



Appeal Decision

Hearing Held on 25 June 2019

Site visits made on 24 and 25 June 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2019

Appeal Ref: APP/R2520/W/18/3208199

St George's Academy, Westgate, Sleaford NG34 7PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Wayne Birks (St George's Academy Trust) against the decision of North Kesteven District Council.
 - The application Ref 16/0764/FUL, dated 27 June 2016, was refused by notice dated 31 January 2018.
 - The development proposed is described as "St George's Academy Trust aspires to build an integral swimming pool located on the north side of the existing main campus, over existing tennis courts. The 6-lane, 25 m competition-level pool will have spectator seating and a fitness suite at first floor. The facility will serve the Academy, other schools and the community at large, programmed and run to complement the existing Leisure Centre in Sleaford".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's submissions include a Community Sports Facilities Business Plan, dated July 2018, which supersedes the earlier reports considered by the Council¹. The appellant requested that the appeal be considered on the basis of the more recent Business Plan. As all parties present at the hearing had the opportunity to address that new document in their submissions and at the hearing, I have considered the appeal on the basis of the July 2018 Business Plan.

Main Issue

3. The main issue is the effect of the proposed development on the provision of sports and recreation facilities in the area.

Reasons

Background

4. The proposal relates to a building accommodating a 6 lane, 25m swimming pool, a 36 station health and fitness suite, and associated facilities, at

¹ An earlier Business Plan, and the Swimming Pool Programming and Budget Report prepared by the Amateur Swimming Association (now Swim England).

St George's Academy, close to Sleaford town centre. The pool would be designed to competition standards, including spectator and competitor seating, starting blocks and timing touch pads. The building would be constructed on an area of the school site which is laid out as four tennis courts and which, the main parties agreed, is defined as playing pitch.

5. Sleaford Leisure Centre (SLC) has an existing 5 lane, 25m long pool, currently used for swimming lessons and general swimming, and a smaller splash pool for very young children which is not suitable for swimming lessons due to its diminutive size. There is a further, smaller pool at the Better Gym Sleaford which is also used for swimming lessons, as well as general swimming.

Policy context

6. Policy LP1 of the Central Lincolnshire Local Plan (the Local Plan) sets out that at the heart of the strategy for Central Lincolnshire is a desire to deliver sustainable growth that brings benefits for all sectors of the community.
7. As a material consideration, the National Planning Policy Framework (the Framework) is also relevant, including paragraphs 96 and 97 c). The latter in particular, as it deals with the loss of sports and recreational land. It states that sports and recreational land, including playing fields, should not be built on unless the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
8. The Framework also states, at paragraph 92, that planning decisions should guard against the unnecessary loss of valued services and facilities and ensure that established facilities and services are retained for the benefit of the community.

Tennis courts

9. The development would result in the removal of sports and recreational land, as referred to in Paragraph 97 of the Framework. That area is currently laid out as 4 tennis courts, or could alternatively be used as 2 netball courts. The existing courts are not apparently used as part of the Academy's current curricular or extra-curricular programmes. If the appeal scheme were implemented, the four tennis courts (or 2 netball courts) which would remain adjacent to the appeal site would appear to cater for the school's current needs.
10. The Academy's existing courts are available for public or community use. The appellant, the Council and Sport England agreed that the effects on local sports provision arising from the loss of the area's current use as four tennis courts would be very limited. I have no substantive reason to doubt this given the evidence before me regarding the limited range of bookings and the availability of other tennis courts nearby.
11. However, whilst the current implications of removing those existing tennis courts would be limited, the development of that area would nonetheless result in the loss of a sizable area of sports and recreational land, and thus the potential for that area to be used for alternative sports and recreational provision in the future, a matter which Sport England identified as a particular concern. Therefore, having regard to the requirements of paragraph 97 c) of the Framework as a material consideration, I conclude that the quantitative

loss of playing pitch provision would be a matter of notable weight to be weighed against the benefits of providing a swimming pool and fitness centre.

