



Department for
Communities and
Local Government

Our Ref: APP/V4250/V/16/3143845

Mr Geoffrey Clark
Clark Planning Consultants
14 St Clements Road
Wigan
Lancashire
WN1 2RU

23 November 2016

Dear Mr Clark,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION FOR THE PRIOR NOTIFICATION OF THE DEMOLITION OF FORMBY
HALL, ALDER STREET, ATHERTON, WIGAN MADE BY FORMBY HALL LTD
APPLICATION REF: A/15/81692/DEM**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Martin Whitehead LLB BSc (Hons) CEng MICE, who held a public inquiry on 27 July 2016 into your client's application for prior notification of the proposed demolition of Formby Hall, Alder Street, Wigan under the provisions of the Part 11, Class B of Schedule 2, paragraph B.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), application ref: A/15/81692/DEM, dated 16 November 2015.
2. On 19 January 2016 the Secretary of State directed, in pursuance of s77 of the Town and Country Planning Act 1990 that your client's application be referred to him rather than being dealt with by the Local Planning Authority, Wigan Metropolitan Borough Council.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the application for prior approval for the demolition of Formby Hall be granted.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with the Inspector's recommendation. He has decided to grant prior approval for the demolition of Formby Hall in accordance with the details submitted pursuant to Part 11, Class B of Schedule 2, paragraph B.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy and statutory considerations

5. The Secretary of State agrees with the Inspector with regard to the relevant legal and policy context set out in paragraphs 6 and 7. He agrees that, in determining this application, consideration is restricted to the prior approval issues as being the method of demolition and any proposed restoration of the site as set out under Part 11, class B of Schedule 2 of the GPDO. He has considered this application having regard to the National Planning Policy Framework in so far as it is relevant to the subject matter of this prior approval application. Furthermore, the Secretary of State agrees with Inspector at IR 11-12, 21-22 and 40 that, because this application does not involve an application for planning permission, section 38(6) of the Planning Compensation Act 2004 is not engaged so this application is not required to be determined in accordance with the development plan.

Main issues

6. The Secretary of State agrees with the Inspector that the main issues are those set out at IR 40.

Amenity, noise, access and safety impacts of the proposal

7. Having carefully considered all the evidence, the Secretary of State agrees with the Inspector (IR 42) that the demolition would be on a relatively small scale, would not involve anything that would be exceptional and would be adequately covered by the details provided in the documentation. Furthermore, he agrees compliance with the details submitted would ensure that local residents would be suitably notified and there would be limited disruption to those living and working in the area, including accessing the nearby children's nursery. He further agrees that the demolition would be carried out in a safe manner with any likely pollution from RCS, asbestos or noise appropriately controlled under the relevant guidance and legislation.

Highways impacts of the proposal

8. For the reasons given at IR 42-45, the Secretary of State agrees with the Inspector that the demolition of the Formby Hall would not result in any adverse impacts to the local highways network.

Environmental and ecological impacts of the proposal

9. The Secretary of State notes that no formal objection has been made by the Council's Environmental Health Officer. The Secretary of State also agrees with the inspector IR 43 about any potential impacts on bats from the proposal have been adequately addressed in both the ecological survey, the addendum to the methodology and the Outline Plan which makes provision for additional surveys to take place prior to demolition of the Hall. Furthermore, he notes that if the presence of bats were discovered on the site then consultation with Natural England would take place. He therefore agrees that the proposal has made sufficient provision to deal with protected species to ensure compliance with the relevant legislation.

Restoration of the site

10. For the reasons given by the Inspector at IR44, the Secretary of State agrees that given the scale of the buildings, the restoration of the site should be relatively straightforward,

and that the details provided would be adequate to ensure that the site would be restored and maintained in a safe and secure condition until such time that it would be redeveloped.

