.R. PROCTOR
G.M. ORTON
P.J. BREWSTER, M.A. (Cantab.)
G.C.H. SMITH, M.A. LL.B. (Cantab.), Notary Public
G.R. HARROD, M.A. B.Sc. (Econ.)
C.P. BENNET
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L.P. FIDLER LL.B. (London)
D.C. BAMBRIDGE
P.R. OSBORNE, B.A.
JANET M. RATCLIFFE, M.A. (Oxon)
J.E.R. DANKS
JEANETTE L. SHARPE, LL.B. (B.ham)

Associates: S.R. COLTMAN, B.A. (Cantab.)
D.G. BEST
SUSAN R. PAPWORTH, LL.B.

ROYTHORNE & CO • SOLICITORS •

ROYTHORNE & CO
10 PINCHBECK ROAD
SPALDING LINCS
PE11 1PZ

Telephone: 0775 724141
Fax: 0775 725736
DX: 26701 Spalding

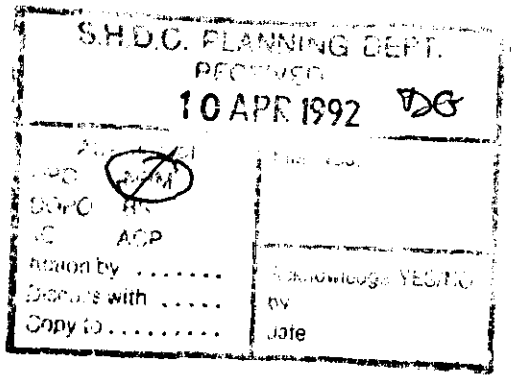
Your Ref: MMR/JJ/975/90
Our Ref : I/LAW (HUR.8-1)
Date : 9 April 1992

Dear Sirs

Re: Hurnfield Hargate Limited, Washway Road, FLEET: LA REF H050088/92

We refer to the above application and write to enquire when the same is likely to be determined? Your urgent response would be appreciated.

Yours faithfully



The Director of Planning
South Holland District Council
Council Offices
Priory Road
SPALDING
Lincolnshire
PE11 2XE

BR[illegible]N SMITH Dip TP MRTPI
Di[illegible]r of Planning & Building Control Services
Planning & Building Control Department,
Council Offices,
Priory Road, Spalding,
L[illegible]nshire. PE11 2XE

Telephone: (0775) 761161
Fax: (0775) 710772

SOUTH HOLLAND DISTRICT COUNCIL

Application no: H05/0088/92

Applicant: Hurnfield Hargate Ltd
Washway Road
Fleet
Spalding
Lincs

Agent: Loweth Cowling Design
Station House
Station Street
Holbeach
Spalding Lincs

Description: Erection of new shop and conversion of existing shop to provide extension to extg restaurant and bar

Location: Washway Road Fleet
Spalding

Type: FULL

Date received: 20-MAR-92

25-MAR-92

Dear Sir/Madam

CONSULTATION WITH PARISH COUNCIL

I have received an application for the above proposal and enclose a copy for your information. Any observations which the Parish Council wish to make should be set out below and returned to me by 09-APR-92. If no observations have been received by that date, it will be assumed that the Parish Council have no comments to make. The officer dealing with this application is D M GEDNEY

Yours faithfully
B SMITH
Director of Planning and Building Control Services

Clerk to Fleet PC
Parish Council Office
2 Spalding Road, Holbeach
Spalding, Lincs

FOR PARISH COUNCIL USE ONLY

Comments:

NO COMMENT

Signed:

2/4/92

S.H.D.C. PLANNING DEPT.
RECEIVED
- 2 APR 1992 DG
Attention of
DPO NRM
DDPO EB
PO ACP
File Nos.

H.K. ELLIS LL.B. (London)
R.C. TONGUE , (Cantab.)
D.R. PROCTOR
G.M. ORTON
P.J. BREWSTER, M.A. (Cantab.)
G.C.H. SMITH, M.A. LL.B. (Cantab.), Notary Public
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Associates: S.R. COLTMAN, B.A. (Cantab.)
D.G. BEST
SUSAN R. PAPWORTH, LL.B.

ROYTHORNE & CO SOLICITORS

ROYTHORNE & CO
10 PINCHBECK ROAD
SPALDING LINCS
PE11 1PZ

Telephone: 0775 724141
Fax: 0775 725736
DX: 26701 Spalding

Your Ref: NRM/JJ/975/90
Our Ref : I/LAW (HUR.8-1)
Date : 18 March 1992

Dear Mr Midlen

Re: Hurnfield Hargate Limited: Washway Road, FLEET - Ref: H050088/92

I refer to my letter of 20 January and to the related planning application and write to enquire whether the same will be determined? Furthermore, could you please let us know whether you have recommended the application favourably to your Committee?

Your urgent response would be appreciated.

Yours sincerely

N G Ingrey

Reg 4
S.H.D.C. PLANNING DEPT.
RECEIVED
20 MAR 1992
P67
DPO
SOPO BS
SC ACP

N Midlen Esq
Planning Department
South Holland District Council
P O Box 8
Priory Road
SPALDING
Lincolnshire
PE11 2XQ

SOUTH HOLLAND DISTRICT COUNCIL

M E M O R A N D U M

FROM: DIRECTOR OF ENVIRONMENTAL SERVICES DATE: 19.3.92

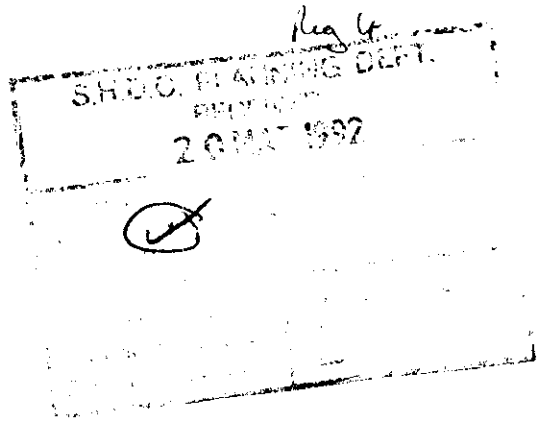
OUR REF: JC/SS/PC

TO: DIRECTOR OF PLANNING AND BUILDING CONTROL YOUR REF:

Planning Application H05/0088/92
Shop extension, Washway Road, Fleet

I write with reference to the above and would suggest that if there is to be intensification of use on this site the remaining areas of forecourt should also be hard surfaced. I trust this information is of assistance to you.

Director of Environmental Services



LOWETH COWLING DESIGN

Station House,
Station Street,
Holbeach,
Lincolnshire
PE12 7LF
Telephone: (0406) 22126

19/3/92.

F.A.O. D. Godfrey Esq.

Ref. HOS/088/92.

Please find enclose 4 no copies of revised 1:2500 plan as requested in your of 16/3/92 and our meeting today.

Thank you for your help.

SOUTH HO... D.C.
PL...
REF .....

Regards.