12. Sport England's Playing Fields Policy and Guidance (the Sport England Guidance) provides further advice with regard to proposals affecting playing pitches. Exception 5 of the Sport England Guidance reflects and provides supplementary guidance with regard to the requirements of paragraph 97 c) of the Framework. On that basis, and as guidance from a statutory consultee, both main parties agreed that a high degree of weight should be afforded to the Sport England Guidance. I agree, and have afforded the guidance a high degree of weight as a material consideration accordingly.
13. The Sport England Guidance sets out that the benefits of a new sports facility may include whether it meets an identified local or strategic need (rather than duplicating existing provision), fully secures sport-related benefits for the local community, or improves the delivery of sport and physical education on school sites. It states that the loss of an area of playing field would be unlikely to be acceptable if the proposed facility does not clearly meet an identified local or strategic need.

Swimming pool and fitness centre – school provision

14. A recent report commissioned by Swim England's Swimming and Health Commission² sets out that promoting swimming in childhood is the optimal time to provide a positive experience for children to begin the swimming journey and that being able to swim, swimming regularly, and swimming as part of daily community life can have considerable health and wellbeing benefits.
15. The pool would be dedicated to school use between 9.00 and 17.00 on weekdays during term time. The Academy would occupy around 22 hours of pool time within those periods. The evidence before me indicates that only three thirty-minute slots per week are available at the existing pools in Sleaford for the Academy's use. This would not accommodate the 22 hours required. The proposed pool would therefore address this need, and would represent a notable benefit to over 2000 students who attend the Academy.
16. However, the appellant has not investigated to any degree the potential of there being demand from other local schools to use the proposed pool during those hours of 'school use' when it was not being used by the Academy. Therefore, in the absence of any apparent evidence that the pool would provide a wider benefit to other schools, I afford only moderate weight to the benefits of the proposed pool in terms of wider educational provision.
17. Furthermore, whilst the Academy's students would benefit from the pool and from the fitness centre, which would also be available for use by Academy students during school hours, those benefits would only accrue if the proposed development were to be sustainable and viable.
18. The Academy would not be able to financially sustain the pool and fitness centre solely for its own educational use. In addition to those hours identified for school use, the swimming pool would therefore be open and available for wider community use for over 45 hours per week during term time, and for around 100 hours per week during the 11 weeks of school holidays, to

² The Health and Wellbeing Benefits of Swimming, June 2017.

generate the income necessary to cover the running costs of the facility. Those hours of community use would therefore amount to a significant proportion of the total hours of use of the proposed development.

19. The appellant's Business Plan includes timetables, and income and expenditure projections, based on the anticipated use and running costs of the pool and fitness centre, including those hours and types of community use proposed. Those financial projections indicate that the development would generate only a very small surplus, of £6273 in the first year, rising to £6793 in year 5.
20. The Academy could not cover any deficit, were this to occur, out of its educational budget due to spending restrictions on that budget, and no alternative suggestion was offered as to how any possible deficit might be covered from any other budget or funding. The appellant confirmed that a reduction of just 1.5% in the revenues anticipated in the Business Plan would result in that small surplus becoming a loss. Therefore, given the heavy reliance on community use to cover the running costs of the facility, there would be a significant risk to the sustainability of the facility and its ability to deliver the benefits I have referred to above, if the anticipated levels of demand and community use have been overestimated, even to a limited degree.

Swimming pool – community provision

21. Recent strategies produced by the Government and Sport England³ refer to a shift in the focus of national policy towards encouraging greater numbers of inactive people to become active, and to the benefits of engaging those groups that typically do little or no activity.
22. As the pool would be built to competition standards, it would provide a different offer to existing pools in Sleaford. However, those hours identified for competition training and events in the Business Plan are very limited as a proportion of the total hours of community use, and I have no compelling evidence before me to suggest that any further demand for competition swimming has been identified beyond those hours. The appellant has held discussions with Lincoln Pentaqua Swimming Club (LPSC), which is based in Lincoln, but has members who live in Sleaford. LPSC has identified that a competition standard pool in Sleaford would allow its Sleaford-based members to train without travelling to Lincoln, and allow LPSC to expand and attract members from a wider area.
23. On that basis, LPSC has advised that it would sign up for 15 hours of club training time each week, and that it would also provide swimming lessons at the pool, covering a further 10 hours per week. Time has also been identified for gala events for LPSC on Saturday evenings, although those four hours per week would be during term time only.
24. The appellant has investigated potential demand for its pool by other swimming clubs. However, there has been little further interest expressed beyond that from LPSC. Sleaford Swimming Club use the existing SLC pool for training but were not looking for additional training hours, or necessarily for a pool for events. Sleaford Triathlon Club currently use the pool at RAF Cranwell and advised that they may relocate to the proposed pool if pricing was more

