

NEIGHBOURHOOD PLANNING BILL

Evidence from Brethren's Gospel Trusts Planning Group

c/o1A King Edward Road BEDFORD MK41 9SF

1. INTRODUCTION AND SUMMARY

- 1.1 The Brethren's Gospel Trusts Planning Group is an informal group within the Plymouth Brethren Christian Church in the UK who represent the interests of the church in respect of planning matters. We are concerned with non domestic buildings, which are used as Places of Worship. These fall into two distinct categories, *firstly* small scale detached properties, approximately the size of a large Bungalow for the use of local congregations within the vicinity of their dwellings, and *secondly*, large district meeting halls serving a wide catchment these are generally over 1000 square metres plan area. The larger halls require a suitable car-park for at least 120 cars and often include coach parking spaces.
- 1.2 A current national programme of renewals and new build with relocation is running at an annual rate of about three larger district halls and perhaps five or six local halls.
- 1.3 The Plymouth Brethren's Christian Fellowship was founded about 200 years ago and is represented in about 85 towns and cities throughout England with around 14000 worshippers. The fellowship is increasing in numbers and the current programme of building is expected to continue for the foreseeable future.
- 1.4 The Brethren's Gospel Trusts Planning Group is grateful for the opportunity to provide written evidence to the House of Commons Public Bill Committee.

Summary

- 1.5 This evidence focuses on the Use of Planning Conditions which is the subject of Clause 7 of the Neighbourhood Planning Bill.
- 1.6 We provide practical evidence of the use of planning conditions including pre-commencement conditions and conditions duplicating and in conflict with the provisions of The Building Regulations.

- 1.7 We strongly support Clause 7 of the Bill, with particular reference to draft Section 100ZA of the 1990 Act, sub-sections (1), (2), and (5).

2. EVIDENCE

Pre-commencement conditions

- 2.1 We strongly support the principle of prohibiting pre-commencement conditions from being imposed unless written agreement has been given by the applicant. It is particularly noticeable that an appeal decision granting planning permission will generally have significantly fewer conditions, including pre-commencement conditions, compared with a local planning authority decision.
- 2.2 We would draw the attention of the Committee to the observations of the court in the case ***Bedford Borough Council v Secretary of State for Communities and Local Government and Murzyn*** [2008] EWHC 2304 (Admin), where the learned judge upheld the conclusion of the Planning Inspector that conditions relating to a landscaping scheme and details of boundary treatment were not matters going to the heart of the permission. Consequently these were not true 'conditions precedent'. We attach a copy of the caselaw report at Appendix 1 to this evidence.
- 2.3 We would also respectfully draw the attention of the Committee to recent planning permissions for new places of worship which included pre-commencement conditions several of which would appear to fall into the above category.

Meeting Hall Leydenhatch Lane Swanley BR8 7PT

Sevenoaks DC reference SE/15/00776/FUL dated 13th August 2015

- 2.4 We submit this as an example where the *practical* operation of the use of planning conditions has caused unnecessary delay and expense in implementation of the Planning Permission for a new Gospel Hall. Church Trustees have suffered a 12 month delay to the start of work on a much needed large Gospel Hall for the area. This is a knock down and rebuild project straddling the boundary between Dartford and Sevenoaks, thus requiring two separate planning permissions.
- 2.5 The Sevenoaks Grant included 24 Conditions of which 14 were to be satisfied before any work commenced. Several of the conditions gave the impression of being picked from pigeon holes without any

understanding either of their interaction with each other or of the problems of fixing a contractor and finance. Negotiating these has entailed much work for both the applicant and the local authority subsequent to the grant of planning permission. A copy of the Sevenoaks decision notice is attached at Appendix 2 to this evidence.

2.6 In summary, these conditions covered:

- External materials
- Contamination remediation
- Revised Noise Assessment
- Sustainable surface water drainage
- Construction Method Statement (including demolitions)
- Secure cycle parking
- Reinstatement of redundant vehicle crossovers
- Wheel washing facilities
- BREEAM assessment
- Landscape and Ecology Management
- External lighting
- Landscaping scheme
- Electric vehicle charging points
- Demolitions

2.7 It is submitted that most of these matters fall into the category of the conditions considered in the *Murzyn* case above.

**Land west of Deepdale Enterprise Park Deepdale Lane Nettleham
Lincolnshire LN2 2LL**

West Lindsey DC reference 134036, dated 2nd June 2016

2.8 In this case, thirteen conditions were attached, of which five were pre-commencement conditions. These covered, in summary:

- Appearance and materials of electrical supply housing and bench seating
- Landscaping
- 1.8m wide public footway and drainage
- External lighting
- Construction Method Statement

A copy of this decision is attached at Appendix 3 to this evidence.

- 2.9 Again we respectfully submit that several of these conditions fall into the *Murzyn* category as described above. In particular, we submit that most of these conditions could have been dealt with post-commencement of the main project and either been required to be agreed prior to the start of that part of the project or prior to occupation.
- 2.10 For these reasons, we welcome the government proposal to provide for an opportunity for the applicant to enter an early dialogue with the Local Planning Authority on pre-commencement conditions.

Clause 100Z (2) Statutory Basis for Conditions

- 2.11 Ample guidance on the use of planning conditions has been available on the NPPG site since March 2014. The tests in paragraph 206 of the NPPF are: Necessary, Relevant to Planning and the development, Enforceable, Precise and Reasonable in all other respects. This has not been effective in limiting the use of planning conditions generally and pre-commencement conditions in particular. We support the proposed Sub-Section (2) which will set out the above tests in statute.

Prohibition of specific types of condition

- 2.12 As demonstrated by the above examples, local planning authorities have been straying into matters already covered in the Building Regulations. Places of Worship are exempted in Part L- Conservation of Fuel and Power, but local planning authorities bring back control by conditions even requiring “excellent standard”. [Dartford] We respectfully submit that the expense to both design and construction to save a few units of power in a building used 12 to 15 hours a week is highly disproportionate.
- 2.13 It is a matter of considerable concern to our Gospel Hall Trusts that local planning authorities constantly impose onerous planning conditions on applications for Places of Worship relating to energy efficiency and notional environmental impact. Places of worship are specifically excluded from the requirements of Building Regulations Part L, relating to energy efficiency requirements, but local planning authorities get round this by imposing conditions such as a requirement to achieve a BREEAM “Very Good” rating, which generally more onerous than Part L, and imposes very considerable extra costs on the charitable trusts seeking to provide new gospel halls, with negligible public benefit.

- 2.14 The requirements imposed take no account of the time that a building will be in use and they impose as much of a burden on a gospel hall which is used for about 12 hours a week as on a hospital which is in use 168 hours a week.
- 2.15 As Places of Worship are not required to comply with Building Regulations Part L, this means there is no requirement for an SBEM or a Pressure Test.
- 2.16 Planning Authorities do seem to have taken it as their responsibility to exercise control over other factors that actually fall within the Building Regulations.

J A Devine

S Baker

J R Shephard

For Brethren's Gospel Trusts – Planning Group

15 October 2016

Appendices

1. Bedford Borough Council v The Secretary for State for Communities and Local Government [2008] EWHC 2304 (Admin) dated 20th August 2008.
2. Planning Decision Notice: SE/15/00776 Sevenoaks District Council dated 13th August 2015.
3. Planning Decision Notice: Reference 134036 West Lindsay District Council dated 2nd June 2016.

CO/11416/2007

Neutral Citation Number: [2008] EWHC 2304 (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2A 2LL

Wednesday, 20th August 2008

B e f o r e :

HIS HONOUR JUDGE WAKSMAN QC
(sitting as a deputy High Court judge)

BEDFORD BOROUGH COUNCIL

Claimant

v

**(1) THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL
GOVERNMENT**
(2) ALEKSANDER STANISLAW MURZYN

Defendants

Computer-Aided Transcript of the Palantype Notes of
WordWave International Limited
A Merrill Communications Company
190 Fleet Street London EC4A 2AG
Tel No: 020 7404 1400 Fax No: 020 7831 8838
(Official Shorthand Writers to the Court)

Mr David Lintott (instructed by Bedford Borough Council, Town Hall, Bedford MK40
1SL) appeared on behalf of the **Claimant**
Mr Stephen Tromans (instructed by the Treasury Solicitor, London WC2B 4TS) appeared
on behalf of the **First Defendant**

J U D G M E N T

1. JUDGE WAKSMAN: This is an appeal by Bedford Borough Council ("the Council") from a decision of an inspector appointed by the Secretary of State for Communities and Local Government ("the inspector") made by a letter of 15th November 2007. In it he allowed an appeal by the landowner, Mr Murzyn, the second defendant in these proceedings, from a decision of the Council refusing the grant of a certificate of lawful use or development. The property in question is The Barn, West End Farm, Stevington in Bedford ("the Barn"). The application to the council was made under section 192 of the Town and Country Planning Act 1990, the appeal to the inspector was made under section 195 thereof and the appeal to this court is made under section 288 thereof.