Objections to the proposal

11. The Secretary of State agrees with the Inspector (IR 46) that a number of objections received relate to matters that are not to be considered as part of the determination of this application. Although Atherton Residents' Association (ARA) and many other objectors have expressed their concerns about the sale of Formby Hall, the effect of the covenant on its use and demolition, the lack of compliance by the Council with Local Plan Policy CP3, proposals for the redevelopment of the building and designation of the building as an Asset of Community Value (AVC), the Secretary of State agrees that none of these matters come within the remit for consideration under the prior approval for demolition of a building under the GPDO therefore no weight can be attached to them in the determination of this application.
12. The Secretary of State also agrees with the Inspector (IR 47) that the objections raised in relation to the method of demolition and the restoration of the site are not supported by sufficient substantive evidence to outweigh the evidence provided in support of the demolition methodology. For the reasons given by the Inspector, the Secretary of State agrees that those objections based on the effects of the proposal on bats would be adequately dealt with by the requirements for an additional survey and the measures that would be taken in the event that bats would be discovered on site. He agrees that these provisions, together with the measures that would be in place to control air and noise pollution, would comply with paragraph 109 and the aims of paragraph 123 of the Framework. Further, the Secretary of State considers that the details submitted have identified a safe and suitable means of access to the site ensuring compliance with paragraph 32. For the reasons given at IR 47, the Secretary of State is also satisfied that the appropriate procedures have been taken.

Conclusion

13. The Secretary of State agrees with the Inspector (IR 48) that the Applicant has submitted sufficient evidence to demonstrate that the demolition of Formby Hall would be carried out in a safe manner that would minimise its effect on the environment and local amenity and that the proposed restoration of the site would be acceptable. Therefore the Secretary of State considers that prior approval for the demolition of Formby Hall should be granted.

Formal decision

14. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants prior approval under the provisions of Part 11, Class B of Schedule 2, paragraph B.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the demolition of Formby Hall at Alder Street, Atherton, Wigan M46 9EY in accordance with the details submitted.

Right to challenge the decision

15. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an

application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

16. A copy of this letter has been sent to Wigan Metropolitan Borough Council, and notification has been sent to others who asked to be informed of the decision.

Yours sincerely,

Phil Barber

Phil Barber

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Martin Whitehead LLB BSc(Hons) CEng MICE

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 22 August 2016

Town and Country Planning Act 1990

Town and Country Planning (General Permitted Development) Order 2015

Application by Formby Hall Ltd

Prior notification of proposed demolition of Formby Hall

Inquiry held on 27 July 2016

Formby Hall, Alder Street, Atherton, Wigan M46 9EY

File Ref: APP/V4250/V/16/3143845

File Ref: APP/V4250/V/16/3143845

Formby Hall, Alder Street, Atherton, Wigan M46 9EY

- The application was called in for decision by the Secretary of State by a direction made under section 77 of the Town and Country Planning Act 1990 on 19 January 2016.
- The application for prior notification of proposed demolition is made by Formby Hall Ltd (the Applicant) to Wigan Metropolitan Borough Council (the Council) under Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.
- The application Ref A/15/81692/DEM is dated 16 November 2015.
- The development proposed is demolition of Formby Hall.
- The reasons given for making the direction were regarding the matters raised by the application and the substantial local interest that has been generated by the case.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application: the extent to which the proposal for the method of demolition is consistent with Government policies on amenity, noise, access and safety; the extent to which the proposal minimises the adverse impact of the demolition on the interests protected by those policies; and any other relevant matters.

Summary of Recommendation: that prior approval be granted

Procedural Matters

1. I have been appointed by the Secretary of State for Communities and Local Government (SofS) to hold an inquiry under section 77(5) of the Town and Country Planning Act 1990, as amended, resulting from the direction given by the SofS for the application for prior notification of proposed demolition to be referred to him for determination.
2. I opened the Inquiry on 27 July 2016 and it sat for one day at The Atrium, Wigan Town Hall, Library Street, Wigan WN1 1YN. I carried out an unaccompanied visit of the area surrounding Formby Hall on 26 July 2016 and an accompanied site visit of Formby Hall and the surrounding area on 27 July, following the close of the Inquiry.
3. At the Inquiry the Council confirmed that the relevant notification has been given of the Inquiry and at my site visit I observed notices of the Inquiry displayed near to the development site¹. No one has suggested that notification was not given. I am therefore satisfied that the relevant notices have been displayed and notification given of the Inquiry.

The Site and Surroundings²

4. Formby Hall is located at the junction of Alder Street and Rowland Street North to the east of Atherton town centre. The main building comprises a central section with a high pitched roof, flanked by lower single storey wings that have a mix of pitched and flat roofs. The front of the building abuts the back of the footway along Alder Street and one of the wings abuts the back of the footway along Rowland Street North. To the south of this building is a detached pitched roofed single storey building and a paved car park that are also within the site boundary.