³ Sporting Future: A New Strategy for an Active Nation (2015) and Sport England: Towards an Active Nation Strategy 2016-2021

- favourable. However, that would represent displaced demand, rather than providing for a demand which is currently unmet.
25. There is an apparent absence in the provision of some other water-based activities in the district. However, whilst some very limited hours for lifesaving and sub aqua have been included in the Business Plan, the appellant accepts that they have not carried out specific research into whether there is an expressed or unmet demand for those or other similar activities in the area. The development of the pool and the availability of potential for such uses, and for competition swimming may, in itself, generate some demand beyond that currently identified. However, on the basis of the evidence before me I cannot be certain that this would be the case, and therefore this is a matter of limited weight as a benefit.
 26. For the majority of its opening hours, and particularly during school holidays, the pool would therefore be very reliant on general or lane swimming, which is similar in nature to the provision available at existing pools in the area. Given the very marginal operating surplus anticipated, the success and sustainability of the development would therefore be very vulnerable to reductions in its income in the event that demand for such provision has been overestimated.
 27. The evidence base for the relatively recently-adopted Local Plan included the Central Lincolnshire Indoor and Built Sports Facilities Study, dated June 2013 (the 2013 study). It was prepared as part of an earlier, withdrawn, draft Core Strategy. However, an update in October 2015 confirmed that the 2013 study was considered still relevant as evidence to support the subsequently-adopted Local Plan. It is therefore a useful document for the purpose of my assessment.
 28. On the basis of the 2013 study, and having regard to the housing growth in the Sleaford area and the wider district over the plan period, the Local Plan did not identify a need, or make any specific allocations, for any additional water space provision within the district across that period. On that basis, and in the absence of any subsequent updated study from the Council, the proposed development would appear not to meet an identified strategic need for additional provision, as set out in the Sport England Guidance.
 29. Whilst identifying some unmet demand for swimming provision in the district, the 2013 study identified that over 95% of that demand arose from areas of the district which were outside the 20 minute drive time catchment area of any existing pool, including those in Sleaford. The catchment area for a competition pool would be slightly greater than the 20 minute drive time catchment of a standard pool. However, as most of the pool's timetable is proposed as general, rather than competitive swimming, any contribution it would make towards addressing that element of unmet demand would be limited.
 30. With regard to unmet demand within the Sleaford catchment, advice from Sport England⁴ states that the Facilities Planning Model used in the 2013 study, whilst useful as a baseline, should be combined with locally derived information and knowledge to correctly assess and build a picture of provision in an area. On that basis, and recognising the age of the 2013 study, the appellant has carried out further modelling and assessment of existing provision in the area.

⁴ Assessing Needs and Opportunities Guide for Indoor and Outdoor Sports Facilities: How to Undertake and Apply Needs Assessments for Sports Facilities.