BR[illegible] I SMITH Dip TP MRTPI
Dir[illegible]or of Planning & Building Control Services
Planning & Building Control Department,
Council Offices,
[illegible]riory Road, Spalding,
[illegible]incolnshire. PE11 2XE

Telephone: (0775) 761161
Fax: (0775) 710772

SOUTH HOLLAND DISTRICT COUNCIL

Application no: H05/0088/92

Applicant: Hurnfield Hargate Ltd
Washway Road
Fleet
Spalding
Lincs

Agent: Loweth Cowling Design
Station House
Station Street
Holbeach
Spalding Lincs

Description: Erection of new shop and conversion of existing shop to provide extension to extg restaurant and bar

Location: Washway Road
Fleet
Spalding

Type: FULL

Date received: 22-JAN-92

16-MAR-92

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990
REQUIREMENT FOR ADDITIONAL INFORMATION ETC

Your submission for the above has been received, but I regret that it cannot be dealt with as it stands.

The Council is of the opinion that the information contained in the application is insufficient to enable the Authority to determine it, and under the provisions of Regulation 4 of the Town and Country Planning (Applications) Regulations 1988, you are therefore requested to supply the following:

Plans do not corresponde - difference in dimension of building and access location on 1:2500 and 1:1250 scale plans as submitted.

Submit accurate 1:1250 scale plans showing existintg buildings and new

If you have been sent a Notice of Receipt, the time limit for determining the application should be ignored as this will have to be recalculated from the date when I receive the above. If you wish to contact the department at any time, the officer dealing with the application at present is D M GEDNEY .

Yours faithfully

D M Gedney

Principal Planning Officer

Councillor Paul rang

Said he wanted his application to go to Committee

DMG.

log 4 -

Plans do not correspond - difference in dimensions of building & tenancy boundary on 1/2500 & 1/1250 scale plans as submitted.

In addition the proposed extension & change of use area should be outlined in red with boundaries etc in Blue.

Submit revised 1/1250 scale plans showing existing building and new works and remove all extraneous notes & information from plan.

(330)

B[illegible]AN SMITH Dip TP MRTPI District Planning Officer

Planning Department
Council Offices,
Priory Road, Spalding,
Lincolnshire. PE11 2XE
Telephone: (0775) 761161

SOUTH HOLLAND DISTRICT COUNCIL

Application no: H05/0088/92

Applicant: Hurnfield Hargate Ltd
Washway Road
Fleet
Spalding
Lincs

Agent: Loweth Cowling Design
Station House
Station Street
Holbeach
Spalding Lincs

Description: Erection of new shop and conversion of existing shop to provide extension to extg restaurant and bar

Location: Washway Road Fleet
Spalding

Type: FULL

Date received: 06-FEB-92

11-FEB-92

Dear Sir/Madam

CONSULTATION WITH PARISH COUNCIL

I have received an application for the above proposal and enclose a copy for your information. Any observations which the Parish Council wish to make should be set out below and returned to me by 26-FEB-92. If no observations have been received by that date, it will be assumed that the Parish Council have no comments to make. The officer dealing with this application is D M GEDNEY

Yours faithfully
B SMITH
Director of Planning and Building Control Services

Clerk to Fleet PC
The Band Hall, Back Lane
Holbeach
Spalding Lincs

FOR PARISH COUNCIL USE ONLY

Comments:

We [illegible] the opinion that this was the petrol station site

Signed: D. Hannyton

28/2/92

Reg'd

S.H.D.C. PLANNING DEPT.
RECEIVED
- 2 MAR 1992

Action by DPO NPM DDPO EG IC ADP
Action by .....
Liaise with .....
Comments .....

This Note.
Acknowledge YES/NO
Copy

SOUTH HOLLAND
Internal Drainage Board

Marsh Reeves,
Foxes Lowe Road,
Holbeach,
Spalding, Lincs.
PE12 7PA.

Reg 4

S.H.D.C. PLANNING DEPT.
RECEIVED
10 FEB 1992 RV

Attention of: PPO NPM DOPO
File Nos.
Your Ref.
YES/NO

Please contact: Mr. Staines

Tel: Holbeach (0406) 24933
Fax: (0406) 26501

Our Ref. RS/PA-K/88/92/TB

Date 4 February 1992

Dear Sirs,

FULL PLANNING APPLICATION - HURNFIELD HARGATE SHOP ETC. AT WASHWAY ROAD, FLEET

Thank you for the plan showing your above clients proposed development. Although the proposal would not seem to directly affect my Board's interests, I set out below general advice for your clients attention.

I note soakaway drainage systems are intended and I would suggest appropriate tests be undertaken to ensure the subsoils are suitable and that such soakaway systems will function adequately. Due consideration should however be given to the fact that ground water levels are very low due to the exceptionally dry conditions that have been experienced.

Any watercourses adjoining the site are maintained by the riparian owners whose consent must be obtained prior to any filling being undertaken or extra storm water run-off discharged. Prior to such works being undertaken however full details must be provided for my Board's approval in order I can ensure existing drainage interests will not be affected. You are advised at this stage that should a direct storm water outfall be intended, my Board reserve the right to seek a single once and for all time contribution towards future improvements of the Board's system to ensure adequate capacity for increasing flows from continuing developments.

The contribution rate is currently £6,600 per acre of new impermeable surface drained via a direct outfall and subject to engineering and administration fees as set out in the scale below, and V.A.T., although these figures are subject to periodic review.

The Engineering & Administration Fees are:-

Contribution		Percentage Fee
up to	£25,000	15%
£25,000 to	£100,000	12.5%
over	£100,000	10%

MINIMUM CHARGE £35

In that eventuality, full details of the route and quantity of run-off for the surface water disposal will be required for my prior approval.

RS/PA-K/88/92/TB 4 February 1992

Should your project involve the filling of a dyke alongside a highway, the prior approval and specification of the South Holland District Council's Technical Services Department must be obtained.

A copy of this letter is being forwarded to the Director of Planning in order he is aware of my observations.

Yours faithfully,

ENGINEER TO THE BOARD

Loweth Cowling Design,
Station House,
Station Street,
Holbeach,
Spalding,
Lincs.

BRIAN SMITH Dip TP MRTPI District Planning Officer

Planning Department
Council Offices,
Priory Road, Spalding,
Lincolnshire, PE11 2XE
Telephone: (0775) 761161

SOUTH HOLLAND DISTRICT COUNCIL

Application no: H05/0088/92

Applicant: Hurnfield Hargate Ltd
Washway Road
Fleet
Spalding
Lincs

Agent: Loweth Cowling Design
Station House
Station Street
Holbeach
Spalding Lincs

Description: Erection of new shop and conversion of existing shop to provide extension to extg restaurant and bar

Location: Washway Road
Fleet
Spalding

Type: FULL

Date received: 22-JAN-92

24-JAN-92

Dear Sir/Madam

NOTICE THAT APPLICATION IS INVALID
Requirement for additional information, fees etc

Your submission for the above has been received, but I regret that it cannot be dealt with as it stands. Please provide the following:

The enclosed site plans need to be amended to match that of previous planning application Ref: H05/0957/90.
(3 plans enclosed for your use)

Please return the extra copy of this letter with you reply.

88/92

If I do not hear from you within the next 14 days it will be assumed that you have no wish to continue with the application. It will then be filed away and any fee already received will be reimbursed.
If you wish to contact the department at any time, please ask for Mrs Maxwell quoting the above reference.