¹ Document ID8

² From my observations at the site visits and Document ID7

5. The vehicular access to the car park is from Rowland Street North. This is shown on the plan³ as being the proposed access to the site during the demolition works, with vehicles using High Street and Alder Street. Alder Street is a cul-de-sac that serves a commercial garage to the north and Atherton Collieries football ground to the east and provides pedestrian access to Alderfold Street, where there is a children's nursery. Rowland Street North is a cul-de-sac that is lined on one side by semi-detached and terraced houses that face the site and provides access to a new housing development, which at the time of my site visit was partially complete. There are parking restrictions at the junctions of Alder Street with Rowland Street North and Alder Street with High Street. High Street is a main through route along which parking is controlled.

Planning Policy and Law

6. The relevant legal context for the application is within the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Part 11, Class B of Schedule 2 of the GPDO is regarding permitted development that includes any building operation consisting of the demolition of a building. Paragraph B.2 provides conditions to which development is subject to when permitted by Class B. Paragraph B.2(b)(i)(aa) relates to the type of development proposed by the application and requires the developer to apply to the Local Planning Authority (LPA) for a determination as to whether the prior approval of the LPA will be required as to the method of demolition and any proposed restoration of the site. In the case of a prior approval, paragraph B.2(b)(viii)(aa) requires the development to be carried out in accordance with the details approved, except to the extent that the LPA otherwise agrees in writing. The Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981, as amended, are also relevant.
7. The Government policies are given in the National Planning Policy Framework (Framework). The policies in the Framework that are most relevant to this application are those given in paragraph 32, with respect to achieving a safe and suitable access to the site; paragraph 109, in terms of minimising the impacts on biodiversity and preventing the development from contributing to unacceptable levels of air or noise pollution; and paragraph 123, regarding the effect of noise on health and the quality of life.

Planning History⁴

8. Formby Hall was formerly owned by the Council until it was sold in June 2014. It had been used as a civic hall and meeting place, with a number of events, functions and clubs taking place at it over a long period of time. Its lawful use through longevity is considered by the Council to be Class D2 of the Town and Country Planning (Use Classes) Order 1987 as amended, which includes uses as a cinema, concert or dance hall, bingo hall, gymnasium, or other indoor sports. The Applicant acquired the Hall in June 2015 and various event commitments ceased at the end of March 2016. It is now vacant. It was designated an Asset of Community Value on 10 August 2015 under the Assets of Community Value (England) Regulations 2012 and the Localism Act 2011.

³ Document ID2 Drawing No 15.01.01 Revision A

⁴ Documents ID7 and EC2

9. Prior notification for the demolition of the existing building Ref A/15/81366/DEM was refused on 2 October 2015 on the grounds that the Applicant had failed to submit sufficient information of the arrangements for site demolition in respect of vehicular access to the site, including hours of vehicle movement, and for the subsequent site restoration, treatment and security of the cleared site, in order to demonstrate that the demolition would not result in significant detriment to the amenity of neighbouring residents and visitors. The current application for prior approval was submitted to the Council on 25 November 2015 and was considered by the Council's Planning Committee on 19 January 2016. Prior to the Council issuing its decision notice, the SofS called in the application.

The Proposal

10. The proposal is to demolish Formby Hall with the intention to submit a planning application for the redevelopment of the site. The application was made under Part 11, Class B of Schedule 2 of the GPDO for a determination as to whether the prior approval of the LPA is required as to the method of demolition and any proposed restoration of the site.

The Case for the Applicant

I have reported the case on the basis of the proofs of evidence⁵ with additional references to the evidence given orally during the Inquiry. The material points are:

11. The application is regarding the determination as to the method of demolition and the proposed restoration of the site, given that the LPA has required prior approval. The report to the LPA Committee meeting of 19 January 2016 recommended approval and the members voted 9 to 3 to allow the demolition on the basis that the material submitted with the application was sufficient.
12. There are a number of areas of frustration regarding the call in of the application prior to its determination. Firstly, such a procedure is intended to be used for cases that involve planning issues that are more than local importance, and this case does not come within that definition. Secondly, it has resulted in the need to hold a full public inquiry scheduled for 2 days. Also, it has given local people an inappropriate impression of what the procedure is for, as their repeated request to look at how Formby Hall could be re-opened for use by the community is not before the Inquiry.
13. The determination of the application should not include the value of Formby Hall to the community, the conduct of the LPA when selling the hall, the impact of any covenants on the hall, or the hall's designation as an Asset of Community Value. It should only be confined to the issues of its method of demolition and the proposed restoration of the site.
14. The evidence regarding the methodology is from Inglenorth (Contracting) Ltd, which is an experienced company in the demolition industry and has fully Compliant Corporate Membership of the National Federation of Demolition Contractors, with additional accreditations to other relevant organisations⁶. This company produced an Outline Demolition Health & Safety Plan⁷ (Outline Plan) to