31. That further assessment identified deficiencies in the availability of some of the existing pools within the Sleaford area which are included in the supply figures in the 2013 study. Those include 3 outdoor pools, which are weather-dependent and therefore not available all of the time, and a further pool at RAF Cranwell where access was limited for security reasons. The Council accepted that the outdoor pools were of limited strategic value but identified that the RAF Cranwell pool could still play an important role in club swimming provision. Furthermore, whilst recognising some errors and omissions in the areas of water space identified in the 2013 study, the Council confirmed that those errors would result in the study having underestimated overall provision, rather than overestimating it. That conclusion was not disputed by the appellant at the hearing.
32. Sleaford has a relatively youthful population compared with other parts of the district, and sports participation rates in the district are slightly higher than the national average. Based on other Sport England data sources, the appellant's study concludes that swimming participation levels in the area have remained relatively stable, against a national trend of declining population. The study also concluded that there was a level of latent demand for swimming, including swimming lessons, from existing residents who do not currently participate in swimming but who may if improved provision was available for example.
33. However, the appellant's estimate of anticipated population growth associated with planned housing growth in Sleaford is around 700 people higher than the Council's estimate, introducing some uncertainty into assumptions based on those figures in the event that they have been overestimated by the appellant. Also, across the range of years reviewed by the appellant, the Sport England data suggested that participation rates had remained relatively stable, whereas the Council's review of that data showed that those participation rates actually fell in more recent years. The data range is limited, but nonetheless suggests that there are fluctuations in the levels of participation, introducing further doubt into the reliability of the figures relied on by the appellant.
34. The differences in assumptions and conclusions between the main parties may be limited in some respects. However, they introduce further uncertainty into the robustness and reliability of the appellant's modelling, and thus the assumed revenues in the Business Plan.
35. Furthermore, a recent Council study of swimming lesson supply and demand based on survey evidence from Sleaford's existing pools found that there was sufficient capacity within those pools to accommodate existing demand, and thus no existing latent demand for swimming lessons in the catchment area. The study also concluded that demand would likely increase in the future, but that there was spare capacity at existing facilities to accommodate a growth in demand. Interested parties have indicated the presence of waiting lists, and difficulties accessing swimming lessons in Sleaford. However, this is a limited sample, and does not represent substantive evidence of sufficient weight to contradict the Council's findings in that respect. I therefore give limited weight to the appellant's anticipated demand for the use of the proposed pool for swimming lessons.
36. The 2013 study found that the SLC pool is a busy pool, and is likely to become busier in future years, including as a result of planned housing growth. Anecdotal evidence from other interested parties refers to difficulties accessing

general or lane swimming at the SLC pool at certain peak times, and to the Better Gym pool also being busy at certain times. The Council acknowledged that, on occasions it had been necessary to restrict visit times to the SLC pool. However, the Council set out that such instances had been irregular, and limited to Sunday mornings. Nonetheless, the evidence before me suggests that the existing pools in Sleaford are busy at certain times, and are likely to become more so as a result of planned housing growth.

37. The appellant has indicated an intention to work with the local authority to ensure that the proposed pool would complement, rather than duplicate, existing provision as far as possible. One of the main aims of the appellant's Community Use Agreement is operating usage programmes that complement and supplement those run at other local swimming pools. In the context of the existing and likely future situation at the SLC pool in particular, there would be some scope for the proposed pool to create additional flexibility and capacity in swimming provision in the town, which would be of moderate benefit to the community.
38. However, little detail has been provided to demonstrate how complementary programming might operate in practice, including with regard to where there might be scope for the existing and proposed pools to provide differing provision at certain times, what proportion of the proposed community use hours would be used for activities differing from those of existing pools, and where there would be overlap. Furthermore, in the light of doubts raised by the Council regarding the appellant's assumptions relating to demand, there is a notable risk of some of the likely visitor numbers having been overestimated. There is therefore a risk that the benefits of the proposed development in terms of making complementary provision, rather than duplicating existing provision, may also have been overestimated.
39. As there is likely to be some overlap between the activities and facilities provided in the existing pools and the proposed development, it would draw some visitors away from those existing centres. However, substantive evidence has not been provided to demonstrate that the existing pools are operating on such a marginal basis, or that displacement from those well-known and established facilities would occur to the extent that it would result in the closure of, or significant underinvestment in, those existing facilities or the services they provide to the community.
40. However, given the reliance on a high proportion of the pool's use being similar to that of existing facilities, and the risk of demand and likely visitor numbers having been overestimated, I am not satisfied, on the basis of the evidence before me, that the anticipated revenues and surplus would be achieved. Given the very marginal surplus in the Business Plan figures for the proposed pool, and the vulnerability of that surplus to even a small reduction or fluctuation in income levels below those anticipated, the potential for those levels of demand, and the anticipated revenues, to have been overestimated is of significant concern in terms of the long-term viability of the proposed development.