The issue

2. On 28th January 1985 the council granted detailed planning permission to Mr Murzyn for the conversion to a dwelling of the Barn, which was a thatched barn. Condition 2 of the permission was that the development "shall be begun on or before the 28th day of January 1990."
3. Some works in relation to the development had been carried out in 1986. It is common ground that for the purpose of section 56 of the 1990 Act, sufficient work to the Barn had been done to constitute the beginning of the development. Without more, therefore, time in relation to the permitted development stopped running and the planning permission had not lapsed. However, there were two material conditions attached to the planning permission and they are these. First, condition 3 stated that:

"Before the development is commenced a landscaping scheme to include all hard surfaces and earth mounding shall be submitted for approval by the District Planning Authority, and all planting thereby approved shall be carried out to their satisfaction by a date not later than the end of the full planting season immediately following the completion of that development."

It is not necessary for me to recite further from condition 3.

4. The reason given for the imposition of condition 3 was "to enhance the appearance of the proposed development". Condition 4 was that:

"Details of all boundary treatments are to be submitted to and approved by the District Planning Authority, prior to the commencement of development."

The reason given for this condition was "to ensure a satisfactory standard of development."

5. It is common ground that the reference to "all boundary treatments" means any boundary treatment that may be intended. It did not follow that there was to be a boundary treatment.
6. The contention of the Council in refusing the certificate notwithstanding the beginning of the development in time, as I have indicated, was that such works were in breach of those two conditions of the consent. The question therefore was whether those

breaches of condition rendered the commencement of the development unlawful, under the principles laid down in the Court of Appeal decision of Whitley & Sons v Secretary of State for Wales (1992) 64 P&CR 185. If so, no development was commenced for these purposes within the time limit and no certificate for lawful use could be granted. If the development was not to be regarded as unlawful, however, the certificate should be granted.

7. The council refused a certificate on the grounds that the development was unlawful, but the inspector reversed that decision. Hence, the present appeal to this court.

Non-compliance with the conditions

8. Before the inspector it was contended that in substance conditions 3 and 4 had been complied with. Compliance in substance would have prevented the development from being regarded as unlawful within the Whitley principle. However, having considered the written and oral evidence adduced before him, the inspector concluded that there had not been substantial compliance (see paragraphs 14 to 23 of the decision letter). Accordingly, it was necessary to see if the Whitley principle in truth applied at all and if so whether any other exception applied.

The Whitley principle

9. This is contained in the second of two paragraphs of the judgment of Woolf LJ (as he then was) which I propose to read. They start at page 301 of the report, where he says this:

"Mr Sullivan contends that the decisions clearly establish that a planning permission can only be implemented for the purposes of complying with both express and deemed conditions containing time limits, by a development which is not carried out in contravention of planning control (which for the present purposes means not in contravention of the conditions attached to the planning permission). Alternatively, he contends that conditions 2, 3 and 4 of the developer's planning permission properly construed take effect as conditions precedent, such that a failure to comply with their terms prevents the lawful implementation of the permission.

Although, in the light of the authorities, Mr Sullivan was right to divide his submission in this way, in my judgment the second submission does not add anything to the first submission and that it is not necessary or helpful to try to determine whether or not the conditions contained in a planning permission are properly capable of being classified as conditions precedent. As I understand the effect of the authorities to which I am about to refer, it is only necessary to ask the single question; are the operations (in other situations the question would refer to the development) permitted by the planning permission read together with its conditions? The permission is controlled by and subject to the conditions. If the operations contravene the conditions they cannot be properly described as commencing the development authorised by the permission. If they do not comply with the permission they constitute a breach of

planning control and for planning purposes will be unauthorised and thus unlawful. This is the principle which has now been clearly established by the authorities. It is a principle which I would have thought made good sense since I cannot conceive that when section 41(1) of the 1971 Act made the planning permission subject to a condition requiring the development to be begun by a specified date, it could have been referring to development other than that which is authorised by the permission. The position is the same so far as regulation 7 and condition 11 are concerned. The mining operations to which the planning permission relates are those authorised by the planning permission, not those which are unauthorised, because they contravene conditions contained in the planning permission."

The cases before Hart Aggregates

10. The Whitley principle has been the subject of considerable further judicial comment and analysis. It is not necessary for me to conduct an exhaustive review of that case law. It suffices for present purposes for me to refer to the following cases which seem to me to be of relevance to the issues presently before the parties.
11. In Leisure Great Britain Plc v Isle of Wight Council (2000) 80 P&CR 370, the two conditions were these. Condition (8):

"No works shall be commenced on site until chestnut pale fencing or other type of fencing approved by the local planning authority ... shall have been erected around each tree ... Such fencing shall be maintained to the satisfaction of the local planning authority during the course of the development operations."

Then condition (12):

"The sequence of operations during the implementation of the permission hereby granted shall be as may be approved by the local planning authority and a programme of working shall be submitted to the local planning authority for approval before any operations are commenced on site."

12. It was accepted in that case that neither condition had been complied with. Keene J (as he then was) rejected the notion that the Whitley principle could only apply where there was an absence of detailed approval for the operation in question under an outline permission. He referred to cases where the principle has been applied where the breach was of a condition not relating to the underlying operation itself. At page 377 he said that, as a matter of authority and logic:

"... I cannot see that any distinction can be drawn between cases where the breach of condition consists of a failure to obtain detailed approval for the works alleged to amount to a material operation and those cases where the non-compliance is with some other condition on the permission which has to be met before development begins. There is a breach of condition and hence a breach of planning control in both cases."

13. So the subject of the matter in question did not have to be the operation itself in order for non-compliance to be relevant as to the question of the lawfulness or otherwise of the commencement of the operation. That said, the main thrust of the argument in Leisure GB concerned the scope of the exceptions to the Whitley principle, it having been engaged. In the context of that decision, Keene J firmly rejected the notion of some broad argument against unlawfulness based on looking at all the circumstances of the case (see page 378). Ultimately, however, all that was submitted to him was that there was a new and further exception to the Whitley principle, a submission which he rejected.
14. The case of R (Hammerton) v London Underground Ltd [2003] JPL 984 was also essentially concerned with the application or otherwise of the exceptions to the Whitley principle once breach of condition had been found. But it is worth noting the terms of the three relevant conditions. Condition 12 said this:

"No work shall commence on site until full particulars of the location and method of measures to be taken to minimise the effect of vibration from the operation of the Line on adjacent listed buildings have been submitted to and approved by the relevant local planning authority."
15. Condition 21 was that:

"The development shall not commence until the exchange land described in Art.30 of the Order had been made suitable for use as open space by:

 - (i) the removal of redundant viaduct arches and other buildings; ..."
16. Finally, condition 23 provided that:

"No development shall commence on the land bounded by Bethnal Green Road, Wheler Street, Shoreditch High Street and the proposed Bishopsgate station or on land in Allen Gardens until a landscaping scheme for those sites has been submitted to and approved by the relevant local planning authority."
17. Ultimately, the relevant condition became condition 21, because this was the condition which was found in fact to have been broken.
18. In the course of considering exceptions to the Whitley principle that might be available, Ouseley J said this at paragraph 135:

" It is accepted by LUL that the circumstances in relation to condition 21 do not fall within the *Whitley* specific exception or within any other case in which an exception to the general rule has been allowed. While conceding that a Court should be slow to acknowledge other exceptions, Mr Barnes submitted that a further exception, which he described as largely procedural, should be recognised. He contended that a Court should not declare that a planning permission has lapsed where the breach

of condition is minor and cannot affect the substance or purpose of the conditions in question and no enforcement action is proposed."

19. In paragraph 136 Ouseley J rejected that. He said that it was not consistent with the allocation by statute to the planning authorities and not to the courts of any task of assessing the planning significance of any condition and of its breach. He added that "it is an invitation, which I decline, to usurp the functions of the planning authorities." He went on to say there was no other sound basis for making that exception to the general rule.
20. In the case of Henry Boot Homes Ltd v Bassetlaw DC [2003] 1 P&CR 23 there was a variety of conditions that had been broken. They are all set out in paragraph 12 of the report. It was common ground that the Whitley principle was engaged. Again there were areas of debate, but these concerned the exceptions to the principle. Some of the conditions began with the words "no dwelling shall be commenced until", for example condition 3, the condition being "the extension of Heathfield Gardens had been constructed ..." Another form of wording was "before development commences precise details of the finished floor level ... shall be submitted to and agreed" (condition 5).
21. There is also the case of Oakimber Ltd v Elmbridge Borough Council (1991) 62 P&CR 594, but I shall refer to this case in context below.

