

REPORT OF HEAD OF DEVELOPMENT MANAGEMENT AND REGENERATION

Clifton Hall, Holgate

1 SUMMARY

Application No: 13/00958/PVAR3
Application by: Ben Hunt Planning Ltd on behalf of Mr Suresh Patel
Proposal: Variation of condition 18 of planning permission reference 05/01759/PVAR3 to allow the retention of a hedge planted alongside Clifton Hall Drive

The application is brought to Planning Committee because the application is considered to be sensitive given the level of public interest.

To meet the Council's Performance Targets this application should have been determined by 17 June 2013.

2 RECOMMENDATIONS

GRANT PLANNING PERMISSION subject to:

(a) the conditions listed in the draft decision notice at the end of this report.

Power to determine the final details of the conditions of the planning permission be delegated to the Head of Development Management.

3 BACKGROUND

Site

3.1 The application site is set within the grounds of Clifton Hall, a grade I listed building dating from the late 16th century. The Hall is used for residential purposes and has been sub-divided to form two dwellings. The site also forms part of a wider historic park and garden designation (grade II listed in 2004) and is within the Clifton Village Conservation Area. To the east is St Mary's Church, which is also a grade I listed building and there is a row of residential properties to the south east situated on a higher level than the Hall and its gardens.

Planning History

3.2 In 2005 planning permission (02/00634/PFUL3) and listed building consent (02/00637/LLIS1) was granted to convert Clifton Hall into two dwellings. The planning permission also included 14 new dwellings to the south east of the Hall, replacing an annexe. Amongst the conditions imposed on the planning permission was a restriction on permitted development rights which removed the ability for

buildings, car ports, structures, walls, fences, gates and hedges to be erected or planted without planning permission.

- 3.3 In 2006 permission (05/01759/PVAR3) was granted to vary a condition on the 2005 planning permission relating to phasing of demolition. A new planning permission was issued including the restriction on permitted development rights. The condition in full states:

“Notwithstanding the provisions of any Town and Country Planning General or Special Development Order for the time being in force relating to ‘permitted development’, no ancillary buildings, garages, car ports, structures, walls, fences, hedges or gates shall be erected placed or planted in the grounds; without the prior express permission of the City Council.”

The reason for imposing the condition was to ensure that the appearance of the development is satisfactory and to safeguard the setting of the listed building.

4 DETAILS OF THE PROPOSAL

- 4.1 The application seeks permission for the variation of condition 18 of planning permission 05/01759/PVAR3 to permit the retention of a hedge. The hedging is planted adjacent to the south east boundary of Clifton Hall and spans a distance of approx 45m, comprising a line of 37 conifer (Thuja) plants. In between the conifers and Clifton Hall Drive are a laurel hedge and a black rail fence.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

- 5.1 The application has been advertised by a site notice and press advert. In addition the following neighbours have been directly consulted:

1-29 Clifton Hall Drive (Odd numbers only)

- 5.2 There have been sixteen letters of objection to the application from local residents and visitors to the area. The reasons for objection include that the proposal will have an adverse impact on the setting of the listed building (particularly obscuring the south elevation); be detrimental to the character and appearance of the conservation area; is not compliant with either the Clifton Hall Planning Brief (2000) or the Clifton Village Conservation Area Policy Document (1997); is out of keeping with the landscape character of the area; is detrimental to residential amenity through loss of outlook light etc; the security justification is flawed as there are other more serious security issues on the site; there are other ways to safeguard the privacy of the owners/occupiers of the Hall, the hedge will impact on the road surface and, if permitted it will set a precedent. In addition the Clifton Village Residents Association also objects, primarily on the grounds that the hedge has been planted in contravention to the planning condition imposed and if approved, would set an undesirable precedent.
- 5.3 Three letters of support have been received including representation from the Police. The Police Safer Neighbourhood Team Manager for the Clifton estate comments that the hedgerow has had a significant impact in reducing the amount of trespassers on the Clifton Hall grounds and the level of anti-social behaviour.

The other support letters comment that the hedgerow has no impact on the key views of the Hall such as from across the river and from the church and that the impact is acceptable providing that the hedgerow is maintained at a reasonable height.

- 5.4 Two additional letters have been received making the observations that conifers are part of the historical character of Clifton Hall having first been introduced in the 1800s and that views of the Hall are not affected by the planting of the hedge.