Yours faithfully

A R Maxwell

Principal Administrative Officer

S. HOLLAND D.C. — SECRETARY'S DEPT.
RECEIVED
19 OCT 1992
PASSED TO | FILE No. | INITIALS

Maples & Son

SOLICITORS

COMMISSIONERS FOR OATHS

A. R. Withyman, M.A., LL.B. (Cantab)
Richard W. [illegible] (Lond)
Philip A. N. Crew, LL.B. (Leeds)
Malcolm Charlesworth, LL.B. (Hull)
David Hicken, LL.B. (Sheffield)
Michael H. Pepper, M.A. (Cantab)

23 NEW ROAD
SPALDING
LINCS. PE11 1DH

DX 26706 - Spalding
Telephone (0775) 722261
Fax (0775) 767525

Our Ref: W/KG:11991/37

Your Ref: JMB/PK/PL6

Date: 16th October, 1992

S.H.D.C. PLANNING DEPT.
RECEIVED
20 OCT 1992
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Dear Sir,

re: South Holland District Council.
re: Hurnfield Hargate, Washway Road, Fleet.

We refer to your instructions to us of the 17th June, 1992 and the further information that we have received from Mr. Midlen of the Planning Department.

We have considered carefully the problems as to whether or not the existing use of the premises falls within a Class A1 (Retail) of the Town and Country Planning (Use Classes) Order 1987 or whether it is a "farm shop" ancillary to the agricultural use of the land. We have to say that we do not think that the matter is free from doubt but on balance we have concluded that it is a farm shop.

In considering the matter, we had regard to the planning history of the site and in particular to the planning permission which was granted by Holland County Council under reference EE3/63 on the 7th March, 1963 for "alteration and extension to flower and vegetable stall at Washway, Fleet;" further the consent of the Holland County Council reference EE99/63 on the 18th July, 1963 for "the erection of a produce stall and store, resiting of bungalow and reconstruction of vehicular access at Washway Road, Fleet;" the permission of the South Holland District Council of the 4th May, 1984 under reference H5/0044/84 for "the extension to veg and fruit sales store."

We have also had regard to the subsequent applications and we have noted the terms of the Planning Officer's Report to Committee in respect of the current application under reference H05/0088/92 and the recommendation of the Planning Officer. We have also considered the correspondence with the Applicants Solicitors.

It is essential to identify the "planning unit." The plan attached to the application EE3/63 of the 7th March, 1963 is unclear and offers little guidance. We do not know the precise acreage of land owned and occupied by the Applicants but we understand that it includes some acres of agricultural land on which produce has been grown over the years and some of the produce has been sold from the "stall" or "shop." This presumably was the case in March 1963 when the application was made for alteration and extension of the stall. Bridge J. in Burde -v-

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16th October, 1992

The Secretary of State for the Environment (1972) 3 All E.R. 240 has stated that,

> "It may be a useful working rule to assume that the unit of occupation is the appropriate planning unit, unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally."

We do not see that the activities that were carried on on this site (as we understand it) namely farming, retail of produce and goods of which a substantial proportion are produced from the site, a restaurant adjacent to the shop and parking area amount to "a separate use both physically and functionally." There are certainly other cases which reference can of far more diverse activities which are still held to have been within one unit of occupation and therefore the appropriate planning unit.

It is argued on behalf of the Applicants through their Solicitors that the planning permissions EE3/63 and EE93/63 granted permission for a retail shop (Class A1). We do not agree. Presumably it is accepted in any event, that prior to those planning decisions the primary use of the site was agricultural. By virtue of Class VI the construction of buildings on agricultural land did not need any application for planning permission unless it was within 80 feet of a trunk road. That was the case in this instance. The purpose of the application was not in respect of any change of use but no doubt related to the fact that the stall was to be located within 80 feet of the trunk road. This is borne out by the conditions which were attached to the permission. Thus whilst the stall could be described on its own as "a shop" in that it was a "building" selling goods by retail, one has to look at the substance of a matter and the nature of the application having regard to the planning unit. In this context, we take the view that an application for an alteration and extension to a flower stall which was quite capable of constituting a part of the overall planning unit does not constitute an application for a change of use. We would therefore reject the allegation by the Applicants Solicitors that the planning permissions concerned referred to created a Class A1 use as a retail shop.

We are supported in this view by two decisions of the Court. The first case is that of Williams -v- The Minister of Housing and Local Government (1967) LGR 495. This case involved a nursery garden with a building centrally situated which was used for the selling by retail from the building of vegetables fruit and flowers produced in the nursery. There were

some alterations to the building which gave it the attributes of a shop from which the Applicant sold not only indigenous produce but also imported oranges, lemons and bananas to the extent of some 10% of the total sales. In 1965 the Local Planning Authority served an Enforcement Notice requiring him to discontinue the use of the land for the purposes of a retail shop. He appealed and argued that the use was incidential to the use of the premises as a nursery and that the introduction of the sale of imported produce had not affected a material change in the use of the site. On appeal, it was held that in considering whether a material change in the use of the land that occurred the proper unit for consideration was the nursery garden with the building on it; since the Minister had correctly decided that the primary use of the land before the beginning of the activity complained of was an agricultural use including an incidential provision of facilities for selling the nursery garden produce, he was entitled to conclude that a change in the character of the use occurred when fruit produced elsewhere was brought on to the land for sale and that change could not be dismissed as de minimis. The Enforcement Notice was therefore upheld on the basis that the unit as a whole was agricultural to which the retail shop was ancillary and there had been a breach of planning control. It is observed that if the unit for consideration had been the shop in isolation as distinct from the nursery then it might have been contended that its use at all times, was a retail shop. This suggests that in the case of the present application the identification of the planning unit is vital.

The second case to which we have had reference is that of Wood -v- The Secretary of State for the Environment (1973) 2 All E.R. 404. In that case the Applicant was the owner and occupier of an agricultural holding consisting of a farmhouse, outbuildings and some seven acres of land. From a date earlier than 1948 agricultural produce grown on the farm and produce brought in from outside had been sold from various parts of the farmhouse and farm buildings. In 1968 a conservatory was built on the house and planning permission was not needed and not obtained and produce was sold from the conservatory. In 1970 the Local Planning Authority served an Enforcement Notice on the Applicant alleging the land had been used as a shop and requiring discontinuance. The Inspector found that although there had been a considerable increase in the previous two years in the amount brought in, he did not consider that it had been a material change. The Inspector chose to treat the conservatory in isolation as a separate planning unit and it was against this decision that the appeal was made. The appeal was upheld in terms that where an addition was made to a building which was a permitted development within the Gerneral Development Order, that

16th October, 1992

addition was part of the original building and took on itself the characteristics of the original building in all respects. That may be relevant to the present facts. Had the stall not been within 80 metres of a highway then there would have been no need for planning permission. The Court concluded therefore that the permitted use in the Appellants premises as a whole was agricultural and this included the use of the conservatory for the sale of produce. Accordingly, the Secretary of State had erred in treating the conservatory in isolation and the appeal was allowed.

In coming to his decision the Lord Chief Justice adopted with approval, the dicta of Bridge J. in Burdle -v- The Secretary of State for the Environment and referred for support to the case of Williams -v- The Minister of House and Local Government.