Hart Aggregates

22. Against all of that background, I have to consider the case of R (Hart Aggregates) v Hartlepool Borough Council [2005] JPL 1602. This was heavily relied upon by both sides before the inspector and indeed before me. It also formed the fulcrum for the inspector's conclusions which are now challenged. I have been treated to a detailed exegesis of certain parts of the extensive judgment of Sullivan J that would not go amiss in the interpretation of a technical piece of legislation. When it is realised that all the passages in question were obiter, this level of reliance and analysis may seem all the more surprising, but on the other hand this is, in my judgment, a case where a far more focused and detailed examination is undertaken as to the true nature and effect of planning conditions which have to be satisfied before the start date of the development in question, than has appeared in many other cases.
23. In this context, it is important to make plain that on this appeal neither side has contended that the approach taken by Sullivan J in Hart Aggregates was itself wrong in law, although they have differed to some degree as to what that approach entailed. In particular, the Council relied upon that decision before me, just as it had before the inspector.
24. By way of a preliminary observation, it is clear from the judgment of Sullivan J that on the question of whether a development has been lawfully commenced or not, there are essentially three questions: (1) has there been a breach of condition (stage 1)? (2) If so, is the effect of that breach of condition such as to render the development as a whole unlawful (stage 2)? That question could be paraphrased in this way: has the Whitley principle been truly engaged? (3) If so, do any of the exceptions to the Whitley

principle apply, such as irrationality, abuse of power on the part of a planning authority if it sought to enforce, or compliance in substance (stage 3)?

25. As I shall explain hereafter, it is important to identify those parts of the judgment of Sullivan J which deal with each stage. What is clear is that he dealt with all three, see paragraph 91 of his conclusions where he states:

"... (a) condition 10 was complied with; (b) if condition 10 was not complied with, it is not a condition precedent to which the *Whitley* principle applies; and (c) if the *Whitley* principle should be applied to condition 10, the 1971 permission was implemented because ... the quarry is immune from enforcement action."

26. It is because Sullivan J found that there was compliance with condition 10 (i.e. stage 1) that his findings at stage 2 and stage 3, although equally supportive of the claimant's case, were obiter.

27. Hart Aggregates concerned planning permission granted in 1971 to a quarrying company for the extraction of limestone, so the principal activity permitted was extraction. Condition 10 provided thus:

"The worked out areas shall be progressively back-filled and the areas restored to levels shown on the submitted plan or to a level to be agreed by the Local Planning Authority in accordance with a restoration scheme to be agreed by the Local Planning Authority before extraction is commenced."

28. The case was a very unusual one because although the condition was not complied with, extraction, purportedly pursuant to the permission, had been carried on for 34 years without difficulty. It was only when the claimant sought to change the conditions applicable to the original planning permission that the Council said it could not do so because the original planning permission had lapsed. The reason it had lapsed, according to the council, was that there was no lawful commencement of extraction as a result of the breach of condition 10. As a result the claimant applied to Sullivan J for a judicial review of that decision of the council.

29. I now will set out a number of passages from the judgment of Sullivan J, all dealing in my view with stage 2. In paragraph 47 he referred to the case of Whitley and set out there the four conditions which applied. Condition 2 stated that:

"No working shall take place except in accordance with a scheme to be agreed with the local planning authority or, failing agreement, as shall be determined by the Secretary of State and such scheme shall among other matters include provision for

(a) the order, direction depth and method of working ..."

Condition 3 was that:

"Progressive restoration of the site shall take place in accordance with a scheme to be agreed with the local planning authority or, in default of an agreement, to be determined by the Secretary of State, such scheme to be agreed or determined before working takes place, ..."

Condition 4 stated that:

"Landscaping of the site shall take place in accordance with a scheme to be agreed with the local planning authority or, in default of an agreement, to be determined by the Secretary of State, such scheme to be agreed or determined before working takes place."

Condition 11 was the express commencement date condition.

30. In paragraph 49 Sullivan J observed that the 1971 permission in the case before him did not contain any condition which stated in terms:

"no extraction shall take place except in accordance with a (restoration) scheme to be agreed with the local planning authority before extraction takes place', as was the case with condition 2 in the *Whitley* case. Nor, since an outline planning permission cannot be granted for mining operations, is there any condition in the 1971 permission which requires the approval of all reserved matters before any development may commence."

31. In paragraph 50 Sullivan J noted that:

"Mr Porten submitted that no distinction could properly be drawn between condition 10 in the 1971 permission and condition 2 in the *Whitley* case; it mattered not whether the words 'no extraction shall take place before a restoration scheme has been agreed' were used, or whether the condition required a restoration scheme to be agreed 'before extraction is commenced'. The practical effect was the same in both cases: if no restoration scheme was agreed, extraction was unlawful. ... He submitted that failure to comply with any 'condition precedent', such as condition 3 or 4 in the *Whitley* case or condition 10 in the 1971 permission, meant that the planning permission in question would not have been implemented."

32. In paragraph 51 Sullivan J stated this:

"This submission illustrates the dangers of taking judicial dicta out of the context of a particular case and applying them to very different circumstances. Given the clear terms of condition 2, 'No working shall take place...' it was unnecessary for the Court of Appeal to consider what would have been the effect of a breach of either condition 3 or condition 4 alone in the *Whitley* case. Work had barely commenced at the *Whitley* site, so the Court of Appeal did not have to consider the question: what would have been the effect of non-compliance with either condition 3 or

condition 4 if extraction had proceeded, in compliance with all of the other conditions in the 1973 permission, for over 30 years? If by some oversight a landscaping scheme had not been agreed before working commenced, would that have meant that there had been 30 years of unlawful mineral extraction?"

In paragraph 52 he went on to say:

"If the object of judicial intervention is to give effect to the purpose of the legislation, the answer to that question must surely be no. Since conditions 3 and 4 in *Whitley* related specifically to restoration and to landscaping respectively, the legislative purpose would be better served by confining the extent of the unlawfulness to any restoration or landscaping works carried out in breach of those conditions, rather than by a conclusion that all of the quarrying operations over the last 30 years had been unlawful."

In paragraph 54 the learned judge observed that:

"The defendant contends that any condition, such as condition 10, which requires some action to be taken (plans agreed or works done) before development is commenced is a 'condition precedent', the breach of which will mean that the planning permission in question will not have been implemented."

33. Sullivan J then gave an example in paragraph 56 of such a contention:

"To take another example, canvassed in submissions, where planning permission is granted for the erection of a large dwelling house. Detailed plans accompany the application. All of the details are satisfactory, but the local planning authority do not like the design of one of the dormer windows. A condition is therefore imposed upon the planning permission requiring revised details of the dormer window to be submitted to and approved by the local planning authority before development commences. The development commences. No revised plans of the dormer window are submitted and the omission is realised only when the house is complete. Has the entire house been constructed without planning permission, or has there simply been a breach of the condition in respect of the dormer window? Consistent with the defendant's approach to non-compliance with conditions precedent, Mr Porten submitted that the former answer was correct."

He said in the next paragraph:

"I do not accept that such an outcome would give effect to Parliament's intention in enacting the planning code insofar as it relates to the commencement of development authorised by planning permission. The 1990 Act draws a clear distinction between development without planning

permission and development in breach of condition; see s.171(A)(1)(a) and (b). It is important that that distinction is not blurred by an indiscriminate use of the judge-made term 'condition precedent'."

34. One then turns to the following key passages. Paragraph 58:

"Going back to first principles, the starting point should be the proposition that there is no scope for implied conditions in a planning permission. If a local planning authority wishes to impose any obligation upon an applicant by way of a requirement or prohibition, it should do so in express terms, because failure to comply with the condition may, ultimately, lead to prosecution for failure to comply with a breach of condition notice and/or an enforcement notice; see ss.179 and 187(A) of the 1990 Act. The need for a local planning authority to spell out any requirement or prohibition in clear terms applies with particular force where the condition is said to prevent not merely some detail of the development, but the commencement of any development pursuant to the planning permission.

59. If condition 10 is read in the context of the planning permission as a whole, it is simply concerned with the back-filling and restoration of the worked out areas. Other conditions govern the removal of topsoil and overburden and the extraction of the limestone. If Durham County Council had wished to prohibit any extraction before a restoration scheme for the worked out areas was agreed, it could have said so by imposing a condition expressly to that effect, similar in form to condition 2 in *Whitley*, 'No extraction shall take place except in accordance with a restoration scheme to be agreed ...'; or it could have imposed the standard form of conditions that are imposed on grants of outline planning permission: 'details of [a restoration scheme] shall be submitted to and approved by the Local Planning Authority before any development takes place'.