Fitness centre – community provision

41. The appellant acknowledged that there were sufficient fitness stations in existing facilities to meet current and anticipated levels of demand. However, the fitness centre would include some equipment designed specifically for use by juniors, which existing facilities do not appear to provide. There would

therefore be some differentiation in the offer provided by the facility, and I give that moderate weight as a benefit in favour of the proposal. However, even if the fitness centre were to achieve its anticipated revenues, in the context of existing fitness provision in the area it is unlikely that those revenues would exceed those anticipated in the Business Plan, or that they would be sufficient to offset any deficit in swimming revenues which may arise in the event that demand for swimming provision has been overestimated.

Swimming pool and fitness centre – Business Plan incomes and expenditure

42. The anticipated revenues in the Business Plan include around £4000 annually from the use of the all-weather (AW) pitch. However, given its somewhat constrained size, and in the context of apparently larger and higher quality pitches elsewhere in the area, Sport England expressed reservations as to whether the AW pitch would attract new bookings, even if it were to be improved as part of the development as proposed. The appellant has not provided any substantive evidence to counter Sport England's concerns in that regard. This results in considerable doubt as to whether the AW pitch would make the projected £4000, which represents a significant proportion of the surplus anticipated in the Business Plan.
43. The appellant's assumptions regarding a number of the running costs of the proposed pool and fitness centre are based on Sport England figures from 2012. The figures have not been robustly adjusted to account for inflation between 2012 and 2018, when the Business Plan was drawn up. The costs based on the 2012 figures account for around 30% of the total expenditure in the Business Plan. The potential for those costs to have been underestimated as a result of not having accounted for inflation presents a significant further risk to the robustness of the Business Plan.
44. I have no alternative scenarios before me setting out how reductions in income or increases in costs could be offset by changes to staffing levels as suggested. Accordingly, the evidence before me does not suggest that any savings made in this way would be sufficient to offset any loss which may arise.

Swimming Pool and Fitness Centre - Conclusion

45. The swimming pool and fitness centre would provide a notable benefit to the Academy, although there is little apparent evidence of wider demand from other schools or benefit in terms of wider educational provision. The competition-standard pool would also provide some differentiation from existing pools in the area. However, there is limited evidence of an expressed demand for such a facility from existing clubs or that the proposed facility would clearly meet an identified local need in that regard. Its provision may result in further interest in the future. However, the evidence before me does not indicate that would be the case, limiting the weight I attach to that point.
46. The pool would provide some additional capacity, allow for greater flexibility in the use of water space in Sleaford, and could complement existing pools to some degree. It is unlikely that the provision of a new pool would result in the closure, significant loss or underinvestment in existing community facilities. However, on the evidence before me, I am not convinced that the level of demand for additional swimming provision, either in terms of general swimming for fitness, competition swimming, or other pool-based activities, is

sufficient to provide a robust basis for the assumptions made in the appellant's Business Plan.

47. Given the very marginal surplus anticipated in the Business Plan, even a small underestimation in demand could have significant implications for the viability and long-term sustainability of the facility. The income anticipated from the AW pitch is unlikely to remedy this, and the potentially significant implications of the running costs having been underestimated undermine the robustness of the assumptions in the Business Plan.
48. As the Academy would be unable to cover any deficit from its education funding, the possibility of the quality of provision suffering, of prices rising to a level beyond that which would be affordable by the whole of the community, or even of the facility closing, could not be ruled out. Given the detrimental implications for the quality and accessibility of sports provision for the Academy and the wider community in such an event, I cannot conclude with a reasonable degree of certainty that the facility would provide or secure sustainable long term benefits for the local community that would clearly outweigh the loss of the existing sports pitches.
49. The appellant provided a Community Use Agreement (CUA) in the form of a Unilateral Undertaking (UU), setting out how the Academy would work with the Council and user groups to formulate a programme and timetable for the use of the pool, with the aim of complementing existing provision. I am mindful of the Council's concerns regarding the CUA. However, even if agreement could be reached on those matters raised and if I was content that it met the tests in Paragraph 56 of the Framework, given my findings on the robustness of the Business Plan, I cannot be certain that the benefits to sport and to the wider community would be sustainable in the long term. The UU has therefore not proved determinative in this case.

