



GOVERNMENT OFFICE  
FOR THE WEST MIDLANDS

DM/Sca

PLANNING  
DEPARTMENT

29 JUL 2009

Sustainable Futures Directorate  
(Planning)

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Lisa Hughes  
Principal Development Control Officer (South Team)  
Welwyn Hatfield Borough Council  
The Campus  
Welwyn Garden City  
Herts. AL8 6AE

Your Ref: S6/2009/0444/LB  
Our Ref: GOWM/PLN/C1950/91127

27 July 2009

Dear Ms Hughes,

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT  
1990. APPLICATION FOR LISTED BUILDING CONSENT.  
7 – 15 PARK STREET, HATFIELD, HERTFORDSHIRE, AL9 5AT.**

I am directed by the Secretary of State for Communities and Local Government to refer to your letter and enclosures of 19 May 2009 concerning your Council's application for Listed Building Consent for alterations and change of use of existing buildings to three dwellings at 7 – 15 Park Street, Hatfield, Herts., AL9 5AT. The application was made in accordance with the provisions of Regulation 13 of the 1990 Regulations.

The Secretary of State has considered the information submitted by your Council in support of the application and noted that English Heritage has no objections.

The Secretary of State hereby grants Listed Building Consent for the above works in accordance with the application (reference number S6/2009/0444/LB, dated 25 February 2009, and submitted drawings) subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development/works shall not be started and completed other than in accordance with the approved plans and details PL02a & 01 & PL01a received and dated 2 March 2009 unless otherwise agreed in writing by the Local Planning Authority.
3. Samples of Materials to be Submitted and Agreed. No development shall take place until samples of materials to be used in the construction of the external surfaces of the building hereby permitted

shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials. Subsequently, the approved materials shall not be changed without the prior written consent of the Local Planning Authority.

4. Following the carrying out or completion of the building operations or alterations for which consent is hereby granted, all *making good* of the existing building shall be carried out in materials and finishes which closely match, like-for-like, those historic materials and finishing details used in the existing building or structure to accord with usual conservation good practice and to the satisfaction of the Local Planning Authority. If there is any doubt regarding the approach to any proposed making good, or any alternative materials are proposed, a precise specification of the materials & finishes should be submitted to and agreed in writing by the Local Planning Authority.
5. None of the components, members or elements comprising the structural timber frame and fabric – including the infill panel material, stave or wattle and daub or brick, stone and plaster of the building shall be cut, damaged, altered or otherwise detrimentally changed other than those parts specifically identified within the submitted detailed annotated working drawings and precise schedule of works relating to the timber frame. All such alteration works shall be in accordance with usual conservation good practice and forming part of the agreed specification, method statement and approach stated in the listed building consent. Sandblasting or any other abrasive cleaning is not acceptable.
6. Rainwater goods including gutters, downpipes and rainwater heads and any associated fittings, fixings or gratings. All rainwater goods shall be cast iron. As an alternative, cast aluminium may be acceptable, in certain circumstances, though this is to be specifically justified and agreed in writing by the Local Planning Authority if it is proposed to specify cast aluminium. Plastic or PVC rainwater goods are not acceptable.
7. Prior to any building works or repairs being first commenced, a full and detailed, precise specification of all proposed materials (e.g. type and origin / manufacturer and mix of lime and sand / aggregate for mortars or plasterwork / render, wood lath, brick, stone, tile, slate, thatch, timber or wood); method statement, clearly explaining the sequence of the proposed works and how the approach accords with usual conservation good practice; and an itemised schedule of works (describing fully all repairs, re-instatements and replacement works) and agreed making good, shall be submitted to, and approved in writing by the Local Planning Authority.
8. Prior to any building works being first commenced, detailed drawings of all proposed new and or replacement doors and windows, together with a detailed specification of the materials, construction and finishes,



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shall be submitted to and approved in writing by the Local Planning Authority. Details shall be provided which clearly show (as appropriate) a section of the glazing bars, frame mouldings, door panels, the position of the door or window frame in relation to the face of the wall, depth of reveal, arch and sill detail.

This letter does not convey any consent or approval required under any enactment, byelaw, order, or regulation, other than Section 8 and 17 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

A separate Note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged in the High Court.

Attention is also drawn to the enclosed Note relating to the provisions of the Chronically Sick and Disabled Persons Act 1970.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dave Moseley', written over a large, faint circular stamp or watermark.

Dave Moseley



## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING, TREE PRESERVATION ORDER & ADVERTISEMENT APPEALS; CALLED-IN PLANNING APPLICATIONS; GRANTS OF PLANNING PERMISSION IN ENFORCEMENT NOTICE APPEALS**

Depending on the circumstances, the decision may be challenged by making an application to the High Court under either or both Sections 288 and 289 of the Town and Country Planning Act 1990 (the 1990 Act). There are differences between the two sections, including different time limits, which may affect your choice of which to use. These are outlined below.

#### **Challenges under Section 288 of the 1990 Act**

Decisions on called-in applications under section 77 of the 1990 Act (planning), appeals under section 78 (planning) or section 195 (Lawful Development Certificate) may be challenged under this section, as may tree preservation order and advertisement appeals. Section 288 also relates to enforcement appeals, but only to decisions granting planning permission or discharging conditions. Success under section 288 alone would not alter any other aspect of an enforcement appeal decision. The enforcement notice would remain quashed unless successfully challenged under section 289 of the 1990 Act or by Judicial Review.