60. Such a prohibition should not be implied merely because a condition, which is apparently concerned not with extraction but with the back-filling and restoration of the worked out areas once extraction has been completed in those parts of the quarry, requires a restoration scheme to be agreed 'before extraction is commenced'.

61. Condition 10 is a 'condition precedent' in the sense that it requires something to be done before extraction is commenced, but it is not a 'condition precedent' in the sense that it goes to the heart of the planning permission, so that failure to comply with it will mean that the entire development, even if completed and in existence for many years, or in the case of a minerals extraction having continued for 30 years, must be regarded as unlawful.

62. In my judgment, the principle argued for by the defendant applies only where a condition expressly prohibits any development before a particular requirement, such as the approval of plans, has been met. Condition 10 is not such a condition. If it had been breached some 34

years ago, the effect of that breach would have been to render any restoration in breach of condition, and therefore unlawful. Other activities permitted by the 1971 permission, such as extraction, would not have been rendered unlawful."

35. It is neither proportionate nor necessary in my view to undertake a line-by-line analysis of these important passages. In my judgment, their effect is clear enough and may be summarised thus:

- (1) a distinction must be drawn for stage 2 purposes between (a) a condition which in truth merely stipulates that something must be done before the time when the development commences, and (b) a condition which in truth goes further and stipulates that the development cannot commence unless the condition is fulfilled. A breach of condition (a) enables the local authority *prima facie* to take enforcement action to remedy the non-performance of the stipulated action, but condition (b) if broken renders the development unlawful and is therefore subject potentially to enforcement action itself, i.e. cessation of the operation in question, if it is quarrying, or demolition of the house or prevention of further work on it, if it is a permission to build. This distinction mirrors the two different forms of breaches of planning control set out in section 171(A)(1)(a) and (b) of 1990 Act (see also in the context of enforcement the observations of Ouseley J in the Hammerton case at paragraph 141 and the observations which I have already quoted of Sullivan J in paragraph 57 of Hart Aggregates itself).
- (2) The Whitley principle is only engaged where there is a breach of a class (b) condition. That is because only here can the development as a whole properly be described as unlawful, and it is only if the development as a whole is unlawful that its commencement is deprived of effect for the purpose of running of time.
- (3) It is thus necessary to examine and construe the condition carefully, to see whether it is a class (b) condition or, to put it another way, a "true" condition precedent. I interpose to say that in earlier cases this particular issue did not usually arise, since it was accepted that if there was a breach of condition the Whitley principle was engaged. Alternatively, the relevant condition was clearly a true condition precedent in any event.
- (4) The paradigm example of a true condition precedent is that referred to by way of example in paragraph 59 of the judgment of Sullivan J, where he refers to a condition which began with words like "No extraction shall take place except in accordance with a restoration scheme ..." Another example would be condition 8 in the Leisure GB case or condition 21 in the Hammerton case. Provided that it is made clear enough in the condition that the development's commencement itself is truly conditional upon the fulfilment of the condition, the subject matter of the condition need not be central; i.e. not concern itself directly with the activity permitted, for example, the extraction or the building.

(5) Other wording might achieve the same result: see the example given in the last sentence of paragraph 59 of the judgment of Sullivan J. At first blush, the words here might not be appropriate to do the job required by Sullivan J, although he says clearly that they do. They seem similar to the words of condition 10, which he rejected as a condition precedent. But I think the explanation lies in the origin of the example as being an outline planning permission. Here, because everything needed to have detailed approval at the outset, the conditions were very likely to be seen as true conditions precedent in any event, and the language here is also important. It refers to before "any" development takes place. This is the language used in the condition for the outline planning permission granted in the Oakimber case. Condition 2 there was that:

"This approval is given subject to detailed plans of the layout of buildings, open spaces and drainage and particulars of the type of industries to be provided, being submitted to and approved by the Planning Authority before any development takes place."

(6) Where, therefore, there is a condition which is manifestly not about the essential subject matter of the permission, the fact that it has to be fulfilled before the relevant operation commences does not mean that the essential operation cannot begin without its fulfilment. Condition 10 fell into this category in the judgment of Sullivan J.

(7) In this regard there was considerable debate before me about Sullivan J's reference to a condition which goes to "the heart of the permission". It has clearly been seized upon to some extent in the planning world because, in the case before me, Mr Murzyn's advisers had contended in their application for a certificate that condition 10 did not go to "the heart of the permission", whereas in his response to this application on behalf of the council, Mr Connell asserted that it most certainly did. Paragraph 61 of the judgment of Sullivan J certainly gives rise at least to the possibility that if a condition was concerned centrally with the activity which is the subject of the permission, it might achieve condition precedent status even without the use of the particular language suggested in paragraph 59. Outside the context of outline permissions that might be rare, but certainly not impossible. In a detailed planning permission for extraction, for example, a condition that some aspect of the actual extraction process had to be submitted and agreed before extraction began could well fall into this category.

36. Mr Lintott, for the council, did not accept that Sullivan J was going as far as I have suggested in sub-paragraph (7) above. He placed reliance upon paragraph 62 of the judgment, quoted above. But then one also has to read paragraph 67. Here Sullivan J said this:

"For the reasons set out above, I believe that the statutory purpose is better served by drawing a distinction between those cases where there is only a permission in principle because no details whatsoever have been

submitted, and those cases where the failure has been limited to a failure to obtain approval for one particular aspect of the development. In the former case, common sense suggests that the planning permission has not been implemented at all. In the latter case, common sense suggests that the planning permission has been implemented, but there has been a breach of condition which can be enforced against. I appreciate that these are two opposite ends of a spectrum. Each case will have to be considered upon its own particular facts, and the outcome may well depend upon the number and the significance of the conditions that have not been complied with. Provided that the Court applies *Wednesbury* principles when considering these issues, there is no reason why it should usurp the responsibilities of the local planning authority."

37. Contrary to Mr Lintott's contention, this is clearly still part of Sullivan J's stage 2 observations. See, for example, the opening words of paragraph 67. It is not part of any stage 3 analysis of applicable exceptions.
38. Paragraph 67 admits of the need to undertake a careful and possibly factual analysis of the condition in question. Equally, in my judgment, the last sentence of paragraph 67 is still part of the stage 2 reasoning. All Sullivan J was saying, in the context of the judicial review application before him, was that what he had said earlier did not mean that the court was second-guessing the judgment of the body being reviewed, i.e. the local council or the inspector, as to the proper construction of a condition, which may involve some factual considerations and judgments. The court would not substitute its own view for that of the relevant body. It was simply ensuring that the body's conclusion was not Wednesbury unreasonable.

The inspector's decision

39. The key passages here can be quoted at this point in their entirety. They are paragraphs 24 to 31 of the decision letter, where he said this:

"24. Applying the *Whitley* principle, a planning permission is controlled by and subject to the conditions. If the operations to begin the development contravene the conditions they cannot be properly described as commencing the development authorised by the permission. If they do not comply with the permission they constitute a breach of planning control and for planning purposes will be unauthorised and thus unlawful. Again, that would appear to be the case here.

25. However, in *R (on the application of Hart Aggregates Ltd) v Hartlepool Borough Council* [2005] EWHC 840 (Admin) Sullivan J stated that, 'The court should be wary of applying the (*Whitley*) principle in an unduly rigid fashion...' (paragraph 43) and cautioned that it was important the distinction between development without planning permission and development in breach of condition is not blurred by an indiscriminate use of the judge-made term 'condition precedent' (paragraph 57). The judgement continues, 'If a local planning authority wishes to impose any obligation upon an applicant by way of a

requirement or prohibition, it should do so in express terms...' (paragraph 58). 'Such a prohibition should not be implied merely because a condition... requires a restoration scheme to be agreed 'before extraction is commenced' (paragraph 60). I take it from this that a condition precedent is a rarer animal than might be presumed and is characterised first by an express prohibition of any development before the requirement of the condition is met.

26. The judgement went further however when it described a second characteristic of a condition precedent. It states at paragraph 61, 'Condition 10 is a "condition precedent" in the sense that it requires something to be done before extraction is commenced, but it is not a "condition precedent" in the sense that it goes to the heart of the planning permission, so that failure to comply with it will mean that the entire development ... must be regarded as unlawful.'

Paragraph 27 simply consists of the inspector's recitation of paragraph 67. It contains a recitation of the entirety of that paragraph, save for the last sentence. In my judgment nothing turns upon that. That was not something that had to be recited.