⁵ Documents EA2 and EA3

⁶ Document EA2 paragraphs 1.2 to 1.5

⁷ Document ID2

- accompany the application. The Outline Plan includes letter drops to all neighbouring residents; time restrictions for working on site as being between 0930 hours and 1800 hours on Mondays to Fridays and not at all on weekends; and task specific methodology with Asbestos Clearance Certificates having to be issued prior to works commencing, a procedure for dealing with unidentified suspected asbestos and the use of water as a dust suppressant during demolition. The contract duration for the demolition has been given as three weeks. There is also an accompanying drawing that identified site access and egress, the area of demolition, a site compound, parking and welfare facilities.
15. In terms of respirable crystalline silica (RCS), reference is made in the Outline Plan to the Health and Safety Executive (HSE) COSHH data sheets, and CN4 deals with this matter⁸. Asbestos is dealt with under the Control of Asbestos Regulations 2012, as amended⁹. The noise would be controlled by the machinery having to conform to the British Standards and by the restrictions on the hours of operation. The hours of working, with no deliveries to and from the site before 0930 hours, between 1200 hours and 1300 hours and between 1500 hours and 1600 hours, would ensure that peak traffic times would be avoided, including when the nearby nursery on Alderfold Street is accessed. The site would be secured by hoardings, which would be retained and maintained following demolition. This would prevent the use of the site for unauthorised private car parking¹⁰. The demolition works would be coordinated to ensure that access to the adjacent football ground would not be restricted when required for matches¹¹.
 16. An e-mail, dated 2 December 2015 and included with the application¹², gives an indication of the restoration of the site. It states that any basements will be filled in with demolition material and the building footprint blinded with smaller material using on-site crushing equipment to reduce vehicle movements.
 17. The application was also accompanied by an ecological survey, dated 31 December 2015¹³ and an addendum to the demolition methodology to take account of the survey¹⁴. The survey concludes that no bats or signs of bats were found during the site inspection, but it, and the addendum, indicates that a further bat survey would be carried out prior to demolition and that work would stop if bats are found during demolition to enable advice from Natural England to be sought. The Outline Plan allows for an ecological appraisal bat roost survey to be undertaken prior to any works on the site.
 18. The application and the accompanying documents were considered by the Council. Its highway and environmental health officers had no concerns.
 19. With regard to the Framework, paragraph 32 is not applicable as the demolition works would not generate significant amounts of vehicle movement; the ecology of the site has been referred to in accordance with paragraph 109; and the noise

⁸ Document EA2 accompanying document

⁹ Oral evidence given by Bill Hill at the Inquiry

¹⁰ Oral evidence given by Julie Clark at the Inquiry

¹¹ Oral evidence given by Bill Hill at the Inquiry

¹² Document ID3

¹³ Document ID4

¹⁴ Document ID5

from the site would be limited to only three weeks and the specified times of working, to minimise any adverse effects referred to in paragraph 123¹⁵.

20. Compliance with paragraph B.2(b)(viii)(aa) of the GPDO would ensure that the demolition would be carried out in accordance with the documentation accompanying the application. The evidence that has been provided has addressed the appropriate issues that are given in the GPDO. The methodology that has been given is sufficient for the site. It has been compiled by an experienced demolition expert and considered by highly qualified planners, with the recommendation to grant permission under prior approval.