We therefore conclude that unless there are factors present in the history of this site of which we are not aware, we do not see that the planning consents that were granted and are relied upon by the Applicants Solicitors, have effected any change of use in respect of the agricultural unit as a whole.

If, on the other hand, consideration of the facts would lead to a conclusion that the "stall" or "shop" was a separate planning unit then the Applicant would be correct.

The Applicants Solicitors refer to the case of Carpet Decor (Guilford) Limited -v- The Secretary of State for the Environment and Guildford Borough Council (1981) JPL 8.106. This case is only relevant if the Applicants contention that the planning permission of 1963 granted them permission for a "shop," distinct from the agricultural user. If that were correct then we would have to agree that the case referred to is authority for the proposition that if the Local Authority wished to restrict the goods sold in the shop then it should have done so by express condition. The relevant passage in the Judgment of Sir Douglas Frank reads,

> "As a general principle, where a Local Planning Authority intended to exclude the operation of Use Classes Order or the General Development Order they should say so by imposition of a condition in unequivocal terms or in the absence of such a condition it must be assumed that those Orders will have effect by operation of law."

If therefore the permission did give the Applicants the right to use the permises as a shop and there were no conditions

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attaching to what they could sell then they are entitled uses as defined by the General Development Order.

It is correct therefore to identify the planning permissions of 1963 as crucial in deciding the issue.

We would also just mention the letter from the Planning Officer to the Applicants Solicitors of the 23rd December, 1991 which referred to Section 10 the Planning and Compensation Act 1991. This Section is now in force and the Town and Country Planning Act 1990 Section 191 as amended thereby does provide for the provision of a Certificate of Lawfulness of Existing Use or Development. It would therefore be open to the Applicants to make an application under that Section.

There is the further possibility that if the Local Authority feel that the Applicants are infringing the consent that effectively they have then it would be open to the Council to serve an Enforcement Notice which we assume would certainly bring matters to a head.

We have found that the problems are complex and if there is any aspect of the advice contained in this letter which you would like to discuss, then we would be happy to consider it further with you.

Yours faithfully,

The Director of Administration,
South Holland District Council,
Priory Road,
SPALDING,
Lincs.

Ref. No. F 3/63.

HOLLAND COUNTY COUNCIL

Permission for Development subject to Conditions.

Town and Country Planning Act, 1947.
Town and Country Planning General Development Order &c., 1950.

To G. F. & A. E. Payne,
Hurnfields Farm,
Fashway Road, Fleet.

The Holland County Council HEREBY PERMIT the development proposed by you in your application dated the 9th day of January, 1963 namely :— alterations and extension to flower and vegetable stall at Fashway Road, Fleet.

and shown on the plan(s) accompanying the application, subject to due compliance with the byelaws and general statutory provisions in force in the district, and subject to the conditions specified hereunder :—

1. The means of access shall be limited to two in number on the whole of the frontage of the site with the trunk road and shall be laid out in accordance with the attached drawing No. A.289 dated 10th February, 1963.

2. The applicant shall form and thereafter maintain a cultivated strip of ground 6 ft. wide immediately behind and parallel with the trunk road boundary along the whole of the frontage of the site excepting at the two means of access, which 6 ft. wide strip shall be planted with bushes or shrubs to be maintained at a height not exceeding 3ft. 6ins.

3. The stall shall be sited 60 ft. back from the centre line of the carriageway.

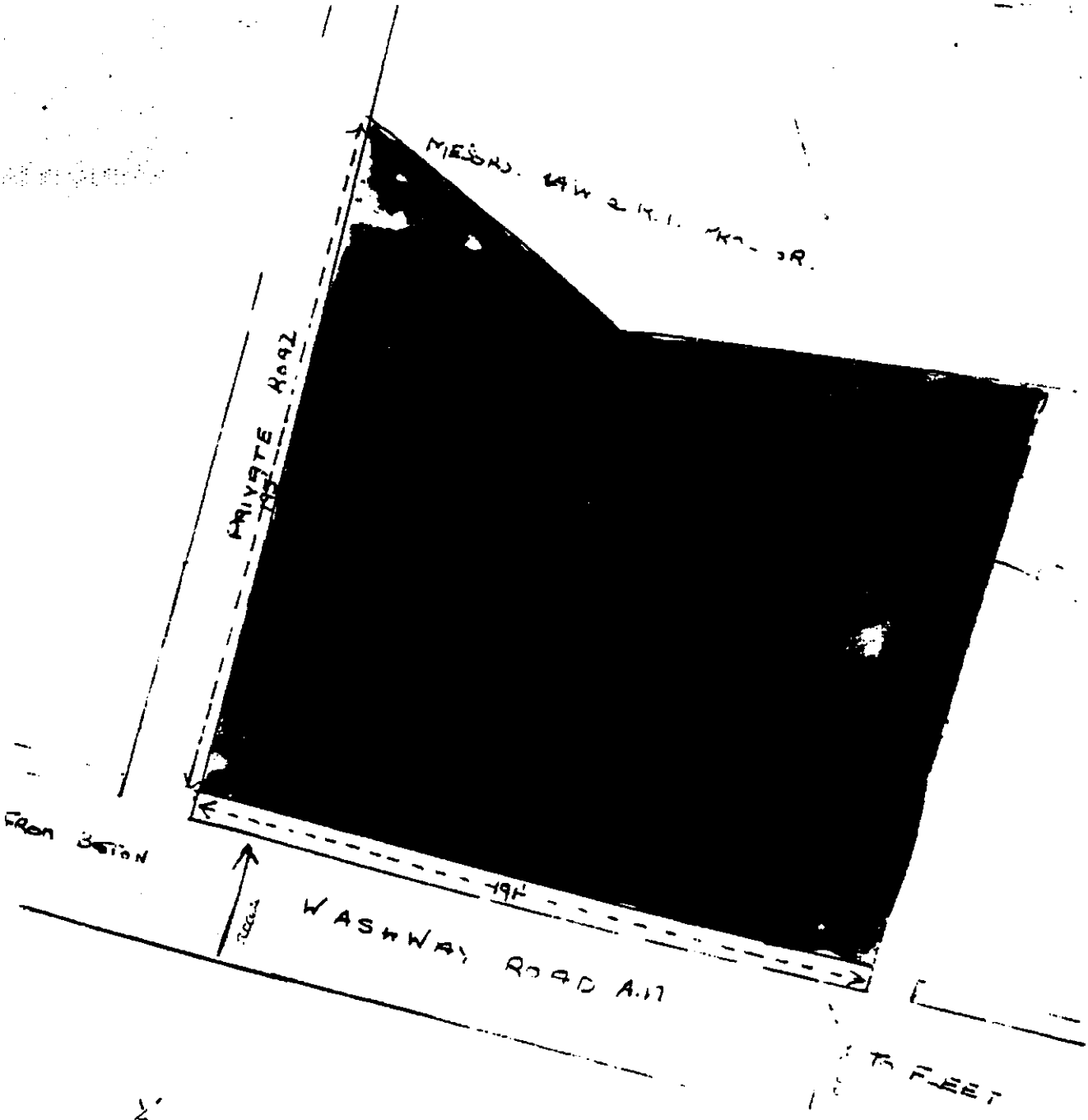
The reason for the Council's decision to grant permission for the development, subject to compliance with the conditions hereinbefore specified are :—

1. 2. & 3. To reduce to a minimum interference with the safety and convenience of through traffic on the trunk road and to secure satisfactory siting of the stall.