40. Paragraph 28 is the start of the analysis of the conditions in question. Here the inspector said this:

"28. Turning to the present case, condition 3 of the planning permission is framed such that 'Before the development is commenced a landscaping scheme ...' shall be submitted for approval. And condition 4 refers to the details of all boundary treatments being submitted for approval '... prior to the commencement of development'. They thus require approvals to be obtained for landscaping and boundary treatment before the development is begun, but do not expressly preclude commencement of the development. Rather, it appears to me, the wording of the conditions enables one to identify when the breach of the condition occurred. If the details are not approved before work starts, enforcement action could be taken later to secure compliance. Applying the principles elucidated in *Hart*, I have concluded on my reading that neither condition is expressed in a prohibitive fashion."

41. The inspector then in paragraph 29 says this:

"29. Furthermore, the permission was for the conversion of a listed barn. The plans before me show how the building is to be laid out internally, where new openings are to be formed in the external wall of the barn, how it will be accessed. These to my mind are fundamental matters that are central to the conversion. In contrast, I regard the landscaping and boundary treatment in this instance to be peripheral matters. This is most clearly the case with condition 4 which does not in fact require any boundary treatment to be undertaken – only that details be submitted in the event that it is.

30. This is not, of course, to say that landscaping and boundary treatment

were not matters deserving of consideration. Only that, as a matter of judgement, I consider conditions 3 and 4 deal with details of the development rather than its basic nature and so do not therefore go to the heart of the permission. In my view the reading of the reasons for the imposition of these conditions lends support to this conclusion. I see no reason to decide differently in light of the building's listed status."

42. In the light of what I have said above, I do not think that the inspector's analysis of the law in paragraphs 25 to 27 can be faulted. In my judgment, these paragraphs accurately convey what Sullivan J was saying. The inspector here was conducting the stage 2 examination. He correctly referred to paragraph 67 of Sullivan J's judgment in this context, because, as stated above, paragraph 67 does indeed relate to stage 2 and not stage 3. Indeed, Mr Connell's evidence looks very much to me as if it was referring to the "heart of permission" in the Schedule 2 context. He did not in his evidence purport to deal with stage 3 enforcement questions at all.
43. Paragraph 28 contains the application by the inspector of the legal principles discerned by him to the conditions in question. His conclusion was that they did not amount to true conditions precedent and so the Whitley principle was not engaged. Mr Lintott said that he was wrong in law so to have concluded.
44. I disagree for the following reasons:
 - (1) Neither condition states in terms that no development shall take place until a landscaping scheme is submitted and approved, or a boundary treatment (if any) is submitted or approved. Although the opening words of condition 3 may appear stronger than the closing words of condition 4, Mr Lintott did not draw any distinction between them in his submissions.
 - (2) Neither condition in truth can be distinguished from a condition like condition 10 in Hart itself, which was rejected by Sullivan J as a true condition precedent. Mr Lintott said that there was a key difference. Condition 10 referred only to the underlying operation of extraction, whereas conditions 3 and 4 referred to "development". In my judgment there is here no magic in the use of the word "development". One could equally have used the word "building" in conditions 3 and 4. Indeed, Mr Lintott accepted that he would still be maintaining that these were true conditions precedent if the word "building" had been used instead of "development". In truth, the use of the word "development" here was just another word for "building". In the extraction context, it may be that "extraction" is the term to be used, as opposed to "development".
 - (3) While the wording of conditions 3 and 4 might appear to resemble the wording for outline permissions given at the end of paragraph 59 of the judgment of Sullivan J, the difference may well lie in the use of the words "any development". And on any view Sullivan J could not have meant that any clause which contained the words "before development takes place" amounts to a true condition precedent because that would fly in the face of his conclusion on condition 10,

and indeed against the whole thrust of his approach.

45. Mr Lintott's skeleton argument at paragraph 24 states this:

"The operations relied upon in this case clearly contravened conditions 3 and 4 and therefore they cannot properly be relied upon as commencing the development authorised by the permission. Because they do not comply with the planning permission they are a breach of planning control, are unauthorised and lawful subject to the considerations below under Sullivan J's issue (c)."

46. But that in my judgment begs the very question. The fact that a condition is not complied with does not necessarily render the entire development unlawful. One has to ascertain first what the nature and extent of the relevant clause is.

47. Mr Lintott also takes issue with the central part of paragraph 28 of the decision letter, which reads thus:

"They thus require approvals to be obtained for landscaping and boundary treatment before the development is begun, but do not expressly preclude commencement of the development."

He says that the inspector is contradicting himself when saying this. But in my judgment there is no contradiction. The conditions stipulate that the schemes must be applied for and agreed before commencement. If they are not approved before commencement there is a breach of the condition, but there is not the further consequence that the building cannot commence. I agree with that analysis, and if correct the Whitley principle was not engaged because the building as a whole was not rendered unlawful by a breach of those conditions.

48. If Sullivan J did not regard condition 10 in his case as a condition precedent, it is very difficult to see how conditions 3 and 4 should be regarded any differently in this case.

49. In paragraphs 29 and 30 the inspector does invoke "the heart of permission" dicta of Sullivan J. I see nothing wrong in this. In truth it is a matter of analysis, and can easily be gleaned from the words of the conditions themselves and the stated reasons for imposing them. It seems obvious that landscaping is not central to the conversion of the Barn and boundaries equally so, if the landowner should choose to have boundary treatments. Moreover, they are not separate works which of necessity must be done or approved before building can sensibly start. If paragraphs 29 and 30 of the decision letter are pure matters of analysis, I agree with them and there is no error of law here. The inspector's analysis of conditions 3 and 4 was no longer than that of Sullivan J's analysis of condition 10, nor need it have been.

50. If on the other hand paragraphs 29 and 30 are the result of some judgment on the part of the inspector, then in my view it was a judgment which he was clearly entitled to reach on the evidence before him. Mr Lintott said that the inspector on an appeal from the Council would not have the power to do this because, unlike the case of an appeal against the imposition of a condition, he is not here investigating and pronouncing upon

the rights and wrongs of having the condition in the first place. I agree that he is not here undertaking that latter exercise, but it does not mean that he is prevented from undertaking a contextual analysis of what the condition means and what its effects are in terms of unlawfulness. That seems to me to be a legitimate and sensible exercise and one which follows from the observations of Sullivan J.

51. Accordingly, there was no error of law and no misdirection, nor for that matter any lack of reasons in the inspector's decision, in these paragraphs of the decision letter. On his analysis under stage 2, the Whitley principle was not engaged. It was not necessary, therefore, for him to embark on stage 3, as it would have been if he had decided that the Whitley principle was engaged, or if I had held that he ought so to have found. That being so, he cannot be criticised for not having dealt with the stage 3 enforcement issues.
52. Accordingly, I can see no basis for interfering with the inspector's conclusion and I would dismiss this appeal.
53. It remains for me to express my grateful thanks to both counsel for the excellence and comprehensive nature of their written and oral submissions.
54. Yes, Mr Tromans.
55. MR TROMANS: My Lord, I need to deal, hopefully briefly, with the issue of costs.
56. JUDGE WAKSMAN: Yes.
57. MR TROMANS: Could I ask your Lordship for an order for costs to be summarily assessed. I do not know whether your Lordship has received --
58. JUDGE WAKSMAN: I have not received a schedule, I am afraid.
59. MR TROMANS: Perhaps I can pass one up. (Handed)
60. JUDGE WAKSMAN: Has this been provided to Mr Lintott?
61. MR TROMANS: Yes, my Lord, schedules were exchanged.
62. MR LINTOTT: The costs are agreed, my Lord.
63. JUDGE WAKSMAN: The costs are agreed. You do not resist in principle the fact that the losing party ought to pay them?
64. MR LINTOTT: (Shakes head)
65. JUDGE WAKSMAN: I think that the amounts are agreed, Mr Tromans.
66. MR TROMANS: The bottom line is £8,840.