The Case for the Council

I have reported the case on the basis of the opening submission and proof of evidence¹⁶ with additional references to the evidence given orally during the Inquiry. The material points are:

21. Schedule 2 Part 11 Class B of the GPDO provides that any building operation consisting of the demolition of a building is permitted development but, before commencing any demolition, the developer must apply to the LPA for a determination as to whether prior approval of the LPA will be required as to the method of demolition and any proposed restoration of the site. Due to, amongst other things, the proximity of residential properties to the site the Council considered that prior approval was required. The prior approval issues are the two issues that the Council's Planning Committee could consider and were asked to consider, and they are the only issues for the Inquiry to consider.
22. It is not within the Inquiry's remit to consider whether Formby Hall should, or should not, be demolished, how or why the Council came to sell Formby Hall, any covenants relating to the use of the building, its status or whether it is an asset to the local community.
23. The decision to call in the application is extremely surprising, having regard to the SofS's policy on calling in. The Council requested to receive more information about the SofS's decision, bearing in mind the application received objections from Councillors, CAMRA, Atherton Residents' Association (ARA) and just 14 residents. The proposal does not conflict with national policies on important matters, does not give rise to national controversy and does not involve the interests of national security. The SofS has identified the specific policies in the Framework which were apparently relevant to the proposal¹⁷. In terms of these policies, paragraph 17 are the core principles, paragraph 32 is only relevant in terms of the need to ensure safe and suitable access to the site can be achieved for all people; paragraph 35 has very limited relevance; paragraph 109 states that the planning system should contribute to and enhance the natural and local environment, with none of the bullet points being particularly relevant; and paragraph 123 is related to noise.
24. Whilst noise did not appear to be a concern of any objectors to the application, the evidence demonstrates that the proposal would not give rise to any

¹⁵ Oral evidence given by Julie Clark at the Inquiry

¹⁶ Documents EC2 and INQC1

¹⁷ Document INQA1

significant adverse impacts and the effects would have a minimum impact on local residents. The building is of modest scale and its setting does not impose any unusual circumstances from those that apply to many other buildings which are demolished. The submitted Outline Plan has been prepared by an established demolition contractor and sets out measures which would be taken to reduce any likely impacts.

25. The measures that are included are:

- the installation of security fencing and barriers;
- the establishment of exclusion zones to segregate areas of demolition operations;
- the carrying out of a full asbestos survey to ensure that all asbestos containing materials would be removed prior to demolition, in accordance with an Asbestos Clearance Certificate;
- limiting hours of operation and commercial vehicle movement to reduce any conflict with peak nursery times;
- providing letter drops to neighbouring properties and including details of a site supervisor to liaise with residents;
- the use of water as a dust suppressant; and
- the provision of areas within the site for vehicle parking.

26. In addition to the controls imposed by means of the prior approval process, any site operator would also need to comply with requirements under the Building Act 1984 and the Construction (Design and Management) Regulations 2015.

27. With regard to highway impacts, the proposed works are expected to last for a period of three weeks. The Council's Highway Engineer has confirmed that both Alder Street and Rowland Street North are of sufficient width to permit construction traffic to pass in the centre of the carriageway without the need for additional temporary parking restrictions and that the existing Prohibition of Waiting Order at the Alder Street and Rowland Street North junctions would afford visibility to motorists and assist vehicle movements. The access to the site already serves a commercial garage operation and has recently served as a vehicular access for construction traffic to a residential development site to the south of Rowland Street North. Also, the site includes large areas of hardstanding that can readily accommodate vehicle access and manoeuvring. Therefore, appropriate vehicular access could be obtained without detriment to amenity or highway safety.

28. In terms of protected species, the submitted bat survey concluded that there was no evidence that the building is, or has been, frequented by bats and that it is unlikely that, if required, an appropriate licence would not be granted by Natural England. The greater Manchester Ecology Unit considered the ecological report and advised that, as long as the Applicant includes information in the supporting statement to reference the need for further surveys to be carried out before any demolition work as a precautionary measure, prior approval should be granted. In the light of the information given and this advice, there are no grounds to refuse the application in terms of impact upon protected species.

29. The proposal is non-contentious in planning terms. The proposed demolition would be straightforward and the evidence provided by the Applicant was more than sufficient for the Council's Planning Committee to approve the application and remains so for a recommendation to the SofS that prior approval should be granted.