Temporary removal of playing pitches during construction works

50. It is common ground between the parties that a temporary construction access from The Drove would represent the safest and most practical solution to providing construction access to the development site. To avoid damage to the trees around the site boundaries, that access would run across the existing AW pitch and two existing turf playing pitches in the school grounds, and would thus result in the loss of those pitches during the construction period.
51. However, that loss would be temporary and would not have significant implications for community sports provision, since those pitches are used predominantly by the Academy. The pitches would be reinstated, with improvements to surfacing and/or drainage, upon completion of the works. On that basis, neither the Council nor Sport England objected to their temporary loss, subject to the securing of alternative provision for the school during works as far as possible, and to those improvements being agreed and carried out. All parties agreed that those matters could be satisfactorily dealt with by condition. I agree with that conclusion, and that the overall benefits arising from the improvement of the pitches would be sufficient to offset the temporary impacts of their loss during construction.

Summary and conclusion on main issue

52. The removal of the existing tennis court use would have a limited qualitative effect in terms of sports provision for the Academy and the wider community. However, the development would result in the loss of a relatively large area of playing pitch which has the potential to serve other purposes for sport and recreation by the Academy or the wider community, a matter which carries notable weight in the consideration of the appeal proposal.
53. The health, social and wellbeing benefits of swimming are well-documented and acknowledged. However, those benefits would only be realised if the proposed swimming pool were to remain viable and sustainable in the long-term. In the absence of a robust business plan, I am not satisfied that the proposed swimming pool and fitness centre would be sustainable or deliver lasting, long-term benefits to the Academy or the wider community in this case. In the absence of certainty in that respect, the evidence before me is not sufficient to demonstrate that the proposed development would represent a benefit that would clearly outweigh the loss of the existing area of sports and recreation land, notwithstanding that its current tennis court use may be of relatively limited value.
54. The improvements to the playing pitches would offset the temporary loss during construction. However, those benefits would not outweigh the potential overall harm to sports provision that would arise from the loss of the area of playing pitch occupied by the existing tennis courts in the absence of a sustainable community and/or academic benefit.
55. In conclusion, the proposed development would not provide a sustainable benefit to the provision of sports and recreation facilities in the area which would clearly outweigh the loss of the current or former use. It would therefore conflict with the aims of Paragraph 97c) of the Framework, as set out above. The proposal would also conflict with Local Plan Policy LP1, which sets out a desire to deliver sustainable growth that brings benefits for all sectors of the community. Part of that is ensuring the provision or retention of sufficient infrastructure, including sports facilities. That would not be achieved if the existing playing pitch area was lost and replaced with a facility which was either not sustainable, or not affordable by all sectors of the community in the long term.

Conclusion

56. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons given, I conclude that the proposed development would conflict with Policy LP1 of the Local Plan, and there are no other considerations which outweigh this finding. It would also be at odds with the requirements of the Framework. Accordingly, for the reasons given, and having regard to all other matters raised, the appeal should not succeed, and is dismissed.

Jillian Rann
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Tony Ploszajski	Ploszajski Lynch Consulting Ltd
James Rigby	Globe Consultants Limited
Wayne Birks	Principal, St George's Academy
Dennis Freeman-Wright	Former Head of Facilities for Swim England (Retired)
Charlotte Lockwood	Roythornes Solicitors

FOR THE LOCAL PLANNING AUTHORITY:

Alan Oliver	Area Planning Officer, North Kesteven District Council
Nick Feltham	Principal Planning Officer, North Kesteven District Council
Martha Rees	Legal Services Lincolnshire, Solicitor for the Council
Sharon Bayton	Expert Witness for the Council – Sports and Leisure

INTERESTED PERSONS:

Helen Cattle	Principal Planning Manager (Operations), Sport England
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DOCUMENTS SUBMITTED AT THE HEARING

1. Statement by Dr W Birks, Principal, St George's Academy.
2. Sport England document – Assessing Needs and Opportunities Guide for Indoor and Outdoor Sports Facilities: How to Undertake and Apply Needs Assessments for Sports Facilities.
3. Emails from Janie Lau, Vice Principal, St George's Academy, providing responses to questions raised during the hearing.

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Suggested revised wording of condition 7, agreed by the Council and the appellant.
2. Appellant written agreement to pre-commencement conditions.