67. JUDGE WAKSMAN: I will order that the claimant do pay the first defendant's costs of the appeal summarily assessed in the sum of £8,840. If I do not say any more, the usual effect of that will be payable within 14 days.
68. MR TROMANS: My Lord, yes. I am grateful.
69. JUDGE WAKSMAN: Thank you.
70. MR LINTOTT: My Lord, I do seek permission to appeal against that judgment and you will probably anticipate the basis for that, given the way in which you have given judgment. Do you want me to address you very briefly?
71. JUDGE WAKSMAN: I am not sure that you can ask it from me, because this is a second appeal.
72. MR LINTOTT: It is listed as a Part 8 claim, is it not, so in those circumstances I think it would not be a second appeal.
73. JUDGE WAKSMAN: I may need some help on that because it may be called a Part 8 claim, but it is undoubtedly an appeal.
74. MR LINTOTT: My understanding would be that it is brought under Part 52, the first appeal would be an appeal because it is obviously contemplated by the CPR that it is an appeal. But if it is listed as a Part 8 claim and it is a Part 8 claim because the provisions of the Supreme Court Rules dictate that it is and Part 8 in the practice direction says that it is, then I would say it is not second appeal.
75. JUDGE WAKSMAN: Just a moment.
76. MR TROMANS: My Lord, Mr Lintott is on my understanding correct. The Encyclopaedia of Planning Law commentary makes it clear that an application for permission to appeal may be made to the High Court at the hearing at which the decision to be appealed is made or to the Court of Appeal. Because the procedure under section 288 is by way of statutory application rather than an appeal, it is not affected by Rule 52.13. So Mr Lintott on my understanding is entitled to ask your Lordship now for permission.
77. JUDGE WAKSMAN: If you are both agreed that, then I shall not argue against it.
78. MR LINTOTT: It does seem rather odd because it is called a 288 appeal, as my Lord says, but I think the answer is in the way the CPR has classified it as a Part 8 claim rather than providing it be brought under Part 52, because 52.13 kicks in in that situation rather than a Part 8 claim.
79. JUDGE WAKSMAN: Yes. Just one moment. (Pause)
80. As I say, if both of you are agreed that is the correct analysis then I will not demur from it.

81. MR LINTOTT: My Lord, putting it very simply, you will recall that I said that one could read the decision of Hart Aggregates in a number of ways and I submitted to you it needed to be read as being in line with the decision in Whitley, which broadly puts it that if one has development in breach of condition, in the way that Woolf LJ says at page 302, that renders development unlawful. In my submissions to you I explained why Hart Aggregates, particularly at paragraphs 59 and 67, could be read as being consistent with that. But with the greatest of respect, the way that my Lord has analysed Hart Aggregates and the way in which my Lord has looked at the way in which one determines whether or not this is a condition precedent or not is contrary to what Lord Woolf says in the Whitley case. For that reason, this being a case where these issues are obviously central and all the other decisions we have looked at, including Hart Aggregates, being decisions where the principle is open to it, it is a very important point for the local planning authority and it is one which they certainly would like to have looked at by higher authority.
82. JUDGE WAKSMAN: Yes.
83. Mr Tromans, do you want to say anything?
84. MR TROMANS: My Lord, I can address you very briefly on that.
85. My Lord, I would resist the application. The structure of the judgment of Sullivan J is clear, as your Lordship has analysed it. It is clear that the inspector did apply the correct paragraphs from that judgment and applied them correctly. The points about inconsistency with Whitley, my Lord has dealt with that in the judgment, in the sense that in Whitley and the other cases the focus was not really on the condition precedent nature of the condition, i.e. it is accepted to be a condition precedent or clearly was on its wording. As to the question of higher authority, my Lord, well, if it seems appropriate for the Court of Appeal to consider this and rule on it further, then the application can be made to the Court of Appeal and the Court of Appeal can decide whether it is a matter of such importance that it should look at it. So, my Lord, I would resist the application as it is now made.
86. JUDGE WAKSMAN: Yes.
87. Mr Lintott, I think you will have to go to the Court of Appeal for permission, simply on this basis. As a result of the express reliance by both parties on that case and the fact that emphasis was placed on the particular approach which was set out by Sullivan J in words which I think in my judgment I say was clear enough, it does not seem to me that there is any real prospect of saying that I have fallen into error in terms of my analysis of his approach, which was expressly relied upon by both sides and not to be said to be wrong in law. If the Court of Appeal take a different view about that, then no doubt they will say so. (Permission to appeal form handed)
88. It you just wait for one moment. (Long Pause)
89. Yes, I am just filling out the form. In doing so I should state the other reason why I think it is clear that there is no real prospect of success and that is that it seems to me

that the question that was occupying the parties here was really whether the inspector had correctly applied the approach of Sullivan J in his analysis of the conditions in question, as to whether they were conditions precedent or not, and I held clearly that he had applied the approach correctly.

90. Thank you both very much for your assistance.

Cheviot Construction Ltd
C/O DHA Planning
Eclipse House
Eclipse Park
Sittingbourne Road
Maidstone
Kent
ME14 3EN

Direct Dial: 01732 227000, Option 3
Ask For: Matthew Durling
My Ref: SE/15/00776/FUL
Your Ref: MR J COLLINS
Date: 13th August 2015

Dear Sir/Madam

Town and Country Planning Act 1990

Site : Meeting Hall Leydenhatch Lane Swanley KENT BR8 7PT
Development : Proposals for the demolition of the existing church meeting hall (Use Class D1), demolition of B2 workshop (Use Class B2), extinguishment of Haulage Yard use and top-soil composting yard use, and construction of replacement meeting hall (D1) with associated access, parking and landscaping and infrastructure works as well as change of use of part of the existing access and yard to domestic garden at the church meeting room and Wilburton yard, Leydenhatch Lane, Swanley.

Please find attached the formal notice of Decision being granted for the above development.

Your attention is drawn to the fact that this permission is granted subject to conditions.

Please familiarise yourself with the conditions and ensure the specific requirements are met. If you are acting on behalf of a client please ensure you draw their attention to the conditions and advise of their implications. The development, once started, will be monitored by my enforcement staff. Failure to comply with a condition could result in the Council taking steps to secure compliance and may in certain circumstances affect the legality of any works carried out. This is especially important when a condition has been imposed requiring submission and approval of details prior to commencement of works on site, since failure to comply with such a condition can lead to the permission being void. In appropriate cases the Council will consider the expediency of serving a Temporary Stop Notice.

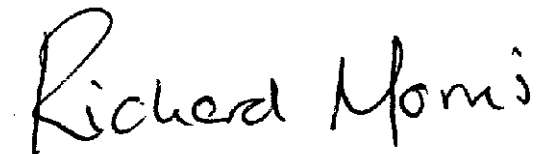
You should also be aware that the applicant has the right to appeal against a condition within 6 months of the date of this Notice.

Chief Executive: Dr. Pav Ramewal
Council Offices, Argyle Road, Sevenoaks, Kent TN13 1HG
Telephone: 01732 227000 DX 30006 Sevenoaks
Email: information@sevenoaks.gov.uk
www.sevenoaks.gov.uk

Please note all details requiring submission to and approval by this Council should be forwarded to this office notwithstanding that final discharge of the condition may involve consultation with other agencies/authorities.

If you have any query regarding the conditions you should contact the case officer, Matthew Durling, in the first instance for advice on the above direct phone number.

Yours faithfully

A handwritten signature in black ink that reads "Richard Morris". The signature is written in a cursive, slightly slanted style.

Richard Morris
Chief Planning Officer

Please remove any site notice that was displayed on the site pursuant to the application.

Cheviot Construction Ltd
C/O DHA Planning
Eclipse House
Eclipse Park
Sittingbourne Road
Maidstone
Kent
ME14 3EN

SE/15/00776/FUL
Valid on 2nd April 2015

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (Development Management Procedure) (England)
Order 2015

GRANT OF PLANNING PERMISSION

Site : Meeting Hall Leydenhatch Lane Swanley KENT BR8 7PT
Development : Proposals for the demolition of the existing church meeting hall (Use Class D1), demolition of B2 workshop (Use Class B2), extinguishment of Haulage Yard use and top-soil composting yard use, and construction of replacement meeting hall (D1) with associated access, parking and landscaping and infrastructure works as well as change of use of part of the existing access and yard to domestic garden at the church meeting room and Wilburton yard, Leydenhatch Lane, Swanley.

Sevenoaks District Council, as the District Planning Authority, pursuant to powers in the above mentioned Act and Order, HEREBY GRANTS PLANNING PERMISSION for the development described above, to be carried out in accordance with the application and plans submitted therewith,

SUBJECT TO THE CONDITIONS set out below :-

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

In pursuance of section 91 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 101/B, 107, 108, 109/J, 110/A, 115, 116, Design and Access Statement (dated February 2015), Planning Statement (dated March 2015, ref.

JAC/10443), Noise Impact Assessment (dated 13 March 2015), Phase 1 Desk Study

Chief Executive: Dr. Pav Ramewal

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(dated February 2015, ref. 1376-2015), Update Phase 1 Habitat Survey (dated 10.03.2015), Flood Risk Assessment (dated January 2015), Assessment of Potential Visual Effects (dated March 2015), Transport Assessment (dated 3 March 2015), Energy and Sustainability Statement, Preliminary Phase 2 Site Investigation (dated March 2015, ref. 1376-2015).