Dated the 7th day of March, 19 63.

Signed H. [illegible]
Clerk of the County Council.

County Hall,
Boston.


MEAS. N 4° W 2 K.T. FROM
PRIVATE ROAD
FROM JUNCTION
WASHWAY ROAD A.17
FEET
Scale

Ref. No. SS 99/63.

HOLLAND COUNTY COUNCIL

Permission for Development subject to Conditions.

Town and Country Planning Act, 1962.
Town and Country Planning General Development Order &c., 1950.

To Messrs. G.T. & A.M. Payne, G.T. + A.M. Payne
Hurnfield Farm, Humfield Farm
Washway Road, Fleet. Washway Rd. Fleet

The Holland County Council HEREBY PERMIT the development proposed by you in your application dated the 9th day of May, 1963 namely :— the erection of a produce stall and store, re-siting of bungalow and reconstruction of vehicular access at Washway Road, Fleet.

and shown on the plan(s) accompanying the application, subject to due compliance with the byelaws and general statutory provisions in force in the district, and **subject to the conditions specified hereunder :—**

The parking area shall be provided before any part of the new development is brought into use.

The reasons for the Council's decision to grant permission for the development, subject to compliance with the conditions hereinbefore specified are :—

To ensure the provision of reasonable parking facilities clear of the highway.

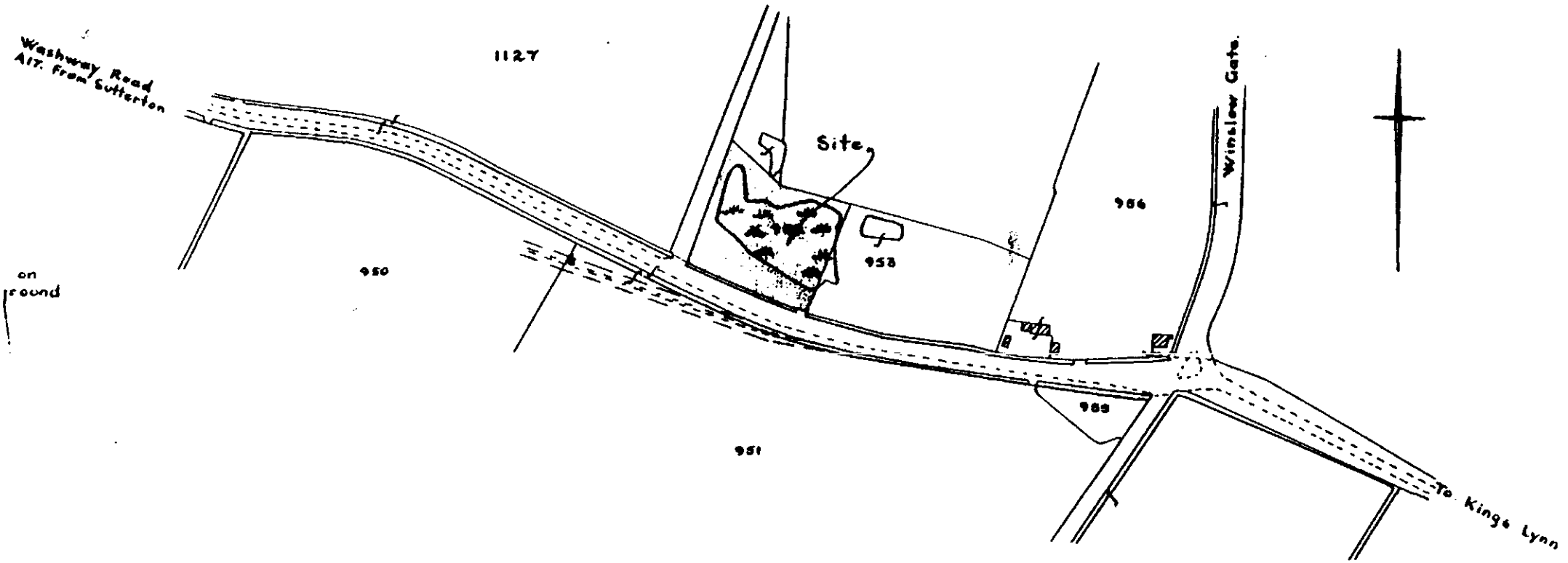
Dated the 18th day of July, 1963.

Signed Signed H. A. H. WALTER
Clerk of the County Council.

County Hall,
Boston.

SITE PLAN
Scale:- 1/2500

Fleet Hurn Fields.



REMAINDER OF LORRY PARKING AREA TO BE SURFACED AS SOON AS L.C.C. HIGHWAYS HAVE THE MATERIAL TO HAND. (IT IS ALREADY ORDERED). + WORK IN HAND.

EXTENT OF SURFACE DRESSING SO FAR CARRIED OUT

148'9"

168'10"

RUN 6'0" HIGH BANKING WITH BLACKTHORN, HAWTHORN AND ELDER PLANTING TO OUTSIDE.

EXTENT OF SURFACE DRESSING SO FAR CARRIED OUT.

PROPOSED.

EXISTING TARMAC TO 'NEW' ACCESS.

NOTE.