Section 288 provides that a person who is aggrieved by the decision to grant planning permission or discharge conditions (on an enforcement appeal) or by any decision on an associated call-in under section 77, appeal under section 78 or section 195 of the 1990 Act, may question the validity of that decision by making an application to the High Court.

### **SECTION 2: LISTED BUILDING & CONSERVATION AREA CONSENT APPEALS & CALLED-IN APPLICATIONS; LISTED BUILDING ENFORCEMENT APPEALS.**

Depending on the circumstances, the decision may be challenged by making an application to the High Court under either or both sections 63 and 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act). There are differences between the two sections, including different time limits, which may affect your choice of which to use. These are outlined below.

#### **Challenges under section 63 of the LBCA Act**

Decisions on appeals made under section 20 (listed building consent) may be challenged under this section. Section 63 also relates to enforcement appeals, but only to decisions granting listed building consent or conservation area consent or discharging conditions. Success under section 63 alone would not alter any other aspect of an enforcement appeal decision. The enforcement notice would remain quashed unless successfully challenged under section 65 or by Judicial Review.

Section 63 of the LBCA Act provides that a person who is aggrieved by the decision to grant listed building or conservation area consent or discharge conditions (on an enforcement appeal) or by any decision on an associated appeal under section 20 of the LBCA Act, may question the validity of that decision by making an application to the High Court.

## **GROUND FOR APPLICATIONS UNDER SECTION 288 OF THE 1990 ACT AND SECTION 63 OF THE LBCA ACT**

Challenges may be made on the grounds:-

- That the decision is not within the powers of the Act; or
- That any of the relevant requirements have not been complied with ('relevant requirements' means any requirements of the LBCA Act or the 1990 Act as appropriate, or of the Planning and Tribunals Act 1992, or of any order, regulation or rule made under any of those Acts).

These two grounds mean in effect that a decision cannot be challenged merely because someone does not agree with the Secretary of State's decision. Those challenging a decision have to be able to show that a serious mistake was made when reaching the decision; or, for example, that the inquiry, hearing or site visit was not handled correctly or that the procedures were not carried out properly. If a mistake has been made the Courts may decide not to quash the decision if the interests of the person making the challenge have not been prejudiced.

Please note that under both sections an application to the High Court must be lodged with the Crown Office within 6 weeks of the date of the decision letter. This time limit cannot be extended. Permission of the Court is not required to make these types of challenge.

## **CHALLENGES UNDER SECTIONS 289 OF THE 1990 ACT & 65 OF THE LBCA ACT**

In both planning and listed building enforcement notice appeals, and tree preservation order enforcement appeals, the appellant, the local planning authority or any person having an interest on the land (to have an interest in the land means essentially to own, part own, lease and, in some cases, occupy the site) to which the enforcement notice relates may challenge the decision in the High Court on a point of law.

An application under either section may only proceed with the permission of the Court. An application for permission to challenge the decision must be made to the Court within 28 days of the date of the decision, unless the period is extended by the Court.

If you are not the appellant, or the local planning authority or a person with an interest in the land but you want to challenge a planning enforcement appeal decision on grounds (b) to (g) or a listed building enforcement appeal decision on grounds (a) to (d) or (f) to (k), or the decision to quash a notice, you may make an application for Judicial Review. You should seek legal advice promptly if you wish to use this non-statutory procedure. The procedure is to make an application for the permission of the Court to seek Judicial Review. This should be done promptly, and in any event within 3 months of the date of the decision.

## **SECTION 3; AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

## **SECTION 4: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

January 2001

## CHRONICALLY SICK AND DISABLED PERSONS ACT 1970

The above Act requires persons undertaking the provisions of certain buildings or premises to make provision for the needs of disabled people. Your development is affected if it would result in the provision of one or more of the following:

1. A building or premises to which section 4 of the Chronically Sick and Disabled Persons Act 1970 applies (buildings or premises to which the public are to be admitted whether on payment or otherwise);
2. Any of the following, being in each case; premises in which persons are employed to work:-
  - i. Office premises, shop premises and railway premises to which the Offices, Shops and Railway premises Act 1963 applies;
  - ii. Premises which are deemed to be such premises for the purposes of that act; or
  - iii. Factories as defined by section 175 of the Factories Act.
3. A building intended for the purposes:
  - i. of a university, university college or college, or of a school or hall of a university ; or
  - ii. of a school within the meaning of the Education Act 1944, a teacher training college maintained by a local education authority in England or Wales or any other institution providing further education pursuant to a scheme under section 42 of that Act.

If your development comes within category (1) above, your attention is drawn to the provisions of section 4 and 7 of the Chronically Sick and Disabled Persons Act 1970 and to the British Standards Institution Code of Practice for access for the Disabled to Buildings (BS 8300:2009).

If your development comes within category (2) above, your attention is drawn to the provisions of section 7 and 8A of the 1970 Act and to the BSI code of practice (BS 8300:2009).

If your development comes within the category (3) above, your attention is drawn to the provisions of sections 7 and 8 of the 1970 Act and to Building Bulletin 102 "Designing for disabled children and children with Special Educational Needs", published in 2008 on behalf of the Secretary of State for Children, Schools and Families.

