

## BACKGROUND

Obtaining a planning permission should not be viewed as the end of your involvement with the Planning Department. Rather this should be viewed as a further step in the development process.

Conditions are often imposed to regulate certain aspects of an approved scheme and are an important element in the process. Were it not for the conditions it is possible that planning permission could have been refused. Conditions can also add the finishing touches to a scheme by making it more attractive, adding value and making it more saleable so everyone (you and the wider community) benefits.

## NOW THAT YOUR PLANNING APPLICATION HAS BEEN APPROVED...

### Q. What do I need to do now?

- A. Check your planning permission carefully to ensure that there are no errors in it.

If there are errors, contact Planning Services immediately quoting the reference number and setting out clearly what you think is wrong.

Identify which conditions require you to submit further details or information, and when these have to be complied with.

Some conditions must be complied with before a development is started, some regulate how the work is undertaken, others require actions before a building is occupied or a use commences whilst certain conditions will seek to regulate how the completed development is to be used or control possible changes in the future.

Consult with your advisers how best to comply with those conditions.

If you are unhappy about any of the conditions imposed you can challenge them but you must do so within 6 months of the date of the decision. Talk to the Case Officer who dealt with your specific scheme if you want to explore this further as any commencement during the appeal process may invalidate the consent.

### Q. Which conditions do I need to comply with?

- A. All of them.

The first condition will limit the length of time that the permission is valid, if work is not started within that time the permission will lapse.

Before starting work you must discharge (that is provide the council with the information required and gain written approval) all conditions that specify 'prior to commencement details are to be submitted...' or are similarly worded. These are known as "pre-conditions". (see later)

### Q. How do I discharge a condition?

- A. When applying for a condition to be discharged ensure that the information submitted is comprehensive and meets the condition requirement.

The Council will reject applications for condition compliance where the details are inadequate. To understand exactly what is required you should read the condition and reason carefully and in full.

### Q. When should I submit the information?

- A. Do not leave the discharge of conditions until the last moment. Allow adequate time for the Council to respond to your request to discharge conditions, as the council may need to seek specialist advice.

Submitted information should clearly identify the condition number it relates to.

### Q. How do I vary an approved scheme?

- A. Condition discharge does not grant consent to vary the original approved drawings. If you want, or need, to vary the permitted scheme seek the advice of the Council first.

See leaflet DC9 seeking amendments to a planning permission.

### Q. Where will I get advice on what to submit?

- A. The Council can only offer general advice and cannot be regarded as a free consultancy service at public expense. You are urged to seek advice from your agent or other specialist where appropriate.

Although you may anticipate the need for the planners to seek a view on the details from another department such as Highways or Environmental Health, you should always direct your condition compliance details to the Planning Section.

If you consult any other person or agency directly, for example the Highway Authority or the Environment Agency, seeking pre-discharge advice on whether your proposals to meet the terms of a condition would be acceptable, you are advised that

until the Council's Planning Service has been formally notified by you and has subsequently provided written approval of the details concerned, the planning condition is not discharged.

Whilst all pre-conditions are important some have a particular significance such as resolving contaminated land issues, submitting archaeological assessments and the adequate protection of trees. Once works start in the absence of these details having been agreed, irrevocable damage may occur or remedial works could be required that could involve a partial or total demolition of the development.

Special care should be taken when dealing with a Listed Building as any works outside the consent or conditions is not just unauthorised but is actually a criminal offence.

#### **Q. What happens if I do not comply?**

**A.** Failure to discharge conditions at the correct time can invalidate a planning permission rendering the site without benefit of consent

For example starting work on site without complying with the pre-conditions may render your permission null and void and can lead to enforcement action and possible criminal sanctions.

This would then mean you would have to reapply all over again for planning permission, possibly attracting a further planning fee and potentially other financial penalties, such as a contribution to a new Section 106 Agreement. It is possible that depending on the planning policy context

the development may not be approved a second time round.

The delay may result in lost sales as the absence of a formal consent would be declared on any search. By following the correct procedure and complying with all the conditions at the right time within the development process any search or enquiry by a solicitor will be satisfactorily answered as the file will contain the exchanges of correspondence.

The council can check if conditions have been discharged and also inspect sites to ensure development is in compliance with the permission granted.

Failure to have a valid planning permission by not complying with the approved drawings or planning conditions may have some of the following consequences amongst others:-

- the service of a Temporary Stop Notice closing down any works on the site;
- a need to re-submit a full planning application to the council if the consent is invalidated;
- a record on Land Charge Searches that the development is unauthorised (and possibly subject to enforcement);
- potential difficulties in raising funds against or selling of the land or building;
- Prosecution if subsequent enforcement notices are not complied with;
- Undertaking works to a listed building in breach of conditions is a criminal offence.

## **DEVELOPMENT CONTROL**

ADVISORY NOTE DC8

# **DISCHARGING CONDITIONS ON A PLANNING PERMISSION**



**PLANNING SERVICES**

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