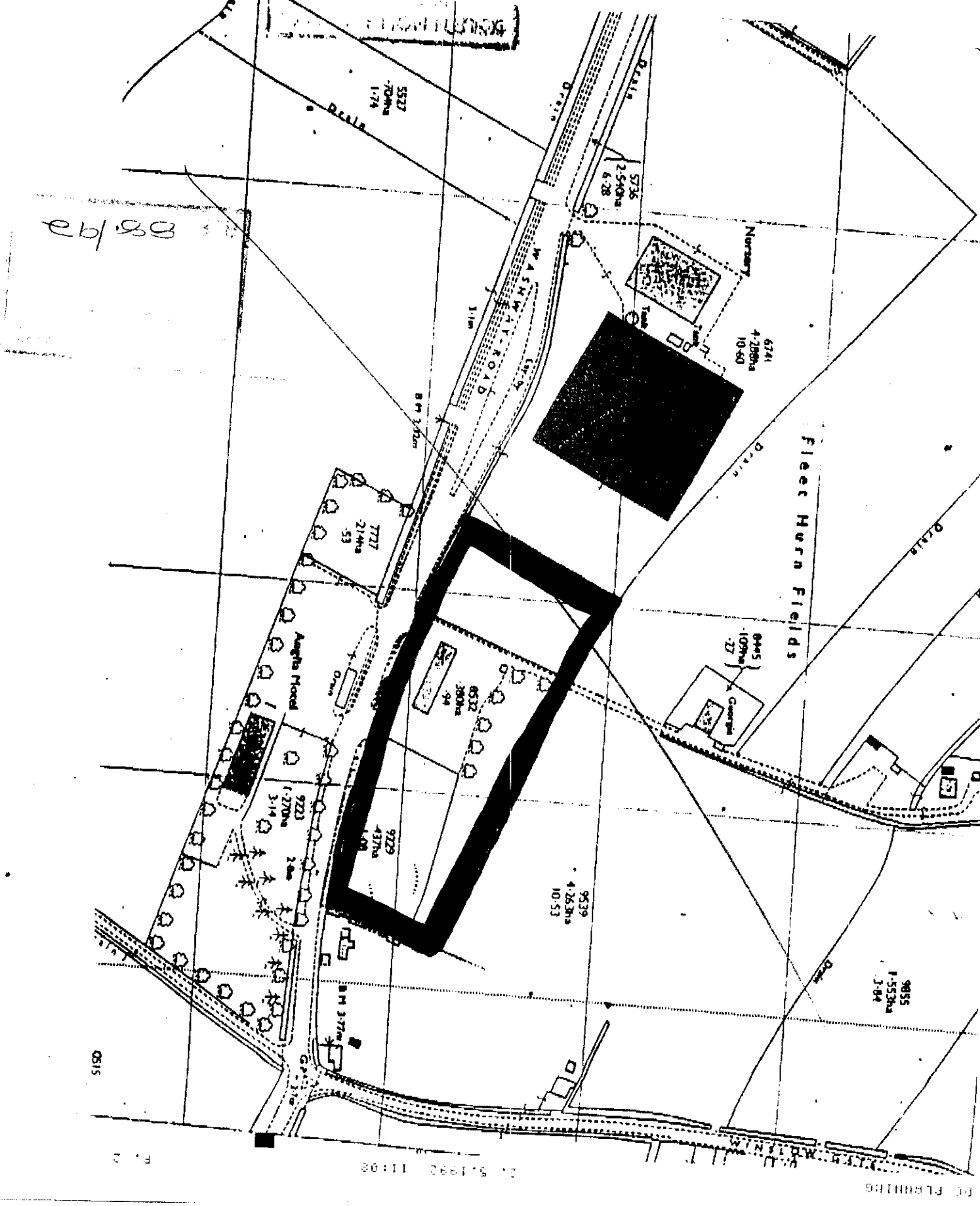
PLANTING DETAILS.
NOW EXISTING.
TO NORTH AND EAST OF BANKING.

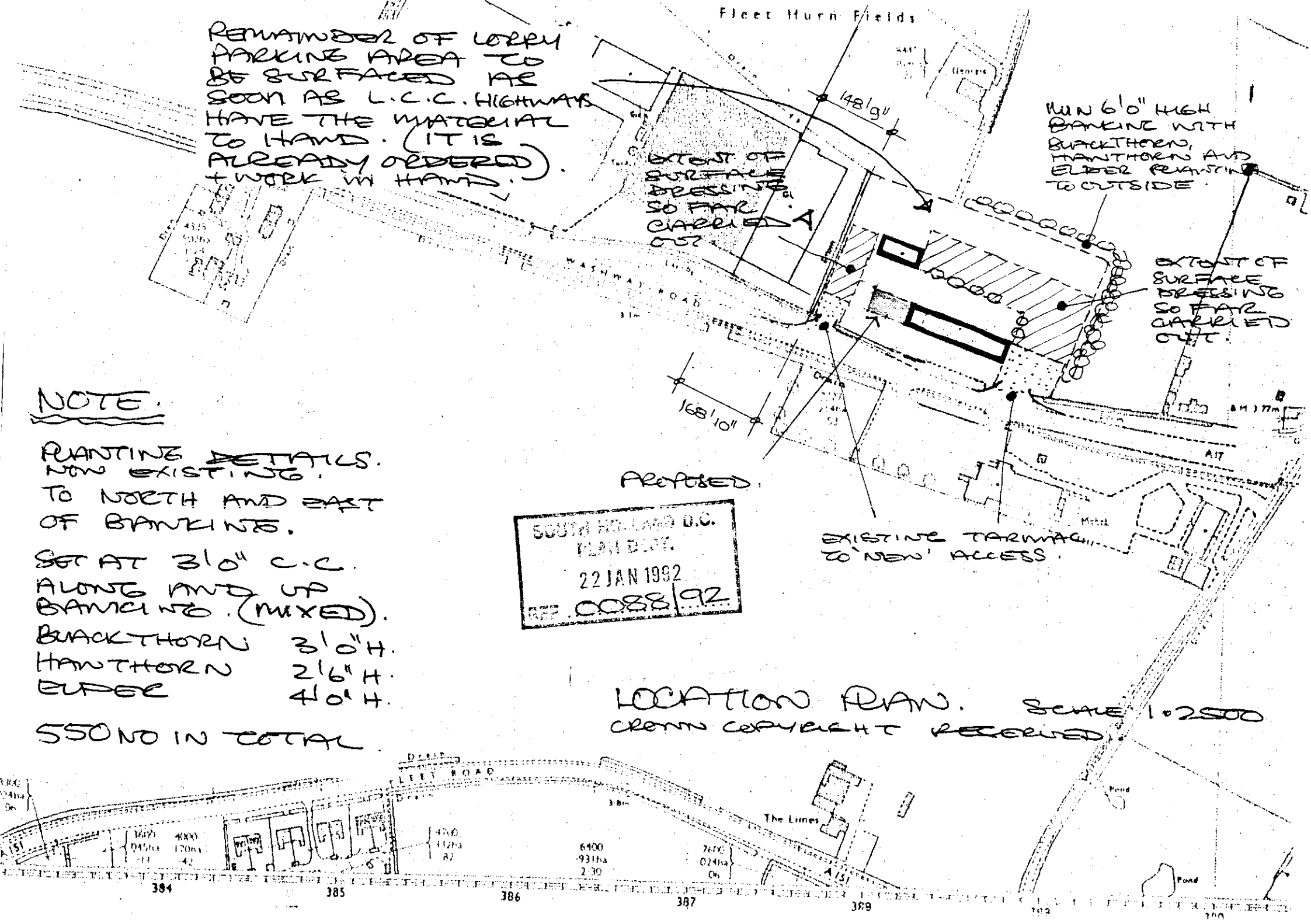
SET AT 3'0" C.C.
ALONG AND UP BANKING. (MIXED).

BLACKTHORN	3'0" H.
HAWTHORN	2'6" H.
ELDER	4'0" H.

550 NO IN TOTAL.

LOCATION PLAN. SCALE 1:2500
CROWN COPYRIGHT RESERVED.

