

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 3 PLANNING COMMITTEE

22 June 2006

Report of the Chief Solicitor

Part 1- Public

Matters for Information

1 ARTICLE 4 DIRECTIONS: LAND AT THE REAR OF MACKENDERS LANE, ECCLES

Summary

To report the making of two Article 4 Directions in respect of land at the rear of Mackenders Lane, Eccles.

1.1 Introduction

- 1.1.1 On 14 April 2006, an advertisement appeared in the Kent Messenger by Rubicon Estates, offering for sale agricultural land at the rear of Mackenders Lane, Eccles. Enquiries revealed that the land was being sold off in plots.
- 1.1.2 The Director of Planning and Transportation was of the opinion that there was an imminent threat of the agricultural land being sub-divided. Any development on the land that would facilitate its sub-division into smaller plots with its own fencing or its use as a caravan site would be severely harmful to the character and appearance of the land, to the detriment of the visual amenities of the locality and the landscape character of the area, which is contrary to the Council's planning policies and Government guidance. In addition, any development or works on the land would be prejudicial to the proper planning of the area and constitute a threat to the amenities of the area by being visually intrusive and detrimental to rural amenity and the landscape character of the area.
- 1.1.3 As a result, in exercise of my delegated powers, on 27 April 2006 I made two directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995.
- 1.1.4 The first Direction removed permitted development rights for the following types of development:
- The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure, etc;
 - The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is

required in connection with development permitted by any Class in the Order; and

- Temporary buildings and uses.

This Direction had immediate effect, but will expire after six months if not confirmed by the First Secretary of State.

1.1.5 The second Direction removed permitted development rights for the following types of development:

- The use of land, other than a building, as a caravan site;
- Agricultural buildings and operations on units of less than five hectares;
- Repairs to unadopted streets and private ways; and
- Electricity undertakings.

This Direction does not have effect until confirmed by the First Secretary of State.

1.1.6 Both Directions were submitted to the First Secretary of State for confirmation on 27 April 2006.

1.1.7 Where an Article 4 Direction is made, an application for planning permission needs to be made to the local planning authority in the usual way should any such development be proposed.

1.2 Legal Implications

1.2.1 Under section 108 of the Town and Country Planning Act 1990, compensation becomes payable where an Article 4 Direction is made and an application for planning permission which would otherwise be permitted development is subsequently refused. It is payable in respect of loss or damage sustained by a person interested in the land and which is directly attributable to these decisions. In this case it is considered that the risk of compensation being awarded is low.

1.3 Financial and Value for Money Considerations

1.3.1 None.

1.4 Risk Assessment

1.4.1 There is a risk of compensation becoming payable, but in the circumstances this risk is considered to be low.

Background papers:

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In respect of each Direction:

§ Article 4 Direction

§ Statement of Reasons

Duncan Robinson

Chief Solicitor