Additional consultation letters sent to:

- 5.5 **Heritage and Urban Design:** the proposal is not considered to harm the setting of the Listed Building or the Registered Park and Gardens and recommends that the application is approved with the imposition of a suitable height restriction. They comment that the hedge is not considered to have a detrimental impact on the setting of the Hall which, to a degree, has already been compromised by the enabling development on Clifton Hall Drive. They advise that the condition on the original planning application was intended to prevent the carving up of the formal grounds into separate 'gardens' by the different occupiers of the Hall. In this instance however the conifers continue an established hedge line which currently runs along the Hall's frontage and have not brought about any further subdivision of the remaining historic grounds, the layout of which can still be appreciated.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework:

- 6.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies. While planning applications still need to be determined in accordance with the development plan, which are set out in the report, the NPPF is a material consideration in the assessment of this application.
- 6.2 Paragraphs 128-132 advise that development proposals should describe the significance of any heritage assets affected, including any contribution made by their setting. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

Nottingham Local Plan (November 2005):

BE10 - Development Around Listed Buildings. Seeks to resist development that would be harmful to the character, appearance or setting of a listed building.

BE12 - Development in Conservation Areas. Seeks to preserve or enhance the character and/or appearance of conservation areas.

BE14 - Historic Parks and Gardens. Safeguards the character, setting and appearance of the Nottingham Castle Grounds, and registered Parks and Gardens

of Special Historic Interest.

Clifton Village Conservation Area Policy Document (1997)

Clifton Hall Planning Brief (2000)

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

(i) Impact of the proposal on the setting of the listed building, historic gardens and conservation area. (Paragraphs 128-132 of the NPPF, Policies, BE10, BE12 and BE14 of the Local Plan, the Clifton Village Conservation Area Policy Document and the Clifton Hall Planning Brief)

- 7.1 In normal circumstances the planting of a hedge would not be considered development. However, the condition restricts this, in the interests of preserving the setting of the listed building, and therefore it is justifiable to consider the merits of this particular proposal.
- 7.2 It is considered that the hedge, which is planted to the south/south east of Clifton Hall will restrict views of the Hall and the gardens from parts of Clifton Hall Drive, but this will be very limited. Clifton Hall is highly visible, due to its elevated position, when viewing from across the River Trent from the north and this highly important view remains entirely unaffected. The approach to the Hall from the east is similarly unaffected and the form and structure of the gardens, including the terraced areas to the south are not interrupted. It is also pertinent that the condition was likely to have been imposed to ensure that the garden areas were not sub-divided by boundary treatments, including hedges, to ensure that the character is not eroded and the intention therefore was not necessarily to restrict planting on the periphery of the site. The Yew trees to the south of the site are substantial and provide a significant element of natural enclosure. Whilst the proposal is for a different species, this proposal is an extension of this form of enclosure. It is noted that there is significant level of concern regarding the hedge planted in this location but the principle of such planting, which in part obscures the view of the Hall and the gardens from the south/south east is not considered to cause any harm to the setting of the listed building or the registered gardens.
- 7.3 The justification for planting the hedge by the applicant is to mitigate privacy and security concerns. The impact of the Clifton Hall Drive development on the privacy of residents of Clifton Hall would have been a material consideration in the determination of the original application. Nevertheless from viewing on site, the presence of the terraced row of three storey properties does give rise to overlooking of the gardens and to lesser extent the south elevation of the building. The requirements for increased privacy are recognised as being desirable. It is noted that some objectors are critical of this justification for the hedge and advise that this could be achieved in other ways. Again, this is not material to the determination of this application. However given the reason for the imposition of the condition as set out above, these are not matters that can be afforded weight in this instance.

- 7.4 The type of hedge planted is not native and this features prominently in the objections received from local residents. The supporting statement points to other examples of the Thuja plicata being situated in grounds of other heritage assets in the East Midlands and it is noted that there is a mature specimen within the grounds of St Mary's Church. Whilst the species might not be to everyone's taste, it is considered that this choice presents no harm to the setting of either Clifton Hall or the registered gardens. It is considered that having regard to Para 128-132 of the NPPF, Policies BE10, BE12 and BE14 of the Local Plan and having reviewed both the Clifton Hall Planning Brief (2000) and the Clifton Village Conservation Area Policy Document (1997), the impact of the hedge on the listed building, registered gardens and by association the wider conservation area is acceptable.

Other Issues

- 7.5 The reason for imposing the condition is clearly related to the impact on the setting of the listed building. The impact on amenity has been raised in the objections but as mentioned elsewhere, this is not felt to be a consideration that warrants weight in this case. The loss of a view is similarly not a material planning consideration and the impact on the road surface is not considered to be a concern. The issue of precedent is noted but each decision should be taken on its merits and is not a reason to withhold permission. Finally, it has been considered whether the height of the hedge should be conditioned. On balance it is not deemed necessary in the context of the setting of the listed building and registered gardens and it is difficult to argue that imposing a restriction would be other than an arbitrary figure, and would represent a restriction on a comparatively small section of the curtilage of the listed building, against the backdrop that other areas of existing vegetation would not be restricted. Such a condition would also be extremely difficult to enforce.