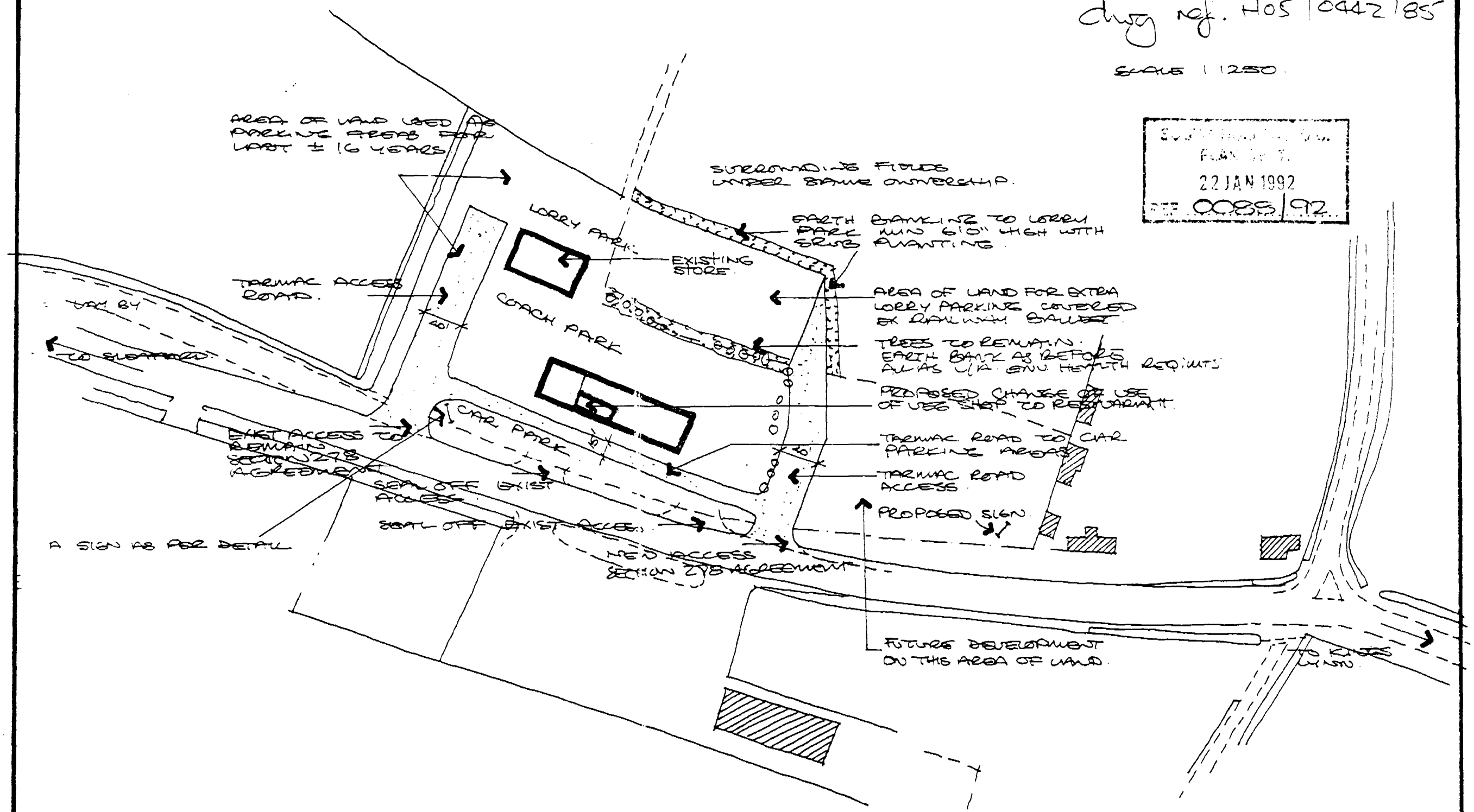

Fleet Hurn Fields
Nursery
Angle Hotel
WINDOW


REMAINDER OF LORRY PARKING AREA TO BE SURFACED AS SOON AS L.C.C. HIGHWAYS HAVE THE MATERIAL TO HAND. (IT IS ALREADY ORDERED) + WORK IN HAND.
EXTENT OF SURFACE DRESSING SO FAR CARRIED OUT.
148'9"
168'10"
RUN 6'0" HIGH BANKING WITH BLACKTHORN, HAWTHORN AND ELDER PLANTING TO OUTSIDE.
EXTENT OF SURFACE DRESSING SO FAR CARRIED OUT.
EXISTING TARMAC TO 'NEW' ACCESS.
PROPOSED
SOUTH HOLLAND D.C.
PLAN DEPT.
22 JAN 1992
REF. 0088/92
NOTE.
PLANTING DETAILS. NOW EXISTING.
TO NORTH AND EAST OF BANKING.
SET AT 3'0" C.C.
ALONG AND UP BANKING. (MIXED).
BLACKTHORN 3'0"H.
HAWTHORN 2'6"H.
ELDER 4'0"H.
550 NO IN TOTAL.
LOCATION PLAN. SCALE 1:2500
CROWN COPYRIGHT RESERVED
Fleet Hurn Fields
WASHWAY ROAD
FLEET ROAD
The Limes
Pond
384
385
386
387
389

dwg ref. H05/0442/85

SCALE 1:1250

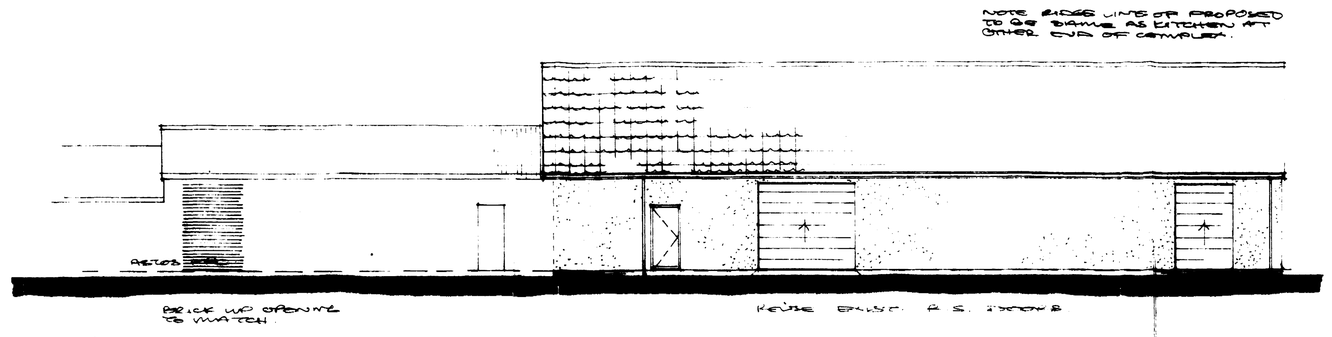
22 JAN 1992
REF 0085/92



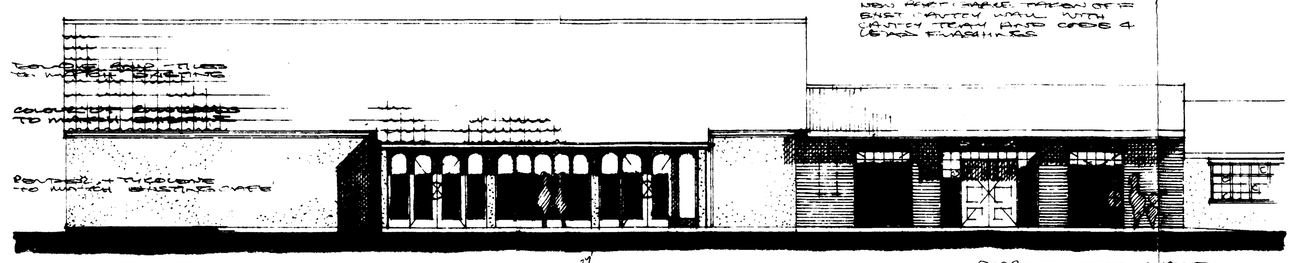
PROPOSED CHANGE OF USE OF VEG. STORE TO RESTAURANT, EXTRA LORRY PARKING AREA, NEW ACCESS AND ROADWAYS FOR HURNFIELD HARGATE LTD. FLEET. SPALDING. LINCS.