The Cases for the Objectors

I have reported the cases on the basis of the evidence given orally during the Inquiry and documents provided prior to the Inquiry¹⁸. The material points of the cases made are:

Atherton Residents' Association (ARA)

30. Stuart Gerrard, as Chair of ARA, and Anthony McCrory, as a member of ARA, gave oral evidence at the Inquiry. The main issues raised by ARA at the Inquiry were regarding the sale of Formby Hall by the Council and the covenant on it that ARA claimed is relevant to the prior approval in that it should give the Council powers to prevent the demolition. Clauses 12.3.1 and 12.3.2 of the covenant¹⁹ restrict the use of the property to social entertainment, sporting, leisure and cultural purposes and ancillary use for welfare, social care and linked social enterprise activities.
31. With regard to the sale of Formby Hall, ARA has suggested that it has about 3,000 members that support the retention of Formby Hall, and a petition has been signed by about 4,700 people. It has provided evidence²⁰ that it had shown an interest in acquiring Formby Hall from its current owners. Any plans for the future of the site would be affected by its designation as an Asset of Community Value. Wigan Local Plan Core Strategy (WLPCS) Policy CP3 is regarding 'Community Facilities' and part 4 only allows development that would result in the loss of a community facility when either it can be demonstrated that there is no longer a need for the facility or an alternative facility of equivalent or better standard will be provided²¹. The loss of Formby Hall would be contrary to this policy in that it is the Council's responsibility to replace the community facilities offered by the hall should it be demolished.
32. The Council's Planning Committee in January 2016 faced resistance to the demolition and queries were made at the meeting regarding bats, silica, traffic and disruption during the demolition but no site visit was made by the members prior to them deciding to agree to its demolition. No answer had been given regarding how the silica would be dealt with, which is particularly important given that there is a children's nursery near to the site.
33. In terms of the restoration of the site, there are no plans of what will replace the building. Any proposals for the replacement could have amenity issues. It will therefore be necessary to address what would go on the site after demolition. It is wrong to demolish the building without there being a proposed replacement of the community asset. The building has been neglected and no money has been

¹⁸ Documents EO2 and EO3

¹⁹ Document EO1

²⁰ Document INQO1

²¹ Document EO1

put into it. Also, its demolition would set a precedent for other civic buildings to go.

Formby Hall Community Trust (Atherton) Ltd (FHCTAL)

34. Norman Bradbury, as the Chair of FHCTAL gave oral evidence on behalf of that trust, which was originally set up to operate the hall and continued as a charitable association to assist groups in the rental of the hall. FHCTAL is concerned about the speed of closing down the hall, with only 2 weeks' notice being given. This has led to problems with deposits and finding alternative venues. The Atherton area has a population of about 20,000. There are no suitable large community halls available in that area as an alternative to those users. The Council should address this situation should Formby Hall be demolished.

Anthony Waite

35. Anthony Waite gave oral evidence²² as a local resident and stated that he is Vice Chair of ARA. He agreed with the arguments put forward by ARA. In addition, he stated that Formby Hall was gifted to Atherton Town in 1917 and the town, by the raising of funds by individuals, extended the building with two side halls that were gifted as a 'permanent contribution of the town' to the Festival of Britain. It would be wrong to demolish the building without reference to the people that it was given to.
36. He has suggested that the residents of Rowland Street North had not been properly informed and do not wish the demolition to go ahead, irrespective of what building would replace Formby Hall on the site. It has been difficult to obtain the required information from the Council, even from a Freedom of Information request, to enable a comprehensive case against the demolition to be put together.
37. Reasons given for the objection to the demolition are regarding the effect of noise, dust and asbestos on the health and wellbeing of residents of Rowland Street North, who are located about 11.5 metres from the building, and those on High Street; and the effect of traffic generated by the demolition on the safe use of Rowland Street North, Alder Street and High Street. High Street is a major pedestrian route to a number of local schools, is on a bus route and has had many works carried out along it. There is a car repair yard abutting Formby Hall and the additional traffic due to the proposed demolition of the hall on a narrow road network would result in overloading that network and congestion.

Written representations were made at the Inquiry and application stage which reflect the above mentioned points²³. The following additional comments were made about the demolition:

38. There is nothing in the Outline Plan about how the site would be adequately secured to prevent access by children or any other unauthorised access outside working hours, which is a matter covered by the HSE guidance. The Outline Plan does not address the safety issues of plant usage and manual demolition works during the times when children are likely to be accessing the nearby day nursery.

²² Document INQO2

²³ Documents ID6 and EO1

The only method given for the protection of the public from RCS during demolition is using water and the Outline Plan is not specific about how this would be achieved outside working hours when the site dries out.