For the avoidance of doubt and in the interests of proper planning.

3) No development shall be carried out on the land until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To ensure that the appearance of the development is in harmony with the existing character of the surroundings as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

4) Prior to the commencement of development a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority: 1. A preliminary risk assessment which has identified:- all previous uses- potential contaminants associated with those uses- a conceptual model of the site indicating sources, pathways and receptors- potentially unacceptable risks arising from contamination at the site. 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

To prevent pollution of controlled waters and comply with the National Planning Policy Framework. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

5) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

To prevent pollution of controlled waters and comply with the National Planning Policy Framework.

6) No infiltration of surface water drainage into the ground at this site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

To prevent pollution of controlled waters and comply with the National Planning Policy Framework.

7) No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a 'long-term monitoring and maintenance plan') for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

To prevent pollution of controlled waters and comply with the National Planning Policy Framework.

8) No development shall take place until a revised Noise Assessment, assessed in accordance with BS 4142:2014, and a resulting scheme for the control of noise, has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details so approved and retained and maintained as such thereafter.

To safeguard the residential amenity of surrounding buildings. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

9) Prior to the commencement of development a sustainable surface water drainage scheme for the site, which is compliant with the Non-Statutory technical standards for sustainable drainage, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100yr critical storm (including an allowance for climate change) will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so not increase the risk of flooding both on- or off-site. The strategy should also include details for the provision of long term maintenance of all surface water drainage infrastructure on the site. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall stipulate a scheme for:- the parking of vehicles of site operatives and visitors;- loading and unloading of plant and materials;- storage of plant and materials used in constructing the development;- the erection and maintenance of security hoarding;- measures to control the emission of dust and dirt during construction;- a scheme for recycling/disposing of waste resulting from demolition and construction works.

In the interests of highways safety and the amenities of the surrounding area during the construction phase, in accordance with Policy EN1 of the Allocations and Development Management Plan. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

11) The new vehicular and pedestrian access road shown on the hereby approved plans shall be provided and the existing access and redundant vehicle crossover east of Wilburton House shall be removed and the pavement and verges reinstated in accordance with details to be submitted to and approved in writing by the local planning authority prior to first occupation of the building(s) hereby approved.

In the interest of highway safety as supported by policy T2 of the Sevenoaks Allocations and Development Management Plan.

12) The parking spaces, turning areas and means of access shown on the hereby approved plans shall be provided prior to first occupation of the building(s) hereby approved and kept available for such use at all times and no development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 or not, shall be carried out on that area of land or to preclude vehicular access thereto.

In the interest of highway safety as supported by policy T2 of the Sevenoaks Allocations and Development Management Plan.

13) Notwithstanding the hereby approved plans, no development shall take place until details of secure cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities shall be carried out in accordance with the approved details and retained and maintained as such thereafter.

To promote and encourage sustainable modes of transport, in accordance with policy SP1 of the Core Strategy and the National Planning Policy Framework. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

14) The development hereby permitted shall not be used or occupied until a visibility splay of at least 2.4 metres x 50 metres has been provided to the west of the main access and anything which obstructs visibility at any height greater than 0.9 metres above the surface of the adjoining carriageway has been removed. Thereafter the visibility splays shall be maintained free from obstruction at all times.

In the interest of highway safety as supported by policy T2 of the Sevenoaks Allocations and Development Management Plan.

15) The hereby approved Travel Plan shall be implemented in full accordance with the provisions for Management and Implementation as set out in section 6.0 of the Plan.

To promote and encourage sustainable modes of transport, in accordance with policy SP1 of the Core Strategy and the National Planning Policy Framework.

16) No development shall commence until the two redundant vehicle crossovers (adjacent to 4 Lewis Cottages and south of the Replacement Gospel Hall) have been removed and the pavement and verges reinstated in accordance with details to be submitted to and approved in writing by the local planning authority prior to first commencement of development.

In the interests of highway and pedestrian safety in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

17) No development shall take place, including any site clearance works, until details of wheel-washing facilities have been submitted and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and shall be retained and utilised throughout the construction of the development.

To mitigate the impact during construction relating to highways safety and neighbouring amenities, in accordance with policy EN1 of the Sevenoaks Allocations and Development Management Plan. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

18) The development hereby approved shall achieve a BREEAM minimum rating of 'Very Good'. Evidence shall be provided to the Local Authority in the following format and at the following times: i) Prior to the commencement of development, a pre-assessment report (or design stage certificate with interim rating if available) indicating that the development will achieve a BREEAM minimum rating of 'Very Good' shall be submitted to and agreed in writing by the Local Planning Authority; and ii) Prior to first use of the development, a final post-construction certificate certifying that the development has achieved a BREEAM minimum rating of 'Very Good' shall be submitted to and approved in writing by the Local Planning Authority. Achievement of BREEAM 'Very Good' must include at least a 10% reduction in the total carbon emissions through the on-site installation and implementation of decentralised, renewable or low-carbon energy sources.

In the interests of environmental sustainability and reducing the risk of climate change as supported by the National Planning Policy Framework and policy SP2 of the Core Strategy (2011). The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

19) Prior to the commencement of development a landscape and ecological management plan (LEMP) detailing the landscaping and ecological design and management for the site shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following: a) Purpose and conservation objectives of the landscaping and ecological design; b) Detailed design to achieve stated objectives; c) Type and source of materials to be used; d) Timetable for implementation, demonstrating alignment with development phasing; e) Description and evaluation of features to be managed; f) Aims and objectives of management; g) Appropriate management prescriptions for achieving aims and objectives; h) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period); i) Details of the body(/ies) or organisation(s) responsible for implementation of the LEMP; j) Ongoing monitoring and remedial measures. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

To ensure the enhancement and long term maintenance of the biodiversity value of the area as supported by policy GI1 of the Sevenoaks Allocations and Development Management Plan. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

20) Prior to the commencement of development, details of any proposed external lighting to be attached to the buildings or erected within the car park shall be submitted to and approved by the Local Planning Authority. Such details shall include siting, angles, levels of illumination and any shields. Development shall be carried out in accordance with the approved details.

To safeguard the visual amenity and biodiversity value of the area in accordance with policies EN1, EN6 and GI1 of the Sevenoaks Allocations and Development Management Plan. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

21) Prior to the commencement of development a landscaping scheme consistent with the hereby approved Landscape Strategy (101/B) shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include the following details: a) trees and shrubs to be retained (including details of appropriate tree protection measures for the existing trees and shrubs shown to be retained adjacent to the southern boundary); b) soft plantings, including green walls, trees, grass and turf areas, shrub and herbaceous areas; their location, species (use of native species where possible), density and size; c) enclosures: including types, dimensions and treatments of walls, fences, pedestrian and vehicular gates, screen walls, barriers, rails, retaining walls and location, species and size of hedges; d) hard landscaping: including ground surfaces (including the Public Right of Way through the site), kerbs, edges, ridge and flexible pavings, unit paving, steps and if applicable synthetic surfaces; and e) any other landscaping feature(s) forming part of the scheme. All landscaping in accordance with the approved scheme shall be completed / planted during the first planting season following practical completion of the development hereby approved. The landscaping and tree planting shall have a two year maintenance / watering provision

following planting and any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within fifteen years of completion of the development shall be replaced with the same species or an approved alternative to the satisfaction of the Local Planning Authority within the next planting season. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

To enhance the visual appearance of the area as supported by policy EN1 of the Sevenoaks Allocations and Development Management Plan. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

22) No development shall be carried out until details of the electrical infrastructure to enable the future provision of electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority. The electrical infrastructure shall be provided in accordance with the details so approved prior to the first use of the development.

In order to mitigate and adapt to climate change in accordance with policies EN1 and T3 of the Allocations and Development Management Plan. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

23) No development shall commence until all existing and associated structures, buildings, chattels, vehicles and containers on the site known as Wilburton Yard and identified on hereby approved drawing 109/J have been demolished and removed from the site.

In recognition of the very special circumstances of the case and to mitigate harm to the openness of the Green Belt. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

24) Upon implementation of the hereby approved planning permission, the only use of the site including the land known as Wilburton Yard shall be for Class D1 and uses ancillary to Class D1 as shown on the hereby approved drawings and the land shall be used for no other purpose.

In recognition of the very special circumstances of the case and to mitigate harm to the openness of the Green Belt.

Richard Morris

Richard Morris
Chief Planning Officer

DATED THIS: 13th day of August 2015

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by;

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,
- Allowing applicants to keep up to date with their application and viewing all consultees comments on line
(www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp),
- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate

In this instance the applicant/agent:

- 1) Was provided with pre-application advice that led to improvements to the acceptability of the proposal.