8515

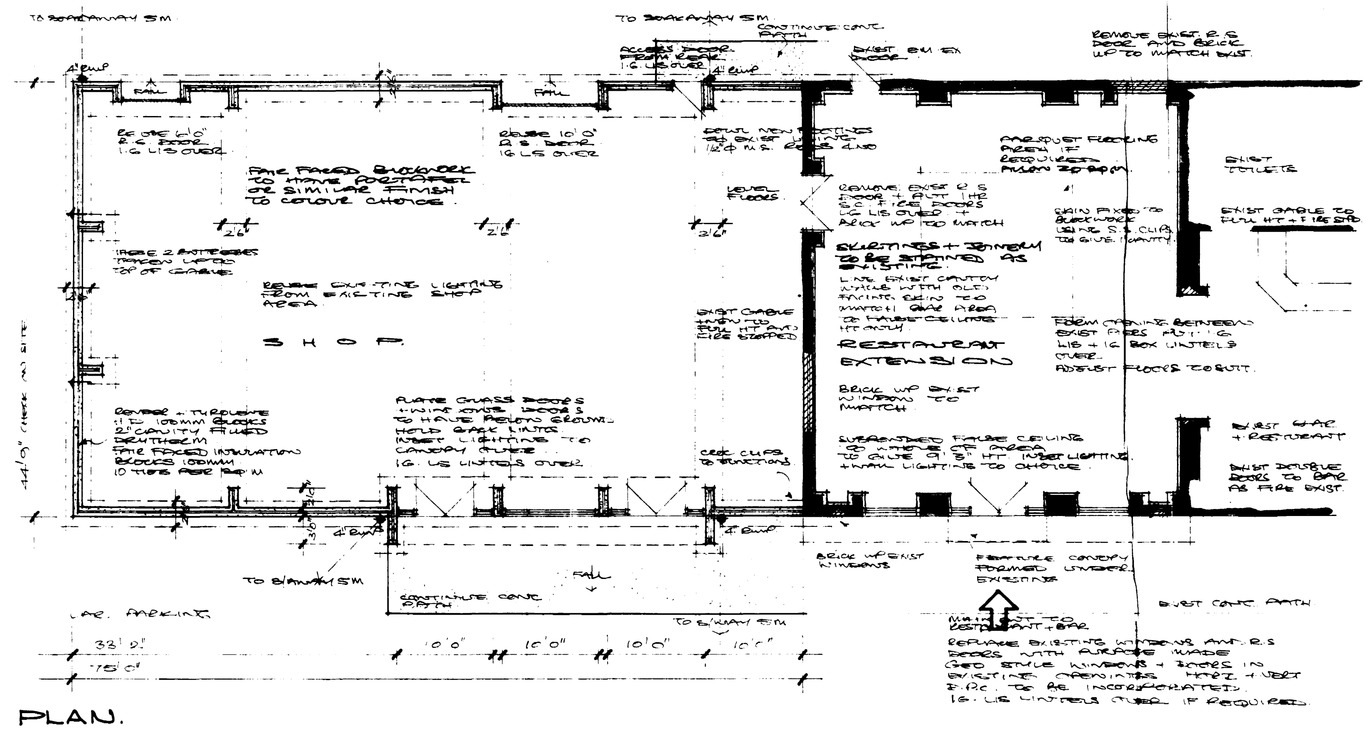
IF IN DOUBT ASK.



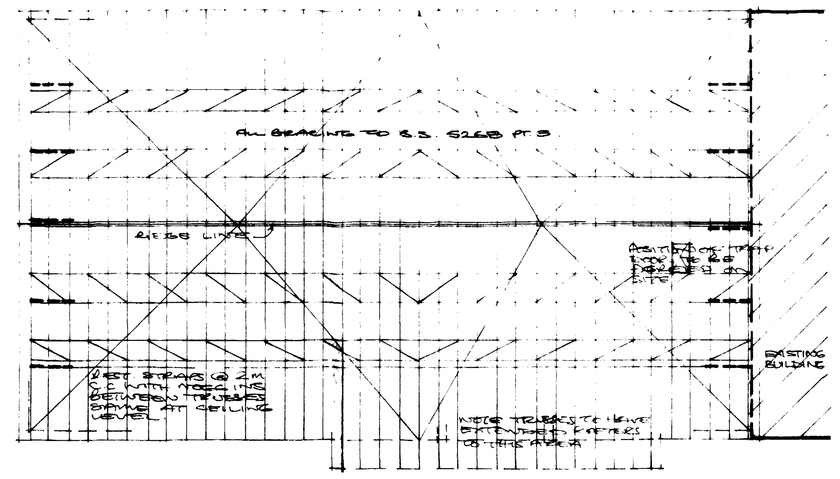
REAR.



FRONT. TO A17.

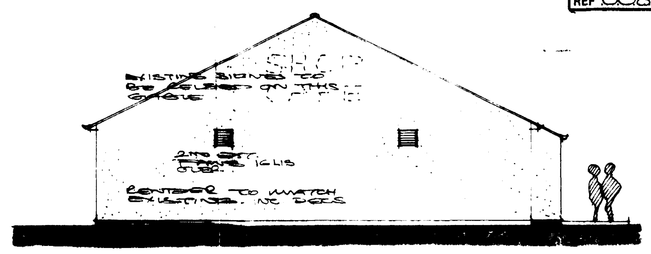


PLAN.

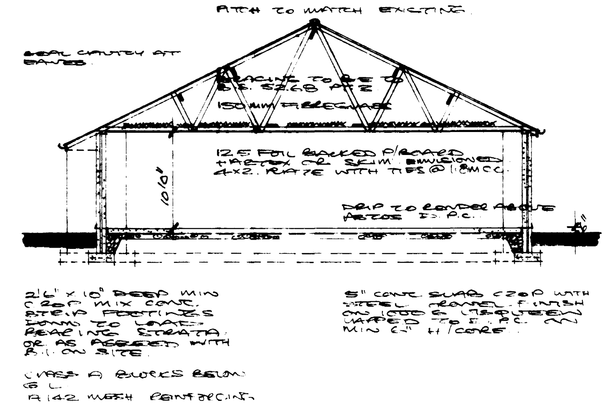


ROOF PLAN.

SOUTH HOLLAND D.C.
PLAN DEPT.
22 JAN 1992
REF 0068/92



END.



SECTION.

PROPOSED CONVERSION OF EXISTING SHOP TO EXTENSION TO RESTAURANT AND BAR AND BUILDING OF NEW SHOP FOR HURNFIELD HARGATE LTD. AT WASHWAY ROAD. FLEET. LINCS.

SMITH CANNING DESIGN.
STATION HOUSE.
STATION ST. HOLBEACH.
DATE AUG - SEPT / 90.
SCALE 1/8" - 1'0" DWG 9068/3