8. SUSTAINABILITY / BIODIVERSITY

None.

9 FINANCIAL IMPLICATIONS

None.

10 LEGAL IMPLICATIONS

The issues raised in this report are primarily ones of planning judgement. Should legal considerations arise these will be addressed at the meeting.

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

None.

14 CRIME AND DISORDER ACT IMPLICATIONS

None.

15 **VALUE FOR MONEY**

None.

16 **List of background papers other than published works or those disclosing confidential or exempt information**

1. Application No: 13/00958/PVAR3

<http://plan4.nottinghamcity.gov.uk/WAM/pas/findCaseFile.do?appNumber=13%2F00958&action=Search>

2. Comments from Conservation Officer dated 12 June 2013

3. Comments from the Police undated, received 24 July 2013

4. Comments from Clifton Village Residents Association dated 10 June 2013

5. Comments from local residents/interested parties (x23) dated between 24 May and 24 July 2013.

17 **Published documents referred to in compiling this report**

1. Nottingham Local Plan (November 2005).

2. National Planning Policy Framework.

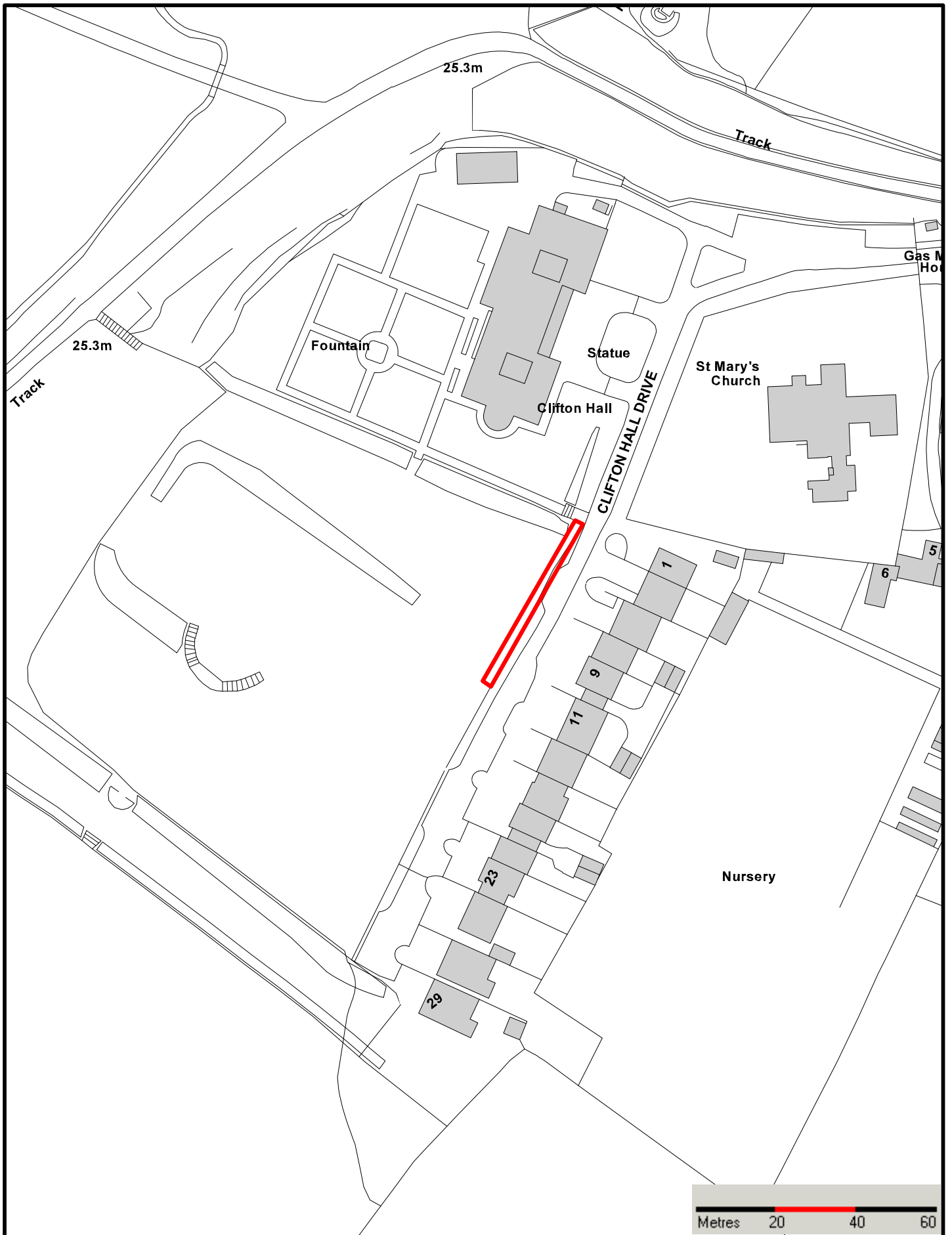
3. Clifton Village Conservation Area Policy Document (1997)