39. With regard to the bat survey, it does not mention the wooded area with a stream and a green corridor to other wild areas adjacent to the site. South Lancashire Bat Group has records of three bat species active within 1 km of Formby Hall and there are three known roosts in the area, which are classed as maternity roosts. It says that it is possible that there may already be bats hibernating in the building in the winter.

Inspector's Conclusions

The numbers in square brackets [] refer back to earlier paragraph numbers which are relevant to my conclusions.

40. The application for prior notification of the proposed demolition of Formby Hall is to be decided in accordance with Part 11, Class B of Schedule 2 of the GPDO. Based on the evidence provided by the Council, I am satisfied that prior approval is required, particularly given the location of the building relative to the public highway and that there are residential properties and a children's nursery near to the site of the building. The prior approval issues are given in paragraph B.2(b)(i)(aa) of Schedule 2 Part 11 of the GPDO as being the method of demolition and any proposed restoration of the site. These are the only issues covered by that paragraph of the GPDO. As such, they form the main issues that should be considered in the determination of this application. **[4, 5, 6, 10, 11, 13 and 21]**
41. With regard to the main issues, the Applicant has submitted an Outline Plan, an e-mail that gives additional information on the restoration of the site, an ecological survey and an addendum to the demolition methodology which form the basis of the supporting information to the application. These documents were considered by the Council's Planning Committee on 19 January 2016 when it resolved that it would approve the application. They should also be the documents to be considered as providing the details to be approved with the prior approval under paragraph B.2(b)(viii)(aa). **[6, 14, 16, 17 and 20]**
42. The effects of the demolition on amenity, noise, access and safety are addressed in the documents accompanying the application. In this respect, I am satisfied that the demolition would be on a relatively small scale, would not involve anything that would be exceptional and would be adequately covered by the details provided in the documentation. Compliance with these details would ensure that residents would be suitably notified, there would be limited disruption to those living and working in the area, including accessing the nearby children's nursery, and the demolition would be carried out in a safe manner with any likely pollution from RCS, asbestos or noise appropriately controlled under the relevant guidance and legislation. Based on the existing use of the roads that have been identified for access to and from the site, the methodology for demolition that includes strict limits on delivery times and the relatively short period of three weeks for the works, which have not been disputed, I am satisfied that the proposal would not have any significant harmful effect on highway and pedestrian safety. **[14, 15, 23, 24, 25, 26, 27, 29, 32, 36, 37 and 38]**
43. There have been no objections to the application from the Council's Highway Engineer or Environmental Health Officer. With regard to concerns about the effect of the proposal on bats, the ecological survey and addendum to the methodology, as well as the Outline Plan, all make provisions for additional surveys prior to demolition. The documents also indicate that there would be consultation with Natural England should bats be found on the site. As such, the proposal has made sufficient provision to deal with protected species to ensure that it would comply with the relevant legislation. **[6, 17, 18, 27, 28 and 39]**
44. The restoration of the site should be relatively straightforward, given the scale of the buildings and what I observed at my site visit. Therefore, I find that the

details provided would be adequate to ensure that the site would be restored and maintained in a safe and secure condition until such time that it would be redeveloped. The restoration of the site does not need to include for proposals for its future use, which the evidence suggests are at a relatively early stage. **[10, 16 and 33]**