Planning Permission

Name and address of applicant

The Long Leys Trust

8 Greetwell Lane
Nettleham
Lincolnshire
LN2 2PN

Name and address of agent (if any)

Mr JMP Architects

China Street
Lancaster
Lancashire
LA1 1EX

Part One – Particulars of application

Date of application:
15/02/2016

Application number:
134036

Particulars and location of development:

Planning application to erect place of worship with associated car parking and external landscaping

Land West Of Deepdale Enterprise Park Deepdale Lane Nettleham LN2 2LL

Part Two – Particulars of decision

The West Lindsey District Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that **planning permission has been granted** for the carrying out of the development referred to in Part One hereof in accordance with the application and plans submitted subject to the following conditions:

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

2. No development shall take place until details of the appearance and construction materials of the electrical supply housing and the bench seating / planters have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the use of appropriate materials and to accord with the National Planning Policy Framework and saved policy STRAT1 of the West Lindsey Local Plan First Review 2006.

3. No development shall take place until a scheme of landscaping to include details of hedgerow planting, species, plant size and planting layout / density and details

of trees to be planted including species, position, size and form. The approved landscaping scheme shall be implemented in the first planting season after the completion of the building.

Reason: To ensure that, an appropriate level and type of soft landscaping is provided within the site to accord with the National Planning Policy Framework and saved policies STRAT 1, STRAT12, CORE 10 and NBE20 of the West Lindsey Local Plan First Review 2006

4. No development shall take place before a scheme has been approved in writing by the Local Planning Authority for the construction of a 1.8m metre wide footway, together with arrangements for the disposal of surface water run-off from the highway at the frontage of the site. The agreed works shall be fully implemented before the building is first used or in accordance with a phasing arrangement to be agreed in writing with the Local Planning Authority.

Reason: To ensure safe access to the site and the building in the interests of convenience and safety and to accord with the National Planning Policy Framework and saved policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

5. No development shall take place until a lighting scheme, to include details of the lights including appearance, how light pollution will be minimised and times of use have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the lighting scheme is appropriate in appearance and use and to minimise the impact on bats and to accord with the National Planning Policy Framework and saved policies STRAT 1 and NBE20 of the West Lindsey Local Plan First Review 2006.

6. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (i) the routeing and management of construction traffic;
- (ii) the parking of vehicles of site operatives and visitors;
- (iii) loading and unloading of plant and materials;
- (iv) storage of plant and materials used in constructing the development;
- (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (vi) wheel cleaning facilities;
- (vii) measures to control the emission of dust and dirt during construction;
- (viii) details of noise reduction measures;
- (ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- (x) the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;
- (xi) A Construction Environmental Management Plan (CEMP) to ensure the protection of habitats and protected species

Reason: To ensure the development takes place in an acceptable manner that does not detriment neighbouring amenity and to accord with the National Planning Policy Framework and saved policies STRAT 1 and NBE20 of the West Lindsey Local Plan First Review 2006.

Conditions which apply or are to be observed during the course of the development:

7. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:

- L3320 003 Rev C Amended Proposed Site Plan
- L3320 004 Rev B Amended Proposed Floor Plan
- L3320 005 Rev C Amended South and East Elevations
- L3320 006 Rev B Amended West and North Elevations
- L3320 007 Rev B Proposed Site Sections
- L3320 008 Rev A Amended Block Plan
- Tdi208 Proposed Foul and Surface Water Drainage Strategy
- LS2217/1 Horizontal Illuminance Levels

The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework and saved Policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

8. The development shall be carried out in accordance with the recommendations of the Extended Phase 1 Habitat Survey by Delta Simons dated October 2015, namely that the site should be checked for nesting birds, the lighting minimised so as not to affect bats and the landscaping improved using native species.

Reason: To ensure the development protects and enhances the flora and fauna on the site and to accord with the National Planning Policy Framework and saved policies STRAT1, CORE10 and NBE20 of the West Lindsey Local Plan First Review 2006.

9. The surface and foul drainage from the site shall be in accordance with the Flood Risk Assessment & Drainage Strategy carried out by TDi Infrastructure Limited date February 2016. The surface and foul drainage systems shall be brought into use before the building is first used and shall be retained and maintained thereafter.

Reason: To ensure adequate drainage facilities are provided to serve the development, to reduce the risk of flooding and to prevent pollution of the water environment in accordance with the National Planning Policy Framework and saved policies STRAT 1 and NBE 14 of the West Lindsey Local Plan First Review 2006.

10. The arrangements shown on the approved plan L3320 008 Rev A for the parking/turning/manoeuvring/loading/unloading of vehicles shall be available at all times when the premises are in use.

Reason: To enable calling vehicles to wait clear of the carriageway of Deepdale Lane and to allow vehicles to enter and leave the highway in a forward gear in the interests of highway safety and to accord with the National Planning Policy Framework and saved policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

11. Prior to the commencement of construction of any building, the vehicular access to the development shall be improved in accordance with drawing number L3320 008 Rev A.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site and to accord with the National Planning Policy Framework and saved policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

12. The gates to the vehicular access shall be set back as shown on Dwg. No. L3320 008 Rev A.

Reason: To enable calling vehicles to wait clear of the carriageway of Deepdale Lane in the interests of safety and saved policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

Conditions which apply or relate to matters which are to be observed following completion of the development:

13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome, in the interests of the visual amenities of the locality and in accordance with the National Planning Policy Framework and saved policies STRAT 1, STRAT 12, CORE 10 and NBE20 of the West Lindsey Local Plan First Review 2006.

Notes to the Applicant

1. Prior to the submission of details for any access works within the public highway you must contact the Divisional Highways Manager on 01522 782070 for application, specification and construction information.

2. Lincolnshire Fire and Rescue require a fire hydrant to be located near the new access at the frontage of the site and advise that the minimum carrying capacity for access routes and hard standing for pumping appliances needs to be 18 tonnes. This needs to be taken into account during construction.

Reasons for granting permission

The proposal has been considered against the Development Plan namely STRAT1 Development Requiring Planning Permission, STRAT3 Settlement Hierarchy, STRAT12 Development in the Open Countryside, STRAT19 Infrastructure Requirements, SUS1 Development Proposals and Transport Choice, CORE10 Open Space and Landscaping within Developments, NBE10 Protection of Landscape Character and Areas of Great Landscape Value, NBE14 Waste Water Disposal and NBE20 Development on the Edge of Settlements of the West Lindsey Local Plan First Review 2006 as well as the Nettleham Neighbourhood Plan. The emerging policies LP1: A Presumption in Favour of Sustainable Development, LP2: The Spatial Strategy and Settlement Hierarchy, LP3: Level and Distribution of Growth, LP12: Infrastructure to Support Growth, LP13: Transport, LP14: Managing Water Resources and Flood Risk, LP15: Community Facilities, LP17: Landscape, Townscape and Views, LP24: Creation of New Open Space, Sports and


Recreation Facilities, LP26: Design and Amenity and LP55: Development in Hamlets and the Countryside of the Proposed Submission Central Lincolnshire Local Plan have also been taken into account although they have not been given full weight. The advice in the National Planning Policy Framework and the Planning Practice Guidance has also been taken into account as have the representations received.

In light of this assessment, the proposal is considered acceptable as it provides a more centrally located Township Hall for an established congregation of the Plymouth Brethren, in a location that has established development nearby. The relocation of this Hall will not cause an adverse impact on the highway network particularly in relation to the junction of Deepdale Lane with the A46. It will not cause adverse harm to the setting of one of entrances to the village. The surface water drainage will remain at current run off rates. The foul drainage can be accommodated in the existing controlled system.

Working Practice Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Date 2nd June 2016

Signed: 
Mark Sturgess
Chief Operating Officer

West Lindsey District Council
Council Offices
Guildhall
Marshall's Yard
Gainsborough
DN21 2NA

Note: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. You are strongly advised not to commence works until you have obtained any other permissions or consents that may be required, for example approval under the Building Regulations, otherwise there may be a risk of significant legal and financial consequences. For further advice on the Building Regulations, contact the Council's Building Control section.

Failure to adhere to the details of the approved plans or to comply with the conditions attached to this permission is a contravention of the provisions of the Town & Country Planning Act 1990 in respect of which enforcement action may be taken. Please contact the planning department for further advice relating to the discharge of condition process and the appropriate fee payable (if applicable).

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- **If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.**
Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at <https://acp.planninginspectorate.gov.uk>. You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.
- **Please note only the applicant possesses the right to appeal.**

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

If you require this document in another format e.g. large print, please contact Customer Services on 01427 676 676, by email customer.relations@west-lindsey.gov.uk or by asking any of the Customer Services staff.