4. Clifton Hall Planning Brief (2000)

Contact Officer:

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13/00958/PVAR3
Clifton Hall, Holgate



Nottingham
City Council

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Your Ref:
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Date of decision:

**TOWN AND COUNTRY PLANNING ACT 1990
APPLICATION FOR PLANNING PERMISSION**

Application No: 13/00958/PVAR3 (PP-02245344)
Application by: Mr Suresh Patel
Location: Clifton Hall , Holgate, Nottingham
Proposal: Conversion of hall to 2 residential dwellings. Erection of 14 residential dwellings to replace annexe to south-east of Hall. (Variation of condition 18 of planning permission reference 05/01759/PVAR3 to allow the retention of a hedge planted alongside Clifton Hall Drive.)

Nottingham City Council as Local Planning Authority hereby **GRANTS PLANNING PERMISSION** for the development described in the above application subject to the following conditions:-

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|--|
| Time limit |
| There are no conditions in this section. |
| Pre-commencement conditions (The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work) |
| There are no conditions in this section. |
| Pre-occupation conditions (The conditions in this section must be complied with before the development is occupied) |
| There are no conditions in this section. |
| Regulatory/ongoing conditions (Conditions relating to the subsequent use of the development and other regulatory matters) |



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Not for issue

Continued...

1. Notwithstanding the provisions of any Town and Country Planning General or Special Development Order for the time being in force relating to "permitted development", the dwellings shall not be enlarged nor shall a garage/car port or porch be erected without the prior express permission of the Local Planning Authority.

Reason: To ensure that the appearance of the development is satisfactory and to safeguard the setting of the listed building the registered gardens in accordance with the aims of Policies BE10 and BE14 of the Local Plan .

2. Notwithstanding the provisions of any Town and Country Planning General or Special Development Order for the time being in force relating to 'permitted development', no ancillary buildings, garages, car ports, structures, walls, fences, hedges or gates, other than that permitted by planning permission reference 13/00958/PVAR3, shall be erected placed or planted in the grounds; without the prior express permission of the Local Planning Authority.

Standard condition- scope of permission

- S1. The development shall be carried out in complete accordance with the details described in the forms, drawings and other documents comprising the application as validated by the council on 22 April 2013.

Reason: To determine the scope of this permission.

Informatives

1. The reason for this decision, and a summary of the policies the local planning authority has had regard to are set out in the committee report, enclosed herewith and forming part of this decision.

2. This permission is valid only for the purposes of Part III of the Town & Country Planning Act 1990. It does not remove the need to obtain any other consents that may be necessary, nor does it imply that such other consents will necessarily be forthcoming. It does not override any restrictions contained in the deeds to the property or the rights of neighbours. You are advised to check what other restrictions there are and what other consents may be needed, for example from the landowner, statutory bodies and neighbours. This permission is not an approval under the Building Regulations.

Where a condition specified in this decision notice requires any further details to be submitted for approval, please note that an application fee will be payable at the time such details are submitted to the City Council. A form is available from the City Council for this purpose.

Your attention is drawn to the rights of appeal set out on the attached sheet.



RIGHTS OF APPEAL

Application No: 13/00958/PVAR3 (PP-02245344)

If the applicant is aggrieved by the decision of the City Council to impose conditions on the grant of permission for the proposed development, then he or she can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

Any appeal must be submitted within six months of the date of this notice. You can obtain an appeal form from the Customer Support Unit, The Planning Inspectorate, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Phone: 0117 372 6372. Appeal forms can also be downloaded from the Planning Inspectorate website at <http://www.planning-inspectorate.gov.uk/pins/index.htm>. Alternatively, the Planning Inspectorate have introduced an online appeals service which you can use to make your appeal online. You can find the service through the Appeals area of the Planning Portal - see www.planningportal.gov.uk/pcs.

The Inspectorate will publish details of your appeal on the internet (on the Appeals area of the Planning Portal). This may include a copy of the original planning application form and relevant supporting documents supplied to the local authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay.

The Secretary of State need not consider an appeal if the City Council could not for legal reasons have granted permission or approved the proposals without the conditions it imposed.

In practice, the Secretary of State does not refuse to consider appeals solely because the City Council based its decision on a direction given by him.

PURCHASE NOTICES

If either the City Council 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 can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. This procedure is set out in Part VI of the Town and Country Planning Act 1990.

COMPENSATION

In certain limited circumstances, a claim may be made against the City Council for compensation where permission is refused or granted subject to conditions by the Secretary of State. The circumstances in which compensation is payable are set out in Section 114 of the Town & Country Planning Act 1990.



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