45. Turning to the Government policies, which are within the Framework, I am satisfied that the proposal would represent sustainable development in accordance with the Framework, as it would be in accordance with those relevant policies. The details have identified a safe and suitable means of access to the site that is currently used by vehicles, ensuring compliance with paragraph 32. Paragraph 109 would be complied with by the provisions that would be made to protect species before and during the proposed works and the measures that would be in place to control air and noise pollution. The effect of noise under paragraph 123 should not be a major issue, given the controls that exist over noise from machinery and the restrictions that would be placed on the hours of working. Furthermore, noise has not been given as a reason for objection. **[7, 19, 23 and 24]**
46. In terms of the objections that have been given at the Inquiry and those in writing in response to the application and the Inquiry, most are regarding matters that are not to be considered as part of the determination of this application. Although ARA and many other objectors have expressed their concerns about the sale of Formby Hall, the effect of the covenant on its use and demolition, the lack of compliance by the Council with WLPCS Policy CP3, proposals for any redevelopment of the site and the designation of the building as an Asset of Community Value, none of these matters come within the remit for consideration under the prior approval for demolition of a building under the GPDO. I have therefore attached no weight to them in reaching my recommendation on the determination of this application. **[8, 13, 22, 30, 31, 33, 34 and 35]**
47. I have considered the objections to the method of demolition and the restoration of the site under the previous paragraphs in my conclusions and conclude that the concerns are not supported by sufficient substantive evidence to outweigh the evidence provided in support of the demolition methodology. I am satisfied that those objections based on the effect of the proposal on bats would be adequately dealt with by the requirement for an additional survey prior to demolition and the measures that would be taken in the event that bats would be discovered on the site. With regard to the local residents being informed of the demolition, it has not been disputed that the Applicant has complied with the statutory procedures, including notification, and I am satisfied that the appropriate procedures have been taken. **[3, 36, 37, 38 and 39]**
48. My overall conclusion is that the Applicant has submitted sufficient evidence to demonstrate that the demolition of Formby Hall would be carried out in a safe manner that would minimise its effect on the environment and local amenity and that the proposed restoration of the site would be acceptable. Therefore, having taken all relevant issues into consideration, I find that prior approval should be granted.

Recommendation

49. I recommend that approval be granted under the provisions of Schedule 2, Part 11, Paragraph B.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the demolition of Formby Hall at Alder Street, Atherton, Wigan M46 9EY in accordance with the details submitted pursuant to Schedule 2, Part 11, paragraph B.2(b)(viii)(aa) of the GPDO.

M J Whitehead

INSPECTOR

APPENDIX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Simon Ward	Solicitor, Wigan Metropolitan Borough Council
He called	
Graham Dickman MRTPI	Development Manager, Wigan Metropolitan Borough Council

FOR THE APPLICANT:

Anthony Gill	Of Counsel, instructed by Clark Planning Consultants Ltd
He called	
Bill Hill	Health and Safety Coordinator, Inglenorth (Contracting) Ltd
Julie Clark BA(Hons) MCD DMS MRTPI	Director, Clark Planning Consultants Ltd

OBJECTORS:

Stuart Gerrard	Chair, Atherton Residents' Association
Patrick McCrory	Member, Atherton Residents' Association
Norman Bradbury	Chair, Formby Hall Community Trust (Atherton) Ltd
Anthony Waite	Local resident

APPENDIX B: DOCUMENTS

Initial Documents

ID1	Copy of the application
ID2	Outline Demolition Health & Safety Plan by Inglenorth (Contracting) Ltd and plans accompanying the application
ID3	Copy of e-mail from Clark Planning Consultants Ltd, dated 2 December 2015, regarding restoration proposals
ID4	Ecological survey by Ecology Services UK Limited accompanying the application
ID5	Addendum to previous demolition methodology to take account of recent Ecological Survey, January 2016
ID6	Copies of correspondence in response to the application
ID7	Council's Committee Report, 19 January 2016
ID8	Copy of Notice of the time and venue for the Inquiry

Evidence submitted prior to the Inquiry opening

	<i>Wigan Metropolitan Borough Council</i>
EC1	Statement of Case of Wigan Metropolitan Borough Council
EC2	Proof of Evidence of Graham Dickman

	<i>Applicant</i>
EA1	Statement of Case of the Applicant and Appendices 1 to 3
EA2	Proof of Evidence of Bill Hill and accompanying documents
EA3	Proof of Evidence of Julie Clark

	<i>Objectors</i>
EO1	Letters in response to the call in of the application
EO2	Evidence submitted by Atherton Residents' Association
EO3	Evidence submitted by Anthony Waite

Documents submitted at the Inquiry

	<i>General</i>
INQ1	Attendance Sheets
	<i>Wigan Metropolitan Borough Council</i>
INQC1	Opening Statement of Wigan Metropolitan Borough Council
	<i>Applicant</i>
INQA1	Correspondence between the Department for Communities and Local Government and Wigan Metropolitan Borough Council regarding the call in of the application
	<i>Objectors</i>
INQO1	Copy of e-mail from Formby Hall Ltd to Mr Gerrard, dated 20 January 2016
INQO2	Copy of statement given orally by Anthony Waite



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. 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 APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

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 Inspector's report of the inquiry or hearing within 6 weeks of the day after 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.